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**Report to the Estonian Government
on the visit to Estonia
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)**

from 15 to 21 December 1999

The Estonian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2002) 29.

Strasbourg, 30 October 2002

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Copy of the letter transmitting the CPT's report

Strasbourg, 13 July 2000

Dear Sirs,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report to the Government of Estonia drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Estonia from 15 to 21 December 1999. The report was adopted by the CPT at its 42nd meeting, held from 4 to 7 July 2000.

The various recommendations, comments and requests for information formulated by the CPT are listed in the Appendix to the report. The CPT requests the Estonian authorities to provide **within six months** a report setting out details of the measures adopted to implement the Committee's recommendations and their responses to its comments and requests for information. It would be most helpful if the Estonian authorities could provide a copy of the report in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours faithfully,

Silvia CASALE
President of the European Committee for
the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

Ministry of Justice
Tõnismägi 5a
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I. INTRODUCTION

A. Dates, context of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Estonia from 15 to 21 December 1999. This was the Committee's second visit to Estonia, the first having been carried out from 13 to 23 July 1997.

The December 1999 visit was one which appeared to the CPT "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention). Its main aim was to review the progress made in implementing the recommendations formulated by the Committee after the 1997 periodic visit on two particular subjects: the situation in the Social Welfare Home in Valkla and conditions of detention in police arrest houses.

In the report drawn up after its 1997 visit the CPT described Valkla Social Welfare Home as an establishment "pervaded by a pernicious culture of violence." Particular concern was expressed as regards the situation in Unit 4, which accommodated seriously mentally ill or mentally retarded patients. Various recommendations were made with a view to improving conditions in the establishment. The Committee also identified a number of measures which needed to be taken immediately in order to improve the extremely poor conditions of detention observed in the police arrest houses visited.

2. The delegation was composed of the following members of the CPT:

- Jagoda POLONCOVÁ (Head of Delegation);
- Veronica PIMENOFF.

They were assisted by:

- James MacKEITH (Consultant Forensic Psychiatrist, United Kingdom) (expert);
- Vivian RENNEL (interpreter);
- Ursula ROOSMA (interpreter);
- Sirje TIKK (interpreter).

and accompanied by Trevor STEVENS (Secretary of the CPT) and Bojana URUMOVA of the CPT's Secretariat.

B. Establishments visited

3. The following places of detention were visited:

Police establishments

- Ida-Viru Police District Arrest House, Kohtla-Järve
- Laane-Viru Police District Arrest House, Rakvere
- Narva Police District Arrest House
- Tallinn Police District Arrest House No 1
- New Arrest House facility, Tallinn
- Tartu Police District Arrest House
- Viljandi Police District Arrest House

- Regional Office of the Security Police, Kohtla-Järve
- Headquarters of the Central Criminal Police, Tallinn
- Police Headquarters, Tartu

Prisons

- Viljandi Juvenile Prison

Psychiatric establishments

- Valkla Social Welfare House, Kiiu

C. Consultations held and co-operation received by the delegation

4. The delegation held fruitful discussions with senior officials from the Ministries of Internal Affairs, of Social Affairs and of Justice, in order to review progress towards the implementation of the recommendations made by the CPT after its periodic visit to Estonia in 1997. In addition, it met the President of Tallinn City Court and members of the Tallinn City Prosecutor's Office, as well as representatives of non-governmental organisations active in areas of concern to the CPT.

At local level, the delegation met with a satisfactory reception from management and staff. In particular, it was granted rapid access to all places of detention visited, including those which had not been notified in advance of the CPT's intention to carry out a visit.

5. To sum up, the degree of co-operation which prevailed during the visit was fully in compliance with Article 3 of the Convention.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Valkla Social Welfare Home

1. Preliminary remarks

6. The Valkla Social Welfare Home is a "special care home" for chronic psychiatric patients, alcohol abusers and persons suffering from severe mental retardation and/or a variety of physical disabilities. The Home, which has an official capacity of 300, was accommodating 379 residents on 16 December 1999 (some 70 fewer than in July 1997). Staff informed the delegation that none of the residents were the subject of involuntary placement in the Home by virtue of a court decision under the Law on Social Welfare. However, it transpired that instructions might be issued to the effect that certain "voluntary" residents may not be allowed to leave the establishment (cf. paragraph 18).

The Home comprises four accommodation units (referred to as A, B, C and 4) for different categories of residents, whose allocation is based primarily on their sex and/or their degree of self-reliance.

