



CPT/Inf (2006) 10

**Response of the Lithuanian Government
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to Lithuania**

from 17 to 24 February 2004

The Lithuanian Government has requested the publication of this response. The report of the CPT on its February 2004 visit to Lithuania is set out in document CPT/Inf (2006) 9.

Strasbourg, 23 February 2006

**REPORT OF THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA REGARDING
THE MEASURES THAT HAVE BEEN OR ARE TAKEN WITH A VIEW TO
IMPLEMENTING THE RECOMMENDATIONS INDICATED IN THE REPORT OF THE
EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN
OR DEGRADING TREATMENT OR PUNISHMENT (CPT) ON ITS VISIT TO
LITHUANIA**

FROM 17 TO 24 FEBRUARY 2004

A. POLICE ESTABLISHMENTS

Torture and other forms of ill-treatment

- *A formal statement from the Minister of the Interior should 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 Code of Ethics of Lithuanian Police Officers was approved by the Order No. V-347 of the Commissioner General of the Lithuanian Police on 16 July 2004. Police officers should follow the provisions of this Code in their professional activities, where it is stated that police officers shall not engage, encourage or tolerate in any other way acts of torture, inhuman or degrading treatment. Chiefs of police establishments must brief subordinate police officers about this Code of Ethics and react with integrity to any violations of the provisions of the Code of Ethics of the Lithuanian Police.

- *Development related to police selection and training in Lithuania since the beginning of the year 2004 (recruitment criteria; training strategy; curricula; etc.) (paragraph 15);*

On 12 November 2004 the Minister of Interior approved by the Order No.IV-368 the Conception of Qualification Requirements, Recruitment, Professional Training and Qualification Improvement of the Staff of the Interior System. The aim of the conception is to establish policies safeguarding proper professional training and qualification improvement of officials, to stipulate the formation of a specialized basis for professional training and qualification improvement of officials. The conception provides for qualification requirements for officials and a system of selection to the interior service.

On 16 July 2004 the Commissar General of the Police of Lithuania approved by the Order No.V-347 the Code on Ethics of the Police Officials, whereat the principles of police officers' professional ethics, provisions of behaviour, intercommunication and requirements of professional ethics for commanding officials are established.

103 police officers took part in the professional development courses "Human Rights and Police Ethics" (8 academic hours) organised by the Training Centre of the Lithuanian Police in 2004. The Training Centre of the Lithuanian Police and the Lithuanian Human Rights Centre also held training "Human Rights in Police Activities. Prohibition of Discrimination" (8 academic hours) in all counties. 228 police officers of various levels participated in the training course.

- *Truncheons to be hidden from the view, if it is necessary for custodial officers assigned to police detention centres to carry them (paragraph 16);*

Special devices may be issued in imprisonment and police detention establishments only in case of necessity. It is emphasised during training and briefings for officers of all levels that special devices should be hidden from the view while in office.

Furthermore, it should be noted that according to the Programme of the Renovation of Police Detention Centres and the Improvement of Conditions of Detention for 2003-2007, the premises of the police custodies will be equipped according to the European Union standards and, consequently, in order to increase safety of both, detained persons and officers, the requirement to carry rubber batons in police detention centres will be renounced.

- *Provide the Lithuanian authorities' 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);*

Prosecutors have the right to control the administrative activities of detention facilities only within the competence of prosecutor's offices when they investigate individual complaints made by detainees. In accordance with the Order of the Prosecutor General No. 96 "Prosecutorial control in ensuring protection of detained and arrested persons against torture and inhuman or degrading treatment or punishment" of 8 June 2001, chief prosecutors of county and district prosecution offices have to ensure that prosecutors, upon receiving information regarding each case of torture or inhuman or degrading treatment or punishment of a detained or arrested person, initiate an inspection at the police detention establishment and, upon identifying any elements of the criminal offence, immediately commence the pre-trial investigation. Paragraph 171.3 of the Regulations of Detention Facilities of Police Stations, approved by Order No. 88 of the Minister of the Interior of the Republic of Lithuania, dated 17 December 2000, prescribes that prosecutors conducting the control of the pre-trial investigation shall be allowed to visit police detention facilities at any time of the day. Pursuant to the requirements set forth in the Regulations, the control of the activities of the detention facilities at police stations conducted by prosecutors shall not be obstructed in any way.

Article 169 of the Code of Criminal Procedure stipulates that, after opening the pre-trial investigation, the prosecutor shall himself carry out all the required actions of the pre-trial investigation or shall accordingly instruct the pre-trial investigation body. Article 170 of the Code of Criminal Procedure provides that in the instances when the pre-trial investigation or its separate actions are undertaken by pre-trial investigation officers, the prosecutor shall monitor the course of the pre-trial investigation, issue instructions mandatory to pre-trial investigation officers and repeal their resolutions that are unlawful or unreasoned. In order to ensure the protection of detainees against torture and inhuman or degrading treatment or punishment, prosecutors may take over the pre-trial investigation from police officers in case of allegations about unlawful actions of police officers with respect to detainees.

- *The necessary measures to be taken to enable persons who allege ill-treatment, or their lawyers or doctors, to themselves request a forensic medical examination (paragraph 20);*

Forensic medical examination for body injuries is assigned by the ruling of the judge (court) of the pre-trial investigation and its results are reported to the relevant participants in the proceedings. Moreover, those persons may submit applications for the questions to be addressed to the expert, for designation of a specific expert, as well as submit an additional material for the examination. The right of the victim (a natural person who had sustained physical, property or moral damage as a result of the criminal act) and his legal representative to submit applications is prescribed by Article 28 of the Code of Criminal Procedure.

The Code of Criminal Procedure states that the lawyer of the detainee has the right to talk to the detainee in private. The number and duration of such meetings is unlimited. Pursuant to paragraph 1 of Article 48 of this Code, the defence counsel has the right to submit requests and the right of challenge. He also has the right to appeal against the actions and decisions of the pre-trial investigation officer, prosecutor, pre-trial investigation judge and court.

- *The measures of criminal investigation to be reviewed with a view to ensuring that the precepts of the CPT regarding officers suspected of ill-treatment against detainees are systematically applied in practice (paragraph 22);*

In accordance with the Regulations of Detention Facilities of Police Commissariats, approved by Order No. 88 of the Minister of the Interior of the Republic of Lithuania of 17 December 2000, prosecutors have the right to supervise the administrative activities in detention centres only when investigating complaints made by detainees within the competence of the prosecutor's office.

Legal acts in force allow detainees to make complaints of ill-treatment against officers of detention facilities to prosecutors. Such complaints are investigated following the provisions of the Code of Criminal Procedure; investigating prosecutors have no links with detention officers suspected of ill-treatment against detainees.

Prosecutors investigate all complaints lodged by detainees, if they allege any elements of a criminal act, irrespective of the nature of the actions of officers of detention facilities (i. e., violent or non-violent). However, a complaint should refer to the elements of a specific criminal offence, because in the presence of disciplinary elements the complaint should be forwarded for investigation to the Police Department or to the leadership of territorial police commissariats.

In case the pre-trial investigation into criminal acts of officers of detention facilities is commenced based on a detainee's complaint, the requirements of the provisions of the Code of Criminal Procedure to conduct the pre-trial investigation within the shortest time possible and to investigate the criminal offence thoroughly are followed. The requirement to "investigate the criminal offence thoroughly" means that all the information about the criminal act has to be collected to the extent possible to obtain by means of the investigations actions specified in the Code of Criminal Procedure, i. e., through interviews of persons, medical investigation by recording injuries, taking of documents and property items, survey and investigation, expert examination, etc.

- *The relevant prosecutors should be always 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);*

Paragraph 194 of the Internal Order Regulations of Remand Establishments and paragraph 252 of the Internal Order Regulations of Correctional Establishments specify that, in those establishments of deprivation of liberty where the access of detained and sentenced persons to personal health care services is restricted (detained and sentenced persons are kept in cells that are always locked), the registration of detained and sentenced persons for visiting health care specialists has to be ensured. The registration is conducted daily by the officer authorised by the director of the respective establishment of deprivation of liberty, the said officer being responsible for the meeting of all registered detained and sentenced persons with the medical specialist.

The aforementioned legal provisions ensure that all detained or convicted persons, in case they were subjected to violence (torture) or any other ill-treatment during their transportation or stay at the establishments of deprivation of liberty, get a medical examination by a medical specialist within the shortest possible time period, proper recording of violence (torture) or any other ill-treatment, notification of such episode to responsible officers of the establishment of deprivation of liberty and to the prosecutor of the regional prosecution office, investigation of the episode by competent institutions and application of the measures provided for by law with respect to the guilty persons.

- *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);*

In the year 2003 the pre-trial investigations have been initiated regarding 169 officials (for 203 criminal acts) out of which:

- officials were found guilty and convicted in 96 criminal cases;
- 8 criminal cases were dismissed upon reconciliation of the official and the victim;
- 38 officials were announced to be under suspicion;
- 4 initiated criminal proceedings were dismissed not having detected the elements of crime or misdemeanour;
- 54 initiated criminal proceedings were dismissed having ascertained that no act having features of a crime or a misdemeanour was committed;
- material on the pre-trial investigation regarding 16 police officials has been forwarded to court and
- the pre-trial investigation regarding 36 officials has just been initiated.

Taking in consideration the above mentioned, it can be stated that in the year 2003 17 officials committed criminal acts and there were criminal proceedings taken against them, 58 criminal cases against officials were dismissed having recognized that they had not committed criminal acts and final procedural decision has not yet been made regarding 94 officials. As some of the criminal proceedings taken against the police officials in 2003 are still pending the judicial order, there is no possibility to state how many police officials were found guilty in committing the offences last year.

Safeguards against ill-treatment of persons detained by the police

- *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);*

Paragraph 4 of Article 140 of the Code of Criminal Procedure stipulates that a member of the detainee's family or another close relative shall be immediately notified about the detention in accordance with the procedure prescribed by Article 128 of the Code of Criminal Procedure, which obligates the prosecutor who participates while ordering the detention to inform one of the family members or close relatives indicated by the suspect about his detention. If the detained person does not indicate any person, the prosecutor shall at his own discretion notify one of the suspect's family members or close relatives, if he can be identified. The prosecutor may relinquish notifying, if the detainee provides a reasoned explanation that such a notification may cause damage to the safety of his family members or close relatives. The suspect shall also be given a possibility to notify his family members or close relatives of the imposed detention himself.

