



CPT/Inf (2006) 9

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

from 17 to 24 February 2004

The Lithuanian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2006) 10.

Strasbourg, 23 February 2006

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Copy of the letter transmitting the CPT's report

Strasbourg, 28 July 2004

Dear Madam/Sir,

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 Government of Lithuania drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Lithuania from 17 to 24 February 2004. The report was adopted by the CPT at its 54th meeting, held from 28 June to 2 July 2004.

I would like to draw your attention in particular to paragraphs 157 and 158 of the report, in which the CPT requests the Lithuanian authorities to provide **within six months** a response setting out the action taken upon its visit report and **within three months** information in respect of two specific issues.

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

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

Yours faithfully,

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

**Ministry of Justice
Gedimino pr. 30/I
2600 VILNIUS
Lithuania**

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 Lithuania from 17 to 24 February 2004. The visit formed part of the CPT's programme of periodic visits for 2004, and was the second periodic visit to Lithuania to be carried out by the Committee.¹

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

- Andres LEHTMETS, First Vice-President of the CPT (Head of the delegation)
- Emilia DRUMEVA
- Günsel KOPTAGEL-İLAL
- Ole Vedel RASMUSSEN
- Eric SVANIDZE.

They were supported by the following members of the CPT's Secretariat:

- Bojana URUMOVA
- Michael NEURAUTER
- Muriel ISELI,

and assisted by

- Eric DURAND, former Head of Medical Services at Fleury-Mérogis Prison, France (expert)
- Sonja SNACKEN, Professor of Criminology and Sociology of Law at the Free University of Brussels, Belgium (expert)
- Laura BLAŽEVIČIŪTĖ (interpreter)
- Lina JANUŠIENĖ (interpreter)
- Kristina KAČKUVIENĖ (interpreter)
- Liudas REMEIKA (interpreter)
- Kristina REMEIKIENĖ (interpreter).

¹ The first periodic visit to Lithuania took place from 14 to 23 February 2000. The visit report and the response of the Lithuanian authorities were published in October 2001 (documents CPT/Inf (2001) 22 and 23).

B. Establishments visited

3. The delegation visited the following places:

Police establishments

- Alytus Police Detention Centre
- Kaunas Police Detention Centre*
- Marijampolė Police Detention Centre
- Police Detention Centre, Kosciuškos Street 1, Vilnius*
- Alytus Police Station
- Kaunas Centre Police Station
- Marijampolė Police Station

Prisons

- Kaunas Juvenile Remand Prison and Correction Home
- Lukiškės Remand Prison, Vilnius*
- Marijampolė Correction Home
- Prison Hospital, Vilnius*

Psychiatric hospitals

Kaunas Psychiatric Hospital.

* Follow-up visit.

C. Consultations held by the delegation

4. In the course of the visit, the delegation held consultations with Vytautas MARKEVIČIUS, Minister of Justice, as well as with senior officials from the Ministries of Justice, Education and Science, Health Care, the Interior, and Social Security and Labour. It also met Romas VALENTUKEVIČIUS, Head of the Seimas (Parliamentary) Ombudsmen's Office, Gediminas DALINKEVIČIUS, Chairman of the Seimas Committee on Human Rights, and representatives of the Prosecutor-General's Office.

A list of the national authorities and non-governmental organisations met by the delegation is set out in Appendix II to this report.

D. Co-operation between the CPT and the Lithuanian authorities

5. The degree of co-operation received by the CPT's delegation from the Lithuanian authorities during the visit was, on the whole, satisfactory. In particular, the reception at all places visited, including those which had not been notified in advance, was very good.

However, the list of places of deprivation of liberty received prior to the visit omitted a significant number of establishments under the authority of the Ministry of the Interior, as well as certain psychiatric establishments where persons may be placed on an involuntary basis. It should be recalled that under the Convention, a Party is required to provide full information on the places where persons deprived of their liberty may be held;² such information must include all establishments where persons may be held against their will by a public authority, regardless of the reason or the length of time.

6. The principle of co-operation set out in the Convention is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the Committee's key recommendations.

In this regard, the CPT is seriously concerned by its delegation's findings as regards the treatment of persons deprived of their liberty by the police, as well as the conditions of detention in police detention centres. Further, the Committee has been obliged to reiterate many of its previous recommendations concerning prison issues.

The CPT must stress that, unless genuine efforts are made to improve the situation, it will be obliged to consider having recourse to Article 10 (2) of the Convention.³

² Cf. Article 8, paragraph (2)(b), of the Convention.

³ 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."

E. Immediate observation under Article 8, paragraph 5, of the Convention

7. At the end-of-visit talks on 24 February 2004, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention, concerning Kaunas and Marijampolė Police Detention Centres, as well as other detention centres where similar conditions prevailed. The delegation found that the conditions under which persons were held in such establishments were unacceptable, and requested that urgent steps be taken to improve them. The observation was confirmed in a letter dated 15 March 2004 addressed by the President of the CPT to the Ministry of Justice, in which the Lithuanian authorities were requested to provide, within three months, an account of the measures taken in response.

On 28 June 2004, the Lithuanian authorities provided comments on various issues raised by the delegation at the end of the visit, including the above-mentioned immediate observation. This information has been taken into account in the relevant section of the present report.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

8. The CPT's delegation carried out follow-up visits to the Kaunas and Vilnius Police Detention Centres. It also visited, for the first time, the Kaunas Centre Police Station, as well as police establishments (stations and attached detention centres) in Alytus and Marijampolė.

9. Numerous developments related to the legal framework for police custody have taken place in recent years, the most salient being the adoption of the 2002 Code of Criminal Procedure, the 2000 Law on Police Activities (as amended up to May 2002) and the amendments to the 1994 Law on the Prosecutor's Office.⁴ Moreover, a number of subsidiary regulations and orders have been issued.⁵ Police officers are required to observe the European Code of Police Ethics.

The relevant legal and regulatory provisions will be elaborated in subsequent sections of this report. For the sake of clarity, it might be useful at this stage to outline a few basic elements of the existing legal framework for police custody in Lithuania.

10. A person suspected of a criminal offence can remain in police custody on the authority of a police investigator or public prosecutor for up to 48 hours. Within that period, the person concerned must be brought before a judge, who may remand the person in custody for a fixed term.⁶ Pursuant to the Law on Remand Detention, persons remanded in custody may be held in a police detention centre for a period not exceeding 15 days.⁷ Further, on the decision of the relevant judge following a request made by an investigator or prosecutor, remand prisoners may be returned to police custody from prison (and placed in a police detention centre for up to 15 days), if this is considered necessary for an investigation.

⁴ The 2002 Code of Criminal Procedure and the 2003 amendments to the 1994 Law on the Prosecutor's Office entered into force on 1 May 2003. It may also be noted that the 2000 Criminal Code entered into force on 26 September 2000, and a new Aliens Law entered into force on 30 April 2004.

⁵ Relevant documents issued during the period since the last visit, and which concern matters addressed by the CPT in its previous visit report, include: Regulations on the activities of police detention centres (Order No. 88 issued by the Minister of the Interior on 17 February 2000); various orders related to the implementation of the 2000 Law on State-Guaranteed Legal Aid (in force since 1 January 2001); Direction on ensuring lawfulness (Direction No. 16, issued by the Police Commissioner General on 22 March 2001); General Order on control in ensuring protection of detained and arrested persons against torture and inhuman or degrading treatment or punishment (Order No. 96 issued by the Prosecutor-General on 8 June 2001); Regulation on the observance of ethics of police officers (Regulation No. 25 issued by the Police Commissioner General on 10 August 2002); Recommendation on the distribution of the duty to investigate criminal acts committed in the course of pre-trial investigation (Order No. 1-47 issued by the Prosecutor-General on 11 April 2003); Police Custody Rules (applicable to administrative detainees), issued by the Minister of Justice on 18 June 2003; Order regarding nutrition standards in police detention facilities (issued by the Police Commissioner General in 2003).

⁶ Cf. Article 20(3) of the Constitution and Sections 140 and 123(3) of the 2002 Code of Criminal Procedure.

⁷ Cf. Section 5(3) of the Law on Remand Detention and also point 5.2 of the Regulations on the activities of police detention centres (Order No. 88 issued by the Minister of the Interior on 17 February 2000).

Other possible grounds for placement in a police detention centre include administrative detention (up to 30 days) of persons found guilty of minor offences;⁸ detention up to five hours during the completion of police proceedings concerning administrative offences;⁹ detention for identification (up to 48 hours under aliens law provisions); and detention for sobering up.

11. During the February 2004 visit, the delegation found cases where persons were being held in a police detention centre for 30 consecutive days. However, given the frequent practice of returning remand prisoners to police detention centres for further questioning, the cumulative periods of detention could extend to several months.

It may be added that the Seimas (Parliamentary) Ombudsman has drawn attention to problems concerning police detention time limits, "due to different interpretation of legal acts by police officers".¹⁰

2. Torture and other forms of ill-treatment

12. As was the case during the 2000 visit, the delegation received many allegations of ill-treatment of persons - including minors - deprived of their liberty by the police. The allegations heard related mainly to the time of apprehension and to the period surrounding the investigation by the police; certain persons alleged ill-treatment during transport by the Convoy Division.¹¹ The forms of ill-treatment alleged consisted mostly of blows with hands or fists, or with objects such as batons or belts. In several cases, the alleged ill-treatment - asphyxiation by placing a gas mask or a plastic bag over the person's face, severe beating, infliction of electric shocks, and mock execution - could be considered to amount to torture.

In a number of cases, the delegation was able to verify that the person concerned had been held in police establishments during the periods to which the ill-treatment in question could be ascribed; moreover, certain of them provided accurate descriptions of the offices where they claimed it had taken place. Further, medical records revealed that upon their admission to prison or a police detention centre, numerous persons had displayed injuries consistent with their allegations of ill-treatment. The following cases are but two illustrative examples where the delegation gathered supporting medical evidence, consistent with the persons' accounts of ill-treatment.

⁸ Cf. Sections 21 and 29 of the Administrative Code and Section 50(1) of the 2002 Code on the Execution of Sentences. Further, Section 163(1) of the 2002 Code of Criminal Procedure authorises judges to order administrative detention (up to 30 days) for persons who fail to appear before court, or who fail to comply with an order issued by a pre-trial investigator, prosecutor, or court.

⁹ Cf. Section 267 of the Administrative Code.

¹⁰ Cf. Summary of the Annual Report of 2003 of the Seimas Ombudsmen's Office.

¹¹ Cf. paragraph 44 below.

13. In one case, a prisoner alleged that he was severely beaten by a group of five police officers in the basement of Alytus Police Station at the beginning of 2004. In particular, he claimed that he was handcuffed while the officers punched, kicked, and struck him with rubber truncheons and wooden chair-legs; he also alleged that one of them placed a plastic bag over his head. The logbook of medical checks at Alytus Police Detention Centre contained references to the effect that, on the day after the alleged incident, the person concerned displayed injuries from beating, felt pain in the kidney area and that an ambulance had been called. Moreover, his medical file at Lukiškės Prison recorded that on examination one week later, he still displayed: "multiple haematomas on [the] back, legs and wrists".

Another prisoner alleged that, one month prior to his interview with members of the delegation, he was severely beaten - punched and kicked, to the point of losing consciousness - by police officers in a room located in the basement of the 6th Police Station (Commissariat) in Vilnius. His medical file at Lukiškės Prison recorded that on examination one week after the alleged beating, he displayed "[...] bruises on the nose, left elbow and multiple haematomas on the back".

14. The CPT remains concerned by the high number and the severity of allegations of ill-treatment of persons in police custody in Lithuania; the situation has scarcely improved since the visit in 2000, despite the considerable volume of legislative acts and orders related to the subject which has been promulgated in the interim.¹² Further, according to the Seimas Ombudsman, the "illegitimate use of physical force by police officers" is one of the main problems identified concerning the Ministry of the Interior.¹³

The CPT recommends that a formal statement from the Minister of the Interior be delivered to all law enforcement officials, impressing upon them that the ill-treatment of persons in their custody is an affront to the values which constitute the very foundations of the State and will not be tolerated. Such a statement should make clear that all relevant information regarding alleged ill-treatment will be investigated, and that perpetrators of ill-treatment will be subject to severe sanctions.

15. In the interests of the prevention of torture and other forms of ill-treatment, the CPT recommended in its report on the visit in 2000 that the Lithuanian authorities give a very high priority to professional training for police officers of all ranks and categories, and that an aptitude for interpersonal communication become a major factor in their recruitment.¹⁴

In their response, the Lithuanian authorities made reference to various training programmes and activities held in 2000 and 2001 involving senior and mid-level police officers, and covering subjects such as interpersonal conflict, ethics of police officers, and human rights.¹⁵ During the February 2004 visit, Ministry of the Interior officials informed the delegation that training for junior-level police officers working with detainees had commenced, and that training for directors of police detention centres was starting during the first half of 2004.

¹² Cf. paragraph 9 and footnote 5 above.

¹³ The other problems identified (cf. Summary of the Annual Report of 2003 of the Seimas Ombudsmen's Office) were conditions of detention in police detention centres (cf. paragraph 34 below) and problems related to the Convoy Division (cf. footnote 44 below).

¹⁴ Cf. paragraph 15 of CPT/Inf (2001) 22.

¹⁵ Cf. pp. 27 to 29 of the follow-up report of the Lithuanian Government (CPT/Inf (2001) 23).

The CPT recommends that the Lithuanian authorities continue to give a high priority to police training, including as regards practical skills for handling high-risk situations such as the apprehension and interrogation of suspects. It would like to be kept informed of developments related to police selection and training in Lithuania since the beginning of the year 2004 (recruitment criteria; training strategy; curricula; etc.).

16. At certain police detention centres, the delegation observed that custodial officers were carrying truncheons in the full view of detainees. This is not conducive to developing positive relations between staff and detainees. **If it is considered necessary for custodial officers assigned to police detention centres to carry truncheons, the CPT recommends that they be hidden from view.**

17. In its report on the visit in 2000, the CPT recommended that public prosecutors be encouraged to undertake frequent and unannounced visits to police detention facilities.¹⁶ In response, the Lithuanian authorities indicated that a special programme had been approved by the Prosecutor-General for the inspection of such facilities.¹⁷ However, the records examined during the 2004 visit at the police establishments visited did not contain information on the frequency and results (recommendations, etc.) of such inspections. **The CPT would like to receive the Lithuanian authorities' assessment of the above-mentioned special programme, as well as further information on the frequency of such inspections and any relevant conclusions, recommendations and action taken in response.**

18. One of the most effective means of preventing ill-treatment by law enforcement officials lies in the diligent examination by the competent authorities of all relevant information regarding alleged ill-treatment which may come to their attention, whether or not that information takes the form of a formal complaint; failing to do so will contribute to creating a climate of impunity. In this connection, judges and prosecutors are in a particularly crucial position. Vigilance and a proactive stance adopted by the management of prisons¹⁸ and police detention centres can also make a vital contribution to combating impunity.

19. The CPT has repeatedly stressed that, whenever a public prosecutor or judge receives an allegation of ill-treatment by the police, or whenever there are other grounds to believe that a person brought before him or her may have been the victim of such treatment (whether or not the person concerned bears visible external injuries), it is essential that a medical examination of the person concerned be requested immediately.¹⁹ In response, the Lithuanian authorities have indicated that such a practice is indeed being followed, and that prosecutors are systematically requesting *forensic medical examinations* whenever they receive a complaint or other information indicating that a person may have been ill-treated.²⁰ Obviously, the CPT welcomes the action being taken in this area.

¹⁶ Cf. paragraph 17 of CPT/Inf (2001) 22.

¹⁷ Cf. p. 31 of the follow-up report of the Lithuanian Government (CPT/Inf (2001) 23).

¹⁸ Cf. in this regard paragraph 96 below.

¹⁹ Cf. paragraph 17 of CPT/Inf (2001) 22 and paragraph 2 of the letter dated 24 July 2001 of the President of the CPT to the Lithuanian authorities.

²⁰ Cf. p. 30 of CPT/Inf (2001) 23, Analysis of the number of reports received from District Prosecutors on violence by law enforcement officials (document dated 22 October 2001 by the Prosecutor-General's Office) and also the meeting on 23 February 2004 between members of the delegation and representatives of the Office of the Prosecutor General.

20. It is also important that no barriers be placed between persons who allege ill-treatment and doctors who can provide forensic reports. During the 2004 visit, it transpired that persons alleging ill-treatment could not obtain a forensic medical examination without prior authorisation by an investigator or prosecutor. **The CPT recommends that the Lithuanian authorities take the necessary measures to enable persons who allege ill-treatment, or their lawyer or doctor, to themselves request a forensic medical examination.**

21. Following the issuing of "General Order on control in ensuring protection of detained and arrested persons against torture and inhuman or degrading treatment or punishment" (Order No. 96 issued by the Prosecutor-General on 8 June 2001), an analysis of complaints of violence by law enforcement officials was performed by the Prosecutor-General's Office.²¹ According to that analysis, of the 199 complaints of police violence received in the first nine months of 2001 by the Vilnius District Prosecutor's Office, only two (i.e., 1%) resulted in the institution of *criminal proceedings*. The proportion of complaints of police violence leading to criminal proceedings during the same period was higher in the Kaunas region (9.2%). Further, according to senior officials from the Ministry of the Interior, no police officers in Lithuania have been convicted to date of a criminal offence related to alleged ill-treatment. As far as the CPT is concerned, rather than being an indicator of the absence of ill-treatment, this is a clear sign that the existing systems of redress are not functioning properly.

