



CPT/Inf (2009) 35

## **Report to the Latvian Government**

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

**from 27 November to 7 December 2007**

The Latvian Government has requested the publication of this report and of its responses. The Government's responses are set out in document CPT/Inf (2009) 36.

Strasbourg, 15 December 2009

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**Copy of the letter transmitting the CPT's report**

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to the Council of Europe  
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67000 Strasbourg

Strasbourg, 11 April 2008

Dear Sir

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I enclose herewith the report to the Latvian Government drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) following its visit to Latvia from 27 November to 7 December 2007. The report was adopted by the CPT at its 65<sup>th</sup> meeting, held from 3 to 7 March 2008.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Latvian authorities to provide:

- **within three months** an account of the action taken to implement the recommendations in paragraphs 58 and 89;
- **within six months**, a response giving a full account of action taken to implement all of the other recommendations formulated in the report.

The CPT trusts that it will also be possible for the Latvian authorities to provide, in the above-mentioned response within six months, reactions to the comments formulated in this report as well as replies to the requests for information made. As regards more particularly the request for information in paragraph 42 of the report, the CPT would like to receive the information **within three months**.

The Committee would ask, in the event of the responses being forwarded in Latvian, that they be accompanied by an English or French translation. It would also be most helpful if the Latvian authorities could provide a copy of the responses in a computer-readable form.

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

Yours faithfully

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

## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Latvia from 27 November to 7 December 2007. The visit formed part of the CPT’s programme of periodic visits for 2007. It was the fourth visit to Latvia to be carried out by the Committee<sup>1</sup>.

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

- Renate KICKER, Head of delegation
- Aleš BUTALA
- Marija DEFINIS GOJANOVIĆ
- Lətif HÜSEYNOV
- George TUGUSHI.

They were supported by Michael NEURAUTER (Head of Division), Elvin ALIYEV and Kristian BARTHOLIN of the CPT's Secretariat, and assisted by:

- Timothy HARDING, forensic doctor and psychiatrist, former Director of the University Institute of Forensic Medicine, Geneva, Switzerland (expert)
- Alan MITCHELL, medical doctor, former Head of the Scottish Prison Health-Care Service, United Kingdom (expert)
- Juris BALDUNCIKS (interpreter)
- Ieva VIZULE (interpreter)
- Inguna BEKERE (interpreter)
- Viktors FREIBERGS (interpreter)
- Ilze NORVELE (interpreter)
- Ligita PUDZA (interpreter).

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<sup>1</sup> The first two periodic visits to Latvia took place in 1999 and 2002. The CPT also carried out an ad hoc visit in 2004. The visit reports and related Government responses have been published under the references CPT/Inf (2001) 27 and 28 (1999 visit), CPT/Inf (2005) 8 and 9 (2002 visit), and CPT/Inf (2008) 15 and 16 (2004 visit).

**B. Establishments visited**

3. The delegation visited the following places:

**Establishments under the Ministry of the Interior**

- Cēsis District Police Board
- Cēsis Municipal Police Station
- Daugavpils City and District Police Board
- Daugavpils Municipal Police Station
- Jēkabpils District Police Board
- Jelgava City and District Police Board
- Limbaži District Police Board
- Preiļi District Police Board
- Sigulda Municipal Police Station
- Sigulda State Police Station

**Establishments under the Ministry of Justice**

- Cēsis Correctional Centre for Juveniles
- Daugavpils Prison (Unit for life-sentenced prisoners)
- Ilģuciema Prison for Women
- Jēkabpils Prison
- Jelgava Prison (Unit for life-sentenced prisoners)
- Rīga Central Prison

**Establishments under the Ministry of Health**

- Daugavpils Neuropsychiatric Hospital

**Establishments under the Ministry of Welfare**

- Krastiņi Social Nursing Centre.

### C. Consultations and co-operation

4. In the course of the visit, the delegation had consultations with Gaidis BĒRZIŅŠ, Minister of Justice, Iveta PURNE, Minister of Welfare, Aivars STRAUME, State Secretary of the Ministry of Interior, Visvaldis PUĶĪTE, Head of the Latvian Prison Administration, Juris BUNDULIS, Under-Secretary of State of the Ministry of Health, as well as with other senior officials of the ministries concerned. It also met Romāns APSĪTIS, Ombudsman of Latvia, and representatives of non-governmental organisations active in areas of concern to the CPT.

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

5. The co-operation received by the delegation during the visit, from both the authorities at ministerial level and staff at the establishments visited, was generally good. With one exception, the delegation enjoyed rapid access to all the places visited (including those which had not been notified in advance), was provided with the information necessary for carrying out its task and was able to speak in private with persons deprived of their liberty.

However, at Daugavpils Municipal Police Station, the delegation was denied access to the establishment for about 40 minutes. Apparently, the management of the police station had not been informed by the central authorities of the mandate and powers of the Committee. **The CPT trusts that additional efforts will be made in the context of future visits, with a view to ensuring that all relevant authorities, including municipal police services, receive detailed information on the Committee's mandate and their obligations vis-à-vis visiting delegations.**

Further, at Jēkabpils Prison, the delegation learned from both prisoners and members of staff that they had been warned by the management of the prison not to speak openly to the delegation. This constitutes a flagrant disregard of the principle of co-operation which is one of the pillars of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment.

6. The principle of co-operation between States Parties and the CPT is not limited to facilitating the work of a visiting delegation. In this connection, the CPT is seriously concerned by the fact that only very little progress has been made in the implementation of many key recommendations made by the Committee following its previous visits to Latvia (in particular, as regards the fundamental safeguards against police ill-treatment, the conditions of detention and security measures applied to life-sentenced prisoners, the lack of out-of-cell activities for remand prisoners, and the prohibition of outdoor exercise for prisoners placed in punishment cells). It should also be added that the Latvian authorities' response to the immediate observation made by the CPT's delegation concerning the remand detention block at Cēsis Correctional Centre is not satisfactory (see paragraphs 7 and 58).

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

7. At the end-of-visit talks on 7 December 2007, the CPT's delegation made four immediate observations under Article 8, paragraph 5, of the Convention:

The first immediate observation related to the situation of four life-sentenced prisoners whose serious health condition required urgent action by the relevant authorities<sup>2</sup> (deadline for response: one month).

The second immediate observation was made in respect of Jēkabpils Prison, where the delegation gained the distinct impression that, due to the seriousness and frequency of alleged instances of ill-treatment of prisoners by staff and the level of inter-prisoner violence, a safe environment could not be provided for prisoners. The delegation requested the Latvian authorities to initiate a full and far-reaching independent inquiry into how Jēkabpils Prison functions (deadline for response: two months).

The third immediate observation concerned the appalling conditions of detention in the remand detention block at Cēsis Correctional Centre. The delegation requested the Latvian authorities to withdraw from service the entire remand detention block (including the quarantine cell and the punishment cells) (deadline for response: two months).

The fourth immediate observation was made regarding the prohibition of outdoor exercise for adult prisoners who were subject to the disciplinary sanction of solitary confinement. The delegation called upon the Latvian authorities to take the necessary measures to ensure that, in all prisons, prisoners placed in punishment cells are granted at least one hour of outdoor exercise per day (deadline for response: two months).

The above-mentioned observations were confirmed by the Executive Secretary of the CPT in a letter dated 21 December 2007.

8. By letters of 18 January and 27 February 2008, the Latvian authorities provided comments on various issues raised by the delegation at the end of the visit, including the above-mentioned immediate observations. This information has been taken into account in the relevant sections of the present report.

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<sup>2</sup> Further information on these cases was handed over at the end of the meeting with the Minister of Justice.



## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Police establishments

#### 1. Preliminary remarks

9. Following the entry into force of the new Code of Criminal Procedure (CCP) on 1 October 2005, the legislative framework governing the detention of persons who are suspected of having committed a criminal offence has undergone certain changes. In particular, the maximum period for which criminal suspects may be held in police custody before being seen by a judge has been reduced from 72 to 48 hours<sup>3</sup>.

As was the case during the previous CPT visits, remand and sentenced prisoners may be returned from prison to police custody, if this is considered necessary for the purposes of the investigation. Latvian legislation does not provide for any specific time limits in these cases (see paragraph 29).

As regards administrative detention, under the Police Act and the Administrative Violations Code, persons may be held by the police on different legal grounds, such as to verify their identity or when the interests of public safety, order, health or morals so require (for a maximum period of three hours), or when they may present a danger to themselves or others due to alcohol or narcotic intoxication (for a maximum period of twelve hours). In addition, police detention facilities are used for holding persons who have committed an administrative offence and are sentenced to detention (for a period of up to 15 days)<sup>4</sup>.

Since the last visit, a new Law on the Order of Holding Detained Persons was adopted, which contains specific provisions concerning the conditions of detention and provision of health care<sup>5</sup> (see also paragraph 26).

#### 2. Ill-treatment

10. During the visit, the CPT's delegation interviewed scores of persons who were, or had recently been, in police custody. The majority of those persons stated that they had been treated by police officers in a correct manner. In general, the situation in this regard seems to be improving, the frequency and severity of alleged instances of police ill-treatment being lower compared to findings during earlier CPT visits to Latvia.

11. However, the picture which emerges from the information gathered by the CPT's delegation is not entirely reassuring. The delegation did receive a number of credible allegations of recent physical ill-treatment by the police, which, in a few cases, was of a severe nature (e.g. strangulation by hand, severe beating, etc.). While the majority of the allegations concerned ill-treatment at the time of or immediately following apprehension, some of them related to ill-treatment during police questioning. In some cases, medical members of the delegation themselves observed injuries consistent with the allegations made.

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3 Section 263 of the CCP.

4 Section 31 of the Administrative Violations Code.

5 This law applies equally to persons who are detained under criminal and administrative legislation.

It should also be noted that some of the persons interviewed alleged that they had been subjected to psychological pressure (such as threats to physically ill-treat them or to take into custody other members of the detained person's family) or to verbal abuse.

12. In the light of the above, **the CPT calls upon the Latvian authorities to redouble their efforts to combat ill-treatment by the police. The Committee recommends that police officers be reminded, at regular intervals, that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are not acceptable and will be the subject of severe sanctions. Police officers should also be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them.**

Further, **police officers must be trained in preventing and minimising violence in the context of an apprehension. For cases in which the use of force nevertheless becomes necessary, they need to be able to apply professional techniques which reduce as much as possible any risk of harm to the persons whom they are seeking to apprehend.**

13. Another effective means of preventing ill-treatment by the police lies in the diligent examination by the competent authorities of all complaints of such treatment brought before them and, where appropriate, the imposition of a suitable penalty. This will have a very strong dissuasive effect. Conversely, if those authorities do not take effective action upon complaints referred to them, law enforcement officials minded to ill-treat detained persons will quickly come to believe that they can do so with impunity.

14. In order to ascertain the measures taken in response by the Internal Security Office (ISO) of the State Police<sup>6</sup>, the delegation reviewed a number of individual cases of prisoners who arrived at Rīga Central Prison with visible injuries and who alleged that these injuries had been caused by police ill-treatment. To make its assessments, the delegation scrutinised the relevant investigation files (including the medical documentation prepared by medical staff working at Rīga Central Prison) and had consultations with the head of the investigation division of Rīga Central Prison, as well as with officers of the ISO. In this connection, the following cases merit particular attention:

#### Case 1

Mr V. M. was admitted to Rīga Central Prison on 18 May 2007. During the initial medical examination, various injuries (in particular, bruises below both eyes and on the forehead) were observed, and a medical report was drawn up. On 23 May 2007, a statement was taken from the prisoner by an officer of the establishment's investigation division, in which the prisoner alleged that he had been subjected to ill-treatment by police officers in Rīga. On 24 May 2007, a report with the prisoner's statement was transmitted by the management of Rīga Central Prison to Rīga Police Department. Subsequently, the case was forwarded to the ISO, but shortly afterwards, the case was returned by the ISO to the Rīga Police Department for the purpose of collecting further information on the circumstances of the case. On 6 June 2007, the Rīga Police Department transmitted a letter to Rīga Central Prison, informing the management that the result of the investigations was that the allegations made were false and that the injuries had been sustained accidentally by "falling off a bicycle". Thus, the decision was taken not to initiate criminal investigations.

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<sup>6</sup> The ISO was set up in 2003 and is entrusted, among other things, with the investigation of allegations of police ill-treatment. It has an autonomous status within the police service, under the direct supervision of the Chief of the State Police.

Case 2

On 10 September 2007, upon admission to Rīga Central Prison, Mr A. V. alleged that, during his apprehension on 5 September 2007, he had been ill-treated by police officers of Olaine Police Station. More specifically, he claimed that he had been hit on the head by a gun, and that he had been thrown to the ground causing him to lose his consciousness. He had allegedly been transferred to a hospital in Rīga where “concussion” was diagnosed. On 10 September 2007, the case was forwarded by Rīga Central Prison to the ISO (with the medical report drawn up by the prison doctor and the statement taken from the prisoner by the prison’s investigation division). On 17 September 2007, a letter was sent by the ISO to the Rīga Regional Police Board requesting the latter to clarify the circumstances of the apprehension; in this connection, statements were taken from two police officers involved in the apprehension. On 19 October 2007, the Rīga Regional Police informed the ISO that no indications of a criminal offence had been found. The ISO therefore decided not to initiate a criminal investigation (a copy of this decision was also sent to General Prosecutor’s Office). On 22 October 2007, a letter was sent by the Rīga Regional Police to Rīga Central Prison, indicating that “following the investigations carried out, it was concluded that the detainee had fallen to the ground when attempting to run away during his apprehension”, that the allegations made were false and that, for those reasons, no criminal case had been opened. On 25 October 2007, the ISO sent a letter to the complainant informing him of the decision not to open a criminal case, because “the impugned police action contained no elements of a criminal offence”, as well as of the possibility to appeal against this decision within ten days to the General Prosecutor’s Office.

15. ISO officers met by the delegation indicated that, before a decision was taken to initiate a criminal investigation, the ISO and local police units usually conducted a preliminary "examination" of the circumstances connected with the complaint and the allegations made. In many cases, the ISO forwarded a complaint/allegations received to a local police unit for the purpose of establishing the relevant facts. This was observed in particular when police officers belonging to police units of the Rīga City or Regional Police Boards were involved. Thus, local police units collected documents they already had, gathered additional information (such as statements from police officers involved in the alleged incident) and prepared a written report with their findings and conclusions, to be sent to the ISO; or, alternatively, only sent a short letter to the ISO, stating that there were no grounds to initiate a criminal investigation. The documentation compiled by local police establishments was usually not forwarded to the ISO, unless the latter explicitly asked for it. The involvement of the ISO was usually limited to verifying whether formal requirements were met by local police units and deciding whether to initiate a criminal investigation (on the basis of the information gathered by local police units).

In the CPT’s view, such practices seriously undermine the independence and impartiality of the investigation. Any investigative action (in the context of preliminary “examinations” and criminal investigations) should be undertaken by ISO investigators only, and not by police officers from other police units who might be connected with the police officers under investigation.

16. The CPT noted with concern that, in both of the above-mentioned cases, the preliminary "examination" of the relevant facts was carried out without any involvement of the complainant himself, before a decision was taken on whether to initiate a criminal investigation. Thus, this stage of the procedure was completed without any hearing with the "victim", and the principle of "*audiatur et altera pars*" was not respected. The only involvement of the "victim" was reduced to his (written) complaint or the statement which had been drawn up upon his admission to prison. Consequently, the procedure does not comply with the criterion of thoroughness.

17. Further, in neither of the above-mentioned cases was a forensic medical examination performed. In this regard, ISO officers affirmed to the delegation that, according to the new CCP (Section 193), forensic examinations (as indeed any examinations by experts) can only be conducted after a criminal case has been opened.

The delegation was informed that, in practice, up to one month elapsed between the moment when a complaint was lodged and the initiation of a criminal investigation. It is self-evident that at that time it may be late or even too late for a forensic expert to examine injuries (and make an assessment as to the possible causes), since they may well have healed in the meantime and no longer be visible. In this way, important pieces of evidence may be lost, and a decision on initiating criminal proceedings taken on incomplete and partial information. Thus, a prompt and thorough investigation cannot be guaranteed.

18. Decisions taken by the ISO not to initiate criminal proceedings were always submitted, for approval, to the General Prosecutor's Office. In addition, such decisions were communicated to the complainant in a standard letter, which only referred to the relevant sections of the CCP and contained no substantive explanation for the decision not to initiate a criminal investigation. An appeal against such decisions is, in principle, possible. However, for a complainant it is difficult, if not impossible, to appeal against a decision without having been given any concrete reasons. Such a state of affairs clearly constitutes a violation of the right of an effective appeal.

19. To sum up, the current procedures for processing complaints about police ill-treatment (that can result in criminal proceedings) cannot be considered as being effective. **The CPT recommends that the Latvian authorities carry out a thorough review of those procedures in the light of the above remarks and amend, if necessary, the relevant legal provisions accordingly.**

In particular, **steps should be taken to ensure that, whenever a detained person displays injuries which are consistent with allegations of ill-treatment made:**

- **the case is immediately brought to the attention of the relevant prosecutor;**
- **a forensic medical examination is immediately performed.**

20. More generally, the CPT considers that, in order for the investigation of complaints about police ill-treatment to be fully effective, the procedures involved must be, *and be seen to be*, independent and impartial. In this respect, the Committee considers that it would be preferable for the investigation work concerned to be entrusted to an agency which is completely independent of the police. **The Committee would like to receive the comments of the Latvian authorities on this matter.**

### 3. Fundamental safeguards against ill-treatment

21. The CPT wishes to recall that three fundamental rights (the right of those concerned to inform a close relative or another third party of their choice of their situation, the right of access to a lawyer, and the right of access to a doctor) should apply from the very outset of a person's deprivation of liberty. Furthermore, persons taken into police custody should be expressly informed, without delay and in a language they understand, of all their rights, including those referred to above.

These safeguards should apply not only to persons detained by the police in connection with a criminal or administrative offence, but also to persons detained under aliens legislation, and to persons who are obliged to remain with the police for other reasons (e.g. as a witness or for identification purposes).

#### a. notification of custody

22. Pursuant to Sections 62 and 63 of the CCP, an apprehended person has the right to request that a relative close to him/her, an educational institution or an employer be notified regarding the detention "at the moment of actual arrest". The right of notification is also embodied in the Administrative Violations Code (AVC)<sup>7</sup>.

However, as was the case during the previous visits, this right often became effective in practice only when the detention protocol was drawn up, and not at the outset of deprivation of liberty. Further, a number of detained persons alleged that police officers had not allowed them to exercise this right for periods of up to 24 hours. It is also a matter of concern that, with regard to this right, specific provisions applicable to juveniles (in particular, the obligation of the police to immediately inform the parents/legal representative) were apparently not always respected.

