

Legal Information Centre for Human Rights

**ANALYSIS OF THE SITUATION
IN
ESTONIAN PRISONS**



December, 2010

Tallinn

Introduction

Since 2009 the Legal Information Centre for Human Rights (hereafter referred to as the LICHR) has received 155 letters from prisoners of all five Estonian prisons. In their requests to the LICHR prisoners are seeking information concerning their rights. They asked about their opportunities to contact international bodies and the prospects of any of their requests. They asked the LICHR to evaluate the legitimacy of actions of prisons officials. They also informed the LICHR about various violations of the law on the part of prisons' administration, and the poor conditions of detention.

They asked about their opportunities to address international bodies and the prospects of these requests

Statistical information on the letters received by the Legal Information Centre for Human Rights contained in the annex.

From the statements of prisoners it is possible to identify the main and typical problems existing in a prison, and which of them, therefore, need to be brought to the attention of the prison administration and the Chancellor of Justice.

Despite the fact that the need for this analysis arose indirectly, this report is intended to formulate and provide guidelines for the activities of the Legal Information Center for Human Rights in 2010-2012. The objective is to protect the rights of prisoners, as well as to identify possible actions to enhance the legal awareness among prisoners and their relatives.

Content

Introduction	2
Content	3
General information	4
The main problems in Estonian prisons	11
Annex	18
Table 1. Number of letters received by the Legal Information Centre for Human Rights in 2009-2010.....	18
Table 2. General problems in Estonian prisons, 2009.....	19
Table 3. General problems in Estonian prisons, 2010.....	20

General information

Demographic situation and prison statistic information

As of 1 January 2010 there were 1,340,127 inhabitants in Estonia. Ethnic Estonians make up 68.8% and ethnic Russians 25.6% of the population. Other relatively big ethnic groups were Ukrainians, Byelorussians and Finns¹. At the beginning of 2009 there were 110,315 “people with undefined citizenship” in Estonia, i.e. stateless former Soviet citizens. Their number has declined by 5,502 by the end of the year. At the beginning of 2009 there were 96,690 citizens of Russia residing in Estonia. Their number had increased by 1 411 by the end of the year².

At the end of 2009 there were 3,555 prisoners in Estonia (2,719 of them were sentenced and 836 were under arrest). This number does not include prisoners which were held in detention houses³.

Estonian Penitential System

The beginning of prison reform in 2005 has brought significant changes. In 2003 Estonia transferred the authority for serving a sentence to the Ministry of Justice. Currently, the Penal Code provides 387 compounds of offenses, as well as 889 in special laws⁴. In 2010 the special analysis found some evidence of over-criminalization in Estonia⁵.

Estonia is a Member State of the Council of Europe and has ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Within the framework of the Convention operates the eponymous European Committee (Committee for the Prevention of Torture – CPT), which carries out its regular and special visits to all Member States to verify the situation of all the convicts of the state institutions and prisons and the compliance

¹ Statistics Estonia, at: http://pub.stat.ee/px-web.2001/I_Databas/Population/01Population_indicators_and_composition/04Population_figure_and_composition/04_Population_figure_and_composition.asp (20.12.2010).

² Police and Border Guard Board, letter of 25 January 2010 r. № 1.3-11/2820. Data on people who reside in Estonia legally (valid residence permits or valid rights of residence).

³ Justiitsministeerium, Kuritegevus Eestis 2009 (Criminality in Estonia in 2009), Kriminaalpoliitika uuringud 12, Tallinn, 2010, p.83, at <http://www.just.ee/orb.aw/class=file/action=preview/id=52485/12.+Kuritegevus+Eestis+2009.pdf> (20.12.2010).

⁴ Timo Reinthal, Ülekriminaliseerimine: Analüüs (Over-criminalization: Analysis), Riigikohus, Tartu, 2010, p. 6, at http://www.riigikohus.ee/vfs/992/2010_Lisa%202%20%28Ulekriminaliseerimine_analuus%29.pdf (20.12.2010).

