



CPT/Inf (2011) 22

Report

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

from 3 to 8 December 2009

The Latvian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2011) 23.

Strasbourg, 19 July 2011

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Copy of the letter transmitting the CPT's report

Ms Aiga LIEPINA
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Latvia
to the Council of Europe
67, allée de la Robertsau
67000 Strasbourg

Strasbourg, 17 March 2010

Dear Madam,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Latvian Government drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) following its visit to Latvia from 3 to 8 December 2009. The report was adopted by the CPT at its 71st meeting, held from 1 to 5 March 2010.

The recommendations formulated by the CPT are set out in bold type in paragraphs 7, 8, 12 to 17, 20, 22 to 26, 28 to 31, 33 to 35, and 37 of the visit report. The Committee requests the Latvian authorities to provide **within three months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the Latvian authorities to provide replies to the comments and requests for information set out in bold type in paragraphs 12, 18, 21, 28, and 33.

The CPT would ask, in the event of the response being forwarded in Latvian, that it be accompanied by an English or French translation. It would also be most helpful if the Latvian authorities could provide a copy of the response 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.

Yours faithfully,

Mauro PALMA
President of the European Committee
for the prevention of torture and inhuman
or degrading treatment or punishment

I. INTRODUCTION

A. Dates 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 Latvia from 3 to 8 December 2009¹. The visit was one which appeared to the CPT “to be required in the circumstances” (cf. Article 7, paragraph 1, of the Convention).

2. The visit was carried out by the following members of the CPT:

- Pétur HAUSSON, 2nd Vice-President of the CPT (Head of delegation)
- Lətif HÜSEYNOV
- George TUGUSHI.

They were supported by Elvin ALIYEV of the CPT’s Secretariat, and assisted by:

- Inguna BEKERE (interpreter)
- Viktors FREIBERGS (interpreter).

B. Context of the visit and establishments visited

3. In the report on the 2007 visit, the CPT expressed its serious concern about the situation found at Jēkabpils Prison (many allegations of severe ill-treatment by prison officers, widespread violence among prisoners, poor conditions of detention, etc.) as well as about the failure of the Latvian authorities to improve, in the light of the Committee’s previous recommendations, the conditions of detention of prisoners sentenced to life imprisonment.

The information provided in the responses of the Latvian authorities to that visit report did not remove the Committee’s concerns about the above-mentioned issues and certain other problems highlighted in the report. The CPT therefore decided to return to Latvia in order to examine on the spot the steps taken by the authorities to implement the relevant recommendations of the Committee made after the 2007 visit.

For this purpose, the CPT’s delegation carried out follow-up visits to Jēkabpils Prison and to the units for life-sentenced prisoners at Daugavgrīvas² and Jelgava Prisons.

¹ The CPT has previously carried out three periodic visits (January/February 1999, September/October 2002, November/December 2007) and one ad hoc visit (May 2004) to Latvia. The reports on these visits and the responses of the Latvian authorities are available on the Committee’s website (<http://www.cpt.coe.int>).

² Daugavpils and Grīvas Prisons were merged into one prison in 2008.

C. Co-operation received and consultations held by the delegation

4. The co-operation received by the CPT's delegation during the visit, from both the national authorities and staff at the establishments visited, was very good. The delegation enjoyed rapid access to all the prisons visited, was provided with the information necessary for carrying out its task and was able to speak in private with persons deprived of their liberty.

In the course of the visit, the delegation had consultations with Mareks SEGLIŅŠ, Minister of Justice, Mārtiņš LAZDOVSKIS, State Secretary of the Ministry of Justice, and Visvaldis PUĶĪTE, Head of the Latvian Prison Administration, as well as other senior officials from the Ministry of Justice and a senior prosecutor responsible for prison matters. It also met Romāns APSĪTIS, Ombudsman of Latvia.

5. However, the Committee wishes to stress once again that the principle of co-operation between States Parties and the CPT, as set out in the Convention, is not limited to facilitating the work of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the Committee's recommendations. In this respect, the 2009 visit revealed that progress had been made as regards the prevention of ill-treatment of prisoners by staff at Jēkabpils Prison. However, little or no action has been taken by the Latvian authorities in some other key areas, such as the problem of inter-prisoner violence and the conditions of detention at Jēkabpils Prison, as well as the regime³ and security measures applied to life-sentenced prisoners. Therefore, the CPT has been obliged to reiterate many of its previous recommendations.

Having regard to Articles 3 and 10, paragraph 2, of the Convention⁴, the CPT urges the Latvian authorities to significantly increase their efforts to improve the situation in the light of the Committee's recommendations.