**The CPT calls upon the Latvian authorities to ensure that the right of notification of custody is rendered fully effective in practice with respect to all persons deprived of their liberty by the police, as from the very outset of their deprivation of liberty.**

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<sup>7</sup> Pursuant to Section 253, "[a]t the request of a person detained for an administrative violation, the whereabouts of the person shall be notified to his/her next-of-kin and the administration of his/her place of work or education."

b. access to a lawyer

23. The new Criminal Procedure Code guarantees persons apprehended by the police on suspicion of having committed a criminal offence the right to have access to a lawyer "without delay"<sup>8</sup>. The relevant legal provisions also provide for the right of an apprehended person to be interrogated in the presence of a lawyer and to confer with a lawyer in private<sup>9</sup>. Further, in certain circumstances, the presence of a lawyer is mandatory, especially when the person concerned is a minor or mentally disabled<sup>10</sup>.

24. The information gathered during the 2007 visit suggested that detained persons were in most cases offered access to a lawyer whilst in police custody (including during formal questioning).

However, it is a matter of serious concern that, according to police officers and detained persons met by the delegation, apprehended persons (including juveniles) were frequently subjected to informal questioning, without the presence of a lawyer, prior to the taking of a formal statement (in the lawyer's presence). One police officer affirmed to the delegation that, from his personal experience, in almost 50% of cases a confession was obtained during such informal questioning. Such a state of affairs is not acceptable.

**The CPT calls upon the Latvian authorities to take all necessary steps 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.**

25. Since the 2004 visit, a certain number of positive developments concerning legal aid have occurred. In particular, the Code of Criminal Procedure now explicitly provides for the right of indigent persons to receive free legal aid from the moment of one's deprivation of liberty, and the State Legal Aid Act came into force on 1 June 2005.

However, as was the case during previous visits, a number of allegations were received that *ex officio* lawyers had had no contact with the detained persons until the first court hearing. **Appropriate steps should be taken, in consultation with the Bar Association, to ensure the effectiveness of the system for free legal representation throughout the criminal procedure, including at the initial stage of police custody.**

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8 Sections 63, paragraph 1(1), of the CCP.

9 Section 63, paragraphs 1(4) and 1(10), *ibid.*

10 Section 83, *ibid.*

c. access to a doctor

26. The CPT welcomes the fact that the recently adopted Law on the Order of Holding Detained Persons contains specific provisions concerning the right of detained persons to have access to a doctor. Section 9 of the Law stipulates that detained persons shall be guaranteed, free of charge, "emergency medical assistance and assistance in the case of traumas, acute disease or exacerbation of a chronic disease". In addition, detained persons have the right to be examined, at their expense, by a doctor of their own choice.

That said, a number of detained persons met by the delegation claimed that police officers had refused to call a doctor, despite their explicit request.

**The CPT recommends that steps be taken to ensure that all requests to see a doctor made by detained persons are immediately communicated to a doctor; police officers should not be in a position to filter such requests.**

27. As regards medical confidentiality, the information gathered indicates that the situation is still far from satisfactory. In those cases when a person detained by the police was actually seen and examined by a doctor, medical examinations frequently took place in the presence of police officers. Further, medical data (recorded in the "ambulance book") kept in police detention facilities were often accessible to police officers.

**The CPT calls upon the Latvian authorities to take all necessary steps to ensure that medical examinations of persons held in police detention facilities are always conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of police officers. Further, steps should be taken to ensure that the confidentiality of medical data is fully respected in police establishments throughout Latvia.**

d. information on rights

28. It is a matter of grave concern that, despite the specific recommendation repeatedly made by the Committee since 1999, no forms setting out the fundamental rights of detained persons were provided at the police establishments visited.

In practice, detained persons were informed of their rights at the moment when the protocol of detention was drawn up. On this occasion, some information (for instance, regarding the rights of notification and access to a lawyer) was also provided in writing<sup>11</sup>. No written information was provided on the right of access to a doctor, nor on the specific safeguards concerning juveniles.

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11 Usually, a print-out of the relevant provisions of the law was given to the person concerned.

The CPT calls upon the Latvian authorities to ensure without further delay that all persons detained by the police – for whatever reason – are fully informed of their above-mentioned fundamental 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 at the very outset, 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, available in an appropriate range of languages.

Further, 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.

- e. return of remand prisoners to police detention facilities

29. The CPT has repeatedly expressed its misgivings about the practice of returning remand prisoners to police detention facilities “for investigation purposes”<sup>12</sup>.

According to the Latvian authorities' response to the report on the 2004 visit, the Chief of the State Police issued a circular in May 2005 requiring *inter alia* “[t]o move persons from the detention places in the investigation prisons to the short term detention isolation cells only in cases when there is no other possibility to avoid this”.

However, the 2007 visit revealed that the situation remained unchanged ever since the first visit to Latvia in 1999. Indeed, it was still a wide-spread practice throughout the country that prisoners are returned to police detention facilities (sometimes for more than one month). Regrettably, the above-mentioned circular did not have the desired effect. Further it remains the case that such transfers can be effected by the sole decision of police investigators.

**The CPT calls upon the Latvian authorities to take steps – including of a legislative nature – to ensure that the return of prisoners to police detention facilities is subject to the express authorisation of a prosecutor or judge.**

Further, the Committee must stress once again that, from the standpoint of the prevention of ill-treatment, but also in view of the extremely poor conditions prevailing in certain police detention facilities, it is far preferable for further questioning of persons committed to a remand prison to be undertaken by police officers in prisons rather than on police premises. The return of prisoners to police detention facilities should only be sought and authorised very exceptionally, for specific reasons and for the shortest possible time.

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<sup>12</sup> See Section 4, paragraph 3, of the Law on the Procedure of Holding in Custody, which does not provide for any time limits for such transfers.



#### 4. Conditions of detention

30. At the outset of the visit, the Latvian authorities informed the delegation that the old police detention facilities at Liepaja and Ventspils, both of which had been severely criticised by the Committee after the 2002 and 2004 visits, had been closed down and that a new detention facility had been constructed at Liepaja.

Further, the delegation observed improvements in the conditions of detention at Daugavpils Police Board<sup>13</sup> (see, however, paragraph 32). Conditions of detention were very good at Limbazi Police Board, which had undergone major renovation.

The CPT welcomes these developments.

31. That said, material conditions in the other police detention facilities visited (i.e. at Cēsis, Jēkabpils, Jelgava, Preiļi and Sigulda) displayed a number of major shortcomings<sup>14</sup> and could in some cases be considered as inhuman and degrading. The majority of cells were in a poor state of repair and filthy. Further, hardly any of the cells seen had sufficient access to natural light – if any at all – and artificial lighting was poor in many of them. Even where ventilation systems were in place, these were not always working properly, leading to a very stuffy, oppressive and unpleasant atmosphere in the vast majority of cells. Most detention facilities possessed cells which were devoid of any furniture except a wooden platform. Although mattresses and blankets were provided in most cases, these were often dirty and worn out.

Both in-cell and communal toilet facilities were dilapidated and/or extremely dirty. Where no in-cell toilets were available, detainees had access to the communal toilets only two or three times a day and for the rest of the time had to use a bucket, in full view of their cellmates.

Further, the delegation heard a number of complaints about a lack of personal hygiene products as well as insufficient food supplies.

**The CPT recommends that the Latvian authorities improve without delay conditions of detention at the police detention facilities at Cēsis, Jēkabpils, Jelgava, Preiļi and Sigulda, and, as appropriate, in other police establishments, in the light of the above remarks. In particular, steps should be taken to ensure that:**

- **all persons detained overnight are allocated a bed and provided with a clean mattress and clean bedding;**
- **access to natural light and artificial lighting, as well as ventilation, are improved;**
- **all detained persons have ready access to a toilet facility (partitioned if inside the cell) under decent conditions and are provided with basic hygiene products;**
- **all detained persons are provided with food in adequate quantities and at appropriate times.**

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<sup>13</sup> This establishment was in an extremely poor state of repair during the 2002 and 2004 visits.

<sup>14</sup> At Jelgava, notwithstanding the recent renovation, the detention facilities were found to be in a state of total neglect which led to a deplorable standard of hygiene and cleanliness throughout the establishment.

32. As regards outdoor exercise, it was offered in most police establishments visited on a daily basis. However, outdoor exercise was not offered every day at Preiļi Police Board and not at all at Jēkabpils and Daugavpils Police Boards which did not have an outdoor exercise yard.

In this connection, the CPT welcomes the fact that, under the new Law on the Order of Holding Detained Persons, all police detention facilities must be equipped with an outdoor exercise yard<sup>15</sup>. **The Committee would like to receive confirmation that this requirement is met in all police detention facilities in Latvia.**

33. In their letter of 22 February 2008, the Latvian authorities stated the following: "Analysis of the conclusions and recommendations of 5 February 2004 and the Standards of the Council of Europe Anti-torture Committee stipulate: "Persons kept in police custody for 24 hours or more should, *as far as possible*, be offered outdoor walk every day". Persons placed in TPDs<sup>16</sup> of Police Departments, where outdoor walking areas have been made, shall be ensured with at least 30 minutes (1 hour for minors) outdoor walk. These requirements have been stated in the Law on Procedures for the Holding of Arrested Persons. However, 1 hour walk outdoor, which has been indicated in the comments of the CPT, in accordance with the Standards of CPT, shall apply to prisoners in institutions of liberty deprivation (prisons)..."

In this regard, the CPT would like to stress that its standard quoted by the Latvian authorities in the above-mentioned letter should be seen as applying only to persons held in *police custody* in the narrow sense (i.e. for up to 48 hours in the Latvian context), and not to other persons who are held in police detention facilities for prolonged periods such as administrative detainees (see paragraph 9) and persons returned from prison for investigation purposes (see paragraph 29).

**The CPT recommends that all persons who are detained by the police for more than 24 hours are offered at least one hour of outdoor exercise every day.**

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<sup>15</sup> The relevant legal provision shall be implemented by 31 December 2008.

<sup>16</sup> Temporary places of detention.

## **B. Prisons**

### **1. Preliminary remarks**

34. The CPT's delegation carried out full visits to Cēsis Correctional Centre, Iļģuciema and Jēkabpils Prisons, as well as targeted visits to the sections for life-sentenced prisoners at Daugavpils and Jelgava Prisons. Further, the delegation carried out a follow-up visit to Rīga Central Prison, in order to review the measures taken by the Latvian authorities to implement the recommendations made by the Committee after its previous visits to the establishment.

35. Cēsis Correctional Centre is the only penitentiary establishment in Latvia for male sentenced juvenile prisoners (aged between 14 and 18)<sup>17</sup>. It also has a unit for juvenile remand prisoners. All sentenced prisoners are accommodated in eight dormitories (with 11 to 13 beds) in a three-storey building. The official capacity of the Centre is 124 places (including 20 for remand prisoners). At the time of the visit, it was accommodating 106 prisoners (including 11 on remand). Sentenced and remand prisoners were always kept separate from each other (except during school classes).

Iļģuciema Prison is the only prison in Latvia for female sentenced prisoners. It also accommodates remand prisoners (including juveniles) and has a mother-and-child unit and a children's unit<sup>18</sup>. With an official capacity of 400 places (237 for sentenced adults, 143 for adults on remand, 20 for juveniles), the establishment was accommodating a total of 306 prisoners at the time of the visit (190 sentenced adults, 105 adults on remand and 11 prisoners, including one on remand and two young adults, in the juvenile unit). Two of the sentenced prisoners were being accommodated in the mother-and-child unit.

Jēkabpils Prison was opened in 1980 as a camp-type penal colony for adult male sentenced prisoners on the outskirts of the city of Jēkabpils (covering an area of some 15 hectares). With an official capacity of 700 places, it was accommodating 587 prisoners at the time of the visit. 79 prisoners were being held in cellular accommodation (Unit 3), while all the other inmates were being accommodated in dormitories (Units 1, 2 and 4 to 7, with up to 60 beds in each dormitory).

Daugavpils Prison was visited by the CPT in 2002 and 2004. This visit focused on the unit for life-sentenced prisoners which was opened shortly after the 2004 visit. With an official capacity of 28 places, the unit was accommodating 15 life-sentenced prisoners at the time of the visit.

The unit for life-sentenced prisoners at Jelgava Prison was described in the reports on the 2002 and 2004 visits. At the time of the visit, it was accommodating 25 prisoners whose life-sentence had become final and three remand prisoners sentenced to life-imprisonment but awaiting the outcome of an appeal.

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<sup>17</sup> By decision of the establishment's administrative commission, a prisoner who has reached the age of 18 may stay on in the Centre until he has completed his education (up to the age of 21 years).

<sup>18</sup> The mother-and-child-unit accommodates mothers with children up to the age of one year. Children of prisoners between one and four years are accommodated in a separate unit, while their mothers stay in the normal detention block. At the age of four years, children of prisoners are transferred to family members or a foster family.

Rīga Central Prison has also been described in previous visit reports<sup>19</sup>. With an official capacity of 1,700<sup>20</sup> places (1,590 for remand and 110 for sentenced prisoners), the prison was accommodating a total of 928 prisoners (839 on remand and 89 sentenced) at the time of the visit. In 2007, the prison hospital block was taken out of service, following the opening of a new prison hospital in Olaine.

36. The CPT acknowledges the efforts made by the Latvian authorities to reduce the prison population in the entire prison system. Since the last visit, the total number of prisoners had been reduced from 8,231 to 6,530 prisoners, while the capacity of all prison establishments had been slightly increased from 9,096 to 9,165 places (on the basis of a standard of 2.5/3 m<sup>2</sup> per prisoner).

In its previous visit reports, the CPT recommended that the existing legal standards for the provision of living space to prisoners in Latvian prisons be increased as soon as possible, so as to guarantee at least 4 m<sup>2</sup> per prisoner in multi-occupancy cells. In this connection, the Committee noted some improvement with regard to remand prisoners, for which the general legal standard<sup>21</sup> had been increased from 2.5 to 3 m<sup>2</sup>, whereas the standards for sentenced prisoners remained unchanged (i.e. 2.5 m<sup>2</sup> for male adult prisoners and 3 m<sup>2</sup> for female and juvenile prisoners).

**The CPT reiterates its recommendation that the existing legal standards on living space for prisoners be raised without any further delay, so as to provide for at least 4 m<sup>2</sup> per prisoner in multi-occupancy cells, and that official capacities and occupancy levels of cells in Latvian prisons be revised accordingly. Cells measuring less than 8 m<sup>2</sup> should be used for single occupancy only.**

## 2. Ill-treatment

37. No allegations of deliberate *physical ill-treatment* by staff were received from prisoners at Iļģuciema Prison, and hardly any allegations of this kind were heard at Rīga Central Prison. In the latter establishment, the general atmosphere and staff/inmate relations had clearly improved since the last visit.

38. At Jēkabpils Prison, the delegation received many consistent and credible allegations of deliberate physical *ill-treatment* (including excessive use of force) by prison officers. The forms of alleged ill-treatment consisted mostly of punches, kicks and blows with objects such as batons (including on the heels). In a few cases, the combination of the various forms of alleged ill-treatment was of such a severity that it could be considered to amount to torture. For example, the delegation heard accounts from several prisoners that they had received multiple severe blows with batons on various parts of their body, while they were lying on the floor, with handcuffs applied to their forearms and an officer stepping on the cuffs, to tighten them with the intention of deliberately inflicting severe pain in the arm and hand distal to the cuff, before loss of all sensation. These allegations were supported by medical evidence.

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<sup>19</sup> See CPT/Inf (2001) 27, paragraph 89; CPT/Inf (2005) 8, paragraph 66; CPT/Inf (2008) 15, paragraph 38.

<sup>20</sup> Due to the fact that two detention blocks (Nos. 3 and 5) had been temporarily taken out of service, pending their renovation, the actual capacity of the prison was significantly lower at the time of the visit.

<sup>21</sup> Section 19, paragraph 4, of the Law on the Procedure of Holding in Custody.

In several cases, prisoners who had harmed themselves by cutting their arms were handcuffed and placed for several hours in small cubicles without receiving any medical attention. Such a practice is totally unacceptable and could easily be considered as inhuman and degrading.

In this connection, the case of one prisoner with whom the delegation met merits particular attention. He recounted that, shortly before the CPT's visit, he had slashed his left forearm four times (four incised wounds on the left forearm were also recorded in the prisoner's medical file). The prisoner alleged that he had been placed on the ground, and handcuffs applied to his upper forearms and then tightened by force. In addition, the prisoner stated that he had been placed in a small unlit cubicle, in which he was unable to lie down, and bled from his wounds for about 24 hours. Furthermore, he claimed that during that period he was given water only twice (an officer held the bottle) and he was taken to the toilet only once, still handcuffed. He said that he was seen by a nurse for the first time only after 36 hours; she did not enquire about the reasons for his self-harming or his mental state, but simply applied disinfectant and a bandage to his wounds. In one of the two cubicles at the entrance area of the cell block (each of which measured 0.8 m<sup>2</sup>), some dried red coloured fluid was found on the small folding bench, which was reported by staff to be blood.

Examination by a medical member of the delegation showed that, in addition to the above-mentioned wounds on the left forearm, which were covered by a dressing, the prisoner concerned had an indented circumferential lesion reddish-purplish in colour, with a width of 1 to 2 cm and furrowed in part to a depth of 0.4 cm, on the right forearm 6 cm below the elbow. The latter lesion, however, was not recorded in the prisoner's medical file (see, in this connection, paragraph 78). In the CPT's view, the physical marks and injuries observed are consistent with the allegations of ill-treatment made.

39. Another serious allegation of ill-treatment was made by a prisoner who claimed that he had been the subject of sexual abuse by a senior officer who had fondled his genitals and then urinated on his bare buttocks.

40. The delegation was also struck by the level of *inter-prisoner violence* at Jēkabpils Prison. The prospect of becoming a victim of beatings, sexual assaults, extortion, and a range of other such abuse was a daily reality for many vulnerable prisoners. The following examples illustrate the scope of the problem. A number of prisoners had repeatedly harmed themselves in an attempt to ensure a transfer to Unit 3, where they would be held in the cells and could thus avoid aggression from other prisoners in their dormitory. The CPT is particularly concerned about the situation of the lowest caste of prisoners in the informal prisoner hierarchy, the so-called "untouchables"<sup>22</sup>, who were frequently subjected to humiliation by other inmates and, indeed, staff. In addition, such prisoners were often subjected to ritualistic sexual abuse<sup>23</sup> by other prisoners (in return for small items such as cigarettes or tea). The recent death of an "untouchable" prisoner who apparently died after having been severely beaten inside the dormitory at night is the most extreme example of inter-prisoner violence. The delegation was informed that the prisoner concerned died of blood loss and internal haemorrhage.

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<sup>22</sup> According to prisoners' accounts, the informal "code of conduct" provides that "untouchables" have to place their beds in a confined area at a distance from the beds of other prisoners inside a dormitory and have to be quiet in the dormitory. They can only walk in certain areas of the prison and have to let other prisoners go first at all times. There are special places in the dining room where they eat. They have to make sure that no one bumps into any of their belongings and that no one inadvertently uses anything that an "untouchable" owns. They are compelled to clean the dormitories and sanitary facilities for all the other prisoners.