⁵ Ibid, p. 15.

of their conditions and treatment within the Convention⁶. The CPT visited Estonia four times – in 1997, 1999, 2003 and 2007. The latest document contains the report from the 2003 visit⁷.

Prison system

The objective of application of imprisonment is to help prisoners lead a law-abiding life and to defend public order.⁸ Application of imprisonment is organized in two types of prison: closed or open.

Closed (maximum security) prison - Surrounded by walls or other barrier, where it is possible to constantly supervise the inmates. For placing prisoners in a closed cell, allowing the permanent visual or electronic surveillance of the prisoners⁹.

Open prison - A prison, whose territory is marked by clearly visible signs. Accommodation for prisoners is in residential buildings with rooms.¹⁰ During waking hours prisoners are allowed to move freely within the prison. With the permission of the prison service, prisoners may, in connection with education, employment or the provision of health services, also go outside the open type prison¹¹.

This report will not be considering open prisons.

Legislative framework

The main legislation acts in the area of prison management are:

- Constitution of the Republic of Estonia.
- Imprisonment Act, which establishes the order and organization of the execution of imprisonment, arrest, detention and detention after serving sentence, as well as the concept of the prison service and prison officer service and their condition (14 June, 2000).
- Regulation of the Minister of Justice on the Internal Rules of the prison (№72, 30 November, 2000).
- Internal Prisons Rules.

Among various international instruments the most important for prisoners are the following documents:

⁶ Information of the Ministry of Justice (Prison Department) at: <http://www.vangla.ee/11926> (20.12.2010).

⁷ Website of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment at <http://www.cpt.coe.int/en/states/est.htm> (20.12.2010).

⁸ Imprisonment Act, p.1 art. 6.

⁹ Imprisonment Act, art. 7.

¹⁰ Imprisonment Act, art.9.

¹¹ Imprisonment Act, art. 10.

- European Convention on Human Rights (1950);
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987);
- The European Prison Rules (2006), which, however, are not legally binding. This is a compilation of recommendations adopted by the Committee of Ministers of the Council of Europe for governments that are members of the Council of Europe. These rules establish minimum standards for prison staff, prisoners and persons subjected to preventive detention.

The issue of application of international principles and norms by judicial and executive power is not clear. Ratified international acts are slowly transposed into Estonian national legislation. However, law enforcers do not always act in accordance with generally accepted human rights standards and do not always refer to international law when making their decisions. Of course, this does not mean that there are no positive practices, but unfortunately they are not widespread. Such positive practices are not systemic and they still are not an inalienable characteristic of the enforcement system as a whole.

General information on prisons in Estonia

There were five prisons in Estonia by the end of 2009. All of them operate under the auspices of the Ministry of Justice.

According to the official statistics from 2009 there were 3,555 people in detention. The total number of prison places was 3,656, with the largest number of places (1,070) in Tallinn prison and slightly fewer places in Viru and Tartu Prisons. The number of prisoners in Murru prison has decreased threefold over the last five years. In late 2009 there were about 500 detainees¹². In December 2010 there were less than 300 people in the Murru prison¹³.

The Department of Prisons of the Ministry of Justice is the administrative management unit of the prison system, whose main task is to organize, develop and supervise the work of prisons.

Division supervises the Deputy Chancellor of the Ministry (Prison Department). The department is divided into three services: execution of punishment, social care, and service of law and development. In addition, the department has a chief adviser, chaplain, secretary and Deputy Chancellor's assistant¹⁴.

¹² Justiitsministeerium, Kuritegevus Eestis 2009 (Criminality in Estonia in 2009), Kriminaalpoliitika uuringud 12, Tallinn, 2010, p.83.

¹³ Information from the website of the Ministry of Justice (Prisons) <http://www.vangla.ee/41291> (20.12.2010).

¹⁴ Information from the website of the Ministry of Justice (Prisons) <http://www.vangla.ee/43553> (20.12.2010).