- *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 suspect but also by anyone who is under legal obligation to attend – and stay at – a police establishment (paragraph 27).*

Article 31 of the Constitution of the Republic of Lithuania stipulates that persons suspected or accused of a crime shall be guaranteed the right to defence and legal counsel from the moment of arrest or first interrogation. Accordingly, Paragraph 4 of Article 21 of the Code of Criminal Procedure states that persons have the right of defender from the very outset of their deprivation of liberty or from their initial questioning. The same regulation is applied to the juveniles. If the police officers perform the questioning of the persons in the absence of a lawyer, such procedures could be appealed in order prescribed by the Article 64 of the Code of Criminal Procedure. Paragraph 4 of Article 48 of the Code of Criminal Procedure entitles the defender to participate in all procedures conducted on the suspect. The right to have access to a lawyer is enjoyed not only by the criminal suspects. Article 272 of the Administrative Code stipulates that person is entitled to receive legal aid of a lawyer or other authorized representative. Pursuant to the legal regulation, all persons placed in police custodies or delivered to the police establishments are granted the right of defence from the very outset of their detention in order prescribed by the legal acts.

- *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. The CPT suggest that the Bar Association be consulted in this context (paragraph 27).*

Part 6 of Article 31 of the Constitution of the Republic of Lithuania states that everyone who is suspected of committing of a criminal offence or who is a defendant shall be guaranteed the right to defend himself in person or have a legal counsel from the moment of arrest or his first interrogation. Article 50 of the Code of Criminal Procedure stipulates that the officer of the pre-trial investigation, the prosecutor and the court must explain to the suspect and defendant his right to have a legal counsel from the moment of his arrest or his first interrogation and to provide him with the possibility to use it. In case the suspect or defendant refuses an advocate the record is made in the protocol. If the suspect, the defendant or convict requests, the participation of the advocate is guaranteed by the pre-trial investigator, the prosecutor or the court.

The rendering of legal aid is regulated by the Law on the State Guaranteed Legal Aid, which aimed to improve the existing state guaranteed legal aid system and to implement the requirements of the legal acts of the European Union. On 20 January 2005 the Law on the Amendment of the Articles 50, 51, 103, 104, 106, 118, 361 and 431 of the Code of Criminal Procedure have been adopted and entered into force on 1 of May 2005.

According to Article 21 of the Law on the State-Guaranteed Legal Aid, where the physical presence of a defence counsel in court is required by Article 51 of the Code of Criminal Procedure and in other cases when a suspect, accused or convict requests a defence counsel, a pre-trial investigation officer, prosecutor or the court shall notify the co-ordinator that the suspect, accused or convict requires the defence counsel. Upon the receipt of such a notification, the co-ordinator shall immediately select a lawyer to provide secondary legal aid and notify thereof a pre-trial investigation officer, prosecutor or the court and the Service of the State-Guaranteed Legal Aid.

Co-ordinators mean the lawyers designated by the Lithuanian Bar to assist in organising the provision of secondary legal aid in criminal proceedings. The Lithuanian Bar shall inform courts, the prosecutors' offices and pre-trial investigation bodies about the appointed co-ordinators.

Secondary legal aid is provided by lawyers selected through a competition by the Service of the State-Guaranteed Legal Aid. Pursuant to the Regulations of the competition of lawyers to provide secondary legal aid, lawyers entered on the List of Practicing Lawyers of Lithuania who have a certificate of the right to engage in the lawyer's practice and have been practicing their profession for at least one year have the right to participate in the competition.

In case the participation of a defence counsel is not obligatory, secondary legal aid is granted, if the person's income and property are within the property and income levels defined by the Government.

The State guarantees and reimburses 100 per cent of the costs of secondary legal aid, where a person's property and income is of level 1, and 50 per cent where a person's property and income is of level 2.

In activities of the working group which prepared the draft Law on the State Guaranteed Legal Aid (adopted on 20 January 2005) was also engaged the representatives of the Bar Association.

- *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);*

The work of community nurses of detention facilities, its objectives, rights, duties, and responsibilities of the personal, communication and equipment requirements are regulated by the Lithuanian Medical Standard MN 129:2004 “Medical Stations (Offices) of Detention Facilities of Territorial Police Establishments” approved by Order No. V-8 of the Minister of Health of 19 January 2004 (Official Gazette *Žinios*, 2004, No. 15-473). A community nurse of the medical station shall examine new arrivals, if they consent, and without reference to such a consent if the health status of such a person menace to the health of other persons.

There are also plans to implement the above-mentioned recommendations in other ways, i. e., by drafting amendments to the legislation regulating the activities of local police detention facilities, establishing the procedure and control mechanisms, obligating police officers to record visually visible bruises, scrapes and other indications before admitting individuals to detention centres and later to investigate such information under the prescribed procedure or to forward it to respective bodies.

It should be noted that the results of a medical screening, statements of detainees and medical findings are formally registered by the medical staff.

- *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);*

The leaflet is to be drawn up in the second half-year of 2005 including the information about the person's rights, as from the very outset of his detention, and person's rights introduced in the detention centre and police custody, according to the requirements of the new adopted legal acts.

- *Decisive steps to be taken to prevent “unofficial” contacts between persons claimed and operative police officers without proper authorisation and without leaving a written record (paragraph 30);*

All meetings of police officers with persons held in custody are recorded in appropriate documents. Paragraph 155 of the Regulations of Police Detention Facilities, approved by Order No. 88 of the Minister of the Interior of the Republic of Lithuania of 17 December 2000 (hereinafter – Regulations of Police Detention Facilities) prescribes that detainees can be walked out of their cells for the carrying out of investigation actions only upon a **written request** by the officer who investigates the case. In the absence of such a request, an authorisation to undertake urgent investigation actions may be issued by the head of a respective unit. It is prohibited for officers who do not deal with the case in

question to walk detainees out of their cells in order to conduct investigative actions without a written **permission** of the officer who investigates and is in charge of the case. Executed requests to walk detainees and convicted persons out of their cells and to escort them to meeting rooms are stored in their personal files. The Regulations of Police Detention Facilities also provide that persons held in detention facilities shall be escorted to the hygiene rooms and medical staff the officer (assistant officer) of the detention facility (police station) on duty. Pursuant to paragraph 172 of the Regulations of Police Detention Facilities, detained, arrested and convicted persons are delivered to the respective officers upon a written permission of the investigating officer or the unit chief. The permission is stored in the personal file (in specific cases, when authorised by the officer of the chief police commissariat (police station), who is in charge of the detention service, the walking out of the above mentioned persons may be allowed at any time of the day).

- *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);*

Paragraph 3 of Article 5 of the Law on Pre-Trial Detention (Official Gazette *Žinios*, 1996, No. 12-313) specifies that persons subjected to remand detention (arrest) may be confined in police detention facilities, but only for the period not exceeding 15 days. The same provision is laid down in paragraph 5.2 of the Regulations of Police Detention Facilities. Decisions as to the necessity of conveying a detained, arrested or convicted person from the remand establishment to a police detention facility is made by the pre-trial investigation judge, prosecutor or the court, and in individual cases – by the heads of the Prison Department under the Ministry of Justice or subordinate institutions, the powers whereof are specified in the Code of Criminal Procedure (Official Gazette *Žinios*, 2002, No. 37-1341, No. 46), the Penal Enforcement Code (Official Gazette *Žinios*, 2002, No. 73-3084), the Law on Pre-Trial Detention and in other legal acts.

Paragraph 19 of the Regulations of Police Detention Facilities prescribes that new arrivals are admitted to a detention facility by the head of the detention facility (upon his absence – officer on duty, officer on duty of a police commissariat) who check if there are grounds to admit such persons to the detention facility, interview the new arrival and compare his answers with the data contained in the arrest (decision, ruling, court judgment) or other documents. Persons brought to detention facilities are entered into the registration book of persons of respective categories. The date and time (hours, minutes) has to be indicated on such registration. Persons to be placed in detention cells are searched in the presence of two-three police officers and their personal items are examined. After the search and examination, a personal search protocols is drawn up (paragraph 20 of the Regulations on Police Detention Facilities). The persons brought to the detention facility after a search, interview and sanitary check-up are briefed, and acknowledge by signing, on the internal discipline regulations, explained the consequences of disciplinary violations and are assigned to cells in accordance with the requirements of the Regulations of Police Detention Facilities (paragraph 23) by the head of the detention facility (upon his absence – officer on duty, officer on duty of a police commissariat).

Conditions of detention

- *The cubicles at Kaunas Police Detention Centre to be dismantled immediately (paragraph 36);*

The cubicles were dismantled on 25 February 2004.

- *All necessary steps to be taken to implement, without further delay, CPT recommendations concerning conditions of detention in police detention centres. The strategy for improving conditions of detention should include regular independent inspections of the premises concerned (paragraph 41);*

Paragraph 57 of the Regulations of Police Detention Facilities provides that parcels to persons held in detention facilities are accepted in accordance with the requirements of these Regulations. Applications to hand over parcels shall be completed in two copies. The number of parcels received by convicted persons who have been transferred from correctional establishments to detention facilities for the purposes of another case is noted by the administration on a special sheet of the personal file (paragraph 68 of the Regulations of Police Detention Facilities).

The head of a detention facility (upon his/her absence – officer on duty, officer on duty of a police commissariat) has to ensure that persons detained in a detention facility have a daily hour of outdoor activities, and juveniles and women – twice a day each time an hour of outdoor activities. Outdoor activities can be inaccessible or shortened only due to unfavourable weather conditions and only if there is a report of the medical staff of the detention facility, as well as in the course of eliminating the consequences of emergency events (e. g. escape from the detention facility, suicide, etc.), in complicated situations and extraordinary conditions (natural calamity, fire, etc.). Pursuant to the Internal Discipline Regulations, outdoor exercising takes place during day time under the time schedule prepared by the head of the detention facility, which is in conformity with the requirements for segregating persons of different categories (paragraphs 60-70 of the Regulations of Police Detention Facilities). When necessary, the administration of a detention facility calls in medical specialists from health care institutions to evaluate the health condition of a person detained in custody and to deliver him first aid. In case immediate medical assistance cannot be provided to a detainee at the detention establishment, this person has to be referred to a personal health care institution at the establishment of deprivation or any other personal health care institution, ensuring the supervision of the detainee. A medical specialist who examines and provides medical aid to any person held in detention facilities has to enter the diagnosis and medical aid provided in the medical aid registry (paragraph 83 of the Regulations of Police Detention Facilities).

