



CPT/Inf (2011) 17

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

**from 14 to 18 June 2010**

The Lithuanian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2011) 18.

Strasbourg, 19 May 2011

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

Ministry of Justice  
Gedimino pr. 30/I  
2600 Vilnius  
Lithuania

Strasbourg, 29 November 2010

Dear Madam/Sir,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Lithuanian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Lithuania from 14 to 18 June 2010. The report was adopted by the CPT at its 73<sup>rd</sup> meeting, held from 8 to 12 November 2010.

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 Lithuanian authorities to provide within **three months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Lithuanian authorities to provide, in the above-mentioned response, reactions to the comments formulated in this visit report which are summarised in Appendix I as well as replies to the requests for information made. The Committee would like to receive within **one month** a copy of the forensic medical report referred to in paragraph 18 of the visit report.

The CPT would ask, in the event of the response being forwarded in Lithuanian, that it be accompanied by an English or French translation. It would also be most helpful if the Lithuanian authorities could provide a copy of the response in 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 Lithuania from 14 to 18 June 2010<sup>1</sup>. The visit was one which appeared to the CPT "to be required in the circumstances" (see Article 7, paragraph 1, of the Convention).

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

- Lətif HÜSEYNOV, Head of delegation
- Ivan JANKOVIĆ
- Ilvija PŪCE.

They were supported by Trevor STEVENS, Executive Secretary, and Muriel ISELI, of the CPT's Secretariat, and assisted by:

- Rolf TEMPERLI, medical doctor, expert
- Viktorija BYLAITĒ (interpreter)
- Alina DAILIDĒNAITĒ (interpreter)
- Arvydas OKAS (interpreter)
- Simona PERSSON (interpreter).

### **B. Objectives of the visit and establishments visited**

3. One of the main objectives of the visit was to examine the measures taken by the Lithuanian authorities to implement the recommendations made by the CPT after its 2008 visit to Kaunas Juvenile Remand Prison (see paragraph 31). Indeed, the 2008 visit to this establishment had revealed that the conditions of detention were unacceptable.

The visit also presented an opportunity to review the treatment of persons deprived of their liberty by law enforcement agencies.

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<sup>1</sup> Before this visit, the CPT had carried out three periodic visits to Lithuania, respectively in 2000, 2004 and 2008. The CPT's reports on these three visits, as well as the responses of the Lithuanian authorities, have been made public and are available on the CPT's website: <http://www.cpt.coe.int>.

Another issue addressed by the CPT's delegation was the alleged existence some years ago on Lithuanian territory of secret detention facilities operated by the Central Intelligence Agency (CIA) of the United States of America.

4. The CPT's delegation visited the following places of deprivation of liberty:
- Kaunas Juvenile Remand Prison and Correction Home
  - Kaunas City Police Headquarters and Detention Centre, Vytauto Avenue
  - Klaipėda City Police Headquarters and Detention Centre, Jūros Street
  - Klaipėda City Police Department No. 1, Tilžės Street
  - Klaipėda City Police Department No. 2, Priestočio Street
  - Klaipėda City Police Department No. 4, Taikos Avenue
  - Klaipėda Region Police Department, Gamyklos Street
  - Vilnius City Police Headquarters, Birželio 23-osios Street
  - Vilnius City Police Detention Centre, Kosciuškos Street
  - Vilnius City Police Department No. 1, Kalvarijų Street.