Viru Prison

Construction of the prison was completed in 2008. The buildings and surrounding area of the prison cover an area of 16 hectares and are primarily guarded through an electronic security system operating along the perimeter of the prison. The prison complex comprises the prison itself and a detention centre. It can accommodate up to 1000 inmates in one- and two-person cells, a further 75 prisoners in its minimum-security wing and 150 people being held in custody in the detention centre. There are also residential quarters for 300 people under preliminary investigation. The first prisoners were jailed in Viru Prison in early April 2008¹⁵.

Tallinn Prison

Tallinn Prison is located on the site of a prisoner-of-war camp that operated between 1944 and 1949. From 1950 to 1960 (during the Soviet era) stone buildings were constructed at the facility, including two industrial buildings, which were renovated and remodelled in the 1990s as preliminary investigation units. Tallinn Prison incorporates the former Maardu Prison, whose premises now house Tallinn Prison's health department. Inmates from all prisons who require in-patient medical care are treated here¹⁶.

Tartu Prison

There are 479 cells in the prison, with each cell measuring approximately 10 m². The number of places in prison is 924. The department organises the transport of prisoners under armed guard between detention centres and prisons all over the country. In-patient psychiatric services have been offered in Tartu Prison's medical department since 2005¹⁷.

Murru Prison

Murru Prison is located in the village of Rummu in Vasalemma municipality in Harju County. Employment at the prison is coordinated by AS Eesti Vanglatööstus. Four companies currently operate on the prison premises¹⁸. In connection with the reconstruction plan of the prison in 2010 prisoners are transferred to other Estonian prisons.

Harku Prison

Harku Prison is located on the outskirts of Tallinn (around 12 kilometres from the city centre) on 8.3 hectares of land on the eastern side of Harku village. Harku Prison differs from other Estonian prisons not only in terms of the sex of its inmates, but also in terms of the fact that children up to the age of 4 can stay here with their mothers – in a separate department especially

¹⁵ Information from the website of the Ministry of Justice (Prisons) <http://www.vangla.ee/43555> (20.12.2010).

¹⁶ Information from the website of the Ministry of Justice (Prisons) <http://www.vangla.ee/43561> (20.12.2010).

¹⁷ Information from the website of the Ministry of Justice (Prisons) <http://www.vangla.ee/43563> (20.12.2010).

¹⁸ Information from the website of the Ministry of Justice (Prisons) <http://www.vangla.ee/43559> (20.12.2010).

designed for this purpose¹⁹. In 2010 Harku prison lost its status as a women's prison as male prisoners transferred there²⁰.

"Portrait" of a prisoner in Estonia

A "typical" prisoner is of Russian ethnicity from Harju County, thirty years old, who is in prison for the first or second time and whose native language is Russian. According to the Ministry of Justice at the end of 2009 in prisons in Estonia there were held²¹:

- 3,360 men (95%) and 195 women (5%);
- 39% from Harju County;
- 32% of age 30 - 39;
- 61% have Estonian citizenship;
- 58% Russian native language; 40% Estonian native language.

2,699 prisoners were adults (2,550 men and 149 women) and 20 were minors (19 boys and 1 girl).

International bodies on the situation in Estonian prisons

In 2003, the delegation of the European Committee against Torture, visited prisons in Estonia. Several cases of cruel treatment of prisoners were identified. They were also informed about criminal cases commenced against prison staff regarding ill-treatment of prisoners. After the visit the Committee in its report highlighted several recommendations for Estonia, among them were²²:

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

¹⁹ Information from the website of the Ministry of Justice (Prisons) <http://www.vangla.ee/43557> (20.12.2010).

²⁰ Information from the website of the Ministry of Justice (Prisons) <http://www.vangla.ee/41381> (20.12.2010).

²¹ Justiitsministeerium, Kuritegevus Eestis 2009 (Criminality in Estonia in 2009), Kriminaalpoliitika uuringud 12, Tallinn, 2010, p.86.