D. Immediate observations under Article 8, paragraph 5, of the Convention

6. During the end-of-visit talks with the Latvian authorities on 8 December 2009, the CPT's delegation made an immediate observation under Article 8, paragraph 5, of the Convention as regards the conditions of detention in several of the disciplinary cells at Jēkabpils and Jelgava Prisons, requesting that those cells be withdrawn from service.

By letter of 24 February 2010, the Latvian authorities confirmed that these cells were no longer in use (see paragraphs 19 and 36).

³ With the notable exception of life-sentenced prisoners at the medium regime level (see paragraph 31).

⁴ Article 3 reads as follows: "In the application of this Convention, the Committee and the competent national authorities of the Party concerned shall co-operate with each other".

Article 10, paragraph 2, reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter".

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Follow-up visit to Jēkabpils Prison

1. Ill-treatment

7. Overall, the delegation gained the impression that the situation concerning the treatment of prisoners by staff of Jēkabpils Prison had improved as compared with the 2007 visit. This is a welcome development. In this connection, the prison governor told the delegation that he had regularly instructed the staff that they should treat prisoners in a decent manner and that neither physical nor verbal abuse was permissible.

Nevertheless, the information gathered during the visit indicates that further progress needs to be made, as the delegation did receive some allegations of physical ill-treatment of prisoners by prison officers. The allegations concerned kicks, blows with truncheons and other rough treatment by the staff of the establishment, mainly in respect of prisoners held in Unit 3⁵.

By way of example, a prisoner alleged that he had been beaten by several prison officers with truncheons, mainly on the torso, in the presence of several other prisoners. Two of these prisoners, who the delegation later interviewed separately, gave consistent accounts of the incident indicating further that they had been placed in a punishment cell, apparently for having insisted on calling an ambulance for their bleeding cellmate. They alleged that the same evening they had been handcuffed behind the back in the punishment cell, forced to lie face down on the floor and beaten with a truncheon by one of the prison officers involved in the beating of the above-mentioned prisoner.

In another case, a prisoner alleged that he had been pushed to the ground and had received multiple kicks and truncheon blows to the back when he objected to a body search by an officer and swore at him.

The CPT recommends that the Latvian authorities pursue their efforts to prevent any form of ill-treatment by prison officers at Jēkabpils Prison. In particular, prison officers should be formally reminded that no more force than is strictly necessary is to be used to control a violent and/or recalcitrant prisoner and that, once the prisoner has been brought under control, there can be no justification for striking him.

8. One of the most effective means of preventing ill-treatment by prison officers lies in the diligent examination of complaints of ill-treatment and, when appropriate, the imposition of suitable penalties. In this regard, it is regrettable that the role of the prison investigation divisions has not changed, despite the specific recommendation repeatedly made by the Committee after previous visits⁶; investigations into possible ill-treatment by prison staff are still conducted by officers (of the investigation division) of the same establishment.

⁵ The only unit providing cellular accommodation.

⁶ See CPT/Inf (2008) 15, paragraph 50, and CPT/Inf (2009) 35, paragraph 97.

This is not acceptable; investigations into allegations of ill-treatment by prison staff should be carried out by a body which is independent of the establishment concerned, and preferably of the prison system as a whole. **The CPT calls upon the Latvian authorities to take immediate steps to ensure that this requirement is met (if necessary, by amending the relevant legal provisions).**

9. The CPT remains very concerned about the frequency and seriousness of allegations of inter-prisoner violence made by prisoners at Jēkabpils Prison. As was the case during the 2007 visit, the delegation heard numerous accounts of severe beatings, sexual assaults, threats and extortion by fellow inmates; in one recent case, which was under investigation at the time of the visit, there was certified medical evidence of rape. Further, the informal hierarchy within the prisoner population still existed, maintaining a climate of intimidation and violence. The dormitories were managed by certain powerful prisoners and their close circle; this placed other prisoners – and especially the so-called “untouchables”⁷ – at risk of abuse.

In short, two years after the CPT’s first visit to this establishment, the delegation once again came to the conclusion that the management of Jēkabpils Prison had failed to provide for the most basic requirement of prisoners: a safe environment.

10. In the report on the 2007 visit, the Committee emphasised, in particular, the importance of ensuring adequate supervision of prisoners in dormitories by prison officers (including at night-time) and recommended that the number of prison officers be significantly increased. Regrettably, the 2009 visit brought to light that this recommendation had not been implemented. At the time of the visit, the prison’s official staff complement had a mere 66 prison officer posts (of which nine were vacant); this is a grossly inadequate staffing level for an establishment with a capacity of 700⁸. Further, due to recent budget cuts, staff worked only four (instead of five) days per week.