7. Since the CPT submitted its 1997 report to the Estonian authorities, the Ministry of Social Affairs began to formulate a new policy for the treatment and care of the mentally retarded and the mentally ill. In February 1998 a working group led by the vice-chancellor of the Ministry examined the system of special residential care and drew up a plan for that year introducing guidelines for the evaluation of the status of clients and proposing an expansion of services as well as measures to address overcrowding. Senior officials from the Ministry informed the CPT's delegation that there was an increasing emphasis on the training of existing staff and on the establishing of separate "day centres" (with a combined capacity of at least 200) for residents of special care homes. There had also been efforts to improve the physical environment in the homes and to seek alternative accommodation for residents; the officials indicated that 150 persons had moved from special care homes to alternative centres. The CPT welcomes the aforementioned initiatives of the Estonian Ministry of Social Affairs **and would like to receive further information on these developments.**

8. The shift in policy at the Ministry had had a direct impact on the situation in the Valkla Social Welfare Home. The delegation which carried out the 1999 visit found it a changed establishment with, inter alia, a new director who had taken up her post in 1998. The situation in Unit 4 and in the Home in general had significantly improved; the "culture of violence" observed in 1997 was no longer in evidence.

2. Ill-treatment

9. In contrast to the situation observed in July 1997, the delegation which carried out the 1999 visit to Valkla Home heard no credible allegations of ill-treatment of residents by staff. Further, the information gathered during the visit indicated that the incidence of violence or abuse between residents had diminished considerably. The delegation formed the impression that relations between staff and inmates were marked by kindness and respect. More generally, the vast majority of inmates interviewed stated that they felt safe in the Home.

10. This striking improvement in the situation at Valkla was no doubt the result of the organisational changes which had been introduced since 1997. First and foremost, the practice of employing residents as guards, which had been at the root of most of the allegations received during the CPT's first visit to Estonia, had been discontinued. Further, persons employed as guards at the establishment had received specific training for their duties. A new system had also been introduced whereby qualified health-care staff was assigned to each of the four units on a permanent basis; each unit was headed by one person responsible for its day-to-day functioning. It is also noteworthy that members of staff were now required to wear badges indicating their names and functions.

The education and training budget had tripled since 1997, allowing many members of staff to take part in courses on a variety of subjects, including: mandatory in-house courses for guards; professional caretaking (completed by 9 staff members); handling difficult patients and coping with stress (two 2-month modules at Tartu University attended by 30 staff members); rehabilitation care (in the Mental Care Centre in Tartu, attended by 14 staff members); social work (in Paide, currently being attended by 6 staff members) and gerontological social work (completed by two staff members at the Tallinn Pedagogical Faculty).

11. The CPT greatly welcomes the organisational and education/training initiatives introduced at the Valkla Welfare Home, which have clearly had a beneficial effect. Nevertheless, it remains somewhat concerned about the staff presence in the establishment at night (i.e. after 7 p.m). The delegation was informed that the night shift for the whole home consisted of one qualified nurse assisted by eight "care guards" (hooldusvalvur). Such an arrangement is scarcely sufficient to guarantee both adequate care and control of almost 400 residents and effective supervision by qualified staff of the care guards' activities. **The CPT recommends that the number of qualified health-care staff on duty in the Home at night be increased.**

3. Living conditions and treatment

12. Significant improvements had taken place in Unit 4. Residents were free to move around the unit rather than remaining locked during the day in one of two day rooms, as had previously been the case. Two therapists assigned to the unit organised the residents' daily activities, and certain patients from the unit were allowed to take part in activities in the establishment's day centre.

Throughout the Home, efforts had been made to improve the material environment. For example, the various communal and activities areas had lively seasonal decorations, and residents had access to their rooms at all times. Further, steps had been taken to upgrade the sanitary facilities for patients (though this work was still not completed).

Work was underway to convert the accommodation on the ground floor of Unit B into separate apartments, a positive initiative which the CPT regards as conducive to the acquisition of greater self-reliance on the part of residents. Nevertheless, as already noted, the Home was still operating above its official capacity of 300. This, combined with the effects of the renovation work in Unit B, meant that patients' rooms in some parts of the establishment were rather overcrowded (4 to 5 persons in rooms measuring 14 m²). Further, some residents complained of the lack of cupboards to store their personal belongings, which consequently they had to store in boxes under their beds.

13. **The CPT recommends that the refurbishment programme at Valkla Social Welfare Home be pursued actively and that all residents be provided with lockable storage space. Further, efforts should continue to be made to reduce the number of residents at Valkla to its official capacity of 300.**

14. The Home's instructors and occupational therapist made laudable efforts to develop suitable activities for residents despite the limited resources available; several residents made positive comments in this regard. Programmes offered included dance, singing, drawing, musical therapy and handicrafts such as pottery, woodwork and carpet-weaving; in addition, residents were occasionally taken on excursions. The home itself had various TV/recreation areas, a modest but pleasantly decorated hall used for physical exercise, games and dance, and a small library.

