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**Response of the Estonian Government
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to Estonia**

from 23 to 30 September 2003

The Estonian Government has requested the publication of this response. The report of the CPT on its September 2003 visit to Estonia is set out in document CPT/Inf (2005) 6.

Strasbourg, 27 April 2005

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A. Police establishments

Ill-treatment

Recommendations

- *senior police officers regularly to instruct police officers that: ill-treatment will not be tolerated, all relevant information regarding alleged ill-treatment will be investigated; and perpetrators of ill-treatment will be subject to severe sanctions (paragraph 14);*
- *the police officers to be reminded that no more force than is reasonably necessary should be used when effecting an apprehension and that once apprehended persons have been brought under control, there can be no justification for their being struck (paragraph 15);*

Estonian authorities continue to be of the firm opinion that the use of unnecessary violence is unacceptable and that the police will follow the recommendations given in the CPT final report also in their future activities. There are special awareness raising programmes for police officers in this respects, for example on May 21, 2004 Estonian Police Board organised a meeting for the police officials who coordinate the work of detention centers in police prefectures; in addition, the observations made by the CPT delegation were introduced and attention was given to the comments made about the use of violence. The incidents of police violence are investigated thoroughly and the perpetrators have been punished in disciplinary or criminal proceedings.

- *Whenever criminal suspects brought before an investigating judge or public prosecutor at the end of police custody or thereafter allege ill-treatment by the police, the judge or prosecutor should record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge or prosecutor should order a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment (paragraph 18);*

The competence for implementing this recommendation lies with the courts and prosecutors. It is the task of the public prosecutor to review the lawfulness of the police actions, in the case where the public prosecutor has information that a crime has been committed this is his/her duty according to the law to initiate preliminary investigation.

- *Immediate steps to be taken to ensure that all police cells, including those in arrest houses, are adequately monitored, taking into account the remarks in paragraph 20 (paragraph 20);*

In order to maximise the appropriate surveillance there is a plan to change the organization of work in 2005 and the released resources will be used for surveillance of cells.

- *In respect of every occasion on which inmates are removed from prison cells at the request of a police investigator, a formal record to be kept of the reason for their removal and of all measures taken during their presence on police premises (paragraph 22);*

Whenever the police need to remove a remand prisoner or inmate from a prison, an application must be submitted to the prison director, including the reason, destination and duration of the removal. Pursuant to the Code of Criminal Procedure, all investigative and procedural actions conducted in the house of detention must be recorded in writing. The minutes of the procedural actions are preserved in a criminal file. Upon the termination of the criminal procedure, the remand prisoner, counsel, and other parties to the proceeding are allowed to inspect the criminal file.

Comments

- *police officers should be alert to any potential self-harm and, more specifically, ensure that newly-detained persons do not have ready access to means of harming themselves (belts, ties, broken glass, etc.) (paragraph 19).*

In detention houses, persons in "risk groups" are monitored with special care – these are persons detained for the first time, drug addicts, minors and generally all who seem more nervous, anxious and upset than usual. The fact that persons belonging to “risk groups” are monitored with special attention does not mean that persons who do not belong to this category are not being monitored. Pursuant to point 25 of the detention house work instruction (PA regulation no 101 of May 15, 2002) “Mornings and evenings the arriving and departing working group check the detention house cell by cell. The supervision consists of unlocking and inspecting all the cells, counting of persons confined to the detention house, searching the persons and questioning them with regard to complaints and petitions.”

Requests for information

- *an account, covering the period from 1 January 2003 to the present time, of all complaints of police violence received and the outcome of the relevant disciplinary and/or criminal proceedings (allegations, brief descriptions of the findings of the relevant court or body, verdict, sentence/sanction imposed) (paragraph 16);*

Since 1 January 2003 33 disciplinary proceedings have been initiated in connection with complaints regarding the use of violence during arrest. In three cases police officials were punished for unsatisfactory performance of duties. There have been no criminal proceedings in connection with the use of violence by police officials in arrest houses. Overview of the disciplinary proceedings:

1. Ida-Viru Police Prefecture – opened on 14.7.2003 based on directive No 479p, minor bodily injuries were caused to the person held in custody; the guilt of police officials was not confirmed.
2. Lääne-Viru Police Prefecture – opened on 1.12.2003 based on directive No 228p, suicide in the arrest house; the guilt of police officials was not confirmed.
3. Narva Police Prefecture – opened on 26.9.2003 based on directive No 473p, suicide in the arrest house; the guilt of police officials was not confirmed.

4. Pärnu Police Prefecture – opened on 18.11.2003 based on directive No 682p, manslaughter in a arrest house – the person held in custody was killed by the cell mates; the case was taken to be proceeded by the Police Board. Three police officials were issued a reprimand for unsatisfactory performance of duties; one police official was not punished.
5. Pärnu Police Prefecture – opened on 18.11.2003 based on directive No 692p, alleged beating; the guilt of police official was not confirmed.
6. Tallinn Police Prefecture (15) – opened on 7.1.2003 based on directive No 38p, a person brought in to recover from a drunken state died in the arrest house; the guilt of police officials was not confirmed.
7. Tallinn Police Prefecture – opened on 24.1.2003 based on directive No 197p, the person held in custody was allegedly hit against the wall; the guilt of police officials was not confirmed.
8. Tallinn Police Prefecture – opened on 20.2.2003 based on directive No 464p, the head of the person held in custody was allegedly hit against the wall; the guilt of police officials was not confirmed.
9. Tallinn Police Prefecture – opened on 25.3.2003 based on directive No 978p, the person held in custody was allegedly beaten; the guilt of police official was not confirmed.
10. Tallinn Police Prefecture – opened on 28.4.2003 based on directive No 1289p, a person brought in to recover from a drunken state died in the arrest house; the guilt of police officials was not confirmed.
11. Tallinn Police Prefecture – opened on 5.5.2003 based on directive No 1397p, alleged unlawful use of force; the guilt of police official was not confirmed.
12. Tallinn Police Prefecture – opened on 3.6.2003 based on directive No 1740p, a fight at the time outside the service, one police official was issued a reprimand for indecent behaviour, three police officials were punished with a 30% deduction from wages for three months; one police official was not punished.
13. Tallinn Police Prefecture – opened on 10.6.2003 based on directive No 1814p, the petitioner claimed that his/her son had been beaten; the guilt of police officials was not confirmed.
14. Tallinn Police Prefecture – opened on 4.7.2003 based on directive No 2069p, suicide in the arrest house; the guilt of police officials was not confirmed.
15. Tallinn Police Prefecture – opened on 22.7.2003 based on directive No 2213p, the petitioner claimed that he/she was beaten and EEK 1000 was taken away from her; the guilt of police officials was not confirmed.
16. Tallinn Police Prefecture – opened on 31.7.2003 based on directive No 2324p, a person held in the arrest house injured himself/herself; the guilt of police officials was not confirmed.
17. Tallinn Police Prefecture – opened on 19.8.2003 based on directive No 2497p, the petitioner claimed that he/she was beaten and sustained bodily injuries; the guilt of police officials was not confirmed.
18. Tallinn Police Prefecture – opened on 15.10.2003 based on directive No 3042p, the person held in custody died in the arrest house; the guilt of police officials was not confirmed.
19. Tallinn Police Prefecture – opened on 14.11.2003 based on directive No 3300p, police officials allegedly beat the person held in custody; the guilt of police official was not confirmed.

