CPT/Inf (2014) 19

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 27 November to 4 December 2012

The Lithuanian Government has requested the publication of this response. The report of the CPT on its November/December 2012 visit to Lithuania is set out in document CPT/Inf (2014) 18.

Strasbourg, 4 June 2014

Response of the Lithuanian Government to the requests for information and recommendations made in paragraphs 26, 27 and 28 of the visit report

LIETUVOS RESPUBLIKOS TEISINGUMO MINISTERIJA
MINISTRY OF JUSTICE OF THE REPUBLIC OF LITHUANIA

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Data have been accumulated and stored in the Register of Legal Entities, code 188604955

Mr. Lətif HÜSEYNOV,
President of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

2013-11-04 Ref. No(1.39)7R-7767

Copy:
Permanent Representation of Lithuania to the Council of
Europe

CONCERNING ACTIONS TAKEN REGARDING PARAGRAPHS 26, 27 AND 28 OF THE CPT REPORT TO THE LITHUANIAN GOVERNMENT

With regard to your letter dated on 19 July 2013, by which the report drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) was presented to the Lithuanian Government and, in particular, the request by CPT to provide a response within three months with respect to recommendations and requests for information contained in paragraphs 26, 27 and 28 of the report, please find attached the reply received from the Police Department under the Ministry of Interior.

With this letter the Police Department under the Ministry of Interior informs that taking into account the CPT report, paragraphs 26, 27 and 28, these actions have been made:

1. The Police Department under the Ministry of Interior confirmed that the cells Nos. 8-11 in the custody facility of Vilnius Region Police Headquarters have ceased to be used since 1 January 2013 (Paragraph 26).

2. With 27 December 2012 letter No 5-S-4682 the Police Commissioner General instructed all national police institutions not to use 1 square meter and smaller cells for custody of persons in police custody facilities, to adapt such premises for other needs. Furthermore, the draft order of the Police Commissioner General according to which the use of the cells smaller than 2 square meters for custody of persons shall be prohibited has been drawn up. (Paragraph 27).

3. Currently cell No 4 in the custody facility of Kelmė District Police Headquarters is not used for custody of persons. Following the Plan of Implementation Measures of the Investment Projects of the Police Department under the Ministry of Interior for the Year 2013, it is planned to carry out a repair of the custody facility of Kelmė District Police Headquarters by the end of 2013.

It includes, in particular, an arrangement of the promenade yard and a reconstruction of cell No 4 of the custody facility. It is planned that cell No 4 will no longer be used for custody purposes and it will be adapted for utility needs (Paragraph 28).

Following this letter, the Police Department of the Ministry of Interior also provided this additional information:

1. The order, mentioned in the point 2 of the preceding paragraph, has been signed by the Police Commissioner General on 21 October 2013 No. 5-V-831 and it has entered into force. The amended paragraph 44 states that space requirement of the short-term detention cells of the police custodies shall be determined by the legal acts of the Minister of Health, but in any case it shall be not less than 2 square meters. A bench fixed to a floor shall be in such cell.

2. Paragraph 80 of the order No. 5-V-356 of the Police Commissioner General, adopted in 2007 May 29 (Official Gazette, 2007, Nr. 61-2361), establishes that minimum space requirement per one person held at the residential cells (used for overnight accommodation) of the police custodies shall not be less than 5 square meters (sanitary unit area is not counted into the total living area).

Att.: 2 pages.

Viceminister of Justice Saulius Stripeika

Darius Mickevičius, tel. (+ 370 5) 266 29 66, darius.mickevicius@tm.lt

Kam ABĮ, TĮ
Žinisi
Kopija

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Teisingumo ministerijos kanclerio
Artūras Kandrotas

LIETUVOS RESPUBLIKOS
TEISINGUMO MINISTERIJA
GAUTA
2013 m. 10 mėn. 10 d.
Nr. GR-12968

POLICIJOS DEPARTAMENTAS
PRIE LIETUVOS RESPUBLIKOS VIDAUS REIKALŲ MINISTERIJOS

Lietuvos Respublikos teisingumo ministerijai

2013-10-10 Nr. 5-S-3973
Į 2013-08-29 Nr. (9.5.) 35-75RN

EU2013.LT

DĖL EUROPOS TARYBOS KOMITETO PRIEŠ KANKINIMĄ IR KITOKĮ ŽIAURŲ, NEŽMONIŠKĄ AR ŽEMINANTĮ ELGESĮ AR BAUDIMĄ ATASKAITOS

Policijos departamente prie Lietuvos Respublikos vidaus reikalų ministerijos (toliau – Policijos departamentas prie VRM) išnagrinėtas Lietuvos Respublikos Teisingumo ministerijos raštas dalyje, kurioje prašoma pateikti informaciją dėl Vilniaus apskrities vyriausiojo policijos komisariato (toliau – Vilniaus apskr. VPK), Kelmės ir Joniškio rajonų policijos komisariatų (toliau – Kelmės r. PK, Joniškio r. PK) areštinių.

Policijos departamentas prie VRM pakartotinai patvirtina, kad nuo 2013 m. sausio 1 d. Vilniaus apskr. VPK areštinėje esančios 8–11 kameros asmenims laikyti nenaudojamos (26 punktas).

Policijos generalinis komisaras 2012 m. gruodžio 27 d. raštu Nr. 5-S-4682 šalies policijos įstaigoms nurodė policijos areštinėse asmenų laikymui nenaudoti 1 m^2 ir mažesnių kamerų, šias patalpas pritaikyti kitoms reikmėms (Joniškio r. PK areštinė). Taip pat pažymėtina, kad šiuo metu rengiamas policijos generalinio komisaro įsakymo projektas, pagal kurį asmenų laikymui bus draudžiama naudoti mažesnes nei 2 m^2 dydžio kameras. Apie šio įsakymo įsigaliojimą informuosime papildomai (27 punktas) .

Informuojame, kad šiuo metu Kelmės r. PK areštinės kamera Nr. 4 asmenų laikymui nenaudojama. Vadovaujantis Lietuvos policijos generalinio komisaro 2013 m. vasario 18 d. įsakymu Nr. 5-V-126 patvirtintu Policijos departamento prie VRM 2013 m. Investicijų projektų įgyvendinimo priemonių planu, iki 2013 metų pabaigos numatyta atlikti Kelmės r. PK areštinės remontą. Šiuo metu baigiamas rengti areštinės remonto projektas. Areštinės remonto projekte bus numatytas ir pasivaikščiojimų kiemelio įrengimas bei 4-os areštinės kameros pertvarkymas. Pažymėtina, kad vietoj areštinės 4-os kameros planuojama įrengti bendros paskirties patalpą, pritaikytą ūkio reikmėms, t. y. šioje patalpoje asmenys daugiau nebus laikomi (28 ir 29 punktai).

Policijos generalinio komisaro pavaduotojas Algirdas Stončaitis

Originalas nebus siunčiamas

Artūras Bajorinas, tel. (8 5) 271 9765, el. p. arturas.bajorinas@policija.lt
2013-10-09

/Coat of arms of the Republic of Lithuania/

POLICE DEPARTMENT
UNDER THE MINISTRY OF THE INTERIOR OF THE REPUBLIC OF LITHUANIA

To the Ministry of Justice of the Republic of Lithuania 10 October 2013 No 5-S-3973
To 29 August 2013 No (9.5.) 35-75RN

RE: REPORT OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

The Police Department under the Ministry of the Interior of the Republic of Lithuania (hereinafter referred to as the "Police Department under the MI") examined the letter of the Ministry of the Interior of the Republic of Lithuania whereby it was requested to provide information about the custody facilities of Vilnius County Police Headquarters (hereinafter referred to as "Vilnius County PH"), Kelmė and Joniškis District Police Units (hereinafter referred to as "Kelmė District PU", "Joniškis District PU").

The Police Department under the MI hereby repeatedly confirms that the cells Nos. 8-11 in the custody facility of Vilnius County PH have not been used for custody of persons since 1 January 2013 (Paragraph 26).

By 27 December 2012 letter No 5-S-4682 the Police Commissioner General instructed the national police institutions not to use 1 m^2 and smaller cells for custody of persons in police custody facilities, to adapt such premises for other needs (custody facility of Joniškis District PU). Furthermore, it is to be noted that the draft order of the Police Commission General according to which the use of the cells smaller than 2 m^2 for custody of persons shall be prohibited is currently being drawn up. You will be additionally notified of enactment of the above order (Paragraph 27).

Please be notified that currently cell No 4 in the custody facility of Kelmė District PU is not used for custody of persons. Following the Plan of Implementation Measures of the Investment Projects of the Police Department under the MI for the Year 2013 approved by Order No 5-V-126 of the Police Commissioner General of Lithuania of 18 February 2013, it is planned to carry out a repair of the custody facility of Kelmė District PU till the end of 2013. Today the project of repair of the custody facility is in the final stage of being drawn up. The project of repair of the custody facility shall also provide for arrangement of the promenade yard and reconstruction of cell No 4 of the custody facility. It is to be noted that instead of cell No 4 in the custody facility it is planned to equip common use premises adapted to utility needs, i.e. the said premises will not be used for custody of persons any longer (Paragraphs 28 and 29).

Deputy Police Commissioner General */Signature/* Algirdas Stončaitis

Original will not be sent

/Signature/

Artūras Bajorinas, tel. (8 5) 271 9765, e-mail arturas.bajorinas@policija.lt
09/10/2013

Full response of the Lithuanian Government to the visit report

REPORT OF THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA ON MEASURES TAKEN OR PLANNED TO BE TAKEN IN ORDER TO IMPLEMENT THE RECOMMENDATIONS PROVIDED IN THE REPORT ON THE VISIT TO LITHUANIA CARRIED OUT BY THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT) FROM 27 NOVEMBER TO 4 DECEMBER 2012[1]

MONITORING OF PLACES OF DEPRIVATION OF LIBERTY

Comments

The Lithuanian authorities are invited to consider acceding to the Optional Protocol to the United Nations Convention against Torture (paragraph 8).

By the Law No. XII-630 of 3 December 2013 the Seimas ratified the Optional Protocol to the Convention against Torture and Inhuman or Degrading Treatment or Punishment. The Law became effective on 1 January 2014.

Besides, by the Law No. XII-629 of 3 December 2013 the Seimas adopted amendments to the Law on the Seimas Ombudsmen by which the Seimas Ombudsmen's Office undertook the functions of the national preventive institution. In order to prevent torture and inhuman or degrading treatment or punishment, the law, which became effective on 1 January 2014, shall provide a possibility for the Seimas Ombudsmen to visit the places of deprivation of liberty for preventive purposes on a regular basis.

Pursuant to the Law, a place of deprivation of liberty is any place falling within the jurisdiction or under the control of the Republic of Lithuania, where liberty of persons is or may be restricted on the basis of the decision passed by a state authority or at its demand, or with its consent or permission. The following shall be considered as the places of deprivation of liberty: 1) correctional establishments; 2) remand prisons; 3) arrest houses; 4) psychiatric establishments; 5) infectious disease treatment facilities; 6) care homes; 7) border control checkpoints; 8) Foreigners' Registration Centre; 9) other places of deprivation of liberty.

While implementing the national prevention of torture, the Seimas Ombudsmen have the right: 1) to monitor, on a regular basis, how persons, whose liberty is restricted, are treated in places of deprivation of liberty; 2) to receive all information about treatment of persons whose liberty is restricted, about their treatment conditions, also the information about the number of such persons, the number and location of places of deprivation of liberty; 3) to enter all places of deprivation of liberty and all premises of such places, to inspect their equipment and infrastructure; 4) to interview without the presence of any witnesses, the persons, whose liberty is restricted, also any other persons, who could provide the necessary information; 5) to choose, which places of deprivation of liberty are to be visited and which persons are to be interviewed; 6) to conduct monitoring visits of places of deprivation of liberty together with selected experts; 7) to provide proposals (recommendations) to the relevant state authorities on the improvement of treatment of persons, whose liberty is restricted, and their treatment conditions as well as on the prevention of torture and other cruel, inhuman or degrading treatment or punishment; 8) to draw up conclusions regarding amendment of the existing legislation and draft laws.

The competent authorities must examine the proposals (recommendations) provided by the Seimas Ombudsmen, to consult with the Seimas Ombudsmen on the possible measures of implementation of their proposals (recommendations) and to notify the Seimas Ombudsmen about the results of implementation of their proposals (recommendations).

[1] The Government's Report was adopted and its publication was approved at the meeting of the Government of the Republic of Lithuania on 2014 March 3.

POLICE ESTABLISHMENTS

Preliminary remarks

Recommendations

- **The Lithuanian authorities to ensure that persons remanded in custody are promptly transferred to a prison facility. The objective should be to put an end to the practice of holding remand prisoners in police establishments (paragraph 10);**
- **The Lithuanian authorities to take measures to ensure that the return of prisoners to police detention facilities is sought and authorised only very exceptionally, for specific reasons and for the shortest possible time. Such a return should in each case be subject to the express authorisation of a prosecutor or judge (paragraph 11).**

Pursuant to Article 2 paragraph 2 of the Law on Detention of the Republic of Lithuania, prior to being sent to a remand prison, persons placed under detention may be held in the detention centre of a territorial police establishment for a period not exceeding fifteen days. By decision of a pre-trial investigator, a prosecutor or a court, remand prisoners may be moved to police custody from remand prison in order to carry out pre-trial investigation actions or due to court hearings of cases, but for a period not exceeding fifteen days. This Article also provides that such persons must be immediately released from the detention centre of the territorial police establishment when their detention is no longer necessary.