The situation as regards work opportunities for residents had changed little from that observed in 1997. Five residents worked outside the Home, twenty on the maintenance of its grounds, while others worked in the kitchen, laundry and on related maintenance tasks. The Home's director stated that 65 residents were so "involved."

No activities were provided to residents placed in the section of Unit 4 which accommodated persons with severe mental handicaps. Staff informed the delegation that the section's residents had no language skills which, in their view, precluded involvement in activities; nevertheless, the delegation formed the impression that not all of them were so severely impaired as to be unable to benefit from carefully planned and structured activities. **The CPT invites the management of Valkla to give further consideration to this matter.**

15. There had been an increase in the number of staff involved in patient care as compared to 1997. However, the quality of treatment provided to the Home's residents continued to be seriously undermined by the insufficient presence of doctors and, more particularly, of psychiatrists. The sessional time provided to the Home by a psychiatrist amounted to a mere three days a month. The psychiatrist concerned had little, if any, involvement with rehabilitation programmes, her activities on visits to the home being limited to psychiatric matters in a narrow sense. Many of the current residents at the Home have the potential for rehabilitation and reintegration into society. However, as the visiting psychiatrist recognised herself, this will not be possible to achieve without a full-time psychiatrist supported by a multi-disciplinary team, to meet the varied needs of the physically handicapped, the mentally retarded and the mentally ill. It should be noted in this connection that new forms for personal records for the residents contained space for information crucial for rehabilitation; however, these items were not yet filled out.

Another consequence of the situation described above was that the decision to use medication (including highly potent neuroleptics) and/or apply instruments of physical restraint when a resident became acutely disturbed had to be taken by nursing staff. One nurse described this as a "huge responsibility." A doctor was consulted neither before nor after such a measure was taken, nor was there any written protocol covering such interventions.

The CPT recommends that staff resources at the Home be reviewed in the light of the above remarks and that, in particular, steps be taken to ensure a presence of psychiatrists equivalent to at least a full-time post. Further, the provision of medication and/or resort to instruments of physical restraint in emergency situations should always be either expressly ordered by a medical doctor or immediately brought to the attention of such a doctor with a view to seeking his approval.

16. The information gathered by the delegation also indicated that despite the absence of a legal ruling of incompetence, medication was frequently administered without a patient's consent. Many such cases were both reported in medical files and referred to by patients themselves. In this connection, the CPT must stress once again (cf. also paragraph 159 of the report on the first visit to Estonia) that every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

The CPT recommends that steps be taken immediately to ensure that this fundamental safeguard is guaranteed at the Valkla Social Welfare Home.

4. Other issues

17. In contrast to the situation observed during the CPT's first visit, by December 1999 the practice of seclusion at Valkla had become the subject of a specific policy: only a nurse on duty could impose the measure, and the nurse had to record the reasons for it and its duration in a special register. However, despite the prescribed maximum of 24 hours, an examination of the documentation revealed that, on two occasions in the preceding three-month period, residents had been subject to seclusion for several days at a time. **The CPT would like to receive the opinion of the Estonian authorities on this matter.**

Further, the CPT recommends that:

- **placement in an isolation room be made subject to approval by a doctor (in the case of mentally ill or mentally handicapped residents) or the Home's director (in the case of other residents);**
- **residents placed in an isolation room be subject to close supervision by nursing staff;**
- **material conditions in the isolation rooms be reviewed** (in at least one of them, they represented a potential hazard for residents subject to isolation).

The CPT also wishes to stress that seclusion should never be used as a punishment vis-à-vis mentally ill or mentally handicapped residents.

18. The CPT is also concerned by the somewhat dubious legal position of many of the Home's residents. As already indicated, none of the residents had been placed in the Home on the basis of a court decision. However, the visiting psychiatrist informed the delegation that she did sometimes issue instructions to the effect that residents are not to be allowed to leave. It also transpired from discussions with staff at the Home and residents, and from consultation of medical files, that residents could be prevented from leaving the Home by decision of the head nurse. This state of affairs was confirmed by a list kept at the main gate listing those residents who were allowed to pass; this list represented less than half the residents. In other words, more than half the residents at the time of the delegation's visit were not allowed to leave the establishment.

The CPT recommends that the authority for limiting residents' freedom of movement be given a firmer legal basis. This is not only a question of respecting the civil rights of residents; clarifying their legal position is a prerequisite to a sensible programme of rehabilitation.