As a result of the above-mentioned analysis, the Prosecutor-General himself concluded, *inter alia*, that the outcome was influenced by the fact that procedural decisions related to investigations of alleged police violence were sometimes taken by officers from the same police department as those implicated in the events. In response to those concerns, the Prosecutor-General issued a "Recommendation on the distribution of the duty to investigate criminal acts committed in the course of pre-trial investigation,"²² pursuant to which all complaints which concern police officers or interrogators may be investigated only by prosecutors. Further, the 2002 Code of Criminal Procedure and the amended Law on the Prosecutor's Office stipulate that all pre-trial investigations are supervised by an investigating judge, and prosecutors have the function of supervising the activities of pre-trial investigation officers in criminal proceedings.²³ It was expected that the new laws and recommendation would lead to an increase in the number of criminal cases instituted.

However, this is not what transpires from a note dated 23 February 2004, prepared by the Vilnius Police Commissioner, providing statistics on investigations on the alleged use of force by police officers in the Vilnius region. According to that document, 87 such complaints were received in 2003. Of those complaints, 37 cases were rejected as unfounded (26 by the relevant prosecutor prior to the entry into force of the new Code of Criminal Procedure on 1 May 2003, and 11 subsequently, by the relevant investigating judge). As regards the other 50 complaints, all processed after 1 May 2003, the relevant investigating judge rejected 38 on "rehabilitating" grounds. The remaining 12 cases were still pending.

²¹ Cf. document dated 22 October 2001 of the Prosecutor-General's Office.

²² Recommendation N1-47 issued by the Prosecutor-General on 11 April 2003.

²³ Cf. section 164 and 177 of the 2002 Code of Criminal Procedure. Under the amended Law on the Prosecutor's Office (which entered into force on 1 May 2003), prosecutors have the function of "supervising the activities of pre-trial investigation officers in criminal proceedings"(Section 9(3)(3)); in the public interest, the power to "request official inspection of activities of officials" (Section 19(8)); as well as the right to institute disciplinary proceedings against pre-trial investigation officers (Section 20(2)(1)).

The above information suggests that criminal prosecutions concerning cases of alleged ill-treatment have not increased since the entry into force of the new legislation, possibly because the relevant cases are still being investigated by police officers, even though the investigations are formally subject to the supervision of prosecutors.

22. The Committee considers that, for a criminal investigation into possible ill-treatment by law enforcement officials to be effective:²⁴

- the persons responsible for and carrying out the investigation should be independent from those implicated in the events;
- the investigation must be capable of leading to a determination of whether force used was or was not justified under the circumstances and to the identification and, if appropriate, the punishment of those concerned;
- all reasonable steps should be taken to secure evidence concerning the incident, including *inter alia* eyewitness testimony, forensic evidence, and, if applicable, an autopsy which provides a complete and accurate record of injury and an objective analysis of clinical findings, including the cause of death;
- the investigation must be conducted in a prompt and reasonably expeditious manner;
- a sufficient element of public scrutiny of the investigation or its results should be required, to secure accountability in practice as well as in theory;
- in the context of criminal investigations, all pieces of information which may be indicative of the commission of other criminal offences should be fully taken into account;
- disciplinary culpability of law enforcement officials involved in instances of ill-treatment should be systematically examined, irrespective of whether the misconduct of the officers concerned constitutes a criminal offence.

The CPT recommends that the relevant authorities review the existing arrangements with a view to ensuring that the foregoing precepts are systematically applied in practice.

23. A well-designed and properly-functioning system of *internal accountability* procedures is another key element in the prevention of ill-treatment.

In Lithuania, the Internal Investigation Service of the Ministry of the Interior is responsible for processing complaints against police officers. During the visit, senior officials of the Ministry of Interior, representatives of the Internal Investigation Service, as well as the Director (Head) of the Vilnius Police Detention Centre, described the relevant procedures as follows. Any complaints or other information relating to police misconduct are referred by the director of the police headquarters concerned or his deputy to the Internal Investigation Service, which has branches in the general and regional police headquarters. Further, directors of police detention centres are obliged to report any admission of an injured detainee to their superiors, who in turn forward the information to the Internal Investigation Service.

²⁴ Cf. also the following judgments of the European Court of Human Rights: *McShane v. the United Kingdom*, No. 43290/98; *Kelly and Others v. the United Kingdom*, No. 30054/96; *Hugh Jordan v. the United Kingdom*, No. 24746/94; *McKerr v. the United Kingdom*, No. 28883/95; *Sevtap Veznedaroğlu v. Turkey*, No. 32357/96; *Assenov and Others v. Bulgaria*, No. 24760/94; *Labita v. Italy*, No. 26772/95; *Finucane v. the United Kingdom*, No. 29178/95.

The CPT recommends that the relevant prosecutors always be immediately notified, in writing, of any information relating to possible cases of police ill-treatment (cf. in this regard paragraphs 18 and 96). The information transmitted should include, *inter alia*, the statement made by the person concerned regarding the origin of the injuries as well as all related medical findings.

24. In order to obtain a more complete and up-to-date picture of legal remedies in cases involving alleged ill-treatment, **the CPT would like to receive an account, covering the period from 1 January 2003 to the present time, of all complaints received of ill-treatment by the police and the outcome of the relevant disciplinary and/or criminal proceedings (allegations, brief descriptions of the findings of the relevant court or body, verdict, sentence/sanction imposed).**

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

25. The 2002 Code of Criminal Procedure stipulates that a person's apprehension shall be immediately notified to his or her family or to other relatives,²⁵ *in addition* to requiring the competent prosecutor to inform the detainee's relatives once detention on remand has been imposed.²⁶ Further, the forms entitled "Protocols of Apprehension" - which criminal suspects were requested to sign - require police officers to allow such persons to notify a family member of their custody. The CPT welcomes the foregoing provisions.

However, as had been the case at the time of the 2000 visit, the information gathered by the delegation indicated that the right of notification of custody was often not fully effective in practice. Many persons interviewed alleged that they had not been able to exercise this right promptly. Further, in some of the forms examined during the visit, the relevant entries were left blank. It is of particular concern that, on occasion, notification of custody of juveniles was apparently delayed for several days.

The CPT recommends that appropriate action be taken to ensure that the right of notification of custody is rendered fully effective in practice, with respect to all categories of persons deprived of their liberty by the police, as from the very outset of deprivation of liberty.

26. In the report on its 2000 visit to Lithuania, the CPT welcomed the formal provisions concerning the right of persons in police custody to have access to a lawyer.²⁷ The 2002 Code of Criminal Procedure and the 2000 Law on State-Guaranteed Legal Aid maintain this favourable legal framework.²⁸

²⁵ Cf. Section 140(4) of the 2002 Code of Criminal Procedure.

²⁶ Cf. Section 128, *ibid.*, and also paragraphs 39 to 40 of CPT/Inf (2001) 22 and pp. 36 to 38 of CPT/Inf (2001) 23.

²⁷ Cf. paragraphs 41 to 43 of CPT/Inf (2001) 22 and Article 31(5) of the Constitution.

²⁸ Cf. Sections 21(4), 50, and 51 of the 2002 Code of Criminal Procedure, and Section 14 of the 2000 Law on State-Guaranteed Legal Aid, as well as pp. 37-38 of CPT/Inf (2001) 23.

Nevertheless, the information gathered by the delegation in February 2004 once again revealed a wide gap between law and practice. A significant amount of time could elapse before apprehended persons had any contact with a lawyer; in a number of cases - and nearly always, in cases of court-appointed lawyers - such contact first occurred during the initial court appearance (i.e., up to 48 hours from the moment of apprehension). Further, it was common for members of the criminal police to question persons - including juveniles - without the presence of a lawyer; in any case involving a minor, such a practice clearly violates the Code of Criminal Procedure.²⁹

27. The CPT wishes to emphasise that in its experience, it is during the period immediately following the deprivation of liberty that the risk of intimidation and ill-treatment is greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer during this period is a fundamental safeguard against ill-treatment. The existence of that possibility will have a dissuasive effect upon those minded to ill-treat detained persons; further, a lawyer is well placed to take appropriate action if ill-treatment actually occurs. No doubt, the presence of a lawyer at the stage of initial police questioning will not always be welcomed by the police officers concerned. However, properly-trained police officers will be able to cope with the application of this fundamental safeguard.

The right of access to a lawyer must include the right to talk to him in private. The person concerned should also, in principle, be entitled to have a lawyer present during any interrogation conducted by the police. However, this should not prevent the police from questioning a detained person on urgent matters, even in the absence of a lawyer (who may not be immediately available), nor rule out the replacement of a lawyer who impedes the proper conduct of an interrogation.

The CPT reiterates its recommendation that steps be taken to ensure that the right of access to a lawyer, as defined above, is enjoyed by all persons obliged to remain with the police, as from the very outset of their deprivation of liberty. The right of access to a lawyer should be enjoyed not only by criminal suspects but also by anyone who is under a legal obligation to attend - and stay at - a police establishment.

Appropriate steps should also be taken to ensure the effectiveness of the legal aid system throughout the procedure, including at the initial stage of police custody. The CPT suggests that the Bar Association be consulted in this context.

28. As regards access to a doctor, notwithstanding the recommendations made by the CPT following its visit in 2000 concerning health care in police detention centres,³⁰ the 2004 visit revealed that persons admitted to such establishments were still not benefiting from a thorough medical screening promptly on arrival. Further, several persons interviewed alleged that they had experienced considerable difficulty in obtaining access to health-care staff during their stay in a police detention centre.

²⁹ Cf. Section 51 of the 2002 Code of Criminal Procedure.

³⁰ Cf. paragraphs 44 to 47 of CPT/Inf (2001) 22.

While the four police detention centres visited did employ health-care staff,³¹ contact between them and detainees appeared to be limited to a verbal exchange; such encounters often occurred in the presence of police officers (a fact which was confirmed by staff) and could even take place in a corridor. Further, the recording of injuries was not sufficiently detailed (cf. in this regard paragraph 96 below).

In the light of information gathered by its delegation, **the CPT recommends that appropriate steps be taken to ensure that all persons placed in a police detention centre are given a thorough medical screening without delay and, throughout their stay, are allowed ready access to health-care staff - and, if they so request, a doctor of their own choice - under conditions guaranteeing medical confidentiality. Police officers should not seek to filter requests to see a doctor made by detained persons.**

Moreover, **the CPT recommends that the results of every medical examination, as well as any relevant statements by the detained person and the doctor's conclusions, be formally recorded by health-care staff and made available to the detainee and his lawyer. Existing procedures should be reviewed in order to ensure that, whenever injuries which might be indicative of ill-treatment are recorded by health-care staff of police detention centres, the record is brought to the attention of the relevant public prosecutor.**

29. The "Protocols of Apprehension" which criminal suspects (apprehended without a warrant)³² were requested to sign contained information on rights, and notices setting out internal rules were displayed in the detention centres visited. However, persons in police custody were still not being systematically given a form to keep, setting out all their rights in a straightforward manner.³³ **The CPT reiterates its recommendation concerning the provision of written information on rights to all persons deprived of their liberty by the police, at the very outset of their deprivation of liberty** (cf. paragraph 48 of CPT/Inf (2001) 22).

30. A number of persons claimed that operative police officers had entered into "unofficial" contact with them following their placement in a police detention centre - after the investigation had been taken over by an investigator - without proper authorisation and without leaving a written record. Such contacts can obviously provide an opportunity to apply pressure or intimidation tactics vis-à-vis detainees, including those pursuing claims of ill-treatment against police officers; in this regard, they have the potential to undermine investigations into police misconduct. **The CPT recommends that decisive steps be taken to prevent such contacts.**

³¹ However, according to the follow-up report of the Lithuanian Government, 28 (out of the 46) police detention centres still had no in-house health-care service (cf. p. 39 of (CPT/Inf (2001) 23).

³² In contrast, persons arrested with a warrant were not requested to sign such forms.

³³ The delegation was shown only one copy of such a form (at Kaunas Centre Police Station) during the entire visit.

31. It remains common practice in Lithuania for persons remanded in prisons to be returned to police custody for the purposes of the investigation.³⁴ In the interests of prevention of ill-treatment, as well as in view of the poor conditions prevailing in certain police detention centres, it is far preferable for further questioning of persons committed to prison to take place in prison rather than on police premises. The return of prisoners to police premises for whatever purpose should only be sought and authorised when absolutely unavoidable.

The CPT recommends that in respect of every occasion on which inmates are removed from prison at the request of a police investigator or prosecutor, a formal record be kept of the reason for their removal and of all measures taken during their presence on police premises.

4. Conditions of detention

32. At the outset, the CPT's basic standards for conditions of detention in police custody should be recalled.

All police cells should be clean, of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in police custody should be allowed to comply with the needs of nature in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for extended periods (24 hours or more) should be provided with appropriate personal hygiene items and, as far as possible, be offered outdoor exercise every day.

33. In most countries visited by the CPT, persons are held for only a relatively short time on police premises. However, in Lithuania, police detention centres can - in effect - be used as prisons; as already indicated (cf. paragraph 11), a person can be held in a police detention centre for prolonged periods, with cumulative periods of detention potentially reaching several months. Persons held for such periods of time are entitled to expect conditions of detention which are significantly better than the elementary requirements described above, as well as a regime of activities.

³⁴ Cf. in this regard paragraph 10 above.

a. police detention centres

34. In its first report to the Lithuanian authorities, drafted following its visit in 2000, the CPT was critical of conditions of detention in police detention centres; with a view to improving the situation in the establishments concerned, it made a number of specific recommendations.³⁵

In their follow-up report (dated September 2001), the authorities acknowledged that of the 47 police detention centres in Lithuania, only eight (i.e., 17%) met "the requirements set forth by Hygiene Norm HN 37-1997"; it was considered necessary to secure sufficient resources in order to renovate or replace the other detention centres.³⁶ Nevertheless, by the time of the 2004 visit, the proportion of detention centres which conformed to the requisite standards remained low (20%).³⁷ As the Seimas (Parliamentary) Ombudsman has recently pointed out, "[l]egal acts have been adopted on the improvement of living conditions of inmates in police commissariat detention establishments, however the real results are expected only in a couple of years since the implementation of the program directly depends on state funding".³⁸

The 2004 visit confirmed that many of the CPT's key recommendations concerning conditions of detention in police detention centres have yet to be implemented.

35. The material conditions under which detained persons (in police custody, on remand, or sentenced) were being held in the police detention centres in *Kaunas* and *Marijampolė* were totally unacceptable. Detainees were locked up 24 hours per day in filthy, overcrowded³⁹ cells (up to ten persons in a cell of 14 m², and frequently two persons in a cell of 4.5 m²), with little or no access to natural light and, in many cases, dim artificial lighting. A tap placed directly above the minimally partitioned lavatory was the only source of drinking water. In certain cells, persons were obliged to relieve themselves in a bucket in the direct presence of their cellmates. The ventilation system which had been installed in Kaunas since the visit in 2000 could scarcely counter the effects of the above-mentioned conditions on the air in the cells. In most cases, persons were provided with no mattresses and blankets (the disintegrating mattresses provided at Marijampolė were hardly usable), and lacked basic personal hygiene products.

The cumulative effect of the very poor material environment and the impoverished regime could be described as inhuman and degrading, especially considering that persons were being held under such conditions for prolonged periods.

³⁵ Cf. paragraphs 22 to 36 of CPT/Inf (2001) 22.

³⁶ Cf. pp. 34-35 of CPT/Inf (2001) 23.

³⁷ The Deputy Police Commissioner General informed the delegation on 17 February 2004 that, of the existing 46 police detention centres, only nine met "European standards".

³⁸ Cf. Summary of the Annual Report of 2003 of the Seimas Ombudsmen's Office.

³⁹ In their follow-up report, the Lithuanian authorities indicated that the average number of persons detained at Kaunas Police Detention Centre (which has an official capacity of 53) had decreased from 74 in 1999 to 62 in the year 2000, as a result of "the introduction of new convoy routes" (cf. p. 35 of CPT/Inf (2001) 23). However, on 19 February 2004, the establishment accommodated 85 detainees. As for Marijampolė (official capacity: 21), the relevant registers revealed that occupancy levels could reach 34.

36. Mention should also be made of the small (less than 1.5 m²) cage-type cubicles next to the duty office at Kaunas Police Detention Centre, which remained in use, despite assurances to the contrary given by the Lithuanian authorities in their response to the previous visit report.⁴⁰ As the CPT pointed out in the report on the 2000 visit, by virtue of their size alone, such facilities are unfit for even the shortest period of detention. **The Committee calls upon the Lithuanian authorities to have the cubicles dismantled immediately.**

37. The police detention centres at *Alytus* (which entered into service in 1999) and *Vilnius*⁴¹ offered somewhat better material conditions. In particular, their total occupancy levels were well within official capacities⁴² at the time of the visit. However, the partitioning of the lavatories was insufficient at both establishments; in combination with the inadequate ventilation in certain cells, this inevitably rendered the air foul. As was the case at Kaunas and Marijampolė, basic personal hygiene products were not provided.