Besides, paragraph 5.2 of the Security and Supervision Instructions for Detention Facilities of Territorial Police Establishments as approved by the Order of the Lithuanian Police Commissioner General No. 5-V-677 of 10 October 2012, contains the additional limitation of the period of time for holding the person in a detention facility of the police establishment. This paragraph states that the persons, who have been imposed with detention (pre-trial detention) as the measure of coercion and the sentenced persons, who have been transferred on a temporary basis to detention facilities of police establishments, may be held in detention facilities of police establishments for a term not exceeding eight days. In case of necessity, the said period of time may be extended to the term of fifteen days as provided for in the law by the permission of the head of the territorial police establishment or the police officer authorised by him.

With reference to the recommendations provided by the European Committee against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the "Committee") there are plans to prepare amendments of Article 2 paragraph 2 of the Law on Detention. During the preparation of amendments of the law it shall be considered whether it shall be expedient to limit the right of the pre-trial officer to decide regarding the transfer of the arrested persons on a temporary basis to a detention facility of the police establishment by granting such right, for example, to the prosecutor or the court or by introducing a requirement that the decision passed by a pre-trial officer must be approved by his/her chief. Besides, a possibility to introduce a requirement that such decisions must always be well-reasoned, shall also be considered. The draft law shall also provide a possibility to transfer the arrested person from detention facility of the police establishment to remand prison immediately, but not later than within ten days.

Ill-treatment

Recommendations

- **If it is deemed necessary for custodial staff assigned to police arrest houses to carry truncheons, the truncheon to be hidden from view (paragraph 15);**

The police have envisaged gradual replacement of currently used truncheons with the ones that are not so clearly visible (for example, telescopic batons).

We would like to note that, as provided for in the Law on Police Activities, the special equipment is used in police detention centres only when it is deemed necessary for a police officer to defend himself/herself or another person from an attempt made or an attempt posing a direct threat to life or health.

- **Immediate steps to be taken to put a stop to custodial staff in police arrest houses routinely carrying electro-shock weapons (paragraph 16).**

The electro-shock weapons are used in accordance with the requirements of the Rules of Use of Electrical Impulse Devices *Taser* in Police Activities as approved by the Order of the Lithuanian Police Commissioner General No. 5-V-394 of 23 June 2005.

The officers of detention facilities of police establishments do not carry electro-shock weapons on a daily basis. These devices are issued in case of necessity (in cases of self-injuries, disturbances, etc.) to the police officers authorised to carry them.

Comments

- **The CPT trusts that the Lithuanian authorities will continue their efforts to ensure that police officers use no more force than is strictly necessary when effecting and apprehension. Once apprehended persons have been brought under control, there can be no justification for striking them (paragraph 13).**

The Law on Police Activities strictly regulates the cases when police officers have the right to use physical coercion. As provided for in the said Law, coercion, which might cause bodily injuries or death, may be used to the extent which is necessary for the fulfilment of the official duty, and only after all possible measures of persuasion or other measures have been used with no effect. The police do not and shall not tolerate any unnecessary use of physical coercion during (after) apprehension of persons who have committed criminal offences or other violations of law. Upon receipt of the information stating that the police officer has possibly unlawfully used physical coercion, an official investigation is (shall be) performed in all cases and the issue of the officer's official liability shall be considered and upon establishment of the elements of the criminal offence – a pre-trial investigation shall be commenced.

Requests for information

- **In respect of year 2013:**
  - **The number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which have been instituted as a result;**
  - **An account of any criminal/disciplinary sanctions imposed following complaints of ill-treatment by the police (paragraph 14).**

During the nine months of the year 2013 the Police Department under the Ministry of the Interior received 61 complaints regarding the possibly unlawful use of physical coercion by police officers. 11 pre-trial investigations were instituted. 7 pre-trial investigations are still ongoing and the final procedural decisions have not been passed yet, the remaining pre-trial investigations were terminated due to the absence of the elements of a criminal act or misdemeanour. After the examination of complaints the information did not prove to be true on 52 occasions (85 percent), the remaining complaints are still under the investigation. In 2013 there were no officers punished by disciplinary penalties for unlawful use of physical coercion.

During the nine months of the year 2013 the Prosecutor's Office received 102 complaints from natural persons regarding the improper behaviour of police officers related with the use of physical and psychological violence (5 complaints were of the same contents and in relation to the same incident), 30 pre-trial investigations were instituted, while judgments of conviction were rendered and became effective against 3 police officers.

During the nine months of the year 2013 there were no service-related investigations initiated by the prosecutors regarding the improper behaviour of police officers related with the use of physical and psychological violence, there were no police officers punished with disciplinary penalties on the initiative of prosecutors.

By the Order rendered on 20 December 2012 by Vilnius city District Court No. 3 (the Order became effective on 11 April 2013), T.A. and V.Ž. were convicted under Article 228 paragraph 1 of the Criminal Code of the Republic of Lithuania for having exceeded their powers and caused considerable non-property damage to the natural person and the state. While being statutory public servants, i.e. chief officers of the Police Patrol and Checkpoint Subunit of the Front Office of the Service Organisation Subdivision of the Arrest House and Convoy Division of the Public Order Board, on 8 March 2012, at approximately 6:30 a.m. - 7:00a.m., when the detainee S.S., who had been placed in the arrest house, started shouting, they, who were acting jointly, took him to another cell and having knocked him down, while his hands were handcuffed on the back and his face looking the ground, beat him with their legs. Since S.S. continued shouting, they returned back to the cell after approximately 20 minutes and having knocked S.S. down on his stomach, delivered multiple blows to him; after that V.Ž. used an electrical impulse device "Taser" against S.S., who was lying on the ground, and caused to the victim non-severe health impairment the duration whereof lasted longer than 10 days. Thus, T.A. and V.Ž. exceeded their official duties as provided for in Article 23 paragraph 1 of the Law on Police Activities and by their acts, which were incompatible with the Lithuanian police officer's name, diminished the image and authority of the police as the state institution, discredited the name of the public servant and thus caused considerable non-property damage to the state and the victim S.S. as a result of violation of Article 21 of the Constitution, which prohibits subjecting anyone to torture, injury, degrading and inhuman treatment or punishment.

By the Order rendered on 28 March 2013 (the Order became effective on 22 November 2013) M.T. was convicted under Article 228 paragraph 1 of the Criminal Code of the Republic of Lithuania for having intentionally exceeded his powers while performing the functions of the civil servant and caused considerable damage to the natural person and the state. While being the Investigator of the Crime Investigation Division of Vilnius city Police Unit No. 5 of Vilnius County Police Headquarters, he exceeded the duties with regard to the persons not subordinate to him, while he was performing the functions of public administration as provided for in Article 2 paragraph 6 of the Law on Public Service, he exceeded the official powers granted to him as the police officer under Article 16 paragraph 1 of the Law on Police Activities, namely, the right to request that, when carrying out police tasks, persons who are not directly subordinate to him, would carry out his lawful instructions, and to use coercion in the case of their non-compliance or resistance, he intentionally violated the duty provided for in Article 21 paragraph 1 subparagraphs 1 and 3 of the Law on Police Activities, namely, the duty to respect and protect human dignity, ensure and safeguard human rights and freedoms, and the duty to guarantee the rights and legal interests of persons who have been arrested or brought to police quarters. On 8 June 2012, during the performance of procedural acts at the police unit in a pre-trial investigation case, M.T., who was pursuing the aim to disclose the criminal offence and was forcing A.V. to confess to the commission of the criminal offence in the absence of any factual or legal grounds, intentionally used physical violence, namely, while A.V. was sitting on the chair, he hit the latter with his hand approximately 5 times into the area of the victim's face, approximately 2-3 times into the victim's

abdomen, hit the victim 3-4 times with a truncheon into the abdomen and when the victim was knocked off the chair on the ground, he hit the latter with a truncheon at least 5 times in the area of the victim's abdomen, delivered approximately the same amount of blows against the victim's back and several blows against each leg and thus caused non-sever health impairment to the victim. By such acts M.T. caused physical damage to A.V., considerable damage to the latter's rights as provided for in Article 21 and Article 31 of the Constitution, and considerable damage to the state, because he diminished the image and authority of the police as the state institution and discredited the name of the police officer.

Safeguards against ill-treatment

Recommendations

- **The Lithuanian authorities to make further efforts to render fully effective in practice the right of persons deprived of their liberty by the police to inform a close relative or another third party of their situation, as from the very outset of their deprivation of liberty (paragraph 18);**
- **Detained persons to be provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention (paragraph 18);**

Article 10 of the Code of Criminal Procedure provides that the suspected has the right to a defence, which is ensured from the moment of detention or inquiry. The court, the prosecutor, the investigating officers must ensure a possibility for the suspected, the accused and the sentenced person to defend against suspicions and charges and to take appropriate steps to ensure their personal and property rights. Article 21 paragraph 4 of the Code of Criminal Procedure states that the suspect has the right to know the charges, to make requests and challenges. Based on this the suspected may request either personally or through his/her counsel for defence to notify his close relative or other third persons about his/her detention. Article 128 paragraph 1 of the Code of Criminal Procedure provides that the prosecutor involved in the imposition of the custodial sentence must notify one of the family members or a close relative of the detainee. If the detainee fails to indicate any person, the prosecutor must notify, at his own discretion, one of the detainee's family members or close relatives, if available. The prosecutor may refuse to notify someone if the detainee provides a reasonable explanation about why such a notification could endanger the safety of his family members or close relatives. The suspected person must be provided with a possibility of notifying his family members or close relatives by himself.

It needs to be noted that those provisions of the Code are also applied with regard to the arrested person (Article 140 paragraph 7 of the Code of Criminal Procedure states that a notification about the person's arrest must be immediately given in the procedure specified in Article 128 paragraph 1 of the Code of Criminal Procedure). The record of the arrest of the suspect must either specify the family member or the close relative, who has been notified about the person's arrest (by indicating the name, surname, date of birth, personal number, residence address, telephone number) or indicate the reasons, why, based on the explanations provided by the arrested person, the family member or the close relative has not been notified about the person's arrest.

On 11 December 2013 the Government presented to the Seimas a draft law on the amendment and supplement of Articles 21 and 22 of the Code of Criminal Procedure and supplement of Annex to the Code, which provide *inter alia* the suspected person's right to notify at least one person of his own choice (i.e. who need not necessarily be a family member or a close relative) about his arrest or detention.

- **The Lithuanian authorities to take the necessary measures to ensure that the right of access to a lawyer is enjoyed by all persons obliged to remain with the police, as from**

the very outset of their deprivation of liberty. Further, steps should be taken in consultation with the Bar Association to ensure that ex officio lawyers appointed to represent persons in police custody perform their functions in a diligent and, more specifically, timely manner (paragraph 19);

Pursuant to Article 50 paragraph 1 of the Code of Criminal Procedure provides that the pre-trial investigation officer, the prosecutor and the court must advise the suspect and the accused of the right for obtaining a defence counsel from the moment of the his arrest or first interrogation and must provide an opportunity for him to exercise this right, i.e. provide the actual possibilities to exercise the right to choose and call the defence counsel whom he trusts. A record must be drawn when the suspect or the accused requests a defence counsel or waives the right to have a defence counsel. The suspected person's decision to have a defence counsel depends on his own will (Article 50 paragraph 2 of the Code of Criminal Procedure), however, the Code of Criminal Procedure provides an exhaustive list of circumstances under which the presence of the defence counsel is obligatory despite the suspected person's will to have a defence counsel (Article 51 of the Code of Criminal Procedure). When the suspected person requests participation of the defence counsel and the presence of the defence counsel is not obligatory under Articles 50-51 of the Code of Criminal Procedure, such person is advised that he is entitled to find a defence counsel of his own choosing or may request state-guaranteed legal aid and he must be provided with the possibility to exercise such rights.

The factual data confirm that the right to state-guaranteed legal aid is widely ensured during the pre-trial investigation. Out of all cases related with the participation of defence counsels appointed by the state in 2012, 54 per cent (in 17 853 cases) were appointed during the pre-trial investigation of cases.

The Ministry of Justice has not received any information from pre-trial investigation officers, prosecutors or the court that any defence counsel, who was providing state-guaranteed legal aid, failed to participate and defend the suspected, accused or sentenced person, when summoned.

It needs to be admitted that due to limited resources it may happen that immediately after the person's arrest, if no procedural acts are performed, a defence counsel cannot visit the arrested person due to objective reasons (for example, due to work overload). It needs to be noted that state-guaranteed legal aid is provided in accordance with the defence continuity principle by selecting such a defence counsel, who could both advise the suspected person and participate during the performance of planned procedural acts. In any case, at the request of the suspected person and in cases when state-guaranteed legal aid must be provided, defence counsels must implement this duty within the reasonable period of time.

Lithuania gives much attention to the efficiency and quality of legal aid. The quality assurance mechanism is based on the following main principles:

1. Control of contractual obligations, which is performed by the institutions in charge of organisation of state-guaranteed legal aid – state-guaranteed legal aid services.
2. Control in the general procedure of lawyers, which is performed by the Lithuanian Bar Association as the self-governing authority of lawyers.
3. Training arranged by the Ministry of Justice to persons providing state-guaranteed legal aid.