<sup>23</sup> Prisoners interviewed by the delegation referred to various forms of sexual abuse (including oral sex and

The situation was further exacerbated by the fact that no prison officers were present in the units at night. Thus, it is not surprising that the above-mentioned prisoner who was killed in his dormitory did not receive timely medical attention. Further, it is evident that the overreliance of the prison administration on the role of the dormitory “leaders”, who are appointed by the management as assistants of the unit officers (and who also receive a salary from the administration), underpins sub-cultures among prisoners and increases the risk of inter-prisoner violence<sup>24</sup>. Rather than staff being in control of the dormitories at all times, order and discipline are maintained by the official leaders (as well as informal leaders) among the inmates in a dormitory.

In the CPT’s view, the maintenance of order and discipline should be the exclusive task of staff and not prisoners. **The CPT recommends that the system of “delegation of powers” to certain prisoners be abolished at Jēkabpils Prison and in any other prisons in Latvia where it exists. Further, steps should be taken to ensure adequate supervision of prisoners in dormitories by prison officers.**

41. To sum up, the delegation gained the distinct impression that the management of Jēkabpils Prison had failed to provide for the most basic requirement of prisoners: a safe environment. The prison was run with parallel systems of intimidation and violence: one was organised by the prisoners themselves with a tiered hierarchy controlled by “bosses”, with the support of the internal security division, with prisoners considered as “untouchable” receiving the brunt of the humiliation and forced to work for other prisoners, amounting to a form of slavery; the other was instigated by the prison staff, using transfer to the cell block as a form of intimidation associated with regular beatings by prison officers<sup>25</sup>. Thus, inhuman treatment had apparently been institutionalised and had become an integral element in the running of this prison (see also paragraph 88).

42. During the end-of-visit talks with the Latvian authorities, the delegation expressed its serious concern about the situation found at Jēkabpils Prison and stressed that only a comprehensive and thorough independent inquiry could analyse these problems and produce a plan for far-reaching changes. Therefore, it requested the Latvian authorities to initiate such an inquiry and to provide a detailed account of the concrete measures taken in this connection (see paragraph 7).

In their letter of 22 February 2008, the Latvian authorities informed the CPT that the Ministry of Justice had initiated inspections of Jēkabpils Prison by different institutions. In particular, the Latvian Prison Administration was ordered to carry out a comprehensive inspection of Jēkabpils Prison on 5 and 6 March 2008 and to report to the Ministry of Justice by 1 April 2008. In addition, the Ombudsman had agreed to visit the prison, at the request of the Ministry of Justice, in 2008. The Ministry of Justice also involved the Office of the Prosecutor General as well as the Public Administration Board.

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penetrative intercourse).

<sup>24</sup> Unit officers met by the delegation indicated that they usually communicated only with or via the dormitory leaders. In turn, many prisoners told the delegation that it would be considered suspicious by other prisoners if a prisoner took the initiative of talking to a unit officer directly.

<sup>25</sup> Prison officers affirmed to the delegation that they had been instructed by senior officers to intimidate or even punish certain prisoners (for instance, by placing them in a punishment cell whilst being handcuffed) whenever the latter lodged a complaint. A number of allegations were also received from prisoners that they were punished with placement in the cell-block after having declined to co-operate with “operative staff” (i.e. officers of the prison’s security division).

The CPT wishes to stress that for the above-mentioned inquiry to be effective it must be independent, impartial and thorough. Appropriate steps must also be taken to assure prisoners and staff of confidentiality and protection, including the possibility of transfer if they make specific allegations implicating senior staff.

**The Committee would like to receive detailed information on the outcome of the above-mentioned inquiries and on the action subsequently taken at all levels.**

43. Numerous allegations of *physical ill-treatment* and *verbal abuse* by prison officers were also heard from prisoners at Cēsis Correctional Centre. Certain officers (including two members of the establishment's security division) were repeatedly described as "sadistic", apparently not only resorting to various forms of corporal punishment for any misbehaviour but even ill-treating juveniles "just for fun", as some juveniles put it. Indeed, several prisoners, interviewed separately, gave very similar and consistent accounts of the manner in which they had been ill-treated in the holding area of the administration building (e.g. reference was made to punches to the kidneys).

**The CPT recommends that the management at Cēsis Correctional Centre be instructed to remind their staff that all forms of ill-treatment of prisoners (including verbal abuse) are not acceptable and will be the subject of severe sanctions.**

44. At Cēsis, the delegation also received some allegations of *inter-prisoner violence* (including of a sexual nature). The CPT acknowledges the efforts made by the management to address the problem of inter-prisoner violence. Following the killing of a juvenile by fellow-inmates in 2005, a special prevention programme was introduced, with a view to sensitising staff to identify vulnerable prisoners and to providing psychological and other support to them.

However, with its current structure of exclusively dormitory-type accommodation, Cēsis Correctional Centre cannot adequately protect vulnerable juveniles from other prisoners. Ultimately, the only "solution" for a victim of inter-prisoner violence is for him to be placed in another dormitory and to try to co-exist with the juveniles being held there, given the fact that Cēsis Correctional Centre is the only establishment of this kind in Latvia.

The delegation was informed by the management of the Centre that there were plans to construct a new building with smaller living units for juveniles (with a kitchen and separate sanitary facilities for each unit), but that the funding was not yet secured. **The CPT wishes to receive more detailed information on this project; it encourages the Latvian authorities to redouble their efforts to find a way to replace large dormitories with smaller living units at Cēsis Correctional Centre.**

45. At Daugavpils and Jelgava Prisons, the delegation received several allegations that prison officers had made life-sentenced prisoners run in the corridor or up and down the staircase whilst handcuffed with an unmuzzled dog immediately behind them, as a result of which one prisoner was allegedly bitten by the dog, while others allegedly sustained injuries after having fallen on the stairs. These allegations were also supported by medical evidence.

In the CPT's view, the above-mentioned instances could be considered as amounting to ill-treatment. **The Committee recommends that the management at Daugavpils and Jelgava Prisons be instructed to remind their staff that all forms of ill-treatment of prisoners (including verbal abuse) are not acceptable and will be the subject of severe sanctions.**

As regards the use of dogs to escort life-sentenced prisoners within the confines of a prison, reference is made to the remarks and recommendation made in paragraph 64.

### **3. Conditions of detention of male adult prisoners at Jēkabpils Prison and Rīga Central Prison**

46. At *Jēkabpils Prison*, material conditions varied considerably between the cellular accommodation area in Unit 3 and the dormitories in all other units.

In Unit 3, all the cells were generally of a good standard. Cells were adequate in size (some 11 m<sup>2</sup> for two prisoners) and were well-equipped and had a fully-partitioned toilet. However, in a few cells, access to natural light was very limited.

In contrast, the material conditions in the dormitory-type detention blocks were very poor (bad state of repair, evident signs of wear and tear, old and hardly usable equipment, uneven floors, broken tiles, peeling paint, etc).

Most of the sanitary facilities were in a particularly deplorable state of repair (e.g. broken pipes, broken window panes, etc.). In addition, prisoners had no access to hot running water in the accommodation area (a hot shower could only be taken once a week in the bath-house).

Throughout the prison, numerous complaints were received about the quality and quantity of the food provided. Further, a number of prisoners complained about an insufficient supply of personal hygiene products (e.g. toothbrushes and toothpaste) and that some prisoners did not have adequate clothing to go out in the open air in the cold season.

47. At *Rīga Central Prison*, the delegation noted improvements in the material conditions, which have been achieved by the ongoing renovation of the prison (including the installation of a call system). Blocks Nos. 3 and 5 were undergoing renovation and were thus not being used for detention purposes at the time of the visit.

That said, the delegation observed several major shortcomings throughout the prison (including in the renovated blocks): firstly, many cells had very little or no access to natural light, due to the fact that the windows were covered with metal shutters<sup>26</sup>; in addition, access to natural light was also restricted in a number of other cells, since the windows opened onto a corridor. Secondly, in many cells, the toilets were not partitioned. The delegation was puzzled when it saw cells in the newly-renovated blocks in which toilets were partitioned from the cell door but not from the cell area itself. Thirdly, the living space per prisoner was insufficient in a number of cells (e.g. 16 m<sup>2</sup> for eight prisoners or 7 m<sup>2</sup> for two prisoners). Fourthly, the outdoor exercise areas had still not been enlarged, despite a specific recommendation repeatedly made by the Committee<sup>27</sup>.

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<sup>26</sup> It is of all the more concern that a number of prisoners had been held in cells without access to natural light for prolonged periods (in some cases, for more than eight months).

<sup>27</sup> On a positive note, it should be added that most of the outdoor exercise cubicles had been fitted with basic sports equipment.



48. **The CPT recommends that the material conditions of detention be improved at Jēkabpils Prison and Rīga Central Prison, in the light of the above remarks. Immediate steps should be taken to remove the metal shutters at Rīga Central Prison and, as appropriate, in other prisons in Latvia.**

Further, the Committee would like to receive updated information on the progress made in the ongoing renovation of Rīga Central Prison.

49. As regards the regime, a range of activities was provided to prisoners at *Jēkabpils Prison*. 70 prisoners (all of whom were being accommodated in Unit 1) were offered remunerated work (kitchen, laundry, maintenance, etc.). In addition, up to 20 prisoners from different units were able to work, producing souvenirs. The prisoners were not paid for their work, but the profit made after selling the souvenirs was shared among the prisoners involved.

Further, around 30% of the prisoners went to the prison school or were engaged in vocational training. For all the other prisoners, there were no organised purposeful activities. As a consequence, the prisoners spent all their time in their dormitory (apart from one hour of outdoor exercise and the time spent during the three mealtimes in the canteen), watching television, playing board games or reading.

As regards cell-type Unit 3, out of 79 prisoners, 14 attended school and 14 participated in vocational training activities. All the other prisoners were locked up in their cells for 23 hours, without being offered any purposeful activities. Outdoor exercise was granted every day for one hour in small cubicles (each measuring between 19 and 24 m<sup>2</sup>), which did not allow prisoners to exert themselves physically.

50. At *Rīga Central Prison*, no progress had been made towards providing any out-of-cell activities for remand prisoners, other than outdoor exercise. Thus, virtually all the remand prisoners were locked up in their cells for 23 hours per day.

51. **The CPT calls upon the Latvian authorities to take steps at Rīga Central Prison to devise and implement a comprehensive regime of out-of-cell activities (including group association activities) for remand prisoners.**

Further, additional steps should be taken at Jēkabpils Prison to provide more purposeful activities (work, education and vocational training) to prisoners.

Finally, the Committee recommends that the outdoor exercise areas at Jēkabpils Prison (Unit 3) and Rīga Central Prison be enlarged, in order to enable prisoners to exert themselves physically.

#### 4. Conditions of detention of female adult prisoners at Iļģuciema Prison

52. Material conditions of detention were, on the whole, adequate in all the renovated blocks of Iļģuciema Prison, all cells being well-equipped, with good access to natural light, and kept in a hygienic condition. The delegation was particularly impressed by the material conditions in the mother-and-child unit, where every effort possible was made to alleviate the impression of a carceral environment (as regards the juvenile unit, see paragraph 54).

That said, material conditions in the unrenovated parts of the prison were indeed poor. Further, in different blocks (including the newly-renovated Remand Block No. 2), the living space per prisoner was clearly insufficient (e.g. two prisoners in a cell of 6 m<sup>2</sup> or four prisoners in a cell of 9 m<sup>2</sup>). Artificial lighting was inadequate in some cells of Remand Block No. 2.

In addition, many prisoners complained about the small quantities of personal hygiene products supplied to them. The governor of the prison acknowledged that she was fully aware of the problem, but indicated that, according to an existing regulation of the Cabinet of Ministers, the management was not allowed to provide any shampoo and no more than one bar of soap (for bodily hygiene and laundry), one pack of sanitary towels and one roll of toilet paper per month, as well as one tube of toothpaste and one toothbrush every six months. Thus, the management had already contacted potential donors to provide additional hygiene products.

**The CPT recommends that the material conditions at Iļģuciema Prison be improved, in the light of the above remarks. In particular, immediate steps should be taken to:**

- **provide prisoners with adequate quantities of personal hygiene products;**
- **reduce the occupancy levels in cells so as to ensure a living space of at least 4 m<sup>2</sup> per prisoner in multi-occupancy cells; cells measuring some 6 m<sup>2</sup> should only be used for single occupancy.**

Further, **the Committee would like to be informed of the progress made in the ongoing renovation programme.**

53. As regards the regime, the CPT welcomes the fact that almost 90% of the sentenced prisoners were engaged in education, vocational training or work (e.g. maintenance work, kitchen, cleaning, work in the mother-and-child unit, handicraft for external companies, etc.). Further, the delegation gained a very favourable impression of the arrangements made for mothers and children<sup>28</sup>.

However, as was the case at Rīga Central Prison, hardly any activities were offered to remand prisoners, apart from one hour of outdoor exercise per day. In this connection, **the recommendation made in paragraph 51 equally applies to Iļģuciema Prison.**

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<sup>28</sup> In the mother-and-child-unit (where mothers live together with their children up to the age of twelve months), the mothers with their babies had ready access to a separate outdoor exercise yard and were provided with a range of suitable toys. In the children's unit (where prisoners' children aged between twelve months and four years are accommodated), the mothers could visit their children twice a day for a total of three hours (for the rest of the day, they were usually engaged in work or vocational training). During these visits, they could use an outdoor playground or a well-equipped and pleasantly decorated playroom. For the rest of the time, the children were cared for around the clock by a babysitter. Educational activities, based on the Montessori programme, were organised every day for half-an-hour by a pedagogue.

## 5. Situation of juvenile prisoners at Iļģuciema Prison and Cēsis Correctional Centre

54. At the outset, the CPT wishes to commend the Latvian authorities for the excellent conditions of detention offered to female juvenile prisoners at Iļģuciema Prison. *Material conditions* in the juvenile unit were indeed exemplary. Most of the detention rooms were used for double occupancy, were pleasantly equipped and gave no carceral impression at all.

As regards the *regime*, the CPT welcomes the fact that all juveniles (including the one on remand) were offered education and/or vocational training. In addition, all juveniles were offered outdoor exercise for several hours every day in a separate yard and had regular access to a well-equipped fitness room. Juveniles were strictly separated from adult prisoners (except during school classes and vocational training).

55. At Cēsis Correctional Centre, the delegation gained a generally favourable impression of the *regime* activities offered to juveniles, including to those being held on remand, such as education (for all those who had not completed compulsory schooling) and vocational training<sup>29</sup>. In addition, 25 juveniles were provided remunerated part-time work (kitchen, maintenance, cleaning). All juveniles could also regularly engage in various indoor and outdoor sports activities.

56. As regards the *material conditions*, the difference between sentenced and remand prisoners was striking. Despite the fact that the entire premises were rather old, all the eight dormitories of sentenced prisoners were kept in a reasonable state of repair and hygiene. They were spacious (e.g. 65 m<sup>2</sup> for 13 prisoners<sup>30</sup>), had very good access to natural light and artificial lighting and were pleasantly decorated (e.g. plants). However, the sanitary facilities on both floors of the accommodation area were rather dilapidated. **Steps should be taken to remedy this shortcoming.**

57. In contrast, material conditions in the block for remand prisoners, which also comprises a quarantine cell and the establishment's punishment cells, were appalling (the cells being very dilapidated, extremely humid, very cold, and with poor access to natural light); they were indeed unfit for human detention. The delegation was puzzled when it found out that a recently refurbished detention area actually existed on the premises of the Centre, which offered very good conditions of detention and which could be used with some minor adjustments, but was not being used, apparently for "organisational reasons".

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<sup>29</sup> 41 juveniles were engaged in vocational training for carpentry, plumbing, and metal-work.

<sup>30</sup> The occupancy levels were temporarily higher in some dormitories, pending the refurbishment of other dormitories.

58. During the end-of-visit talks, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention, and called upon the Latvian authorities to immediately withdraw from service the entire remand detention block (see paragraph 7).

It is a matter of grave concern that, in their letter dated 22 February 2008, the Latvian authorities failed to address the above-mentioned immediate observation by simply stating that “[d]uring 2007 LPA [i.e. Latvian Prison Administration] prepared a project application in order to acquire the funds from the Norwegian bilateral financing instrument. The project is aimed at renovation of detention building of Cēsis CCJ”.

Thus, the Latvian authorities have failed to take the necessary measures to implement the immediate observation made by the delegation which is a flagrant disregard of the principle of co-operation. The CPT must stress that the conditions of detention in the entire remand detention block are intolerable; **it calls upon the Latvian authorities to withdraw the entire remand detention block from service without any further delay, pending the renovation of the latter.**

59. The CPT has serious misgivings about the system of “self-governance” which was being applied by the management at Cēsis Correctional Centre. According to an internal organisation chart, one juvenile per dormitory was assigned to the position of a “commander”, with several subordinates such as a “secretary”, a prisoner responsible for cleaning and hygiene, a prisoner responsible for shopping, etc. These functions were not allocated on a rota basis. Instead, once appointed, prisoners usually remained “in office” until the end of their imprisonment.

In the CPT’s opinion, such a system may well underpin sub-cultures among prisoners and also increase the risk of inter-prisoner violence.

**Steps should be taken to review the system of “self-governance” at Cēsis Correctional Centre, in the light of the above remarks.**

60. The CPT welcomes the fact that both Cēsis Correctional Centre and Iļģuciema Prison employed specialist staff (such as psychologists, educators and social workers) who were specially trained in dealing with juvenile prisoners.

However, custodial staff working with juveniles had not received any specialised training for this purpose. **The CPT reiterates its recommendation that special training be organised for prison officers assigned to work with juvenile prisoners at Cēsis Correctional Centre and juvenile units of other prisons in Latvia.**

## 6. Situation of life-sentenced prisoners in the prisons visited

### a. Units for life-sentenced prisoners at Daugavpils and Jelgava Prisons

61. The CPT must express its serious concern about the almost total failure of the Latvian authorities to improve the conditions under which life-sentenced prisoners are being held in Latvian prisons, despite the specific recommendations made by the Committee after its two previous visits to Jelgava Prison.

At both Daugavpils and Jelgava Prisons, life-sentenced prisoners were locked up in their cells for 23 hours per day, alone or with one cellmate, without being offered any purposeful activities. In addition, they were not even allowed to associate with life-sentenced prisoners from other cells. Such a state of affairs is not acceptable.

It should also be added that a number of life-sentenced prisoners met by the delegation, in particular at Daugavpils, manifestly displayed symptoms of psychiatric disorder. Although it is not possible, on the basis of a single interview and the scarce information available on previous psychiatric morbidity<sup>31</sup>, to give a precise diagnosis and to establish a direct causal link between the psychiatric disorders and the very impoverished regime in both prisons, it is clear that the current regime can only exacerbate such problems.