38. Near-constant lock-up remained the norm for most persons held in police detention centres. If offered at all on a given day, outdoor exercise was often limited to short periods (20 minutes or so) and/or taken in areas too small to permit proper physical exertion (e.g. the 13.5 m² yards at Alytus); it remained the case that no outdoor exercise was available at Kaunas. Most of the time, detainees were kept idle in their cells, their only diversions consisting of conversing with their cellmates, re-reading scraps of newspapers or other periodicals or, in a few isolated cases, listening to the radio (the detainees' own).

The regime offered to juveniles (in police custody or on remand) held in police detention centres was no less impoverished than was the case for their adult counterparts. Further, it transpired that juveniles could be placed in the same cells as adults; such a situation is totally unacceptable.

In contrast, administrative detainees benefited from less restrictive arrangements; for instance, they were permitted to keep television sets in their cells, and could be escorted outside to take meals.

39. As already mentioned (cf. paragraph 7), at the end-of-visit talks on 24 February 2004, the delegation made an immediate observation concerning Kaunas and Marijampolė Police Detention Centres, as well as any other establishments where similar conditions prevail. It requested the Lithuanian authorities to take urgent steps to improve conditions of detention at police detention centres and, in particular, to ensure that:

- (i) all persons held overnight in a police detention centre are provided with a clean mattress and clean blankets;
- (ii) all persons who are detained for prolonged periods are provided with personal hygiene products (toilet paper, soap, toothbrush and paste, towel, sanitary towels, etc.) and are granted at least one hour of outdoor exercise per day;
- (iii) all detained persons have ready access to drinking water in salubrious conditions.

⁴⁰ Cf. paragraph 35 of the CPT/Inf (2001) 23.

⁴¹ Cf. the description of the Vilnius Police Detention Centre in the report on the visit in 2000 (paragraph 27 of CPT/Inf (2001) 22).

⁴² At Alytus, there were 19 detainees for an official capacity of 30; at Vilnius there were 29 for a capacity of 104.

40. In response to item (i), the Lithuanian authorities indicated that 80,000 litas (i.e. some 23,200 euros) would be allocated for acquiring mattresses, blankets, and towels in police detention centres.

As regards persons held in police detention centres for prolonged periods (item (ii)), the authorities have not responded to the delegation's request to provide them with personal hygiene products (toilet paper, soap, toothbrush and paste, sanitary towels, etc.). **With reference to Article 3 of the Convention, the CPT calls upon the Lithuanian authorities to provide information on the action taken in this regard within three months.**

As for outdoor exercise (item (ii)), it was still not available in 17 police detention centres; nevertheless, the authorities "hope[d] that this matter [would] be successfully settled in the immediate future because the solution to this and other similar problems [was] provided for in the Programme of Renovation of Detention Centers and Improvement of Conditions for Persons Held in Detention Centers for 2003-2007".

Concerning item (iii), it was indicated that "the requirement of the Committee to provide persons in detention with drinking water in salubrious conditions is complied with. No facts that persons held in detention centers were not provided with water were established. No complaints regarding that matter were received either." Such an assessment is flatly contradicted by the situation observed by the delegation at certain police detention centres (e.g., Kaunas); drinking water from a tap placed directly over the lavatory which it serves to flush can hardly be qualified as a salubrious practice. **With reference to Article 3 of the Convention, the CPT calls upon the Lithuanian authorities to provide information on the action taken in this regard within three months.**

41. More generally, resolute and sustained action - founded on a solid, properly-resourced strategy - must be taken to improve conditions of detention in police detention centres. **The CPT calls upon the Lithuanian authorities to take all necessary steps to implement, without further delay, its recommendations concerning conditions of detention in police detention centres (cf. paragraphs 35 to 36 of CPT/Inf (2001) 22). The strategy for improving conditions of detention should include regular independent inspections of the premises concerned.**

The CPT recommends that immediate steps be taken to ensure that juveniles placed in police detention centres are accommodated separately from adult detainees. Juveniles detained for prolonged periods should be provided with a programme of educational activities (including physical education).

Further, **the CPT trusts that it will receive a copy of the above-mentioned Programme of Renovation (Government regulation No. 141 of 29 January 2003).**

b. other police detention facilities

42. The duty premises at Alytus, Kaunas Centre and Marijampolė Police Stations were each equipped with two to three adjacent cells (measuring between 5 and 7 m²) for temporary placement, including occasional overnight accommodation. One of the cells at Kaunas was equipped with a bench, though not with mattresses or bedding; all the remaining cells were entirely devoid of furnishings. **The CPT recommends that the cells in the above-mentioned police stations be equipped with a means of rest, and that anyone held overnight be provided with a mattress and blankets.**

More generally, **conditions of detention in all police establishments in Lithuania should be reviewed, having regard to the criteria set out in paragraph 32 above.**

43. It should also be noted that, at both Kaunas Centre and Marijampolė Police Stations, the delegation observed persons who were severely intoxicated lying unconsciously on the concrete floor - in one case, in an unsafe position - in unfurnished cells. **The CPT recommends that all intoxicated persons in police custody be provided with a mattress. They should also receive appropriate attention; police officers should receive specific training on this subject.**

Certain police officers indicated that they had difficulties in coping with the considerable number of temporary placements of intoxicated persons in police stations. **The CPT would like to receive the comments of the Lithuanian authorities on this issue.**

5. The Convoy Division

44. In the report on its visit in 2000, the CPT found the manner in which persons were transported by the Convoy Division to be completely unacceptable, and recommended that arrangements for the transport of prisoners be reviewed as a matter of urgency, having regard to both conditions (e.g. space per prisoner, lighting, ventilation, access to sanitary facilities) and safety requirements.⁴³

The situation had improved only marginally by February 2004, with the acquisition of some new road vehicles and the reduction of occupancy rates in trains. It remained the case that most detained persons were transported in poor, overcrowded physical conditions, for journeys which could be of a considerable duration. The small (0.4 m²) single-occupancy cubicles in older road vehicles (vans or lorries) were still being used. Many persons claimed that access to a lavatory was often not granted for considerable periods. A number of persons - in particular, juveniles - alleged that they had been the victims of violence, intimidation, and/or thefts perpetrated by their fellow passengers in the course of such journeys; further, certain minors claimed that they had been ill-treated by police officers during transport.⁴⁴

⁴³ Cf. paragraphs 108 to 118 of CPT/Inf (2001) 22.

⁴⁴ The CPT shares the assessment concerning the Convoy Division recently made by the Seimas Ombudsman: "the transport vehicle basis for transportation of persons is old and generally does not meet European Union standards. Therefore, quite a few human rights violations were established when transporting persons by convoy. The transportation vehicle basis is being renewed little by little by buying new vehicles which meet the EU requirements. However, this directly depends on the financial capacities of the state and the process is not fast enough" (cf. Summary of the Annual Report of 2003 of the Seimas Ombudsmen's Office).

45. **The CPT recommends that the Lithuanian authorities:**

- **attach a very high priority to the modernisation of convoy transport arrangements;**
- **take decisive steps to prevent violence, intimidation, and/or thefts perpetrated by detainees against their fellow passengers;**
- **ensure that the cubicles measuring 0.4 m² in convoy vans and lorries are no longer used.**

Further, **the CPT would like to receive the new legal act regulating the transportation of detained persons by convoy.**

46. In accordance with an internal order of the central prison administration⁴⁵, prison officers were obliged to segregate HIV-positive prisoners from other prisoners during transfers to other establishments and to indicate with a stamp on the outside cover of convoy documents the instruction “to be isolated from other prisoners”. The delegation noted that for all escorting officers it was absolutely clear that the latter instruction was meant to indicate that the prisoner concerned was HIV-positive.

The CPT wishes to recall that there is no medical justification for the segregation of prisoners solely on the grounds that they are HIV-positive.⁴⁶ **The Committee reiterates its recommendation that steps be taken to ensure that confidentiality of medical data is respected and that the practice of segregating HIV-positive prisoners is discontinued.**

⁴⁵ Item 2.5 of the Internal Order No. 143 (dated 20 September 2002).

⁴⁶ Cf. also paragraph 86 of CPT/Inf (2001) 22.

B. Prisons

1. Preliminary remarks

47. At the outset, the CPT would like to welcome the transfer in 2000 of the responsibility for the prison system from the Ministry of the Interior to the Ministry of Justice.

48. In its report on the 2000 visit⁴⁷, the CPT emphasised that the solution to the problem of overcrowding afflicting the Lithuanian prison system was to be found not so much in developing the prison estate but rather in reconsidering current law and practice in relation to remand detention as well as sentencing policies. In their responses to the report on the 2000 visit⁴⁸, the Lithuanian authorities informed the CPT of legislative changes (Law on Amnesty and amendments to the Criminal Code), which enhanced the possibilities of imposing non-custodial sanctions (in particular, as regards juveniles). At the same time, the legal standards for the provision of living space for prisoners in Lithuania were increased (to 5 m² per person in multi-occupancy cells in prisons and 3 m² in dormitories in correction homes). The CPT welcomes these steps. However, the information gathered during the 2004 visit showed that overcrowding still posed a major problem, not only in the establishments visited, but in the prison system as a whole (cf. paragraphs 64 and 65).

The CPT recommends that the Lithuanian authorities continue to pursue their efforts to bring about a permanent end to overcrowding, in the light of the above remarks.

49. The CPT's delegation visited Marijampolė Correction Home and Kaunas Juvenile Remand Prison and Correction Home. In addition, the delegation carried out a follow-up visit to Vilnius-Lukiškės Remand Prison and the adjacent Prison Hospital, in order to review the measures taken by the Lithuanian authorities to implement the recommendations made by the Committee after its first visit in 2000.

50. **Kaunas Juvenile Remand Prison and Correction Home** was opened in 1968 as an institution for sentenced juvenile offenders. A separate remand section was added in 1998. The official capacity of the whole establishment was 150 places. At the time of the visit, it was accommodating 162 juveniles (89 sentenced and 73 on remand).

Marijampolė Correction Home was opened in 1930 as a camp-style penal colony for male convicts in the city of Marijampolė (located in south-west Lithuania). During 2003, the number of inmates was reduced from approx. 1,700 to 1,200 (in the main, due to legislative changes; cf. paragraph 48). With an official capacity of 700 places, the establishment was accommodating 1,080 inmates at the time of the visit.

⁴⁷ Cf. paragraph 58 of CPT/Inf (2001) 22.

⁴⁸ Cf. pp. 11 to 12 and 42 to 43 of CPT/Inf (2001) 23.

Vilnius-Lukiškės Remand Prison has already been described in paragraph 53 of the CPT's report on the 2000 visit. The establishment's official capacity was subsequently reduced from 1,200 to 864 places. At the time of the visit, the prison population totalled 1,208 inmates, made up of 1,040 remand prisoners (including 41 women and nine juveniles⁴⁹) and 168 sentenced prisoners (including 79 serving life sentences).

With an official capacity of 126 beds, the adjacent **Prison Hospital** was accommodating 199 patients (including 18 women) at the time of the visit; nine patients, who were undergoing a forensic psychiatric examination, had been transferred to the hospital from the Forensic Psychiatric "Expert Division" at Utena, pending the completion of the renovation of the latter establishment.

2. Ill-treatment

51. At Marijampolė Correction Home, many consistent accounts were received, from prisoners interviewed individually, of deliberate physical ill-treatment by staff. A number of these allegations related to beatings said to have been inflicted by masked members of the establishment's special intervention group during regular three-monthly cell searches. Further, at Vilnius-Lukiškės Remand Prison and the Prison Hospital, a few prisoners claimed that they had been subject to physical ill-treatment (beatings) or excessive use of force by custodial staff. No allegations of physical ill-treatment by staff were heard at Kaunas Juvenile Remand Prison and Correction Home.

In addition, numerous allegations of verbal abuse by staff were received at Marijampolė Correction Home. Some allegations of such a nature were also heard in the other establishments visited.

52. The CPT recognises that prison staff will, on occasion, have to use force to control violent and/or recalcitrant prisoners. However, the force used should be no more than is strictly necessary and, once prisoners have been brought under control, there can be no justification for striking them. **The CPT recommends that the attention of prison officers at Marijampolė Correction Home and Vilnius-Lukiškės Remand Prison be drawn to these precepts.**

The CPT also recommends that the management in all establishments visited remind their staff that all forms of ill-treatment of prisoners (including verbal abuse) are not acceptable and will be punished accordingly.

53. As regards the activities of internal special intervention groups, **the CPT recommends that members of such groups be prohibited from wearing masks while exercising their duties.** No exceptional circumstances can justify such a practice in a prison setting.

Further, **senior management should always be present during operations carried out by such groups.**

⁴⁹ Juveniles were usually held in the establishment only for short periods (i.e. less than one month).

54. The CPT has serious misgivings about the fact that, in the establishments visited, allegations of ill-treatment by staff were often investigated by officers of the internal security department of the same establishment (although certain serious complaints were examined, and criminal cases investigated, by the investigative departments of the prisons administration).

In this connection, the remarks and the recommendation made in paragraph 22 in respect of police ill-treatment, apply *mutatis mutandis* to alleged cases of ill-treatment of prisoners by custodial staff (cf. also paragraph 96).

55. In order to obtain a nationwide view of the situation in prisons, **the CPT would like to receive the following information in respect of the period 2003 to mid-2004:**

- **the number of complaints lodged concerning ill-treatment by prison officers and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of disciplinary and/or criminal sanctions imposed following such complaints.**

56. The CPT is seriously concerned by the level of inter-prisoner violence at *Marijampolė Correction Home*. The prospect of becoming victims of beatings, sexual assaults, extortion, and a host of indignities (e.g. being urinated upon by fellow inmates) was a daily reality for many vulnerable prisoners. Such a situation could fairly be described as inhuman and degrading. According to internal investigations, in 2003 alone, the aforementioned circumstances had driven at least two inmates to take their own lives. The delegation met several inmates who had inflicted upon themselves serious or even life-threatening injuries, in order to be removed from their cell/dormitory. It is particularly worrying that a number of allegations were heard that the violent prison sub-culture was being exploited by prison staff as a means of maintaining control or to gather information on inmates.

Further, at *Vilnius-Lukiškės Remand Prison*, several inmates claimed that they had been threatened by officers of the internal security department with placement in a cell/dormitory together with inmates prone to be violent, if they refused to confess to the criminal offence(s) of which they were suspected.

The potential for inter-prisoner violence also existed at *Kaunas Juvenile Remand Prison and Correction Home*. Nevertheless, it would appear that the recent reduction in occupancy levels had alleviated the problem at that establishment.

57. The CPT wishes once again to emphasise that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. The prison authorities must act in a proactive manner to prevent violence by inmates against other inmates.⁵⁰

⁵⁰ Cf. also paragraph 66 of the report on the 2000 visit.

As was pointed out in the report on the 2000 visit, addressing the phenomenon of inter-prisoner violence and intimidation requires that prison staff be alert to signs of trouble and both resolved and properly trained to intervene when necessary. The existence of positive relations between staff and prisoners, based on the notions of dynamic security and care, is a decisive factor in this context; this will depend in large measure on staff possessing appropriate interpersonal communication skills. It is also obvious that an effective strategy to tackle inter-prisoner intimidation/violence should seek to ensure that prison staff are placed in a position to exercise their authority in an appropriate manner. Consequently, the level of staffing must be sufficient (including at night-time) to enable prison officers to supervise adequately the activities of prisoners and support each other effectively in the exercise of their tasks. Both initial and ongoing training programmes for staff of all grades must address the issue of managing inter-prisoner violence.

58. Another important tool of preventing inter-prisoner violence lies in the diligent examination by the prison administration of all relevant information regarding alleged inter-prisoner violence which may come to their attention, whether or not that information takes the form of a formal complaint and, where appropriate, the instigation of proceedings. Prison doctors have an important role to play in this context (cf. paragraph 96).

The lack of an appropriate reaction by the prison administration can foster a climate in which inmates minded to ill-treat other inmates can quickly come to believe - with very good reason - that they can do so with impunity.

59. At Marijampolė and Vilnius-Lukiškės, the CPT's delegation examined several internal investigation files related to inquiries on serious incidents of inter-prisoner violence. These examinations revealed that, in a number of cases, no criminal investigations had been initiated, despite the fact that medical evidence consistent with allegations of inter-prisoner violence was available. More particularly, the relevant information had not been transmitted immediately to the prosecutor, but only made available to him, whenever he visited the prison to consult, among other things, the establishment's internal investigation files. In addition, it came to light that, even when prosecutors had become aware of serious cases of inter-prisoner violence, they had not always initiated preliminary investigations nor taken a formal reasoned decision on the matter.

60. The CPT calls upon the Lithuanian authorities to develop strategies with a view to addressing the problem of inter-prisoner violence in the establishments visited (and, as appropriate, in other prisons in Lithuania), in the light of the remarks made in paragraphs 56 to 59.