With reference to the recommendations presented by the Committee, when improving the efficiency and quality of state-guaranteed legal aid, the state-guaranteed legal aid services and the lawyers who provide state-guaranteed legal aid were made aware (letter of the Ministry of Justice No. (1.16)-7R-7490 of 22 October 2013) that it is necessary to ensure that state-guaranteed legal aid be provided in accordance with the principles established in the Law on State-guaranteed Legal Aid, in

accordance with the requirements regarding the ethics of lawyers and in accordance with the exemplary requirements for the professional conduct in criminal cases of the lawyers who provide state-guaranteed legal aid (for example, a lawyer must check the grounds and conditions of his/her client's arrest and detention and object to all unlawful or groundless measures of coercion and other procedural measures of coercion applied with regard to his/her client; the lawyer must notify, explain and advise the client on his/her rights and freedoms, on the prospects of the case, answer all legal questions given by the client in relation to the case; the lawyer must meet with the client before performance of any important procedural act, etc.). This problem was also discussed by the State-guaranteed Legal Aid Collegiate Council, which is composed of the state-guaranteed legal aid services, the lawyers who provide state-guaranteed legal aid and the representatives of the Ministry of Justice, during the meeting held on 28 October 2013. While organising the training the Ministry of Justice will assess the demand for the additional improvement of the lawyers' skills in ensuring effective defence in criminal proceedings.

Besides, in order to assure the quality of state-guaranteed legal aid, the Law on State-guaranteed Legal Aid was amended and the amendments of the Law became effective on 1 January 2014. They provide that the Lithuanian Bar shall inspect the quality of activities carried out by the lawyers and assistant lawyers, who provide the state-guaranteed secondary legal aid in accordance with the quality assessment rules of state-guaranteed secondary legal aid approved by the Lithuanian Bar, by obliging to pass a decision on quality assessment no later than within one month after the receipt of information which was the grounds to commence such inspection.

- **Steps to be taken to ensure that juveniles do not make any statements or sign any documents related to the offence of which they are suspected without the benefit of a lawyer (and, in principle, of a trusted adult person) being present and assisting the juvenile (paragraph 20);**

Article 51 paragraph 1 of the Code of Criminal Procedure defines that participation of the defence counsel is mandatory in cases where the suspect or the accused is a minor. Declaration about waiver of the right to have a defence counsel made by a minor shall not be obligatory to the pre-trial investigation officer, the prosecutor and the court (Article 52 paragraph 2 of the Code of Criminal Procedure). The institute of mandatory participation of the defence counsel means that on each occasion when any procedural acts is being performed, the pre-trial investigation officer, the prosecutor or the court has the obligation to check whether the suspected or the accused person is represented by a defence counsel provided that there are mandatory grounds for the participation of the defence counsel, and if not – he must immediately appoint a defence counsel. Thus, any statements made or documents signed by a minor without the participation of a defence counsel would not be admitted as evidence because they would have been received in the procedure contradicting the law and in violation of the requirement to obtain the data only by lawful means (Article 20 of the Code of Criminal Procedure).

The Code of Criminal Procedure also provides a possibility for the participation of representatives ("representative by law") in criminal proceedings. Article 53 of the Code of Criminal Procedure provides that the representatives of the suspect, the accused, the sentenced person or the victim, where they are minors or have been recognised incompetent, following the established procedure, may participate in the proceedings and defend the interests of the persons they represent. Representatives may be parents, adoptive parents, guardians, foster parents of a minor or legally incapable suspect, accused, sentenced person or a victim, as well as, the persons authorised by the institution that takes care of a suspect, accused, sentenced person or a victim. A representative, upon submitting a written or oral application, shall be permitted to participate in the proceedings subject to an appropriate decision of the pre-trial investigation officer, the prosecutor and an order of the judge. A representative shall, as a rule, participate in the proceedings together with the person

he is representing. By a decision of the pre-trial investigation officer, the prosecutor and by an order of the judge the representative may be refused to participate in the proceedings as a representative, if such participation would contradict the interests of the minor or legally incapable person. In such a case the pre-trial investigation officer, the prosecutor or the court must ensure a possibility for another representative to participate in the proceedings, and in the absence of such a possibility – to appoint any other person capable of properly representing the interests of the minor or legally incapable person on a temporary basis until the resolution of the issue of appointment of the new legal representative.

Besides, Article 188 paragraph 5 of the Code of Criminal Procedure provides that at the request of the parties to the proceedings or at the discretion of the pre-trial investigation officer, the prosecutor or the pre-trial investigation judge, a representative of the State Child's Rights protection Service or a psychologist must be called to the questioning of a minor suspect who is under eighteen years of age, who may provide assistance in questioning the minor by taking into account the minor's social and psychological maturity.

- **The Lithuanian authorities to adopt specific legal provisions on access to a doctor which meet fully the requirements set out in paragraph 21 (paragraph 21);**

Article 45 paragraph 1 of the Law on Detention states that persons kept in remand must be guaranteed the same quality and level of medical treatment as that for any other citizens in freedom. This provision of the Law has been transposed to the Internal Rules of Territorial Police Detention Facilities, approved by Order of the Police Commissioner General No. 5-V-356 of 29 May 2007. It needs to be noted that the Police Department under the Ministry of the Interior has not received any complaint from the detained persons regarding the said issue.

- **The Lithuanian authorities to take steps to ensure that all persons admitted to a police arrest house are screened by a health-care professional without delay. The record drawn up following that screening should contain: (i) an account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the health-care professionals observations in the light of (i) and(ii), indicating the consistency between any allegations made and the objective medical findings. Whenever injuries are recorded which are consistent with allegations of ill-treatment made by a detained person (or which, even in the absence of allegations, are indicative of ill-treatment), the record should be systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned (paragraph 22);**

Paragraph 72.1 of the Internal Rules of Territorial Police Detention Facilities, approved by Order of the Police Commissioner General No. 5-V-356 of 29 May 2007, states that a nurse from a medical station of the police detention facility must examine and assess within 24 hours the health condition of detainees and persons placed in the police detention facility with their consent (the arrested, sentenced persons brought from another detention facility or police detention facility are examined only at their request). Under paragraph 18 of the Lithuanian Medical Norm MN 129:2004 "Medical Stations (Offices) of Detention Facilities of Territorial Police Establishments", examination of health condition of newly arriving detainees is performed by a nurse from a medical station with their consent. The health condition of such persons is examined if there are certain suspicions of a health impairment, illness, injury, etc. when placing a person in police custody. Under the said hygiene norm any person, who has completed the nursing care studies and acquired the professional qualification of the community nurse may work as a community nurse.

In order to prevent ill-treatment of persons, whose liberty is restricted, and while acting in accordance with the previous recommendations presented by the Committee, the legal acts, which regulate the activities of detention facilities of police establishments, provide for a control mechanism obliging officers, before placing persons in police custody, to record visually obvious bruises, abrasions, etc. For this purpose, the Security and Supervision Instructions for Detention Facilities of Territorial Police Establishments, approved by the Order of the Police Commissioner General No. 5-V-677 of 10 October 2012, provide for a personal inspection record (Annex 3 to the Instructions), which lists all visible personal injuries, abrasions, bruises, etc. of a person to be placed in and released from police custody. The prosecutor must be notified in case there are suspicions that physical violence could have been used against the person.

- **The Lithuanian authorities to ensure without further delay that all persons detained by the police – for whatever reason – are fully informed of their rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information upon apprehension, to be supplemented at the earliest opportunity (that is, immediately upon first entry into police premises) by provision of a written form setting out the detained person's rights in a straightforward manner. This form should be made available in an appropriate range of languages. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case (paragraph 23).**

Article 140 of the Code of Criminal Procedure regulates the grounds and procedure of the person's provisional arrest for the period of time not exceeding 48 hours. Under the said Article, within the shortest possible period of time the pre-trial investigation officer or the prosecutor must draw up a record of the person's provisional arrest. The prosecutor must be notified within the shortest possible period of time about the person provisionally arrested by a pre-trial investigation officer or any other person by sending a copy of the record of provisional arrest.

One of the constituent parts of the record of provisional arrest is the information about the rights explained to the provisionally arrested person. The record states that "the provisionally arrested person was advised of the suspected person's rights as provided for in Article 21 of the Code of Criminal Procedure: to know the charges; to have defence counsel from the moment of detention or first inquiry; to testify; to provide documents and items relevant to investigation; make requests; to challenge, to have access to pre-trial investigation material, to appeal against actions or decisions of a pre-trial investigation officer, prosecutor or a pre-trial investigation judge. It was also explained that provisional arrest may not last longer than for 48 hours. If detention must be applied to the provisionally arrested person, he must be brought, within no later than 48 hours, before the judge, who shall decide the issue of imposing detention in accordance with the procedure specified in the Code of Criminal Procedure. The provisionally arrested person was also advised that as provided for in Article 128 paragraph 1 of the Code of Criminal Procedure, one of the family members or a close relative of the provisionally arrested person must be immediately notified about the person's detention unless the provisionally arrested person has given a reasonable explanation about why such a notification could endanger the safety of his family members or close relatives. The provisionally arrested person must be provided with an opportunity to notify the family members or close relatives about his provisional arrest by himself."

The record of provisional arrest is signed by the provisionally arrested person and his signature confirms that he was advised of the above-mentioned rights. The record of provisional arrest is also signed by the interpreter, if the interpreter is called when the person does not understand the state language.

Article 140 paragraph 6 of the Code of Criminal Procedure states that following his delivery to the pre-trial investigation institution or the prosecutor's office, within not later than 24 hours the provisionally arrested person must be questioned as the suspected person following performance of the acts specified in Article 187 of the Code of Criminal Procedure. Article 187 of the Code of Criminal Procedure regulates service of the notification of suspicion. The said Article provides that before the first questioning the suspected person must be served, against his signature, with the notification of suspicion or the prosecutor's decision to recognise the person as the suspected person. The notification of suspicion must specify the criminal offence (place, time, other circumstances of commission of the offence), the criminal law, which defines the said criminal offence, as well as the rights of the suspected person.

The sample of the notification of suspicion approved by the Order of the Prosecutor General, provides the following information: "The suspected person has the rights as provided for in Article 21 paragraph 4 of the Code of Criminal Procedure: to know the charges; to have defence counsel from the moment of detention or first inquiry; to testify; to provide documents and items relevant to investigation; make requests; to challenge, to have access to pre-trial investigation material, to appeal against actions or decisions of a pre-trial investigation officer, prosecutor or a pre-trial investigation judge."

It needs to be noted that Article 45 of the Code of Criminal Procedure states that it is the duty of the pre-trial investigation officer, the prosecutor and the court to inform the parties to the proceedings about their procedural rights and to ensure a possibility for them to exercise these rights.

Article 8 of the Code of Criminal Procedure states that criminal proceedings are conducted in the state language. The parties to the proceedings, who do not know the state language, are granted the right to plead, give evidence and explanations in their native language or any other language they know. Besides, the parties to the proceedings have the right to use the services of a translator/interpreter free of charge. Article 8 paragraph 3 of the Code of Criminal Procedure states that the documents of the case, which must be served upon the suspected, the accused or the sentenced person (including the notification of suspicion) and upon other parties to the proceedings in cases provided for in the Code of Criminal Procedure, must be translated into their native language or any other language they know.

The Internal Rules of Territorial Police Detention Facilities state that persons held in a police detention facility have the right to receive written information about the procedure and conditions of keeping persons in a police detention facility, and about their rights and duties. The written information about the conditions and procedure of keeping persons in a police detention facility is not provided translated into a number of languages, because the police detention facilities receive nationals of different countries, who often do not understand English, Russian, Polish or other widely used languages. Due to this, when a foreigner is placed in a police detention facility, the above-mentioned procedure is translated to him into the language he can understand with the help of an interpreter, who is present from the very moment of the person's arrest.

Comments

- **The Lithuanian authorities are invited to introduce electronic recording of police interviews nationwide (paragraph 24).**

Articles 179, 183 and 188 of the Code of Criminal Procedure provide that the questioning of the suspect or the witness may be recorded on a video tape, by making an audio or video recording. Those recordings are attached as enclosures to the record of questioning.

The project for the development of the integrated criminal justice information system (e-file) is currently being implemented. The goal of the project is to transfer all acts of criminal procedure into the electronic environment. Upon the implementation of the project, all results of the acts of criminal procedure, including audio and video recordings, shall be transferred into the information system.

Conditions of detention

Recommendations

- **The Lithuanian authorities to intensify their efforts to provide appropriate material conditions of detention in all police arrest houses. This should involve measures to ensure that:**
  - **Cells have access to natural light as well as adequate artificial lighting (i.e. sufficient to read by, sleeping periods excluded);**
  - **In-cell toilets are fully partitioned (i.e. from floor to ceiling);**
  - **The state of hygiene in the cells is of an adequate level;**
  - **Detained persons are provided with a clean mattress and clean bedding**

  (paragraph 25);

The implementation of the Programme for Optimisation of the Activities of Police Detention Centres for 2009-2015 as approved by the Order of the Lithuanian Police Commissioner General NO. 5-V-473 of 1 July 2009, began in 2009. Out of 46 police detention facilities which operated in 2009, there are 25 police detention facilities currently operating in the country. Those police detention facilities, which had the poorest conditions, were closed while implementing the said programme, besides, the current police detention facilities are constantly repaired under the said programme (repair works performed in detention facilities of Panevėžys County Police Headquarters, Vilnius County Police Headquarters and Švenčionys region Police Unit, new detention facilities are designed in Klaipėda and Šiauliai County Police Headquarters, there are plans to perform repairs of detention facilities of Kelmė region Police Unit of Telšiai County Police Headquarters and Kėdainiai region Police Unit of Kaunas County Police Headquarters). When compared with the year 2009, the conditions of keeping persons in detention facilities of police establishments have been considerably improved during the said period of time.