As a result, in practice, one or two prison officers were responsible for supervising more than one hundred prisoners during the day. At night, there was no permanent staff presence in the units, a mobile group of prison officers instead performing checks from time to time. This can only render proper staff control extremely difficult, if not impossible, all the more so vis-à-vis prisoners held in large-capacity dormitories. In reality, prisoners remained largely unsupervised in their respective dormitories throughout the day and night.

11. The CPT acknowledges the efforts made by the prison management to segregate prisoners at risk by accommodating them in specific cells in Unit 3. Further, it appeared that incidents resulting in serious bodily injury were systematically investigated by the internal investigation division, even in the absence of a complaint by the victim.

⁷ According to prisoners’ accounts, the informal “code of conduct” provides that “untouchables” have to place their beds in a confined area at a distance from the beds of other prisoners inside a dormitory and have to be quiet in the dormitory. There are special places in the dining room where they eat. They have to make sure that no one inadvertently uses anything that belongs to them. They are compelled to clean the dormitories and sanitary facilities for all the other prisoners (see also paragraph 40 of CPT/Inf (2009) 35).

⁸ Calculated on the basis of 2.5 m² of living space per prisoner.

However, in practice, these efforts proved largely insufficient given the habitual reluctance of prisoners who are victims or witnesses to report any incident of this kind and to denounce the perpetrators. Indeed, consultations with staff and the examination of relevant documentation revealed that the investigation of cases clearly indicative of the infliction of bodily injuries among prisoners were usually inconclusive, as the victims claimed to have sustained the injuries accidentally.

12. The prison governor himself indicated that the management had not been successful in combating the widespread phenomenon of inter-prisoner violence, given the present structure of the establishment with its large dormitories and the insufficient staffing levels, which prevented staff from exercising adequate supervision over prisoners.

The CPT fully concurs with this assessment of the situation. Indeed, it will not be possible to effectively tackle the problem of inter-prisoner violence at Jēkabpils Prison, as long as prisoners are accommodated in large-capacity dormitories⁹. Further, a fundamental prerequisite for an effective strategy to tackle inter-prisoner violence is a level of staffing sufficient to enable prison officers to adequately supervise prisoners.

The CPT recommends the Latvian authorities to draw up a plan to progressively replace large dormitories with smaller living units at Jēkabpils Prison. The Committee would like to receive a timetable for the implementation of the plan. Further, immediate steps should be taken to significantly increase the staff presence in the detention areas, including at night.

2. Conditions of detention

13. As regards the material conditions in the dormitory-type detention blocks, the CPT regrets that its recommendations made after the 2007 visit remained largely unimplemented. As in 2007, these blocks offered cramped conditions of detention (e.g. 60-70 prisoners for a surface area of some 200 m²), were in a bad state of repair and rudimentarily equipped (single and bunk beds packed closely together, no tables or chairs and only shared bedside cupboards).

The cells in Unit 3 also displayed some shortcomings. In particular, access to natural light was very poor, due to the fact that the already small cell windows were covered with multi-layer metal grilles. In addition, the living space per prisoner in some of the cells was insufficient (e.g. 17 m² for six prisoners).

The conditions of detention found in the admissions cell (where newly-arrived prisoners were usually held for the first four days) are yet another source for concern. The cell had very limited access to natural light (although there were two big windows, a large part of each of them was fitted with frosted glass and the remaining transparent part was covered with a multi-layer metal grille), and ventilation was insufficient.

The sanitary facilities in the dormitories were, in most cases, dilapidated and dirty. Further, there was no hot running water, and prisoners had access to the communal bathroom only once a week (during which time they also had to wash their clothes). The state of cleanliness of most in-cell sanitary facilities in Unit 3 and of the admissions cell's toilet also left much to be desired.

⁹ The various drawbacks of large-capacity dormitories are described in the CPT's standards (CPT/Inf/E (2002) 1 - Rev. 2009, pages 22 and 23).

The CPT calls upon the Latvian authorities to take the necessary measures to improve material conditions of detention at Jēkabpils Prison, in the light of the above remarks. Immediate steps should be taken to improve access to natural light in the cells in Unit 3 and in the admissions cell, to renovate sanitary facilities and to provide prisoners with the necessary cleaning products to keep their accommodation in a clean condition.