Paragraph 171 of the Regulations of Police Detention Facilities prescribes that the officer on duty safeguarding the regime of authorisations to the detention facility admits lawyers who have presented an authority card to visit their clients in the investigation room without the presence of any other person and without any restrictions as to the number and duration of the visits. In addition, paragraph 222 of the Regulations of Police Detention Facilities sets forth that, in compliance with the regime of authorisations, the officer on duty of the detention facility (police commissariat) has to allow persons to leave the cells to meet their lawyers when there is a written request to this effect. Under the existing practice, lawyers may arrive in police detention facilities, fill out a lawyer's warrant and a request form for getting the person out of the cell (the form approved in Annex 13 of the Regulations of Police Detention Facilities) and request officers of police detention facilities (operative management units) to bring a detained person for meeting.

Paragraph 143 of the Regulations of Police Detention Facilities specify that persons held in detention facilities are allowed to leave their cells in the following cases: going to investigation room, meeting room, outdoor yard, hygiene room, toilet; meeting medical staff; upon release from the detention facility, during conveying, evacuation; cleaning the cell, during personal searches or moving into another cell; meeting the head of the detention facility upon the person's request or direction of the head; for documenting personal files; going to work. Each time of leaving the cell is recorded in the cell leaving registration book (paragraph 159 of the Regulations of Police Detention Facilities).

It is to be noted that all requests for walking detained, arrested or convicted persons out of their cells to the investigation rooms or meeting rooms are stored in the respective personal files (paragraph 157 of the Regulations of Police Detention Facilities).

In summary, all the above-described provisions prove that all the measures taken during the placement of persons in detention facilities are recorded by making appropriate entries.

- *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));*

Pursuant to the Point 12 of Paragraph 1 of Article 12 of the Law on Remand Detention of the Republic of Lithuania the juveniles placed in police custody are accommodated separately from the adult detainees. Juveniles are being allocated to the cells according to their age, physical and mental development and moral principles. In a few isolated cases, upon receiving the prosecutor's agreement, adult detainees may be placed in the cells of the police custodies at police stations, where juveniles are detained, as it is also stated in the United Nations Convention on the Rights of Children. The CPT's recommendation concerning the providing of the programme of educational activities in the police custodies will be regarded according to the facilities, as the police custodies are not considered as the places of prolonged detention.

- *The CPT trusts that it will receive a copy of the Programme of Renovation of Detention Centres and Improvement of Conditions for Persons Held in Detention Centres for 2003-2007 (Government regulation No. 141 of 29 January 2003) (paragraph 41);*

Attached to the Report (9 pages).

- *Cells at Alytus, Kaunas Centre and Marijanpolė Police Stations to be equipped with a means of rest, and anyone held overnight to be provided with mattress and blankets (paragraph 42);*

80 000 litas were allocated for detention facilities from the funds of the Police Department under the Ministry of the Interior in 2004, which were used to purchase new mattresses, bed sheets, towels.

Pursuant to items 30.2-30.2.6 of the Work Organisation Instruction for Duty Units of Police Institutions approved by the Order No. 278 of the Police Commissioner General of 25 June 2001, persons shall be kept in temporary detention premises for up to 3 hours and in exceptional cases – for up to 5 hours. It is not expedient to provide them with mattresses and beddings in such cases. However, it happens that persons intoxicated with alcohol, narcotic, psychotropic or toxic substances are kept until they sober up. Such persons are provided with mattresses and bedding. Many territorial police establishments have a possibility to transfer such persons to kip houses or personal health care institutions for detoxication in order to ensure proper rest for inebriated individuals and avoid accidents.

It should be noted that the issue in relation to the placing of people in temporary detention rooms only for up to 3 hours or up to 5 hours in exceptional cases in all territorial police establishments will be dealt in the nearest future.

- *Conditions of detention in all police establishments in Lithuania to be reviewed, having regard to the criteria set out in paragraph 32 (paragraph 42);*

In order to improve conditions of detention in police establishments, the Government of the Republic of Lithuania approved by its Resolution No. 141 of 29 January 2003 the Programme of Renovation of Detention Centres and Improvement of Detention Conditions for 2003-2007. The strategic objectives of this Programme are to ensure the fundamental human rights and freedoms of the detainees, provide the detainees with safe and healthy living conditions and the public servants as well as employees with proper work conditions at the detention centres. While implementing this Programme it is planned to open new detention centres, reconstruct and renovate the old lockups at the territorial police establishments, implement the recommendations of international legal acts and international organisations, however, the timely implementation of this Programme depends on the financial capacities of the State.

Two million litas have been allocated for the implementation of the Programme of Renovation of Detention Centres in 2004. These funds have been utilised to reconstruct and equip the detention centres at the police stations of Klaipėda and Panevėžys cities and to prepare construction designs and projects for the new detention centres of Kaunas and Druskininkai Police stations. One million litas has been assigned to implement the Programme of Renovation of Detention Centres in 2005 and the funds will be used for the construction of the detention centre at the police station of Kaunas.

It should also be noted that the renovation of some detention centres has been undertaken under special investment projects. Construction designs and projects of the detention centres of the police stations of Telšiai region and Elektrėnai are underway.

- *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);*

All persons inebriated with alcohol or other substances who are placed in police custodies are provided with mattresses.

It should be noted that paragraph 26 of the Regulations of Police Detention Facilities states that persons holding a medical certificate to the effect that they need treatment in health care institutions and that their placement in the police custody would endanger their life, are not admitted to any police detention facility. If officers of the police detention facility suspect that inebriation with alcohol or toxic substances as well as with powerful medications can endanger the person's life, they can request a medical statement proving that the placement of the person in a police custody will not endanger his/her health and life.

Paragraphs 224.1-224.7 of the Regulations of Police Detention Facilities specify that, upon taking up his duty, an officer of the internal post must, together with the officer on duty, check the persons who need additional care; after taking up the duty, he must sign in the allotment book of detainees attesting that he has been instructed of the peculiarities of the persons under watch during his office hours; not to leave his post in any event until he is replaced by officers on the following shift; to regularly watch the persons in detention cells through the observation opening in the door; to walk noiselessly along the corridor; to announce alarm in case of identifying an attempt to commit a suicide; to ensure that there is light in all watched cells at night; in case of noise in any cell, find out its reasons and inform the officer on duty at the detention establishment (police station) thereabout.

Officers of police detention establishments undergo training on the delivery of first aid.

- *The CPT would like to receive the comments of the Lithuanian authorities on difficulties in coping with the considerable number of temporary placements of intoxicated persons in police stations (paragraph 43);*

The work of community nurses of detention facilities is regulated by the Lithuanian Medical Standard MN 129:2004 “Medical Stations (Offices) of Detention Facilities of Territorial Police Establishments” approved by Order No. V-8 of the Minister of Health of 19 January 2004 (Official Gazette *Žinios*, 2004, No. 15-473). Paragraph 18 of the Medical Standard specifies that a community nurse of the medical station shall examine new arrivals and, if they consent, to assess their health status. Any decision made by the community nurse on the issues of health care of the person shall be binding to the chief and other officers or employees of the detention centre (paragraph 23 of the Medical Standard). If persons placed in police custody establishment admit that they have opiate dependence (asthenia syndrome), they can be transferred, as instructed by community nurses, to the physician licensed to engage in this activity and having the right to detoxicate persons under abstinence status. It should be noted that persons intoxicated with alcohol, narcotic or toxic substances as well as powerful medications cause specific problems. They are subjected to additional monitoring, conveyed to see doctors; they are often aggressive, etc.

The Convoy Division

- *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).*

The recommendation of the Committee to attach a very high priority to the modernization of convoy transport arrangements and to ensure that the cubicles measuring 0.4 m² in convoy vans are no longer used as well as to discontinue the practice of segregating HIV-positive prisoners is being implemented depending on the assign funds. The Police Department under the Ministry of the Interior acquired 7 new convoy vehicles in 2004 (6 vehicles in 2003), which have been equipped with regard to the requirements specified by the Committee. 1.5 million litas were allocated to the Police Department for the acquisition of new vehicles in 2005. A tender for the acquisition of 135 new vehicles, including 44 convoy vehicles, has been announced.

The Prison Department under the Ministry of Justice acquired 5 vehicles in 2004 and 2 vehicles in 2005.

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

The Prison Department under the Ministry of Justice of the Republic of Lithuania according to its competence have drawn up the new regulations of transportation by convoy, which were adopted by the order of the Minister of Justice and the Minister of Interior on 29 July 2005.

- *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).*

The recommendation of the Committee to attach a very high priority to discontinue the practice of segregating HIV-positive prisoners is being implemented depending on the assign funds.

The confidentiality of medical secrets of patients, including HIV positive and AIDS infected persons, is regulated by the Republic of Lithuania Law on Patients' Rights and Compensation for Health Damage. Article 10 of this Law prescribes that any information about the health status, diagnosis, prognosis and treatment of patients, as well as any other personal information about patients shall be confidential even after the patient's death.

All the staff of the health care services of imprisonment and detention institutions have been briefed about the aforementioned law and liability for its violations.

One of the imprisonment institutions (Pravieniškės 1st Correction House) has a special Unit for HIV positive and AIDS infected inmates. The Report of the CPT mentions that "*there is no medical justification for the segregation of a prisoner solely on the grounds that he is HIV-positive*". It should be noted that referral to this unit is only possible when HIV positive or AIDS infected inmates themselves request in writing to be isolated or when there is a decision of the disciplinary commission to keep them in segregation due to their unsafe or careless behaviour. Other HIV positive or AIDS infected convicted persons, in order to ensure the confidentiality of their diseases, are referred to serve custodial sentences to common imprisonment establishments according to the regime imposed by the court.