The CPT's delegation also visited the facilities referred to as "Project No. 1" and "Project No. 2" in the report of the Lithuanian Parliament's Committee on National Security and Defence, on its investigation concerning the alleged transportation and confinement of persons detained by the CIA on Lithuanian territory.<sup>2</sup>

### **C. Consultations and co-operation**

5. During the visit, the delegation held consultations with Remigijus ŠIMAŠIUS, Minister of Justice, Gytis ANDRULIONIS, Vice-Minister of Justice, and Algimantas VAKARINAS, Vice-Minister of the Interior, as well as with senior officials of the Ministries of Justice and the Interior. The delegation also had talks with Jonas MARKEVIČIUS, Chief Adviser to the President of Lithuania, and Arvydas ANUŠAUSKAS, Chairman of the Lithuanian Parliament's Committee on National Security and Defence. In addition, the delegation met Algimantas KLIUNKA, Chief Prosecutor of the Organised Crime and Corruption Investigation Department, and other members of the Prosecutor General's Office.

A list of the national authorities and non-governmental organisations with which the delegation held consultations is set out in Appendix II to this report.

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<sup>2</sup> <http://www3.lrs.lt/docs2/HCKUGLRZ.DOC>

6. The co-operation provided to the CPT's delegation during the visit, both from the national authorities and from staff at the establishments visited, was very good. In particular, the delegation enjoyed immediate access to places of detention, including ones which had not been notified in advance of the visit, and was able to speak in private with all the persons deprived of their liberty with whom it wished to meet.

The principle of co-operation between the States Parties and the CPT is, however, not limited to steps taken to facilitate the task of a visiting delegation. It also requires that Parties take effective measures to implement the recommendations made by the Committee. In this respect, despite some improvements made since the 2008 visit, the findings of the delegation in 2010 indicate that little progress has been made regarding a number of the Committee's recommendations, in particular in the fields of legal safeguards against ill-treatment of persons deprived of their liberty by the police, detention of remand prisoners in police facilities and the activities to be offered to prisoners at Kaunas Juvenile Remand Prison.

7. At the end of the visit, the delegation requested that the Lithuanian authorities provide to the Committee, within two months, a full and detailed report on the investigation into allegations of recent inter-prisoner violence at Klaipėda City Police Detention Centre. This request was confirmed in a letter of 5 July 2010 from the Executive Secretary of the CPT.

Furthermore, by letter of 20 July 2010, the President of the CPT, confirming a request made by the delegation during the visit, requested the Lithuanian authorities to provide, by 6 September 2010, an account of the investigative acts taken in the course of the pre-trial investigation which had been initiated concerning the allegations that the CIA had operated secret detention facilities on Lithuanian territory.

The responses provided by the Lithuanian authorities, by letter of 10 September 2010, will be considered later in the report. However, the CPT wishes to stress already at this stage that the very limited and general nature of the responses is not in accordance with the principle of co-operation set out in Article 3 of the Convention.

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

### A. Police establishments

#### 1. Preliminary remarks

8. As stated in paragraph 3, the visit to Lithuania offered an opportunity to review the situation as regards deprivation of liberty by law enforcement agencies. For this purpose, the CPT's delegation visited three police detention centres, located respectively in Kaunas, Klaipėda and Vilnius, as well as a number of other police establishments in those cities.

9. The basic legal provisions governing the detention of persons by the police remained as summarised in previous CPT's reports. Persons suspected of a criminal offence may be detained by the police on the authority of a police investigator or public prosecutor for up to 48 hours. Within that period, the persons concerned must be brought before a judge, who may remand them in custody for a fixed term.

Persons remanded in custody may be held in a police detention centre for a period not exceeding 15 days. In addition, remand prisoners may be returned to police custody from prison (and placed in a police detention centre for up to 15 days), if this is considered necessary for an investigation.

Other possible grounds for placement in a police detention centre include administrative detention (of up to 30 days) of persons found guilty of minor offences; detention (of up to three hours) during the completion of police proceedings concerning administrative offences; and detention for sobering-up purposes.

10. The CPT wishes to stress from the outset that the observations made during the 2010 visit seem to confirm the positive trend noted during the periodic visit in 2008 with regard to the way persons deprived of their liberty are treated by the police in Lithuania.