B. Police matters

1. Introduction

19. As already indicated, the delegation focused its attention on conditions of detention in police arrest houses. However, it should be noted at the outset that the delegation did not receive any complaints of the ill-treatment of detained persons by the staff of arrest houses or by investigators. Further, the delegation received relatively few allegations of ill-treatment by members of the criminal or security police, and certainly far fewer than in the course of the 1997 visit. Nevertheless, the fact that some allegations were heard indicates that the Estonian authorities should remain vigilant in this area. **The CPT looks forward to receiving up-to-date statistics on complaints of police ill-treatment and related proceedings, as requested by its delegation during the December 1999 visit.**

20. Reference should also be made to a suggestion concerning the investigation of complaints of ill-treatment by the police, made by members of the Tallinn Prosecutor's Office met by the delegation. They argued that in the interest of ensuring total objectivity and impartiality, such investigations should be entrusted to prosecutors from a different city or district. **The CPT would like to receive the views of the Estonian authorities on this question.**

21. As regards safeguards against ill-treatment, the delegation found that a number of recommendations made on this subject after the 1997 visit had not yet been implemented. The CPT will address this question in a later section of the report (cf. paragraphs 28 to 34).

2. Conditions of detention in police arrest houses

22. The CPT's delegation visited seven police arrest houses in December 1999: three of them were new (Tartu, Viljandi, and the new arrest house in Tallinn) and four were old (Kohtla-Järve, Narva, Rakvere and Tallinn Arrest House No. 1). The CPT wishes straight away to underline that the new arrest houses represent a major leap forward. As many staff members and detainees remarked, comparing the new facilities with the former was like comparing day with night.

Certain aspects of the conditions of detention in each of the new facilities left something to be desired. However, it is interesting to note that they were not the same aspects. A combination of the positive features of the new facilities visited would create a near-ideal arrest house, at least in material terms. **The CPT recommends that the Estonian authorities draw up a standard design and specification for arrest houses, taking into account inter alia the remarks in paragraph 23.**

23. Access to natural light in the cells at the Tartu Arrest House was far from ideal, and it appeared to the delegation that this would also be the case in the new arrest house in Tallinn. In contrast, the design of the cell windows in the Viljandi Arrest House allowed adequate access to natural light. As regards artificial lighting, however, the situation at Tallinn and Tartu could serve as a model for Viljandi, where the artificial lighting was of a disagreeable quality. Nevertheless, nocturnal cell lighting at Tallinn and Tartu should be reviewed; at the time of the visit, it was too bright. Cells at Tallinn and Tartu were adequately furnished with beds, tables and chairs. The situation was less satisfactory at Viljandi, where beds constituted the only furniture. Proper mattresses were provided at Tartu and Viljandi; however, the centimetre-thick mat foreseen at Tallinn was not adequate. In all three new arrest houses, the in-cell sanitary facility was unscreened. This is unsatisfactory in multi-occupancy accommodation; at least a waist-level screen should be fitted around the toilet.

As for cell occupancy rates, they were acceptable, at Tartu and Viljandi. For example, a two-person cell at Tartu measured 10m² and a four-person cell, approximately 17m²; at Viljandi, a cell for up to three persons measured 13.5 m² and a single cell, 6m². In contrast, the envisaged cell occupancy levels at the new arrest House in Tallinn were somewhat too high. Most of the cells would offer less than 4m² per detainee when used at their maximum capacity.

Each of the three new arrest houses possessed outdoor exercise facilities. The facilities at Tallinn and Viljandi can be considered as adequate for relatively short periods of detention. However, the 6m² boxes used at Tartu for outdoor exercise were totally inadequate; a much larger exercise facility should be foreseen.

The CPT recommends that material conditions of detention in the arrest houses in Tartu and Viljandi and the new arrest house in Tallinn be reviewed, in the light of the above remarks. Further, the CPT would like to receive confirmation that, following remarks made by its delegation, the small (3.3 m²) and windowless cells at the new arrest house in Tartu are no longer used as overnight accommodation for detainees.

24. As regards the older arrest houses visited, despite certain efforts at improvement which had been made, conditions of detention remained generally unacceptable. As had been the case in 1997, many of the cells seen were dirty, poorly equipped, inadequately lit (access to natural light was a rarity and artificial lighting usually very dim), and badly ventilated; further, some of the cells were overcrowded at the time of the visit. The CPT was also concerned to learn that detainees at the arrest house in Narva were still not being provided with mattresses at night; this is all the more regrettable given that it was the subject of an immediate observation regarding arrest houses in general following the CPT's 1997 visit.

The CPT recommends that the Estonian authorities either completely renovate the arrest houses at Kohtla-Järve, Narva and Rakvere, or replace them by more modern facilities. Further, it would like to receive confirmation that Tallinn Arrest House No. 1 has now been withdrawn from service.