B. PRISONS

Preliminary remarks

- *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).*

A plan of the expedient usage of the existing material facilities of the custodial establishments has been drawn, and its implementation is started. It should be noted, that on the 1st of May 2003, after the new penal laws came into force the number of inmates convicted for the first time decreased. Consequently, the institutions that were housing this category of prisoners stayed half-empty while the institutions for prisoners convicted for repeated crimes were overcrowded. The wider use is intended of the joint functioning of two or more types of correctional institutions; at the same time the principle of the isolation of the different categories of inmates has to be secured.

The Program of the Renovation of Custodial Places and the Humanization of Conditions of Imprisonment for the years 2004 – 2009 has been approved by the Resolution of the Government of the Republic of Lithuania No. 619, dated 24 May 2004. The reconstruction of the 13 custodial places has been scheduled in it. The implementation of this program would require 81 million 734 thousand LTL. After this program is implemented additionally 1,348 new places for prisoners would be installed, and 630 places would be completely renovated.

It should be also noted, that the new Kaunas Remand Prison with the capacity of 262 places has been built and it was opened on 12 July 2004. This has allowed to reduce the number of the inmates in the Lukiškės Remand Prison.

Ill-treatment

- *The attention of prison officers at Marijampolė Correction Home and Vilnius-Lukiškės Remand Prison to be drawn to the precepts that on the 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).*

Paragraph 2 of Article 120 of the Penal Enforcement Code specifies that special devices may be used taking into consideration the nature of a violation, the offender's personality, specific circumstances and the situation. When using special measures, officers shall seek to avoid serious consequences. Pursuant to paragraph 4 of Article 120, the use of special measures shall be discontinued as soon as there are no more grounds for using them.

The Prison Department arranged two training seminars for the heads of the divisions of the Prison Department and the heads of the administration of the institutions under the jurisdiction of the Prison Department. The subjects covered were: the issues of the penal execution and the security of the fundamental human rights. The first seminar took place on 15 – 16 November 2004 (duration: 12 academic hours), and the second one took place on 17 – 18 November 2004 (duration: 15 academic hours). The heads of the administration of the institutions under the jurisdiction of the Prison Department that participated at the seminar had an obligation to give the benefit of the knowledge acquired at the seminar to their staff.

In 2004 the training seminars on the following issues were arranged at the Training Center of the Prison Department:

- indications of the physical and psychological torture – for medical staff and psychologists of the penal institutions;
- international standards of the treatment of prisoners and the security of human rights in penal institutions. Six one-day training seminars on this subject were arranged. The heads of the guard and security staff and the middle-ranked prison officers attended this seminar.

The concept of the ill-treatment of the remand and sentenced prisoners, its forms and the prosecution for such actions are the issues that are being covered by the introductory course during the training of the newly recruited prison staff.

There is a yearly staff training sessions plan scheduled at every penal institution and approved by the director of the penal institution. The training lasts from October 1 till June 1. One training course is no shorter than 32 hours. The curriculum includes the mandatory subjects of the ill-treatment of the remand/sentenced prisoners and the prosecution for the various forms of such abuse.

- *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).*

Paragraph 2 of Article 114 of the Penal Enforcement Code establishes that the public security forces of the Ministry of the Interior, which are responsible for public safety, and the police can be used in emergency situations at correctional establishments. The procedure for invoking such forces is regulated by the Regulations for Involving the Internal Service (Public Security) Units of the Ministry of the Interior and Police Forces for Guarding and Maintaining Order in Remand Detention Facilities, Correctional Establishments and Custody Houses in Emergency Situations. The Regulations were approved by the Order of the Minister of Justice and the Minister of the Interior No. 101/IV-119, dated 14 April 2003. The Regulations prescribe responsible officers of the prison Department are ordered to the scene of operations, and the operational command is undertaken by the commander of the Internal Service (Public Security) Unit of the Ministry of the Interior or by an officer authorized by the latter.

In the cases when the officers of the public security unit wear masks for their own protection during such operations, the officers have their identification marks.

In respect of the period 2003-2004:

- *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 (paragraph 55);*

In 2003 there were 70 complaints concerning ill-treatment by prison officers lodged with the Prison Department. During the 9 months' period of 2004 there were 51 complaints lodged.

In each case an internal investigation was initiated; a pre-trial investigation started after crime indications have been found.

In 2003 three pre-trial investigations were initiated. Two of them were terminated after no signs of crime have been established. One pre-trial investigation is still in progress.

During the 9 months' period of 2004 three pre-trial investigations were initiated. One of them was terminated after no crime indications have been found. Two pre-trial investigations are still in progress.

- *An account of the disciplinary and/or criminal sanctions imposed following such complaints (paragraph 55).*

No disciplinary and/or criminal sanctions were imposed on the prison staff concerning ill-treatment following the complaints of the prisoners lodged in 2003, as the prison staff involved was found not guilty. As it has already been mentioned above one pre-trial investigation is still in progress.

In 2004 disciplinary sanctions were imposed on 4 prison officers following the complaints of the prisoners lodged: one officer was given an official reprimand, two officers were given severe official reprimands, and one prison officer was discharged. As it was mentioned above, two pre-trial investigations are still in progress.

- *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);*

With a view to preventing inter-inmate violence, Article 70 of the Penal Enforcement Code specifies in what instances inmates can be held separately or in segregation in correctional establishments. The purposes for placing inmates separately or in segregation in correctional establishments, as listed in this said Article, include the following: to isolate the inmates who can influence negatively other inmates due to the offences they committed or their personal characteristics; to help ensuring the supervision and safety of inmates; to help ensuring abidance by the requirements of safety and management of correctional establishments. The above-mentioned Article establishes that men and women, adults and juveniles shall be held in separate premises. The following persons shall be segregated from other inmates within the same correctional establishment or, where possible, directed to other establishments: convicted persons sentenced to imprisonment for the first time; persons sentenced for intentional and negligent offences; sentenced foreigners; former or current state politicians, officers of law enforcement, courts, prosecutor's offices, control institutions, authorities and management institutions; dangerous recidivists sentenced for serious and very serious offences; convicted persons ill with active tuberculosis; persons sentenced for life. If a convicted person who serves the sentence at the correctional establishment requests the administration of the correctional establishment to keep him segregated from other inmates, the director of the establishment has the right to transfer such an inmate to cell-type accommodation areas and keep him either alone or together with other inmates held in the cell-type accommodation areas due to the same reasons.

Moreover, in accordance with the provisions of Article 72 of the Penal Enforcement Code, inmates serving their sentences in correctional houses, with the exception of medical treatment establishments, shall be assigned to ordinary, lenient and disciplinary regime groups.

In addition, in order to eliminate the problem of inter-prisoner violence in penal institutions, special violence prevention programs are implemented. The newly arrived prisoners are put in the living premises separately from other prisoners up to two weeks' period. They are being interviewed by the prison staff in order to define their physical abilities, psychological characteristics, the nature of the crime committed by them and other indications. This is taken into consideration before they are allocated to the dormitories.

It is expected to address this situation more effectively after the large-capacity dormitories are transformed into smaller cells-type accommodations housing 3 – 6 prisoners.

- *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).*

Articles 267 and 268 of the Internal Order Regulations of Remand Establishments and Articles 262 and 263 of the Internal Order Regulations of Correctional Establishments stipulates that an inmate with any type of injuries has to be examined by a member of the medical staff of the remand prison or the correction house and a certificate with a detailed description of the nature of his injuries is to be issued. It also describes the circumstances (based on the statements of the prisoner concerned) under which the injury was made, as well as the place and the time of the incident. The detailed record of the medical findings has to be entered into a special register and reported to the deputy director of the remand prison or the correctional institution responsible for the guard and security of the inmates or, in the case of the absence of the latter – to the officer of the internal investigation department. The fact of the injury of an inmate has to be immediately brought to the attention of the relevant prosecutor in written form by the director of the establishment or his deputy.

- *Alternative arrangements to be found for vulnerable prisoners seeking protection; they should not be subjected to a disciplinary regime (paragraph 61).*

Vulnerable prisoners that feel insecure in the dormitories can be transferred to the cells only in the extreme situations when other measures appeared to be inefficient or cannot be used because of the existing risk of causing harm to the inmate himself. “Other measures” embrace the transfer to different dormitory or different living premises within the same penitentiary facility or even to different establishment. Vulnerable prisoners can be transferred to cellular confinement only after having explained to them that a stricter regime will be applied there (including more limitations), and only after the prisoner concerned requests for this transfer in written form. The time for which the prisoner is transferred to cellular confinement premises is defined by the director of the penitentiary establishment. Whereas this is exclusively preventive measure, the convict is transferred only for the minimum required time, which is necessary to ensure his safety in the penitentiary establishment, until the other way to deal with the arising problems. Such transfer of the convict to the cellular confinement premises is not a disciplinary sanction.

While the prisoner stays in cellular confinement his problems are not being neglected: the prison administration seek to tackle his problem in the way most beneficial for the inmate concerned.

- *The Lithuanian authorities to pursue their efforts to transform the large dormitories at Marijampolė Correction House (and, as appropriate, in other penitentiary establishments) into cell-type accommodation areas (paragraph 62);*

As it was already mentioned before, the Program of the Renovation of Custodial Places and the Humanization of Conditions of Imprisonment for the years 2004 – 2009 has been prepared and approved by the Resolution of the Government of the Republic of Lithuania No. 619, dated 24 May 2004. After the implementation of this program there will be no penitentiary establishments left that accommodate more than 700 prisoners. Also, large capacity dormitories will not exist any more.

Over the 1st half of 2005, the accommodation areas of the Pravieniškės 3rd Correction House were reconstructed. Rooms of three to six beds were equipped for 540 inmates in this establishment. Accommodation started in premises renewed in July 2005. It is intended to relocate most vulnerable inmates, i. e., the disabled and elderly, to this establishment. It is also planned to complete the restructuring of the Kybartai Open Colony into the Kybartai Correction House in 2005. It should be noted that the restructuring of this correctional establishment will provide room for 430 more inmates and, at the same time, will enable reducing the number of inmates in other correction houses.