Further, **the Committee recommends that the existing procedures be reviewed in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of inter-prisoner violence, the record is immediately brought to the attention of the relevant prosecutor and a preliminary investigation is initiated by him.**

61. There were apparent efforts at Marijampolė to group vulnerable prisoners in specific units. According to Section 70 of the Code on the Execution of Sentences, prisoners could be segregated upon their own request from other prisoners. However, such a transfer was only granted⁵¹ if the prisoner concerned revealed the names of the (potential) perpetrators. Those prisoners who refused to stay in their dormitory but did not reveal the names of the persons of whom they were afraid were repeatedly punished with cellular confinement for months or even years on end.

In fact, in either of the scenarios described above, the prisoners concerned were placed in the disciplinary unit, which resulted in the loss of a number of rights (including the rights to receive visits and to purchase basic personal hygiene items at the prison shop). Further, those inmates who did not reveal the names of (potential) perpetrators also lost the possibility for an early release. This situation was scarcely likely to encourage prisoners to report incidents of inter-prisoner violence to staff.

The CPT recommends that alternative arrangements be found for vulnerable prisoners seeking protection; they should not be subjected to a disciplinary regime.

62. The CPT also wishes to emphasise that given the present structure of Marijampolė Correction Home, with its large dormitories, it will hardly be possible to effectively tackle the problem of inter-prisoner violence at the establishment. The risk of violence and intimidation between inmates will always be high in large-capacity accommodation facilities.

Therefore, **the CPT recommends that the Lithuanian authorities pursue their efforts to transform the large dormitories at Marijampolė Correction Home (and, as appropriate, in other penitentiary establishments) into cell-type accommodation areas.**

3. Conditions of detention of the general prison population

a. material conditions

63. At Marijampolė Correction Home, the first steps had been taken to refurbish the establishment and convert large dormitories into smaller cell-type accommodation areas. The CPT welcomes the quality of the almost completed renovation work carried out in Building 1. This building will accommodate newly-arrived prisoners and prisoners held in the strict regime. All cells offer very good material conditions (with sanitary facilities in an adjacent room), the envisaged living space per prisoner being adequate (at least 5 m² per person).

64. In contrast, material conditions in the unrenovated parts of the establishment were very poor. Most dormitories/cells and, in particular, sanitary facilities were in an advanced state of dilapidation, and had poor ventilation and inadequate heating; further, in some parts, access to natural light was very limited (the windows being covered with metal plates).

⁵¹ At the time of the visit, seven prisoners had been granted such transfers.

In addition, the living space per prisoner was insufficient throughout the establishment (e.g. 20 m² for eight persons; 36 m² for 18 persons; 98 m² for 43 persons). A number of allegations were heard that occupancy levels in dormitories and cells had been significantly higher until shortly before the CPT's visit and that, on occasion, the number of prisoners had exceeded the number of beds available. That said, in the dormitories, the adverse effects of overcrowding were in part alleviated by the fact that inmates had free access to the adjacent outdoor exercise area during the day.

65. At Vilnius-Lukiškės Remand Prison, material conditions of detention varied considerably from one part of the prison to another. The CPT welcomes the quality of the renovation work carried out in Building 1. The renovation has brought about certain improvements (e.g. as regards sanitary facilities). However, prisoners were still being held in overcrowded conditions, e.g. up to six prisoners in a cell of 7 m². In Buildings 2 and 3, which had not yet been renovated, the conditions of detention remained very poor (poor state of repair, poor ventilation, no access to hot running water/shower, etc.).

Throughout the establishment, complaints were heard from prisoners about insufficient heating and dirty bedding.

66. In both establishments visited, the poor hygienic conditions were exacerbated by the fact that prisoners were not provided with any personal hygiene products (e.g. soap, toothbrush, toilet paper, etc.) and that indigent prisoners were not always provided with proper clothing.

67. **The CPT recommends that the material conditions at Marijampolė Correction Home and Vilnius-Lukiškės Remand Prison be substantially improved, in the light of the remarks made in paragraphs 63 to 66.**

Immediate steps should be taken to ensure that:

- **access to natural light, adequate ventilation and heating are guaranteed in all prisoners' accommodation; this will involve removing the metal plates covering windows of cells/dormitories at Marijampolė;**
- **all prisoners are provided with their own bed, as well as a clean mattress and clean bedclothes;**
- **all prisoners have adequate quantities of essential personal hygiene products and are able to take a hot shower at least once a week;**
- **indigent prisoners are supplied with proper clothing, taking weather conditions into account;**
- **occupancy levels in the 7 m² cells at Vilnius-Lukiškės Remand Prison are significantly reduced.**

Further, the CPT would like to receive a precise timetable for the completion of the renovation of Marijampolė Correction Home and Vilnius-Lukiškės Remand Prison.

b. regime

68. At Marijampolė Correction Home, some 500 sentenced prisoners worked (in three shifts) in various manufacturing workshops. In addition, 60 inmates were involved in part-time maintenance work (e.g. cleaners). More than 400 inmates did not work at all (including 80 who were held in the strict regime and therefore not allowed to work); however, a large proportion of those prisoners did not want to work, due to the prevailing prison sub-culture. As a result, there were not enough volunteers for certain activities (e.g. sealing envelopes).

The establishment also offered a wide range of social rehabilitation programmes, including educational and cultural activities, vocational training, computer classes, etc. Yet again, the number of available places exceeded the number of volunteers.

As regards prisoners held in the strict regime, reference is made to the remarks made in paragraph 106. It should also be added that the new outdoor exercise facilities for that category of prisoners (Building 1) were too small (some 12 m²) to allow prisoners to exert themselves physically.

69. As in 2000, at Vilnius-Lukiškės Remand Prison, none of the *remand* prisoners were offered any out-of-cell activities, apart from daily outdoor exercise.⁵² Consequently, they usually spent 23 hours in their cells in a state of enforced idleness; their only source of distraction was reading outdated newspapers and books from the prison library and listening to the radio or watching television (if they could afford to pay for one). In other words, the recommendations made by the CPT in the report on the 2000 visit concerning the development of a programme of activities for remand prisoners have been ignored.

One of the harmful effects of the impoverished regime for remand prisoners held in that establishment was the reduction of human contact to a minimum, due to the fact that inmates from different cells could never associate. In this regard, the CPT has repeatedly cautioned that the introduction of smaller units for prisoners must under no circumstances be allowed to lead to a generalised system of small-group isolation.

Among the *sentenced* prisoners, 17 were offered full-time work and 67 were involved in maintenance work (electricians, cooks, etc.). As regards life-sentenced prisoners, see Section 4 below.

That said, the only regular out-of-cell activity for all remand prisoners and many sentenced prisoners - outdoor exercise - took place in small concrete cubicles covered with a metal grille, under conditions which did not allow them to exert themselves physically.

70. The CPT calls upon the Lithuanian authorities to take steps, as a matter of priority, at Vilnius-Lukiškės Remand Prison to devise and implement a comprehensive regime of out-of-cell activities (including group association activities) for remand prisoners.

In addition, the Committee recommends that the outdoor exercise areas at Marijampolė Correction Home and Vilnius-Lukiškės Remand Prison be enlarged, in order to enable prisoners to exert themselves physically.

⁵² Cf. also paragraph 74 of CPT/Inf (2001) 22.

4. Life-sentenced prisoners at Vilnius-Lukiškės Remand Prison

a. material conditions

71. The Unit for life-sentenced prisoners at Vilnius-Lukiškės Remand Prison was located in Building 1, which had recently been renovated. The material conditions of detention in that unit were on the whole satisfactory (although the paint was already peeling off the walls and ceiling in some of the cells). All cells were furnished with one or two beds, chairs, a table and a cupboard and were equipped with a partitioned toilet and a washbasin with hot/cold running water. Moreover, cells were clean, benefited from good access to natural light and ventilation, and were equipped with artificial lighting and heating. However, **a typical cell (between 7 and 9 m²) only offered cramped living space for two prisoners**, a shortcoming which was all the more serious bearing in mind that the prisoners concerned would spend many years in such conditions.

b. regime

72. A mere six out of the 79 life-sentenced prisoners were offered work. For the rest, the only daily out-of-cell activity offered was 1½ hours of outdoor exercise, which was taken in cubicles measuring some 20 m². The remaining 22 ½ hours of the day were usually spent locked up in their cell, reading, and (for prisoners who could afford them) listening to the radio or watching TV. It should be added that life-sentenced prisoners could not associate with any other categories of prisoners, as this was expressly prohibited by the legislation in force (in practice, they could only associate with their cellmate).

That said, the CPT welcomes the initiatives taken at local level to allow inmates access to a computer room (for one hour per week) and to indoor sports/recreation rooms (twice per month for two hours).

73. Long-term imprisonment can have a number of desocialising effects upon inmates. In addition to becoming institutionalised, long-term prisoners may experience a range of psychological problems (including loss of self-esteem and impairment of social skills) and have a tendency to become increasingly detached from society, to which many of them will eventually return. In the view of the CPT, the regimes which are offered to prisoners serving long sentences should seek to compensate for these effects in a positive and proactive way.

The prisoners concerned should have access to a wide range of purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association). Moreover, they should be able to exercise a degree of choice over the manner in which their time is spent, thus fostering a sense of autonomy and personal responsibility. Additional steps should be taken to lend meaning to their period of imprisonment; in particular, the provision of individualised custody plans and appropriate psycho-social support are important elements in assisting such prisoners to come to terms with their period of incarceration and, when the time comes, to prepare for release. Moreover, the provision of such a regime to life-sentenced prisoners enhances the development of constructive staff/inmate relations and hence reinforces the security within the prison.

74. It is clear that the regime applied to life-sentenced prisoners at Vilnius-Lukiškės Remand Prison falls far short of the above criteria. Indeed, the prisoners were subject to a regime of small-group isolation, and certain of them to solitary confinement, for many years. This, combined with the quasi-total absence of a programme of activities (such as work or education) for the vast majority, can easily lead to personal degeneration of the prisoners concerned. Several of the prisoners met by the delegation claimed that they were seriously affected by the lack of human contacts with other inmates and staff. It is noteworthy in this regard that, since August 2000, four life-sentenced prisoners had committed suicide.

As for the rule that life-sentenced prisoners cannot associate with other sentenced prisoners or even other life-sentenced prisoners from other cells, it is totally unjustified. In this connection, the CPT wishes to stress that life-sentenced prisoners are not necessarily more dangerous than other prisoners. Many such prisoners have a long-term interest in a stable and conflict-free environment. Therefore, the approach to the management of life-sentenced prisoners (as indeed to all prisoners) should proceed from an individual risk/needs assessment to allow decisions concerning security, including degree of contact with others, to be made on a case-by-case basis.

The CPT calls upon the Lithuanian authorities to fundamentally revise the regime applicable to life-sentenced prisoners and the relevant legal provisions, in the light of the remarks made in paragraphs 72 to 74.

c. contact with the outside world

75. The negative effects of institutionalisation upon prisoners serving long sentences will be less pronounced, and they will be better equipped for release, if they are able effectively to maintain contact with the outside world.

Life-sentenced prisoners benefited, in principle, from the same possibilities to maintain such contacts as other sentenced prisoners. However, they could not benefit from long-term visits with their partner/family (during the initial ten years of imprisonment). **The CPT recommends that the Lithuanian authorities extend the possibility of having long-term visits to all sentenced prisoners, including those serving life sentences.**

5. Juvenile prisoners at Kaunas Juvenile Remand Prison and Correction Home

a. introduction

76. Reference has already been made⁵³ to changes in sentencing policies, which have enhanced the possibilities of imposing non-custodial sanctions as regards juveniles. At present, custodial sentences may only be imposed with respect to juveniles convicted of “grievous” offences.⁵⁴ Sentencing of such juveniles is based on the general principle that the time of deprivation of liberty should be half of that which would apply to adults convicted of the same offence. Further, the possibility now exists for persons aged up to 21 to be considered as juveniles under the criminal justice system.⁵⁵

As for remand imprisonment, according to the applicable legislation, juveniles in Lithuania may be kept in pre-trial detention for a maximum of six months, which can, in exceptional cases, be extended up to twelve months. However, there is no time-limit for detention of juveniles during trial/appeal procedures. Given that the average period of a trial at first instance amounts to six months, and taking into account the potential duration of appeals procedures, there were cases where juveniles were held on remand up to two years.

The CPT wishes to recall the principle that juveniles should only be deprived of their liberty as a last resort and for the shortest possible period of time.

b. material conditions and regime

77. At the time of the visit, renovation of the dormitories in the *sentenced block* at Kaunas Juvenile Remand Prison and Correction Home was nearing completion; larger dormitories which had accommodated up to ten inmates were being divided into smaller rooms with four beds each. The rooms concerned provided very good material conditions of detention - they were light and airy, being appropriately furnished, and benefiting from good natural light, artificial lighting and ventilation. The director of the establishment indicated that the goals of the renovation programme were to create the necessary conditions for more individualised work with inmates and to minimise the custodial aspects of the environment. With the latter aim in mind, it was also planned to demolish the guard towers and remove all the barbed wire.

The seven-storey *remand block* was the most custodial setting of the entire establishment. It consisted of dilapidated cell-type accommodation (up to five beds per cell) with sanitary annexes which were not fully partitioned and occasionally malfunctioning; furnishings were usually damaged. Access to natural light, artificial lighting and ventilation were not nearly as good as in the sentenced block, and many cells were either stuffy or cold (16° C). The negative aspects of the remand block combined to impart a general impression of gloom and dreariness, particularly unsuitable for young persons.

⁵³ Cf. paragraph 48 above.

⁵⁴ Grievous offences are those which would entail a sentence of at least six years imprisonment if an adult were involved.

⁵⁵ Persons between 18 and 21 may be treated as juveniles for the purposes of the criminal justice system if there are signs that they lack the psychological maturity of adults.

The CPT recommends that steps should be taken, as a matter of priority, to improve material conditions in the remand block at Kaunas Juvenile Remand Prison and Correction Home, and to complete the other renovation projects at the establishment, in the light of the above remarks.

78. *Sentenced* juveniles at Kaunas were offered a developed regime of activities. All⁵⁶ attended school; classrooms and materials were of a good standard, as were the computer room, library, and brand-new sports hall (a sports field was available for use in summer). In addition, the establishment offered certain types of vocational training, leading to the vocational certification of some 35% of the sentenced inmates; current programmes available were carpentry and furniture production. Other work activities included sewing, laundering, baking, and general maintenance.

79. However, it is of great concern to the CPT that the juveniles held on *remand* at Kaunas were deprived of anything resembling a developed regime of activities. Though nominally offered, education was limited to "consultancy classes", i.e. weekly 30-minute visits by a teacher, who spoke with inmates, distributed teaching materials and collected homework without actually entering their cells. In effect, juveniles held on remand spent 23 hours per day in their cells, left to their own devices, their main distraction being a music radio programme which was broadcast through loudspeakers fitted over cell doors. Their only regular out-of-cell activity was a daily hour of outdoor exercise on the roof of the remand block, in grille-covered areas which were of an oppressive design and too small to permit them to exert themselves physically. Such a situation is totally unsatisfactory.

In the CPT's view, all juvenile prisoners, including those on remand, should be offered developed regimes tailored to their needs. **The CPT recommends that the Lithuanian authorities take steps, as a matter of urgency, at Kaunas Juvenile Remand Prison and Correction Home (and, where appropriate, in other prison establishments in Lithuania) to ensure that juvenile remand prisoners are provided with a full programme of out-of-cell activities (including physical education).**

⁵⁶ The exception was the three sentenced inmates who were placed in the segregation unit.

6. Health-care services

a. introduction

80. At present, the provision of health care in Lithuanian prisons falls under the responsibility of the Ministry of Justice. As already mentioned in the report on the 2000 visit, the CPT is convinced that a greater participation of the Ministry of Health in this area will help to ensure optimum health care for prisoners, as well as implementation of the general principle of the equivalence of health care in prison with that in the outside community.

The CPT's delegation observed a limited involvement of the Ministry of Health in the prison health-care services, mainly through inspections and the handling of prisoners' complaints about health-care matters. **The CPT invites the Lithuanian authorities to consider enhancing the role of the Ministry of Health in the field of prison health care.**

b. the Prison Hospital

81. The material conditions in the Prison Hospital have further deteriorated since the 2000 visit and can only be described as antitherapeutic.⁵⁷ In particular, rooms nos. 23 to 25 were found unfit to be used as human accommodation (advanced state of dilapidation with broken sanitary facilities and furniture; no heating; very poor level of hygiene). In addition, a number of rooms were severely overcrowded (e.g. three to four patients in a room of 7 m²). In some rooms the windows were covered with metal plates (e.g. in the unit for tuberculosis patients) and toilets were not partitioned.

The delegation was informed that the construction of a new prison hospital had been suspended in 2001 for financial reasons, but that the relocation of the Prison Hospital to already existing premises at Pravieniškės was envisaged in 2004.

The CPT recommends that a very high priority be accorded to the implementation of the above-mentioned relocation plan.