20. Tallinn Police Prefecture – opened on 21.11.2003 based on directive No 3345p, the petitioner claimed that he/she was beaten by the police officials; the guilt of police officials was not confirmed.
 21. Tartu Police Prefecture – opened on 6.3.2003 based on directive No 112p, alleged beating; the guilt of police officials was not confirmed.
 22. Viljandi Police Prefecture (2) – opened on 29.4.2003 based on directive No 43p, alleged beating; the guilt of police officials was not confirmed.
 23. Viljandi Police Prefecture – opened on 15.12.2003 based on directive No 40p, alleged beating; the guilt of police officials was not confirmed.
 24. In 2004 – Ida Police Prefecture (4) - opened on 16.1.2004 based on directive No 40p, six persons held in custody caused themselves bodily injuries; the guilt of police officials was not confirmed.
 25. Ida Police Prefecture – opened on 28.1.2004 based on directive No 79p, a suicide in a holding cell in Rakvere; two police officials were found guilty of unsatisfactory performance of duties and were issued a reprimand.
 26. Ida Police Prefecture – opened on 6.4.2004 based on directive No 522p, two persons held in custody inflicted bodily injuries upon themselves; the guilt of police officials was not confirmed.
 27. Ida Police Prefecture – opened on 26.4.2004 directive No 551p, a suicide in the holding cell in the Rakvere Police Station; the guilt of police officials was not confirmed.
 28. Lõuna Police Prefecture – opened on 30.4.2004 based on directive No 571p, allegedly violence was used on a person taken to the arrest house; the guilt of police officials was not confirmed.
 29. Lääne Police Prefecture – opened on 28.1.2004 based on directive No 98, alleged inhuman treatment in arrest house; the guilt of police officials was not confirmed.
 30. Põhja Police Prefecture – opened on 2.1.2004 based on directive No 430p, the person held in custody was allegedly beaten in the police department; the guilt of the police official was not confirmed.
 31. Põhja Police Prefecture – opened on 23.1.2004 based on directive No 576p, the person was found dead in the holding cell; no decision has been taken yet.
 32. Põhja Police Prefecture – opened on 29.3.2004 based on directive No 818p, the son of the Minister of the Interior was allegedly beaten at the time of arrest; the guilt of police officials was not confirmed.
 33. Põhja Police Prefecture – opened on 7.7.2004 based on directive No 1260p, allegedly the person held in custody was not allowed medical help in the arrest house; no decision has been taken yet.
- *Confirmation that, under the new Code of Criminal Procedure, there is no longer the possibility for detained persons to waive their right to be brought before the judge who must decide on the extending of police custody beyond 48 hours (paragraph 17);*

Pursuant to section 34 subsection 1 clause 6 of the Code of Criminal Proceedings that entered into force on July 1, 2004, the suspect is entitled to participate in the review of arrest request; based on section 131 (procedure of arrest) subsection 2 of the Code of Criminal Proceedings the suspect or the accused for whom an arrest request has been prepared by the investigative body on the order of the Prosecutor's Office will be taken to court so the preliminary investigation judge can review the arrest request; in accordance with section 131 subsection 3 the preliminary investigation judge will question the suspect or the accused in order to determine the validity of the arrest request for making the arrest warrant.

- *The outcome of the inquiry initiated following the suicide by a detainee in one of the temporary holding cells at Narva Arrest House in September 2003, and any measures taken in response (paragraph 19);*

According to the summary of the disciplinary investigation prepared on 13 October 2003 no elements of a disciplinary offence were established in the work of police officials. The attention of the police officials and employees of the Dispatcher Service Division of the Narva Police Prefecture was called to the fact that in the future they should be more observant when the person arrested undergoes a physical examination.

Conditions of detention

Recommendations

- *all necessary steps to be taken to implement, without further delay, the CPT's recommendations concerning material conditions of detention in police arrest houses (cf. paragraphs 39 to 41 of CPT/Inf (2002) 26 and paragraphs 23 to 25 of CPT/Inf (2002) 28). The strategy for improving conditions of detention should include regular independent inspections of the premises concerned (paragraph 32),*

The Police Board has prepared a thorough overview of the present situation as regards the conditions of all arrest houses of Estonian police authorities and is preparing a development plan for eliminating problems. In the preparation of the overview all areas analysed in the final report of the CPT were taken into account. The development plan in general addresses the measures prescribed for eliminating the problems pointed out in the CPT final report and the development of arrest houses as a whole. The development plan includes a project for the development of the buildings of all arrest houses and this project needs extensive resources; negotiations as regards the possible solutions and time schemes are still in progress. The Ministry of the Interior will make public the development plan for arrest houses as soon as possible after it has been completed.

- *Immediate steps to be taken to ensure that juveniles placed in arrest houses are accommodated separately from adult detainees. Juveniles detained for prolonged periods should be provided with a programme of educational activities (including physical education (paragraph 32);*

Pursuant to section 12 of the Imprisonment Act (Principle of separation) valid in the Republic of Estonia the following persons should be kept separately: men and women; minors and adults; imprisoned persons and arrested persons; persons who as a result of their former professional activities are in danger of reprisal.

Police arrest houses are still primarily places for temporary and short-term custody and at present it is not possible to create studying opportunities. Minors who are held in custody for a longer period of time are later sent to prison where they are able to continue their education.

- *As a first step concerning the organisation of a regime of activities, including reading matter to be provided to persons held in arrest houses. Consideration should also be given to permitting them to keep radios or television sets in their cells (paragraph 33);*

Most police arrest houses have at present small libraries and some allow the detainees to listen to the radio and watch TV.

- *Anyone held in an arrest house for a prolonged period should be permitted to maintain contacts with the outside world according to the same principles as those which should apply to a person held in prison (paragraph 33);*

In arrest houses the detainees are allowed short visits pursuant to the Imprisonment Act and to the rules of internal procedure of the arrest house. Longer visits (from members of family or other close people for up to 3 days) characteristic of prisons, are not allowed in case of arrest houses, as there are not appropriate conditions in the arrest house.

- *The shortcomings observed in the cells at Põhja Police Department in Tallinn to be remedied (paragraph 35);*

Alterations to the cells in the Põhja Police Department have not been done, since a new building for the Põhja Police Department, with necessary detainment facilities, is planned to be built in Tallinn in 2005.