²² 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 23 to 30 September 2003), p. 55 ff, at <http://www.cpt.coe.int/documents/est/2005-06-inf-eng.pdf> (20.12.2010).

considerable emphasis should be placed on the acquisition of interpersonal communication skills;

- the Estonian authorities to strive to maintain a standard of at least 4 m² of living space per prisoner in multi-occupancy cells, and official capacities to be calculated accordingly;
- 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 necessary steps to be taken to ensure that all prisoners have access to an appropriate range of work, educational, sports and recreational activities;
- medical examinations 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.

In 2008 in a report on human rights the U.S. State Department also informs that in Estonia there are problems with the conditions in places of detention²³.

Visits of the Chancellor of Justice

The Chancellor of Justice (ombudsman and the national preventive mechanism designated under the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment) visited the Tallinn and Viru Prisons in 2008 and after his visit highlighted three major challenges related to detention²⁴.

Firstly, the conditions prevalent in the remaining non-renovated prisons deriving from the Soviet period do not guarantee the rights of prisoners at the level presumed in the 21st century Europe. One such prison is Tallinn Prison in which several rooms did not conform to the requirements during the Chancellor's visit. Tallinn Prison, according to its reply, will try to improve the situation of the rooms as much as possible. Building of the new Tallinn Prison is also planned.

Secondly, it is still difficult for prisoners to protect their rights by contacting the prison administration and other state agencies due to lack of information. The prison also violates the

²³ United States Department of State, 2008 Human Rights Report: Estonia, at <http://www.state.gov/g/drl/rls/hrrpt/2008/eur/119077.htm> (20.12.2010).

²⁴ 2008 Overview of the Chancellor of Justice, Activities for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, p. 18, at http://www.oiguskantsler.ee/public/resources/editor/File/INGLISKEELNE_KODULEHT/OPCAT/Annual_reports/Overview_2008.pdf (20.12.2010).

procedure for responding to applications, and getting in touch with the contact person who is the main communicative link between the prison and the prisoner is often complicated.

The Chancellor of Justice has pointed out these problems, and in cooperation with the Ministry of Justice and the prisons the situation has somewhat improved.

Thirdly, there are still problems with diversifying daily activities available to persons who are locked in their cells for 24 hours (remand prisoners, persons locked to cells for security reasons). Minors in locked cells cannot sufficiently study or participate in hobby groups, and remand prisoners do not have sufficient opportunities for targeted activities. Prisons in their replies to the Chancellor's recommendations explained that diversifying of daily activities was considerably hampered due to the interests of criminal proceedings (the need to keep persons separately) as well as security considerations.

In 2009 the Chancellor visited the Murru Prison and Tartu Prison. Following the visit, he highlighted the issue of prison conditions and the problem of lack of awareness of prisoners. In addition, the Chancellor noted the problem of inadequate data collection and processing of information about the health of prisoners²⁵.

Monitoring by the Legal Information Centre for Human Rights has identified some problems which have not been reflected in the report of the Chancellor of Justice. From the letters of prisoners it is also seen that Chancellor's visits and his recommendations do not always lead to a substantial change in the situation. According to the LICHR, monitoring of the situation of prisoners should be constant and targeted, that is, if possible, be accompanied by giving help or advice in each isolated case.

²⁵ 2009 Overview of the Chancellor of Justice, Activities for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, p. 34, at http://www.oiguskantsler.ee/public/resources/editor/File/INGLISKEELNE_KODULEHT/Ylevaated/Annual_Report_2009.pdf (20.12.2010).