In addition, the CPT trusts that following remarks made by its delegation, persons detained at the arrest house in Narva are now provided with a mattress at night and that no one is detained in the establishment's 2.5 m² disciplinary cells for more than a few hours.

25. In 1997, the amount of food provided in arrest houses was found to be very meagre. The situation had partly improved by 1999; however, the information gathered by the delegation indicated that food was still insufficient at Tallinn Arrest House No. 1 and at Viljandi (at the latter establishment it consisted of nothing in the morning, soup and half a loaf of bread with tea and sugar at midday, and tea without sugar in the evening).

More often than not, detainees did not receive basic personal hygiene items (such as toilet paper) and weekly hot showers were not always provided.

The CPT recommends that the Estonian authorities verify throughout the country that persons detained in arrest houses are receiving both adequate food and basic personal hygiene products, and are allowed to take a hot shower at least once a week.

26. The regime of activities in the arrest houses visited remained impoverished. Magazines and newspapers were practically the only source of distraction, and not all detained persons were fortunate enough to have access to such reading matter. This had the most adverse effect on administrative detainees, who were left to languish in their cells for periods of up to 30 days. At the time of the visit, not even outdoor exercise was being offered to detainees (though the prevailing weather conditions would have rendered taking exercise unattractive).

The CPT recommends that immediate steps be taken to ensure that all persons detained in arrest houses are offered at least one hour of outdoor exercise per day and have access to reading matter. Further, the CPT invites the Estonian authorities to explore the possibilities of offering other out-of-cell activities (such as some form of work) to administrative detainees.

27. As in 1997, the CPT has cause for concern as regards health care in arrest houses. Medical screening on arrival was not taking place systematically, and a detainee's access to medical staff was often found to be limited to a verbal exchange through cell doors in the presence of other detainees. Further, the delegation heard some allegations that TB medication had been interrupted following placement in an arrest house.

Persons placed in a police arrest house should be medically screened without delay and, throughout their stay, should have ready access to health care staff under conditions guaranteeing medical confidentiality and be able to continue medical treatment already prescribed for them. **The CPT recommends that appropriate steps be taken to ensure that this is the case.**

In the light of information gathered by its delegation, **the CPT must also recommend that in cases where a detainee is or becomes highly agitated, the police should immediately contact a doctor and act in accordance with his opinion.**

3. Safeguards against ill-treatment

28. Some improvement was observed as regards the practical application of the rights of criminal suspects to notify a third party of their custody and to have access to a lawyer. Many persons interviewed by the delegation indicated that they had been informed of these rights at the outset of the procedure and been able subsequently to meet with a lawyer in private. However, some detained persons alleged that they had not been given the opportunity to notify a third party of their custody and/or had been given no information concerning access to a lawyer, during the initial phase of questioning by the criminal police.

29. As regards the right to notify a person of one's custody, the CPT has always accepted that the exercise of this right may on occasion have to be delayed in order to protect the interests of justice. However, any such possibility should be well-defined, subject to safeguards, and applied for as short a time as possible. As was indicated in the report on the 1997 visit, on all of these counts the existing wording of section 102 of the Code of Criminal Procedure is not satisfactory. **Consequently, the CPT must reiterate the recommendation made in the report on the 1997 visit that the possibility exceptionally to delay the exercise of the right to have the fact of one's custody notified to a relative or other third party be better regulated; it should be more closely circumscribed (the precise situations in which a delay can be imposed should be spelt out), made subject to appropriate safeguards (any such delay should be recorded in writing together with the reasons therefor and require the approval of a senior police officer or public prosecutor) and strictly limited in time.**

30. As regards access to a lawyer, the delegation received official confirmation that it applies as from the very outset of custody. However, several of the delegation's interlocutors indicated that, in certain cases, the criminal police may choose not to enlighten a detained person on this subject, leaving it to the investigator to inform him at a subsequent stage of the procedure of his right to a lawyer.

31. In order to ensure that persons in police custody are duly informed in good time of all their rights, **the CPT must reiterate its recommendation that a form setting out these rights in a straightforward manner be systematically given to such persons at the very outset of their deprivation of liberty. The form should be available in an appropriate range of languages and should cover, inter alia, the right to notify a third party of one's custody, the right of access to a lawyer and the right of access to a doctor.**

32. The delegation observed that no action had been taken in response to the recommendation made in the report on the 1997 visit that a code of conduct for police interviews be drawn up. In their interim response to the 1997 visit report, the Estonian authorities stated that the art of questioning will depend in the main on professional training and the principles of police ethics. The CPT does not dispute this; however, the code of conduct recommended by the Committee will help to ensure that the lessons taught during police training are not forgotten or the principles of police ethics ignored.