Encouraging signs were found at Daugavpils Prison, where the management had converted one cell into a computer room and work had started to create new facilities such as a workshop, a recreation area and a small gymnasium<sup>32</sup>. This is indeed a step in the right direction. However, additional steps are required to offer a sufficiently large area for these facilities, in order to allow all life-sentenced prisoners to spend a reasonable part of the day outside their cells.

No steps had been taken at Jelgava Prison to create opportunities for work or group association activities for life-sentenced prisoners.

**The CPT calls upon the Latvian authorities to take steps without any further delay to devise and implement a comprehensive regime of out-of-cell activities in respect of all life-sentenced prisoners at Daugavpils and Jelgava Prisons.**

62. The material conditions of detention were, on the whole, adequate in the new unit for life-sentenced prisoners at Daugavpils Prison. All fourteen cells were of a reasonable size (14 m<sup>2</sup> for one or two prisoners), and well equipped (two beds, table, two chairs, separate sanitary facilities).

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<sup>31</sup> No specific information was recorded in the prisoners' medical files. All prisoners had been considered criminally responsible at the time of their trial. The psychiatric reports made for the courts were, however, extremely short.

<sup>32</sup> The small-scale manufacture of cardboard boxes was carried out in a cell for over two years and allowed prisoners to earn some money. Regrettably, this programme was discontinued for economic reasons.

However, already in the report on the 2004 visit<sup>33</sup>, the CPT expressed its misgivings about the fact that cells had been fitted with frosted glass bricks (instead of windows), which did not offer adequate access to natural light. In this connection, the delegation noted that the glass bricks had been replaced by transparent glass panels on one side of the unit and that, according to the prison governor, the same would soon be done on the other side. Further, the delegation was informed that steps were being taken to replace the current ventilation system, which created considerable noise in many of the cells.

**The CPT would like to receive confirmation that the above-mentioned measures have been implemented in practice.**

63. At Jelgava Prison, the prison governor indicated that no budget was available to complete the refurbishment of the detention block. The delegation was also informed that plans were afoot to increase the number of places for life-sentenced prisoners to 160, to meet the needs over the next 10 to 20 years (see also paragraph 70). **The CPT would like to receive detailed information on the above-mentioned plan to enlarge the unit of life-sentenced prisoners at Jelgava Prison (including facilities to provide work and recreational activities).**

64. As regards the security measures applied to life-sentenced prisoners, the CPT must stress once again that there can be no justification for routinely handcuffing these prisoners whenever they are outside their cells, all the more so when this measure is applied in an already secure environment. Further, the use of dogs to escort these prisoners whenever they are taken out of their cells is unnecessary from a security standpoint and can only be regarded as a means of intimidating and humiliating the prisoners<sup>34</sup>.

In this connection, the CPT welcomes the recent decision of the management of Daugavpils Prison to no longer use dogs for escorting life-sentenced prisoners within the confines of the prison. **The Committee calls upon the Latvian authorities to put a definitive end to the use of dogs at Jelgava Prison when escorting life-sentenced prisoners within the confines of the prison.**

65. In response to a specific recommendation made by the CPT in the report on the 2004 visit, "individual risk assessment commissions"<sup>35</sup> had been set up at Daugavpils and Jelgava Prisons. However, the 2007 visit brought to light that the procedures carried out by these commissions were, to a very large extent, devoid of any meaning.

According to their terms of reference, the commissions are supposed to assess the individual risk of every life-sentenced prisoners twice a year and to adjust the security measures applied to them accordingly, although, in practice, they only met once a year. From interviews with staff and prisoners and the examination of various prisoner files, it transpired that the prisoners concerned were not heard by the commission, and many of them were apparently not even aware of the existence of such procedures.

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<sup>33</sup> See CPT/Inf (2008) 15, paragraph 59.

<sup>34</sup> A dog was kept permanently in the detention areas; it barked from time to time, both day and night.

<sup>35</sup> These commissions were established under the Order of the Central Prison Administration of 14 April 2005. They are composed of eight members: deputy governor, head of security, head of surveillance, head of unit for life-sentenced prisoners, chaplain, psychologist, head of social rehabilitation, and the head of the medical unit.

As a matter of fact, a relaxation of the draconian security measures was rejected in virtually every case, mainly on account of the nature of the crime(s) for which the prisoners concerned had been sentenced<sup>36</sup>; and the fact that many of them had already spent several years in a remand prison without posing any particular security problems did not seem to be taken into account. In their letter of 22 February 2008, the Latvian authorities indicated that at Jelgava Prison, a risk assessment had been performed in respect of two prisoners during the whole of 2007, which, in turn, means that no assessment at all had been performed for any of the other 23 life-sentenced prisoners. This is yet another indication that the whole system of “individual” risk assessment does not function properly in practice.

**The CPT calls upon the Latvian authorities to take immediate steps to carry out a proper individual risk assessment on a regular basis in respect of all life-sentenced prisoners and to alleviate the security measures applied to them accordingly.**

66. Further, life-sentenced prisoners were subject to some anachronistic rules. By way of example, they were not allowed to sit or lie on the bed during the day. If this rule was not respected, the prisoners usually received a disciplinary punishment. In addition, several prisoners alleged that, whenever the cell door was opened by a prison officer, they were required to recite their full name and the article of the Penal Code under which they had been sentenced. **The CPT recommends that the above-mentioned rules/practices be abolished without delay.**

67. The CPT also has misgivings about the systematic practice of obliging life-sentenced prisoners to undergo routine strip-searches. While prison officers indicated that strip-searches were only carried out on entry or return to the prison, after visits or “on suspicion”, all the prisoners interviewed gave consistent accounts of routine, systematic cell- and strip-searches every ten days. Every prisoner was required to undress completely and to hand each item of clothing through the bars of the cell to be searched by the guards. They remained standing and fully naked in view of the guards and the prisoner sharing the cell for about five minutes.

In the CPT’s opinion, such a practice could be considered as amounting to degrading treatment. **The Committee recommends that strip-searches only be conducted on the basis of a concrete suspicion and in an appropriate setting.**

68. The Latvian authorities have once again failed to implement the recommendations made by the Committee after its previous visits regarding the manner in which medical examinations of life-sentenced prisoners are carried out. In the CPT’s view, it is unacceptable that prison officers are systematically present during such examinations and that prisoners are placed in a cage-like cubicle during consultations with the psychiatrist and psychologist. It is equally unacceptable that medical consultations often take place with the prisoner in the cell and the doctor standing outside the bars in the corridor, examining and auscultating through the bars.

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<sup>36</sup> Only in very few cases was the systematic use of handcuffs suspended, due to the poor state of health of the prisoners concerned.

The CPT has repeatedly acknowledged the fact that special security measures may be required during medical examinations in a particular case, where a threat to security is perceived by the medical staff. However, there can be no justification for prison officers being *systematically* present during such examinations; their presence is detrimental for the establishment of a proper doctor-patient relationship and most often unnecessary from a security standpoint. Further, the practice of placing life-sentenced prisoners in a cage-like cubicle or behind the bars of the cell-door clearly infringes upon the dignity of the prisoners concerned and also prohibits the development of a proper therapeutic relationship.

Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. One possibility might be the installation of a call system, whereby a doctor would be in a position to rapidly alert prison officers in those exceptional cases when a prisoner becomes agitated or threatening during a medical examination. In their letter of 22 February 2008, the Latvian authorities confirmed that the examination rooms of doctors had been fitted with alarm buttons.

**The CPT calls upon the Latvian authorities to take immediate steps to ensure that:**

- **all medical examinations of life-sentenced prisoners are conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers;**
- **a definitive end is put to the practice of placing life-sentenced prisoners behind the bars of the cell-door during medical consultations with the doctor or in a cage-like cubicle during consultations with the psychiatrist or psychologist.**

69. To sum up, the delegation gained the distinct impression that senior prison officers, including at the management level, and in particular at Jelgava Prison, had deeply rooted negative attitudes towards life-sentenced prisoners, which explained their resistance to any change in regime, providing work opportunities or even medical care. These attitudes also influenced their persistent use of dogs to escort life-sentenced prisoners outside their cells, despite the lack of any coherent security-based arguments. Their mindset was focused on the heinous, and sometimes sordid, offences committed by the life-sentenced prisoners, rather than their prospects for long-term rehabilitation and reintegration into society. Indeed, many of the officers concerned appeared to be psychologically unsuited to be put in charge of life-sentenced prisoners.

In the CPT's view, there is an urgent need for senior prison officers to receive clear guidance and special training on how to deal with life-sentenced prisoners in a contemporary prison system. In particular, the senior officers' attention should be drawn to the following considerations:

- Life-sentenced prisoners (as indeed all prisoners) are sent to prison as punishment and not to be punished.
- Life-sentenced prisoners are not necessarily more dangerous than other prisoners (see also paragraph 70).
- Life-imprisonment can have a number of desocialising effects upon prisoners. In addition to becoming institutionalised, the prisoners concerned may experience a range of psychological problems.
- Life-sentenced prisoners must have a prospect of being released, at some stage, on parole (cf. Section 61, paragraph 3, of the Latvian Penal Code).
- The provision of a regime of purposeful activities (including group association) and constructive staff/inmate relations will, in time, reinforce security within the prison ("dynamic security").



**The CPT recommends that the Latvian authorities deliver a clear message to senior prison officers who are responsible for life-sentenced prisoners in Latvian prisons, taking into account the above considerations.**

70. The CPT also wishes to draw the Latvian authorities' attention to Section 7 of Recommendation Rec (2003) 23 on the Management by Prison Administrations of Life-Sentenced and Other Long-Term Prisoners (adopted by the Committee of Ministers of the Council of Europe on 9 October 2003), which emphasises that life-sentenced prisoners should not be segregated from other prisoners on the sole ground of their sentence (non-segregation principle).

The Explanatory Report of the afore-mentioned recommendation further states that:

“41. [t]he special segregation of life-sentenced or long-term prisoners cannot be justified by an unexamined characterisation of such prisoners as dangerous. As a general rule, the experience of many prison administrations is that many such prisoners present no risks to themselves or others. And if they do present such risks, they may only do so for relatively limited periods or in particular situations. In consequence, while it is fully recognised that time and resources are needed to implement this principle; these prisoners should only be segregated if, and for as long as, clear and present risks exist.

42. Life-sentenced and long-term prisoners are thought in some countries to pose serious safety and security problems in the prison. The violence and dangerousness manifested in the criminal act is considered to carry over to their lives in prison. Offenders who, for example, have committed murder are among those most likely to receive life or long sentences. This does not necessarily mean that they are violent or dangerous prisoners. Indeed, prison authorities can refer to individual murderers with a life or long sentence as “good prisoners”. They exhibit stable and reliable behaviour and are unlikely to repeat their offence. The likelihood of an offender engaging in violent or dangerous behaviour frequently depends not only on personality characteristics but also on the typical situations that permit or provoke the emergence of such behaviour.

43. Descriptions in terms of violence and dangerousness should, therefore, always be considered in relation to the specific environments or situations in which these characteristics may – or may not – be exhibited. In the management of long-term and life prisoners, a clear distinction should be drawn between safety and security risks arising within the prison and those that may arise with escape into the community. The classification and allocation of long-term and life-sentenced prisoners should take account of these differing kinds of risks (...”).

**The CPT recommends that the Latvian authorities reconsider their segregation policy vis-à-vis life-sentenced prisoners, in the light of the above remarks. The existing plans to construct a new detention block for life-sentenced prisoners at Jelgava Prison should also be revised accordingly.**

Further, the Committee invites the Latvian Prison Administration to establish a co-operation programme with another prison administration which has experience in applying alternative approaches to dealing with life-sentenced prisoners.

71. Finally, the CPT welcomes the fact that, both at Daugavpils and Jelgava Prisons a full-time psychologist had been recruited after the 2004 visit, who also provided psychological support to life-sentenced prisoners. However, at Jelgava Prison, the delegation was informed that the psychologist had recently left on prolonged maternity leave (for 18 months) and that she would not be replaced during that time. In the CPT's opinion, **whenever a staff member with a key position is on leave for more than a few weeks and no replacement is possible within the prison, it is crucial that a temporary appointment be made from outside the prison.**

b. Iļģuciema Prison

72. Iļģuciema Prison was accommodating the only female life-sentenced prisoner in Latvia. The CPT welcomes the fact that the prisoner concerned was offered work and benefited from the same conditions of detention as other sentenced prisoners. In addition, she was not subjected to any of the special security measures referred to above (such as the use of handcuffs or dogs during escorts). The CPT also wishes to place on record the efforts made by the management and the staff of the prison to provide special support to the prisoner concerned ever since she has been at the prison.

That said, the CPT is concerned by the fact that, in the past, the prisoner concerned had *de facto* been subjected to a solitary confinement regime for more than seven years, due to the fact that she had to be kept separate from other prisoners for as long as she was subject to the lowest regime. In this connection, reference is made to the remarks and recommendation made in paragraph 70.

## 7. Health care

73. At the outset, the CPT welcomes the fact that the old prison hospital on the premises of Rīga Central Prison has been withdrawn from service, following the opening of a new prison hospital at Olaine on 1 August 2007. Further, it wishes to place on record the good quality of the health-care services provided to female prisoners at Iļģuciema Prison (including to mothers and their children).

That said, in several of the establishments visited, the delegation observed a number of major shortcomings in the provision of health care. Many of the problems identified seem to be indicative of structural deficiencies in the prison system as a whole. The Committee wishes to recall that an inadequate level of health care can rapidly lead to situations falling within the scope of the term "inhuman and degrading treatment".

74. As regards health-care staff, it is a matter of grave concern that an establishment like Jēkabpils Prison, with almost 600 prisoners, many of whom were drug addicts, did not have a resident general practitioner<sup>37</sup>. The chief of the medical unit and only full-time doctor was a dentist, who as such was unable to offer general medical care to prisoners (three doctors' posts were vacant at the time of the visit). Not surprisingly, the quality of the establishment's health-care services was very poor.

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<sup>37</sup> The prison was attended by a specialist in internal medicine from the local hospital three times a week for four hours and by a pulmonologist once a week for three hours. For the rest of the time, daily health care was arranged by a doctor's assistant (feldsher). Not surprisingly, many prisoners complained about long delays in access to medical care.

Further, it is not acceptable that no nurse was present on Sundays or public holidays at Jēkabpils Prison. This also meant that prescribed medicines were not distributed on those days. Such a state of affairs is particularly detrimental to prisoners with HIV infection who should receive their (anti-retroviral) treatment on a daily basis. The same holds true for tuberculosis patients.

The CPT also regrets the fact that the Latvian authorities have failed to implement its long-standing recommendations to increase the number of nursing staff<sup>38</sup> and to ensure the presence of a qualified nurse at Rīga Central Prison at night-time<sup>39</sup>. The same situation was observed at Jēkabpils Prison, which employed a total of three nurses (in addition to the full-time doctor's assistant and a laboratory assistant who worked two half-days per week). As a consequence, prisoners were assigned as auxiliaries and in fact operated as a proxy nurse during the night.

**The CPT recommends that immediate steps be taken to ensure that:**

- **the vacant posts of doctors at Jēkabpils Prison are filled (including with at least one full-time general practitioner);**
- **the complement of qualified nursing staff at Jēkabpils Prison and Rīga Central Prison is significantly increased;**
- **a qualified nurse is always present at Jēkabpils Prison and Rīga Central Prison (as well as in other prisons in Latvia which have an in-patient infirmary), including at night and weekends.**

75. Health-care staffing levels at Cēsis Correctional Centre<sup>40</sup> and Iļģuciema Prison<sup>41</sup> were generally adequate. However, at Iļģuciema, both the prison governor and the chief doctor informed the delegation that the part-time presence of a dentist (20 hours per week) was not sufficient. **Steps should be taken to remedy this shortcoming.**

76. The health-care facilities were generally of a good standard in all the establishments visited. However, **steps should be taken at Rīga Central Prison to ensure that prisoners who are segregated for medical reasons receive adequate quantities of essential personal hygiene products.**

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<sup>38</sup> Rīga Central Prison employed four full-time doctor's assistants, four full-time nurses and one part-time radiology assistant. Only two of the four nurses undertook general nursing duties, with one nurse maintaining the medical records and the other assisting the dentist.

<sup>39</sup> The absence of nursing staff at night is of all the more concern, since both establishments had an infirmary with in-patients.

<sup>40</sup> Two doctors and three nurses (all working full-time).

<sup>41</sup> One full-time general practitioner, one full-time psychiatrist, one dentist (50%), one gynaecologist (50%), one dermatologist (25%) and one ENT specialist (25%); two full-time doctor's assistants and three full-time nurses.

77. The procedure for medical screening on admission was generally carried out in a satisfactory manner in all the establishments visited<sup>42</sup> (examination by a doctor or doctor's assistant within 24 hours; X-ray upon first entry into the prison system; screening for HIV, see, however, paragraph 83).

That said, at Jēkabpils Prison, the delegation noted that newly-arrived prisoners were not systematically subjected to a physical examination (with a view inter alia to detecting any visible injuries). **Steps should be taken to remedy this deficiency.**

78. As was the case during all previous visits, the delegation observed a number of shortcomings in the manner in which injuries were recorded at Rīga Central Prison. First of all, several newly-arrived prisoners met by the delegation displayed visible injuries on various parts of the body (including on the face), but no injuries at all were recorded in the medical file, despite the fact that these injuries had apparently been sustained prior to admission. Further, although objective medical findings relating to injuries were recorded in other cases, they were frequently not accompanied by an account of the statements made by the persons concerned which are relevant to the medical examination. In particular, medical records frequently failed to note the prisoner's account of the origin of these injuries (or to note if the person concerned had refused to reply to the relevant questions asked by the doctor) as well as the doctor's conclusions in the light of the objective findings and the prisoner's account.

Further, at Jēkabpils Prison, the delegation found instances where visible injuries had not been recorded at all in the prisoners' medical files (including after violent incidents in the prison). In this connection, particular mention should be made of the case referred to in paragraph 38.

**The CPT must recommend once again that steps be taken at Rīga Central Prison and Jēkabpils Prison, as well as in all other prisons in Latvia, to ensure that the record drawn up after a medical examination of a prisoner, on arrival or after a violent incident within the prison, contains:**

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

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<sup>42</sup> Recorded injuries were systematically investigated by the establishments' investigation division (see also paragraphs 96 and 97).

79. With the notable exception of Jēkabpils Prison (see also paragraph 74), the provision of general health care appeared to be on the whole adequate in all the establishments visited.