Further, **the Committee would like to receive detailed information on the progress made in the renovation of the Forensic Psychiatric "Expert Division" at Utena.**

82. Activities for patients were limited to reading, access to a radio/television (for those who were able to afford such items) and outdoor exercise. **The CPT recommends that a wider range of activities be offered to patients, especially those staying for prolonged periods.**

Further, a number of patients claimed that they did not possess any warm clothes and that, as a result, they could not take outdoor exercise in the winter. **The CPT recommends that steps be taken to ensure that indigent patients are supplied with proper clothing, taking weather conditions into account.**

⁵⁷ Cf. also paragraphs 87 to 89 of CPT/Inf (2000) 22.

83. The health-care staffing levels had not changed since the 2000 visit. However, the number of doctors and nurses could generally be considered sufficient; indeed, the patient population had been reduced significantly in the meantime.

84. As regards custodial staff, the delegation observed that they were exclusively focussing on security matters and keeping human contacts with patients to an absolute minimum. In this respect, reference is made to the recommendations made in paragraph 101.

85. The delegation gained the general impression that the health-care staff continued to be committed to providing the best possible treatment to patients under the prevailing adverse conditions. However, as in 2002, psychiatric care was limited to pharmacotherapy.

The delegation was also concerned that patients who had undergone a forensic psychiatric examination were kept in the hospital without receiving any treatment for prolonged periods (i.e. up to several months), pending their transfer to an outside treatment facility.

The Committee recommends that the level of care offered to prisoners undergoing in-patient psychiatric treatment be reviewed at the Prison Hospital; particular efforts should be made to develop psycho-social therapeutic activities and to adapt them to the individual needs of patients.

Further, **steps should be taken to ensure that all patients who have undergone a forensic psychiatric examination at the Prison Hospital are provided with appropriate treatment without delay.**

86. The Prison Hospital had a special restraint bed in the admission unit. The physical restraint of a patient to the bed was always ordered by a doctor and recorded on a special form in the patient's file. However, there was no special register for its use. **The CPT recommends that such a register be established.**

87. Despite the delegation's consultation with health-care staff, it remained unclear to what extent the relevant provisions of the Mental Health Care Act concerning the use of means of restraint were also applicable to the Prison Hospital. **The CPT would like to receive clarification from the Lithuanian authorities on this point.**

88. As regards medical confidentiality, the delegation observed that medical examinations/consultations were usually carried out in the presence of custodial staff at the Prison Hospital. In this connection, **the recommendation made in paragraph 100 applies equally in this context.**

c. health-care services in the prisons visited

i. *medical care*

89. At *Kaunas Juvenile Remand Prison and Correction Home*, health-care staff resources were broadly sufficient, having regard to the number of inmates. There were three full-time doctors (two general practitioners and one psychiatrist), three part-time doctors (dentist, dermatologist and radiologist), six nurses (including one part-time), a full-time psychologist and two part-time medical assistants. On weekends, a doctor and/or a nurse was always present.

However, the posts of psychiatrist and psychologist were vacant at the time of the visit. Further, the part-time presence of the dentist appeared to be insufficient.

90. At *Marijampolė Correction Home*, the health-care staff included two full-time doctors (general practitioners) and two part-time doctors (radiologist and dentist), as well as three psychologists, one feldsher, seven nurses and two medical assistants (all working full-time). In addition, specialists from outside (surgeon, gastroscopist, ophthalmologist, ENT specialist and lung specialist) gave regular consultations at the establishment (usually once or twice per month). Two doctors and a feldsher ensured a presence on Saturday and Sunday mornings, and a qualified nurse was present around the clock.

However, the establishment was not visited by a psychiatrist on a regular basis, and two of the three posts of psychologist were vacant at the time of the visit. Once again, the part-time presence of the dentist appeared to be insufficient.

91. At *Vilnius-Lukiškės Remand Prison*, there were five full-time doctors (general practitioner, dentist, internist, dermatologist and lung specialist) and three part-time doctors (psychiatrist, gynaecologist, radiologist), seven feldshers, five nurses and two psychologists (all working full-time). At night, emergency assistance was provided by doctors from the Prison Hospital.

Given the fact that the number of prisoners had decreased by more than one third since the 2000 visit, medical and nursing staffing levels could, in principle, be considered adequate (provided that all vacancies were filled). However, both the post of a dentist (full-time) and a psychiatrist (part-time) were vacant at the time of the visit. Further, nursing presence was not guaranteed at night and weekends (as in 2000).

The low number of psychologists is also a matter of concern, bearing in mind, *inter alia*, that a number of the establishment's inmates were isolated for risk of suicide.

92. In the light of the above, **the CPT recommends that steps be taken, as a matter of priority, to ensure:**

- **that the vacant posts among health-care staff in the establishments visited are filled;**
- **the regular presence of a psychiatrist at Marijampolė;**
- **that the presence of the dentist is increased at Kaunas and Marijampolė;**
- **that two additional full-time psychologists are employed at Vilnius-Lukiškės;**
- **that a qualified nurse is always present at Vilnius-Lukiškės, including at night and weekends.**

93. In all establishments visited, the health-care facilities were on the whole satisfactory, with the exception of outdated X-ray machines at *Marijampolė Correction Home* and *Vilnius-Lukiškės Remand Prison*; **the latter machines should be replaced as soon as possible.**

94. Further, the delegation gained a favourable impression of the quality of general medical care provided in all establishments visited. However, at *Marijampolė Correction Home* a number of complaints were heard from prisoners about long delays in obtaining access to health-care staff. **Steps should be taken at Marijampolė to ensure that prisoners are able to consult a doctor without undue delay.**

95. The CPT is seriously concerned by the inadequate psychiatric/psychological care offered to prisoners, in particular at *Marijampolė Correction Home* and *Vilnius-Lukiškės Remand Prison*. In this regard, reference is made to the remarks and recommendations made in paragraphs 89 to 92.

ii. medical screening and preventive health care

96. In all establishments visited, procedures for medical screening on admission were, on the whole, carried out in a satisfactory manner. Newly-arrived prisoners were always seen by a doctor within 24 hours of admission. Blood tests (in particular for HIV and syphilis) were conducted with the prisoner's consent, and a fluorogramme was organised. Medical record cards for each prisoner were well kept.

However, certain shortcomings were found in the establishments visited. First, the examination of medical files by medical members of the delegation revealed that the descriptions of injuries observed (upon admission or after violent incidents within the prison) were not always recorded in detail, and that no additional information was given. At Vilnius-Lukiškės Prison, the Internal Investigation Service was systematically informed about such injuries; however, this information was only exceptionally being brought to the attention of the relevant prosecutor (i.e., only if the person concerned lodged a formal complaint of ill-treatment).

In addition, newly-arrived prisoners were not systematically screened for hepatitis C. Given the large number of intravenous drug users among the prison inmates, the lack of such screening is of particular concern.

The CPT reiterates its recommendation that steps be taken at Kaunas, Marijampolė and Vilnius-Lukiškės (as well as in other prison establishments in Lithuania) to ensure that the record drawn up after a medical examination of a prisoner on arrival contains:

- (i) a full account of statements made by the prisoner concerned which are relevant to the medical examination, including any allegations of ill-treatment made by him;**
- (ii) a full account of objective medical findings based on a thorough examination;**
- (iii) the doctor's conclusions in the light of (i) and (ii). In his conclusions, the doctor should indicate the degree of consistency between allegations made and the objective medical findings; these conclusions should be made available on request to the prisoner concerned and his lawyer.**

Further, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner, the record should be immediately brought to the attention of the relevant prosecutor.

Finally, steps should be taken to ensure that all newly-arrived prisoners are systematically screened for hepatitis C.

97. In all establishments visited, basic information about transmissible diseases, such as tuberculosis, AIDS and hepatitis was provided - usually orally - by health-care staff to prisoners. However, **it would be desirable if such information were also provided in written form (e.g. leaflets), in Lithuanian and other languages frequently spoken by prisoners.**

98. In all establishments visited, the number of drug addicts/users among inmates appeared to be high. For instance, at Marijampolė Correction Home, the number of drug users was estimated by the prison administration to be around 300. Further, in 2003 alone, 11 cases of drug-smuggling were detected.

At Kaunas Juvenile Remand Prison and Correction Home, a specific drug prevention and rehabilitation programme for drug users had been developed. However, no such programmes existed at Marijampolė and Vilnius-Lukiškės.

It is important that the prison authorities make efforts to provide an environment in which prisoners without drug problems do not develop them and those who do have such problems are helped to overcome them. A high priority should be accorded to effective drug awareness training of staff, which would provide a basis for establishing constructive, supportive relationships with prisoners. Further, consideration should be given to the introduction of effective programmes of education, counselling and other forms of support for prisoners, as well as the setting-up of drug-free units. It is clear that any preventive measures must also be accompanied by a genuinely multidisciplinary therapeutic programme to help drug-addicted prisoners.

The CPT recommends that a comprehensive programme for the prevention of drug abuse and the management of drug-addicted prisoners be established at Marijampolė and Vilnius-Lukiškės (and, where appropriate, in other prison establishments in Lithuania), in the light of the preceding remarks.

99. The delegation was informed that a specific suicide prevention programme had recently been developed by the Lithuanian prison administration. **The CPT would like to receive detailed information on this subject.**

iii. confidentiality

100. Medical confidentiality was not fully respected in any of the establishments visited.

At Kaunas Juvenile Remand Prison and Correction Home and Vilnius-Lukiškės Remand Prison (including the Prison Hospital), medical examinations were systematically conducted in the presence of prison officers.

The CPT has serious misgivings about this approach. It acknowledges that special security measures may be required during medical examinations in a particular case, when a threat in terms of security is perceived by the medical staff. However, there can be no justification for prison officers being *systematically* present during such examinations; their presence is detrimental for the establishment of a proper doctor-patient relationship and usually unnecessary from the security standpoint. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. One possibility might be the installation of a call system, whereby a doctor would be in a position to rapidly alert prison officers in those exceptional cases when a prisoner becomes agitated or threatening during a medical examination.

Further, at Marijampolė Correction Home and Vilnius-Lukiškės Remand Prison, medical files were accessible to non-medical staff.

The CPT recommends that steps be taken to ensure that medical confidentiality is fully guaranteed in all establishments visited (as well as in other prison establishments in Lithuania). This implies, *inter alia*, that all medical examinations of prisoners (whether on arrival or at a later stage) should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers.

7. Other issues

a. prison staff

101. The CPT has already highlighted the great importance of ensuring that prison staff are properly recruited and trained and of promoting positive relations between prison staff and prisoners.⁵⁸ This will not only reduce the risk of ill-treatment, but also enhance control and security in prisons.

In their response to the report on the 2000 visit, the Lithuanian authorities informed the CPT that all newly-recruited prison officers received an initial training of three months, at least 1/5 of which was dedicated to ensuring positive treatment of prison inmates by staff.

⁵⁸ Cf. paragraph 61 of the report on the 2000 visit.

The CPT welcomes these steps. However, the information gathered during the 2004 visit showed that, in all establishments visited, contacts between most of the prison staff and prisoners were of a formal and distant nature, as well as being kept to a strict minimum. Further, the practice of obliging prisoners to face the wall when staff or visitors passed by remained unchanged.

Consequently, **the CPT recommends that the Lithuanian authorities enhance in-service training of prison staff at all levels as regards the acquisition and development of interpersonal communication skills. In particular, a more proactive role for prison staff - i.e. one not limited to purely security and control tasks - should be encouraged.**

Further, **an immediate end should be put to the practice of obliging prisoners to face the wall when staff or visitors pass by.**

102. At Marijampolė Correction Home, the delegation observed that many officers carried rubber batons in the full view of inmates. Such a practice is not conducive to developing positive relations between staff and inmates. **If it is considered necessary for prison officers to carry batons, the CPT recommends that they be hidden from view.**

b. discipline and security

103. As in 2000, disciplinary sanctions ranged from reprimand to the imposition of solitary confinement (a maximum of 15 days for adults, 10 days for sentenced juveniles and 5 days for juveniles on remand).

104. The CPT welcomes the fact that the relevant regulations now allow inmates subject to solitary confinement to have access to reading matter. However, at Marijampolė Correction Home, a number of complaints were heard from prisoners that this had not been the case during their placement in a punishment cell.

The CPT recommends that steps be taken to ensure that all prisoners subject to the disciplinary sanction of solitary confinement at Marijampolė Correction Home are in fact allowed access to reading matter.

105. The procedures related to the imposition of the above-mentioned sanctions remained unchanged since the 2000 visit and do not call for any particular comments. That said, at Marijampolė Correction Home, prisoners subject to solitary confinement had been denied access to writing material and envelopes for lodging an appeal during their placement in a punishment cell. **Steps should be taken to remedy this deficiency.**

106. In addition to the above-mentioned disciplinary sanctions, inmates could be "demoted" for discipline-related reasons from the ordinary or lenient regime to a strict regime, for an indefinite period.⁵⁹ The prisoners concerned were not allowed to work or to receive visits (except by lawyers), and access to the telephone was reduced (usually to one phone call every two months).

Prisoners who committed disciplinary offences during their placement in the strict regime could be punished with disciplinary cellular confinement, for periods of up to six months. Such prisoners were placed together in a cell with other inmates of the same category, the only out-of-cell activity being outdoor exercise for one hour per day. For the remaining 23 hours, they could only read books or play board games in their cell. Neither radios nor television sets were allowed.

Although prisoners held under the strict disciplinary regime were not subject to solitary confinement, the quasi-total lack of activities may still have detrimental effects, especially when applied for prolonged periods. Further, it is unacceptable for prisoners to be denied visits for periods of months.

The CPT recommends that the Lithuanian authorities review the strict regime, in the light of the above remarks. In particular, steps should be taken to ensure that all prisoners subject to that regime (including those held in disciplinary cellular confinement) are allowed to receive visits from members of their families on a regular basis and to possess a radio in their cell. Further, additional out-of-cell activities should be organised, if necessary, within the confines of the detention unit.

107. As regards security measures, at *Vilnius-Lukiškės Remand Prison*, the delegation found a "calming-down cell" measuring less than 6 m². The walls and floor of that cell were covered with padded black fabric. The cell was devoid of any furniture, had no access to natural light (there being no window) and had only dim artificial lighting.

A calming-down cell of a similar design was seen at *Kaunas Juvenile Remand Prison and Correction Home*.

Placing an aggressive and/or agitated prisoner in such oppressive facilities is unacceptable. **The CPT recommends that the above-mentioned cells be taken out of service without delay and that more suitable facilities be found for holding aggressive and/or agitated prisoners. The latter facilities should be of a reasonable size, properly lit and ventilated and free of objects which could be used to cause injuries. The prisoner concerned should be kept under constant and adequate custodial surveillance or medical supervision, as the case may be.**

⁵⁹ Some 80 prisoners at the time of the visit.

c. contact with the outside world

108. As regards sentenced prisoners, the *visit* entitlement had been increased since the 2000 visit to one short-term visit (four hours) every two months and two long-term visits (up to 72 hours) per year. For good behaviour, prisoners may be granted additional visits.

Further, sentenced prisoners could send and receive *letters* without restrictions and had regular access to a *telephone* (depending on the level of regime, once per month or once every two months, each time for 15 minutes).

Given the crucial importance of prisoners' contacts with the outside world in the context of their social rehabilitation⁶⁰, **the CPT recommends that the entitlement to visits of sentenced prisoners be further increased, so as to ensure that all prisoners can receive at least one visit (either short- or long-term) per month. It is axiomatic that the visit entitlement for juvenile prisoners should be even more favourable.**

109. Contrary to the situation observed in 2000, hardly any complaints were heard from remand prisoners in the establishments visited about delays in forwarding/distributing *correspondence*.

However, the CPT has serious concerns about the restrictive approach followed vis-à-vis remand prisoners as regards *visits*. At Vilnius-Lukiškės Remand Prison, many remand prisoners indicated that they had spent long periods of time (in some cases periods of up to two years) without being allowed to receive visits from their relatives (not even young children) and friends.

The CPT must stress that under no circumstances should visits between a remand prisoner and his/her family be prohibited for a prolonged period. If it is considered that there is an on-going risk of collusion, visits should be authorised, but under strict supervision. This approach should also apply to correspondence with relatives.

The CPT recommends that the Lithuanian authorities review the current arrangements concerning visits for remand prisoners, in the light of the above remarks.

110. The CPT noted that Lithuanian legislation does not allow remand prisoners to have access to a *telephone*.

The Committee wishes to emphasise the importance of giving all prisoners (especially those who do not receive regular visits) access to telephones; such a right is now guaranteed in many European countries, including to remand prisoners. **It invites the Lithuanian authorities to explore the possibility of granting remand prisoners access to a telephone; if there is a perceived risk of collusion, a particular phone call could always be monitored.**

⁶⁰ Cf. paragraph 92 of the report on the 2000 visit.

d. waiting cubicles

111. At Kaunas Juvenile Remand Prison and Correction Home and the Prison Hospital in Vilnius, a number of very small waiting cubicles were found (each measuring between 0.5 and 0.75 m²).

In the CPT's view, such claustrophobic cubicles are, by virtue of their size alone, not suitable to hold a person for any length of time whatsoever. **Immediate steps should be taken at Kaunas Juvenile Remand Prison and Correction Home and the Prison Hospital (and, if appropriate, in other prison establishments in Lithuania) to withdraw such cubicles from service.**

e. complaints and inspection procedures

112. One of the most effective means of preventing ill-treatment by prison officers lies in the diligent examination of complaints of ill-treatment and the imposition of suitable penalties. Prisoners should have avenues of complaint open to them both within and outside the prison system, including the possibility of confidential access to an appropriate authority.