The CPT has already recommended that the large dormitories be replaced; **as regards living space in the smaller living units (present and future), there should be a minimum of 4 m² per prisoner.**

14. Further, as was the case in 2007, the delegation heard numerous complaints from prisoners about the insufficiency and quality of the food provided. In this connection, the delegation was informed that the daily food allowance had recently been reduced to 0.78 LVL (approx. 1.1 EUR) per prisoner. **The CPT recommends that the Latvian authorities review the provision of food to prisoners, to ensure that it is adequate in terms of both quantity and quality.**

15. The CPT is pleased to note that prisoners' minimum daily outdoor exercise entitlement has been increased from one hour to 1.5 hours. That said, in Unit 3, outdoor exercise was still being provided in concrete cubicles measuring some 20 m² each, covered with a metal grille. **The CPT reiterates the recommendation made in the report on its 2007 visit that the outdoor exercise areas in Unit 3 be enlarged in order to allow prisoners to physically exert themselves.**

16. The delegation found that, apart from the above-mentioned increase in the outdoor exercise entitlement, there has been virtually no improvement in the regime offered to prisoners at Jēkabpils Prison since the 2007 visit.

As in 2007, about 30% of the prisoners¹⁰ attended general education classes in the prison school (some 40 prisoners) or were engaged in vocational training programmes¹¹ (160 prisoners). In addition, some 60 prisoners had a paid job in the prison's general services (cleaning, maintenance, canteen, etc.).

Consequently, for the majority of prisoners, daily outdoor exercise was the only regular out-of-cell activity¹². For the rest of the time, these prisoners remained locked up in their dormitories or cells, their sole occupation being reading, playing board games or watching television. This is not acceptable.

The CPT reiterates its recommendation that purposeful out-of-cell/-dormitory activities (work, education and vocational training) be provided to all prisoners at Jēkabpils Prison.

¹⁰ The establishment was accommodating 633 prisoners at the time of the visit.

¹¹ Vocational classes were held in recently renovated and suitably equipped facilities.

¹² Prisoners accommodated in the dormitory-type detention blocks also left their dormitories during the three mealtimes in the canteen and the morning and evening roll-calls.

3. Health care¹³

17. The delegation observed some improvements since the 2007 visit regarding the provision of health care at Jēkabpils Prison. A general practitioner and a psychiatrist had recently been recruited, both on a part-time (25%) basis, and the establishment now employed a psychologist on a full-time basis. Further, the presence of nursing staff was guaranteed at weekends, during the day.

That said, it is clear from the information gathered during the visit that the overall situation is still far from satisfactory. Indeed, the delegation received numerous complaints from prisoners about delays in gaining access to a doctor and the quality of treatment provided, as well as about the limitations imposed by the newly introduced system, whereby prisoners were required to pay for common types of health-care service (i.e. for any treatment other than emergency treatment).

The above complaints are scarcely surprising. Indeed, the presence on a mere 25% basis of one general practitioner is woefully inadequate for an establishment holding more than 600 prisoners, and the time of presence of a psychiatrist is also insufficient. Further, it is regrettable that, despite the specific recommendation made by the Committee after the 2007 visit, there was still no nursing cover at night-time.

In the light of the above remarks, **the CPT calls upon the Latvian authorities to review the health-care staffing levels at Jēkabpils Prison as a matter of priority, in order to ensure that:**

- **there is the equivalent of two full-time general practitioners in the establishment;**
- **the time of presence of a psychiatrist in the establishment is increased;**
- **the nursing cover is increased so as to enable a nurse to be present on a 24-hour basis.**

18. The CPT is aware that in periods of economic difficulties – such as those encountered today in many countries visited by the Committee – sacrifices have to be made, including in penitentiary establishments. However, regardless of the difficulties faced at any given time, the act of depriving a person of his liberty always entails a duty of care, including health-care services other than emergency treatment. In this connection, **the CPT wishes to receive detailed information regarding the above-mentioned system of health care provision recently introduced in Latvian prisons.**

¹³ There were no doctors present in the establishment at the time of the visit (which took place over a weekend); the delegation was therefore not in a position to examine the follow-up given to all the recommendations made by the Committee after the 2007 visit.

4. Other issues

a. discipline

19. The delegation found that material conditions in the establishment's disciplinary cells were very poor. In this regard, particular mention should be made of five of the cells. Apart from being small (some 4.5 m²) and dark (with hardly any access to natural light and dim artificial lighting), the cells in question were dilapidated, filthy, damp and badly ventilated. Further, a tap placed directly above the floor-level toilet was the only source of drinking water.