As regards Jēkabpils Prison, the CPT would like to draw the Latvian authorities' attention to one specific point. When reviewing the establishment's pharmacy, the delegation noted that the latter contained a reasonable selection of medication. However, it observed that the antibiotic of first choice at the time of the visit was gentamycin, given by injection. Several prisoners were receiving this for chest infections and one for a dental abscess. The Committee wishes to point out that gentamycin is a second-line antibiotic with potentially serious side-effects (it may cause renal impairment and oto-toxicity – i.e. damage to the nerves related to hearing). In addition, it is not sensitive to many of the bacteria such as streptococcus, haemophilus influenza or staphylococcus that cause community-acquired pneumonia. Therefore, this type of treatment, if deemed necessary, should preferably only be given in a hospital setting, with careful monitoring of blood tests. **The medical service at Jēkabpils Prison should be instructed accordingly.**

80. The total lack of appropriate mental-health services at Jēkabpils Prison and Cēsis Correctional Centre<sup>43</sup> is yet another matter of serious concern. In both establishments, there is an urgent need for the services of a psychiatrist and a clinical psychologist<sup>44</sup>.

At Jēkabpils, the position of psychiatrist had been vacant ever since the prison opened in 1980, and there were no regular visits by an attending psychiatrist. Suicidal prisoners were usually transferred to the cell block or were brought to the infirmary, where they could be watched over by two orderlies. Only in extreme cases were the prisoners concerned transferred to the prison hospital in Olaine.

**The CPT recommends that urgent steps be taken at Jēkabpils Prison and Cēsis Correctional Centre to ensure the regular presence of a psychiatrist and a clinical psychologist (both on a full-time basis at Jēkabpils).**

81. At Jēkabpils, the delegation was informed by health-care staff that means of mechanical restraint were, on occasion, applied to agitated and/or suicidal prisoners. In practice, due to the lack of special equipment, the prisoners concerned were attached by bed sheets (to the wrists and ankles and across the chest) to their beds (so-called "fixation") in the medical isolation room. In the absence of a restraint register, the delegation was informed that prisoners had been subject to fixation for up to 48 hours. It remained unclear as to what extent a doctor was usually involved in the resort to fixation.

Bearing in mind the inherent risks for the person concerned, the CPT has elaborated the following principles and minimum standards in relation to fixation:

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<sup>43</sup> At Cēsis, only one prisoner had been referred to an external psychiatrist during the whole of 2007.

<sup>44</sup> The only psychologist working at Cēsis was not a clinical psychologist.

- Regarding its *appropriate use*, fixation should only be used as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail to satisfactorily contain those risks; it should never be used as a punishment; it should not be used in prison, when hospitalisation would be a more appropriate intervention.
- Any resort to fixation should always be either *expressly ordered by a doctor or immediately brought to the attention of a doctor*.
- The *equipment* used should be properly designed to limit harmful effects, discomfort and pain during restraint. In this respect, arms and legs should be immobilised with specially designed straps. Staff must be trained in the use of the equipment.
- The *duration* of fixation should be for the shortest possible time (usually a few minutes or hours). The exceptional prolongation of restraint should warrant a further review by a doctor. Restraint for periods of days at a time cannot have any justification and would amount to ill-treatment.
- The person concerned should be *continuously and directly monitored* either by an identified member of health-care staff or by another suitably trained member of staff who has not been involved in the circumstances which gave rise to the application of fixation.
- Every instance of fixation of a prisoner must be *recorded in a specific register* established for that purpose, in addition to the prisoner's medical file.
- The management of any prison which might use fixation should issue *formal written guidelines*, taking account of the above criteria, to all staff who may be involved.

**The CPT recommends that the Latvian authorities take the necessary steps to ensure that all the principles and minimum standards set out above are applied at Jēkabpils Prison as well as in all other prison establishments in Latvia which resort to fixation.**

82. During the end-of-visit talks with the Latvian authorities, the delegation drew the attention of the Minister of Justice to the situation of four-life sentenced prisoners whose serious state of health required urgent action by the relevant authorities (see paragraph 7).

By letters of 18 January and 27 February 2008, the Latvian authorities informed the CPT of the concrete measures they had taken in respect of the above-mentioned prisoners.

83. At Rīga Central Prison, the delegation was struck when it learned that more than 170 prisoners were known to be HIV-positive (which equates to 18.5% of the prison population). Thus, it is a matter of grave concern that only extremely limited arrangements have been made to provide appropriate care for these prisoners, with a view preventing them from developing a life-threatening disease. One of the reasons seemed to be a widespread lack of awareness and knowledge among medical staff about HIV infection and the need for early intervention.

While an HIV test was offered to every newly-arrived prisoner, there was absolutely no pre-test discussion concerning the implications of a positive or negative test. In addition, there was no post-test discussion when a prisoner was found to be HIV-negative and very little post-test discussion when he was found to be HIV-positive. It is of all the more concern that, despite the extremely high number of HIV-positive prisoners within the prison, only ten prisoners were receiving anti-retroviral drugs for their infection<sup>45</sup>. In practice, such drugs were only provided to HIV-positive prisoners once they had been diagnosed with AIDS. While all new cases of HIV infection were apparently systematically referred to the visiting infectologist<sup>46</sup>, prisoners who were known HIV-positive upon admission to the prison were only referred to the infectologist if they so requested<sup>47</sup>. Further, no prisoner benefited from immunisation against hepatitis B (apparently due to the financial implications for prisoners).

The delegation also had the opportunity to discuss the worsening problem of HIV in Latvian prisons with representatives of the Rīga Centre for Infectology. However, from these discussions it transpired that, within the existing resources, the Centre could only be of limited assistance in this regard. It should also be added that, due to the problem of injecting drugs and sharing injecting equipment, it is highly likely that some prisoners are becoming infected with HIV during their stay at Rīga Central Prison.

**In the light of the above, the CPT recommends that urgent steps be taken at Rīga Central Prison (as well as in all other prisons in Latvia) to develop a strategy for the prevention and treatment of HIV within the prison.**

84. As regards medical confidentiality, the delegation observed at Rīga Central Prison that prison officers were frequently present during medical examinations. In this connection, **the remarks and recommendation made in paragraph 68 equally apply to Rīga Central Prison.**

85. Finally, the CPT noted with interest that a “Conception on the health care for the imprisoned persons” had been elaborated by the Ministry of Justice and reviewed by the Cabinet of Ministers on 26 September 2006. At the request of the Cabinet of Ministers, the Ministries of Justice and Health were mandated to submit, before 1 June 2008, a project proposal to the Cabinet of Ministers, with a view to having the responsibility for the prison hospital and prison health-care services transferred to the Ministry of Health.

**The Committee would like to receive more detailed information on this matter.**

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<sup>45</sup> Similarly, at Ilģuciema Prison, 52 prisoners were diagnosed HIV-positive, but only four of them (including two pregnant prisoners) were receiving anti-retroviral drugs. At Jēkabpils Prison, only one out of four prisoners diagnosed HIV-positive was receiving such treatment.

<sup>46</sup> An infectologist from the Rīga Centre for Infectology visited the prison once a month.

<sup>47</sup> As a matter of fact, the statement made by the Latvian authorities in their letter of 22 February 2008 that “personnel of the Medical Department ensure that three times a year HIV and AIDS positive prisoners are examined in the laboratories of the Latvian Infection Centre where they also receive consultations from the specialists” does not correspond at all with the situation found on the spot during the visit to Rīga Central Prison.

## 8. Other issues

### a. staff

86. As regards staffing levels, the CPT is very concerned by the fact that at *Jēkabpils Prison*, custodial staff was present in the units only during working hours (see also paragraph 40). During night shifts, only some 11 to 13 officers were present in the entire establishment, performing regular checks in every unit (usually three times per night), without entering into the dormitories. If prisoners were in need of immediate assistance, they had to call the central office by internal telephone.

The staffing levels appeared to be better in the other prisons visited. However, the delegation was informed by the management of those establishments that the number of staff was not always sufficient to ensure proper supervision of prisoners (in particular, during the night or whenever several officers were absent at the same time, due to sick leave or holidays).

#### **The CPT recommends that:**

- **the number of prison officers be significantly increased at Jēkabpils Prison;**
- **staffing levels be reviewed in the other prisons visited.**

87. In all the establishments visited, the delegation was informed that the management was affected by the general problem faced by the prison administration to fill vacant posts of prison officers (due to the lack of suitable candidates). As a result, it was on occasion necessary to recruit persons who had received no training for working as prison officer.

**The CPT encourages the Latvian authorities to pursue their efforts to recruit qualified custodial staff in the prison system. Steps should also be taken to ensure that all prison officers benefit from adequate initial and ongoing training.**

88. Finally, at Jēkabpils Prison, the deep-seated problems of ill-treatment by staff and inter-prisoner violence (see paragraphs 38 to 42) appeared to be compounded by widespread corruption. The delegation received numerous credible allegations of corruption involving prison officers at all levels (including at the level of the management of the prison, at least until the early part of 2007<sup>48</sup>). It would appear that, if a prisoner had money, he could buy exactly what he wanted, including influencing the work of the prison's administrative commission to secure a change in his regime status or even an early conditional release.

**The CPT recommends that, in the context of the inquiries referred to in paragraph 42, the Latvian authorities also pay particular attention to the problem of corruption at Jēkabpils Prison.**

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<sup>48</sup> The delegation was informed that the former deputy governor responsible for internal security had been suspended from service and was awaiting trial on corruption charges.



b. discipline

89. As regards the conditions of detention in punishment cells, the CPT wishes to express its serious concern about the fact that adult prisoners who are subject to the disciplinary sanction of solitary confinement are still not granted one hour of outdoor exercise per day, despite the specific recommendation made by the Committee at the time of the 1999 visit, and reiterated after the 2002 and 2004 visits. It is all the more regrettable that this basic requirement, which is also contained in the Revised European Prison Rules, was not taken into account in the context of the adoption of the 2006 amendments to the Code of the Execution of Penalties.

In their response of 27 February 2008 to the immediate observation made by the delegation at the end of the visit (see paragraph 7), the Latvian authorities informed the CPT that “[t]he existing regulations do not provide for a requirement to ensure walking time for prisoners in detention, however, the Ministry of Justice in cooperation with the Ombudsman’s Office and the work group for improving the provisions of Latvian Code of Execution of Penalties plan to revise this provision in 2008”.

**The CPT calls upon the Latvian authorities to take immediate steps to ensure that, in all prisons in Latvia, all prisoners placed in a punishment cell are granted at least one hour of outdoor exercise per day.**

90. Further, with the notable exception of Iļģuciema Prison, restrictions were still being applied to prisoners in punishment cells regarding their access to reading material (usually, only religious literature and legal documents were allowed, and in some establishments one additional book was provided during the whole period of solitary confinement). **The CPT reiterates its recommendation that all prisoners placed in a punishment cell be allowed access to general reading matter.**

91. Material conditions in punishment cells varied from one establishment to another. By far the worst conditions were found at *Cēsis Correctional Centre*, where the cells, located in the remand detention block, were appalling and indeed unfit for human detention (very dilapidated, humid, cold, poorly ventilated and with very poor access to natural light and artificial lighting). In this connection, reference is made to the remarks and recommendation made in paragraphs 56 to 58.

Further, a number of shortcomings were observed in all the establishments visited. In particular, many cells had only very limited access to natural light or none at all, due to the fact that windows were covered with metal shutters. Further, artificial lighting and ventilation were often insufficient.

On a positive note, it should be added that, in contrast to previous visits, prisoners placed in a punishment cell were always provided with a mattress and blankets at night in all the establishments visited.

**The CPT recommends that the material conditions of detention in punishment cells be improved in all the establishments visited, in the light of the above remarks.**

92. As regards disciplinary sanctions, the CPT noted with concern that, despite the specific recommendation made by the Committee after the previous visit, instances of self-harm were still considered to be disciplinary offences and punished accordingly (in most cases, with the maximum duration of solitary confinement, or close to the maximum).

In their letter of 27 February 2008, the Latvian authorities stated that “intentional self-injury shall be regarded as a violation of the internal rules and subject to disciplinary punishment. (...) Disciplinary sanctions are applied in proportion with the severity of offence and the psychological characteristics of each prisoner. Before any sanctions are applied, the administration of prison undertakes individual interviews and explanatory measures. The quantity of separate cells in Latvian prisons is not sufficient; therefore it is not possible to isolate prisoners having an inclination for self-injury. This is why they are held in punishment cells; however it is not regarded as disciplinary punishment.”

The CPT notes that, at least in theory, prisoners who harm themselves are not automatically subjected to a disciplinary sanction. However, the information gathered during the visit showed that there was still a wide gap between theory and practice.

The Committee wishes to stress once again that acts of self-harm frequently reflect problems and conditions of a psychological or psychiatric nature, and should be approached from a therapeutic rather than a punitive standpoint. Further, the isolation of the prisoners concerned (even if it is not considered a disciplinary sanction) is likely to exacerbate their psychological or psychiatric problems. In this connection, it should also be added that all cases of self-harm ought to be assessed medically *immediately* after the incident to evaluate the extent of lesions and to assess the psychological state of the prisoner.

**The CPT recommends that appropriate steps be taken throughout the prison system to review the approach being followed vis-à-vis prisoners who have harmed themselves, in the light of the above remarks.**

93. According to the relevant legal provisions, solitary confinement is invariably accompanied by the corollary punishment of prohibition of contacts with the outside world, a practice which is contrary to the Revised European Prison Rules<sup>49</sup>.

**The CPT recommends that steps be taken to ensure that disciplinary punishment does not amount to a total prohibition of family contact. Further, the Committee invites the Latvian authorities to abolish restrictions on contacts with the outside world in respect of juvenile prisoners.**

94. Disciplinary procedures were on the whole carried out in accordance with the relevant legal provisions in all the prisons visited. Decisions on the imposition of a disciplinary sanction were taken by the Governor, on the basis of a recommendation made by the prison officer who had conducted an internal inquiry and taken a statement from the prisoner concerned.

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<sup>49</sup> See Rule 60.4.

However, some shortcomings were observed by the delegation in all the establishments visited. In particular, prisoners facing disciplinary charges had no right to be heard in person by the prison governor before a decision was taken on the matter. Further, prisoners were usually not given a copy of the decision (which contained information on the reasons for the decision as well as on the avenues and deadline for lodging an appeal). **The CPT recommends that the above-mentioned shortcomings be remedied (if necessary, by amending the relevant legal provisions).**

95. Further, in all the establishments visited, the delegation observed that, in accordance with the relevant regulations, a doctor (or a doctor's assistant) had to sign an attestation that prisoners subject to the disciplinary sanction of solitary confinement were "fit for punishment", prior to the implementation of the disciplinary decision.

In this connection, the CPT wishes to stress that medical practitioners working in prisons act as the personal doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. Obliging prison doctors to certify that prisoners are fit to undergo punishment is scarcely likely to promote that relationship. This point was recognised in the Committee of Ministers' Recommendation Rec (2006)2 on the Revised European Prison Rules; indeed, the rule in the previous version of the Rules, stipulating that prison doctors must certify that a prisoner is fit to sustain the punishment of disciplinary confinement, has now been removed. On the other hand, prison doctors should be very attentive to the situation of prisoners placed in disciplinary cells.

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

c. security and investigation divisions

96. In the reports on the 2002 and 2004 visits<sup>50</sup>, the CPT expressed its serious concern about the role of the Security Departments in Latvian prisons. Officers of these departments fulfilled both custodial and criminal investigative tasks (including the taking of confessions in relation to criminal offences committed by prisoners outside the prison). Moreover, security officers had the exclusive decision-making power on the placement of prisoners within the prison and were, in exercising their powers, *de facto* independent from the prison administration (including from the prison governor).

It is evident that such a state of affairs not only leads to potential conflicts of interests but also jeopardises the benefits of the transfer of the responsibility for the prison system from the Ministry of the Interior to the Ministry of Justice.

97. The CPT noted that, following the 2004 visit, the former Security Departments had been split into two separate entities, a security division (which reports directly to the prison governor) and an investigation division (which is subordinated to the deputy governor responsible for internal security).

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<sup>50</sup> See CPT/Inf (2005) 8, paragraphs 130 to 132, and CPT/Inf (2008) 15, paragraphs 48 to 50.

In several of the prisons visited, the delegation had consultations with officers of both divisions. From these consultations it became apparent that the recent restructuring had indeed brought about certain improvements. In particular, the separation of custodial and investigative tasks has significantly reduced the risk of conflicts of interest when taking decisions on the allocation/transfer of prisoners. Further, placement decisions are now taken under the responsibility of the prison governor.

That said, two major deficiencies still persist, despite the specific recommendations made by the Committee after the two previous visits.

Firstly, it was still common practice for prison officers (now members of the establishments' security division) to investigate criminal offences committed by prisoners (whether sentenced or on remand) outside the prison, to interrogate them and collect evidence, such as confessions, before transferring them, for further questioning, to the police<sup>51</sup>. Whenever statements were taken the prison governor was informed and a record was kept in a special logbook. Secondly, prison officers (now members of the establishments' investigation division) still carried out criminal investigations into allegations of ill-treatment by staff, initially on their own, and, subsequently, under the supervision of the competent prosecutor. The CPT wishes to recall once again that any investigations carried out by prison officers against other members of staff of the same establishment may be compromised as not being independent and impartial.

**The Committee calls upon the Latvian authorities to take immediate steps in the entire prison system to ensure that:**

- **officers of security divisions no longer investigate criminal offences committed by prisoners outside the prison and no longer take statements from prisoners in relation to such offences;**
- **officers of investigation divisions no longer carry out criminal investigations into alleged instances of ill-treatment by staff. Such investigations should be conducted by a body which is independent of the establishment concerned, and preferably of the prison system as a whole.**

d. contact with the outside world

98. The CPT welcomes the fact that the entitlement for remand prisoners to make telephone calls has been increased since the last visit from one call per month to one call per week.

Regrettably, the situation has apparently not improved as regards the confidentiality of prisoners' correspondence with their lawyers. Once again, numerous allegations were received from prisoners in all the establishments visited that they were obliged to hand in letters addressed to their lawyers in unsealed envelopes (contrary to the relevant legal provisions in force). **The CPT calls upon the Latvian authorities to remedy this state of affairs.**

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<sup>51</sup> According to security officers interviewed by the delegation, such confessions were regarded as an "achievement", and the prisoners concerned usually received some favours (e.g. coffee or cigarettes).

99. Further, the CPT is concerned by the fact that the Latvian authorities have failed to implement the long-standing recommendation made by the Committee that the entitlement to visits of sentenced prisoners be increased, so as to ensure that all such prisoners - including those serving a life-sentence - can receive at least one visit (either short- or long-term) per month.

In their letter of 27 February 2008, the Latvian authorities indicated that “[t]he work group under the Ministry of Justice in cooperation with the Ombudsman’s Office plans to revise this provision in 2008”.

**The Committee calls upon the Latvian authorities to pursue the above-mentioned plan without delay, so as to ensure that all sentenced prisoners - including those serving a life-sentence - can receive at least one visit (either short- or long-term) per month.**

e. complaints procedures

100. The information gathered during the visit showed that the situation remains unchanged since the last visit with regard to complaints procedures.