The requirements for the equipment of police detention facilities are provided for in the Lithuanian hygiene norm NH 37:2009 "Police Detention Facilities: General Health Safety Requirements" approved by the Order of the Minister of health No. V-820 of 29 September 2009. It states that persons kept in police detention facilities must be placed in the cells specially adapted for this purpose. It is prohibited to arrange cells in the underground territory and the basement in newly built police detention facilities. The police detention facility cells must have transparent glass windows. The natural light coefficient must be 0,5 per cent. The artificial lighting in cells and punishment rooms of police detention facilities must be at least 200 lx. The artificial night lighting in cells and punishment rooms of police detention facilities must be at least 10 lx but not above 20 lx. Police detention facility cells must be ventilated through windows (air vents), except for premises equipped with a functioning mechanic ventilation or conditioning system.

The said hygiene norm also provides that a police detention facility cell must have a sanitation unit, which must be separated from the residential area with a partition the height whereof should be 120-130 cm. The sanitation unit must be equipped with a cold water supply system. The sanitation unit must be equipped with a toilet bowl, a washbasin, a mirror, a box (shelf) for toiletries. The sanitation unit must have a separate indoor air removal system. These recommendations are taken into consideration while designing the sanitation units of police detention facilities. We believe that it is inappropriate and inexpedient to change the provisions of the current hygiene norm due to the

height of the partition because the partitions that are currently used in police detention facilities essentially comply with the functionality requirements applicable to them while their remodelling would require considerable financial costs.

The said hygiene norm also establishes requirements for the cleaning, disinfection, maintenance of the premises of the detention facility and hygiene requirements for persons kept in the detention facility. Under the said requirements all premises, equipment and furniture of detention facilities of police establishments must be clean, windows and doors must be hermetic. There must be no mould within the premises on the surfaces of the walls and the ceiling. All premises must be wet cleaned on a daily basis. The floors of shower-rooms, sanitary cleaning rooms, cells and sanitation unit, the plumbing equipment, washbasins must be washed with hot water and cleaned with detergents containing disinfectants on a daily basis. The premises and equipment may be cleaned and disinfected only with the cleaning products permitted by legal acts. The cells in police detention facilities must have special containers for household waste. Household waste must be removed in the procedure and at the frequency established in the internal rules of procedure.

Persons kept in detention facilities of police establishments must always take care of cleanliness and order in the cells. For this purpose they must be provided with clean and tidy cleaning inventory. Persons brought to the police detention facility must be examined for lice or scabies (if necessary they must undergo the respective treatment) and must wash themselves in the shower of the sanitary cleaning room. Persons kept in the police detention facility must wash the entire body with mild water in the shower at least once per week.

The hygiene norm also establishes that persons kept in the police detention facility must be provided with soft inventory (mattresses, pillow, blankets), clean bed linen (two sheets, one pillowcase) and two towels. It is prohibited to give the soft inventory (mattress, pillow, blanket) that has not undergone disinfection and the unwashed bed linen and towels, which were used by the persons, kept in the police detention facility, to other detainees. Bed linen, towels and other laundry must be washed in a public laundry. The soft inventory, which cannot be washed, must be cleaned at the dry cleaner's. Bed mattresses, pillows, blankets must be used with covers made of the fabric that is impermeable and persistent to cleaning and disinfecting detergents or from the fabrics that are suitable for washing and (or) disinfecting with the available products, e.g. in a disinfection chamber installed in the police detention facility. Bed linen must be changed when dirty, but not less than once per week.

- **The order referred to in paragraph 27 to be re-issued and re-formulated to the effect that cells measuring less than 2 m^2 should not be used for the detention of persons for any length of time whatsoever (paragraph 27);**

The Order of the Lithuanian Police Commissioner General No. 5-V-831 of 21 October 2013 "On the Amendment of the Order of the Lithuanian Police Commissioner General No. 380 of 10 July 2002 "On the Approval of Requirements for Safety and Maintenance of Detention Facilities of Territorial Police Establishments"" specifies that the area of cells adapted for short-term keeping of persons at the detention facilities of police establishments may not be less than 2 m^2.

- **No cell measuring less than 5 m^2 to be used for overnight accommodation (paragraphs 28 and 31);**

Pursuant to paragraph 80 of the Rules on the Activities of Detention Facilities of Territorial Police Establishments approved by the Order of the Lithuanian Police Commissioner General No. 5-V-356

of 29 May 2007, the residential area for one person kept in the police detention facility may not be less than $5m^2$ (the area of the sanitation unit is not included in the total residential area).

- **Measures to be taken to ensure that anyone detained for 24 hours or more in a police arrest house is offered at least one hour of outdoor exercise every day in facilities of adequate size and possessing the necessary equipment (such as shelter against inclement weather and a means of rest) (paragraph 29);**

Pursuant to Article 29 of the Law on Detention and paragraph 54 of the Rules on the Activities of Detention Facilities of Territorial Police Establishments, the administration of police detention facilities must ensure the opportunity for persons kept in police detention facilities to walk outdoors at least one hour each day, and for minors, women and persons suffering from TB- one hour twice a day. Walking outdoors can be cancelled or shortened only due to weather conditions unfavourable to walking, with the consent or at the request of the person kept in the police detention facility, or due to extreme conditions or an emergency. It should be noted that the implementation of this right of persons kept in police detention facilities is subject to strict control.

- **The Lithuanian authorities to take measures to ensure that police arrest houses are properly resourced to cater for administrative detainees; if this is not possible, consideration should be given to alternatives to administrative detention (paragraph 30);**

Article 21 "Types of Administrative Penalties" of the Code of Administrative Violations of Law provides that an administrative arrest may be imposed for certain administrative violations of law. Article 336 of the Code of Administrative Violations of Law lays the police under the obligation to execute decisions on the administrative arrest. Under the provisions of the Security and Supervision Instructions for Detention Facilities of Territorial Police Establishments as approved by the Order of the Lithuanian Police Commissioner General No. 5-V-677 of 10 October 2012, persons punished with the administrative arrest are kept in detention facilities of police establishments. Persons arrested in the administrative procedure are kept in detention facilities of police establishments separately from other persons.

It needs to be noted that in 2011 the Government of the Republic of Lithuania submitted to the Seimas the new draft Code of Administrative Misdemeanours aimed to recast the current Code of Administrative Violations of Law. The new draft Code is currently deliberated in the Seimas. The draft Code should remove the administrative arrest as the type of penalty imposed for the administrative misdemeanours. This would help reducing the number of persons kept in detention facilities of police establishments and would help solving certain structural problems of police detention facilities.

- **Urgent steps to be taken to ensure that persons held overnight in temporary holding cells of the police are provided with a mattress and a blanket (paragraph 32).**

Paragraph 40 of the Instructions of Organisation of Work of the Operational Management Divisions of Police Establishments approved by the Order of the Lithuanian Police Commissioner General No. 5-V-553 of 30 June 2010, states that persons kept in long-term detention premises, when they are to be kept for 24 hours or longer, must be given soft inventory (mattresses, pillows, blankets), also bed linen, pillowcases, towels.

Persons may be kept in short-term detention premises for no longer than 5 hours, and later they must be either released or transferred to long-term detention premises or to a detention facility, thus mattresses are not given to them while they are kept in those premises.

Requests for information

- **Confirmation that the order to discontinue using Cells Nos. 8 to 11 at Vilnius City Police Arrest House for detention purposes as of 1 January 2013 has been complied with (paragraph 26);**

By its letter No. 5-S-4686 of 27 December 2012 the Police Department under the Ministry of the Interior ordered Vilnius County Police Headquarters to stop using cells No. 8, 9, 10 and 11 at the detention facility of the Police Headquarters from 1 January 2013.

From the said date the said cells are no longer used for detention of persons.

- **Updated information on measures taken to improve the conditions of detention in Cell No. 4 at Kelmė Police Arrest House (paragraph 28);**
- **Updated information on measures taken to equip Kelmė Police Arrest House with an outdoor exercise facility (paragraph 29).**

In accordance with the Plan of Measures for the Implementation of Investment Projects by the Police Department under the Ministry of the Interior for the year 2013 approved by the Order of the Lithuanian Police Commissioner General No. 5-V-126 of 18 February 2013, until the end of 2013 there are plans to perform the repair of Kelmė region Police Unit. The plan of repair works of the Arrest House has been developed, which foresees construction of an outdoor walking territory and restructuring of cell No. 4. It needs to be noted that cell No. 4 shall be replaced by general-purpose premises adapted for economic needs; therefore, persons shall no longer be kept in the said premises. The repair works of the detention facility should be completed in the 1st quarter of the year 2014.

PRISONS

Preliminary remarks

Recommendations

– **the Lithuanian authorities have to make every effort to reduce overcrowding in correction houses and remand prisons by placing further emphasis on non-custodial measures before the imposition of a sentence, increasing the use of alternatives to imprisonment and adopting measures facilitating the reintegration into society of persons deprived of their liberty. In this context, they should be guided by the relevant Recommendations of the Committee of Ministers of the Council of Europe: Recommendation Rec (99) 22 concerning prison overcrowding and prison population inflation, Recommendation Rec (2000) 22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec (2003) 22 on conditional release (parole), recommendation Rec (2006) 13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, and Recommendation Rec (2010) 1 on the Council of Europe Probation Rules. Appropriate actions should also be taken *vis-à-vis* the prosecutorial and judicial authorities with a view to ensuring their full understanding of the policies being pursued, thereby avoiding unnecessary pre-trial custody and sentencing practices (paragraphs 33-35);**

The Law on Probation, the Law on Amendments to Code on Enforcement of Penal Sanctions, Criminal Code, and Code of Criminal Procedure which are highly relevant to combat overcrowding in correction houses, have come into effect on 1 July 2012.

The Law on Probation and amended Code of Criminal Procedure provide for the evaluation of the social environment of an accused and criminogenic factors, which can help court to individualise sentences, and, in case when the accused is found guilty and is imposed a non-custodial sentence, to select adequate probation conditions.

The Criminal Code has widened the circle of persons eligible for probation. Presently, the Criminal Code provides for a sentence suspension for persons who are imposed a custodial sentence up to four years (up to three years under the previous regulations) (in the event of juvenile, a five-year custodial sentence limit is set instead of a four-year one).

Also, the Criminal Code provides for persons on probation to be assigned by the court an obligation to participate in re-socialization programs, to do unpaid public works, to reimburse damages incurred by the offence, and other obligations which, in the opinion of the court, may have a positive effect on the person who committed the offence. If it comes out during the probation that the assigned obligation is ineffective, it can be replaced by a more effective one, while the custody sentence would be employed only as *ultima ratio*.

The Law on Probation defines the major re-socialization forms for persons on probation, and re-socialization is set as a fundamental component of probation. Re-socialization is performed through an individual motivation development program Behaviour- Interview-Change, through an individual behaviour modification program One-to-One, and through EQUIP, the behaviour modification program for work with juveniles. Also, this law has set forth the grounds – the procedure for drawing an individual supervision plan, supervision measures, and their intensity and periodicity principles – for individual work with inmates based on risk evaluation of inmates and criminogenic factors.

The introduction of intensive supervision (electronic monitoring), a new preventive measure, was one of the most significant measures to solve the problem of overcrowding in remand prisons. Following the amendments to the Code of Criminal Procedure, amendments to types of preventive measures are to come into effect on 1 January 2015, which provide for the use of intensive supervision – a preventive measure which is expected to cut down the number of detentions, and consequently, to help combat the overcrowding of remand prisons.

On 22 May 2012, a meeting-discussion was held in Kaunas Remand Prison for judges, prosecutors, directors of penitentiary institutions on the application and implementation of probation, and seminars on the application of probation were organised for judges and prosecutors at the Training Centre of the National Court Administration on 11/12 of June 2012.

To your information, the number of inmates in penitentiary institutions decreased by 5% since 2012: there were 8,144 inmates in penitentiary institutions in Lithuania on 1 January 2014 after 8,550 on 1 January 2013, and 8,573 on 1 January 2012. Also, a decrease of 17% was registered in the number of the detainees in the remand prisons: there were 1,118 detainees in remand prisons on 1 January 2012, after 1,179 on 1 January 2013 and 1,347 on 1 January 2012.

After the new probation system was put into place, a decrease is observed in the number of the inmates arriving to serve their sentence in penitentiary institutions, who were put on probation. In 2007/2011, the inmates on probation who arrived to penitentiary institutions (for the evasion of probation or after being imposed a sentence for a new offence) made up on average 35% of all the inmates serving their sentence in penitentiary institutions, an increase from 28.3% in 2012 when the Law on Probation came into force.

– **the minimum standard of living space per prisoner to be raised to 4m^2 in multi-occupancy cells (not counting the area taken up by an in-cell toilet facility) throughout correction houses and remand prisons. The official capacities of all penitentiary institutions should be reviewed accordingly (paragraph 36)**.

Seeking to implement the CPT's recommendation, the number of the inmates should be reduced to 7,500, or at least 1,000 new places for the inmates should be installed.

As mentioned before in the answer regarding paragraphs 33/35 of the CPT's Report, the number of inmates is gradually going down, and is expected to decrease further even more rapidly (especially the number of the detainees) after an intensive supervision, a preventive measure, is to be introduced in 2015. Based on data as of 16 December 2013, the total number of places throughout the prison establishments was 9,399 and the total number of persons kept there was 9,263. Consequently, a standard for living space per one person is 3.1 m^2 in multi-occupancy cell where the inmates have access to premises of collective use (toilets, washrooms, leisure rooms, and premises for sports, library, and a reading room) without any restrictions regarding the outdoor activities, and 3.6 m^2 per person in cell type premises. If the downward trend regarding the number of inmates is to prevail, the standard of living space per person will grow.