Consequently, the CPT must reiterate its recommendation that a code of conduct for police interviews be drawn up. In addition to reiterating the total prohibition of ill-treatment, the code should deal, inter alia, with the following: the systematic informing of the detainee of the identity (name and/or number) of those present at the interview; the permissible length of an interview; rest periods between interviews and breaks during an interview; places in which interviews may take place; whether the detainee may be required to remain standing while being questioned; the questioning of persons who are under the influence of drugs, alcohol or medicine, or who are in a state of shock. It should also be stipulated that a systematic record be kept of the times at which interviews start and end, the persons present during each interview and any request made by the detainee during the interview.

The position of specially vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) should be subject to specific safeguards.

33. In the report on the 1997 visit, the CPT expressed strong reservations concerning the possibility for detained persons to waive their right to be brought before the judge who must authorise prolongation of police custody beyond 48 hours. Taken together with the fact that detained criminal suspects are rarely seen in person by the competent public prosecutor at this stage in the procedure, this meant that a person could be held in police custody for a considerable period of time without being brought before an authority which is independent from the police. The CPT recommended that all criminal suspects taken into police custody be brought promptly before a judge; the Committee regrets that to date no action has been taken to implement this recommendation (though a practice has developed of requiring criminal suspects to confirm in writing that they do not wish to attend the hearing).

34. The CPT remains firmly of the view that in the interests of the prevention of ill-treatment, all criminal suspects in respect of whom an extension of police custody is sought should be brought before the judge who must authorise such an extension; appearing before the judge should cease to be considered as a right which can be waived. Bringing criminal suspects before the judge will provide a timely opportunity for a person who has been ill-treated to lodge a complaint. Further, even in the absence of an express complaint, the fact of having the person concerned brought before the judge will enable the latter to take action in good time if there are other indications (e.g. visible injuries; a person's general appearance or demeanour) that ill-treatment might have occurred. It is noteworthy that one of the few people who did allege severe ill-treatment by the police (at the time of his arrest) had declined to attend the hearing when the application was made to extend police custody beyond 48 hours, as he felt that it would be "a waste of time".

Consequently, the CPT recommends that appropriate measures be taken without delay to ensure that all criminal suspects in respect of whom an extension of police custody beyond 48 hours is sought are brought before the judge who must authorise such an extension.

C. Prison matters

1. **Viljandi Juvenile Prison**

35. The delegation which carried out the 1999 visit took the opportunity to review disciplinary arrangements at Viljandi Juvenile Prison, which had been criticised in the report on the 1997 visit. Improvements were observed as regards both the approach followed in the matter of disciplinary sanctions and, the conditions in the disciplinary cells (kartzers). However, conditions in the establishments closed isolation rooms remained unsatisfactory.

36. Consultation of the establishment's disciplinary register revealed that there had been a significant reduction in the number of placements in disciplinary cells and closed isolation rooms - a total of 89 placements during the period January to mid-December 1999, as compared to 127 placements during the first 6½ months of 1997. Further, the reasons recorded for the sanctions imposed and the length of the latter indicated that greater attention was now being given to the need to ensure that a sanction imposed is always proportional to the offence committed.

Nevertheless, the CPT wishes to stress that the placement of juveniles in conditions resembling solitary confinement is a measure which can compromise their physical and/or mental integrity; consequently, resort to such a sanction should be regarded as an exceptional measure.

37. The establishment's two kartzers had been completely renovated. Unlike the situation observed in 1997, they had good access to natural light and adequate artificial lighting, and were properly ventilated. The cells had been equipped with two folding beds (at night unfolded and equipped with a mattress), a small table and two stools, and a washbasin and seatless toilet. Further, they were clean and in a good state of repair.

38. Juveniles placed in a kartser were offered one hour of outdoor exercise per day. However, they were not permitted access to reading matter; **the CPT recommends that the relevant rules be amended so as to allow access to a range of reading material.**

Further, the CPT must emphasise that juveniles placed in a kartser (or closed isolation room) for a period of days should be guaranteed appropriate human contact.

39. The closed isolation rooms were in a poor state of repair, and the electrical fittings in certain of them were in a positively dangerous condition. Further, the recommendations made by the CPT in 1997 with a view to improving material conditions in the rooms had not been fully implemented; in particular, inmates placed in the rooms still used a bucket for the purpose of satisfying their natural needs.

Consequently, the CPT recommends that:

- **the closed isolation rooms be renovated; this should include equipping each of the rooms with a table and chair and a call bell;**
- **inmates placed within the rooms be guaranteed ready access to a proper lavatory at all times.**

40. As regards other deficiencies identified in the report on the 1997 visit, the delegation which carried out the 1999 visit noted that the main sanitary facilities for inmates had been completely renovated and that a new central shower room was under construction. Further, the establishment's gymnasium had been brought back into service.

