



Õiguskantsler

2022/2023 OVERVIEW OF THE CHANCELLOR OF JUSTICE OF ESTONIA ACTIVITIES

**NATIONAL PREVENTIVE MECHANISM
AGAINST ILL-TREATMENT**

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Foreword

One of the duties of the Chancellor of Justice is regularly inspecting places of detention in order to check whether people there are treated with dignity. This means, among other things, that a person must get clean clothes, a place to sleep and enough food in a place of detention. Torture and any other cruel or degrading treatment is prohibited. Estonia undertook the obligation to comply with these principles when acceding to the [Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment](#).

In a place of detention, persons are or may be deprived of their liberty, either by virtue of an order by a public authority or at its instigation or with its consent or acquiescence. Thus, places of detention include not just prisons and police detention centres but also hospitals providing involuntary psychiatric care, closed childcare institutions and care homes which people cannot leave at will. Several hundred places of detention operate in Estonia.

The aim of inspecting a place of detention is to collect information about how people there are treated. Inspecting rooms, talking with people and examining documents offers the Chancellor a possibility to assess whether people are provided enough and regular food, whether they have clean clothes and a bed, whether their living rooms are warm and clean and whether people are offered meaningful recreational activities. The Chancellor's advisers assess these living conditions by relying on the requirements defined in Estonian legislation and international conventions accepted by Estonia.

Living conditions in places of detention have greatly improved over the years. A number of new and renovated care homes and hospitals are operational. There are not many countries in the world where the oldest prison facilities currently in use date back only 20 years.

However, some problems have remained unresolved over the years. Both prisons and care homes are confronted with shortage of labour. This work requires dedication and proper training from people. The issue lies primarily in resources: money and people. As long as no additional resources are found, for example, the quality of service in care homes cannot improve substantially.

The Chancellor's visits and recommendations are helpful both to people in detention and to staff, as by taking into account the recommendations the living and working environment in these institutions can be made more decent. Through summaries of inspection visits, those entitled to allocate resources and generally organise the sphere can also be made aware about problems – addressees include local authorities, government agencies, the government, and the parliament.

In this report, we have gathered examples of our work in the field from 1 September 2022 to 31 August 2023.

Care homes and hospitals

During the reporting year, the Chancellor inspected three welfare institutions providing the general care service ([Rae Social Centre](#), [Iru Care Home](#) and [Marta Home OÜ](#)) and three care homes providing the 24-hour special care service ([Rapla Alu tee unit of AS Hoolekaandeteenused](#), [Pariisi Special Care Centre OÜ](#) and [Haraka Home Foundation](#)). [Wismari Hospital](#) was the only psychiatric hospital visited during the reporting year.

The 24-hour special care service is intended for people with mental disorders in need of guidance, counselling, assistance and supervision in their everyday life. Residents of general care homes are mostly people who are no longer able to cope on their own at home, due either to poor health or an unsuitable living environment, and therefore need constant support in their everyday activities. However, among general care home residents are also younger people who cannot cope on their own at home as a result of illness or injury, or who are waiting there to be able to get a place in a special care home.

Care reform

During the reporting year, the most significant change in the field of social welfare was undoubtedly the [care reform](#) taking effect on 1 July. According to plans, the reform should, above all, reduce the fee that people have to pay for a care home place. At the same time, the

state [establishes](#) more precise requirements for the content of the general care service and also regulates the ratio of staff directly providing care services to residents. Hopefully, under pressure from the new requirements, more care workers will be hired by care homes. This way, it is possible to reduce the burden on staff, and staff will be able to devote more time than before to each person under care. The requirement for staffing numbers must be fulfilled by general care service providers by 1 July 2026 at the latest.

The Chancellor has constantly stressed that a care home providing the general care service must have enough carers. Therefore, the introduction of minimum requirements is undoubtedly a step in the right direction.

Shortage of well-trained staff has been a major concern in all welfare institutions for many years. It is extremely important that a care home providing both general care services and 24-hour special care services should have enough staff who directly deal with residents and who have received the necessary training (carers, activity supervisors). Even if minimum requirements have been set for staffing levels, compliance with those requirements does not necessarily mean that staff numbers are sufficient and that all people are always provided with the necessary care and supervision. The Chancellor recommended that all the welfare institutions visited during the year should hire more staff directly dealing with residents.