Prisoners were, in principle, entitled to submit complaints to the prison governor, the Central Prison Administration, the specialised prosecutor and the Ombudsman. However, as was the case during all the previous visits, many prisoners indicated to the delegation that they had little or no trust in the existing procedures, the main reason being that they were allegedly obliged to hand in complaints in unsealed envelopes. Even where special complaints boxes were installed, prisoners expressed their serious doubt as to whether complaints would reach the final destination in a truly confidential manner (no such statements were heard in respect of complaints addressed to the Ombudsman).

Further, at Jēkabpils Prison, the delegation was informed by prison officers that, on several occasions, prisoners’ complaints addressed to the Central Prison Administration had been immediately destroyed by a senior prison officer. As already mentioned in paragraph 41, prisoners who had lodged complaints were subsequently subjected to various forms of reprisal by prison officers. Such a state of affairs is totally unacceptable. In this connection, reference is made to the remarks made in paragraphs 41 and 42.

**The CPT reiterates its recommendation that the Latvian authorities conduct a review of the procedures currently used to process prisoners’ complaints, in the light of the above remarks.**

## C. Psychiatric/social welfare establishments

### 1. Preliminary remarks

101. The CPT's delegation carried out a full visit to Daugavpils Neuropsychiatric Hospital. In addition, it paid a brief visit to Krastiņi Social Nursing Centre<sup>52</sup>, in order to examine the legal safeguards in the context of admission procedures. The former establishment is administered by the Ministry of Health and the latter by the Ministry of Social Welfare.

102. **Daugavpils Neuropsychiatric Hospital**, which was opened in 1924 on the premises of former army barracks<sup>53</sup>, is situated in a pleasant open wooded park on the outskirts of Daugavpils. The catchment area of the hospital covers six districts in south-eastern Latvia with a population of some 400,000. With an official capacity of 685 beds, Daugavpils Neuropsychiatric Hospital is the largest psychiatric establishment in Latvia. At the time of the visit, it was accommodating a total of 655 patients (including 26 forensic patients<sup>54</sup>). Patients were accommodated in nine closed wards, four open wards and one semi-open ward, with a capacity ranging from 30 to 75 beds<sup>55</sup>. The hospital also had a rehabilitation unit and a workshop serving both in- and out-patients.

103. In addition to the forensic patients, two civil psychiatric patients were formally considered as involuntary. However, from interviews with staff and patients, it became apparent that a significant number of "voluntary" patients were in fact not free to leave the hospital premises on their own and were thus *de facto* deprived of their liberty. This issue will be dealt with in the relevant section of this report (see paragraphs 126 to 128).

104. The average length of hospitalisation was approximately two months. Out of 120 patients who had been staying in the hospital for more than a year, some 70 no longer actually needed to be held in hospital, but had to remain there, due to a lack of adequate care/accommodation in the outside community (e.g. in social welfare homes). For persons to remain deprived of their liberty as a result of the absence of appropriate external facilities is a highly questionable state of affairs. **The CPT urges the Latvian authorities to find a solution to this problem at Daugavpils Neuropsychiatric Hospital.**

In this connection, the delegation was informed that the Ministry of Health had elaborated a national programme for mental health protection for the period 2008 to 2013, one of the main objectives of which being the promotion of community-based care. **The CPT would like to be informed of the progress made in the implementation of the above-mentioned programme.**

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<sup>52</sup> Opened in 1997, the centre is situated in a forest area near a lake in Krāslava district (south-eastern Latvia). At the time of the visit, it was operating at full capacity with 150 residents.

<sup>53</sup> The hospital's two main buildings date from the end of the 19<sup>th</sup> and the beginning of the 20<sup>th</sup> centuries. They housed thirteen of the total fourteen in-patient wards. Ward 14, with a capacity of 40 beds, was located in a separate building constructed in 2006 within the framework of an EU-supported rebuilding programme.

<sup>54</sup> The forensic patients were allocated to different closed wards and benefited from the same living conditions and treatment as any other patients.

<sup>55</sup> There were three female and five male wards, as well as six mixed-gender wards (including two for geriatric patients and one for minors).

105. Involuntary placement of a civil nature in a psychiatric establishment is governed by the relevant provisions of the Law on Medical Treatment. Since the last visit, a number of important amendments had been made to this law, introducing, *inter alia*, a judicial review procedure in the context of involuntary hospitalisation. The delegation examined in detail the implementation of this new legal framework (see paragraphs 124 to 130).

Forensic patients may be subject to compulsory treatment pursuant to Sections 68 to 70 of the Penal Code. Such treatment may be imposed by a criminal court upon offenders with mental disorders who are not criminally responsible but considered dangerous. Involuntary admission to a psychiatric hospital may be a substitute for a prison sentence or take place following imprisonment. In the context of criminal proceedings, a person may also be placed in a psychiatric establishment in order to undergo an assessment of his/her mental status for the period not exceeding the maximum term of pre-trial detention specified for the crime in question (Section 284 of the CCP).

106. The CPT wishes to make clear at the outset that its delegation received no allegations of ill-treatment of patients by staff at Daugavpils Neuropsychiatric Hospital and gathered no other evidence of such treatment during the visit. Indeed, staff appeared to be dedicated and to have a caring attitude towards patients.

## **2. Living conditions**

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

108. At Daugavpils Neuropsychiatric Hospital, material conditions varied considerably from one ward to another. The best conditions were observed in Ward 14, where the patients' rooms (with two or three beds) were spacious, suitably equipped (including a sanitary annex), well lit and ventilated. Less favourable but still on the whole acceptable were the material conditions in Wards 9, 10, 12 and 13, where patients were accommodated in dormitory-type rooms<sup>56</sup>.

That said, all the other dormitory-type wards were in an advanced state of dilapidation (broken window panes, badly worn - sometimes rotten - floors, paint peeling from walls, etc.), very austere and impersonal, with the only equipment being narrow metal beds. On the other hand, access to natural light was adequate and the rooms were properly heated and ventilated.

Further, although patients were supposed to have at least one shower per week, access to the shower room in practice appeared to be less frequent (often only once every ten days).

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<sup>56</sup> The number of beds in dormitory-type rooms ranged from seven to 18.

Despite the fact that, at the time of the visit, the establishment as a whole was operating below its official capacity (see paragraph 102), many wards were overcrowded, in particular, Wards 1, 2, 3, 4 and 6 (e.g. 17 beds in a room measuring 42 m<sup>2</sup> in Ward 2)<sup>57</sup>.

Mention should also be made of the so-called "isolators" where patients were placed on admission for several days, often under cramped conditions<sup>58</sup>, with their movement and contact with other patients being restricted. According to staff, the "isolators" were used in order to observe the mental state of newly-arrived patients and screen them for infectious diseases. In the CPT's view, such placement under conditions of restricted movement appears to be unnecessary from a medical standpoint. **The Committee would like to receive the Latvian authorities' comments on this matter.**

109. During the visit, the delegation was informed of existing plans to renovate the hospital's two main buildings by 2010.

**The CPT encourages the Latvian authorities to carry out the renovation of Daugavpils Neuropsychiatric Hospital as speedily as possible. In this context, the possibility of transforming the large-capacity dormitories into smaller patients' rooms should be considered.** Provision of accommodation structures based on small groups is a crucial factor in preserving/restoring patients' dignity, and also a key element of any policy for the psychological and social rehabilitation of patients. Structures of this type also facilitate the allocation of patients to relevant categories for therapeutic purposes.

**Further, the CPT would like to receive a detailed plan of the different stages of renovation of the hospital and a timetable for their full implementation.**

Pending the forthcoming renovation, **the Committee recommends that steps be taken at the hospital to keep patients' rooms in an acceptable state of cleanliness and hygiene and to provide a more personalised environment.** In addition, **patients should be able to shower more frequently.**

110. In all wards, patients were free to move around the wards including the canteen area, which was equipped with a television set and also served as an activity room. However, although each ward had a designated exercise area, the vast majority of patients (including those held in "isolators") did not benefit from daily outdoor exercise, apparently due to the lack of availability of staff to accompany patients and/or appropriate clothing. Further, most of the exercise areas were equipped with neither means of rest and recreation nor shelter from inclement weather.

**The CPT recommends that steps be taken at Daugavpils Neuropsychiatric Hospital to ensure that all patients whose state of health so permits are offered at least one hour of outdoor exercise per day. If necessary, they should be provided with suitable outdoor clothing.** Further, **the outdoor exercise areas should be equipped with means of rest and recreation and provide shelter from inclement weather.**

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<sup>57</sup> It should also be added that the number of beds in most wards exceeded their official capacity (e.g. in Ward 4, there were 80 beds instead of 65, and in Ward 8, there were 63 beds instead of 40). As a result, beds were often placed close together, in some cases actually touching.

<sup>58</sup> For example, four beds in a room measuring some 11 m<sup>2</sup> in Ward 4.



111. Finally, the delegation observed that all patients in Ward 2 and a number of patients in other wards wore hospital pyjamas all day. In this connection, the CPT wishes to stress that for patients to be dressed in pyjamas at all times is not conducive to strengthening personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process. **The Committee therefore invites the Latvian authorities to ensure that patients are allowed and, if necessary, encouraged to wear their own clothes during the day or are provided with appropriate non-uniform garments.**

### 3. Staff and treatment

112. At the outset, the CPT wishes to stress that most patients interviewed by the delegation spoke favourably about the manner in which they were treated by staff at Daugavpils Neuropsychiatric Hospital. This is all the more commendable given the poor conditions in which many of them had to work.

113. As regards medical staff, the overall number of posts for psychiatrists appeared to be adequate (39 full-time posts)<sup>59</sup>. However, it is a matter of concern that, at the time of the visit, twelve of these posts were vacant. As a result, some doctors occupied more than one full-time post, in effect working overtime on a permanent basis in return for a commensurate increase in salary<sup>60</sup>. The hospital also employed four psychologists, but there were no staff qualified to organise physiotherapy and occupational therapy<sup>61</sup>.

On a more positive note, the number of nurses and orderlies were adequate on all wards<sup>62</sup>.

In the CPT's view, the system of individual staff occupying more than one full-time post may be detrimental to satisfactory patient care, if it extends beyond short-term situations of staff shortages. Further, there is a clear need for more diversity in professional staff, in particular categories qualified to provide therapeutic activities and other forms of psychosocial care, which is conducive to the emergence of a multidisciplinary approach.

**The CPT recommends that staff resources at Daugavpils Neuropsychiatric Hospital be reviewed, in the light of the above remarks.**

114. Psychiatric treatment should be based on an individualised approach, which implies the drawing up of a treatment plan for each patient, indicating the goals of treatment, the therapeutic means used and the staff member responsible. The treatment plan should also contain the outcome of a regular review of the patient's mental health condition and a review of the patient's medication. Further, the treatment should involve a wide range of therapeutic, rehabilitative and recreational activities, such as occupational therapy, group therapy, individual psychotherapy, art, music and sports.

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<sup>59</sup> There were also posts for general medicine, radiology, stomatology and pharmacy.

<sup>60</sup> At the time of the visit, seven doctors occupied the equivalent of two full-time posts, and eight doctors the equivalent of 1.5 posts.

<sup>61</sup> This function was mainly performed by nurses and orderlies.

<sup>62</sup> For example, one nurse per two beds in Ward 2.

115. At Daugavpils Neuropsychiatric Hospital, the treatment provided to patients was based mainly on pharmacotherapy. Access to psychotropic medications did not appear to be problematic. Treatment choices were based on observations carried out during the initial period of three to four days (see also paragraph 108). The psychiatrist responsible for the patient kept the case under review during regular ward rounds. However, such visits to wards involved only a brief discussion with the patient in the presence of other patients; interviews in private were infrequent. Further, although patient files were generally well kept, they contained no individual treatment plans setting out the goals and levels of treatment, the therapeutic means and the staff responsible.

As regards other forms of treatment, the CPT acknowledges the efforts made by the management to provide rehabilitative psycho-social activities (in particular, in the hospital's rehabilitation unit where patients take part in activities such as cooking and housekeeping).

That said, patients received individual and group psychotherapy sessions as well as autogenic training in only a few wards (such as Wards 9 and 13), and only some 15 in-patients attended the hospital's workshop on a daily basis. The majority of patients (including long-term patients) spent their days in the wards' corridors with nothing to do, with their main occupation watching television. This situation was undoubtedly linked to the shortage of suitably qualified staff (see paragraph 113) and the absence of designated areas on most wards where patients could engage in therapeutic activities. As regards forensic psychiatric patients, there were no specific treatment programmes aiming at the reduction of the risk of re-offending.

**The CPT recommends that steps be taken at Daugavpils Neuropsychiatric Hospital to provide more comprehensive and individualised care with a wide range of psycho-social activities and to better prepare for the patients' return to the community, in the light of the above remarks.**

116. Although resort to electroconvulsive therapy (ECT) was apparently rare<sup>63</sup>, the CPT is very concerned by the fact that this treatment was administered at Daugavpils Neuropsychiatric Hospital in its unmodified form, i.e. without anaesthetic and muscle relaxants<sup>64</sup>. As the CPT has repeatedly emphasised, use of this outdated method entails a heightened risk of untoward medical consequences and can lead to situations which could justifiably be described as degrading.

The delegation noted that the hospital had no written policy guidelines regarding the administration of ECT, and no written consent was obtained from the patients concerned. Further, there was no record of checks and maintenance of the ECT equipment.

**The CPT recommends that the Latvian authorities take immediate steps to ensure that Daugavpils Neuropsychiatric Hospital (and, as appropriate, other psychiatric hospitals in Latvia in which ECT is used) is provided with the necessary staff, equipment and facilities so that this treatment can be administered in its modified form (i.e. with both anaesthetic and muscle relaxants) and in an effective manner (preferably with the aid of an electroencephalogram).**

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<sup>63</sup> According to the staff, only three patients had received ECT in 2007.

<sup>64</sup> The treatment was carried out after an injection of a short-acting benzodiazepine.

Further, **the Committee recommends that clear written policy guidelines on recourse to ECT be elaborated and distributed to each establishment where this treatment is applied, in order to ensure that ECT is used for the proper indications and is carried out in an appropriate manner.**

Finally, **steps should be taken to ensure that the written informed consent of the patient (or of the guardian, if the person concerned is declared incompetent by a court) to the use of ECT, based on full and comprehensible information, is sought and kept in the patient's file.**

117. Patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. Every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and apply only in clearly and strictly defined exceptional circumstances.

Of course, consent to treatment can only be qualified as free and informed if it is based on full and accurate information about the patient's condition and the treatment which is proposed. In this connection, it is essential that all patients be provided systematically with relevant information about their condition and the treatment proposed for them. Relevant information (results, etc.) should also be provided following treatment.

The examination of various patient files at Daugavpils Neuropsychiatric Hospital brought to light that, in the case of voluntary admissions, the patient's consent to treatment was sought upon admission (at the same time as the patient gave his/her consent to the placement), before the clinical indications for a particular form of treatment were even established. No documentation could be found which indicates that the patient concerned had received detailed information on the diagnosis, the treatment proposed and the possible side effects<sup>65</sup>.

**The CPT recommends that steps be taken at Daugavpils Neuropsychiatric Hospital (as well as in all other psychiatric establishments in Latvia) to ensure that all competent patients are placed in a position to give their free and informed consent to treatment.** In this connection, the Committee wishes to stress that whenever consent to treatment is given by a patient upon admission, the patient concerned should continuously be kept informed of the treatment applied to him/her and be placed in a position to withdraw his/her consent at any time.

118. Finally, the delegation noted that deaths occurring in the hospital were usually not subject to any post-mortem examination<sup>66</sup>. In the CPT's opinion, **there should be an independent review of all deaths occurring in a psychiatric hospital by means of a pathologist checking the patient's file and deciding whether an autopsy is indicated.**

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<sup>65</sup> Only a few of the patients met by the delegation appeared to be aware of the nature of the treatment and medication (including its effects and possible side effects) they were receiving.

<sup>66</sup> Deaths were certified by a hospital doctor. In the majority of cases, "cardiovascular disorders" were recorded as the cause of death (e.g. 85 out of 96 deaths in 2004; 109 out of 126 deaths in 2005; 110 out of 127 deaths in 2006). It is noteworthy that some of these deaths occurred in younger patients (e.g. eight patients under 45 years of age since 2004).

#### 4. Means of restraint

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

It is essential that the restraint of patients be the subject of a clearly-defined policy. That policy should make it clear that initial attempts to restrain agitated or violent patients should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control.

Resort to mechanical restraint shall only very rarely be justified and must always be either expressly ordered by a doctor or immediately brought to the attention of a doctor with a view to seeking his approval. If, exceptionally, recourse is had to instruments of physical restraint, they should be removed at the earliest opportunity; they should never be applied, or their application prolonged, as a punishment. Patients subject to mechanical restraint should, at all times, have their mental and physical state continuously and directly monitored by a member of the health-care staff.

Further, every instance of restraint of a patient (manual control, mechanical restraint, seclusion) should be recorded in a specific register established for this purpose (as well as in the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff. This will greatly facilitate both the management of such incidents and the oversight as to the frequency of their occurrence.

120. At Daugavpils Neuropsychiatric Hospital, the only means of restraint used were five-point fixation to a bed (with cloth straps) and the administration of tranquillising medication (chemical restraint).

In accordance with the guidelines issued by the Ministry of Health on the use of means of restraint, decisions on the resort of fixation were usually taken by a doctor. Further, restraint registers were kept on each ward for recording instances of fixation, indicating the time at which the measure was applied and removed, the indication and the name of the doctor ordering it. However, instances of chemical restraint were not recorded in the restraint register; **steps should be taken to remedy this shortcoming.**

The CPT is concerned by the fact that fixation was often applied inside patients' rooms and thus in full view of other patients, indeed, on occasion with their active involvement. Further, the supervision of patients subject to fixation appeared to be inadequate; no staff member was designated to stay with and observe the fixated patient and, in practice, this function was performed by other patients.

The death of a patient in June 2007 as a result of asphyxia caused by strangulation whilst being restrained to a bed clearly illustrates the need for constant supervision when a patient is subjected to fixation.

By letter of 22 February 2008, the Latvian authorities informed the Committee that a criminal investigation had been initiated into the death of the above-mentioned patient, in the course of which an autopsy was performed and staff of the hospital were questioned. On the basis of this investigation, it was concluded that the patient had died of self-asphyxiation and that the death had "occurred without illegal actions of other persons". Thus, the criminal investigation was terminated in accordance with Section 377, paragraph 1, of the CCP ("no offence committed").