In implementing the Strategy for Modernization of Custodial Facilities as approved by the Government of the Republic of Lithuania in 2009, the public procurement procedures are underway over the construction of a 320-place prison by using a private and public sectors co-operation model. The procurement procedures are in line with the approved timing. According to the procurement conditions, the newly built prison is to be put into operation in three years after signing the agreement.

Also, feasibility studies regarding the construction of a 1,620-place remand prison-correction house near Vilnius and remand prison/correction house of 1,180 places close to Siauliai have been prepared. After the mentioned institutions are built, Lukiškės Remand Prison/Closed Prison and Siauliai Remand Prison will be closed.

Requests for information

- **information on the precise measures taken to address the problem of overcrowding at Alytus Correction House (paragraph 37)**.

As mentioned above in the answer regarding paragraphs 33 to 35 of the CPT's Report, the number of inmates has been gradually decreasing after the Law on Probation of the Republic of Lithuania and amendments to the Code on Enforcement of Penal Sanctions came into effect on 1 July 2012: total number of persons in penitentiary institutions went down from 9,729 on 1 January 2013 to 9,262 on 1 January 2013, a decrease of 5% (414 persons). In Alytus Correction House, the number of the inmates shrank during the same period by 7% – from 1,477 to 1,398 (by 99 persons). At the present time, the number of inmates in Alytus Correction House does not exceed the maximum allowed number for Alytus Correction House, which is 1,460 and which was established by the Rules for the Internal Procedure at Correction Institutions as approved by Order No. 194 of 2 July 2003 of the Interior Minister of the Republic of Lithuania. It should be noted, that the decrease in the number of the prisoners has been a continuous trend.

Moreover, four new halfway houses are expected to be set up in Lithuania by using the funds of the Norwegian Financing Mechanism for 2009 to 2014, for the placement there of inmates from correction houses, who have served almost all their sentence and have up to one year left until their release on probation, based on their criminal behaviour risk and their behaviour during serving the sentence. Then some of the inmates from Alytus Correction House could be transferred to these halfway houses to further reduce the number of persons kept in this institution.

Ill-treatment

Recommendations

- **the three cases referred to in paragraph 38 (in which recorded hematomas were consistent with allegations of multiple baton blows to the buttocks) to be formally notified to the competent prosecutorial authorities (paragraph 41)**;

Additional inspections revealed that the material regarding all three cases had been submitted to Alytus District Prosecutor's Office under Kaunas Regional Prosecutor's Office. The receipt of the material is confirmed by the prosecutor's records. The CPT's report has been sent to all the penitentiary institutions, and recommendations have been discussed with the directors and other officers-in-charge of all penitentiary institutions. From now on prosecutors shall be notified of every single use of special measures.

Furthermore, following Order No. 1-59 of 27 February 2013 of the director of Alytus Correction House a permanent work group has been formed to examine every use of force or special measures.

- **all custodial staff at Šiauliai Remand Prison to receive the clear message that any excessive use of force by prison staff against prisoner constitutes a serious offence and will be punished accordingly (paragraph 42);**

The Training Centre of the Prison Department prepared and sent via the Prison Department a "Memo to Officers Regarding the Use of Guns and Special Measures without Violating Human Rights and Freedoms, and Liability for Ill-Treatment of Prisoners".

The Training Centre of the Prison Department has prepared and implemented a six-hour training program for officers, which is called "The Use of Security Measures in Penitentiary Institutions by Ensuring Human Rights and Fundamental Freedoms".

The training plans for junior officers at Šiauliai Remand Prison for 2012/2013 have been updated with the topics related to legal grounds for the use of force and special measures, as well as limits and liability for excessive use of force and special measures.

- **the Lithuanian authorities to take the necessary steps to ensure that, throughout the prison system, investigations into possible ill-treatment (including excessive use of force) by prison staff are conducted by a body independent of the establishments concerned and, preferably, of the prison system as a whole (paragraph 43);**

Under Paragraph 5 of Article 120 of the Code on Enforcement of Penal Sanctions any use of special measures that could cause a physical injury to a person shall be immediately reported to prosecutors, and an internal investigation shall be carried out. This provision is binding to all officers of penitentiary institutions. In case an inmate appeals against the findings of internal investigation carried out in penitentiary institutions to the Prison Department, the commission formed by the Director General of the Prison Department or an officer in charge shall perform investigation and submit his findings. Upon receiving the information and necessary material, the prosecutor decides whether special measures have been used legally or illegally.

Moreover, inmates shall have absolute right to appeal against any action or decision taken by the administration of the penitentiary institution or its officer. Applications and complaints addressed to officers and officials of the State or local government institutions and international institutions provided that Lithuania has recognized their jurisdiction or competence to receive applications from persons serving their sentence in Lithuania; applications and complaints with an address on them shall not be screened and have to be sent within one day from their receipt.

Comments

- **some allegations of verbal abuse by staff were received from inmates at Lukiškės Remand Prison and Kaunas Juvenile Remand Prison (paragraph 37).**

The Code on Enforcement of Penal Sanctions and Law on Detention lay down the right for inmates to appeal against any action taken by the administration of the penitentiary institution or its officer as well as verbal abuses by applying to the head of the penitentiary institution or the Prison Department. The received appeal is examined and, if any alleged violations by officers are established, the issue of liability of such officers shall be raised.

In implementing the measures embedded in the plan, approved by Order No. V-40 of 6 February 2013 of the Director General of the Prison Department, for eliminating the shortcomings specified in the preliminary report of the CPT about its visit in Lithuania in 2012, the Training Centre of the Prison Department prepared a memo to the staff of penitentiary institutions about the forms (physical and verbal) of ill-treatment of inmates and detainees, negative effects of such ill-treatment and legal liability of the staffs for it. The memo was introduced to all officers in charge of guard and security of inmates and detainees in all penitentiary institutions.

Requests for information

- **detailed information on the implementation of the action plan drawn up on the basis of the Ombudsman's conclusions concerning the activities and the administration of Alytus Correction House as well as the outcome of the internal audit scheduled in 2013 (paragraph 40);**

It should be noted that after an independent audit on 12 February 2013 concerning the safe environment for inmates and use of special measures, the Ombudsman stated that officers in Alytus Correction House, considering the existing financial possibilities and human recourses, take all necessary measures to ensure safe environment for the inmates. When addressing the shortcomings specified in the Ombudsman's Note No. 2013-1-5 of 19 February 2013, permanent supervision stations were installed immediately (they were put into operation on 29 March 2013) in the 2nd and 3rd local sectors of Alytus Correction House. Video cameras were installed in the said stations in the 2nd quarter of 2013. In addition, extra 8 positions for junior guards were created in Alytus Correction House, and extra 7 positions for supervisors were added on 5 July 2013.

The removal of other shortcomings found out by the Ombudsman would require a significant amount of funds from the State budget. Therefore, the measures to be applied to address the problems of increasing human recourses and improving security of the inmates are to be implemented in 2014. To this end, the total budget of the institution was boosted by 9% compared to 2013.

- **the outcome of the investigations carried out by the competent prosecutorial authorities into three cases referred to in paragraph 38 (paragraph 41)**.

Internal Investigation Service of Alytus Correction House immediately carried internal investigation of the three cases after the use of special measures. It stated in its findings that special measures were used in line with the requirements set forth by legal acts. The findings were sent to Alytus District Prosecutor's Office under Kaunas Regional Prosecutor's Office – it has been confirmed by the endorsement made on the findings by a prosecutor of the prosecutor's office. The prosecutor's office did not carry out any additional investigation.

It should be noted, that the Ombudsman, after having analysed in detail all the cases (32) of the use of special measures in Alytus Correction House in 2012, stated that serious consequences were avoided in all the cases of the use of special measures in Alytus Correction House, and that the application of these measures was adequate, and that no cases of illegal use of these measures have been established.

Conditions of detention of the general prison population

Recommendations

- **the scheduled renovation of Dormitory No. 2 at Alytus Correction House to be reactivated and vigorous action to be taken to improve the material conditions of detention at Šiauliai Remand Prison, in the light of the remarks in paragraphs 47 and 48. As regards more specifically sanitary facilities in multi-occupancy cells, they should be equipped with a full partition (i.e. from floor to ceiling) (paragraph 49);**

The technical project was designed for the reconstruction of Dormitory No. 2 of Alytus Correction House and its general expertise was performed. The 985-place dormitory, in which the inmates now live in rooms for 11 to 15 persons, will be reconstructed into 426-place residential premises. The

premises will be split in rooms for 5 to 8 persons, and there will be a possibility to lock these premises for the night. Isolated sanitary premises that meet hygiene requirements will be installed separately from the living premises. Before the start of the construction and installation works, some usual repair works (repair of ceiling, wall, painting the floor, and renovation of sanitary units) are done in those parts of the dormitory the condition of which is the worst.

In order to improve the detention conditions a feasibility study for Šiauliai Remand Prison project "Construction of Šiauliai Remand Prison-Correction House and Provision of Services" has been prepared to be implemented through the partnership between public and private sector.
But prior to the start of the project implementation, 33 cells were renovated in 2012, 27 cells were renovated in 2013, 5 cells were built in the prisoner reception and distribution station, and 3 more cells are being renovated at the moment.

- **The Lithuanian authorities to take urgent measures in order to ensure that all inmates at Lukiškės Remand Prison have acceptable conditions for detention as regards the cell equipment and furnishings, as well as access to natural light and heating, and that toilet facilities are fully partitioned. As regards more specifically cells measuring some 5 m^2, they should only be used for single occupancy and for short periods of time (paragraph 50)**;

In order to improve detention conditions for the inmates of Lukiškės Remand Prison-Closed Prison before the inmates are moved to new penitentiary institutions (see answer to recommendation 50), 31 cell was renovated in 2013, as well as the premises for the health care unit. Also, the renovation of the heating unit was done, which helps to maintain a constant temperature in the premises. There are no possibilities for further improvement of natural light as the buildings of the prison belong to the cultural heritage and the authorities do not allow enlarging the windows. Instead, the artificial lightening is being improved. Sanitary units in cells have been separated with 1.2 m high partitions.

The installation of sanitary units is regulated by the Rules for the Installation and Exploitation of Correction Institutions as approved by the Order No. V-82 of the Director General of the Prison Department of 3 March 2011. Under these rules, no smaller than 100x142 cm sanitary unit cubicles should be installed during the equipment, reconstruction or major renovation of the existing cells. A metal washing basin and a toilet bowl or stainless steel water closet should be installed in such a sanitary unit. If there are no possibilities to build in a sanitary unit cubicle in an existing cell, the sanitary unit should have a partition separating it from the rest of the cell, and easy to clean, water resistant and disinfection materials resistant covering should be used in such units.

It would not be reasonable and sound to change the currently effective rules in order to ensure a full partition of sanitary units (by installing separate sanitary unit cubicles) as the partitions that are currently used in cells in principle meet the functionality requirements and huge financial recourses would be needed to rebuild them into sanitary unit cubicles. Moreover, there are no possibilities in Lukiškės Remand Prison-Closed Prison to fully separate sanitary units from the rest of the cell as technically it is impossible to install separate ventilation systems for sanitary units.

As regards the 5 m^2 cells, they are used only in extraordinary cases (when the institution is overcrowded), and only for one person for as short time as possible.

- **steps to be taken to allow inmates more frequent access to shower facilities, taking into account Rule 19.4 of the European Prison Rules (paragraphs 51 and 60)**;

All the inmates have a possibility to take a shower no less than once a week. More frequent access to the shower is offered to those inmates who work. Such a possibility is offered also to inmates

during the hot season of the year. Moreover, some amendments to legal acts are under consideration now to let inmates to take shower more often than once a week.

– **the Lithuanian authorities to increase their efforts to offer constructive and purposeful activities to all sentenced inmates at Alytus Correction House and, in particular, to provide them with work (preferably of a vocational value) (paragraph 54);**

On 1 October 2013, about 22% of inmates in Alytus Correction House were engaged in working activities: 188 inmates worked in a state-owned enterprise operating at Alytus Correction House.

In the beginning of the 2013/2014 school year, about 37%, an increase of 6% compared to 2012/2013, of all the inmates of Alytus Correction House were students at education institutions functioning there: there were 250 inmates attending a comprehensive school, and 264 inmates attending a vocational school.

Also, the problem of the employment of inmates is being addressed after the Law on Amendments to the Law on Enforcement of Penal Sanctions came into effect on 1 July 2012. The Law has expanded the list of inmates who can engage in individual working activities, creative and other types of activities, i.e. provided for the inmates serving their sentence in the ordinary group to engage in this type of activities. A possibility was also embedded in that law to transfer the inmates kept in the privileged group to be moved to continue to serve their sentence in an open colony. When in an open colony, such inmates could be searching on their own for their future work or place to study after release. Also, a possibility was created for inmates kept in a correction house's privileged group, inmates from the ordinary group, who have already served at least one third of their sentence, and inmates left in the places of pre-trial detention to leave the territory of the correction institution or a place of pre-trial detention without the guards when performing household works at the Central Prison Hospital or in prison, if this is necessary for the participation in social rehabilitation. Forms of social rehabilitation include i) individual or group work with inmates, aimed at encouraging inmates to change their behaviour and in doing so to maintain their family or other social relations, and this work depends on the personality, age, and gender of the prisoner, the nature of the offence committed by him/her, his/her education, behaviour when serving the sentence, and other circumstances; ii) long-term correction of the inmates' public behaviour; iii) satisfying social, spiritual, and cultural needs of inmates; iv) aid for addressing the problems of inmates.