- *Conditions of detention in all police establishments in Estonia to be reviewed, with regard to the criteria set out in paragraph 23 (paragraph 35).*

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By the end of 2003 the police authorities had eliminated the following problems outlined by the CPT: missing bed accessories and toilet articles were bought – to be given to those people who do not have them.

Requests for information

- *Confirmation that “bedsheet sets” include clean mattresses and clean blankets (paragraph 31);*

After the visit of the CPT delegation to the custodial institutions and arrest houses in September 2003 the Police Board issued on 18 November 2003 order No PA12-1.4/249 to the police prefects “The improvement of accommodation and health care conditions in arrest houses” which provided that police prefectures must buy a sufficient number of bed linen sets (mattress, blanket, sheet, pillow, pillow case) and arrange the regular changing and cleaning of these. Clean bed accessories must be given to each person detained in the arrest house, except those who have been brought in for detoxification.

All police authorities have implemented this order.

- *A copy of the standard design for arrest houses (paragraph 32);*

At present the building of arrest houses must be based on directive No 82 “The requirements in terms of construction engineering” issued by the Police Board on 25 April 2001. Working with construction specialists changes to the current requirements in terms of construction engineering have been developed and these changes take into account the precepts given in the report and other precepts.

Safeguards against the ill-treatment of persons deprived of their liberty

Recommendations

- *The new Code of Criminal Procedure to be amended to include explicit reference to the right of notification of custody, incorporating fully the principles set out by the Committee in its previous visit reports (cf. in particular paragraph 29 of CPT/Inf (2002) 28). In the interim, the right of notification of custody should be developed in subsidiary regulations (paragraph 37);*
- *Appropriate action to be taken to ensure that the right of notification of custody is rendered fully effective in practice, with respect to all categories of persons deprived of their liberty by the police (including administrative detainees) (paragraph 37);*
- *Written information on rights to be given to all persons deprived of their liberty by the police, at the very outset of their deprivation of liberty (paragraph 41).*

Explanation to paragraphs 37 and 41: Pursuant to section 111 subsection 10 of the law of criminal procedure that entered into force on July 1, 2004, the person detained as a suspect has a right to have the fact of his/her custody notified to one person close to him/her, and of his/her own choice. Also, the right of applying for the notification of one’s whereabouts applies to the person detained on grounds of misdemeanour in accordance with section 46 subsection 4 of the Code of Misdemeanour Procedure. Pursuant to section 8 of the rules of internal procedure of the arrest houses, the arrest houses are obliged to give information to the detainees regarding their rights.

- *A doctor to be called without delay whenever a person in police custody requests a medical examination; police officers should not seek to vet such requests (paragraph 40);*

Requests for information

- *a detailed account of the progress made towards providing proper health care in all police arrest houses (paragraph 40).*

A regulation of the Government of the Republic of Estonia stipulates the volume, conditions and procedure for financing the health services provided for in the “Imprisonment Act” that entered into force on January 1, 2004, and also the volume, conditions and procedure for financing the buying of the medicine and medical equipment necessary for providing health services (State Gazette I 2003, 84, 573). The regulation provides for what kind of treatment and other health services the arrested or detained person is entitled to at the expense of the state.

The Police Board has developed instructions for the initial medical examination to be performed at the time of admitting the person into the arrest house and for sanitary treatment. After these instructions enter into force each person admitted to a arrest house is granted a medical examination within a reasonable time. Medical examinations will be performed by a doctor or a medical assistant. At the latest on January 1, 2005 all police authorities will have signed agreements with a doctor or a medical assistant as regards the performance of initial medical examinations.

As from January 1, 2005 every person placed in a arrest house will have to undergo a radiological check. This is stipulated by the regulation of the Minister of Social Affairs “The procedure for performing a compulsory radiographic test of lungs on detained persons, persons in custody and imprisoned persons and the prison officers and the guards and the health care professionals in direct contact with them” laid down based on the Communicable Diseases Prevention and Control Act (Appendix to the State Gazette 2003, 115, 1828).

“Instructions as regards the sanitary treatment in arrest houses and convoy vehicles” is also being developed. The instructions for medical examination form a basis for the work of a health care professional or a contracted doctor in order to create prerequisites for the collection of health data and to avoid future court action that could arise from the performance of poor initial medical examination (questioning, the reasonability of tests, referral to hospital) by the police. The instructions for sanitary checks govern the treatment of the facilities, objects and convoy vehicles of the arrest house.

Comments

- *the CPT trusts that appropriate steps will be taken to ensure that the provisions on access to a lawyer contained in the new Code are fully complied with in practice. The right of access to a lawyer should be enjoyed by anyone who is under a legal obligation to attend – and stay at – a police establishment. Further, appropriate provision should be made for persons who are not in a position to pay for a lawyer.*

The Committee suggests that the Bar Association be consulted in this context (paragraph 38).

1. As of July 1 2004 the new Code of Criminal Procedure is in force in Estonia, pursuant to which the list of cases where a counsel's participation in the proceeding is obligatory has been considerably extended as opposed to the previously applicable legislation. Under the Code, the investigative authorities, the Public Prosecutor's Office and the courts are obliged to provide suspects and the accused with counsel if they so request, or if the participation of counsel in the proceeding is obligatory, or in cases not subject to adjourning where the suspects or the accused in custody must upon their request be offered any other legal aid. In case of the obligatory participation of a counsel, the latter must take part in the pre-trial procedure from the inspection of the criminal file, and through the entire court proceeding. In general, a counsel may participate in a criminal proceeding from the moment when the person is deemed a suspect.
2. On March 1, 2005 the new Legal Aid Act will enter into force, in which the regulation of legal aid paid by state, formerly contained in various procedural codes, will essentially be concentrated. At the same time, the procedure for requesting and providing legal aid has been substantially improved, and the entry into force of the Act will be accompanied by the extension of the area of application of state-provided legal aid, apart from court proceedings, to the enforcement and administrative proceedings and other forms of legal service.
3. In connection with the application of the new Legal Aid Act, budgetary funds prescribed for the remuneration for state-provided legal aid have been increased. The state budget allots about 46 million kroons for this purpose, or more than a 75% increase over the funds prescribed for this purpose in 2004 (26,8 million kroons).

B. Prisons

Ill-treatment

Recommendations

- *Any future involvement in prisons of a special intervention squad to be monitored by an independent authority (e.g. senior judicial authorities) (paragraph 45);*

As a rule, the representatives of the Prisons Department of the Ministry of Justice are present at the events organised by the special intervention squads of prisons. For instance, the officials of the Prisons Department monitored the activities of a special intervention squad during the search conducted on October 27, 2003 in the Tallinn Prison, during the search conducted on December 27, 2003 in Ämari Prison, and during the search conducted on April 19, 2004 in Tallinn Prison. As a rule, the activities of the special intervention squads in prisons are recorded on videotape. If a sentenced prisoner finds that his or her rights have been violated during the activities of a special intervention squad, he or she has the right to file a complaint with the Ministry of Justice, the Legal Chancellor, or a court.