Special preparation requirements have been laid down for [care workers](#) providing the general care service, as well as for [activity supervisors](#) providing the 24-hour special care service, and welfare institutions must ensure that people receive the necessary training. An employee who has not yet received full training cannot be left alone (unsupervised) to take care of people. Unfortunately, however, this happens quite often.

Shortage of staff is probably also one reason why many care homes do not manage to offer a whole-body wash under running water at least once a week to all residents, and why people with challenged mobility are not taken outside often enough.

Living conditions

The living conditions in most care homes have improved considerably over time. New, well-accessible and cosy buildings have been built, such as Haraka Home, Rapla Alu tee unit of AS Hoolekandeteenused, or Iru Care Home. Old buildings have been gradually renovated. Thus, the mobility of people in care homes has also improved. It is rare to see rooms that are difficult to access for a person moving with a wheelchair or a walking frame because the doorway is too narrow or the door threshold is high.

Unfortunately, however, every year the Chancellor sees care homes where residents' freedom of movement is unlawfully restricted. To prevent people from moving around, doors of departments are locked and bed rails are raised.

The law allows the freedom of a person in a welfare institution to be restricted only if the person is receiving the [24-hour special care service under a court order](#) and if a person receiving the 24-hour special care service is [placed in a seclusion room for a brief period](#). Of course, the difficulties faced by carers who have to cope with residents with challenging behaviour cannot be underestimated, but a care home must nevertheless ensure a safe environment for all residents in a lawful and safe manner.

The Chancellor has consistently [stressed](#) that multiple-occupancy rooms in a care home must be fitted with screens or partition curtains to protect people's privacy if any of the occupants of the room use a commode chair, or if a person is being washed in bed or is having diapers changed. This requirement is often ignored. Privacy is also not guaranteed in toilets that cannot be locked from the inside.

Care home residents often tend to lack interesting and diverse activities. People spend their days watching TV, listening to the radio, or lying in bed. Not many hobby groups or courses providing dynamic activities are offered. The Chancellor urged care homes to pay more attention to offering meaningful recreational activities to residents.

Treatment and medication

Access to healthcare services is increasingly improving in general care homes. Above all, this means that several days a week medical nurses are present at a care home, monitoring people's health, dealing with medicines and arranging doctor's visits. At Iru Care Home, a medical nurse is present round the clock, which is extremely important.

The Social Welfare Act sets out [specific requirements](#) as to the extent to which nursing services must be offered in a care home providing the 24-hour special care service. The Chancellor has [found](#) that this requirement is not complied with. Care homes inspected during the reporting year have also ignored these requirements. According to the law, a 24-hour special care service provider may also itself provide nursing care, but in that case it must have an operating licence to provide independent nursing care.

Storage and handling of medicines in welfare institutions has improved. Nevertheless, expired medication could be seen in some care homes. In one care home, the Chancellor's advisers found that a carer administered a drug (Diazepam) to a resident that was not included in the person's treatment regime. The Chancellor emphasises that a person can only be given prescription medicines that a doctor has prescribed for the person.

Many care home residents are unable to understand the consequences of misuse of medicines. Thus, easily accessible medicines can end up in the hands of someone to whom they had not been prescribed and whose health the medicines may endanger if administered irresponsibly. For this reason, it is important that medicines should be stored in care homes so that they are not freely accessible.

The Social Welfare Act [obliges](#) a care home providing the general care service to draw up a care plan for each person under care. This is a document assessing what care and health services a person needs. A care plan must describe the purpose of the care service and the activities that help to maintain and improve the condition of the person.

There are care homes (for example, Iru Care Home) that follow the law and draw up a comprehensive care plan immediately after a person arrives in a care home, involving the

person themselves and a healthcare professional in this process. For a care plan to be useful, it should also be available to carers who carry out the necessary care procedures. As [required by law](#), these care homes review the care plan at least once every six months. It seems that several care homes have realised that a care plan is not just an obligation enshrined in law but an effective tool for assessing a person's condition and setting the objectives of the care service. The Chancellor has also reminded care homes of this if they have been too superficial in drawing up and updating care plans.