At the end-of-visit talks with the Latvian authorities, the delegation emphasised that such cells were, by virtue of their size alone, unsuitable for use as prisoner accommodation (even for disciplinary purposes), and made an immediate observation requesting that these cells be withdrawn from service (see paragraph 6). The authorities indicated in their letter of 24 February 2010 that an order had been issued by the Latvian Prison Administration by virtue of which the above-mentioned cells had been taken out of service. The CPT welcomes this decision.

20. The other disciplinary cells were larger. However, they had dim artificial lighting, only limited access to natural light and ventilation, and were humid. Further, in-cell toilets were filthy and foul-smelling. **The CPT recommends that appropriate steps be taken to remedy these deficiencies.**

21. It has been one of the CPT's long-standing recommendations to the Latvian authorities that outdoor exercise be offered to all prisoners placed in disciplinary isolation.

In this respect, the delegation was informed of a recent judgment of the Constitutional Court of Latvia, which ruled that the legal prohibition of outdoor exercise for prisoners undergoing disciplinary confinement was unconstitutional and shall be void as of 1 May 2010. **The CPT would like to receive confirmation that in the entire prison system, adult prisoners placed in a disciplinary cell are now offered at least one hour of outdoor exercise per day.**

22. In the course of the visit, the delegation observed that certain restrictions were still being applied to prisoners placed in disciplinary cells, despite the specific recommendations previously made by the Committee. Firstly, such prisoners had no access to reading matter except for religious literature and legal texts. Secondly, placement in a disciplinary cell still entails a total prohibition of contact with the outside world (except with a lawyer), a practice which is contrary to the European Prison Rules¹⁴.

¹⁴ See Rule 60.4 and the Commentary on that Rule.

In the light of the above, **the Committee reiterates its recommendations that steps be taken to ensure that:**

- **prisoners placed in a disciplinary cell are allowed access to general reading matter;**
- **disciplinary punishment does not lead to a total prohibition of family contact and that any restrictions on family contact are imposed only where the disciplinary offence relates to such contact.**

23. It is regrettable that the specific recommendation made by the Committee in the report on the 2007 visit as regards disciplinary procedures has not been implemented. Thus, prisoners facing disciplinary charges still have no right to be heard in person by the governor (or his deputy) before the latter takes a decision on the matter, and are not given a copy of that decision.

The CPT reiterates its recommendation that the above-mentioned shortcomings be remedied (if necessary, by amending the relevant legal provisions).

24. Before a prisoner is placed in a disciplinary cell, a doctor is still required, in accordance with the relevant regulations, to certify that the prisoner concerned is able to sustain the measure. The CPT regrets that its previous recommendation that the Latvian authorities review the role of prison doctors in the disciplinary context has not been adequately addressed.

Medical practitioners working in prisons act as the personal doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. Obliging prison doctors to certify that prisoners are fit to undergo punishment is scarcely likely to promote that relationship. This point was recognised in the Revised European Prison Rules; indeed, the rule in the previous version of the Rules, stipulating that prison doctors must certify that a prisoner is fit to sustain the punishment of disciplinary confinement, has now been removed.

On the other hand, a prison's health-care service should be very attentive to the situation of prisoners placed in disciplinary cells (or any other prisoner held under conditions of solitary confinement). In this regard, every disciplinary placement should be immediately brought to the attention of the health-care service. Further, a medical practitioner or a qualified nurse reporting to such a practitioner should visit, daily, prisoners held under conditions of solitary confinement and provide them with prompt medical assistance and treatment at the request of such prisoners or the prison staff.

The CPT must therefore reiterate its recommendation that the role of prison doctors in relation to disciplinary matters be reviewed, in the light of the above remarks. In so doing, regard should be had to the Revised European Prison Rules (in particular, Rule 43.2) and the comments made by the Committee in its 15th General Report (see paragraph 53 of CPT/Inf (2005) 17).

b. contact with the outside world

25. According to the law¹⁵, prisoners at the lowest regime level serving their sentence in a closed-type prison – including life-sentenced prisoners – are entitled to four short-term (of up to 2 hours) and three long-term (of up to 12 hours) visits per year.

Given the crucial importance of prisoners' contacts with the outside world in the context of their social rehabilitation, **the CPT recommends that the Latvian authorities increase the visit entitlement of the above-mentioned category of prisoners; such prisoners should be entitled to at least one visit (either short- or long-term) per month and, preferably, to one visit per week.**

c. security divisions

26. The delegation noted during the visit that officers of the prison's security division were still involved – through interrogations and collection of related evidence such as confessions – in the investigation of criminal offences committed by prisoners prior to imprisonment, despite the Committee's long-standing recommendation on this subject. As the CPT has stressed in the past, this situation is clearly detrimental to the protection of prisoners against ill-treatment (including inter-prisoner violence) and lends itself to abuse.