As in 2000, prisoners could submit a complaint to the establishment's Director in all establishments visited. In addition, complaints could be addressed to courts/prosecutors, the Ombudsman and the Ministry of Justice. The 2004 visit confirmed that prisoners had confidential access - in sealed envelopes - to the above-mentioned institutions.

113. The CPT has already emphasised the importance of regular visits to all prison establishments by an independent body with authority to receive - and, if necessary, take action on - prisoners' complaints, and to visit the premises. Such visiting bodies should not limit their contacts to persons who have expressly requested to meet them; they should take the initiative by visiting the prison's detention areas and entering into contact with inmates.

Despite the specific recommendation previously made by the CPT⁶¹, none of the establishments visited by the delegation in 2004 received regular and unannounced visits from independent bodies. Therefore, **the CPT reiterates its recommendation that a system of visits to prison establishments be introduced in the Lithuanian prison system, taking into account the preceding remarks.**

⁶¹ Cf. paragraph 107 of the report on the 2000 visit.

C. Kaunas Psychiatric Hospital

1. Preliminary remarks

114. The Kaunas Psychiatric Hospital, established in the 1950s, extends over three sites: a main building located in the historic centre of Kaunas and two auxiliary buildings in a suburban area.

The hospital's main building, which was the primary focus of the delegation's attention, dates from the 16th or 17th century. At the time of the visit, its official capacity was 190 beds; however, it was envisaged to reduce it to 123 beds by the end of 2004. Patient accommodation was divided between four wards: two locked wards for men (Nos. 1 and 2, each with 50 beds), and two wards for women, one open (No. 3, with 40 beds) and one locked (No. 4, with 50 beds).

One of the auxiliary buildings (constructed in the 1970s-1980s) had 125 beds and comprised two wards (Nos. 5 and 6) and a crisis centre (No. 7). Most of the patients accommodated in the building were on an open regime, except for 11 patients placed in a locked 13-bed section of Ward No. 5.

The delegation did not visit the other auxiliary building, which houses a 50-bed day-care ward.

115. Conditions for involuntary placement in a psychiatric establishment on a civil basis are set out in Section 2.26 of the Civil Code⁶² and Sections 27 and 28 of the Mental Health Act,⁶³ which stipulate that emergency placement - i.e., up to 48 hours - in a psychiatric establishment without a person's consent may take place if the person concerned is severely mentally ill and endangers the life or health of self or others. If a person's consent to hospitalisation and treatment is not obtained within 48 hours, he or she must be released, unless a court authorises the prolongation of hospitalisation and treatment.

Under Section 141 of the 2002 Code of Criminal Procedure, in the event that a forensic psychiatric examination establishes that a criminal suspect poses a risk to society as a result of mental illness, the term of stay in the examination facility may be extended by the decision of a judge or the suspect may be transferred to another specialised facility until the court decides whether to impose coercive medical measures.⁶⁴

On 21 February 2004, 14 of the patients at Kaunas Psychiatric Hospital were formally being held on an involuntary basis⁶⁵ (13 under criminal law, and one under civil law provisions). Further, one patient had been declared incompetent and was under the hospital's guardianship.

⁶² As amended up to 2001.

⁶³ As amended up to 2000.

⁶⁴ Coercive medical measures may be applied in respect of persons who have been recognised as irresponsible or partially irresponsible by a court, as well as in respect of persons whose mental health has deteriorated as a result of the crime they have committed or the punishment which has been imposed on them and who may lack understanding of the significance of their own behaviour (cf. Section 98(1) of the 2000 Criminal Code).

⁶⁵ Cf. however paragraph 136 below.

116. The Committee wishes to make clear at the outset that its delegation heard no allegations of ill-treatment of patients at Kaunas Psychiatric Hospital, nor was any other evidence of such treatment found by the delegation during the visit. Relations between staff and patients were generally positive and tension-free, and staff appeared to be committed to their work.

2. Living conditions

117. In any psychiatric establishment, the aim should be to offer living conditions which are conducive to the treatment and well-being of patients; in terms of rehabilitation, a positive therapeutic environment. Creating such an environment involves, first of all, providing sufficient living space per person as well as adequate lighting, heating and ventilation, maintaining the establishment in a satisfactory state of repair and meeting hospital hygiene requirements. Particular attention should also be given to the decoration of both patients' rooms and recreation areas, and the provision of personal lockable space in which they can keep their belongings.

118. Acknowledging that the age of the hospital's main building in the old centre of Kaunas encumbered the maintenance of a satisfactory state of repair, the hospital's deputy director made reference to plans to relocate patients to a new site. The living conditions of most patients were also affected by the high capacities of the dormitories (up to 18 beds), which - like certain of the sanitary facilities, where lavatory stalls lacked doors - afforded no privacy. A number of patients complained that they had access to a shower only once every two weeks. Not all patients had personal lockers; further, the association/dining areas, which were located in corridors, tended to be impersonal. Somewhat better living conditions were observed in the open ward for women.

The CPT recommends that a high priority be accorded to the above-mentioned relocation plan. Further, steps should be taken immediately to ensure that all patients at Kaunas Psychiatric Hospital are allowed to take a hot shower at least once a week.

119. It should be added that many of the patients seen by the delegation - in particular, in the closed sections - remained dressed in pyjamas throughout the day. Such a situation is not conducive to strengthening personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process. **The CPT recommends that patients be allowed to wear their own clothes during the day or be provided with appropriate non-uniform garments.**

120. Patients in locked wards were not being offered outdoor exercise at the time of the visit. In the CPT's opinion, the fact that outdoor temperatures were quite low at the time of the February 2004 visit does not justify such a situation. **The CPT recommends that steps be taken to ensure that all patients in locked wards whose state of health permits are offered at least one hour of outdoor exercise per day. If necessary, they should be provided with suitable outdoor clothing.**

3. Staff and treatment

121. The health-care staffing levels at Kaunas Psychiatric Hospital can be considered as good. The team included 34 doctors⁶⁶ - the equivalent of 32.5 posts - of whom 27 were psychiatrists, 97 other full-time staff with higher medical education (qualified psychiatric nurses, laboratory specialists, somatic/rehabilitation nurses, nutritionists), and 78 full-time auxiliary medical personnel (assistants to nurses and auxiliary workers). In addition, six psychologists (the equivalent of five full-time posts), three psychotherapists, and six full-time social workers were employed at the hospital.

Staff assigned to the main building included 19 doctors (the equivalent of 16.75 full-time posts), 52 other full-time staff with higher medical education, and 52 full-time auxiliary medical personnel (cf. above).

122. The delegation's discussions with patients and staff, as well as the consultation of medical records, showed that patients received mainly pharmacotherapy-based treatment. Contemporary psychotropic drugs were available, and no signs of overmedication were observed. Prescribed medication was frequently reviewed, and medical files were well kept. However, the possibilities to engage in psychotherapy (either individual or group) or occupational activities (arts and crafts, dance, seasonal fruit-picking in an orchard by the auxiliary buildings) were limited, even for long-term patients. The most common activities for patients were conversing or watching television in the corridor association areas, and, to a lesser extent, playing games such as chess.

The CPT recommends that increased efforts be made at Kaunas Psychiatric Hospital to develop psycho-social rehabilitation for patients accommodated in the hospital's main building.

123. Reference has already been made⁶⁷ to the legal provisions governing involuntary placement in a psychiatric hospital on a civil basis. During the delegation's discussions with the management of Kaunas Psychiatric Hospital, as well as with judges from Kaunas District Court, it emerged that the standard interpretation of those provisions was that the hospital may proceed with involuntary treatment in any case where a court authorises involuntary placement. In the CPT's opinion, such an approach is unacceptable.

All patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as automatically authorising treatment without his or her consent. Every competent patient, *whether voluntary or involuntary*, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and apply only in clearly and strictly defined exceptional circumstances.

The CPT recommends that steps be taken - including, if necessary, amendment of the Mental Health Act - so as to distinguish clearly between the procedure for involuntary placement in a psychiatric institution and the procedure for involuntary psychiatric treatment, in the light of the foregoing remarks.

⁶⁶ Not including the director and the three deputy directors.

⁶⁷ Cf. paragraph 115 above.

124. Of course, consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient's condition and the treatment proposed. Consequently, **all patients should be provided systematically with relevant information about their condition and the proposed treatment. Relevant information (results, etc.) should also be provided following treatment.**

4. Restraint of agitated or violent patients

125. In any psychiatric establishment, the restraint of agitated and/or violent patients may on occasion be necessary. However, this is an area of particular concern to the CPT, given the potential for abuse and ill-treatment.

It is essential that the restraint of patients be the subject of a clearly-defined policy. That policy should make clear that initial attempts to restrain agitated or violent patients should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control. Resort to instruments of physical restraint (straps, straightjackets, etc.) will only very rarely be justified and must always be either expressly ordered by a doctor or immediately brought to the attention of a doctor with a view to seeking his approval.

Further, every instance of the physical restraint of a patient (manual control, use of instruments of physical restraint, seclusion) should be recorded in a specific register established for this purpose (as well as in the patient's file).

126. The CPT's delegation found the situation in this respect to be positive at Kaunas Psychiatric Hospital. The establishment had a written policy for nursing staff concerning the management of aggressive or agitated patients, containing detailed guidance on verbal or similar techniques (short of physical restraint) designed to subdue violent behaviour. On the exceptional occasions when physical restraint was necessary, resort could be had to manual control or fixation of a patient's limbs with a restraining belt; the policy stipulated that a doctor's presence was required for any use of the latter. Further, each of the four wards of the main building had a dedicated register of the use of means of restraint.

5. Safeguards

127. On account of their vulnerability, persons suffering from mental illness warrant particular attention in order to prevent any form of conduct - or avoid any omission - contrary to their well-being. It follows that involuntary placement in a psychiatric establishment should always be surrounded by appropriate safeguards.

a. initial placement and discharge procedures

128. The procedure by which involuntary placement in a psychiatric establishment is decided should offer guarantees of independence and impartiality as well as of objective psychiatric expertise. Further, such placement should cease as soon as it is no longer required by the patient's mental state. Consequently, the need for placement should be reviewed by an appropriate authority at regular intervals. In addition, patients themselves should be able to request at reasonable intervals that the necessity for placement be considered by a judicial authority.

129. As already indicated,⁶⁸ any prolongation of emergency 48-hour placement in a psychiatric institution on an involuntary basis under civil law provisions must be authorised by a court. Pursuant to Section 28 of the Mental Health Act, a court may order an extension of involuntary hospitalisation of up to one month from the time of involuntary admission. Further extensions of involuntary placement - each for a period not exceeding six months - may be authorised by a court following an application by the hospital's administration. On the recommendation of the attending psychiatrist, the hospital administration may terminate involuntary hospitalisation prior to the expiry of the prescribed time period.

130. According to the information gathered by the delegation at Kaunas Psychiatric Hospital and Kaunas District Court, the patient concerned was not heard in person in the context of civil involuntary placements or extensions thereof. Although the total number of applications for civil involuntary placement received by the Kaunas District Court⁶⁹ was described as "very low" by the judges interviewed, it was also made clear that no such applications had ever been rejected, nor had the court ever rejected an application for an extension of such placement. Further, the judges could not recall a single case of involuntary placement on a civil basis where the patient concerned was represented by a lawyer, and suggested by way of explanation that patients were often indigent.

131. Under the Mental Health Act,⁷⁰ persons being admitted involuntarily to a psychiatric hospital must acknowledge, by their signature, that they have been informed by the hospital administration of the fact of involuntary placement and of their rights. However, as far as the delegation was able to ascertain, patients did not receive a copy of the relevant court decision, nor were they informed on admission of the possibility to appeal against the decision. The relevant forms (one form for acknowledgement, and a leaflet setting out patients' rights) were silent as to the possibility to appeal; further, the reasons for involuntary placement were not set out in the acknowledgement forms.

⁶⁸ Cf. paragraph 115 above.

⁶⁹ It may be noted that the Kaunas District Court receives the largest volume of cases of all the first-instance courts in Lithuania.

⁷⁰ Cf. Section 30 of the Mental Health Act (as amended up to 2000).

132. As regards discharge procedures, involuntary patients may be released from a psychiatric hospital by decision of the administration of the establishment concerned, following a recommendation made by the attending psychiatrist. However, it appeared that Lithuanian legislation does not explicitly allow involuntary patients themselves to request review by a judicial authority during their placement.

133. The CPT recommends that the Lithuanian authorities review the procedures for involuntary placement in psychiatric hospitals, in the light of the remarks made in paragraphs 128 to 132.

More particularly, **steps should be taken to ensure that:**

- **involuntary placement procedures offer guarantees of independence and impartiality, as well as of objective psychiatric expertise; more specifically, a court should seek an opinion from a psychiatrist outside the hospital concerned in the context of involuntary placement decisions or extensions thereof;**
- **patients who are admitted to a psychiatric hospital on an involuntary basis have the effective right to be heard in person by the court during placement or appeal procedures;**
- **the patient concerned receives a copy of any court decision on involuntary placement in a psychiatric hospital and is informed in writing about the reasons for the decision and the avenues/deadlines for lodging an appeal;**
- **indigent patients benefit from free legal representation and are exempted from court fees incurred in the context of review and appeal procedures;**
- **patients themselves are able to request at reasonable intervals that the necessity for their continued placement is considered by a judicial authority.**

b. safeguards during placement

134. An *introductory leaflet/brochure* setting out the establishment's routine and patients' rights should be issued to each patient on admission, as well as to their families. Any patients unable to understand this brochure should receive appropriate assistance.

An effective *complaints procedure* is another basic safeguard against ill-treatment in psychiatric establishments. Specific arrangements should exist enabling patients to lodge formal complaints with a clearly designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment.

The information gathered during the visit indicated that the foregoing precepts were being followed at Kaunas Psychiatric Hospital. Patients received a written leaflet containing information on their rights upon admission,⁷¹ and more detailed internal rules were displayed on notice boards in the wards. The delegation was informed that patients could submit a complaint in a sealed envelope and, if necessary, could receive assistance in such matters from a social worker. Patients' complaints were reviewed by the State Medical Audit Office.

135. The CPT also attaches considerable importance to psychiatric establishments being visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the *inspection* of patients' care. This body should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations.

Kaunas Psychiatric Hospital received regular inspections by the Ministry of Health, the State Medical Audit Office, the Patients' Fund, the County Doctor Service, and the Social Insurance Fund. However, those visits did not focus on involuntary admissions and treatment.

The CPT invites the Lithuanian authorities to explore the possibility of introducing regular visits to psychiatric establishments by a body which is independent of the national or local health authorities.

136. The CPT is concerned by the dubious legal position of many of the patients at Kaunas Psychiatric Hospital. As already indicated, the majority of the patients in the main building were accommodated in locked wards. Staff informed the delegation that most patients were not free to leave; in other words, they were *de facto* involuntary patients, even though only a small number of them were *de jure* involuntary. Further, it transpired that a patient (admitted to the hospital on a voluntary basis) could be moved to a locked ward against his or her will and without the benefit of any of the safeguards which accompany the initial involuntary placement procedure.

The issues involved not only affect the civil rights of patients, but also constitute a prerequisite to a sensible programme of rehabilitation. **The CPT would like to receive the comments of the Lithuanian authorities on the foregoing matter.**

137. Finally, the CPT has serious misgivings about the fact that Kaunas Psychiatric Hospital acted as a court-appointed guardian for a patient who had been deprived of his legal capacity.⁷² Such a situation may easily lead to a conflict of interest and, eventually, compromise the independence and impartiality of the guardian. Therefore, **the CPT recommends that the Lithuanian authorities strive to find alternative solutions which would better guarantee the independence and impartiality of guardians.**

⁷¹ Cf. also paragraph 131 above.

⁷² Cf. paragraph 115 above.

III. RECAPITULATION AND CONCLUSIONS

A. Police establishments

138. The CPT remains concerned by the high number and the severity of allegations of ill-treatment of persons in police custody - including minors - in Lithuania; the situation has scarcely improved since the Committee's visit in 2000, despite the considerable volume of legislative acts and orders related to the subject promulgated in the interim.

The allegations heard related mainly to the time of apprehension and to the period surrounding the initial investigation by the police; certain persons alleged ill-treatment during transport by the Convoy Division. The types of ill-treatment alleged consisted mostly of blows with hands or fists, or with objects such as batons or belts. In several cases, the alleged ill-treatment - asphyxiation by placing a gas mask or a plastic bag over the person's face, severe beating, infliction of electric shocks, and mock execution - could be considered to amount to torture. Medical records revealed that upon their admission to prison or a police detention centre, numerous persons had displayed injuries consistent with their allegations of ill-treatment.

139. The CPT has recommended that a formal statement from the Minister of the Interior be delivered to all law enforcement officials, impressing upon them that the ill-treatment of persons in their custody is an affront to the values which constitute the very foundations of the State and will not be tolerated. Such a statement should make clear that all relevant information regarding alleged ill-treatment will be investigated, and that perpetrators of ill-treatment will be subject to severe sanctions. Further, a high priority should continue to be given to police training, including as regards practical skills for handling high-risk situations such as the apprehension and interrogation of suspects.