Wismari Hospital is focused on treating patients with alcohol and drug addiction. Treatment periods are short. Even so, the hospital should provide patients with more therapies and a variety of recreational activities. The Chancellor found that hospital rooms need to be repaired and updated. The Chancellor also recommended that patients should be better informed about video surveillance and the reasons for using it. The Chancellor stressed that the hospital's medical treatment contract and internal rules should not leave a patient with the false impression that they may voluntarily abandon treatment and leave the hospital only with a doctor's permission.

Organisation of voting in welfare institutions

During the 2023 Riigikogu elections, the Chancellor's advisers visited five care homes for the elderly and monitored the conduct of voting there.

Under the Constitution, the right to vote is a fundamental right of every citizen of the Republic of Estonia. Those who, for example, due to age, poor health or any other reason, are unable to cast their vote at a polling station or to vote by e-voting, must also be able to perform their civic duty. In cooperation between election organisers and welfare institutions, elections are also held in care homes. To do this, on-site election organisers go to a care home with a ballot box, paraphernalia, voter lists, and other necessary means.

The practical details of organising elections (including statutory requirements) are set out in the election manual prepared by the State Electoral Office, which is also used as a guide by election organisers, i.e. district and divisional polling committees formed in the run-up to elections.

During inspection visits, the Chancellor's advisers monitored in particular whether the voting process was secret and whether the identity document required for voting was checked. No significant violations of electoral law that would have provided grounds to challenge the election results were identified during the inspection visits. However, based on observations, a memorandum to the State Electoral Office was prepared. Observations offered in the memorandum can be used to supplement and clarify the election manual and to train staff for the next elections.

Ill-treatment of children in a closed childcare institution

In January 2023, three former employees of Lille Home of AS Hoolekandeteenused were convicted of ill-treatment of disabled children. All the defendants were sentenced to a term of imprisonment on probation. Such a light sentence for this criminal offence breached people's sense of justice and raised many questions among the public. The Estonian Chamber of People with Disabilities asked the Chancellor to assess the proceedings of the case.

The Chancellor [concluded](#) that, in this particular case, existing legal provisions and the internal control systems of the institutions did not sufficiently protect the rights of particularly vulnerable children. The Chancellor asked the Riigikogu to consider establishing supplementary rules in order to be able to protect people in a vulnerable or helpless situation against ill-treatment or against degradation of their human dignity. This concerns care for both children with disabilities and adults with disabilities, as well as care for people in need of assistance and support due to age or illness (e.g. failure to help a person in need of support when eating and degrading treatment of those in need).

The Chancellor also called on the Riigikogu to consider whether it is necessary to introduce a lifetime ban on working with children if physical abuse of a child has been repeated or systematic. Under § 121 of the Penal Code currently in force, a convicted person may resume work involving children after deletion of the person's criminal record from the criminal records database. In the Lille Home case, this is three years after the end of the probation period imposed by the court judgment.

Police and Border Guard Board detention facilities

During the reporting year, the Chancellor carried out unannounced inspection visits to the [police detention centres of Kuressaare and Kärdla police stations](#) and the police detention centre of [Pärnu police station](#) under the West Prefecture of the Police and Border Guard Board (PBGB). The Chancellor's advisers also visited [short-term detention cells of the South Prefecture's border guard bureau](#) at the Koidula road border crossing point, Koidula railway border crossing point, Luhamaa road border crossing point, as well as at Värskä and Piusa border guard stations and the Luhamaa service of Piusa border guard station.

Although Kuressaare and Pärnu police detention centres were built recently, there is not enough natural light in the cells there. The cell windows are placed high, are small and covered with either plastic film or wire mesh, which prevents daylight from reaching the cell. The Chancellor asked both police detention centres to find an appropriate solution for the windows which would ensure the safety of detainees as well as protection of the property of the detention centre, while not preventing daylight from reaching the cells.

There is constant video surveillance in the cells of the police detention centres inspected. The Chancellor emphasised that use of round-the-clock video surveillance in all the cells is not justified. A police detention centre should make a well-considered decision on use of video surveillance in each individual case. This may be justified, for example, to monitor an intoxicated person, whose health may suddenly deteriorate.