2. Other issues

41. The delegation also held a general exchange of views with the Head of the National Prison Board. The CPT was concerned to learn that the Central Prison is still in service and is likely to remain so for some time to come. The CPT notes that the number of prisoners held in the establishment has fallen to 940 (as compared to 1271 when visited in 1997); hopefully, this has made it possible to alleviate to some extent the intolerable conditions of detention observed in 1997. Further, the renovation of the tuberculosis department is a most welcome development. However, the CPT hopes that the Estonian authorities will be unwavering in their efforts to withdraw the Central Prison from service at the earliest possible opportunity; the premises are inherently unsuitable for use as a prison.

42. **The CPT calls upon the Estonian authorities to attach a very high priority to plans to build a new prison at Tartu, which should enable the Central Prison to be closed.**

In the meantime, the CPT trusts that efforts will continue to be made to reduce the number of prisoners held in the Central Prison and to alleviate the conditions of detention of those who remain. In this connection, and following remarks made by its delegation, **the CPT would like to receive confirmation that all the "waiting cubicles" in the Central Prison have now been demolished.**

43. **More generally, the CPT would like to receive detailed information:**

- **on the progress made towards increasing the number of work places in Estonian prisons, for both convicted and remand prisoners;**
- **on the implementation of the new Confinement Code, in particular the provisions concerning staff matters and medical services.**

44. Finally, as regards the problem of tuberculosis in the Estonian prison system, **the CPT recommends that current screening and treatment methods be reviewed, in the light of the Guidelines for the control of tuberculosis in prison (doc WHO/TB/98.2501) issued by the World Health Organisation and the International Committee of the Red Cross in 1998.**

APPENDIX

**LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS
AND REQUESTS FOR INFORMATION**

A. Valkla Social Welfare Home

recommendations

- the number of qualified health-care staff on duty in the Home at night to be increased (paragraph 11);
- the refurbishment programme to be pursued actively and all residents to be provided with lockable storage space. Further, efforts should continue to be made to reduce the number of residents at Valkla to the Home's official capacity of 300 (paragraph 13);
- staff resources at the Home to be reviewed in the light of the remarks made in paragraph 15 and, in particular, steps to be taken to ensure a presence of psychiatrists equivalent to at least a full-time post. Further, the provision of medication and/or resort to instruments of physical restraint in emergency situations should always be either expressly ordered by a medical doctor or immediately brought to the attention of such a doctor with a view to seeking his approval (paragraph 15);
- steps to be taken immediately to ensure that the fundamental safeguard of giving every competent patient, whether voluntary or involuntary, the opportunity to refuse treatment or any other medical intervention, is guaranteed at the Valkla Social Welfare Home (paragraph 16);
- as regards isolation rooms:
 - placement in an isolation room to be made subject to approval by a doctor (in the case of mentally ill or mentally handicapped residents) or the Home's director (in the case of other residents);
 - residents placed in an isolation room to be subject to close supervision by nursing staff;
 - material conditions in the isolation rooms to be reviewed (paragraph 17);
- the authority for limiting residents' freedom of movement to be given a firmer legal basis (paragraph 18).

comments

- the management of the Home is invited to give further consideration to the possibility of providing activities to residents placed in the section of Unit 4 which accommodates persons with severe mental handicaps (paragraph 14).
- seclusion should never be used as a punishment vis-à-vis mentally ill or mentally handicapped residents (paragraph 17).

requests for information

- further information on initiatives of the Estonian Ministry of Social Affairs in the field of the treatment and care of the mentally retarded and the mentally ill (paragraph 7);
- the opinion of the Estonian authorities on the fact that residents at the Valkla Social Welfare Home are on occasion subject to seclusion for several days at a time, despite the prescribed maximum of 24 hours (paragraph 17).

B. Police matters

1. Introduction

requests for information

- up-to-date statistics on complaints of police ill-treatment and related proceedings (paragraph 19);
- the views of the Estonian authorities on the idea of entrusting the investigation of complaints of ill-treatment by the police to prosecutors from a different city or district (paragraph 20).