Material conditions of the general prison population

- *Material conditions at Marijampolė Correction House 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' accommodations; this will involve removing the metal plates covering windows of cells/dormitories at Marijampolė Correction House;*

In October 2004 the renovation of the premises of the incarceration unit at the Marijampolė Correction House was finalized. The metal plates covering the windows were removed; efficient ventilation and heating systems were installed. There are no more premises in any of the penal institutions where the windows are covered with metal plates, or the natural daylight and ventilation is obstructed in any other manner.

- *All prisoners are provided with their own bed, as well as a clean mattress and clean bedclothes;*

All prisoners in every penal institution are provided with their own bed. Bedclothes are laundered and changed at least than once a week.

- *All prisoners have adequate quantities of essential personal hygiene products and are able to take a hot shower at least once a week;*

All prisoners kept in the penitentiary establishments are able to take a shower at least once a week.

The new Standards of Material Provision for the Convicted Persons, Prisoners Serving Arrest, Long-term and Life Sentences, Detainees and Children (Infants) Kept at the Nurseries of the Correction Houses were approved by the Order No. 1R-139 of the Minister of Justice of the Republic of Lithuania on 9 June 2004. According to the new standards both remand and sentenced prisoners are provided with bigger ration of soap, toilet paper and sanitary pads while shaving articles, toothpaste or toothbrushes are not included. Nevertheless, there is a store in every penitentiary institution where prisoners can buy personal hygiene products without limitations. On 21 April 2005, the Seimas of the Republic of Lithuania passed the Law No. X-164 on the Amendment and Supplement of the Penal Enforcement Code and provided that disadvantaged inmates should be paid monthly benefits of up to 38 litas from the state budget.

- *Indigent prisoners are supplied with proper clothing, taking weather conditions into account;*

According to the Law on Detention and the Penal Enforcement Code all prisoners in need of proper clothing and footwear are provided with clothes and shoes (taking weather considerations into account) for free.

- *Occupancy levels in the 7 m² cells at Vilnius-Lukiškės Remand Prison are significantly reduced (paragraph 67);*

When the Kaunas Remand Establishment was opened on 12 July 2004, the overcrowding at the Vilnius-Lukiškės Remand Prison significantly reduced. This institution, with the capacity of 864, accommodated 992 persons in May-June 2005. There were 637 prisoners in the 218 cells in 2004, and 511 – on the 1st January 2005. In the others cells life-sentenced prisoners are held by one or twos. There are also 15 prisoners, who are held by one under the instruction of the officers of the legal institutions.

- *A precise timetable for the completion of the renovation of Marijampolė Correction House and Vilnius-Lukiškės Remand Prison (paragraph 67);*

The renovation of the sanitary facilities (lavatories and washrooms) of the three units at the Marijampolė Correction House is planned in 2005. In the same year the premises of the former Open Prison Colony in Kybartai (as this institution is to be transferred to Pravieniskes in the end of 2004) will be transformed into a correction house. This will result in decrease of the number of inmates at the Marijampolė Correction House. It will also make the transformation of the large capacity dormitories into cell-type accommodation for 3 – 6 inmates possible. The full completion of the renovation of the Marijampolė Correction House is planned in 2009.

In 2004 the roof of the living block No.2 was changed at the Lukiškės Remand Prison-Closed Prison. Also, the cells on the first and the second floors in the left wing of the same building were fully renovated as well as the outdoor activities areas adjacent to the living block No.2. The completion of the total renovation of this part of the Lukiškės Remand Prison-Closed Prison is planned for 2005. In the same year the project of the renovation of the living block No.3 is planned to be ordered. The complete renovation of the Lukiškės Remand Prison-Closed Prison is planned in 2009.

- *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);*

This problem is going to be resolved after the Central Prison Hospital is relocated to Pravieniskes in 2006. Then the former hospital territory and its premises will be attached to the Lukiškės Remand Prison-Closed Prison. There will be better opportunities for the implementation of a comprehensive regime of out-of-cell activities for remand prisoners in 2008 after the new prison in Pravieniskes is opened. It is planned that this establishment will accommodate remand prisoners only.

- *The outdoor exercise areas at Marijampolė Correction House and Vilnius-Lukiškės Remand Prison to be enlarged, in order to enable prisoners to exert themselves physically (paragraph 70);*

The areas for the outdoor activities at the Marijampolė Correction House were expanded during the renovation of the premises of the incarceration unit. The renovation was completed in October 2004.

There is no possibility to expand the outdoor activities areas at Lukiškės Remand Prison-Closed Prison as the establishment is situated in the city center. The facilities for outdoor activities there can only be improved when the number of inmates decreases.

Life-sentenced prisoners at the Lukiškės Remand Prison-Closed Prison

- *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 paragraph 72 to 74 (paragraph 74).*

In order to humanize the conditions of detention of the life-sentenced prisoners the Penal Enforcement Code that came into force on 1 May 2003 provides for the possibility of their transfer to the correction house after having served the initial ten years of their term. There they are able to associate with other prisoners and to be engaged in outdoor activities. During the period from 1 May 2003 till 1 November 2004, 8 life-sentenced prisoners were transferred from the closed prison to the correction house. The life sentence was substituted by the long-term imprisonment for 10 life-sentenced prisoners.

At present it is precarious not to lock up the life sentenced prisoners in their cells at the Lukiškės Remand Prison-Closed Prison in the daytime. In order to ensure the possibility of the engagement of the long-term and life-sentenced prisoners in meaningful activities the prison administration purchased 23 TV sets during the period of 2000 – 2003. The money allocated was from the prison budget. In 2004 radio sets were bought for the indigent prisoners. There is a relaxation room where the prisoners are taken according to the schedule. Prisoners are also engaged in outdoors sporting events – for a couple of hours at least twice a week.

The installation of a new prison in Pravieniskes with the capacity of 420 places has already started. Its opening is planned in 2008. When this prison will start function the problem of association of life-sentenced prisoners with other inmates and their engagement in meaningful activities will be solved.

- *The possibility of having long-term visits to be extended to all sentenced prisoners, including those serving life sentences (paragraph 75).*

Prisoners in the ordinary regime group at the correction houses are entitled to one long-term visit and one short-term visit during three months' period while prisoners in the mild regime group are entitled to one long-term visit and one short-term visit during two months' period. Only prisoners in the disciplinary group are deprived of the right to receive visits. It should be noted that on 21 April 2005 the Seimas of the Republic of Lithuania enacted Law No. X-164 on the Amendment and Supplement of the Penal Enforcement Code, which sets forth the term for which inmates can be relocated to a disciplinary group. Inmates can be transferred to the disciplinary group for the period from six months to one year.

Juveniles in the ordinary regime group are entitled to one long-term visit and one short-term visit during two months' period while juveniles in the mild regime group are entitled to one long-term visit and one short-term visit once a month. The disciplinary group in penitentiary institutions for juveniles does not exist.

Prisoners serving their sentences in the ordinary regime group in a closed prison (also lifetime prisoners) are entitled to one short-term visit during two months' period. With the permission of the director of the prison a spouse or a partner visiting the inmate is able to meet him in a separate room without custodial staff present.

At the moment there is no possibility to increase the number of visits for all categories of prisoners due to the lack of space. Nevertheless, following the legal provisions there is possibility to grant more visits as an incentive. The director of the penal institution can also give his permission for both short-term and long-term visits without any limitations in order the inmates can maintain contacts with the outside world. The practice of incentive visits is widely applied in correctional institutions.

Juvenile prisoners at the Kaunas Juvenile Remand Prison and Correction House

- *Steps to be taken, as a matter of priority, to improve material conditions in the remand block at the Kaunas Juvenile Remand Prison and Correction House, and to complete the other renovation projects at the establishment, in the light of the remarks made in paragraph 77 (paragraph 77).*

The renovation of the living and sanitary facilities at the Kaunas Juvenile Correction House as well as the renovation of the fourth and fifth floors of the incarceration unit of the Remand Prison block was completed by the end of 2004. The renovation of the living premises of the Remand Prison is planned for 2005 – 2006.

- *Steps to be taken, as a matter of urgency, at the Kaunas Juvenile Remand Prison and Correction House (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).*

It is planned to develop and gradually implement a system of group activities for prisoners at the Kaunas Juvenile Remand Prison and Correction House (first in the Correction House, then in the Remand Prison) during the period of 2005 – 2007. The system will include schooling, physical and cultural education, vocational training and social rehabilitation.

Health care services

- *The CPT invites the Lithuanian authorities to consider enhancing the role of the Ministry of Health in the field of prison health care (paragraph 80);*

The Lithuanian legal acts extensively define the scope of competence of the Ministry of Health. The Law on the Health system sets forth the following powers of the Ministry of Health: organise accreditation for health care and the licensing thereof and supervise the activities of all individual and public health care entities of all types of ownership; this authority is effective with respect to the health care services subordinate to the Prison Department.

Paragraph 1 of Article 174 of the Penal Enforcement Code specifies that the personal health care at correctional and detention facilities shall be organised and administered in accordance with the health care legislation of the Republic of Lithuania. Paragraph 4 of this Article states that the health care of persons serving the punishments of detention, fixed-term imprisonment and imprisonment lifelong are organised by the *Ministry of Health*.

- *A very high priority to be accorded to the implementation of the plan of relocating the Prison Hospital to already existing premises at Pravieniskes (paragraph 81).*

The decision to relocate the Prison Hospital to Pravieniskes has already been made. It was approved by the Government of Lithuania (the Program of the Renovation of Custodial Places and the Humanization of Conditions of Imprisonment for the years 2004 – 2009, Article 19.4). The premises will be adjusted in 2005, and the opening of the Central Prison Hospital in Pravieniskes is planned in 2006.