Another very effective means of preventing ill-treatment lies in the diligent examination by the competent authorities of all relevant information regarding alleged ill-treatment which may come to their attention, whether or not that information takes the form of a formal complaint; in this connection, judges and prosecutors are in a particularly crucial position. Vigilance and a proactive stance adopted by the management of prisons and police detention centres can also make a vital contribution to combating impunity.

140. As regards formal safeguards against ill-treatment, the information gathered revealed a wide gap between law and practice in respect of the rights of notification of custody and access to a lawyer. The Committee has recommended that appropriate action be taken to ensure that the above-mentioned rights are rendered fully effective in practice, with respect to all categories of persons deprived of their liberty by the police, as from the very outset of deprivation of liberty.

As for access to a doctor, persons admitted to police detention centres were still not benefiting from a thorough medical screening promptly on arrival. The CPT has recommended that this deficiency be rectified. Further, the Committee has recommended that access to health-care staff be allowed under conditions guaranteeing medical confidentiality, and that the results of every medical examination, as well as any relevant statements made by the detained person and the doctor's conclusions, be formally recorded by health-care staff. Existing procedures should be reviewed in order to ensure that, whenever injuries which are indicative of ill-treatment are recorded by health-care staff of police detention centres, the record is brought to the attention of the relevant public prosecutor.

141. Following its visit in 2000, the CPT was critical of conditions of detention in police detention centres; from the information gathered during the 2004 visit, it is clear that many of the Committee's key recommendations in this area have yet to be implemented.

In certain detention centres, including those in Kaunas and Marijampolė, the cumulative effect of the very poor material environment and the impoverished regime could be described as inhuman and degrading, especially considering that persons were being held under such conditions for prolonged periods. Detainees were locked up 24 hours per day in filthy, overcrowded cells, with little or no access to natural light and, in many cases, dim artificial lighting. A tap placed directly above the minimally partitioned lavatory was the only source of drinking water. In certain cells, persons were obliged to relieve themselves in a bucket in the direct presence of their cellmates. In most cases, persons were provided with no mattresses and blankets, and lacked basic personal hygiene products. If offered at all on a given day, outdoor exercise was often limited to short periods and/or taken in areas too small to permit proper physical exertion. The conditions of detention of juveniles were no different from those of their adult counterparts; further, it transpired that juveniles could be placed in the same cells as adults.

The Lithuanian authorities must take resolute and sustained action - founded on a solid, properly-resourced strategy - to improve conditions of detention in police detention centres, in the light of the CPT's detailed recommendations. That strategy should include regular independent inspections of the premises concerned. As for juveniles placed in detention centres, they must be accommodated separately from adults, and those detained for prolonged periods should be provided with a programme of educational activities (including physical education).

142. As regards the activities of the Convoy Division, the situation had improved only marginally as compared to that found during the visit in 2000. It remained the case that most detained persons were transported in poor, overcrowded physical conditions for journeys which could be of a considerable duration. The CPT has recommended that a very high priority be given to the modernisation of convoy transport arrangements.

B. Prisons

143. The CPT's delegation received many consistent accounts of deliberate physical ill-treatment of prisoners by staff at Marijampolė Correction Home. Further, at Vilnius-Lukiškės Remand Prison and the Prison Hospital, a few prisoners claimed that they had been subject to physical ill-treatment (beatings) or excessive use of force by staff. In contrast, no allegations of physical ill-treatment by staff were heard at Kaunas Juvenile Remand Prison and Correction Home.

In addition, numerous allegations of verbal abuse by staff were received at Marijampolė Correction Home. Some allegations of such a nature were also heard in the other establishments visited.

The CPT has recommended that prison officers at Marijampolė and Vilnius-Lukiškės be reminded that, on those occasions when they have to use force to control violent and/or recalcitrant prisoners, the force used should be no more than is strictly necessary; once such prisoners have been brought under control, there can be no justification for striking them. Further, the management in all establishments visited should remind their staff that all forms of ill-treatment of prisoners (including verbal abuse) are not acceptable and will be punished accordingly.

144. The CPT is seriously concerned by the level of inter-prisoner violence at Marijampolė Correction Home. The prospect of becoming victims of beatings, sexual assaults, extortion, and a host of indignities was a daily reality for many vulnerable prisoners. Such a situation could fairly be described as inhuman and degrading. Further, at Vilnius-Lukiškės Remand Prison, several inmates claimed that they had been threatened by officers of the internal security department with placement in a cell/dormitory together with inmates prone to be violent if they refused to confess to the criminal offence(s) of which they were suspected. The potential for inter-prisoner violence also existed at Kaunas Juvenile Remand Prison and Correction Home; nevertheless, it would appear that the recent reduction in occupancy levels had alleviated the problem at that establishment.

The CPT has emphasised that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. The prison authorities must act in a proactive manner to prevent violence by inmates against other inmates and take appropriate action when evidence of inter-prisoner violence comes to light. The CPT has called upon the Lithuanian authorities to develop strategies with a view to addressing the problem of inter-prisoner violence in the establishments visited (and, as appropriate, in other prisons in Lithuania), in the light of criteria identified by the Committee.

Further, the CPT has expressed misgivings about the practice at Marijampolė Correction Home of placing vulnerable prisoners in the disciplinary unit, which resulted in the loss of a number of rights (including the right to receive visits).

145. As regards material conditions of detention, the CPT has welcomed the quality of the renovation work carried out so far at Marijampolė Correction Home and Vilnius-Lukiškės Remand Prison. In contrast, material conditions in the unrenovated parts of both establishments were very poor. Most dormitories/cells and, in particular, sanitary facilities were in an advanced state of dilapidation, and had poor ventilation and inadequate heating; further, in some parts, windows were covered with metal plates. Poor hygienic conditions were exacerbated by the fact that prisoners were not provided with any personal hygiene products and that indigent prisoners were not always provided with proper clothing.

146. A wide range of regime activities was offered to *sentenced* prisoners at Marijampolė Correction Home. Some 500 sentenced prisoners worked in manufacturing workshops, and 60 inmates were involved in part-time maintenance work. In addition, various social rehabilitation programmes were organised, such as education and vocational training. However, a large proportion of inmates did not want to participate in any of the available activities, due to the prevailing prison sub-culture.

A fundamental problem in the Lithuanian prison system is the total lack of out-of-cell activities offered to *remand* prisoners. At Vilnius-Lukiškės Remand Prison, all prisoners on remand were being held for 23 hours a day in their cells. Their only regular out-of-cell activity was daily outdoor exercise, in areas which were not sufficiently large to permit them to exert themselves physically. The CPT has called upon the Lithuanian authorities to take steps, as a matter of priority, at Vilnius- Lukiškės Remand Prison to devise and implement a comprehensive regime of activities (including group association activities) for remand prisoners.

147. The CPT is concerned by the restrictive approach adopted by the Lithuanian authorities vis-à-vis life-sentenced prisoners. At Vilnius-Lukiškės Remand Prison, such prisoners were subject to a regime of small-group isolation, and certain of them to solitary confinement, for many years. This, combined with the quasi-total absence of a programme of activities (such as work or education) for the vast majority, can easily lead to personal degeneration of the prisoners concerned. Further, the rule that life-sentenced prisoners cannot associate with other prisoners, or even other life-sentenced prisoners from other cells, is totally unjustified. Life-sentenced prisoners are not necessarily more dangerous than other prisoners; the approach to their management should proceed from an individual risk/needs assessment. The CPT has called upon the Lithuanian authorities to fundamentally revise the regime applicable to life-sentenced prisoners and the relevant legal provisions, taking into account criteria identified by the Committee.

148. As regards juvenile prisoners, Kaunas Juvenile Remand Prison and Correction Home offered very good material conditions of detention and a developed regime of activities to all *sentenced* inmates (school, vocational training, recreational activities, etc.). However, the CPT is concerned that the entire block for *remand* prisoners (which had not yet been renovated) was in a poor state of repair. Further, juveniles on remand were deprived of anything resembling a developed regime of activities; in effect, they spent 23 hours per day in their cells, left to their own devices. The CPT has recommended that steps be taken, as matter of priority, to improve the material conditions in the remand block at Kaunas and provide juvenile remand prisoners with a full programme of out-of-cell activities (including physical education).

149. In all establishments visited, the delegation gained a favourable impression of the quality of general health care offered to prisoners. However, the CPT is seriously concerned by the inadequate psychiatric/psychological care provided, in particular at Marijampolė Correction Home and Vilnius-Lukiškės Remand Prison; recommendations designed to remedy this problem have been made. Similarly, the Committee has highlighted the need to introduce at both of these establishments a comprehensive programme for the prevention of drug abuse and the management of drug-addicted prisoners.

The CPT has expressed serious misgivings about the systematic practice at Kaunas Juvenile Remand Prison and Correction Home and Vilnius-Lukiškės Remand Prison (including the Prison Hospital) of conducting medical examinations in the presence of prison officers. It has recommended that all medical examinations of prisoners be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers.

150. Material conditions in the Prison Hospital had further deteriorated since the 2000 visit (advanced state of dilapidation; very poor hygienic conditions; no heating; severe overcrowding and insufficient access to natural light in some rooms; etc.); in the CPT's view, they can only be described as antitherapeutic. Nevertheless, health-care staff continued to be committed to providing the best possible treatment to patients under the prevailing adverse conditions. The Committee has recommended that a very high priority be accorded to the implementation of the plan for relocating the Prison Hospital to premises at Pravieniškės.

C. Kaunas Psychiatric Hospital

151. The delegation heard no allegations of ill-treatment of patients at Kaunas Psychiatric Hospital. Relations between staff and patients were generally positive and tension-free, and staff appeared to be committed to their work.

152. The age of the hospital's main building in the old centre of Kaunas hindered the maintenance of a satisfactory state of repair. The living conditions of most patients were also affected by the high capacities of the dormitories. The CPT has recommended that a high priority be accorded to plans to relocate patients to a new site. Further, immediate steps should be taken to ensure that all patients are allowed to take a hot shower at least once a week, and that patients in locked wards whose state of health permits are offered a minimum of one hour of outdoor exercise per day.

153. Health-care staffing levels were good at Kaunas Psychiatric Hospital. As regards treatment, it was mainly pharmacotherapy-based; contemporary psychiatric drugs were available and no signs of overmedication were observed. However, the possibilities to engage in psychotherapy or occupational activities were limited, even for long-term patients. The CPT has recommended that increased efforts be made to develop psycho-social rehabilitation for patients.

The CPT has also emphasised that patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as automatically authorising treatment without his/her consent. This implies that patients should be systematically provided with relevant information about their condition and the proposed treatment; relevant information (results, etc.) should also be provided following treatment.

154. A positive situation was found at the Kaunas establishment as regards the restraint of agitated or violent patients. The hospital had a written policy on this subject which *inter alia* provided detailed guidance on verbal or similar techniques short of physical restraint. Further, there were dedicated registers of the use of means of restraint.

155. The CPT has made a number of recommendations concerning safeguards surrounding the involuntary placement of persons in psychiatric establishments, e.g. the right of patients to be heard in person by the court during involuntary placement/appeal procedures, the provision of copies of court decisions on involuntary placement to the patient concerned, and access to free legal representation for indigent patients. The Committee has also invited the Lithuanian authorities to explore the possibility of introducing regular visits to psychiatric establishments by a body which is independent of the health authorities.

D. Action on the CPT's recommendations, comments and requests for information

156. The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I.

157. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Lithuanian authorities to provide **within six months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Lithuanian authorities to provide, in the above-mentioned response, reactions to the comments formulated in this report which are summarised in Appendix I as well as replies to the requests for information made.

158. In respect of two specific issues raised in the report, the CPT requests the Lithuanian authorities to provide information within **three months**, namely:

- i. action taken to provide personal hygiene products (toilet paper, soap, toothbrush and paste, sanitary towels, etc.) to persons held in police detention centres for prolonged periods (paragraph 40);
- ii. action taken to provide ready access to drinking water in salubrious conditions to all persons detained in police detention centres (paragraph 40).

APPENDIX I

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

A. Police establishments

Torture and other forms of ill-treatment

recommendations

- a formal statement from the Minister of the Interior to be delivered to all law enforcement officials, impressing upon them that the ill-treatment of persons in their custody is an affront to the values which constitute the very foundations of the State and will not be tolerated. Such a statement should make clear that all relevant information regarding alleged ill-treatment will be investigated, and that perpetrators of ill-treatment will be subject to severe sanctions (paragraph 14);
- the Lithuanian authorities to continue to give a high priority to police training, including as regards practical skills for handling high-risk situations such as the apprehension and interrogation of suspects (paragraph 15);
- truncheons to be hidden from view, if it is considered necessary for custodial officers assigned to police detention centres to carry them (paragraph 16);
- the necessary measures to be taken to enable persons who allege ill-treatment, or their lawyer or doctor, to themselves request a forensic medical examination (paragraph 20);
- the existing arrangements for criminal investigations into possible ill-treatment by law enforcement officials to be reviewed, with a view to ensuring that the precepts set out in paragraph 22 are systematically applied in practice (paragraph 22);
- the relevant prosecutors always to be immediately notified, in writing, of any information relating to possible cases of police ill-treatment. The information transmitted should include, *inter alia*, the statement made by the person concerned regarding the origin of the injuries as well as all related medical findings (paragraph 23).

requests for information

- developments related to police selection and training in Lithuania since the beginning of the year 2004 (recruitment criteria; training strategy; curricula; etc.) (paragraph 15);
- an assessment of the special programme approved by the Prosecutor-General for the inspection of police detention facilities, as well as further information on the frequency of such inspections and any relevant conclusions, recommendations and action taken in response (paragraph 17);
- an account, covering the period from 1 January 2003 to the present time, of all complaints received of ill-treatment by the police and the outcome of the relevant disciplinary and/or criminal proceedings (allegations, brief descriptions of the findings of the relevant court or body, verdict, sentence/sanction imposed) (paragraph 24);

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

recommendations

- appropriate action to be taken to ensure that the right of notification of custody is rendered fully effective in practice, with respect to all categories of persons deprived of their liberty by the police, as from the very outset of deprivation of liberty (paragraph 25);
- steps to be taken to ensure that the right of access to a lawyer, as defined in paragraph 27, is enjoyed by all persons obliged to remain with the police, as from the very outset of their deprivation of liberty. The right of access to a lawyer should be enjoyed not only by criminal suspects but also by anyone who is under a legal obligation to attend - and stay at - a police establishment (paragraph 27);
- appropriate steps to be taken to ensure the effectiveness of the legal aid system throughout the procedure, including at the initial stage of police custody (paragraph 27);
- appropriate steps to be taken to ensure that all persons placed in a police detention centre are given a thorough medical screening without delay and, throughout their stay, are allowed ready access to health-care staff - and, if they so request, a doctor of their own choice - under conditions guaranteeing medical confidentiality. Police officers should not seek to filter requests to see a doctor made by detained persons (paragraph 28);
- the results of every medical examination, as well as any relevant statements by the detained person and the doctor's conclusions, to be formally recorded by health-care staff and made available to the detainee and his lawyer. Existing procedures to be reviewed in order to ensure that, whenever injuries which might be indicative of ill-treatment are recorded by health-care staff of police detention centres, the record is brought to the attention of the relevant public prosecutor (paragraph 28);
- written information on rights to be given to all persons deprived of their liberty by the police, at the very outset of their deprivation of liberty (paragraph 29);

- decisive steps to be taken to prevent instances of police officers entering into "unofficial" contact with persons placed in a police detention centre, without proper authorisation and without leaving a written record (paragraph 30);
- in respect of every occasion on which inmates are removed from prison at the request of a police investigator or prosecutor, a formal record to be kept of the reason for their removal and of all measures taken during their presence on police premises (paragraph 31).

comments

- the CPT suggests that the Bar Association be consulted in the context of steps to ensure the effectiveness of the legal aid system at all stages of the procedure (paragraph 27).

Conditions of detention

recommendations

- the cubicles at Kaunas Police Detention Centre to be dismantled immediately (paragraph 36);
- all necessary steps to be taken to implement, without further delay, the CPT's recommendations concerning conditions of detention in police detention centres (cf. paragraphs 35 to 36 of CPT/Inf (2001) 22). The strategy for improving conditions of detention should include regular independent inspections of the premises concerned (paragraph 41);
- immediate steps to be taken to ensure that juveniles placed in police detention centres are accommodated separately from adult detainees. Juveniles detained for prolonged periods should be provided with a programme of educational activities (including physical education) (paragraph 41);
- cells at Alytus, Kaunas Centre and Marijampolė Police Stations to be equipped with a means of rest, and anyone held overnight to be provided with a mattress and blankets (paragraph 42);
- conditions of detention in all police establishments in Lithuania to be reviewed, having regard to the criteria set out in paragraph 32 (paragraph 42);
- all intoxicated persons in police custody to be provided with a mattress. They should also receive appropriate attention; police officers should receive specific training on this subject (paragraph 43).

requests for information

- information to be provided within three months as regards the action taken to provide personal hygiene items (toilet paper, soap, toothbrush and paste, sanitary towels, etc.) to persons held in police detention centres for prolonged periods (paragraph 40);
- information to be provided within three months as regards the action taken to ensure that all persons held in police detention centres have access to drinking water in salubrious conditions (paragraph 40);
- a copy of the "Program of Renovation of Detention Centers" (Government regulation No. 141 of 29 January 2003) (paragraph 41);
- comments of the Lithuanian authorities on the difficulties experienced by police officers in coping with the considerable number of temporary placements of intoxicated persons in police stations (paragraph 43).