**The CPT would like to receive detailed information on the concrete investigative steps taken in the light of the results of the autopsy in order to establish whether the patient's death may have occurred due to criminal negligence by (a) member(s) of staff.**

121. Bearing in mind the inherent risks for the patient concerned, the following principles and minimum standards in relation to fixation should also be taken into account:

- Staff should *not be assisted by other patients* when applying means of restraint to a patient.
- A restrained patient should *not be exposed to other patients*.
- As regards *supervision*, whenever a patient is subjected to means of mechanical restraint, a trained member of staff should be present at all times to maintain the therapeutic alliance and provide assistance. Such assistance may include escorting the patient to a toilet facility or, in the exceptional case where the measure of restraint cannot be brought to an end in a matter of minutes, helping him/her to consume food. Clearly, video surveillance cannot replace such a continuous staff presence.
- Patients subject to means of restraint should receive *full information* on the reasons for the intervention. Further, the person concerned should be given the opportunity to discuss his/her experience, during and, in any event, as soon as possible after the end of a period of restraint. This *debriefing* should always be carried out by a member of health-care staff or another member of staff with appropriate training.

**The CPT recommends that the Latvian authorities take the necessary steps to ensure that the principles and minimum standards set out above are applied at Daugavpils Neuropsychiatric Hospital and, as appropriate, in other psychiatric establishments in Latvia.**

122. According to the hospital's registers, the duration of fixation never exceeded two hours, in strict compliance with the time-limit set in the above-mentioned guidelines of the Ministry of Health. However, from interviews with staff and patients, it became apparent that patients were on occasion subjected to fixation for several hours. **The CPT would like to receive the Latvian authorities' comments on this point.**

## 5. Safeguards

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

### a. initial placement and discharge procedures in a psychiatric establishment

124. As already indicated earlier<sup>67</sup>, the legal framework governing involuntary placement of a civil nature in a psychiatric establishment has recently undergone significant changes. In March 2007, an amendment was made to the Law on Medical Treatment, which introduced a judicial review procedure in the context of involuntary hospitalisation and ensured the provision of legal aid to patients. A second amendment came into force on 1 January 2008, further enhancing the safeguards for involuntary patients (e.g. the right to participate in court hearings, the right to appeal, etc.)<sup>68</sup>. The CPT welcomes these developments.

125. According to the amended version of Section 68 of the Law on Medical Treatment, if it is necessary to place the patient in a psychiatric establishment without his/her consent<sup>69</sup>, a panel of psychiatrists shall examine the patient within 72 hours from the moment of his/her involuntary admission. If the panel decides to provide psychiatric assistance to the patient, the hospital concerned shall inform in writing the competent judge of the district (city) court within 24 hours, attaching a copy of the decision and other relevant documents<sup>70</sup>.

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<sup>67</sup> See paragraph 105.

<sup>68</sup> Evidently, it was not possible for the CPT's delegation to assess the implementation of the new safeguards as these had not yet entered into force at the time of the visit.

<sup>69</sup> Psychiatric assistance may be provided without the patient's consent, if:

(1) the patient has threatened or is threatening, has attempted or is attempting to cause bodily harm to him/herself or others, or has acted or is acting violently towards him/herself or other people and the treating doctor finds that the patient suffers from mental disorders which may result in serious bodily harm to the patient him/herself or to another person;

(2) the patient has shown or is showing inability to care for him/herself or persons dependent on him/her and the treating doctor finds that the patient suffers from mental disorders which may result in inevitable and serious deterioration of the patient's health.

<sup>70</sup> If the patient has no legal representative, the judge shall immediately request the Latvian Bar Association to appoint a lawyer to represent the patient's interests. The patient's representative or lawyer shall have the opportunity to examine the case material and meet with the patient.

Within the next 72 hours, the judge shall review the case material in a closed meeting in the premises of the hospital concerned, attended by the patient (if his/her state of health permits), his/her representative or lawyer and a representative of the hospital<sup>71</sup>. Having heard their arguments, the judge may decide on the patient's placement in the hospital for a period of up to two months or order his/her release. The decision shall be delivered to the patient and his representative, who can appeal against it to the chairperson of the court within ten days.

Further extensions of involuntary placement - each for a period not exceeding six months - may be authorised by the judge on the recommendation of the panel of psychiatrists, following the same procedure as for the initial placement.

126. As already mentioned in paragraph 103, at the time of the visit to Daugavpils Neuropsychiatric Hospital, only two civil patients<sup>72</sup> had been placed there on an involuntary basis under formal legal procedures. The delegation formed the view that, in respect of these patients, the legal safeguards introduced by the March 2007 amendment were correctly applied.

All the other civil patients were classified by the hospital management as "voluntary". On admission to the hospital, most of such patients signed on a special stamp in their patient's file thereby consenting to hospitalisation and subsequent treatment. Nevertheless, many "voluntary" patients were cared for on closed wards and were not free to leave the hospital<sup>73</sup>; in other words, they were *de facto* deprived of their liberty.

Further, it became clear from the information gathered that many patients had signed the above-mentioned stamp in such a mental state that they were unable to give a free and informed consent to their hospitalisation and treatment.

Consultations with staff and the examination of patients' files also revealed that, in practice, the consent of the patient concerned to placement (and treatment) could be substituted by approval given by any family member even if the latter was not a court-appointed guardian. Such a state of affairs is not acceptable.

127. From discussions with staff, it became apparent that the hospital management initiated the involuntary placement procedure under Section 68 of the Law on Medical Treatment only in respect of those patients who actively resisted their hospitalisation. Consequently, all "non-protesting" patients, including those with chronic conditions, were considered to be voluntary and as such were deprived of the benefit of any of the safeguards which accompany the initial involuntary placement procedure.

In the CPT's view, all competent patients who are not able to give valid consent to their hospitalisation should be the subject of an involuntary placement procedure.

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<sup>71</sup> The judge may postpone the hearing for a maximum of 48 hours, if the prosecutor or the patient's representative fails to appear, or if it is necessary in order to collect additional evidence.

<sup>72</sup> The total number of such placements in the hospital since the adoption of the March 2007 amendment had been four.

<sup>73</sup> Some of them had been subject to fixation and one had had an incident recorded in his notes as an attempted escape.

128. **The CPT recommends that the legal status of patients at Daugavpils Neuropsychiatric Hospital, and, as appropriate, in other psychiatric hospitals in Latvia, be reviewed, in the light of the preceding remarks.**

**The Committee also wishes to underline that, if it is considered that a given patient, who has been voluntarily admitted and who expresses a wish to leave the hospital, still requires in-patient care, then the involuntary civil placement procedure provided by the law should be fully applied.**

129. It should also be mentioned that, at Daugavpils Neuropsychiatric Hospital, the panel of psychiatrists that was called upon to provide the competent judge with a medical report concerning the necessity of involuntary hospitalisation under Section 68 of the Law on Medical Treatment was composed of the hospital's own psychiatrists (including the patient's treating doctor). In this regard, **the CPT wishes to stress that it would be desirable that an expert who is independent of the establishment in which the person concerned has been placed be involved in every placement procedure (i.e. initial placement and any renewal of a placement order).**

130. As regards discharge procedures, patients have to be released at the expiry of the term determined by the judge unless the latter issues a new decision on the extension of involuntary placement. Involuntary placement in a psychiatric hospital may also be terminated by decision of the hospital management prior to the expiry of the term determined by the judge, if the treating doctor considers that it is no longer necessary to provide psychiatric assistance to the patient concerned. However, the relevant legislation does not allow involuntary patients themselves to request review by a judicial authority during their placement. **Steps should be taken to ensure that patients themselves are able to request at reasonable intervals that the necessity for their continued placement be considered by a judicial authority.**

131. As already indicated, the hospital was also accommodating forensic patients. At the time of the visit, there were 26 such patients who had all been declared criminally irresponsible and placed in the hospital by court order, under Section 68 of the Penal Code<sup>74</sup>.

The placement of forensic patients in a psychiatric establishment for compulsory treatment is ordered for an indefinite period of time<sup>75</sup>. However, according to the new CCP, the patient concerned, his/her legal representative or close relative may request, every three months, a judicial review of the compulsory treatment<sup>76</sup>. In the absence of such a request, the court shall review the placement on its own initiative once a year<sup>77</sup>.

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<sup>74</sup> The hospital also admitted patients for the purpose of forensic psychiatric assessment, but there were no such patients at the time of the visit.

<sup>75</sup> Until "(...) the person concerned has recovered or the nature of the illness has changed to such a degree that it is not necessary to provide such treatment;" (Section 69, paragraph 4, of the Penal Code).

<sup>76</sup> Section 607, paragraph 2, and Section 608, paragraph 6, of the CCP.

<sup>77</sup> Section 607, paragraph 4, *ibid*.



That said, it is a matter of concern that the above-mentioned provisions of the CCP were not being applied in respect of forensic patients at Daugavpils Neuropsychiatric Hospital. In practice, the need for compulsory psychiatric treatment was examined every six months by the hospital's consilium (which did not include any outside psychiatrists). Following a brief interview with the patient, the consilium prepared a report, which was not communicated to the court unless it contained a recommendation to terminate the compulsory treatment. This effectively meant that forensic patients could stay in the hospital for several years without having their placement reviewed by an outside body.

**The CPT would like to receive the Latvian authorities' comments on this point.**

132. The CPT noted that, in the context of the above-mentioned judicial review proceedings, the law does not explicitly guarantee patients a right to be heard in person by a judge<sup>78</sup>. **In the CPT's opinion, patients placed in a psychiatric establishment for compulsory treatment should have the effective right to be heard in person by the judge during judicial review procedures.**

Further, **the Committee would like to know whether forensic patients who are not in a position to pay for a lawyer themselves are entitled to free legal aid during judicial review procedures.**

- b. initial placement and discharge procedures in a social welfare establishment

133. Latvian legislation does not provide for an involuntary placement procedure in social welfare establishments. According to staff, all residents at Krastiņi Social Nursing Centre were voluntary as they had been admitted upon their written request or that of their legal representative/guardian, in accordance with Section 28, paragraph 1, of the Law on Social Services and Social Assistance (LSSSA)<sup>79</sup>. The cases of those unable to give valid consent to their placement were apparently notified to the competent court with a view to having a guardian appointed, following consultation with a psychiatrist. The same approach would be followed whenever a resident's mental state deteriorated whilst being cared for at the centre.

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<sup>78</sup> Pursuant to Section 608, paragraph 2, of the CCP, "[a] representative of the relevant medical treatment institution, the person who proposed the adjudication of the matter, and, *if necessary*, also the person for whom the compulsory measure of a medical nature has been specified shall be summoned to the court session." (Emphasis added)

<sup>79</sup> "Long-term social care and social rehabilitation institutions shall provide housing, social care and social rehabilitation to the following: i) orphans and children left without parental care (...); ii) persons of pensionable age and disabled persons with impaired vision or physical impairments (...); iii) children with serious mental development impairments (...); iv) persons of legal age with serious mental impairments for whom staying in a specialised medical treatment institution is not necessary and whose state does not endanger other people (...)."

That said, it appeared that even legally competent adult residents admitted on the basis of their own application were not allowed to leave the establishment whenever they wished. The delegation was informed that their discharge could only take place by decision of the social service office of the local government based on Section 28, paragraph 2, of the LSSSA<sup>80</sup>. Staff explained that there was a necessity to ascertain that discharged patients have a place to live, are able to survive in the community, etc.; nevertheless, this meant that such residents were *de facto* deprived of their liberty for an indefinite period<sup>81</sup>. **The Committee wishes to receive the Latvian authorities' comments on this matter.**

c. guardianship

134. Specific reference should be made to the situation of patients/residents deprived of their legal capacity. Such persons could be admitted to a psychiatric hospital/social welfare institution solely with the written consent of the guardian. However, they were considered to be voluntary patients/residents, even when they opposed such a placement, and their placement was therefore carried out without any judicial intervention. **In the CPT's view, placing incapacitated persons in a psychiatric/social welfare establishment which they cannot leave at will, based solely on the consent of the guardian, entails a risk that such persons will be deprived of essential safeguards.**

135. Further, the delegation observed that staff at Krastiņi Social Nursing Centre acted as court-appointed guardians for a number of residents, who were deprived of their legal capacity. The very fact that it is also the role of a guardian to defend the rights of incapacitated persons vis-à-vis the hosting social welfare institution may easily lead to a conflict of interest and, eventually, compromise the independence and impartiality of the guardian. Therefore, **the CPT recommends that the Latvian authorities strive to find alternative solutions which would better guarantee the independence and impartiality of guardians.**

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<sup>80</sup> "Provision of a service to a person of legal age at a long-term care and social rehabilitation institution may be suspended if (...) as a result of rehabilitation the person no longer requires the services of the long-term care and social rehabilitation institution and these may be replaced with services at the place of residence."

<sup>81</sup> Furthermore, according to the LSSSA, the head of a long-term social care institution may restrict the resident's freedom of movement in order to prevent his/her leaving without supervision and take a decision to isolate the resident in a specially designed room for up to 24 hours if he/she endangers his/her health or life or the health or life of others.

- d. safeguards during placement in a psychiatric establishment

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

At Daugavpils Neuropsychiatric Hospital, no such brochure was available to newly-admitted patients<sup>82</sup>. **The CPT recommends that an introductory leaflet/brochure be elaborated and issued to each newly-admitted patient (as well as to his/her legal representative and close relatives), accompanied, if necessary, by appropriate verbal explanations.**

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

According to staff, patients at Daugavpils Neuropsychiatric Hospital could submit a complaint to the director of the hospital, as well as to various outside bodies, such as the Ministry of Health and the Ombudsman. However, most patients appeared to be unaware of these possibilities.

**The CPT recommends that patients be informed in the leaflet/brochure issued upon admission of their right to lodge complaints as well as of the modalities for doing so.**

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

As far as the delegation could ascertain, Daugavpils Neuropsychiatric Hospital had, thus far, not been visited by any independent body. **The CPT recommends that steps be taken to ensure that Daugavpils Neuropsychiatric Hospital (as well as all other psychiatric establishments in Latvia) are visited, on a regular basis, by a body which is independent of the health authorities.**

139. The existing arrangements at the hospital for patients' contact with the outside world were on the whole satisfactory and do not call for any particular comment.

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<sup>82</sup> Patients only received verbal information regarding the internal rules of the hospital.

## **APPENDIX I**

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

#### **Consultations and co-operation**

##### comments

- the CPT trusts that additional efforts will be made in the context of future visits, with a view to ensuring that all relevant authorities, including municipal police services, receive detailed information on the Committee's mandate and their obligations vis-à-vis visiting delegations (paragraph 5).

#### **Police establishments**

##### **Ill-treatment**

##### recommendations

- the Latvian authorities to redouble their efforts to combat ill-treatment by the police; police officers to be reminded, at regular intervals, that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are not acceptable and will be the subject of severe sanctions. Police officers should also be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them (paragraph 12);
- police officers to be trained in preventing and minimising violence in the context of an apprehension. For cases in which the use of force nevertheless becomes necessary, they need to be able to apply professional techniques which reduce as much as possible any risk of harm to the persons whom they are seeking to apprehend (paragraph 12);
- the Latvian authorities to carry out a thorough review of the current procedures for processing complaints about police ill-treatment, in the light of the remarks made in paragraphs 13 to 18, and, if necessary, to amend the relevant legal provisions accordingly (paragraph 19);
- steps to be taken to ensure that, whenever a detained person displays injuries which are consistent with allegations of ill-treatment made:
  - the case is immediately brought to the attention of the relevant prosecutor;
  - a forensic medical examination is immediately performed (paragraph 19).

requests for information

- comments on the CPT's remark that it would be preferable for the investigation of complaints about police ill-treatment to be entrusted to an agency which is completely independent of the police (paragraph 20).

**Fundamental safeguards against ill-treatment**

recommendations

- the Latvian authorities to ensure that the right of notification of custody is rendered fully effective in practice with respect to all persons deprived of their liberty by the police, as from the very outset of their deprivation of liberty (paragraph 22);
- the Latvian authorities to take all necessary steps 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 (paragraph 24);
- steps to be taken to ensure that all requests to see a doctor made by detained persons are immediately communicated to a doctor; police officers should not be in a position to filter such requests (paragraph 26);
- the Latvian authorities to take all necessary steps to ensure that medical examinations of persons held in police detention facilities are always conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of police officers. Further, steps should be taken to ensure that the confidentiality of medical data is fully respected in police establishments throughout Latvia (paragraph 27);
- the Latvian authorities to ensure without further delay that all persons detained by the police – for whatever reason – are fully informed of the fundamental rights referred to in paragraph 21 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 at the very outset, 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, available in an appropriate range of languages. Further, 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 28);
- the Latvian authorities to take steps – including of a legislative nature – to ensure that the return of prisoners to police detention facilities is subject to the express authorisation of a prosecutor or judge (paragraph 29).

comments

- appropriate steps should be taken, in consultation with the Bar Association, to ensure the effectiveness of the system for free legal representation throughout the criminal procedure, including at the initial stage of police custody (paragraph 25);
- from the standpoint of the prevention of ill-treatment, but also in view of the extremely poor conditions prevailing in certain police detention facilities, it is far preferable for further questioning of persons committed to a remand prison to be undertaken by police officers in prisons rather than on police premises. The return of prisoners to police detention facilities should only be sought and authorised very exceptionally, for specific reasons and for the shortest possible time (paragraph 29).

**Conditions of detention**

recommendations

- the Latvian authorities to improve without delay conditions of detention at the police detention facilities at Cēsis, Jēkabpils, Jelgava, Preiļi and Sigulda, and, as appropriate, in other police establishments, in the light of the remarks made in paragraph 31. In particular, steps should be taken to ensure that:
  - all persons detained overnight are allocated a bed and provided with a clean mattress and clean bedding;
  - access to natural light and artificial lighting, as well as ventilation, are improved;
  - all detained persons have ready access to a toilet facility (partitioned if inside the cell) under decent conditions and are provided with basic hygiene products;
  - all detained persons are provided with food in adequate quantities and at appropriate times  
(paragraph 31);
- all persons who are detained by the police for more than 24 hours to be offered at least one hour of outdoor exercise every day (paragraph 33).

requests for information

- confirmation that all police detention facilities in Latvia are equipped with an outdoor exercise yard (paragraph 32).

## **Prisons**

### **Preliminary remarks**

#### recommendations

- the existing legal standards on living space for prisoners to be raised without any further delay, so as to provide for at least 4 m<sup>2</sup> per prisoner in multi-occupancy cells, and official capacities and occupancy levels of cells in Latvian prisons to be revised accordingly. Cells measuring less than 8 m<sup>2</sup> should be used for single occupancy only (paragraph 36).

### **Ill-treatment**

#### recommendations

- the system of “delegation of powers” to certain prisoners to be abolished at Jēkabpils Prison and in any other prisons in Latvia where it exists; steps should also be taken to ensure adequate supervision of prisoners in dormitories by prison officers (paragraph 40);
- the management at Cēsis Correctional Centre and Daugavpils and Jelgava Prisons to be instructed to remind their staff that all forms of ill-treatment of prisoners (including verbal abuse) are not acceptable and will be the subject of severe sanctions (paragraphs 43 and 45).