- *Detailed information on the progress made in the renovation of the Forensic Psychiatric 'Expert Division' at Utena (paragraph 81);*

The reconstruction works of the Expert Division at Utena were finished in March 2005. Renovation of Expert Division in Utena was carried on according to the specially produced technical project for the building reconstruction. The wards and other premises were reconstructed in pursuance of improvement of conditions for keeping of detainees and work of personnel. 6 one-place, 6 two-place and 2 three-place wards were equipped. It will be possible to have 24 persons at one time. Every ward is equipped with a washroom and a hand basin. The reconstruction was carried on in the doctor's and procedural cabinets, shower-baths of detainees, premises for visits, walking yards, stockrooms and elsewhere. The renewed Expert Division at Utena is already functional.

- *A wider range of activities to be offered to patients at the Prison Hospital, especially those staying there for prolonged periods (paragraph 82).*

This problem will be dealt with after the relocation of the Central Prison Hospital to Pravieniskes. There are remedial workshops and prison school at the correction house with medical treatment that is going to house the Hospital, and the territory is ample. So there is a good chance to offer a wider range of activities to the patients staying there for prolonged periods.

The administration of the present Prison Hospital plans to acquire more table games, sports equipment and reading material.

- *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 Penal Enforcement Code provides that indigent patients are supplied with proper clothing, taking weather conditions into account.

- *The level of care offered to prisoners undergoing in-patient 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).*

According to Order No.1-1 issued on 6 January 2005 by the Director of the Central Prison Hospital several new specifications were included into the job description of a social worker and a senior specialist of the psychiatric group that are entitled to take care of the patients at the Psychiatric Division of the Central Prison Hospital. A social worker has been assigned to examine the relationship of a patient with his (her) family members, to define which one of them is capable of making a positive influence upon the patient and assisting him (her) best in maintaining this positive relationship. The functions delegated to a psychologist include both the treatment and the correction of the behavior of the patients, their consultations on the subject of the dependence diseases, also the involvement in the religious ceremonies of those patients who are willing to do so.

- *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).*

Patients at the Central Prison Hospital after having undergone a forensic psychiatric examination are provided with appropriate treatment without delay. A patient can be transferred to a community hospital only with the permission of the Court.

Since July 2004 forensic psychiatric examinations are not carried out at the Central Prison Hospital.

- *A special register for recording the use of the restraint bed at the Prison Hospital to be established (paragraph 86).*

A special register for recording the use of the restraint bed at the Psychiatric Department of the Central Prison Hospital is established and the recordings are made there in accordance with the Order No.1-51 of the Prison Hospital director of 24 December 2004 confirming the order for the restraint of the patient to the bed.

- *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);*

Means of restraint, the fixation of the patient in the lying or the sitting position when he is in the state of disturbed consciousness or psychosis are used before the medication has its effect. The patient is carefully watched by the medical staff throughout the whole period of fixation. The doctor that decided to use this measure is to enter the recordings about the motives for the use of this measure, the time it was started and terminated into the patient's personal medical history.

- *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 hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers (paragraph 88)*

Article 252 of the Internal Order Regulations of Remand Establishments and Articles 194 of the Internal Order Regulations of Correctional Establishments stipulates that a member of custodial staff of the same sex as the prisoner concerned could be present during the examination of the patient on his arrival only when the doctor requests that. This means that the decision whether a prison officer stays during the medical examination of a prisoner lies with the medical staff, and they are responsible for the confidentiality. Medical staff is additionally informed about the necessity to guarantee the confidentiality of the medical examination, evidences of the possible breach of the confidentiality and their liability for this.

- *Steps to be taken, as a matter of priority, to ensure (paragraph 92):*
 - *that the vacant posts among health-care staff in the prison visited are filled;*
 - *the regular presence of a psychiatrist at the Marijampolė Correction House;*

The administration of the Marijampolė Correction House seeks for a suitable candidate – a psychiatrist – to take the vacant position. As long as this position is vacant the Head of the Health Care Division provides the psychiatric services for the inmates: he has the license of doctor of a general practice. When there is a need for a psychiatrist's consultation the patient concerned is taken to the Central Prison Hospital.

- *that the presence of the dentist is increased at the Kaunas Juvenile Remand Prison and Correction House and at the Marijampolė Correction House;*

At the Marijampolė Correction House the health-care staff includes a full-time dentist; at the Kaunas Juvenile Remind Prison and Correction House the working hours of the dentist are adjusted in order to better suit the needs of the inmates. Earlier the dentist at the Kaunas Juvenile Remand Prison-Correction House used to receive patients 2 times per week, now he does so 3 times per week. His working hours are from 3 p.m. to 9 p.m. on Mondays and Thursdays and from 8 a.m. to 1 p.m. on Tuesdays. It is planned to install a dentist's room in the Juvenile Remand Prison in the first half of 2005. That will improve the quality of the dental service provided to the prisoners on remand – there will be no need to escort them to the Correction House. All the necessary equipment has been received as a charity and its installation is nearly over.

- *that two additional full-time psychologists are employed at the Lukiškės Remand Prison–Closed Prison;*

Three additional positions of full-time psychologists are added to the staff of the Psychologists' Service at the Lukiškės Remand Prison-Closed Prison. Two psychologists have already started working there while a tender to apply for the position of the Head of the Psychologists' Service has been announced. Three full-time psychologists are sufficient for the prison with the occupancy level of 1,000 inmates. All the three specialists were employed at the Psychologists' Service of the Lukiškės Remand Prison-Closed Prison during the 1st half of 2005.

- *that a qualified nurse is always present at the Lukiškės Remand Prison, including at night and weekends;*

Qualified medical staff at the Lukiškės Remand Prison-Closed Prison is present at weekends. As long as the Central Prison Hospital is in the closest neighborhood of the Lukiškės Remand Prison-Closed Prison (practically, they are sharing the same territory) it is pointless to have medical staff at the Prison at night: there is an agreement between the two institutions made that at night qualified medical service will be provided to the Prison inmates by the medical staff of the Hospital. After the Central prison Hospital is relocated to Pravieniskes steps will be taken, as a matter of urgency, to ensure the presence of the medical staff at the Lukiškės Remand Prison-Closed Prison at night.

- *The X-ray machines at the Marijampolė Correction House and Vilnius-Lukiškės Remand Prison should be replaced as soon as possible (paragraph 93);*

It is planned to purchase an X-ray machine – a mobile unit - in 2006. Then it will become possible to use this equipment in several penal institutions, including the Marijampolė Correction House. The Lukiškės Remand Prison-Closed Prison will receive the X-ray machine that belonged to the Central Prison Hospital, as the Hospital will be relocated to Pravieniskes.

- *Steps should be taken at the Marijampolė Correction House to ensure that prisoners are able to consult a doctor without undue delay (paragraph 94).*

Prisoners are always able to consult a doctor during their working hours. After the doctors' working hours, a qualified medical nurse is always present. In emergency cases an inmate is escorted to the Marijampolė Community Hospital or the Central Prison Hospital without delay.

- *Steps to be taken at the Kaunas, Marijampolė and Vilnius-Lukiškės establishments (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).*

Prison doctors enter the recordings of their conclusions on the medical findings into standard forms of the medical documentation that was approved by the Minister of Health Care of the Republic of Lithuania. The doctors must fill in all the columns in the above-mentioned forms and enter the final diagnosis. The requirement for keeping the proper records is monitored by the head of the health care department of the penal institution, Medical Division of the Prison Department and the Audit Office of the Ministry of Health Care of the Republic of Lithuania.

According to the provisions of the Law on the Rights of Patients and Restitution of Harm in the Republic of Lithuania the persons entitled to receive entire information concerning the state of health, the diagnosis, the treatment and prognoses are: the patient himself, unless there is a danger to his life, or his legitimate representatives (parents, foster-parents, tutors, guardians) or an assigned representative. Medical staff at the health care departments of prisons is obligated to stick to these regulations unconditionally while delivering any information.

- *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).*

According to the Articles 267 and 268 of the Internal Order Regulations of Remand Establishments and Articles 262 and 263 of the Internal Order Regulations of Correctional Establishments, an inmate with any type of injuries has to be examined by a member of the medical staff of the remand prison or the correction house and a certificate with a detailed description of the nature of his injuries is to be issued. It also describes the circumstances (based on the statements of the prisoner concerned) under which the injury was made, as well as the place and the time of the incident. The detailed record of the medical findings has to be entered into a special register and reported to the deputy director of the remand prison or the correctional institution responsible for the guard and security of the inmates or, in the case of the absence of the latter – to the officer of the internal investigation department. The fact of the injury of an inmate has to be immediately brought to the attention of the relevant prosecutor in written form by the director of the establishment or his deputy. Following the provisions of the Law on the Rights of Patients and Restitution of Harm in the Republic of Lithuania, the Court, a commission or any other state institutions that are entitled to it (including the Prosecutor's Office) have the right to get acquainted with the inmate's medical records. Everyone in the penal institutions is to follow these provisions unconditionally.

- *Steps to be taken to ensure that all newly-arrived prisoners are systematically screened for hepatitis C (paragraph 96).*

At the moment, due to the shortage of financial means, only the inmates with the clinical symptoms characteristic to hepatitis C are screened for hepatitis C.

- *It would be desirable if information about transmittable diseases were also provided in written form (e.g. leaflets), in Lithuanian and other languages frequently spoken by prisoners (paragraph 97).*

Written information about most frequent transmittable diseases (TB, influenza, intestine infections, HIV/AIDS, hepatitis) is sufficient at the penal institutions. In 2005 the material about transmittable diseases will be printed in the Russian language as well.

- *A comprehensive program 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).*

On 30 January 2004 the Minister of Justice of the Republic of Lithuania by the Order No.1R-27 approved the Concept of Drug Prevention and Drug Control in Penal Institutions. The Prison Department implements the provisions of the Concept and once a year reports to the Minister of Justice and the Drug Control Department at the Government of Lithuania. A yearly action plan of drug prevention and drug control is prepared at every penal institution and is approved at the Prison Department. This document introduces the targeted programs and their implementation.

The drug prevention and drug control program at the penal institutions is carried out in two directions.

1. The prevention of drug smuggling into the penal institutions.
2. Education and medical treatment of inmates (detoxication of the abstainers).