- *The necessary steps to be taken to ensure that, in respect of all investigations into possible ill-treatment by prison officers, the persons responsible for the investigation, as well as those actually carrying it out, are independent from those implicated in the events (paragraph 46);*

Under subsection 31 (2) of the Code of Criminal Procedure (CCrP), effective as of July 1, 2004, the prisons have the right to conduct only the primary investigative activities (CCrP 31 (3)). The preliminary investigation of all criminal acts committed in prisons is completed by a competent investigative authority (the police) provided for in subsection 31 (1) of the CCrP.

- *The Estonian authorities to continue to give high priority to the development of prison staff training, both initial and ongoing. In the course of such training, considerable emphasis should be placed on the acquisition of interpersonal communication skills (paragraph 48);*

The Ministry of Justice attaches extreme importance to the continuous development of service-related training. The arrangement of training which advances social skills is also deemed a priority. Prison officers are provided with basic training in the course of preparatory service. There are two kinds of preparatory service. A one-year training course that confers the skills necessary to assume service as a guard and, in addition, a three-year training course that confers the skills to assume service as an inspector. In both forms of study it is possible to choose either the correspondence or regular courses. The supplementary training of officers is also conducted without interruption. The main emphasis is laid on interpersonal psychology, law, welfare and health care. In 2003, all prisons introduced posts of inmates' personal officers and the necessary staff was trained accordingly. In the future, the whole preparatory service of prison officers, and their supplementary training, will be concentrated in the Estonian Public Service Academy.

- *Steps to be taken at Tallinn Prison to ensure that prison officers do not carry batons in full view of inmates (paragraph 49).*

Under clause 70¹ (2) 1) of the Imprisonment Act, the nightstick is a part of the prison armament. The purpose of carrying a nightstick while escorting inmates from one location to another is mainly to ensure the safety of prison officers and inmates. The Ministry of Justice will take into account the recommendation of CPT for reforming the organisation of work in Tallinn Prison.

Requests for information

- *The outcome of the inquiry concerning an intervention by a special squad in the block for sentenced prisoners in May 2003 at Tartu Prison, as well as any measures taken in response (paragraph 45);*

The investigation was carried out by the officers of the Prison Department as extraordinary supervisory control. The Minister of Justice approved the report of the supervisory control with his directive no 340 of November 25, 2003. 340. On the basis of the information collected in the course of the investigation the following conclusions were made:

interviews with inmates revealed no infringement of rights by the special intervention squad, or recourse to unwarranted violence.

- The alleged victim himself did not confirm any unwarranted violence used against him.

Estonian authorities affirm that all activities carried out by special intervention squads will henceforth be recorded on tape.

- *For the period from 1 January 2003 to the present time:*

- *The number of complaints lodged of ill-treatment by custodial staff in establishments under the authority of the Ministry of Justice and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;*

In 2003, nine and in 2004, six criminal proceedings were initiated at the requests of inmates.

- *An account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by custodial staff (paragraph 50).*

In 2003 and 2004 no disciplinary or criminal penalties were imposed on prison officers. Eight of the criminal proceedings initiated in 2003 were dismissed when the prison officers were found not guilty. In one case the guilt of prison officers was established but the criminal proceeding was dismissed because it was impossible to prove that any of the prison officers were personally guilty. In 2004, no penalties have been imposed.

Material conditions

Recommendations

- *The Estonian authorities to rapidly devise and vigorously pursue a strategy for reducing the occupancy rates in the remand blocks of Tallinn Prison to no more than four persons per cell, always bearing in mind that the strategy should not have the side effect of transferring a problem from one establishment to another (paragraph 52);*

In the course of 2004, the number of inmates in Estonian prisons has decreased by 300 persons (from 1250 to 950, i.e. by approximately one-fourth), including 100 persons in Tallinn Prison. This has also solved the problem of overcrowding in the ward used for custody pending trial of Tallinn Prison. Due to the entry into force on July 1, 2004 of the new Code of Criminal Procedure a further decline in the numbers of inmates is predictable. The completion in 2007 of the new Viru Prison will solve all problems of overcrowding that might occur in the future.

- *The necessary repairs to be carried out to the installations and cells in the remand section at Tallinn Prison (paragraph 52);*

The Government of the Republic has decided to transfer the buildings of Tallinn Prison to the Public Immovable Property Company (PIPC). The transfer process will soon be completed. In 2004, the Ministry of Justice and the PIPC will devise a reconstruction plan for Tallinn Prison, and in 2005 the PIPC will begin its implementation. Among other works, this plan prescribes the reconstruction of the buildings for provisional custody.

- *The Estonian authorities to strive to maintain a standard of at least 4m² of living space per prisoner in multi-occupancy cells, and official capacities to be calculated accordingly (paragraph 53).*

The standard of 4 m² cell space per inmate is ensured for all persons in custody in Tartu, Tallinn, Maardu and Pärnu prisons, and prisoners who are minors in Viljandi prison, and will be achieved in all Estonian prisons by 2007 upon the completion of Viru Prison.

Activities

Recommendations

- *Steps to be taken, as a matter of urgency, to radically improve the regime activities for remand prisoners. The aim should be to ensure that remand prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature (group association activities; work, preferably with vocational value; sport). The legislative framework governing remand imprisonment must be revised accordingly (paragraph 56);*
- *Outdoor exercise facilities to be made sufficiently large to enable prisoners to exert themselves physically (paragraph 56);*

At present, daytime activities for remand prisoners outside their cells are difficult to arrange, for there are no appropriate premises. Appropriate premises are prescribed in the initial assignment for the planning of Viru Prison. After the opening of the new prison in 2007, the number of remand prisoners in other prisons will also be reduced, this will allow establishing premises for daytime activities. The purpose is to reduce the overall number of remand prisoners. At the same time, possibilities are being sought to engage remand prisoners in activities. In the design of the new prison space for open air facilities has been foreseen. The reduced number of inmates in other prisons, due to the added cell space, will enable prisoners to use the open-air facilities more often and for longer periods of time.

- *The practice of playing a radio programme tuned to an unpleasantly high volume all day at Tallinn Prison to be discontinued (paragraph 57);*

The purpose of transmitting the radio programme is to ensure that all the remand prisoners would be able to hear the news, because many remand prisoners have no personal radio or television sets. Pursuant to the recommendation of CPT, the duty officers of the Tallinn Prison are forbidden to turn up the speakers to maximum volume under any circumstances.

- *The necessary steps to be taken to ensure that all prisoners at Tartu Prison have access to an appropriate range of work, educational, sports and recreational activities (paragraph 58);*

Work: at the present moment about 80 inmates participate in the maintenance of Tartu Prison. Up to 40 inmates work in the enterprise AS Vanglatööstus, depending on the workload. At the moment, 10 inmates are working outside of prison (eight in AS Pesukem and two in AS Kane Metall as welders). It is planned to raise the employment rate of inmates to 50 % of their total number, primarily by increasing the number of working inmates in AS Vanglatööstus and outside of prisons.