The CPT calls upon the Latvian authorities to take measures in the entire prison system to ensure that officers of security divisions no longer investigate criminal offences committed by prisoners outside the prison and no longer take statements from prisoners in relation to such offences.

¹⁵ Section 50^{quarter}, paragraph 8, of the Law on the Enforcement of Sentences.

B. Situation of life-sentenced prisoners

27. The CPT' delegation visited the special units at Daugavgrīvas and Jelgava Prisons which continue to hold all of the country's male life-sentenced prisoners¹⁶.

The unit for life-sentenced prisoners at Daugavgrīvas Prison had an official capacity of 33 places and, at the time of the visit, was accommodating 23 prisoners whose life-sentence had become final and one remand prisoner sentenced to life-imprisonment but awaiting the outcome of an appeal. Fourteen of the life-sentenced prisoners had reached the medium regime level while the others were at the lowest level¹⁷.

With an official capacity of 36, the unit for life-sentenced prisoners at Jelgava Prison was accommodating 24 prisoners whose life-sentence had become final and six remand prisoners sentenced to life-imprisonment but awaiting the outcome of an appeal. All of the prisoners were at the lowest regime level.

1. Ill-treatment

28. The delegation received no allegations from life-sentenced prisoners of physical ill-treatment by staff in either of the establishments. However, the delegation learned about the case of Sergey DANILJIN, a prisoner who had died in his cell at Daugavgrīvas Prison in September 2008. According to the case materials, this prisoner objected to a search of his cell and offered physical resistance to prison officers, who had to resort to "special means" (i.e. truncheons). Shortly after the incident the prisoner died in the cell from suffocation by vomiting, which, according to the autopsy reports, had not been caused by truncheon blows¹⁸. Nevertheless, criminal charges were brought against two prison officers involved in the incident. They were eventually found guilty of exceeding their authority, in that they had used excessive force by beating the prisoner on the head and abdomen, and were sanctioned with a fine¹⁹.

In order to prevent any such cases from recurring in the future, **the CPT recommends that all prison officers at Daugavgrīvas Prison be formally reminded that no more force than is strictly necessary is to be used to control a violent and/or recalcitrant prisoner and that, once the prisoner has been brought under control, there can be no justification for striking him.**

It is also axiomatic that, in order to avoid a climate of impunity, the sanctions imposed must be adequate when ill-treatment has been proven. **The CPT is not convinced that in the above-mentioned case the imposition of a fine was commensurate with the offence committed.**

29. As compared with the Committee's previous visits, a certain improvement in the attitude of staff was observed, and this observation was generally confirmed by the prisoners themselves.

¹⁶ The CPT had previously visited the respective units at Jelgava Prison in 2002, 2004 and 2007, and at Daugavgrīvas Prison in 2007.

¹⁷ Under Section 50^{quarter} of the Law on the Enforcement of Sentences, life-sentenced prisoners must serve a minimum of seven years of their sentence at the lowest level (offering the most restrictive regime) and demonstrate good behaviour in order to be transferred to the medium level. After a minimum of another ten years, prisoners may be moved to the highest level (offering the least restrictive regime).

¹⁸ The autopsy examination failed to establish the cause for vomiting.

¹⁹ They had earlier resigned from the prison service.

That said, the delegation noted that there were hardly any contacts between staff and life-sentenced prisoners in either establishment. At Daugavgrīvas, the governor even emphasised the fact that, after putting in place an automated door-opening system on the ground floor of the unit for life-sentenced prisoners, it had been possible to prevent prisoners from having direct contact with staff. In the CPT's opinion, such an approach is not conducive to the building of positive relations between staff and prisoners which may not only reduce the extent of prisoners' isolation but also help maintain effective control and security; in other words, the building of such relations is in the interests of safety, including for staff. **The CPT recommends that efforts be made to improve the quality of staff-prisoner relations in the units for life-sentenced prisoners at Daugavgrīvas and Jelgava Prisons.**

2. Conditions of detention

30. It is a matter of concern that, despite the assurances given by the prison governor during the 2007 visit, two main problems concerning material conditions of detention remained unresolved at Daugavgrīvas Prison. Firstly, the frosted glass bricks which rendered access to natural light in the cells inadequate had still not been replaced by transparent glass panels. Secondly, the ventilation system did not function properly (this was all the more worrying as there were no windows in the cells that could be opened) and created considerable noise in many cells. **The CPT recommends that the above-mentioned shortcomings be remedied without further delay.**

31. The Committee is pleased to note that the life-sentenced prisoners at the medium regime level were offered generous out-of-cell time in recently constructed facilities at Daugavgrīvas Prison. The prisoners concerned benefitted from an open-door regime from early morning until late evening, having free access to an outdoor yard (measuring some 55 m²) as well as to a common room where they could eat, converse, watch TV and play board games, with no escort. This is a very welcome development and indeed a major step forward.