The main problems in Estonian prisons

In 2009 in connection with the abuses committed by the prison administration, warnings were issued to 21 officials, five were dismissed, and four had their salary reduced. In 2009 five criminal cases were opened against correctional officers on the basis of Article 291 of the Penal Code. One case was closed due to lack of evidence. The employee, who was charged in another case, was sentenced to imprisonment. Proceedings in three other cases are still pending.²⁶

In 2009-2010 the Legal Information Centre for Human Rights has received 155 letters from prisoners from all five prisons in Estonia.²⁷ They complain mostly about the actions of the prison authorities. Upon consideration of all the letters we were able to identify the main areas of concern. In some cases, initial information about the pending problems was obtained through the media.

High prices at a prison grocery store

*"Tallinn Prison Inmates complain of high prices at the prison grocery store, where some goods are roughly twice as expensive than in the metropolitan department store Stockmann"*²⁸.

On 5 of April 2010 the Legal Information Centre for Human Rights made a request to the Tallinn prison regarding high prices at the store. On May 7, 2010 the request had to be repeated, since there was no reply. Finally, May 20, 2010, the Center received an answer from the Tallinn Prison, which reported that the Ministry of Justice had a contract with the company OÜ VT Marketing. This company decided on an assortment of goods and prices at the store²⁹. According to the press secretary of the Ministry of Justice, there is a contest to find a supplier for the prison store, and, for example, in 2008 OÜ VT Marketing was the sole bidder³⁰.

Decline of living conditions in the Harku Prison

"... male prisoners from the men's prison in Murru were transferred to Harku, and in this regard, we were limited in access to basic things [...]our shower, which is located in a residential area was closed, and now it will be for men, and we must go to wash ourselves when it is cold, raining etc to the work area across the street.

26 CCPR/C/SR.2715, Human Rights Committee, 99 Session. 12 July 2010, p. 5, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/436/66/PDF/G1043666.pdf?OpenElement> (20.12.2010).

²⁷ See Annex.

²⁸ Newspaper Postimees, 10 December 2008.

²⁹ Incoming letter from Tallinn Prison, 20 May 2010. (№ 1-12/17281-2).

³⁰ Prison store is more expensive than Stokmann, Postimees, 10.12.2008.

[...] Yes, we are prisoners, but we are women, not walrus. [...] Previously, we washed clothes in our shower, now we can't wash or dry anywhere"³¹.

In 2010 the Harku Prison lost its status as a women's prison³². Afterwards the detention conditions for women changed for the worse. On April 5, 2010 the Legal Information Center made a request to the Harku Prison concerning the detention conditions for women after male prisoners were transferred to the prison. Despite our repeated requests to the Harku prison, a response was obtained only on September 14, 2010. In response, it followed that the prison would wash robes once every two weeks. Women can do their personal laundry every day in a sink, or once a week in the shower.³³ However, women find it virtually impossible to comply with the requirements of personal hygiene considering existing restrictions on laundry, as well as the lack of space for drying of washed clothes.

The lack of information

Legal information

"... I have no relatives, and no money for lawyers either. If possible, please send materials that could help me defend myself. Legal norms of our country and the European Union."

Most of the letters from prisoners include requests to send them legal acts in Russian. Prison libraries provide access to laws and other international instruments, but mostly only in Estonian, so that more than half of the prisoners, whose native language is Russian, often have no opportunity to obtain information about their rights.

Newspapers

"The media are missing, magazines are forbidden, and newspapers are rarely given, if at all..."³⁴

According to the law, inmates in a prison are to be provided with an opportunity to read daily newspapers and magazines with a nationwide distribution³⁵. However, these rules may have exceptions.

³¹ Incoming letter № 384 (2009).

³² Information from the website of the Ministry of Justice (Prison) <http://www.vangla.ee/41381> (20.21.2010).

³³ Letter from Harku Prison, 14 September 2010.

³⁴ Incoming letter № 148 (2009).

³⁵ Imprisonment Act, p. 1, art 30.