Education: all inmates of Tartu prison who have not completed their general education have an opportunity to study in a school of general education. At the moment, only people with special educational needs have no such opportunity, but Tartu prison has communicated the problem to the Upper Secondary School for Adults, which is responsible for the provision of education in Tartu Prison. The prison is actively seeking to raise the learning motivation of the inmates incentives such as early release and other methods.

Sports: Sporting opportunities are ensured for all the sentenced prisoners according to a schedule; the inmates of every section can use the gymnasium three times a week. In addition, separate schedules have been developed for the working and school-going inmates. Aside from that, every quarter the sentenced prisoners participate in various competitions and tournaments of table-tennis, football and volley ball.

Entertainment: Tartu Prison provides all inmates with various kinds of entertainment, in which everyone can participate on a voluntary basis. The participation among the inmates has always been strong at the concerts of traditional gingerbread bakes (Christmas) and family days. Twice a year family days are arranged for sentenced prisoners, where the close friends of inmates may also take part. According to a schedule, inmates interested in music can practice the piano and the guitar at different hours in a room furnished for this purpose. In addition, a small wind instrument group meets in the church.

- *The regime applied to life-sentenced prisoners at Tartu Prison to be revised, in the light of the remarks in paragraph 59 (paragraph 59).*

Prisoners serving a life-sentence are confined in several Estonian prisons. An inmate is placed in the life-sentence section by the prison director, taking into account primarily hazards to which such inmate's life may be subjected. Prisoners serving a life-sentence may, just as all the others, communicate with the rest of the inmates in their section. In the Tartu Prison the placement of every inmate is separately assessed. If an inmate serving a life-sentence wishes to be placed in a single cell, in most cases he or she is granted such opportunity. No legal act requires the placement of life-sentenced prisoners in isolation.

Comments

- *The Estonian authorities are invited to ensure that remand prisoners are included to the extent possible in the initiatives aimed at increasing by 2006 the number of working and studying prisoners (paragraph 60).*

At present, all remand prisoners who are minors have an opportunity to study. The plan of the Ministry of Justice is to give either a study or job opportunity to every adult remand prisoner. The pace of implementation of the plan depends on the future number of remand prisoners.

Requests for information

- *The number of inmates enrolled in computer and language courses (English and Estonian) at Tartu Prison (paragraph 58).*

Estonian language courses were organised in 2002, and in the two groups a total of 20 inmates received instruction.

The computer course at the end of August 2003 was attended by a total of 36 inmates.

Health care services

Recommendations

- *Nursing resources at Tallinn Prison to be reinforced (paragraph 61);*

The medical department of the Tallinn Prison has eight posts for nurses, which are all filled. It should be added for the sake of clarity that auxiliary staff of the medical department covers three posts for three sanitarians-cleaners, which are also filled.

- *The record drawn up after a medical examination of a prisoner, whether newly-arrived or not, to contain:*
 - (i) *a full account of statements made by the prisoner concerned which are relevant to the medical examination, including any allegations of ill-treatment made by him;*
 - (ii) *a full account of objective medical findings based on a thorough examination;*
 - (iii) *The doctor's conclusions in the light of (i) and (ii); these conclusions should be made available to the prisoner and his/her lawyer**(paragraph 64);*

The management of Tallinn Prison has given its medical staff the additional assignment of recording, after medical examination (upon arrival at the prison and in other cases) the explanations given by the inmates concerning the origin of any medical conditions found. The medical staff is also obliged to record the cases when inmates declined giving explanations. Tallinn Prison will add relevant amendments to the job descriptions of the medical staff.

If a prison official finds out that medical conditions of an inmate refer to acts of violence he or she is obliged to notify the security department of Tallinn Prison. The security department must forward the information to the Prosecutor's Office for initiating a criminal investigation, if necessary

- *Existing procedures to be reviewed in order to ensure that, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner, the record is brought to the attention of the relevant public prosecutor (paragraph 64);*

Whoever finds any medical condition that may, by their nature or from inmates' explanations, refer to acts of violence committed earlier is obliged to notify the security department of Tallinn Prison. The security department must forward the information to the Prosecutor's Office, if the physician diagnoses injuries that match the ill-treatment described by the inmate.

- *Medical examination of prisoners to be conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers (paragraph 65).*

As a rule, the medical examination in Tallinn Prison is conducted outside the range of hearing or sight of unauthorised persons, unless the medical service provider wishes it to be otherwise for safety reasons.

Requests for information

- *which of the six vacant posts for health care staff at Tartu Prison have been filled (paragraph 61);*

In Tartu Prison some medical staff posts may have been vacant at the moment of the visit due to the enlargement of the number of staff and the fact that a competition was in progress to fill them. By now all posts in the medical department of Tartu prison are filled.

- *Confirmation that prisoners are examined on an individual basis at Tallinn Prison, and not in the presence of other inmates (paragraph 65).*

Estonian authorities confirm that the examination of prisoners in Tallinn Prison is conducted in private and not in the presence of other inmates.

Central Prison Hospital, Tallinn

Recommendations

- *A very high priority to be attached to finding a suitable alternative to the Central Prison Hospital, which should enable it to be closed (paragraph 70);*

According to the effective decision of the Government of the Republic, a new Central Prison Hospital will be built in Viljandi County. Until the new building is completed, the Central Prison Hospital will be temporarily transferred to the vicinity of Tallinn Prison for the first half of 2005, and the use of the old buildings will be discontinued.

- *In the interim, steps to be taken to:*
 - *Offer organised activities to all patients at the Central Prison Hospital;*

The patients of the Central Prison Hospital are involved in spare time activities according to their state of health and possibilities available.

- *Guarantee ready access of health care staff to patients at all times;*

In Tallinn Prison, including the Central Prison Hospital, the medical staff has ready access to all patients but only for the purpose of providing medical aid.

- *Develop psycho-social therapeutic activities for psychiatric patients and adapt them to the individual needs of each of those patients (paragraph 70).*

Psychiatric patients are provided with psycho-therapeutic activities according to their state of health and possibilities available. The Ministry of Justice has no information about the psychiatric patients having not been provided necessary aid.

Other issues

Recommendations

- *Uniform regulations to be established for all prisons on the question of the frequency and duration of visits to remand prisoners by family members or other persons. The objective should be to offer the equivalent of a visit every week, of at least 30 minutes duration (paragraph 71);*

Chapter 8 of the prison internal rules regulates the procedure of short-term visits, according to which inmates are allowed a short-term visit at least once a month of 3 hours duration. Thus the regulation provides for the minimum requirement. If there are free slots in the visit schedule, inmates may be allowed more frequent short-term visits. The frequency of visits depends on the number of inmates, and visiting rooms, in a particular prison.