However, it is a matter of serious concern that, despite the specific recommendations repeatedly made by the CPT in previous visit reports, the life-sentenced prisoners who were at the lowest regime level continued to be locked up in their cells for most of the day without being offered any purposeful activities. At Jelgava, the only regular out-of-cell activity available to these prisoners was daily outdoor exercise for one hour (which took place separately for each cell). At Daugavgrīvas, they could also go to a small "gym" for 1.5 hours every day. However, this facility was very modestly equipped (two exercise bicycles, a table game and a TV set) and, although accessible to all life-sentenced prisoners, it appeared to be mostly used by prisoners at the lowest regime level, mainly to watch TV (in groups of up to three persons²⁰). In this regard, a number of prisoners at Daugavgrīvas complained to the delegation that the prison administration had recently stopped allowing life-sentenced prisoners to watch TV in their cells and, as a result, they had no access to television except during the gym hours²¹.

It should also be added that in neither of the establishments were there any opportunities for employment²² or education for life-sentenced prisoners.

²⁰ This was the only occasion when life-sentenced prisoners at the lowest regime level could, in principle, meet prisoners other than their cellmates.

²¹ At Jelgava, most of the life-sentenced prisoners were able to watch TV in their cells (either their own TV set or one provided by the administration).

²² The delegation learned that paid work had been offered by a private company to eight life-sentenced prisoners at Daugavgrīvas Prison in 2009. Regrettably, it was discontinued for economic reasons. Further, there was a

The CPT calls upon the Latvian authorities to take immediate steps to devise and implement a comprehensive regime of out-of-cell activities for all life-sentenced prisoners at Daugavgrīvas and Jelgava Prisons. Immediate steps should be taken to allow life-sentenced prisoners at the lowest regime level to associate with prisoners from other cells during outdoor exercise. Further, all prisoners should be allowed to watch television in their cells.

3. Security-related issues

32. As regards the security measures applied to life-sentenced prisoners, the delegation learned that an end had now been put also at Jelgava Prison to the use of service dogs to escort such prisoners²³. This is a welcome development.

However, it is a matter of serious concern that almost all life-sentenced prisoners continue to be systematically handcuffed whenever they are escorted inside the prison²⁴. As the CPT has repeatedly emphasised in the past, there can be no justification for the systematic handcuffing of prisoners, and all the more so when it is applied in an already secure environment. Such a practice can only be seen as disproportionate and punitive.

33. In response to a specific recommendation made by the CPT after the 2004 visit, “individual risk assessment commissions” had been set up at Daugavgrīvas and Jelgava Prisons in 2005. In the report on the 2007 visit, the Committee indicated that “the whole system of “individual” risk assessment [did] not function properly in practice” and recommended the Latvian authorities to take immediate steps to carry out a proper individual risk assessment on a regular basis in respect of all life-sentenced prisoners and to adjust the security measures applied to them accordingly.

During the 2009 visit, the delegation learned that not a single individual risk assessment of life-sentenced prisoners had been carried out at Daugavgrīvas Prison since March 2008.

At Jelgava, the commission²⁵ carrying out individual risk assessment of life-sentenced prisoners met twice a year. The delegation had the opportunity to examine the records of the commission’s meeting on 29 June 2009 when the latter had performed an assessment of twenty-one prisoners. It transpired that, in every single case, the continued application of handcuffs when escorting the prisoner outside his cell was considered by the commission to be necessary, based on the assessment given by the security and surveillance divisions. It should be noted, however, that the wording of the latter assessment was virtually identical in all the twenty-one cases: it simply referred to the prisoner’s “propensity to escape and to attack staff members” and the necessity of “reinforced supervision and maximum surveillance”, without giving any further explanation. The conclusion of the commission usually contained one or two sentences reproducing the position of the security and surveillance divisions²⁶. Further, in none of the above-mentioned cases was the prisoner concerned heard by the commission. In the light of the above, the CPT considers that individual risk assessment of life-sentenced prisoners is currently not carried out in a proper manner; it remains very much an empty gesture.

room with two computers but they were inoperative.

²³ This practice was discontinued at Daugavgrīvas Prison in 2007.

²⁴ According to information provided to the delegation, handcuffs were not used only in respect of one prisoner (held in Jelgava Prison), due to his medical condition.