Sanitary corners in cells of police detention centres were not always sufficiently partitioned from the rest of the cell and could also be monitored from the door hatch and via the surveillance camera. The Chancellor stressed that curtains separating the sanitary corner must be wide enough and properly fastened to provide the necessary cover. An officer may observe what is happening in the sanitary corner only in exceptional circumstances and for a compelling reason (for example, to check the state of health of a detainee).

Strip searches of detainees in police detention centres must be exceptional and always based on the degree of risk a detainee poses. Written instructions must be followed to determine when a strip search may be carried out. The search may not remain in the field of vision of a surveillance camera.

For years, the PBGB has failed to comply with the clear and unambiguous requirement laid down by the Imprisonment Act that detainees must be able to read fresh national daily newspapers at a police detention centre. For a long time, Kuressaare police detention centre has not had an exercise yard and detainees are taken for a walk to a cell with an open window. This does not comply with the requirements of the Imprisonment Act.

The Chancellor pointed out that if breakfast, lunch and supper are ordered and brought to detainees in a police detention centre the day before, then detainees arriving later that evening may not be able to eat until noon the next day, as they have not been taken into account when ordering breakfast for the next day. This situation does not comply with the catering requirements applicable in places of detention. Therefore, it would be reasonable to keep some food supplies in a police detention centre, which could be distributed to people if necessary.

The detention conditions of minors must be improved in Pärnu police detention centre. Until the arrival of the parents, juvenile detainees are placed in waiting rooms with closed doors. These rooms do not have a sanitary corner or toilet, and in order to call for assistance the detainee must signal with a hand in front of the surveillance camera or knock on the door. The Chancellor recalled that there must be an assistance call button in the waiting room for minors, and officers must respond as a matter of priority if the button is activated. The detainee must have access to drinking water and be able to use the toilet. Young men and girls should be placed in separate waiting rooms.

All border crossing points and border guard stations inspected by the Chancellor's advisers had a stock of clothes and shoes that could be given, if necessary, to people who came to the border or were detained at the border. Food for detainees is also available, but of course the shelf life of food parcels given to people must be observed.

Detainees must have access to the toilet. A person may be monitored with a surveillance camera in the cell only in justified cases where strictly necessary. People waiting at the border for a long time for permission to enter the country are within the sphere of influence of the authorities and are *de facto* detained. It is important that in this case, too, people's basic needs are met, that they are offered food and drink and the opportunity to rest.

Accommodation Centre for Asylum Applicants

The Chancellor inspected [Vägeva unit of Vao Centre of the AS Hoolekandeteenused Accommodation Centre for Asylum Applicants](#), which accommodates foreigners applying for international protection. The staff of the centre are helpful and quickly resolve residents' everyday practical issues. Residents of the centre can communicate with doctors in privacy and, if necessary, with the help of an interpreter. The Social Insurance Board helps with finding interpreters.

The Chancellor urged the centre to improve the availability of the wireless data network in the centre's building. Residents of the centre were concerned that children at the centre had to walk more than a kilometre along an unlit road to the nearest bus stop to get to school. After the Chancellor had drawn attention to the situation, Jõgeva County Public Transport Centre announced that, from 1 September, the bus will also stop in the courtyard of the centre in the mornings.

The Chancellor also dealt with a complaint by an applicant for international protection who was dissatisfied that they had been placed overnight in a locked room at Narva border crossing point. The PBGB explained that since the proceedings for international protection in respect of the petitioner were completed at night, the person was offered an opportunity to stay overnight at the border crossing point. The person was given a specially designated room, the door of which was locked. The person was also given a phone number so that they could contact the officers if necessary.

In her [recommendation](#) sent to the PBGB, the Chancellor emphasised that a person staying at a border crossing point must be able to contact the officers immediately if they wish. In order to avoid disputes, it must be clearly explained to the person that the overnight stay is voluntary, and written confirmation of this should also be taken.

The Supreme Court asked the opinion of the Chancellor of Justice on the legal rules regarding use of the internet and mobile phones in the detention centre for foreigners. In the Chancellor's [opinion](#), detained foreigners must be able to use the internet since the law does not prohibit this. A total ban on use of the internet would restrict the fundamental right to protection of family life and the right to freely receive information disseminated for public use.