- *Steps to be taken to ensure that the precepts set out in paragraph 80, regarding resort to instruments of physical restraint, are strictly observed in practice (paragraph 80);*

Under clause 69 (2) 5) of the Imprisonment Act, restraint as a supplementary safety method is allowed, which can be tying up, handcuffing or using a restraint jacket. Restraint methods are used as non-penalty recourses for temporary restraint of an inmate who may become dangerous to himself or others. Wrongful abuse of restraint on the part of a prison officer entails disciplinary or criminal punishment.

- *All persons placed in a disciplinary cell to be allowed access to reading matter, which should not be limited to prison regulations and the Bible (paragraph 81);*

Pursuant to prison internal rules, a person placed in a disciplinary cell may own textbooks in addition to legal acts and the Bible.

- *The relevant authorities to ensure that all prisoners (both remand and sentenced), throughout the penitentiary system, are provided with precise written information on the avenues of complaint available to them; if necessary, prisoners should also be supplied with writing materials. Further, practical measures should be taken to ensure that complaints can be transmitted confidentially (e.g. by providing complaint boxes accessible to prisoners, to be opened only by specially designated persons) (paragraph 82).*

The personal officer shall explain to the inmate the ways for filing his or her complaints. Most inmates' complaints are heard at challenge proceedings. Upon submission, the inmate's complaint is registered in a separate file and the inmate also gives his or her signature to the prison staff member that he or she has filed a complaint. This ensures that the complaint is not overlooked and is processed pursuant to the procedure provided by the Act of the Administrative Court Procedure and will eventually be decided upon. In the case where an inmate does not wish or does not need to file a complaint through the prison, he or she can submit his memorandum or petition in a sealed envelope to the Ministry of Justice, the Legal Chancellor, the President of the Republic, the prosecutor, the investigator or a court. Letters addressed to the agencies referred to above shall be forwarded to them at the prison's expense. This way the inmates have been ensured the right to file complaints, petitions or memorandums. Inmates, who have no necessary stationery, shall be provided with it by the prison.

Comments

- *The CPT wishes to stress the need for a certain flexibility when applying the rules on visits to prisoners whose families have difficulties making regular visits. For example, such prisoners could be authorised to combine several visit entitlements into one longer session (paragraph 71);*

The legal acts provide the minimum frequency of short-term and long-term visits. The prison Director has the right to allow inmates additional visits as often as visiting rooms in the prison are available.

- *Steps should be taken to ensure that prisoners subject to disciplinary sanction are given a copy of the disciplinary decision, informing them about the reasons for the decision and the avenues/deadlines for lodging an appeal (paragraph 76);*

The minutes of the disciplinary procedure has no legal meaning for an inmate; only the disciplinary sentence entails legal consequences. The sentence is always given to persons in custody to inspect, against a signature (subsection 64 (4) of the Imprisonment Act) and the person in custody can hold it with him or her. The disciplinary sentence contains substantiations and avenues for appeal.

- *The special cells at Tartu Prison are not suited for disciplinary use, given that they lack furniture (paragraph 79);*

The special cells in Tartu Prison are not used for the enforcement of disciplinary punishment.

- *The CPT trusts that the Legal Chancellor will continue to maintain a proactive role in the prevention of ill-treatment of prisoners (paragraph 84).*

The Legal Chancellor will continue to maintain a proactive role in prevention of ill-treatment of prisoners by solving the prisoners' individual complaints as well as by visiting the prisons.

Requests for information

- *The action taken following the proposal made by the Legal Chancellor to establish an effective procedure to ensure confidentiality of telephone conversations (paragraph 74);*

Regulation no 9 of the Minister of Justice of January 1, 2004, amended the prison internal rules concerning the use of the telephone (§ 51) by adding *inter alia* to the prison rules an obligation of the prison authorities to ensure the confidentiality of messages by telephone. By the present time, new internal rules in the prisons provide for the exact procedures concerning the use of the telephone by the inmates.

- *The action taken to establish uniform regulations on correspondence for all prisons, as well as a copy of any new regulations (paragraph 75);*

Uniform regulations on correspondence for all prisons are provided for in Chapter 10 of the prison internal rules.

- *Confirmation that prisoners have the formal right to appeal to a higher authority against any disciplinary sanctions imposed on them (paragraph 76);*

An amendment of the Imprisonment Act entered into force as of April 4, 2003, pursuant to which the provisions of the Act of Administrative Procedure began to be applied to the Imprisonment Act and to the administrative procedure prescribed therein. Since the Act of Administrative Procedure regulates, among other matters, the filing of complaints with superior bodies of authority, the prisons and the Ministry of Justice are obliged to accept and process complaints filed against disciplinary sanctions as administrative acts issued by a prison. Since the Act of Administrative Procedure does not allow the inmates to file complaints directly to the Ministry of Justice as opposed to filing them via the prison, the amendment to Regulation no 72 of the Minister of Justice "The Prison Internal Rules", effective as of November 30, 2000 gives the prison authorities the responsibility to receive the inmates' complaints. The prison authorities can solve the complaint by themselves or forward it to Ministry of Justice for decision. All inmates also have the right to dispute disciplinary sanctions in court.

- *The procedural safeguards applicable in cases of segregation and application of means of restraint (right to be heard, right to appeal to a higher authority etc.) (paragraph 77);*

A person in custody is always given a chance to explain his or her point of view, and this explanation must be included in the minutes of the disciplinary proceeding (clause 98 3) of the Prison Internal Rules Act). Under subsection 71 (1) of the Act of Administrative Procedure, an inmate has the right to file a challenge with the Ministry of Justice if the person in custody finds that his or her rights have been infringed or his or her freedoms have been restricted by an administrative act or in the course of an administrative proceeding. Pursuant to subsection 73 (1) of the Act of Administrative Procedure, the challenge must be filed via the prison that made the decision. In order to prevent the possibility that the prison will fail to forward the challenge to the Ministry of Justice, the challenge is registered in a separate file and the inmate confirms the transfer of his or her challenge with a signature.

- *Comments on the implementation of Section 108 of the Imprisonment Act (2000), which provides for a system of prison committees operating at each establishment and made up of members of the public (paragraph 83).*

Up to the year 2000 one of the tasks of prison committees was hearing the petitions for release on probation of inmates before the prescribed time. However, the prison committees were relieved of this task, because the procedure for release on probation became unjustifiably protracted, and the assessment of the prison committee, based on a first impression, was unnecessary from the point of view of the end result of the proceeding. From that time, the task of prison committees has been to supervise the activities of the prisons; there are no other specified tasks. The new situation requires an active involvement of the members of the committees, as opposed to the previous situation where the prison prescribed tasks for the committee members. As a result of this it has been difficult to find socially active people, who want to participate in the work of prison committees, and the activity of the existing committees also declined. That is why removing the prison committees from under the supervision of the Ministry of Justice has been considered and they are then being viewed solely as bodies representative of the public. Local government are best suited to concentrate the representatives of the public. This is why formation of prison committees by local governments has been considered.