In contrast, little progress had been made concerning, firstly, safeguards against ill-treatment and, secondly, conditions of detention in police establishments. It is regrettable that certain recommendations made by the Committee after its first visit to Lithuania a decade ago have still not been implemented.

## 2. Ill-treatment

11. The majority of persons interviewed by the delegation who were, or had recently been, in police custody indicated that they had been treated in a correct manner. However, the delegation did receive some allegations of physical ill-treatment by law enforcement officials, including from juveniles. Most of these allegations concerned excessive use of force at the time of apprehension or slaps, kicks, punches or truncheon blows during questioning.

In addition, some detainees complained of insulting language or behaviour by custodial officers in police detention centres.

**The CPT recommends that the Lithuanian authorities remind law enforcement officials, at regular intervals, that all forms of ill-treatment (including verbal abuse and insulting behaviour) are not acceptable and will be punished accordingly. Law enforcement officials should also be instructed 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.**

12. At the delegation's request, the General Prosecutor's Office forwarded statistics received from the regional prosecutors' offices on complaints of torture or ill-treatment from persons deprived of their liberty. 102 such complaints were lodged in 2009, and 47 in 2010 (as of 15 June); most of them related to the actions of law enforcement officials carrying out investigative duties.

Following an initial inquiry, pre-trial investigations had been initiated in respect of 86 of the above-mentioned complaints (a decision not to initiate such an investigation was taken in respect of the others). In the majority of cases, the pre-trial investigations were opened in relation to Article 228, paragraph 1, of the Criminal Code which makes it an offence to abuse an official position or act in excess of one's authority.<sup>3</sup> 62 of the investigations had already been completed, all of which being closed without criminal charges being brought. Of the remaining 24 investigations which were still pending, it was expected that one of them would shortly result in criminal charges being brought.

The document of the General Prosecutor's Office mentions that the low number of cases referred to court can be explained in part by the evidential difficulties frequently encountered when investigating this category of offence. The following comment is also made: "Attention is drawn to the fact that officers can often avoid adequate penalties: an abuse is treated as a disciplinary misdemeanour; at times even disciplinary liability is avoided: when violations come to light, officers leave office at their own initiative and, thus, remain unpunished for their unlawful actions".

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<sup>3</sup> Article 228 – Abuse of Office:

1. A civil servant or a person equivalent thereto who abuses his official position or exceeds his powers, where this incurs major damage to the State, an international public organisation, or a legal or natural person, shall be punished by deprivation of the right to be employed in a certain position or to engage in a certain type of activity or by a fine or by arrest or by imprisonment for a term of up to four years.

2. A person who commits the act provided for in paragraph 1 of this Article seeking material or other personal gain, in the absence of bribery, shall be punished by deprivation of the right to be employed in a certain position or to engage in a certain type of activity or by imprisonment for a term of up to six years.

3. A legal entity shall also be held liable for the acts provided for in this Article.



13. The delegation was also informed that when no formal complaint was lodged with the prosecutor, the decision whether or not to pursue an investigation into possible ill-treatment by law enforcement officials was taken by the police authorities themselves, who also conducted any investigation. Usually, the prosecutors confined themselves to acknowledging the information transmitted by the police (decision whether or not to open an investigation, injuries noted and investigative measures carried out).

14. The information gathered in the context of the 2010 visit clearly indicates that, despite the recommendations made by the CPT with a view to improving the system for investigating possible cases of ill-treatment by law enforcement officials and for prosecuting and/or disciplining the alleged perpetrators, this system is still not functioning adequately. **The CPT recommends that the Lithuanian authorities review this system, in the light of the requirements identified in paragraphs 31 to 41 of the Committee's 14<sup>th</sup> General Report.<sup>4</sup> In particular, measures must be taken to ensure that prosecutors conduct effective investigations whenever they receive credible information that ill-treatment may have occurred (even in the absence of a formal complaint) and that appropriate penalties are imposed when ill-treatment has been proven.**

In addition, **the CPT invites the Lithuanian authorities to establish a national system for compiling statistics on complaints, prosecutions and disciplinary and criminal penalties imposed on law enforcement officials.** If the data are correctly gathered and analysed, this will make it possible to identify trends and facilitate the taking of measures.