However, the Minister of the Interior regulation on "The internal rules of the detention centre" contravenes the Constitution insofar as it prohibits foreigners in the detention centre from using mobile phones and does not enable the situation of a particular person and the circumstances related to them to be taken into account. The Chancellor of Justice found that the law obliges the Minister of the Interior to establish arrangements for use of means of communication in the detention centre, but does not allow the Minister to completely prohibit use of a mobile telephone as a public communication channel. The Supreme Court reached the same conclusion in its [judgment](#).

Prisons

In 2023, a [Draft Act](#) on Amending the Imprisonment Act was completed, which takes into account several recommendations given by the Chancellor of Justice. The amendments concern, among other things, the length of a disciplinary confinement punishment, the ban on meetings with next of kin while in disciplinary confinement or while staying in the reception unit, as well as creation of possibilities to communicate with family and next of kin via a video link.

However, the provisions governing detention of remand prisoners have not been changed, although the Chancellor has been drawing attention to this since [2014](#). Without exception, all

remand prisoners are locked in their cell round the clock (except for the possibility of exercise for one hour in the fresh air). This does not enable taking into account the interests of criminal proceedings at a particular point in time or the fact that the reason for remand in custody might not necessarily be the mere need to prevent compromising criminal proceedings.

During the reporting year, the Chancellor also directed focus on the conditions of detention in the [open prison departments](#) in Tartu Prison and Viru Prison. The main purpose of an open prison is to give a prisoner the opportunity to practice law-abiding behaviour before release. To that end, a prisoner is allowed to go to work or study outside the prison so that they can restore and strengthen social ties with society and family. If, after release, a person has a place to live and work and has healthy human relationships, there is considerably more hope that they will lead a law-abiding life in the future. Prisoners who have already convinced prison officers to some extent that they are able to behave in a law-abiding manner in a prison environment are placed in an open prison unit.

Although prisons have taken into account a number of the Chancellor's earlier recommendations, some problems in open prisons have remained unresolved for a long time. For example, prisoners in open prisons still do not have the opportunity to use the internet to look for work or study. The Chancellor recommended allowing prisoners to use the internet in the summary of the inspection visit carried out in [2016](#) as well as [2020](#).

Use of information and communication technology was also dealt with in the Chancellor's [opinion](#) submitted to the Supreme Court. In its judgment of 15 March 2023 ([No 3-18-477](#), para. 93), the Supreme Court concluded that the issue of the right to access the internet needs a systematic and comprehensive solution. In 2023, the Ministry of Justice completed a [Draft Act](#) to update the Imprisonment Act.

In Viru Prison, it was revealed that after a prisoner has been placed in the open prison unit, they are not immediately allowed to go to work outside the prison but have to carry out maintenance work in the open prison (for example, cleaning and distributing food) until a new inmate is placed in the open prison and takes over the relevant line of work. The Chancellor

asked that possibilities be sought that would enable Viru Prison not to have to delay allowing prisoners to go to work for this reason.

Tallinn Prison did not allow prisoners to go on a prison leave to visit home if they did not have a workplace outside the prison at the moment. The Chancellor stressed that a prisoner cannot be denied a visit home merely because of temporary lack of a job. The Chancellor appealed to Tallinn Prison that a prisoner be given enough time to go home and that this time should be at least as long as a long-term visit in a closed prison.

In the Viru and Tartu open prison departments, urine tests were used to detect the use of narcotic substances. It was found that a urine sample should be given in the toilet and the procedure is monitored by a guard. This is a strong violation of the inmate's privacy, nor is it particularly pleasant for the prison officer overseeing the procedure. The Chancellor found that both prisons could use saliva tests to detect consumption of narcotic substances.

It would also help to protect people's privacy if roller blinds were placed in windows in prisoners' rooms so as to prevent people from looking into the room from outside. In addition, a roller blind shields against the light which can interfere with falling asleep.

The Chancellor recommended that the walking area in Viru open prison be furnished with benches and functioning training equipment. For children staying with their mothers in Tallinn open prison, age-appropriate play equipment (e.g. a swing) could be brought to the outdoor area.