- Measures planned and applied in the first field, i.e. seeking the prevention of drug smuggling:
- purchasing of the new "Rapiscan" introsopes for the detection of the hidden articles including drugs; the equipment was purchased for the Alytus Correction House, the Marijampole Correction House and the Kaunas Remand Prison;
 - installation of the special room for the check of the persons both entering and leaving the territory of the Marijampole Correction House; also, the installation of 25 meters of the wire "catchers" (special net for catching of the forbidden articles that could be thrown over the wall and into the territory of the correction house) above the perimeter of the Marijampole Correction House;
 - development of the cooperation with the police in the field of the exchange of the relevant information and sharing good practice of the fight against drug smuggling; also, arranging of the police patrol in the most dangerous (from the point of view of tossing forbidden articles over the wall) spots outside the perimeter of the territory of the correction houses;
 - On 21 of April 2005 the Parliament of the Republic of Lithuania adopted a Law on the Adjustments to the Penal Execution Code prepared by the Prison Department. The law provides for the cancellation of the right of the sentenced prisoners to receive deliveries both by post or those handed at the penal institutions. It also provides for the monthly payment to the indigent prisoners for the acquisition of the everyday use articles. The goal to be achieved is the reduction of the quantity of the forbidden articles including drugs that are being smuggled into the penal institutions. It is planned that this Law will enter into force on 1st January 2006.

Measures planned and applied in the second field (education of prisoners and their medical treatment):

- the implementation of the program named "The Crisis Center" at the Kaunas Juvenile Correction House. During the year 2004, 36 prisoners participated in this program. The objectives of the program were to assist the prisoners in avoiding dependence diseases and teaching them cognitive skills;
- in December 2004 the Kaunas Juvenile Remand Prison – Correction House and the Lithuanian AIDS Center signed the agreement of cooperation in the sphere of education of the inmates on the issues of drug prevention and the spread of communicable diseases;

- information of the newly arrived inmates on the risks related to the drug use; distribution of the reading material on HIV/AIDS and drug prevention among them;
- the drug-free groups of inmates are formed in the six penal institutions (the Alytus Correction House, the Panevezys Correction House, the Pravieniskes Correction Houses No.1, No.2, No.3 and the Vilnius Correction House No.2) for those who are willing to stop taking drugs. The inmates that had voluntarily confessed of their drug addiction and eager to start their treatment stay in such groups separately from the rest;
- the approval of “The Rules of the Formalization of the Prisoners’ Medical Examination for the Definition of the Degree of Inebriety or Intoxication” by the Order of the Director General of the Prison Department.
- The contest of the inmates’ posters and paintings on the subject of drugs and HIV/AIDS in 2004. After the contest the catalogue of the best works has been published;
- the information booklet titled “It Is Worth Knowing” on drugs communicable diseases transmitted via blood or sexual contacts published in 2004;
- an anonymous survey was carried out among the prisoners of the three penal institutions (the Alytus Correction House, the Marijampole Correction House and the Vilnius Correction House No.2). The total number of respondents was 994 inmates. The goal of the survey was to find out the opinion of the inmates about the real degree of spread of drug use at the penal institutions and also, their attitude towards the harm reduction (needle exchange) program;
- in August – September of 2004 a questionnaire was distributed among the custodial staff and the inmates of the Alytus Correction House, the Marijampole Correction House and the Vilnius Correction House No.2. The objective of the questionnaire was to find out their attitude towards the harm reduction (methadone) program;
- drug addicts undergo their treatment in the Psychiatric Division of the Central Prison Hospital. The duration of the treatment there varies from 2 to 4 weeks. The core and the purpose of the treatment is the assistance to a drug addict going through the state of abstinence, the support of their efforts to give up drugs and to steer their conscience in the direction of the drug-free life. While in the Central Prison Hospital such patients are being dealt with individually and later, such individual treatment is continued by a psychiatrist at the correction house;
- the Lukiskes Remand Prison-Closed Prison and the Vilnius Correction House No.2 maintain close relationship with the international non-governmental organization KRIS (Criminals Return Into Society);
- the administration of the Vilnius Correction House No.2 arrange meetings of their former inmates which attended rehabilitation classes for drug addicts during their stay at the correction house and lead the drug-free life after the release;
- the Training Center of the Prison Department arranged two seminars (qualification upgrade courses) on the drug prevention for the custodial staff;
- a doctor of the Medical Division of the Prison Department participated in the international conference on “Drug use and the practice of harm reduction programs in prison” that took place on 19 – 27 October 2004 in the Netherlands.

- *Detailed information on the suicide prevention program that has recently been developed by the Lithuanian prison administration (paragraph 99).*

The Government of Lithuania approved the Suicide Prevention Program for 2003 – 2005 by its resolution No.451 on 10 April 2003. Following the provisions of this Program the Prison Department is obligated to prepare and implement the programs of adaptation, integration and re-socialization of prisoners.

In 2004 the Standard Program of Prisoners' Adaptation was approved by the Prison Department Director. Prevention of suicide and self-aggression is one of the constituents of this Program.

In October – November 2004 a survey concerning the causes leading to suicides or self-aggression was carried out. More than 1,000 inmates in the eight penal institutions filled in the questionnaire. On the basis of the information collected, the Standard Program of Prevention of Suicide and Self-Harming is being finalised.

- *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).*

As it has already been mentioned before, the doctor concerned determines the presence or the absence of the custodial staff during the medical examination of a prisoner, as he takes the responsibility for the medical confidentiality. Medical staff is additionally informed about the necessity to guarantee the confidentiality of the medical examination, indications of the possible breach of the confidentiality and their liability for this.

Other issues

- *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).*

The Strategy of the Training of the Staff of the Prison Department and the Institutions under the Jurisdiction of the Prison Department was approved by the Prison Department Director on 16 January 2004. Continuous training and upgrade of qualifications of the staff has been planned there. The Training Center of the Prison Department as well as other educational institutions is involved in the implementation of this Strategy. The financial means allocated yearly to the staff training are no less than 1 percent of the assigned wages-fund. The Prison Department and the Training Centre of the Prison Department arranged 54 different seminars, including 9 seminars for the development of general communication skills, during the 1st half of 2005.

- *An immediate end to be put to the practice of obliging prisoners to face the wall when staff or visitors pass by (paragraph 101).*

No legal act provides for such an obligation. Prisoners could be told to face the wall only in the exceptional cases: when the security of prisoners themselves, or the staff members, or other persons is concerned.

- *If it is considered necessary for prison officers to carry them, batons to be hidden from view (paragraph 102).*

Special devices may be provided only when there is an urgent need for that. During all kinds of training sessions and briefings for the prison officers on all levels it is emphasized that those special devices should be hidden from view while on office.

- *Steps to be taken to ensure that all prisoners subject to the disciplinary sanction of solitary confinement at the Marijampolė Correction House are in fact allowed access to reading matter (paragraph 104).*

Prisoners are entitled to this right according to the provisions of Article 146 of the Penal Enforcement Code and this right is ensured in all penal institutions.

- *Steps should be taken to ensure that prisoners subject to solitary confinement at the Marijampolė Correction House have access to writing material and envelopes for lodging an appeal during their placement in a punishment cell (paragraph 105).*

All prisoners placed in the punishment cell after the enforcement of a disciplinary sanction on them are entitled to send letter and lodge complaints in all penal institutions.

- *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 organized, if necessary, within the confines of the detention unit (paragraph 106).*

The Penal Enforcement Code prescribes the term of disciplinary sanction – the transfer to the disciplinary group – i.e. for a period from 6 month to one year was placed. The increase of the access to the telephone for the inmates assigned to the disciplinary group of the correction house and entitled to phone calls for the inmates assigned to the disciplinary group in prison is also foreseen. Besides, there is radio installed in the living premises of the disciplinary group.

- *The “calming-down cells” at the Kaunas Juvenile Remand Prison and Correction House 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 that 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 former “calming-down cells” at the Kaunas Juvenile Remand Prison and Correction House is out of use from the summer of 2004, from the December the new specially equipped premises which contains the special restraint bed, are in use. In the Lukiškės Remand Prison “calming-down cells” are taken out of service from May 2004, although it should be noted, that they were not used for a longer time. It is planned to acquire special restraint devices that would be used exceptionally in the facilities equipped considering the CPT recommendations.

- *The entitlement to visits of sentenced prisoners to be further increased, so as to ensure that all prisoners could 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 favorable (paragraph 108).*

As it was mentioned before, the majority of prisoners (assigned to the ordinary regime group) are entitled to visits by family members once per month and a half. Prisoners compliant with the rules of the penal institution (the ones assigned to the lenient regime group) are entitled to visits by family members once a month. For juveniles the number of visits is doubled. There is no possibility to increase the number of family visits to all categories of inmates due to the lack of premises. When it is absolutely necessary to have a visit by family members or such visit is indispensable in order to maintain social relations of the prisoner the director of the penal institution has the right to authorize additional visits without limitation.

- *The current arrangements concerning visits for remand prisoners to be review, in the light of the remarks made in paragraph 109 (paragraph 109).*

Following the provisions of Article 16 of the Law on Detention remand prisoners could be entitled to the visits only having received consent of the relevant pre-trial investigator or the Court. All complaints on that issue are only regarding the actions of the investigators or the Court, not the prison administration.

- *The Lithuanian authorities are invited to explore the possibility of granting remand prisoners access to telephone; if there is a perceived risk of collusion, a particular phone call could always be monitored (paragraph 110).*

The draft project of the new issue of the Law on Detention is now under preparation and the question on the entitlement to remand prisoners to phone calls will be taken into consideration.

- *Immediate steps to be taken at the Kaunas Juvenile Remand Prison and Correction House and the Prison Hospital (and, if appropriate, in other prison establishments in Lithuania) to withdraw from service the very small waiting cubicles (paragraph 111).*

The very small waiting cubicles at the Central Prison Hospital have been already withdrawn from service. This type of premises at the Kaunas Juvenile Remand Prison and Correction House are being renovated into larger ones, normally lit and ventilated rooms. Such premises are non-existent in other penal institutions.