Psychiatric establishments

Recommendations

- *An urgent review is to be taken at Kernu Social Welfare Home of the management of aggressive/violent residents. For this purpose, a specific policy should be described and implemented in practice, aiming at reducing the risk of inter-resident violence (paragraph 89);*

There is a regulation issued by the minister of social affairs which also regulates seclusion in social care homes: "Regulation on Limitations in Welfare Institutions". It places an obligation on the care institution director to prepare in writing a motivated decision about seclusion. The regulation includes a form for such a document. Estonian authorities accept that a more detailed and specific policy on violence management in social care homes should be spelled out and put into practice.

- *All staff members at Kernu Social Welfare Home are to be reminded that they have a duty to ensure the safety and physical well-being of residents and to protect them from other residents who might cause them harm (paragraph 89);*

Staff members in Kernu Social Care Home have been reminded to perform their duties to ensure the safety and physical well-being of residents and to protect them from other residents who might cause them any harm.

Patients'/residents' living conditions

Recommendations

- *Immediate steps to be taken at Ahtme Psychiatric Hospital to ensure that all patients whose state of health permits are offered at least one hour of outdoor exercise per day (paragraph 92);*

Estonian authorities confirm that all patients in Ahtme Psychiatric Hospital whose health condition permits are offered outdoor exercise every day at least one hour.

Comments

- *The authorities are invited to improve the heating (in particular at night) at Ahtme Psychiatric Hospital and to provide all patients with lockable space to store their personal belongings (paragraph 91);*

Ahtme Psychiatric Hospital uses central heating from the local thermal power-station. Temporary problems with heating occurred due to problems in the thermal power-station. There is no difference between day and night time heating temperature.

- *The authorities are invited to provide all residents at Kernu Social Welfare Home with lockable space to store their personal belongings (paragraph 93);*

It has been confirmed by the director of Ahtme Psychiatric Hospital that patients' bedside tables will be provided with locks in the nearest future. Kernu Social Care Home residents can lock their rooms and have their personal key. There is a closet in every resident's living room which is also lockable. Estonian authorities are taking into consideration providing residents with other lockable space whenever possible.

Requests for information

- *Detailed information on the progress made in the renovation work at Kernu Social Welfare Home (paragraph 93)*

Kernu Social Care Home is located partly in an old manor house which is clearly not a suitable facility for a welfare institution. The Ministry of Social Affairs is currently developing an action plan for reorganising social care institutions. It envisages constructing more home-like institutions and moving current social care homes out from manor houses (and other non-suitable buildings). Therefore, there will not be any significant investments in manor houses used as care homes; only maintenance work will be done. Kernu Social Care Home is included in the first leg of the reorganisation plan. Nevertheless, during the current year Kernu Social Care Home' manor house residents' ground floor living rooms and lavatories will be reconditioned. Similarly, in spring 2004 the manor house roof was replaced.

Staff and treatment

Recommendations

- *Steps to be taken at Ahtme Psychiatric Hospital (as well as in other psychiatric establishments in Estonia) to ensure that all competent patients are placed in the position to give their informed consent to treatment in writing. For this purpose, they should be systematically provided with relevant information about their condition and the treatment prescribed for them (side effects, duration, etc.). Relevant information should also be provided to patients following treatment (results, etc.) (paragraph 97);*

The duty of informing the patient and obtaining his or her consent is regulated by the Law of Obligations: “The provider of health care services shall inform the patient of the results of examination of the patient, the state of his or her health, any possible illnesses and the development thereof, the nature and purpose of the health care services provided, the risks and consequences associated with the provision of such health care services and of other available and necessary health care services. At the request of the patient, the provider of health care services shall submit the specified information in a format which can be reproduced in writing. In the case of a patient with restricted active legal capacity, the legal representative of the patient has those rights, to the extent that the patient is unable to consider the pros and cons responsibly.”

There is also a regulation issued by Minister of Social Affairs from 20 December 2001 no 144 “Requirements to Ensure Quality of Health Services”, which, among other points, requires informing patients as a part of health service.

According to the Law of Obligations, it is not obligatory to obtain consent for treatment in writing; nevertheless, most of hospitals practice documented consent.

All competent patients have the possibility to sign an informed consent form in Ahtme Psychiatric Hospital. Before doing so, all patients are informed individually about their health condition, treatment, medicaments’ side effects etc. The patients’ health condition is constantly monitored; especially carefully if side effects occur.

Estonian authorities recognize that doctors should be further instructed to ensure that patients are better informed.

- *Steps to be taken at Kernu Social Welfare Home to ensure that:*
 - *the nursing staff presence, especially at night and on weekends, is reviewed; this will almost certainly require increasing the overall complement of such staff;*

An increase in the number of care sector workers is planned in 2006 within the plans of the state budget. There will also be a salary raise in 2005 for social care homes’ care staff, including Kernu Social Care Home: which also enables the hiring of additional workers and helps to tackle a lack of care staff.

- *specialised training is provided for nursing assistants in dealing with residents with severe learning disabilities;*

There are training courses (available since 2001) provided by the state to train psychiatric social care homes' staff about working with different client groups. Special modules include managing aggressive clients and working with clients with severe learning disabilities and with complex disabilities. According to the Kernu Social Care Home director, two of the currently working staff members have completed these special modules. The Ministry of Social Affairs has made a request to the Kernu Social Care Home director to ensure that staff members who work with aggressive or severely disabled clients will begin their specialised training courses starting in September 2004.

- *the establishment is visited by a general practitioner and a psychiatrist at least once per week;*

Estonian authorities are glad to report that weekly visits to Kernu Social Care Home by a local general practitioner have been restored. Furthermore – the doctor pays visits twice a week. Visits by a psychiatrist have also been restored. A doctor from Tallinn Psychiatric Hospital visits Kernu Social Care Home at least once a month, or more frequently if needed.

- *every resident is subject to a medical examination promptly upon admission;*

Medical examinations for care home residents are done before admission. Referring persons to care homes requires certain procedures, which include examination by a general practitioner. The general practitioner issues a certificate about the persons' health condition, which contains information about somatic diseases which need continuing treatment.

- *rehabilitative services (psychology, physiotherapy, etc.) are provided (paragraph 100) ;*

At present care homes in Estonia are not obliged to provide rehabilitation; nevertheless - general rehabilitation services are available for the residents of care homes. Amendments to the current Social Welfare Act, which are submitted to the Government and will come into force already in 2004, give care homes' residents the right to receive rehabilitation services on the same basis as other people with special needs.

- *Steps to be taken at Kernu Social Welfare Home to ensure that the confidentiality of medical data is fully respected (paragraph 101);*

Kernu Social Care Home director has been requested to ensure confidentiality of medical data.