In the summary of the inspection visit, the Chancellor specifically mentioned the good atmosphere in Tartu open prison. Interaction between staff and prisoners was open and relaxed. The same cannot be said about the department of female prisoners in Tallinn open prison. The Chancellor also pointed out the tense atmosphere in that department during the inspection visit in [2020](#). The Chancellor asked that the women's department be closely monitored and that the prison take measures to prevent development of power relationships among female prisoners.

Time and again, the Chancellor had to remind prisons that, even in prison, medical practitioners should ensure the relationship of trust between a doctor and patient and respect the principle of confidentiality and privacy while providing healthcare services (including during appointments with a medical practitioner). A prisoner's health data, diagnoses or information about what medicine a person is taking may not be disclosed to unauthorised persons.

During the inspection visit to [Tartu Prison](#), the Chancellor paid particular attention to the situation of people in solitary confinement, the elderly sentenced and remand prisoners, and patients in the psychiatric department of prisons.

Tartu Prison has taken into account the Chancellor's earlier recommendations, but several problems already identified in [2020](#) have still not been resolved. It is worrying that the prison has not fully analysed how to help prisoners in solitary confinement to return to the ordinary regime and that the health of prisoners in solitary confinement is not monitored daily. Nor was it confirmed that the prison provides opportunities for prisoners in an isolated locked cell for meaningful daily communication.

In recent years, the Chancellor has been closely monitoring how meetings of sentenced and remand prisoners with family and children are organised. A pleasant experience gained from visits supports prisoners' return to society and is also important for their families. Unfortunately, in Tartu Prison, short-term visits with family and children usually take place in a room where a glass partition separates visitors from the prisoner. The prison has only one room where a prisoner can meet with their next of kin directly, but of course this one room is not enough for the whole prison. Problems have also been caused by the fee charged for using rooms for long-term visits. Unfortunately, this fee is not affordable for all families, so that families cannot afford long-term visits.

In the Chancellor's opinion, Tartu Prison should pay more attention to the needs of elderly sentenced and remand prisoners and make the conditions of detention more suitable for them. This may mean that the living environment in the prison needs to be adapted, but also that elderly people need to be offered more activities and opportunities for communication.

Regrettably, the situation in the psychiatric department of prisons has remained the same for years. Patients in the department are in conditions similar to solitary confinement. The patient rooms are bleak and have scanty furnishings. There is no occupational therapist or activity supervisor in the department, there is no space for joint pastime or for therapeutic activities.

Deaths in prisons

The Chancellor [assessed](#) how the prison service has investigated the circumstances of deaths occurring in prisons during the year (1 September 2021 – 1 September 2022). The prison internal audit service investigated incidents of death and offered pertinent recommendations to prisons for avoiding deaths. The prison service has prepared guidelines on how to prevent deaths.

The incidents of death analysed nevertheless indicate a shortage of officers and the need for existing staff to be trained regularly in order to prevent deaths. There is a great need for mental health professionals in prisons. The Chancellor noted that, in addition to safe clothing, prisons must also procure tear-proof bedding which can be given to a suicidal person if necessary.

Examination of death data revealed that one terminally ill person died in prison before a decision could be made on their release from prison. The Chancellor emphasised that the decision to release a terminally ill person from prison should not be delayed due to the actions of either the prison or other institutions administered by the Ministry of Justice (e.g. the Estonian Forensic Science Institute). The Ministry of Justice, in cooperation with prisons, must consider how a person who is terminally ill can be guaranteed a dignified and peaceful departure at the end of their life, even in prison conditions.

The Chancellor drew the attention of the Ministry of Justice to the need to improve the possibilities for making phone calls for [financially vulnerable persons in custody](#). The Chancellor once again reminded the Ministry of Justice and prisons that a search of both the [prisoners' next of kin coming for a visit in prison](#) as well as the [search of prisoners themselves](#) must respect human dignity and the principle of proportionality. A decision to conduct a strip search must rely on a risk assessment based on specific circumstances. If a prison has a justified

need to strip-search someone, then this must be done in a way that preserves the person's dignity, and conducted gradually, so that part of the body is always covered. Viru Prison was also guided by these principles when routine searches that had been the norm for nearly ten years in the prison's youth unit were discontinued. Under the previous procedure, all young people had to expose at least their upper body for a daily search during the morning and evening roll-call.