The practice when inmates are employed outside the territory of their penitentiary institutions to work at construction sites, social institutions, do environment cleaning work was applied more frequently in 2013. Twenty five inmates constantly work outside the territory of the institution. In summer time, their number reached 36. Around 120 inmates permanently do household works in the institution (as housecleaners, kitchen workers, electricians, plumbers, librarian assistants, etc.).

About 1% to 2% of inmates are engaged in individual work or creative activities. To expand their number, the institution renovated the premises assigned for art workshop by expanding it from 8 to 35 work places and buying necessary equipment. Around 30 inmates work there constantly. They are mainly working with wood (carving, turning, inlaying).

The institution has very well equipped sports grounds which are used for various sports events, summer games, etc. all around the year. Inmates may exercise there individually every day, at a set time.

It should be noted that the institution has been trying to create traditions of new activities useful for the society such as participation in public events outside the institution: 6 inmates participated in the

clean-up action Let's Do It on 10 May 2013, 15 inmates participated in the cleaning and putting in order graveyards and their approaches on 21/25 October. These pilot actions turned to be successful and we believe the society's trust regarding inmates will grow in the future, and they will be able to receive more work offers or engage in purposeful activities outside the institution.

- **the Lithuanian authorities to amend the relevant legislation in order to allow remand inmates from different cells to associate and to strive to enhance the out-of-cell activities available to such inmates (paragraph 55).**

A new edition of the Law on Detention came into effect on 1 April 2009, which provides for a possibility to have the detainees engaged in work activities, to provide general education to them, and set out the forms of employment for them: social and legal education, satisfying social and spiritual needs, aid in solving inmates' problems, culture, sports and other events. In order to have inmates involved in the set out activities, an additional room for sports was installed in Block I and Block II of Lukiškės Remand Prison-Closed Prison, and a special room for showing videos is planned to be installed in Block III. As approved by the order of the institution's director, social workers began working in two shifts on 1 March 2013, which allows efficient use of the existing material basis for the out-of-cell activities of inmates and detainees from 7 a.m. to 7 p.m.

A computerized work place was installed in the library of Lukiškės Remand Prison, where inmates and detainees, according to the set schedule, may access the data basis of legal acts to get acquainted with the information published on websites of state institutions.

Moreover, amendments to the Law on Detention are under preparation now, which are to ease the effective provision on the ban for communication between the detainees kept in different cells. The provision is planned to be further effective only for those the detainees who are participants in the same criminal proceedings of the same criminal case.

Requests for information

- **a detailed schedule regarding the transfer of sentenced inmates at Lukiškės Remand Prison to another establishment by 2015 and the closure of Lukiškės Remand Prison in 2017 (paragraph 50);**

To improve the conditions for inmates at Lukiškės Remand Prison, a feasibility study was prepared for the implementation of a project "Construction of Vilnius Remand Prison-Correction House and Provision of Services" through a co-operation between public and private sectors. To implement the project a public tender for selecting a private partner is to be announced, and a competition dialogue is to be used as a procurement method. Procurement procedures are planned to start in early 2014. The tender preparation and the tender are expected to take about 15 months. The feasibility study provides for the construction works to take three years; this time period is also to be set in the tender documents. Therefore, the new penitentiary institution is expected to start functioning in late 2017 or early 2018.

In implementing the Strategy for the Modernization of Custodial Facilities as approved by the Government of the Republic of Lithuania in 2009, the public procurement procedures are underway over the construction of 320-place prison by using a private and public sectors co-operation model. The procurement procedures are in line with the approved timing. According to the procurement conditions, the newly built prison is to be put into operation in three years after signing the agreement.

– **the observations of the Lithuanian authorities on the shortcomings referred to in paragraph 53 concerning the provision of work to inmates at Alytus Correction House (paragraph 53).**

The state enterprise that employs prisoners is obliged to ensure that any newly employed prisoner is offered the workplace safety training; later on, such training is performed at an established periodicity.

In 2013, the renovation was done of the premises of about 100 m^2 to be used for manufacturing furniture. The renovation works in 2014 will depend on the financial situation.

The company provides work clothes only to the workers of some professions (for example, to welders), while workers of other professions receive only some separate items, which are necessary because of the technological process (such as work aprons, gloves etc.).

Conditions of detention of life-sentenced inmates

Recommendations

– **the Lithuanian authorities to fundamentally review the regime applicable to life-sentenced inmates, taking account of the remarks in paragraphs 58 and 59. The relevant legislation should be amended accordingly (paragraph 59).**

The Ministry of Justice is currently considering a possibility to change some legal provisions, including the easing of isolation standards for life-sentenced inmates when such persons do not pose any real threat to other persons or administration of a penitentiary institution.

Conditions of detention of juvenile remand inmates at Kaunas Remand Prison

Recommendations

– **the Lithuanian authorities to redouble their efforts to further expand the offer of purposeful activities (including group association activities) at Kaunas Juvenile Remand Prison. In this connection, the rule restricting contact between remand inmates from different cells should be applied more flexibly (paragraph 61);**

Constant efforts are made to search for new forms of purposeful activities for juvenile detainees.

The Law on Amendments to Code on Enforcement of Penal Sanctions came into effect on 1 July 2012, which sets forth a possibility for if they have to participate in one of the following social rehabilitation activities: individual or group work with the inmates, which is meant to encourage the sentenced to change their behaviour and in doing so to maintain their family or other social relations, and this work depends on the personality, age, and gender of the prisoner, the nature of the offence committed, their education, behaviour when serving their sentence, and other circumstances; long-term correction of the inmates' public behaviour; satisfying social, spiritual, and cultural needs of inmates; aid in addressing the problems of inmates.

In implementing the program "Corrections, Including Non-Incarceration Penalties" financed through the Norwegian Financial Mechanism, an application has been prepared asking for the financing of the project for the reconstruction of idle premises on the seventh floor of Kaunas Remand House into a 70-place school. After the premises are reconstructed and equipped, there will be more possibilities for organising group sessions to juvenile detainees; the rooms of the school

will be used not only for classes, but also for other juvenile group sessions. Moreover, as mentioned in the answer to the recommendation concerning paragraph 55, the amendments are underway for the Law on Detention, which are expected to ease the effective provision on restricting contact between remand inmates in different cells. The provision is planned to be further effective only for those detainees who are participants in the same criminal proceedings of the same criminal case.

- **the design of the outdoor exercise yards at Kaunas Juvenile Remand Prison to be reviewed, in the light of the remarks in paragraph 62. They should also be equipped with a shelter against inclement weather and means of rest (e.g. a bench) (paragraph 62).**

The administration of Kaunas Juvenile Remand Prison-Correction House plans to install wider roofs over the outdoor exercise yards for having a shelter against inclement weather in the first quarter of 2014. The necessary funds have been already included into the institution's budget.

Also, to make the yard more comfortable an application was submitted to the British Council in 2013 for the participation in an international project Made Corrections (INSIDE/OUT). The project funds are to be used to have the large format portraits-posters of the prison inmates who participated in the international project put on the walls, and, if there is a possibility, to have the walls of exercise yards covered with paintings.

Request for information

- **the observations of the Lithuanian authorities on complaints received from juvenile remand inmates at Kaunas Remand Prison that they had to buy themselves materials to clean their cells (paragraph 60).**

All cells in all penitentiary institutions are supplied with the cell cleaning inventory according to the requirements for material supplies, which are approved by the Minister of Justice. Juvenile detainees are given chemical cleaning agents only at a time set for the cell cleaning and have to be used under the supervision of a staff member.

When investigating the case it was established that juvenile detainees are allowed to buy washing agents or powder for washing clothes at a store, which are considered by some of the detainees a higher quality means for cleaning, and therefore used, on their own discretion, to clean the cells.

Health-care services

Recommendations

- **urgent measures to be taken at Alytus and Lukiškės Remand Prisons to fill the vacant posts at their respective health-care services and to increase the number of general practitioners and nurses. Further, the high rate of transmissible diseases at Alytus Correction House requires that regular consultations of a medical specialist be organised (paragraph 65);**

There are 20.5 staff positions in the Health Care Service of Lukiškės Remand Prison: 1 for the head of the service, 2 for practitioners (1 for a psychiatrist, 2 for general practitioners, 1 for an odontologist, 1 for a dermatologist -venereologist, 1 for a radiologist, and 1 for an obstetrician), also 10 positions for nurses, 1 for a radio lab assistant, 1 for a disinfection specialist, and 0.5 for a clinical psychologist. All the posts, except for 0.5 position for a psychiatrist, are occupied by health care professionals.

In the Health Care Service of Alytus Correction House, there are 16 personal health care staff positions: 1 for the head of the service, 4 for practitioners (2.5 general practitioners, 1 for an odontologist, and 1 for a radiologist), also 9.5 positions for nurses, 0.5 position for a radio lab assistant, 0.5 for a medical biologist, and 0.5 for a dispenser. All the positions, except for the position of the head of the service, are occupied by health care professionals.

To ensure adequate provision of health care services to the sentenced inmates, it was set forth in the Structure and Work Regulation of Health Care Services Operating in Penitentiary Institutions which was approved by the Justice Minister's Order No. V-195/1R-76 of 18 March 2009 that in the event when local Health Care Service cannot provide necessary health care services to inmates or detainees (except for persons kept in open colonies), its practitioners have, in accordance with the statutory procedures, to send them to the Central Prison Hospital or a state or municipal public health institution for a specialized outpatient or inpatient treatment.

A group for the prevention and treatment of HIV/AIDS and related diseases was formed in the Central Prison Hospital in accordance with Order No. V-139 of 4 July 2013 of the Director of the Central Prison Hospital and upon the approval of the Prison Department. The group organizes and provides quality health care services (visits penitentiary institutions) to detainees and inmates infected with HIV and having AIDS, organizes medicine supply to HIV/AIDS patients, performs prevention and monitoring of HIV/AIDS and related diseases, and consults patients and medical professionals at penitentiary institutions.

– **necessary steps to be taken to replace the very old X-ray machine at Lukiškės Remand Prison by modern equipment (paragraph 66);**

Lukiškės Remand Prison uses an X-ray machine manufactured in 1986, which is still functioning and technically fit. Moreover, in 2011 the Central Prison Hospital acquired a modern mobile X-ray machine which, if necessary, may also be used by Lukiškės Remand Prison.

As referred to in the answer to recommendation for paragraph 50, preparatory works for moving Lukiškės Remand Prison from Vilnius city centre are underway. Plans are for present Lukiškės Remand Prison to stop its activities in late 2017 to early 2018, so it would not be reasonable to invest funds into the purchase and installation of new equipment there.

– **measures to be taken to ensure that the record drawn up after the medical examination of a prisoner – whether newly arrived or following a violent incident in the prison – contains:**

  i) a full account of statements made by the person concerned which are relevant to the medical examination (including the description of his/her state of health and any allegations of ill-treatment);
  ii) a full account of objective medical findings based on a thorough examination;
  iii) the doctor's observations in the light of i) and ii) indicating the consistency between allegations made and the objective medical findings; this will enable the relevant authorities and, in particular prosecutors, to properly assess the information set out in the record (paragraph 68);

Paragraph 111 of the Rules on Internal Procedure in Remand Prisons and Paragraph 262 of the Rules on Internal Procedure in Correction Houses provide for an inmate who incurred a bodily injury to be examined by a medical practitioner from the health care service of the penitentiary institution, who shall write a note about the nature of the bodily injury, the injury date, time and place. Medical practitioner shall record the injury in a special log and inform thereof the director of the penitentiary institution or his/her deputy who is in charge for guard and security or, in the

absence of these officers, an officer from the internal investigation service. The head of the institution or his/her deputy immediately has to notify a prosecutor of the territorial prosecutor's office of a bodily injury to a prisoner in writing or initiate an internal investigation.

There have been no cases in practice so far of the failure to notify the prosecutor of bodily injuries made to inmates.

Training is organized for medical staff at the Training Centre of the Prison Department on examination of a person after the use of force or special measures, as well as identification and registration of signs of physical and psychological violence.

The Director of Alytus Correction House, who wanted all the medical staff in his institution to participate in the training courses once again made an agreement with the Alytus sub-unit of State Forensic Medicine Service of the Ministry of Justice in February 2013 concerning the qualification upgrading and provision of training services. On 6 March, the medical staff of the Health Care Service of Alytus Correction House had the first training course.

– **existing procedures to be reviewed in order to ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately and systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the prisoner (paragraph 68);**

As already mentioned in the answer regarding recommendations for paragraph 66, the director/director's deputy of the penitentiary institution in all cases must immediately report in writing to a prosecutor of the territorial prosecutor's office about the bodily injury made to an inmate, and initiate an internal investigation.

– **steps to be taken to ensure that medical examinations of inmates are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of non-medical staff (paragraph 69);**

The staffs of all penitentiary institutions have been additionally informed regarding this recommendation of the CPT, and the Director of Šiauliai Remand Prison was instructed to implement this recommendation in his institution.