15. Further, despite the recommendation made by the CPT in its report on the 2004 visit, the procedures governing requests for forensic medical examinations had still not been modified: such examinations could be carried out only with the prior authorisation of the police or prosecuting authorities.

The CPT recalls that forensic medical evidence is an essential element of an investigation into possible ill-treatment and that it is important that no barriers be placed between persons who allege ill-treatment and the doctors who can provide forensic reports recognised by the prosecutorial and judicial authorities.

**The CPT reiterates its recommendation that any person alleging ill-treatment (or that person's lawyer) be given the right to request a forensic medical examination without prior authorisation by the police, the prosecution service or a court.**

16. The duty of care which is owed by the police authorities to detained persons includes the responsibility to protect them from inter-prisoner violence. In this connection, the CPT has already underlined that staff must be alert to signs of trouble and be resolved to intervene in an appropriate manner when necessary. In addition, staffing levels must be sufficient (including at night) for staff to be able to exercise adequate supervision of detained persons. It also goes without saying that any allegations of violence must be followed by a prompt and appropriate response.

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<sup>4</sup> CPT/Inf (2004) 28.

17. In one of the police detention centres visited, the delegation met a juvenile (X) who alleged that he had been raped in his cell on two occasions shortly before the CPT's visit (the second occasion being during the night before the visit). He claimed that following the first rape he had asked the custodial staff that he be allowed to change cells and see the head of the establishment, but his requests had been ignored.<sup>5</sup>

The delegation requested his transfer to another cell (a single cell in accordance with his wishes) so as to ensure his protection, and this transfer was implemented forthwith. Further, as mentioned in paragraph 7, during the end-of-visit talks, the delegation asked the Lithuanian authorities to provide the Committee with a full and detailed report on the investigation conducted into this case. By letter of 10 September 2010, the authorities replied that, on 17 June 2010, the County Chief Police Commissariat where the establishment was situated had opened a pre-trial investigation for sexual abuse of a juvenile (Article 150, paragraph 3, of the Criminal Code). A forensic medical examination had been carried out on 18 June; the expert had found that "there were no injuries that are characteristic of a sexual contact". X had been interviewed by the police on 18 June, and by the competent court on 30 July. Two cellmates had also been questioned, as suspects. The pre-trial investigation was ongoing.

18. In the light of the information currently at its disposal, the CPT has a number of misgivings as regards the conduct of this pre-trial investigation. Firstly, the Committee considers that it would have been preferable for the investigation to be carried out by an authority independent of the establishment in which the alleged events took place, especially as the case involves a possible failure on the part of staff to take prompt and appropriate action. Further, the investigations performed over approximately two months apparently did not include questioning the staff of the detention facility or the occupants of other cells (especially the neighbouring cells). In addition, no mention is made of inspections/searches of cells, or of a psychological or psychiatric assessment of the juvenile.

**The CPT would like to receive, within one month, a copy of the above-mentioned forensic medical report and, once the pre-trial investigation has been completed, a full copy of the investigation file.**

### **3. Safeguards against ill-treatment**

19. The right to notify a close relative from the outset of deprivation of liberty is expressly guaranteed by Article 140 of the Code of Criminal Procedure, and in their response to the report on the 2008 visit the Lithuanian authorities affirmed that the police complied with this provision. However, despite these assurances, a number of detained persons with whom the delegation spoke during the 2010 visit alleged that their close relatives had not been notified immediately, or even not at all, by the police.

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<sup>5</sup> It would seem that the juvenile did not indicate to the custodial staff the reason for his requests.