- *A system of visits to prison establishments to be introduced in the Lithuania prison system, taking into account the remarks in paragraph 113 (paragraph 113)¹;*

Pursuant to paragraph 2 of Article 4 of the Law on Seimas Ombudsmen, the Seimas Ombudsmen are independent of other institutions. Article 19 of this Law provides that Seimas Ombudsmen, having produced their certificate, may enter establishments of deprivation of liberty at any time of the day unrestrictedly meet and interview persons present in the premises. Pursuant to Article 13, Seimas Ombudsmen investigate written complaints if he believes that his rights and freedoms of the inmate have been violated. If a complaint is received verbally, by telephone or if the Seimas Ombudsman establishes from the mass media or other sources the presence of elements of abuse of office by the officers instances or of violation of human rights and freedoms, the Seimas Ombudsman may open investigation into the matter on his own initiative.

¹ The Law on Children's Rights Ombudsman provides that Children's Rights Ombudsman shall investigate complaints on state, governmental authorities, local administration, their officers, non-governmental-organizations and other individuals or legal persons whose actions or inaction violate or may violate general rights and fundamental freedoms of a child. Article 13 of this Law provides for the right of the Children's Rights Ombudsman to start investigation on his/her own initiative having information about violations of the provisions of the general rights of the child as well as the right to have free access to all public institutions, non public institutions for children and to get information about their activity.

Pursuant to Article 13 of the Law on Equal Treatment, complaints regarding the violation of the Law on Equal Treatment shall be filed with the Equal Opportunities Ombudsman.

C. KAUNAS PSYCHIATRIC HOSPITAL

Living conditions

- *High priority to be accorded to the plan mentioned in paragraph 118 to relocate the hospital (Paragraph 118);*

According to the Developmental Council of Kaunas Region decision No.8 “Regarding the Approval of the Plan of 2003-2005 for Restructuring of Kaunas Region Health Care Establishments”, it has been projected to relocate the subdivisions of Kaunas Psychiatric Hospital from the building in Muitinès street 2 to premises in Dariaus and Girėno street 48 during 2004 – 2005, after obtaining the necessary funds.

- *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 (Paragraph 118).*

According to the Paragraph 27 of Order No.64 “Regarding the Supplement of the Rulebook” of 22 November 2004 of the director of Kaunas Psychiatric Hospital all patients at Kaunas Psychiatric Hospital take a hot shower not less than once a week. If necessary, a possibility to have showers more frequently is provided.

- *Patients must be allowed to wear their own clothes during the day or be provided with appropriate non-uniform garments (Paragraph 119).*

According to the Paragraph 26 of the above mentioned Rulebook all patients are allowed to wear their own clothes during the day.

- *Steps should be taken to ensure that all patients in closed sections 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).*

Patients in closed sections whose state of health permits are provided a possibility to stay outside any time of year. The staffs of departments are obliged to provide patients with suitable outdoor clothing.

Patients who are treated at the hospital on an involuntary basis as a result of committed acts dangerous to public and whose state of health permits have a right to at least one hour of outdoor exercise per day in the territory of the hospital in the company of the staff.

According to the Paragraph 29 of the above mentioned Rulebook the order of outdoor exercise is established in every section of the hospital and approved by the head of the section.

Staff and treatment

- *Increased efforts should be made at Kaunas Psychiatric Hospital to develop psycho-social rehabilitation for patients accommodated in the hospital's main building (Paragraph 122).*

Psycho-social rehabilitation is being developed at Kaunas Psychiatric Hospital following special requirements for providing medical rehabilitation services to adults, approved by the Order No.V-444 "Regarding the organization of medical rehabilitation and sanatorium treatment" of 11 July 2003 of the Minister of Health Care of the Republic of Lithuania and following the Order of application of psycho-social rehabilitation, approved by the order No.67 of 7 August 2003 of the Director of Kaunas Psychiatric Hospital.

There are a sufficient number of personnel at the establishment. There are also separate premises for occupation activities (music, painting, ceramics, and needlework). The hospital staff includes a music teacher, occupation organizers, and social workers. After the restructuring of the hospital it will be possible to improve the psycho-social rehabilitation of patients.

- *Steps should be taken (including, if necessary, amendment of the Mental Health Act) so as to distinguish clearly, with regard to remarks made in paragraph 123, between the procedure for involuntary placement in a psychiatric institution and the procedure for involuntary psychiatric treatment (Paragraph 123).*

Article 16 of the Mental Health Act establishes that psychiatric treatment can not be proposed without a patient's consent except for cases when patients are admitted to psychiatric hospital on an involuntary basis. Following the aforementioned article of the Act, involuntary psychiatric treatment shall be proposed to patients upon their admission to psychiatric hospital on an involuntary basis. Following Articles 28 and 36 of the afore-mentioned Act and seeking to distinguish clearly between the procedures, the management of Kaunas Psychiatric Hospital applied to the Kaunas district court with its letter No.V6-2425 of 13 October 2004, requesting to include words "and treatment" into the ruling regarding involuntary placement in a psychiatric institution.

- *All 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 (Paragraph 124).*

Following the Order No. 571 "Regarding Provisions of Local Medical Audit" of 6 October 1998 of the Minister of Health Care of the Republic of Lithuania, the director of Kaunas Psychiatric Hospital, by the Order No. 67 of 7 August 2003, approved the Quality System documents, regulating the order of patients' provision with information about their condition, the proposed treatment throughout the period of treatment and the results of treatment. Patients are provided with information following the established order.

Safeguards

- *Lithuanian authorities should review the procedures for involuntary placement in psychiatric hospitals, in the light of the remarks made in paragraphs 128 to 132 (Paragraph 133),*
- *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;*

The persons who committed acts dangerous to the public may be ordered a psychiatric examination by the court. Forensic psychiatry examination shall be conducted in accordance with the Law on Forensic Examination of the Republic of Lithuania. Article 18 of the Law specifies that such examination may be conducted by an independent (private) expert.

The persons recognised as legally incapacitated by the court and ordered compulsory medical treatment by the court (outpatient or inpatient treatment under conditions of general, strengthened or strict observation) shall have the right to appeal against the court order under Article 404 of the Code of Criminal Procedure of the Republic of Lithuania. When imposing compulsory medical treatment upon incapacitated persons, the court shall not specify the length of such measure; it shall be applied until the person recovers or his mental condition improves and dangerousness ceases to exist. In accordance with Article 405 of the Code of Criminal Procedure, the court shall, based on the findings of the health care institution, decide on prolonging, varying the type of or discontinuing the compulsory medical treatment of incapacitated persons at least once every 6 months. The court may request the presence of the person whose compulsory medical treatment is being prolonged, varied or discontinued to the court hearing. The court itself is obligated to control such compulsory medical treatment, therefore, each person under compulsory treatment (or his representative) shall have the right to request the court to have the conclusion on his mental condition and social dangerousness submitted to the court by other specialists (private practice doctors psychiatrists, forensic psychiatry experts, etc.) rather than the institution where he undergoes the treatment.

Compulsory treatment in civil proceedings is ordered in accordance with the provisions of Article 2.26 of the Civil Code of the Republic of Lithuania and Article 27 of the Law on Mental Health Care of the Republic of Lithuania. In principle, the person subjected to compulsory medical treatment or his representative may apply to the court with the request to have his mental condition and necessity for compulsory medical treatment as well as the prolongation of such treatment assessed by other experts independent of the respective hospital.

- *Patients who are admitted to psychiatric hospital on an involuntary basis have the effective right to be heard in person by the court during placement or appeal procedures;*

Following Article 22 of the Mental Health Act of the Republic of Lithuania a patient or his representative have a right to participate and to be heard in person by the management of the psychiatric institution, the Ministry of Health Care and the court when issues of his involuntary placement and involuntary treatment or other issues are being decided.

- *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;*

According to the Paragraph 20 of Order No.64 “Regarding the Supplement of the Rulebook” of 22 November 2004 of the director of Kaunas Psychiatric Hospital Patients placed in a psychiatric institution on an involuntary basis are informed about the court decision upon delivering a copy of the court decision on receipt.

- *Indigent patients benefit from free legal representation and are exempted from court fees incurred in the context of review and appeal procedures;*

Point 2 of Paragraph 1 of Article 51 of the Criminal Procedure Code of the Republic of Lithuania provides for free legal representation to persons who can not exercise their right to defence due to mental disorder. In cases when a suspect, defendant or convict have not called for the defender themselves or the defender was not called by other persons assigned to do it for them, the pre-trial investigator, prosecutor or the court ought to do it. According to the Paragraph 8 of Article 44 of the Code of Criminal Procedure, the suspect not having enough finances to pay the defender is entitled to receive free legal aid under the order provided in the Law on the State Guaranteed Legal Aid. Article 99 of Chapter VIII “Litigation Costs” of the Code of Civil Procedure establishes that persons entitled to the State-guaranteed legal aid shall be provided with such legal aid in cases and under the procedure prescribed by the Law on State-Guaranteed Legal Aid.

- *Patients themselves are able to request at reasonable intervals that the necessity for their continued placement is considered by a judicial authority (Paragraph 133);*

Following Article 22 of the Mental Health Act of the Republic of Lithuania a patient or his representative have a right to participate and to be heard in person by the administration of the psychiatric institution, the Ministry of Health Care and the court when issues of his involuntary placement and involuntary treatment or other issues are being decided.

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

There is a non-governmental organization “Geneva’s Initiative in Psychiatry” (“Ženevos iniciatyva psichiatrijoje“) operating in Lithuania which carries out different projects in the field of psychiatry and it has formed a permanent working group for supervision of human rights in psychiatric institutions. The working group consists of lawyers, defenders of human rights, representatives of non-governmental institutions and other specialists.

- *Comments on issues raised in paragraph 136 (Paragraph 136).*

Without reference to the fact whether a patient has been placed into a psychiatric hospital involuntarily or voluntarily, a doctor proposes individual medical and nursing regimen. Subject to a patient's psyche state, the imposition and change of a regimen in the process of treatment has to be motivated in the medical history in every case.

- *Lithuanian authorities should look for alternative solutions which would better guarantee the independence and impartiality of guardians (Paragraph 137);*

A non-governmental organisation Public Enterprise "Geneva Initiative on Psychiatry" currently active in Lithuania carries out various projects in the area of psychiatry. It has formed a permanent working group of lawyers, human rights activists, representatives from non-governmental organisations and other professionals in order to monitor human rights at mental hospitals.