It is set forth in the Rules on Internal Procedure at Remand Prisons and the Rules on Internal Procedure at Correction Houses that a guard may attend the medical consultation or medical examination of an inmate in the medical premises which is liable under the Lithuanian legislation for the confidentiality of medical consultation or examination only if a member of the medical staff asks for such attendance. Consequently, being liable for the confidentiality of information about a person's health, medical practitioners cannot abuse the right, even for security reasons, to ask a guard to stay in the premises where the medical consultation/examination is performed. Moreover, the above rules provide for the guard to be of the same gender as the patient, upon a request of a medical practitioner.

– **the Lithuanian authorities to review the strategy for tackling drug abuse within the prison system, including the provision of assistance to inmates with drug-related problems (paragraph 71);**

The new edition of Resolution No. 921 of 9 October 2013 of the Lithuanian Government approved the inter-institutional activity plan for the implementation of the Plan for National Drug Control and

Prevention of Drug Abuse for 2010/2016. The plan includes the measures of the Prison Department designed to develop the general, selective and targeted drug prevention in places of deprivation of liberty, the further development of the system for preparation and qualification upgrading of specialists implementing the measures for the reduction of the demand of drugs and psychotropic substances and their precursors. The Prison Department is to allocate additional funds in 2014/2016 to implement these measures.

Until 2010, there were no special social workers in the Lithuanian penitentiary institutions, who could work only with inmates or detainees addictive to psychotropic substances. In addressing the problem and in order to improve the access to social services to inmates with drug addictions, and following Order No. V-319 of 17 December 2010 of the Director General of the Prison Department the positions of a senior psychologist and a psychologist were introduced, at social rehabilitation units of institutions that implement rehabilitation programs for inmates who are addicted to psychotropic substances.

Every newly arrived inmate or detainee in the institution has to pass the primary psychological evaluation. If an addiction problem is identified, the inmate is recommended to take part in various social-psychological programs. Special attention is given to show to the persons abused with psychotropic substances the reasons for participating in psychological and employment programs.

When working with addicted persons the priority is given to programs based on the modification of thinking and behaviour. In 2007/2009 the Prison Department under the Ministry of Justice of the Republic of Lithuania purchased five methodologies for evaluation of criminal recidivism and four programs for thinking and behaviour modification designed for work with the inmates in penitentiary institutions and probation services.

The application of risk assessment methodologies provides a possibility not only to predict future offences, but also to determine the need for correction measures with regard to a particular prisoner. The thinking and behaviour modification program " One-to-One" was designed for psychosocial therapy to adult persons, while program EQUIP is for the therapy to delinquent behaviour juvenile persons. It should be noted that both programs have special modules for work with persons with addictive disorders. Another thinking and behaviour modification program, SeNAT designed for providing medical treatment to sex offenders and also focused on solving addiction related problems. Recently intensive efforts were made to implement the Behaviour-Interview-Change program made up of 5 motivation interviews aid at motivating addictive persons to live in sober state.

Those inmates in penitentiary institutions, who decide to abstain from alcohol and drug use, have a possibility to take part in the activities of Alcoholics Anonymous (AA) and Drug Addicts Anonymous (AN) groups working based on the 12-step Minnesota Program available in all penitentiary institutions. There is a 40-place Centre for Treatment of Addictive Disorders, the work of which is organized by VšĮ Garstyčios grūdas. The AN group is attended by 20 inmates, and the same number attends the meetings of the AA group. The AN group in Kybartai Correction House has 6 participants, and the number of permanent participants in AA group at Marijampolė Correction House is 40. The Addictive Disorders Intervention program by Psychological Service specialists has 20 participants.

There are two Centres for Treatment of Addictive Disorders (15 and 18 places each) in Panevėžys Correction House for women. Another 40 women participate in the activities of the AA and AN groups. A 30-place Alternative Rehabilitation Centre was established in the 2nd Department of Pravieniškės Correction House-Open Colony. The AA and AN groups are operating there too. 80 inmates of the Correction House take part in the preventive educational program. In the 1st

Department of Pravieniškės Correction House-Open Colony, where majority of the inmates are young persons, major focus is on the educational activities provided by specialists of the institution's Psychological Service. Around 20 inmates are attending lectures and discussions. Presently, specialists of the Psychological Service are finishing the preparation of the statute for a soon-to-open day centre for persons with addictive disorders.

Individual education work with addicts is continued by officers of the psychological services and social rehabilitation units at remand houses. They use motivational interview method to encourage motivation of the detainees for living with clear heads. The Prevention of Drug Addiction and HIV Program is being implemented in Lukiškės Remand Prison-Closed Prison, inmates are shown videos on prevention of HIV/AIDS, participate in the discussions.

The Program for Rehabilitation Group of Addictive Persons has been in place in Vilnius Correction House since 2004. The program goals are: 1) to offer medical treatment to inmates with addictive disorders; 2) help inmates to improve their life quality, emotional, mental, and physical condition; 3) to help inmates to form skills and habits necessary to live without drugs or alcohol. The program consists of three stages: 1) introductory group (3-month long outpatient courses); 2) intensive motivational-educational therapy (12 days); 3) a rehabilitation group for drug addicts (12-month long inpatient program). The program efficiency is assessed based on subjective evaluation (from the perspective of the changes in the behaviour of its patient at a penitentiary institution (adaptive behaviour, good contacts with the staff and other inmates, understanding the addiction as a personal problem, etc.) and objective evaluation (remaining clean during the entire program).

The number of inmates of Vilnius Correction House, who took part in the major group for rehabilitation of persons with addictive disorders, was 125. For expanding the program to other penitentiary institutions 12 specialists for social rehabilitation and psychological services within the penal sanctions execution system were trained in 2011, capable of performing the functions necessary for the program implementation. At the end of 2011, specialists from Vilnius Correction House, who are running the program for a group of rehabilitation of persons with addictive disorders, organized a targeted training of how to organize outpatient courses in the introductory group for the staff of all correction houses. Outpatient courses of the introductory group have been offered in all penitentiary houses from early 2012.

The funds of the Norwegian Financial Mechanism for 2009/2014 will be used to build a rehabilitation centre of 30 places in Pravieniškės Correction House-Open Colony, which will be adapted to inmates dependent on psychotropic substances and offer medical treatment to them. The rehabilitation centre is expected to open in 2015.

- **the Lithuanian authorities to take urgent steps to devise and implement a strategy for the prevention and treatment of HIV in Alytus Prison (paragraph 72);**

The group for the prevention of HIV/AIDS and related diseases, which was formed at the Central Prison Hospital and specialists of the Health Care Service of the Prison Department, has been working on the strategy for HIV prevention and medical treatment in Alytus Correction House. The said strategy is expected to be finalized and launched by 1 April 2014.

Before the strategy is finalized, Alytus Correction House took urgent measures to increase the amount of information on the damages done by drugs and the risks and ways to get the HIV virus: A scoreboard was installed in the canteen for inmates of Alytus Correction House, for providing the inmates with the relevant information regarding this issue. Within the disciplinary sector, internal radio is used to broadcast such information.

- **the practice of informing prison staff about an inmate's HIV status to be stopped (paragraph 73).**

This recommendation of the CPT has been fully implemented, and prison staff at the penitentiary institutions is no longer notified of an inmate's HIV or AIDS status.

Comments

- **the Lithuanian authorities are encouraged to enhance the role of the Ministry of Health in the field of prison health care (paragraph 64)**;

The Ministry of Health after having evaluated the compliance of the effective legal provisions based on which the hygiene standards for police places of deprivation of liberty and penitentiary institutions (remand prisons, penitentiary institutions, correction houses, juvenile remand prison, open colonies, the Central Prison Hospital) with the recommendations submitted by CPT, expects to approve in 2014 the Hygiene Standard "Health Care Requirements for Penitentiary Institutions", which is to put into one the Lithuanian Hygiene Standard HN 37:2009 "Police Places of Deprivation of Liberty: General Security Requirements", approved by the Health Minister's Order No. V-820 of 29 September 2009, and the Lithuanian Hygiene Standard HN 76:2010 "Penitentiary Institutions: General Health Requirements" approved by the Health Minister's Order No. V-241 of 30 March 2010.

- **the Lithuanian authorities are invited to ensure prisoners are provided with all relevant information regarding performed medical examinations and their objectives (paragraph 67);**

The new edition of the "Schedule of Procedures for Preventive Medical Examination of Inmates at Penitentiary Institutions Against Dangerous and Most Dangerous Infectious Diseases" approved by a joint order (No. V-276/1R-85 of 19 March 2013) of the Health Minister and Justice Minister, which sets forth the procedures and periodicity for organising preventive health examinations of newly arrived and other inmates of penitentiary institutions against dangerous and most dangerous infectious diseases.

The medical staffs of penitentiary institutions have been introduced to the said order, and the execution of the provisions of the schedule of procedures has been under control.

Also, the pre-test and after-test consultations to a patient are regulated by the Lithuanian health system legislation, which are also followed by health care specialists at penitentiary institutions.

Before any invasive medical interventions patients have to be informed thereof and express their agreement by putting their signature.

Requests for information

- **the observations of the Lithuanian authorities on possible difficulties regarding the recruitment of qualified staff for the new prison hospital as well as detailed plans regarding the future functioning of the prison hospital (s) (paragraph 63).**

In order to move the Central Prison Hospital to another place an investment project "Moving of the Central Prison Hospital to Pravieniškės Medical-Treatment and Correction House" is underway. In 2013, the document approving the end of construction of the "Intensive Monitoring Block. Surgical Block" building was received. The preparations of the documentation needed to issue the document

approving the end of the construction and commissioning of "Therapy Block" are underway. Plans are to use the joint funds of the Norwegian Financial Mechanism for 2014/2015 and State Budget to finish the construction of and equip the Psychiatrics Block, Internal Diseases Block, the X-ray room, and buy required medical equipment.

In 2012, infectious diseases sub-unit of internal diseases unit was moved from Vilnius branch of Central Prison Hospital to newly equipped premises at Pravieniškes branch in 2012.

Pravieniškes village is only 23 km away from Kaunas city which has as good health care network as Vilnius. Also, some medical specialists training institutions are located in Kaunas; consequently, after moving the Central Prison Hospital to Pravieniškės, there should be no problems with the recruitment of medical staff.

Other issues

Recommendations

- **the Lithuanian authorities to review both staffing levels and staff deployment at Alytus Prison in order to ensure that there is an adequate presence of staffs in the different local sectors at all times (paragraph 74);**

Permanent supervision stations were put into place in the 2nd and 3rd local sectors at Alytus Correction House in February 2013, and video surveillance cameras were installed there in March.

Additional 8 positions for guards were made available at Alytus Correction House on 1 March 2013 and LTL 238 thousand of funds to finance them. In the first half of 2013, 13 new junior officers were hired by Alytus Correction House. Another additional 7 positions for officers were opened there in the second half of 2013, to be paid by the money from the savings in the wage fund, whereas from early 2014, these positions will be paid by using the funds of the wage funds.

- **the necessary measures to be taken to fill the vacant posts of custodial staff at Lukiškės and Kaunas Prisons (paragraph 75);**

On 1 January 2014, Lukiškės Remand Prison-Closed Prison had 191 staff positions approved, of which 14 were vacant (out of 100 approved positions for junior officers only 9 were vacant);

Kaunas Juvenile Remand Prison-/Correction House had 348 staff positions approved, of which 13 were vacant (out of 221 approved positions for junior officers only 9 were vacant). It also should be noted that the occupancy rate in this institution is below the limit, and the number of inmates in it has been gradually decreasing. For example, in July 2013 the occupancy rate was 66%, and in January 2014 – 58%.

Recently, the number of vacant positions in these institutions is going down. The procedures of selecting and assigning officers to vacant positions are underway now.

- **steps to be taken, without delay, to ensure that 24-hour shifts are discontinued in practice at Alytus Prison and, if applicable, in other Lithuanian prisons for all categories of staff (paragraph 76);**

The Labour Code and Statute of Service at the Prison Department under the Ministry of Justice of the Republic of Lithuania allow 24–hour work shifts in 24 hours a day. At the same time these employees are guaranteed a set rest time periods under the national legislation.

Moreover, a survey of the staff was conducted concerning the issue. The survey results showed that officers want to work in 24-hour shifts after which they have 3 days of rest. If shifts are shortened to 12 hours, there is a possibility of more problems regarding the vacant positions to emerge as the service in penitentiary institutions is less attractive compared to other jobs. Some of Lithuanian penitentiary institutions are located in small settlements and only a small part of their staff live close to the place of work, so they prefer working longer shifts and thus to spend less time for travelling to work.

– **the relevant legislation to be amended in order to establish the principle that remand prisoners are entitled to receive visits and make telephone calls. Any restriction on a given remand prisoner's right to receive visits or make telephone calls should be based on the requirements of the investigations or security considerations, be applied for a limited period, and be the least severe possible. Further, materials necessary for correspondence should be made accessible (paragraph 77);**

Under Article 22 of the Law on Detention, the number of family and non-family visits to detainees shall not be limited, however the visits are allowed by the administration of the remand prison only upon a written consent of a prosecutor who conducts the pre-trial investigation with regard to the detainee who asks for such visit or a court which has a jurisdiction over the case. This consent may be for a single visit or multiple visits. In case that a prosecutor who conducts the pre-trial investigation with regard to the detainee who asks for such visit or a court which has a jurisdiction over the case does not give consent to the detainee to be visited by his family or other persons, the detainee and the administration of the remand prison has to be presented the reasoning for it. Under Article 23 of the Law on Detention, the number of telephone calls to family members, spouse or partner shall not be limited, but the phone calls are allowed by the administration of the remand prison only upon a written consent of a prosecutor who conducts the pre-trial investigation with regard to the detainee who asks for such telephone calls or a court which has a jurisdiction over the case. This consent may be for a single call or multiple calls. In case that a prosecutor who conducts the pre-trial investigation with regard to the detainee who asks for such a telephone call or a court which has a jurisdiction over the case does not give consent to the detainee to make a call, the detainee and the administration of the remand prison have to be presented the reasoning for it.