A complaint from a prisoner, which may be indicative, was considered by the Tartu Administrative Court. In the period from April 1 to July 1, 2007 in the Tartu Prison library an inmate was not allowed to read national daily newspapers. Prisoners were allowed to visit the library twice a month, in groups of five. On May 12, 2007, in the prison library there were no fresh newspapers. On June 14, 2007 there was only one newspaper, which was not a daily newspaper. The inmate filed a complaint against the Tartu Prison in connection with the fact that he had not been adequately provided with nationwide daily newspapers in Russian in the period from April 1 to July 1, 2007. The Administrative Court found that the actions of the Tartu Prison did restrict his right to read daily newspapers in Russian, as provided in the internal rules of the Tartu Prison³⁶.

Television

*"The choice of television channels is reduced to 10, there is no TV [channels] from Russia at all ..."*³⁷

In early 2008, Estonian prisons started to turn off TV channels from Russia. In the context of this problem, the Ministry of Justice has acknowledged that they drew the attention of prison officials to Article 6 of the Imprisonment Act, which provides for the purposes of imprisonment. As indicated by the ministry the prisons should "avoid showing channels that do not correspond to the goals (of imprisonment), i.e. justify the crimes committed in Estonia or promote cruelty, violence and hatred"³⁸. However, there were no lists of "inappropriate" channels. These changes coincided with the start of the trial of the four persons who were accused of organizing riots in April 2007. Russian journalists, unlike the majority of their Estonian-speaking colleagues, covered this process in a critical manner³⁹.

Punishment cells

*"Detention conditions in a disciplinary cell are just inhuman..."*⁴⁰

According to the Imprisonment Act, the punishment (disciplinary) cell, as well as the normal cell, must meet the general requirements for dwellings and provide the necessary air and its circulation, as well as lighting and temperature to maintain the prisoner's life. The cell should have a window and additional lighting to ensure the adequate lighting facilities⁴¹.

³⁶ Judgement of the Tartu Administrative Court, 15 October 2007, № 3-07-733.

³⁷ Incoming letter № 148 (2009).

³⁸ Letter from the Ministry of Justice, 14 October, 2008, (№ 11-3/8756).

³⁹ Vadim Poleshchuk (ed), *Chance to Survive, Minority Rights in Estonia and Latvia*, Tallinn, 2009, p. 72.

⁴⁰ Incoming letter № 68 (2009).

⁴¹ Imprisonment Act, p. 1 art. 45, p. 1 art.65.

Despite this, inmates in the Viru Prison complain that the detention conditions in a punishment cell are far from normal human life conditions⁴².

- For walking in punishment cells prisoners got quilted jackets, but not enough for everyone. They have to walk in two shifts. If it is raining outside, the prisoner using the jacket after the first shift will get a wet quilted jacket. As a result there are frequent colds among prisoners.
- It is very cold in a punishment cell.
- There is no hot water.
- Often there is no access to fresh air as the ventilation system fails.
- Toilet facilities have no doors.

Language issue

Prisoners repeatedly report to the Chancellor of Justice that prisons and the Ministry of Justice accepted documents in the official language only and failed to translate their answers to the language spoken by prisoners. The Chancellor of Justice analyzed administrative practices in prisons and other government agencies as regards receiving petitions drawn up in Russian, noted numerous violations and made recommendations to correct them⁴³.

In accordance with the Constitution of the Republic of Estonia (Article 51) and the Language Act (Article 10) in local governments where at least half of the permanent residents belong to a national minority, everyone has the right to receive answers from state agencies operating in the territory of the corresponding local government and from the corresponding local government and officials thereof in the language of the national minority as well as in Estonian. For example, the Viru Prison is located in the locality where the majority of the population is ethnic Russian. Therefore prisoners of the Viru prison have the right to receive answers from the administration in Russian. This rule is constantly violated by the prison administration. One of the prisoners demanded that the prison authorities respond to his request in Russian. He was denied and filed an objection. A decision on the objection has not yet been made⁴⁴.

Application to the court

”Should the judicial authorities answer in Russian, when a person who files a complaint with the Administrative Court [...] does not speak Estonian, and he has no money to pay for interpreter’s services?”⁴⁵

⁴² Incoming letters № 355 (2010), № 68 and 91 (2009).