2. Conditions of detention in police arrest houses

recommendations

- the Estonian authorities to draw up a standard design and specification for arrest houses, taking into account inter alia the remarks in paragraph 23 (paragraph 22);
- material conditions of detention in the arrest houses in Tartu and Viljandi and the new arrest house in Tallinn to be reviewed, in the light of the remarks in paragraph 23 (paragraph 23);

- the Estonian authorities to either completely renovate the arrest houses at Kohtla-Järve, Narva and Rakvere, or replace them by more modern facilities (paragraph 24);
- the Estonian authorities to verify throughout the country that persons detained in arrest houses are receiving both adequate food and basic personal hygiene products, and are allowed to take a hot shower at least once a week (paragraph 25);
- immediate steps to be taken to ensure that all persons detained in arrest houses are offered at least one hour of outdoor exercise per day and have access to reading matter (paragraph 26);
- appropriate steps to be taken to ensure that persons placed in a police arrest house are medically screened without delay and, throughout their stay, have ready access to health care staff under conditions guaranteeing medical confidentiality and are able to continue medical treatment already prescribed for them (paragraph 27);
- in cases where a detainee is or becomes highly agitated, the police should immediately contact a doctor and act in accordance with his opinion (paragraph 27)

comments

- the CPT trusts that following remarks made by its delegation, persons detained at the arrest house in Narva are now provided with a mattress at night and that no one is detained in the establishment's 2.5 m² disciplinary cells for more than a few hours (paragraph 24);
- invitation to explore the possibilities of offering other out-of-cell activities (such as some form of work) to administrative detainees (paragraph 26).

requests for information

- confirmation that, following remarks made by its delegation, the small (3.3 m²) and windowless cells at the new arrest house in Tartu are no longer used as overnight accommodation for detainees (paragraph 23);
- confirmation that Tallinn Arrest House No. 1 has now been withdrawn from service (paragraph 24).

3. Safeguards against ill-treatment

recommendations

- the possibility exceptionally to delay the exercise of the right to have the fact of one's custody notified to a relative or other third party to be better regulated; it should be more closely circumscribed (the precise situations in which a delay can be imposed should be spelt out), made subject to appropriate safeguards (any such delay should be recorded in writing together with the reasons therefor and require the approval of a senior police officer or public prosecutor) and strictly limited in time (paragraph 29);

- a form setting out in a straightforward manner the rights of persons in police custody to be systematically given to such persons at the very outset of their deprivation of liberty. The form should be available in an appropriate range of languages and should cover, inter alia, the right to notify a third party of one's custody, the right of access to a lawyer and the right of access to a doctor (paragraph 31);
- a code of conduct for police interviews to be drawn up. In addition to reiterating the total prohibition of ill-treatment, the code should deal, inter alia, with the following: the systematic informing of the detainee of the identity (name and/or number) of those present at the interview; the permissible length of an interview; rest periods between interviews and breaks during an interview; places in which the interviews may take place; whether the detainee may be required to remain standing while being questioned; the questioning of persons who are under the influence of drugs, alcohol or medicine, or who are in a state of shock. It should also be stipulated that a systematic record be kept of the times at which interviews start and end, the persons present during each interview and any request made by the detainee during the interview. The position of specially vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) should be subject to specific safeguards (paragraph 32);
- appropriate measures to be taken without delay to ensure that all criminal suspects in respect of whom an extension of police custody beyond 48 hours is sought are brought before the judge who must authorise such an extension (paragraph 34).

C. Prison matters

1. Viljandi Juvenile Prison

recommendations

- the relevant rules to be amended so as to allow juveniles placed in a kartser to have access to a range of reading material (paragraph 38);
- the closed isolation rooms to be renovated; this should include equipping each of the rooms with a table and chair and a call bell (paragraph 39);
- inmates placed within closed isolation rooms to be guaranteed ready access to a proper lavatory at all times (paragraph 39).

comments

- the placement of juveniles in conditions resembling solitary confinement is a measure which can compromise their physical and/or mental integrity; consequently, resort to such a sanction should be regarded as an exceptional measure (paragraph 36);
- juveniles placed in a kartser (or closed isolation room) for a period of days should be guaranteed appropriate human contact (paragraph 38).

2. Other issues

recommendations

- current screening and treatment methods for tuberculosis to be reviewed, in the light of the Guidelines for the control of tuberculosis in prison (doc WHO/TB/98.2501) issued by the World Health Organisation and the International Committee of the Red Cross in 1998 (paragraph 44).

comments

- the CPT calls upon the Estonian authorities to attach a very high priority to plans to build a new prison in Tartu, which should enable the Central Prison to be closed (paragraph 42);
- in the meantime, the CPT trusts that efforts will continue to be made to reduce the number of prisoners held in the Central Prison and to alleviate the conditions of detention of those who remain (paragraph 42).

requests for information

- confirmation that all the “waiting cubicles” in the Central Prison have now been demolished (paragraph 42);
- information on the progress made towards increasing the number of work places in Estonian prisons, for both convicted and remand prisoners (paragraph 43);
- information on the implementation of the new Confinement Code, in particular the provisions concerning staff matters and medical services (paragraph 43).