Moreover, under Paragraph 2 of Article 49 of the Law on Detention, actions taken and decisions made by pre-trial investigation officials, prosecutors, and judges may be appealed following the procedures set forth in the Code of Criminal Procedure and other legislation. Consequently, if a detainee thinks that a prosecutor who conducts the pre-trial investigation or a court which has a jurisdiction over the case had no grounds to refuse issuing consent to a detainee for a family or non-family visit or a telephone call, he/she may appeal against such decision to a higher prosecutor or a higher court.

At the same time it should be noted, that under Paragraph 6 of Article 15 of the Law on Detention, a detainee who has no money to buy envelopes, stamps, pens, and paper and is asking for them, must be given these things by the administration of the remand house which uses its own funds to by the said supplies.

– **the legal provisions regarding visits to be amended so as to ensure that, as a minimum, all prisoners are entitled to the equivalent of at least one hour of visiting time per week in a given month. Preferably, prisoners should be able to receive a visit every week (paragraph 78);**

The Law on Amendments to the Code on Enforcement of Penal Sanctions came into effect on 1 July 2012 setting in force a possibility for inmates in a privileged group of the correction house to be transferred to an open colony to finish serving their sentence there. When in an open colony, there are no restrictions for the inmates to be visited, receive post and parcels, small packages with press, receive and send letters, and make telephone calls.

Currently, additional review of legal provisions regulating the number of granted visits and their forms is underway. Plans are to allow short visits for inmates in a disciplinary group either. It also should be noted that no plans exist to set a similar number of visits for inmates in different groups, as this will discourage inmates to keep with discipline and schedule requirements and behave their best in order to be granted more rights and privileges.

– **as a rule, prisoners to be able to receive short-term visits from their family members without physical separation; visits with a partition should be the exception and applied in individual cases where there is a clear security concern. All visits should take place in an environment which does not require raised voices for communication (paragraph 79);**

Presently considerations are under way regarding a possibility to allow inmates to have short-term visits with their family members, which could be held in isolated rooms and without the participation of representatives of the penitentiary institution.

– **the necessary steps to be taken to ensure that disciplinary decisions are systematically handed to the inmate and provide simple and clear information regarding the appeals procedure (paragraph 80);**

Paragraph 127 of the Rules on Internal Procedure in Remand Prisons and paragraph 247 of Rules on Internal Procedure in Correction Houses set forth that a copy of a disciplinary decision shall be handed to the inmate on the day of its signature and free of charge. The decision form (Appendix 30 to Rules on Internal Procedure in Remand Prisons and Appendix 378 to Rules on Internal Procedure in Correction Houses) has to include information on the procedure of appeal against the disciplinary punishment.

Heads of penitentiary institutions have been repeatedly reminded about the need to ensure the requirement regarding the handover of a copy of a disciplinary decision to the inmate on the day of its signature and free of charge.

– **the legal provisions on disciplinary segregation of minors to be amended in the light of the remarks in paragraph 81 (paragraph 81);**

It should be noted that a disciplinary segregation of juvenile detainees is the most severe punishment and for juvenile inmates – one of the most sever disciplinary punishments which may be applied only in case of a major or systemic violations of the regime requirements (it is exclusively rare in cases when juveniles are involved). Moreover, in practice juveniles are segregated for considerably shorter time compared to the maximum limits set forth by legislation.

– **steps to be taken to ensure that disciplinary punishment of prisoners does not include a total prohibition of family contacts and that restrictions on family contacts as a form of punishment are applied only when the offence relates to such contacts (paragraph 82);**

As already mentioned in the answer to recommendation regarding paragraph 78, expected legislation amendments are to allow short-term visits for inmates in a disciplinary group too.

– **the practice observed at Alytus and Lukiškės Prisons of a nurse visiting the disciplinary unit on a daily basis to be followed in every establishment (paragraph 83);**

There is no requirement set forth in a legislation act that a nurse should be visiting inmates in the disciplinary unit on a daily basis, because every inmate before placing him in the disciplinary unit has to be examined by a medical doctor. Nevertheless, health care specialists often visit inmates in disciplinary units as well as those inmates who register for a visit to health care specialists.

The Rules on Internal Procedure in Remand Prisons and Rules on Internal Procedure in Correction Houses set forth that the prisoners with restricted access to health care services have to register for a visit to a health care specialists in advance. In the blocks of living premises (pavilions, stores, disciplinary units, cell type premises), supervision officers authorized by the director of the institution shall fill in the log of registration for a visit of an inmate to the doctor. Patients are registered every day. Officers who do the registration are liable for the meetings of all the registered patients with the doctors.

– **the requirement that prison doctors certify that prisoners are fit to undergo placement in a disciplinary cell as a punishment to be discontinued. Medical personnel should never participate in any part of the decision-making process resulting in any type of solitary confinement, except where the measure is applied for medical reasons (paragraph 84);**

With a view to the CPT's recommendation it was decided to make legislation amendments that would allow discontinuing the participation of medical personnel in the process of taking punishment decisions with regard to inmates.

At the same time it should be noted that under provisions of the Code on Enforcement of Penal Sanctions, the doctor does not participate in taking a decision on placing the inmate into a disciplinary unit. The doctor's duty is only to examine the inmate to find out whether he has any health disorders that would prevent him/her from serving the sentence or would hinder providing to him/her of health care services.

– **the Lithuanian authorities to review the strict regime, in the light of the CPT's previous recommendations and remarks in paragraph 85. IN particular, the prisoners concerned should be offered the possibility of engaging in purposeful activities. Further, all prisoners subject to that regime (including those in disciplinary cellular confinement) should be allowed to receive visits on a regular basis (paragraph 85);**

Plans are to set forth that inmates placed in a disciplinary group have to be allowed short-term visits.

– **the necessary steps to be taken to remedy the shortcomings mentioned in paragraph 86 as regards the material conditions of detention in the disciplinary cells at Alytus, Lukiškės and Šiauliai Prisons. Adequate access to natural light and satisfactory artificial lighting should be provided in all the cells; they should also be suitably heated and ventilated (paragraph 86).**

In 2013, the reconstruction of the heating unit in the renovated Block I of Lukiškės Remand Prison-Closed Prison helped to solve the cell heating issue.

Lukiškės Remand Prison-Closed Prison and Šiauliai Remand Prison were built more than a hundred years ago. The buildings of Lukiškės Remand Prison-Closed Prison are included in the list of protected historical heritage objects and therefore, it is impossible to change the window

construction and thus to ensure natural lighting in cells of the disciplinary unit; so, the artificial lighting is used there. The recommendations regarding natural lighting will be fully implemented only after building the new penitentiary institutions in the vicinity of Vilnius and Šiauliai cities.

Comments

- **efforts need to be made to ensure that prisoners are clearly aware of their right to lodge complaints and are able to exercise that right in a way that offers appropriate guarantees of independence, impartiality and thoroughness (paragraph 87);**

Inmates and detainees can read the sets of regulating legislation in libraries functioning at every penitentiary institution.

Information about the right to submit complaints may be found not only in libraries of penitentiary institution s but also at inmate sections – it is normally displayed on info stands. There they can also find the rules for filing complaints, samples of address writing on an envelope, list of addresses of major state institutions.

The Prison Department has prepared leaflets in Russian and English for detainees and inmates using other languages than Lithuanian, which contain information about the execution of remand detention and custodial sentence, rights and responsibilities of detainees/inmates.

- **the CPT trusts that the Lithuanian authorities will provide adequate resources to the Seimas Ombudsmen, as well as the Children Ombudsman, for the purpose of their monitoring activities (paragraph 88).**

In its response to the CPT's comment the Seimas Ombudsmen Office noted that their institution is capable currently to perform 2-3 monitoring visits a year, while the protection of the persons in custody against ill-treatment could be strengthened only by ensuring regular visits. Moreover, after the Seimas ratified the Optional Protocol to the UN's Convention against Torture and approved amendments to the Law on Seimas Ombudsmen, additional funds have to be allocated to the Seimas Ombudsmen's Office to implement the provisions of the Optional Protocol. The Seimas Children Ombudsman's Office also pointed out to insufficient financing of their institution.

In view of the above said, Law on Approval of Financial Indicators of the State and Municipal Budget of the Republic of Lithuania for 2014 foresees additional LTL 542 thousand litas to be allocated to Seimas Ombudsmen and LTL 73 thousand for Children Ombudsman's Office for the new functions, in addition to extra funds for the restoration of the previously cut wages.

PSYCHIATRIC ESTABLISHMENTS

Means of restraint

Recommendations

- **steps to be taken at Vilnius Republican Psychiatric Hospital to ensure that the minimum standards set out in paragraph 94 are applied whenever resort is had to means of restraint (paragraph 94);**

In view of the fact that now every psychiatric establishment applies means of restraint at its own discretion, and in implementing Paragraph 1.2 of Decision No. 111-s-2 "Regarding the problems of Lithuanian nursing specialists" of 13 March 2013 of the Seimas Health Committee, the Lithuanian Nursing Specialists Organisation has designed draft recommendations regarding physical restraints. The draft has been submitted to specialists of the Health Ministry, the Association of Lithuanian Psychiatrists, Medical Department of Vilnius University, and Lithuanian Welfare Society for Persons with Mental Disability VILTIS, other professional and scientific research organizations to submit their own comments and recommendations. The efforts are made to have common recommendations regarding physical restraint that are harmonized with all the institutions concerned.

- **the Lithuanian authorities to review the practice of psychotropic medication being administered to patients at Vilnius Republican Psychiatric Hospital by means of direct intravenous injections, in the light of the remarks in paragraph 95 (paragraph 95).**

If there are no methodologies on diagnostics and medical treatment prepared by organizations of professional medical doctors, each personal health care institutions design diagnostics and medical treatment protocols in accordance with law on patient rights and health damage compensation. This is to be emphasized and the Republican Psychiatric Hospital is to be instructed to review the diagnostics and medical treatment protocols in light of the CPT's recommendations.

Under the Law on Patient Rights and Compensation for Health Damage, the methodology of diagnostics and medical treatment is a document prepared by universities, research institutions, organizations of professional medical doctors, based on the evidence of medical science and practice, and a diagnostics and medical treatment protocol is a document approved by the head of a health care institution, which sets the process of diagnostics and medical treatment.

Safeguards in the context of involuntary hospitalization

Recommendations

- **the Lithuanian authorities to take steps to ensure that in the context of civil involuntary hospitalisation and extension thereof;**
  - **patients have the effective right to be heard in person by the judge (for this purpose, consideration may be given to the holding of hearings on hospital premises);**
  - **the court always seeks an opinion from a psychiatrist who is not attached to the psychiatric institutions admitting the patient concerned (paragraph 98);**

A work group for developing the Law on Mental Health Care is presently under formation at the Health Ministry. Provisions of the Law on Mental Health Care are expected to be amended in principle and the recast of the law to be prepared. This work group *inter alia* will decide also necessary amendments to legal regulations, which are related to the regulation of civil involuntary

hospitalisation of individuals and involuntary medical treatment, as well as providing additional guarantees to involuntary hospitalised and involuntary treated individuals.

– **the legal status of patients at Vilnius Republican Psychiatric Hospital to be review, in the light of the remarks in paragraph 100 (paragraph 100);**

Currently the legislation does not provide a possibility (even more, an obligation) for a court to receive a conclusion of a psychiatric hospital, which is not related to involuntary hospitalisation of an individual. However, in designing amendments to the new recast of Law on Mental Health Care and related legislation, it will be considered *inter alia* that an individual shall be hospitalised by a decision of a three-member medical doctor commission (two doctors psychiatrists and one member of the administration of the psychiatric establishment).

– **the Lithuanian authorities to take steps – including of a legislative nature – to distinguish clearly between the procedure for voluntary placement in a psychiatric institution and the procedure for involuntary psychiatric treatment, in the light of the remarks in paragraph 101 (paragraph 101);**

This issue is to be addressed when the work group formed by the Health Ministry will be working on the recast of the draft Law on Mental Health Care.

Requests for information

– **the observations of the Lithuanian authorities on the fact that certain court decisions on involuntary psychiatric hospitalisation explicitly mentioned that they were not subject to appeal (paragraph 99).**

The effective legislation provides for cases regarding the permission to extend involuntary civil hospitalisation to be heard in accordance with the rules for simplified process laid down in Chapter XXXIX of the Code of Civil Procedure, which are applied to hearing of cases regarding the issue of court permits (special proceedings). Paragraph 6 of Article 582 of the Code of Civil Procedure sets forth a general rule for this group of cases, saying that "the court's judgement to issue permit shall not be subject to appeal and will come into effect on the day of its adoption".

It should be noted that the appeal process is not required under Item 4 of Article 5 of the European Convention on Human Rights (the judgement of the European Human Rights Court in the case *Jėčius vs. Lithuania*). The process in one judicial institution is considered sufficient for the purpose of Paragraph 4 of Article 5, but on the condition that the person will be guaranteed adequate procedural guarantees (particularly in view of the fact that an issue of custody is addressed).

In view of the above said, during the work of the work group formed by the Health Ministry on the preparation of draft legislation, a possibility to have additional procedural guarantees for involuntary hospitalised individuals embedded in them is to be considered.