²⁵ The commission is composed of the deputy governor (chairperson), the heads of the security division, the surveillance division, the medical unit, the social rehabilitation department, and the unit for life-sentenced prisoners, as well as the prison chaplain and the psychologist.

²⁶ The fact that in several cases the prisoner concerned had not received any disciplinary sanction during the previous six months and/or had been the subject of a positive assessment by the head of the unit (e.g. “demonstrates good behaviour”, “psychologically stable”, etc.) did not seem to have been taken into account.

The CPT calls upon the Latvian authorities to take immediate steps to ensure that a proper individual risk assessment is carried out in respect of all life-sentenced prisoners to whom handcuffs are at present systematically applied whenever they are escorted inside the prison. The Committee would like to receive copies of all the reasoned decisions taken following that assessment.

The CPT also recommends that, in the course of an individual risk assessment, the prisoner concerned be always heard by the commission taking a decision on the matter.

34. The CPT must once again return to the issue of medical examinations of life-sentenced prisoners in view of the continuing failure of the Latvian authorities to implement the long-standing recommendation of the Committee on this subject. The delegation found during the visit that such examinations were usually still conducted in the presence of prison officers. Further, as was the case during the previous visit, prisoners were seen by the doctor through the bars of the cell door, or in the medical unit whilst being handcuffed behind the back (including during dental interventions), and consultations with the psychiatrist and psychologist often took place in a special interview room with the prisoner being placed in a cage-like cubicle.

The routine presence of prison officers during medical examinations constitutes a flagrant breach of the principle of medical confidentiality. **The CPT therefore calls upon the Latvian authorities to take immediate steps to ensure that all medical examinations of life-sentenced prisoners are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers.**

Further, to apply handcuffs to a prisoner undergoing a medical consultation/intervention is highly questionable from the standpoint of medical ethics and human dignity; and the same can be said of an approach whereby medical consultations take place across metal bars. Practices of this kind prevent an adequate medical examination from being carried out and will inevitably jeopardise the development of a proper doctor-patient relationship. **The Committee calls upon the Latvian authorities to put an immediate end to such practices.**

35. The CPT must stress once again that it can see no justification for keeping life-sentenced prisoners apart from other prisoners on the sole ground of their sentence. Particular reference should be made in this regard to the Council of Europe's Committee of Ministers' Recommendation (2003) 23 on the Management by Prison Administrations of Life-Sentenced and Other Long-Term Prisoners of 9 October 2003. One of the general principles underpinning such management is the *non-segregation principle*, which states that life-sentenced prisoners should not be segregated from other prisoners on the sole ground of their sentence. This principle should be read in conjunction with the *security and safety principle*, which calls for a careful assessment of whether prisoners pose a risk of harm to themselves, to other prisoners, to those working in the prison or to the external community. It recalls that the assumption is often wrongly made that a life sentence implies that a prisoner is dangerous. The explanatory report to this recommendation notes that "as a general rule, the experience of many prison administrations is that many such prisoners present no risk to themselves or to others" and that "they exhibit stable and reliable behaviour". The placement of persons sentenced to life imprisonment should therefore be the result of a comprehensive and ongoing risk and needs assessment, based on an individualised sentence plan, and not merely a result of their sentence.

Regrettably, the specific recommendation on this matter made by the CPT in the report on the 2007 visit was not adequately addressed by the authorities in their response to that report²⁷. **The Committee must therefore reiterate its recommendation that the Latvian authorities reconsider their segregation policy vis-à-vis life-sentenced prisoners, in the light of the above remarks.**

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36. As regards discipline in relation to prisoners in general, despite a specific recommendation made by the Committee after the 2007 visit, lying on the bed during the day was still considered a disciplinary offence and was punished accordingly. **The CPT reiterates its recommendation that this anachronistic rule be abolished without further delay.**

37. Further, the delegation was struck by the appalling conditions of detention in the six single-occupancy disciplinary cells at Jelgava Prison. The cells in question were claustrophobic (with a surface of some 4 m² and a distance of about one metre between two of the walls) and were also unfit in other respects for human detention; they had no or very poor natural light and dim artificial lighting, and were in an extremely poor state of repair, filthy and foul-smelling.

At the end-of-visit talks with the Latvian authorities, the delegation made an immediate observation requesting the authorities to withdraw these cells from service (see paragraph 6). By letter of 24 February 2010, the authorities informed the CPT that an order had been issued to take the cells in question out of service. This is a welcome development.

²⁷ See CPT/Inf (2009) 36, page 32.