The Convoy Division

recommendations

- the Lithuanian authorities to:
 - attach a very high priority to the modernisation of convoy transport arrangements;
 - take decisive steps to prevent violence, intimidation, and/or thefts perpetrated by detainees against their fellow passengers;
 - ensure that the cubicles measuring 0.4 m² in convoy vans and lorries are no longer used (paragraph 45);
- steps to be taken to ensure that confidentiality of medical data is respected and that the practice of segregating HIV positive prisoners is discontinued (paragraph 46).

request for information

- the new legal act regulating the transportation of detained persons by convoy (paragraph 45).

B. Prisons

Preliminary remarks

recommendations

- the Lithuanian authorities to pursue their efforts to bring about a permanent end to overcrowding, in the light of the remarks made in paragraph 48 (paragraph 48).

Ill-treatment

recommendations

- the attention of prison officers at Marijampolė Correction Home and Vilnius-Lukiškės Remand Prison to be drawn to the precepts that on those occasions when they have to use force to control violent and/or recalcitrant prisoners, the force used should be no more than is strictly necessary and that, once prisoners have been brought under control, there can be no justification for striking them (paragraph 52);
- the management in all establishments visited to remind their staff that all forms of ill-treatment of prisoners (including verbal abuse) are not acceptable and will be punished accordingly (paragraph 52);
- members of internal special intervention groups to be prohibited from wearing masks while exercising their duties, and senior management always to be present during operations carried out by such groups (paragraph 53);
- the Lithuanian authorities to develop strategies with a view to addressing the problem of inter-prisoner violence in the establishments visited (and, as appropriate, in other prisons in Lithuania), in the light of remarks made in paragraphs 56 to 59 (paragraph 60);
- the existing procedures to be reviewed in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of inter-prisoner violence, the record is immediately brought to the attention of the relevant prosecutor and a preliminary investigation is initiated by him (paragraph 60);
- alternative arrangements to be found for vulnerable prisoners seeking protection; they should not be subjected to a disciplinary regime (paragraph 61);
- the Lithuanian authorities to pursue their efforts to transform the large dormitories at Marijampolė Correction Home (and, as appropriate, in other penitentiary establishments) into cell-type accommodation areas (paragraph 62).

requests for information

- in respect of the period 2003 to mid-2004:
 - the number of complaints lodged concerning ill-treatment by prison officers and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
 - an account of disciplinary and/or criminal sanctions imposed following such complaints (paragraph 55).

Conditions of detention of the general prison population

recommendations

- material conditions at Marijampolė Correction Home and Vilnius-Lukiškės Remand Prison to be substantially improved, in the light of the remarks made in paragraphs 63 to 66 (paragraph 67);
- immediate steps to be taken at these establishments to ensure that:
 - access to natural light, adequate ventilation and heating are guaranteed in all prisoners' accommodation; this will involve removing the metal plates covering windows of cells/dormitories at Marijampolė Correction Home;
 - all prisoners are provided with their own bed, as well as a clean mattress and clean bedclothes;
 - all prisoners have adequate quantities of essential personal hygiene products and are able to take a hot shower at least once a week;
 - indigent prisoners are supplied with proper clothing, taking weather conditions into account;
 - occupancy levels in the 7 m² cells at Vilnius-Lukiškės Remand Prison are significantly reduced (paragraph 67);
- the Lithuanian authorities to take steps, as a matter of priority, at Vilnius-Lukiškės Remand Prison to devise and implement a comprehensive regime of out-of-cell activities (including group association activities) for remand prisoners (paragraph 70);
- the outdoor exercise areas at Marijampolė Correction Home and Vilnius-Lukiškės Remand Prison to be enlarged, in order to enable prisoners to exert themselves physically (paragraph 70).

request for information

- a precise timetable for the completion of the renovation of Marijampolė Correction Home and Vilnius-Lukiškės Remand Prison (paragraph 67).

Life-sentenced prisons at Vilnius-Lukiškės Remand Prison

recommendations

- the Lithuanian authorities to fundamentally revise the regime applicable to life-sentenced prisoners and the relevant legal provisions, in the light of the remarks made in paragraphs 72 to 74 (paragraph 74);
- the possibility of having long-term visits to be extended to all sentenced prisoners, including those serving life sentences (paragraph 75).

comments

- a typical cell (between 7 and 9 m²) offers only cramped living space for two life-sentenced prisoners at Vilnius-Lukiškės Remand Prison (paragraph 71).

Juvenile prisoners at Kaunas Juvenile Remand Prison and Correction Home

recommendations

- steps to be taken, as a matter of priority, to improve material conditions in the remand block at Kaunas Juvenile Remand Prison and Correction Home, and to complete the other renovation projects at the establishment, in the light of the remarks made in paragraph 77 (paragraph 77);
- steps to be taken, as a matter of urgency, at Kaunas Juvenile Remand Prison and Correction Home (and, where appropriate, in other prison establishments in Lithuania) to ensure that juvenile remand prisoners are provided with a full programme of out-of-cell activities (including physical education) (paragraph 79).

Health care services

recommendations

- a very high priority to be accorded to the implementation of the plan of relocating the Prison Hospital to already existing premises at Pravieniškės (paragraph 81);
- a wider range of activities to be offered to patients at the Prison Hospital, especially those staying there for prolonged periods (paragraph 82);

- steps to be taken to ensure that indigent patients at the Prison Hospital are supplied with proper clothing, taking weather conditions into account (paragraph 82);
- the level of care offered to prisoners undergoing in-patient psychiatric treatment to be reviewed at the Prison Hospital; particular efforts should be made to develop psycho-social therapeutic activities and to adapt them to the individual needs of patients (paragraph 85);
- steps to be taken to ensure that all patients who have undergone a forensic psychiatric examination at the Prison Hospital are provided with appropriate treatment without delay (paragraph 85);
- a special register for recording the use of the restraint bed at the Prison Hospital to be established (paragraph 86);
- steps to be taken to ensure that medical confidentiality is fully guaranteed at the Prison Hospital. This implies, inter alia, that all medical examinations of prisoners (whether on arrival or at a later stage) should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers (paragraph 88);
- steps to be taken, as a matter of priority, to ensure:
 - that the vacant posts among health-care staff in the prisons visited are filled;
 - the regular presence of a psychiatrist at Marijampolė Correction Home;
 - that the presence of the dentist is increased at Kaunas Juvenile Remand Prison and Correction Home and Marijampolė Correction Home;
 - that two additional full-time psychologists are employed at Vilnius-Lukiškės Remand Prison;
 - that a qualified nurse is always present at Vilnius-Lukiškės Remand Prison, including at night and weekends(paragraph 92);
- steps to be taken at the Kaunas, Marijampolė and Vilnius-Lukiškės establishments (as well as in other prison establishments in Lithuania) to ensure that the record drawn up after a medical examination of a prisoner on arrival contains:
 - (i) a full account of statements made by the prisoner concerned which are relevant to the medical examination, including any allegations of ill-treatment made by him;
 - (ii) a full account of objective medical findings based on a thorough examination;
 - (iii) the doctor's conclusions in the light of (i) and (ii). In his conclusions, the doctor should indicate the degree of consistency between allegations made and the objective medical findings; these conclusions should be made available on request to the prisoner concerned and his lawyer(paragraph 96);

- whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner, the record to be brought immediately to the attention of the relevant prosecutor (paragraph 96);
- steps to be taken to ensure that all newly-arrived prisoners are systematically screened for hepatitis C (paragraph 96);
- a comprehensive programme for the prevention of drugs and the management of drug-addicted prisoners to be established at the Marijampolė and Vilnius-Lukiškės establishments (and, where appropriate, in other prison establishments in Lithuania), in the light of the remarks made in paragraph 98 (paragraph 98);
- steps to be taken to ensure that medical confidentiality is fully guaranteed in all establishments visited (as well as in other prison establishments in Lithuania). This implies, *inter alia*, that all medical examinations of prisoners (whether on arrival or at a later stage) should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers (paragraph 100).

comments

- the Lithuanian authorities are invited to consider enhancing the role of the Ministry of Health in the field of prison health care (paragraph 80);
- the X-ray machines at Marijampolė Correction Home and Vilnius-Lukiškės Remand Home should be replaced as soon as possible (paragraph 93);
- steps should be taken at Marijampolė Correction Home to ensure that prisoners are able to consult a doctor without undue delay (paragraph 94);
- it would be desirable if information about transmissible diseases were also provided in written form (e.g. leaflets), in Lithuanian and other languages frequently spoken by prisoners (paragraph 97).

requests for information

- detailed information on the progress made in the renovation of the Forensic Psychiatric “Expert Division” at Utena (paragraph 81);
- clarification as to the extent to which the relevant provisions of the Mental Health Care Act concerning the use of means of restraint are also applicable to the Prison Hospital (paragraph 87);
- detailed information on the suicide prevention programme which has recently been developed by the Lithuanian prison administration (paragraph 99).

Other issues

recommendations

- service training of prison staff to be enhanced at all levels as regards the acquisition and development of inter-personal communication skills. In particular, a more proactive role for prison staff - i.e. one not limited to purely security and control tasks - should be encouraged. (paragraph 101);
- an immediate end to be put to the practice of obliging prisoners to face the wall when staff or visitors pass by (paragraph 101);
- if it is considered necessary for prison officers to carry them, batons to be hidden from view (paragraph 102);
- steps to be taken to ensure that all prisoners subject to the disciplinary sanction of solitary confinement at Marijampolė Correction Home are in fact allowed access to reading matter (paragraph 104);
- the Lithuanian authorities to review the strict regime, in the light of the remarks made in paragraph 106. In particular, steps should be taken to ensure that all prisoners subject to that regime (including those held in disciplinary cellular confinement) are allowed to receive visits from members of their families on a regular basis and to possess a radio in their cell. Further, additional out-of-cell activities should be organised, if necessary, within the confines of the detention unit (paragraph 106);
- the "calming-down cells" at Kaunas Juvenile Remand Prison and Correction Home and Vilnius-Lukiškės Remand Prison to be taken out of service without delay and more suitable facilities to be found for holding aggressive and/or agitated prisoners. The latter facilities should be of a reasonable size, properly lit and ventilated and free of objects which could be used to cause injuries. The prisoner concerned should be kept under constant and adequate custodial surveillance or medical supervision, as the case may be (paragraph 107);
- the entitlement to visits of sentenced prisoners to be further increased, so as to ensure that all prisoners can receive at least one visit (either short- or long-term) per month. It is axiomatic that the visit entitlement for juvenile prisoners should be even more favourable (paragraph 108);
- the current arrangements concerning visits for remand prisoners to be reviewed, in the light of the remarks made in paragraph 109 (paragraph 109);
- immediate steps to be taken at Kaunas Juvenile Remand Prison and Correction Home and the Prison Hospital (and, if appropriate, in other prison establishments in Lithuania) to withdraw from service the very small waiting cubicles (paragraph 111);
- a system of regular and unannounced visits to prison establishments by an independent body to be introduced in the Lithuanian prison system, taking into account the remarks made in paragraph 113 (paragraph 113).

comments

- steps should be taken to ensure that prisoners subject to solitary confinement at Marijampolė Correction Home have access to writing material and envelopes for lodging an appeal during their placement in a punishment cell (paragraph 105);
- the Lithuanian authorities are invited to explore the possibility of granting remand prisoners access to a telephone; if there is a perceived risk of collusion, a particular phone call could always be monitored (paragraph 110).

C. Kaunas Psychiatric Hospital

Living conditions

recommendations

- a high priority to be accorded to the relocation plan referred to in paragraph 118 (paragraph 118);
- steps to be taken immediately to ensure that all patients at Kaunas Psychiatric Hospital are allowed to take a hot shower at least once a week (paragraph 118);
- patients to be allowed to wear their own clothes during the day or to be provided with appropriate non-uniform garments (paragraph 119);
- steps to be taken to ensure that all patients in locked wards whose state of health permits are offered at least one hour of outdoor exercise per day. If necessary, they should be provided with suitable outdoor clothing (paragraph 120).

Staff and treatment

recommendations

- increased efforts to be made at Kaunas Psychiatric Hospital to develop psycho-social rehabilitation for patients accommodated in the hospital's main building (paragraph 122);
- steps to be taken - including, if necessary, amendment of the Mental Health Act - so as to distinguish clearly between the procedure for involuntary placement in a psychiatric institution and the procedure for involuntary psychiatric treatment, in the light of the remarks made in paragraph 123 (paragraph 123);
- all patients to be provided systematically with relevant information about their condition and the proposed treatment. Relevant information (results, etc.) should also be provided following treatment (paragraph 124).

Safeguards

recommendations

- the Lithuanian authorities to review the procedures for involuntary placement in psychiatric hospitals, in the light of the remarks made in paragraphs 128 to 132 (paragraph 133);
- steps to be taken to ensure that:
 - involuntary placement procedures offer guarantees of independence and impartiality, as well as of objective psychiatric expertise; more specifically, a court should seek an opinion from a psychiatrist outside the hospital concerned in the context of involuntary placement decisions or extensions thereof;
 - patients who are admitted to a psychiatric hospital on an involuntary basis have the effective right to be heard in person by the court during placement or appeal procedures;
 - the patient concerned receives a copy of any court decision on involuntary placement in a psychiatric hospital and is informed in writing about the reasons for the decision and the avenues/deadlines for lodging an appeal;
 - indigent patients benefit from free legal representation and are exempted from court fees incurred in the context of appeal procedures;
 - patients themselves are able to request at reasonable intervals that the necessity for their continued placement is considered by a judicial authority (paragraph 133);
- the Lithuanian authorities to strive to find alternative solutions which would better guarantee the independence and impartiality of guardians (paragraph 137).

comments

- the Lithuanian authorities are invited to explore the possibility of introducing regular visits to psychiatric establishments by a body which is independent of the national or local health authorities (paragraph 135).

requests for information

- comments on the issues raised in paragraph 136 (paragraph 136).

APPENDIX II

**List of the national authorities
and non-governmental organisations
with which the CPT's delegation held consultations**

A. National authorities

Ministry of Justice

Vytautas MARKEVIČIUS	Minister
Gintaras ŠVEDAS	Vice-Minister
Tomas BARANOVAS	Director, Legal Institutions Department
Aušra BERNOTIENĖ	Director, International Law Department
Rimvidas KŪGIS	Director, Prison Department
Vilius ŠLAIČIŪNAS	Acting Deputy Director, Prison Department

Ministry of the Interior

Vytautas NAVICKAS	Deputy Police Commissioner General, Police Department
Robertas PETRAITIS	Director, Foreigners Registration Centre, State Border Guard Service
Rimantas PUKANASIS	Director, Public Security Department
Tomas ŽILINSKAS	Deputy Director, International Relations and European Integration Department
Aleksandras KATINAS	Head, Internal Investigation Board, Police Department
Saulius KAZLAUSKAS	Head, Public Order Division (responsible for detention centres and convoy), Police Department
Mindaugas PUSKUNIGIS	Head, Operational Control Division, Police Information Board, Police Department
Algimantas VARNELIS	Head, Public Order and Transport Board (detention centres), Police Department

Rolandas ŠTAUPAS Chief Specialist, Public Order Division (detention centres and convoy), Police Department

Sigitas URBONAS Senior Specialist, Public Order Division (detention centres and convoy), Police Department

Ministry of Education and Science

Ligita VAICEKAUSKAITĖ Senior Official, Social Security Department

Ministry of Health Care

Konstantinas DAŠKEVIČIUS Director, Agency of National Service of Forensic Psychiatry

Vytautas VAITKUS Head, Section of Public Health Supervision, Emergency Health Situations Centre

Ministry of Social Security and Labour

Violeta MURAUSKAITĖ Undersecretary

Dalia KASULAITIENĖ Deputy Director, Department of Audit and Supervision of Social Establishments

Other authorities

Gediminas DALINKEVIČIUS Chairman, Seimas (Parliamentary) Committee on Human Rights

Rūta RAGALIAUSKIENĖ Secretary, Seimas Committee on Human Rights

Romas VALENTUKEVIČIUS Head, Seimas Ombudsmen's Office

Elvyra baltutytė Seimas Ombudsman

Vytautas BARKAUSKAS Deputy Prosecutor General

Gintaras JASAITIS Deputy Prosecutor General

Zenonas BUOKAS Chief prosecutor of the department, Prosecutor-General's Office

Edmundas INOKAITIS Deputy Chairman, Kaunas City District Court

B. Non-governmental organisations

Geneva Initiative on Psychiatry

Lithuanian Welfare Society for Persons with Mental Disabilities (VILTIS)

Lithuanian Human Rights Association

Lithuanian Prisoners' Aid Association