⁴³ CERD/C/SR.2038, *Committee on the Elimination of Racial Discrimination, CERD*, 77 Session, 19 August, 2010, p. 2.

⁴⁴ Incoming letter №408 (2010).

⁴⁵ Incoming letter № 273 (2009).

Complaints to the Administrative Court have to be in the Estonian language. The Court responds to any complaints only in Estonian.

From 1 January 2009 in accordance with the Code of Administrative Court Procedure the court shall provide a person who is deprived of liberty and for the protection of whose rights it is necessary to provide translation by the court with the translation of the action and other relevant documents at the expense of the person (Art. 10 (para.9)). Thus, a person in custody now has the right to address the court in his or her native language, but has to pay for the translation.

Ventilation

*"In the Viru Vangla [Viru Prison] the windows do not open, and there is no fresh air. The ventilation is often broken, and while it is being repaired, we are completely without oxygen"*⁴⁶.

*"The ventilation is not working at all, windows do not open. What should serve as a window is made of iron sheets with 10-cent size holes. No air at all, and I'm an asthmatic"*⁴⁷.

The Imprisonment Act stipulates that a prisoner should be provided with air flow and circulation, which is necessary for living.⁴⁸ European Prison Rules allow for the lack of fresh air through windows, if there is a corresponding air conditioning system.⁴⁹ However, in the prisons of Estonia (Viru, Tartu and Tallinn) the air conditioning system often fails.

According to the newspaper "Eesti Päevaleht", 800 windows were broken in the Viru Prison in the first half of 2009. Arguably because the ventilation system is often not working and the premises are constantly stuffy. Prison denies the existence of any problems with air flow⁵⁰.

Smoking

*"We are forbidden to smoke in our cells, we can only smoke during our walk, and we have a walk for one hour per day, so we only have an hour to smoke [...], and the remaining 23 hours I beat my head against the wall"*⁵¹.

Since May 2010, in accordance with the internal regulations of prisons, smoking time was limited to the residents' time for a walk: one hour a day. The rest of the time prisoners are forbidden to

⁴⁶ Incoming letter № 67 (2009).

⁴⁷ Incoming letter № 298 (2010).

⁴⁸ Imprisonment Act, p. 1 art. 45.

⁴⁹ European Prison Rules, p. 16(a).

⁵⁰ rus.DELFI.ee, 03 August, 2009, at <http://rus.delfi.ee/archive/print.php?id=24913037> (20.12.2010).

⁵¹ Incoming letter № 298 (2010).

smoke, as well as to keep cigarettes⁵². Violating this rule will result in being punished by imprisonment in a disciplinary cell.

November 17, 2010 the LICHR made a request to the Chancellor of Justice to comment on whether such a restriction is a violation of the rights of prisoners. A response has not yet been received.

Toilet

*"I'm in my cell with other inmates, and the toilet door is missing, it has been specifically removed. There are no curtains, no privacy. How do I visit the toilet when several people are with me in a cell?"*⁵³

The Supreme Court of Estonia in its decision of 17 June 2010 in case № 3-3-1-95-09 with the reference to the European Court of Human Rights found that the absence of a toilet door in prison cells could not be equal to inhuman or degrading treatment if a person is alone in a cell (p. 36).

However, prisoners who are not serving sentences in solitary punishment cells and who are unable to leave their cells, have to urinate and take a deuce in sight of other cellmates. A bad smell spreads through the chamber and remains there for a long time due to the malfunctioning ventilation system.

The European Court of Human Rights in *Peers v. Greece* (№ 28524/95) stated that it is a humiliating situation where prisoners are forced to attend an open toilet with no curtains or doors, in front of their cellmates, or to be present when other prisoners visit the toilet.

⁵² Information from the website of the Ministry of Justice (Prison) <http://www.vangla.ee/28524>

⁵³ Incoming letter № 68 (2009).