Requests for information

- *More detailed information on the preliminary plans at Ahtme Psychiatric Hospital to create a special nursing care section for patients who are no longer in need of in-patient medical care, but who cannot live on their own and cannot be accommodated in the outside community (paragraph 96);*

Estonian authorities do not support the idea of opening a special nursing care section at Ahtme Psychiatric Hospital. There already exist psychiatric care homes in Estonia. The nearest such institution is Sillamäe Care Home, which is situated about 20 kilometres from Ahtme. Estonian authorities do not support creating social care units in hospitals. Estonian authorities aim at social services which are provided in a more everyday-like environment.

Restraint of agitated and/or violent patients/residents

Recommendations

- *A written policy on the use of means of restraint and seclusion to be established both at Ahtme Psychiatric Hospital and Kernu Social Welfare Home and steps to be taken to ensure that the procedures followed in this connection are brought into line with the requirements set out in paragraph 103 (paragraph 106);*

Estonian authorities accept the CPT's recommendation to establish a written policy on use of restraint and seclusion in Ahtme Psychiatric Hospital as well as in Kernu Social Care Home.

- *Appropriate measures to be taken at Ahtme Psychiatric Hospital and Kernu Social Welfare Home to avoid involving residents in the restraint of a fellow-resident. Resolving episodes of acutely disturbed behaviour should be the exclusive responsibility of staff; ensuring that this will require increasing the staff presence (paragraph 106);*

The use of fellow residents in resolving episodes of acutely disturbed behaviour is prohibited. Estonian authorities find it deplorable that such cases have occurred in Kernu Social Care Home. Management of Kernu Social Care Home has been strongly warned to ensure that this practice is not continued.

Safeguards

Recommendations

- *The Estonian authorities to review the procedures for involuntary placement in psychiatric hospitals, in the light of the remarks made in paragraphs 107 to 113; more particularly, steps should be taken to ensure that:*
 - *involuntary placement procedures in psychiatric hospitals offer guarantees of independence and impartiality, as well as of objective psychiatric expertise; more specifically, a court should seek an opinion from a psychiatrist outside the hospital concerned before deciding whether to prolong an involuntary placement beyond 14 days;*
 - *patients who are admitted to a psychiatric hospital on an involuntary basis have the right to be heard in person by the court during placement/appeal procedures;*

- *the patient concerned is notified in writing of decisions of involuntary placement in a psychiatric hospital, informed about the reasons for the decision and the avenues/deadlines for lodging an appeal, and granted unlimited and unrestricted access to their legal representative/lawyer;*
- *indigent patients benefit from legal representation and are exempted from court fees incurred in the context of judicial appeal/review procedures;*
- *patients themselves are able to request at reasonable intervals that the necessity for their placement be considered by a judicial authority (paragraph 114);*

The Ministry of Social Affairs recognizes the problems with involuntary placement in psychiatric hospitals raised by CPT and therefore has taken steps to start solving these issues. The Ministry of Social Affairs, in collaboration with the Ministry of Justice, have initiated amendments to the Mental Health Act. Amendments will also be added to the Code of Civil Procedure draft which was submitted to process to the Parliament on 25 February 2004. Amendments were initiated because current regulations do not ensure adequate protection to persons who are involuntarily admitted to hospital. Also, a new Mental Health Act will be developed during 2005 to update the legislation.

- *The Estonian authorities to take steps to ensure that:*

- *residents who are placed in a social welfare home on an involuntary basis by court decision have the right to be heard in person during placement/appeal procedures;*
- *the patient concerned is notified in writing of decisions on involuntary placement in a social welfare home, informed about the reasons for the decision and the avenues and deadlines for lodging an appeal;*
- *residents and/or their guardian are able to request at reasonable intervals that the necessity for placement be considered by a judicial authority;*

Placement in closed institutions will be regulated by the Draft Code of Civil Procedure, which is currently on second reading in Parliament. With the draft, current problem issues should be resolved. This includes an obligation for the court to hear the individual in person and explain the course of procedures (in his or her everyday environment if needed); an obligation to give written notification of a decision on involuntary placement to the person; and the possibility for the person to argue against the court decision.

- *all cases of involuntary admission to Kernu Social Welfare Home prior to 2002 are notified to the competent civil court;*
- *the legal status of voluntary residents who are prevented from leaving Kernu Social Welfare Home is clarified (paragraph 119);*

All cases of involuntary admissions and cases of so called voluntary residents in the closed department in Kernu Social Care Home are being reviewed and either referred to the relevant court or, if there is no ground for involuntary care, referred to other social care services. Harju County Government, as the supervisory body for Kernu Social Care Home, has been informed and requested to perform close inspections of social care homes in their administrative area.

- *The Estonian authorities to strive to find alternative solutions which would better guarantee the independence and impartiality of guardians (paragraph 121);*

By the Family Law Act, a guardianship authority proposes the appointment of a person as guardian. Estonian authorities are committed to improve guardianship authorities' work in performing their legal obligations towards people under their guardianship. A new draft of the Family Law Act, which is being prepared by the Ministry of Justice, gives consideration to current problems with guardianship.

- *An introductory leaflet/brochure will be issued at Ahtme Psychiatric Hospital and Kernu Social Welfare Home to each newly-arrived patient/resident (and his/her legal representative), accompanied, if necessary, by appropriate oral explanation (paragraph 122);*
- *Patients/residents at Ahtme and Kernu to be informed in the introductory leaflet/brochure issued upon admission of their right to lodge complaints as well as of the modalities for doing so (paragraph 123);*

An information leaflet has been prepared for the residents of psychiatric social care homes, also contains information about their right to lodge complaints and about the modalities to do so. A similar leaflet will be prepared and provided by Ahtme Psychiatric Hospital.

Comments

- *The Estonian authorities are invited to explore the possibility of introducing regular visits to psychiatric/social welfare establishments by a body which is independent of the health/social welfare authorities (paragraph 124);*

There exists the institution of Legal Chancellor in Estonia, which is entirely independent of the health and social welfare authorities. The Legal Chancellor also pays visits to psychiatric establishments.

Requests for information

- *Whether it is intended to make provision for a procedure outside emergency situations, whereby a mental patient could be hospitalised against his/her will, in the context of the ongoing reform of the Estonian mental health legislation (paragraph 109);*

Estonian authorities acknowledge the problems with legal protection that CPT notes. As the current Mental Health Act is out of date, elaboration of a new Mental Health Act is in the working plan for 2005 of the Ministry of Social Affairs. Issues pointed out in the CPT report shall be taken into consideration in the new law.

- *Comments on the practice of placing incapacitated persons in psychiatric hospital/social welfare institution, without the benefit of the procedural safeguards otherwise provided for by the law (paragraph 120).*

In the draft Code of Civil Procedure, an individual will be guaranteed representation (an advocate appointed by the Estonian Bar Association) in court procedures regarding placement in closed institutions.