#### comments

- the CPT encourages the Latvian authorities to redouble their efforts to find a way to replace large dormitories with smaller living units at Cēsis Correctional Centre (paragraph 44).

#### requests for information

- detailed information on the outcome of the inquiries carried out in relation to Jēkabpils Prison and on the action subsequently taken at all levels (paragraph 42);
- detailed information on the plans to construct a new building at Cēsis Correctional Centre with smaller living units for juveniles (paragraph 44).

## **Conditions of detention of male adult prisoners at Jēkabpils Prison and Rīga Central Prison**

### recommendations

- the material conditions of detention to be improved at Jēkabpils Prison and Rīga Central Prison, in the light of the remarks made in paragraphs 46 and 47. Immediate steps should be taken to remove the metal shutters at Rīga Central Prison and, as appropriate, in other prisons in Latvia (paragraph 48);
- the Latvian authorities to take steps at Rīga Central Prison to devise and implement a comprehensive regime of out-of-cell activities (including group association activities) for remand prisoners (paragraph 51);
- additional steps to be taken at Jēkabpils Prison to provide more purposeful activities (work, education and vocational training) to prisoners (paragraph 51);
- the outdoor exercise areas at Jēkabpils Prison (Unit 3) and Rīga Central Prison to be enlarged, in order to enable prisoners to exert themselves physically (paragraph 51).

### requests for information

- updated information on the progress made in the ongoing renovation of Rīga Central Prison (paragraph 48).

## **Conditions of detention of female adult prisoners at Iļģuciema Prison**

### recommendations

- the material conditions at Iļģuciema Prison to be improved, in the light of the remarks made in paragraph 52. In particular, immediate steps should be taken to:
  - provide prisoners with adequate quantities of personal hygiene products;
  - reduce the occupancy levels in cells so as to ensure a living space of at least 4 m<sup>2</sup> per prisoner in multi-occupancy cells; cells measuring some 6 m<sup>2</sup> should only be used for single occupancy(paragraph 52);
- the Latvian authorities to take steps at Iļģuciema Prison to devise and implement a comprehensive regime of out-of-cell activities (including group association activities) for remand prisoners (paragraph 53).

### requests for information

- progress made in the ongoing renovation programme at Iļģuciema Prison (paragraph 52).



## **Situation of juvenile prisoners at Ilūciema Prison and Cēsis Correctional Centre**

### recommendations

- the Latvian authorities to withdraw from service, without any further delay, the entire remand detention block at Cēsis Correctional Centre, pending the renovation of the detention block (paragraph 58);
- special training to be organised for prison officers assigned to work with juvenile prisoners at Cēsis Correctional Centre and juvenile units of other prisons in Latvia (paragraph 60).

### comments

- the state of repair of the sanitary facilities on both floors of the accommodation area for sentenced prisoners at Cēsis Correctional Centre should be improved (paragraph 56);
- steps should be taken to review the system of “self-governance” at Cēsis Correctional Centre, in the light of the remarks made in paragraph 59 (paragraph 59).

## **Situation of life-sentenced prisoners in the prisons visited**

### recommendations

- the Latvian authorities to take steps without any further delay to devise and implement a comprehensive regime of out-of-cell activities in respect of all life-sentenced prisoners at Daugavpils and Jelgava Prisons (paragraph 61);
- the Latvian authorities to put a definitive end to the use of dogs at Jelgava Prison when escorting life-sentenced prisoners within the confines of the prison (paragraph 64);
- the Latvian authorities to take immediate steps to carry out a proper individual risk assessment on a regular basis in respect of all life-sentenced prisoners and to alleviate the security measures applied to them accordingly (paragraph 65);
- the anachronistic rules/practices described in paragraph 66 to be abolished without delay (paragraph 66);
- strip-searches of life-sentenced prisoners to be conducted only on the basis of a concrete suspicion and in an appropriate setting (paragraph 67);
- the Latvian authorities to take immediate steps to ensure that:
  - all medical examinations of life-sentenced prisoners are conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers;

- a definitive end is put to the practice of placing life-sentenced prisoners behind the bars of the cell-door during medical consultations with the doctor or in a cage-like cubicle during consultations with the psychiatrist or psychologist (paragraph 68);
- the Latvian authorities to deliver a clear message to senior prison officers who are responsible for life-sentenced prisoners in Latvian prisons, taking into account the considerations set out in paragraph 69 (paragraph 69);
- the Latvian authorities to reconsider their segregation policy vis-à-vis life-sentenced prisoners, in the light of the remarks made in paragraph 70. The existing plans to construct a new detention block for life-sentenced prisoners at Jelgava Prison should also be revised accordingly (paragraph 70).

#### comments

- the Latvian Prison Administration is invited to establish a co-operation programme with another prison administration which has experience in applying alternative approaches to dealing with life-sentenced prisoners (paragraph 70);
- whenever a staff member with a key position is on leave for more than a few weeks and no replacement is possible within the prison, it is crucial that a temporary appointment be made from outside the prison (paragraph 71).

#### requests for information

- confirmation that in all cells of life-sentenced prisoners at Daugavpils Prison, the frosted glass bricks have been replaced by transparent glass panels and that a new ventilation system has been installed in those cells (paragraph 62);
- detailed information on the plan to enlarge the unit of life-sentenced prisoners at Jelgava Prison (including facilities to provide work and recreational activities) (paragraph 63).

### **Health care**

#### recommendations

- immediate steps to be taken to ensure that:
  - the vacant posts of doctors at Jēkabpils Prison are filled (including with at least one full-time general practitioner);
  - the complement of qualified nursing staff at Jēkabpils Prison and Rīga Central Prison is significantly increased;
  - a qualified nurse is always present at Jēkabpils Prison and Rīga Central Prison (as well as in other prisons in Latvia which have an in-patient infirmary), including at night and weekends (paragraph 74);

- steps to be taken at Rīga Central Prison and Jēkabpils Prison, as well as in all other prisons in Latvia, to ensure that the record drawn up after a medical examination of a prisoner, on arrival or after a violent incident within the prison, contains:
  - (i) a full account of statements made by the prisoner concerned which are relevant to the medical examination, including any allegations of ill-treatment made by him;
  - (ii) a full account of objective medical findings based on a thorough examination;
  - (iii) the doctor's conclusions in the light of (i) and (ii). In his conclusions, the doctor should indicate the degree of consistency between any allegations made and the objective medical findings; these conclusions should be made available to the prisoner and his lawyer  
(paragraph 78);
- urgent steps to be taken at Jēkabpils Prison and Cēsis Correctional Centre to ensure the regular presence of a psychiatrist and a clinical psychologist (both on a full-time basis at Jēkabpils) (paragraph 80);
- the Latvian authorities to take the necessary steps to ensure that all the principles and minimum standards in relation to fixation set out in paragraph 81 are applied at Jēkabpils Prison as well as in all other prison establishments in Latvia which resort to fixation (paragraph 81);
- urgent steps to be taken at Rīga Central Prison (as well as in all other prisons in Latvia) to develop a strategy for the prevention and treatment of HIV within the prison (paragraph 83);
- the Latvian authorities to take immediate steps at Rīga Central Prison to ensure that all medical examinations of prisoners are conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers (paragraph 84).

#### comments

- steps should be taken to improve access to a dentist at Ilģuciema Prison (paragraph 75);
- steps should be taken at Rīga Central Prison to ensure that prisoners who are segregated for medical reasons receive adequate quantities of essential personal hygiene products (paragraph 76);
- steps should be taken at Jēkabpils Prison to ensure that newly-arrived prisoners are systematically subjected to a physical medical examination (paragraph 77);
- the medical service at Jēkabpils Prison should be instructed that treatment with gentamycin, if deemed necessary, should preferably only be given in a hospital setting, with careful monitoring of blood tests (paragraph 79).

#### requests for information

- detailed information on the plan to transfer the responsibility for the prison hospital and prison health-care services to the Ministry of Health (paragraph 85).

## **Other issues**

### recommendations

- the number of prison officers to be significantly increased at Jēkabpils Prison (paragraph 86);
- staffing levels to be reviewed in the other prisons visited (paragraph 86);
- in the context of the inquiries referred to in paragraph 42, the Latvian authorities also to pay particular attention to the problem of corruption at Jēkabpils Prison (paragraph 88);
- the Latvian authorities to take immediate steps to ensure that, in all prisons in Latvia, all prisoners placed in a punishment cell are granted at least one hour of outdoor exercise per day (paragraph 89);
- all prisoners placed in a punishment cell to be allowed access to general reading matter (paragraph 90);
- material conditions of detention in punishment cells to be improved in all the establishments visited, in the light of the remarks made in paragraph 91 (paragraph 91);
- appropriate steps to be taken throughout the prison system to review the approach being followed vis-à-vis prisoners who have harmed themselves, in the light of the remarks made in paragraph 92 (paragraph 92);
- steps to be taken to ensure that disciplinary punishment does not amount to a total prohibition of family contact (paragraph 93);
- the shortcomings concerning disciplinary procedures outlined in paragraph 94 to be remedied (if necessary, by amending the relevant legal provisions) (paragraph 94);
- the role of prison doctors in relation to disciplinary matters to be reviewed. In so doing, regard should be had to the Revised European Prison Rules (in particular, Rule 43.2) and the comments made by the CPT in its 15<sup>th</sup> General Report (see paragraph 53 of CPT/Inf (2005) 17) (paragraph 95);

- the Latvian authorities to take immediate steps in the entire prison system to ensure that:
  - officers of security divisions no longer investigate criminal offences committed by prisoners outside the prison and no longer take statements from prisoners in relation to such offences;
  - officers of investigation divisions no longer carry out criminal investigations into alleged instances of ill-treatment by staff. Such investigations should be conducted by a body which is independent of the establishment concerned, and preferably of the prison system as a whole  
(paragraph 97);
- the Latvian authorities to take steps to ensure the confidentiality of prisoners' correspondence with their lawyers (paragraph 98);
- the Latvian authorities to take steps without delay to ensure that all sentenced prisoners - including those serving a life-sentence - can receive at least one visit (either short- or long-term) per month (paragraph 99);
- the Latvian authorities to conduct a review of the procedures currently used to process prisoners' complaints, in the light of the remarks made in paragraph 100 (paragraph 100).

comments

- the CPT encourages the Latvian authorities to pursue their efforts to recruit qualified custodial staff in the prison system. Steps should also be taken to ensure that all prison officers benefit from adequate initial and ongoing training (paragraph 87);
- the Latvian authorities are invited to abolish restrictions on contacts with the outside world in respect of juvenile prisoners (paragraph 93).

## **Psychiatric/social welfare establishments**

### **Preliminary remarks**

#### comments

- the CPT urges the Latvian authorities to find a solution to the problem of patients who no longer actually need to be held in hospital having to remain at Daugavpils Neuropsychiatric Hospital, due to a lack of adequate care/accommodation in the outside community (paragraph 104).

#### requests for information

- progress made in the implementation of the national programme for mental health protection (paragraph 104).

### **Living conditions**

#### recommendations

- steps to be taken at Daugavpils Neuropsychiatric Hospital to keep patients' rooms in an acceptable state of cleanliness and hygiene and to provide a more personalised environment. In addition, patients should be able to shower more frequently (paragraph 109);
- steps to be taken at Daugavpils Neuropsychiatric Hospital to ensure that all patients whose state of health so permits are offered at least one hour of outdoor exercise per day. If necessary, they should be provided with suitable outdoor clothing. Further, the outdoor exercise areas should be equipped with means of rest and recreation and provide shelter from inclement weather (paragraph 110).

#### comments

- the CPT encourages the Latvian authorities to carry out the renovation of Daugavpils Neuropsychiatric Hospital as speedily as possible. In this context, the possibility of transforming the large-capacity dormitories into smaller patients' rooms should be considered (paragraph 109);
- the Latvian authorities are invited to ensure that patients are allowed and, if necessary, encouraged to wear their own clothes during the day or are provided with appropriate non-uniform garments (paragraph 111).

requests for information

- a detailed plan of the different stages of renovation of Daugavpils Neuropsychiatric Hospital and a timetable for their full implementation (paragraph 109).

**Staff and treatment**

recommendations

- staff resources at Daugavpils Neuropsychiatric Hospital to be reviewed, in the light of the remarks made in paragraph 113 (paragraph 113);
- steps to be taken at Daugavpils Neuropsychiatric Hospital to provide more comprehensive and individualised care with a wide range of psycho-social activities and to better prepare for the patients' return to the community, in the light of the remarks made in paragraphs 114 and 115 (paragraph 115);
- immediate steps to be taken to ensure that Daugavpils Neuropsychiatric Hospital (and, as appropriate, other psychiatric hospitals in Latvia in which ECT is used) is provided with the necessary staff, equipment and facilities so that this treatment can be administered in its modified form (i.e. with both anaesthetic and muscle relaxants) and in an effective manner (preferably with the aid of an electroencephalogram) (paragraph 116);
- clear written policy guidelines on recourse to ECT to be elaborated and distributed to each establishment where this treatment is applied, in order to ensure that ECT is used for the proper indications and is carried out in an appropriate manner (paragraph 116);
- steps to be taken to ensure that the written informed consent of the patient (or of the guardian, if the person concerned is declared incompetent by a court) to the use of ECT, based on full and comprehensible information, is sought and kept in the patient's file (paragraph 116);
- steps to be taken at Daugavpils Neuropsychiatric Hospital (as well as in all other psychiatric establishments in Latvia) to ensure that all competent patients are placed in a position to give their free and informed consent to treatment (paragraph 117).

comments

- there should be an independent review of all deaths occurring in a psychiatric hospital by means of a pathologist checking the patient's file and deciding whether an autopsy is indicated (paragraph 118).

## **Means of restraint**

### recommendations

- the necessary steps to be taken to ensure that the principles and minimum standards in relation to fixation set out in paragraph 121 are applied at Daugavpils Neuropsychiatric Hospital and, as appropriate, in other psychiatric establishments in Latvia (paragraph 121).

### comments

- steps should be taken at Daugavpils Neuropsychiatric Hospital to ensure that instances of chemical restraint are recorded in the restraint register (paragraph 120).

### requests for information

- detailed information on the concrete investigative steps taken in the light of the results of the autopsy referred to in paragraph 120, in order to establish whether the death of the patient concerned may have occurred due to criminal negligence by (a) member(s) of staff (paragraph 120);
- comments on the CPT's observation that patients at Daugavpils Neuropsychiatric Hospital were on occasion subjected to fixation beyond the time-limit set in the relevant guidelines of the Ministry of Health (paragraph 122).

## **Safeguards**

### recommendations

- the legal status of patients at Daugavpils Neuropsychiatric Hospital, and, as appropriate, in other psychiatric hospitals in Latvia, to be reviewed, in the light of the remarks made in paragraphs 126 and 127 (paragraph 128);
- the Latvian authorities to strive to find alternative solutions which would better guarantee the independence and impartiality of guardians, thereby avoiding that staff of the Krastiņi Social Nursing Centre act as court-appointed guardians for residents (paragraph 135);
- an introductory leaflet/brochure to be elaborated at Daugavpils Neuropsychiatric Hospital and issued to each newly-admitted patient (as well as to his/her legal representative and close relatives), accompanied, if necessary, by appropriate verbal explanations (paragraph 136);
- patients at Daugavpils Neuropsychiatric Hospital to be informed in the leaflet/brochure issued upon admission of their right to lodge complaints as well as of the modalities for doing so (paragraph 137);
- steps to be taken to ensure that Daugavpils Neuropsychiatric Hospital (as well as all other psychiatric establishments in Latvia) are visited, on a regular basis, by a body which is independent of the health authorities (paragraph 138).



comments

- if it is considered that a given patient, who has been voluntarily admitted to a psychiatric hospital and who expresses a wish to leave the hospital, still requires in-patient care, then the involuntary civil placement procedure provided by the law should be fully applied (paragraph 128);
- it would be desirable that an expert who is independent of the psychiatric hospital in which the person concerned has been placed be involved in every placement procedure (i.e. initial placement and any renewal of a placement order) (paragraph 129);
- steps should be taken to ensure that patients themselves are able to request at reasonable intervals that the necessity for their continued placement in a psychiatric hospital be considered by a judicial authority (paragraph 130);
- patients placed in a psychiatric establishment for compulsory treatment should have the effective right to be heard in person by the judge during judicial review procedures (paragraph 132);
- the placement of incapacitated persons in a psychiatric/social welfare establishment which they cannot leave at will, based solely on the consent of the guardian, entails a risk that such persons will be deprived of essential safeguards (paragraph 134).

requests for information

- comments on the fact that the involuntary placement of forensic patients at Daugavpils Neuropsychiatric Hospital was not reviewed by the court at least once a year, despite the legal requirement under the Code of Criminal Procedure (paragraph 131);
- whether forensic patients who are not in a position to pay for a lawyer themselves are entitled to free legal aid during judicial review procedures (paragraph 132);
- comments on the fact that legally competent adult residents admitted to Krastiņi Social Nursing Centre on the basis of their own application were not allowed to leave the establishment whenever they wished and where thus *de facto* deprived of their liberty for an indefinite period (paragraph 133).

**APPENDIX II**

**LIST OF THE NATIONAL AUTHORITIES, NON-GOVERNMENTAL ORGANISATIONS  
AND PERSONS MET BY THE DELEGATION**

**A. National authorities**

**Ministry of Justice**

Gaidis Bērziņš	Minister
Laila MEDIN	Deputy State Secretary on Sectoral Policy
Kristīne ĶIPĒNA	Head of the Criminal Punishment Enforcement Division
Visvaldis PUĶĪTE	Head of the Latvian Prison Administration

**Ministry of the Interior**

Aivars Straume	State Secretary
Andrejs Matīss	Deputy Director of the European Affairs and International Co-operation Department
Alnis Jirgens	Chief of the Public Order Police (State Police)
Iveta Smoča	Deputy Head of the Internal Security Office (State Police)
Ēriks Ivanovs	Deputy Head of the State Border Guards

**Ministry of Health**

Juris BUNDULIS	Under-Secretary of State
Rinalds MUNCIŅŠ	Deputy State Secretary for Policy Planning
Reinis JOKSTS	Director of the Health Care Department

**Ministry of Welfare**

Iveta PURNE	Minister
Aldis DŪDIŅŠ	Deputy Director of Social Services and Social Assistance Department
Egita DOROŽKINA	Head of Division for Social Care
Sandra GARSVĀNE	Senior Desk Officer of Division for Social Care
Elvīra KISELE	Head of Social Services Quality Control Department, Social Services Board
Aivita ROZE-KHAITE	Expert of Social Services Quality Control Department, Social Services Board

**B. Office of the Latvian Ombudsman**

Romāns APSĪTIS	Ombudsman
Ineta PIĻĀNE	Head of Criminal Law Division
Gundega BRUŅENIECE	Head of Civil and Political Rights Division
Līga BIKSINIECE-MARTINOVA	Head of Discrimination Prevention Division

**C. Non-governmental organisations**

Latvian Centre for Human Rights