Conclusion

An analysis of prisoners' letters received by the LICHR allowed us to identify the main pending problems within prisons and to identify actions required to solve these problems.

Over the years the problems in prisons are not diminishing. Every situation requires an individual approach. This necessitates the provision of assistance to prisoners with the drafting of documents or access to valid legislation, as well as with informing them about of their rights.

Raising legal awareness could positively affect the creation of a guide for prisoners and their relatives focused on their rights in Estonia and in the European Union. The guide would cover the main national and international mechanisms to protect prisoners' rights, as well as legislative review and samples of relevant documents.

Recommendation for the Estonian government

- To continue the monitoring of cases of prisoners' ill-treatment, especially during their time in punishment cells; to take measures to reduce the number of such cases.
- To provide prisons' administration with training courses with the participation of international experts on non-violent solutions to conflict situations, as well as on international standards regarding conditions of detention.
- To take steps to enhance informing detainees of their rights, including those prisoners whose native language is Russian; to improve access of prisoners to the media in the Russian language.
- To take steps to improve prison conditions in Estonia: check the status of air pipes and plumbing, to provide inmates with access to hot water, dry and clean clothing, isolate the toilets with shutters or doors.
- To provide prisoners with free time activities: access to gym, hobby groups, access to jobs and/or education.
- To improve the quality of medical care.

Annex*Table 1. Number of letters received by the Legal Information Centre for Human Rights in 2009-2010*

	2009	2010
Viru Prison / Viru Vangla	71	32
Tallinn Prison / Tallinna Vangla	8	11
Harku Prison / Harku Vangla	5	3
Tartu Prison / Tartu Vangla	9	14
Murru Prison / Murru Vangla	2	0
Total	95	60

Table 2. General problems in Estonian prisons, 2009

	Problems	Number of mentioning of the problem in letters					Number of mentioning of the problem in all prisons	Percentage of the total number of mentioning of the problem in all prisons
		Viru Prison	Tallinn Prison	Harku Prison	Tartu Prison	Murru Prison		
1	Ignoring complaints, applications	59			2		61	13%
2	Personal hygiene	42	2	4		2	50	11%
3	Lack of time for free time activities (gym)	44			1		45	10%
4	Bad quality of food or water	44					44	10%
5	Broken ventilation, poor condition of normal or punishment cells	34	4			2	40	9%
6	Lack of opportunities for education and work	35		2	2		39	9%
7	Poor quality of medical service	36			1		37	8%
8	High prices at a prison store	32	2				34	7%
9	Broken relations with family members	27			3		30	6%
10	Restriction on walking in the open air	30					30	6%
11	Ill-treatment	22					22	5%
12	Problems with electric equipment	16					16	3%
13	Language barrier, limited access to information in the Russian language	10	1		2		13	3%
	Total						461	100%

Table 3. General problems in Estonian prisons, 2010

	Problems	Number of mentioning of the problem in letters				Number of mentioning of the problem in all prisons	Percentage of the total number of mentioning of the problem in all prisons
		Viru Prison	Tallinn Prison	Harku Prison	Tartu Prison		
1	Information about national protection mechanisms	15	8	1	9	33	25%
2	Request for information, including international human rights defense bodies	13	5	1	8	27	21%
3	Poor quality of medical service	3	3		7	13	10%
4	Language barrier, limited access to information in the Russian language	5			5	10	8%
5	Poor ventilation, poor condition of normal or punishment cells	3	1		5	9	7%
6	Poor quality of food	3			5	8	6%
7	Ban on smoking	2	2		2	6	5%
8	Lack of time for free time activities (gym)				5	5	4%
9	Ignoring complaints, applications	2		3		5	4%
10	Lack of opportunities for education and work				5	5	4%
11	Ill-treatment	3		1		4	3%
12	Failure to provide information on labor rights	2				2	1%
13	Lack of personal protection equipment for working prisoners	1				1	1%
14	Personal hygiene	1				1	1%
	Total					129	100%