Article 31 of the Constitution and Article 50 of the Code of Criminal Procedure guarantee the right of access to a lawyer "from the moment of deprivation of liberty or first interrogation". However, during the visit it quickly became apparent that, as a general rule, detained persons could benefit from the assistance of a lawyer only as from the first interrogation by an investigator (at the earliest), i.e. several hours after their apprehension. In this connection, many police officers clearly stated that informing detained persons of their right of access to a lawyer was "not their job" but rather that of the investigators.

The right of access to a doctor as from the outset of deprivation of liberty was still not formally guaranteed. The lack of such an expressly recognised right is not satisfactory, and certain detained persons interviewed during the 2010 visit alleged that they had experienced difficulties in gaining access to a doctor whilst in police custody.

**In the light of the above remarks, the CPT calls upon the Lithuanian authorities to take the necessary measures to ensure that all persons deprived of their liberty by the police effectively benefit from the right to inform a close relative of their situation and the right of access to a lawyer, from the very outset of their deprivation of liberty.**

**Further, all persons deprived of their liberty should be formally guaranteed the right of access to a doctor, including a doctor of their own choice (it being understood that an examination by a doctor of the detained person's choice may be carried out at his/her expense), as from the very outset of their deprivation of liberty.**

20. With regard to health-care cover in the three police detention centres visited, as was the case in 2008, medical consultations and examinations took place in inappropriate conditions and premises and in the presence of police officers. For example, although Klaipėda City Police Detention Centre was equipped with a medical facility, detained persons were only rarely taken there from their cells. A nurse visited the detention areas on a daily basis and "consultations" consisted of a discussion through the cell door. Furthermore, medical data was often accessible to non-medical staff of detention centres.

The delegation also noted that, although each of the three police detention centres visited employed nursing staff, newly-arrived remand prisoners still did not systematically benefit from prompt and thorough medical screening upon admission.

**The CPT calls upon the Lithuanian authorities to take the necessary measures to ensure that in police detention centres:**

- **medical examinations are conducted out of the hearing and – unless the doctor or nurse concerned specifically requests otherwise in a given case – out of the sight of police officers;**
- **the confidentiality of medical data is strictly respected.**

**In addition, steps must be taken to ensure that all persons who are placed in a police detention centre following their remand in custody are medically screened, within 24 hours of their arrival, by a doctor or a nurse reporting to a doctor.**

21. The delegation noted that forms setting out information on rights (in Lithuanian) were displayed on the walls in the detention areas of certain police establishments. However, despite this progress, the situation was still unsatisfactory. None of the police establishments visited had a stock of such forms for distribution to detained persons. Information on rights was clearly provided as a general rule at the time of the first interrogation by an investigator (which, as already mentioned, could take place several hours after the person's apprehension) rather than at the time of admission to the police establishment.

**The CPT calls upon the Lithuanian authorities to take the necessary measures to ensure that a form setting out the rights of persons taken into police custody is systematically given to such persons upon their arrival at a police establishment. The form should be made available in an appropriate range of languages.**

22. The delegation received some allegations that juveniles had been questioned by the police and had signed documents without a lawyer (or parent) being present. In particular, a 17-year-old girl complained that she had asked to wait until her parents arrived before signing the "protocol of apprehension" but that the investigator had refused on the ground that the procedure should not be delayed.

**The Committee reiterates its recommendation that steps be taken to ensure that detained juveniles are not required to make any statement or sign any document without the benefit of a lawyer and ideally another trusted adult being present to assist them.**

23. The CPT has already on many occasions expressed its misgivings about the practice of returning remand prisoners to police detention facilities for investigation purposes.

In this regard, the delegation was informed that, since the 2008 visit, the legislation had been amended so as to reduce the number of such returns. They could now take place only on the basis of a reasoned decision by the competent authority, and the remand prisoners concerned had the right to appeal against the decision. These new provisions had apparently resulted in a significant decrease in the number of remand prisoners returned to police establishments.

24. Unfortunately, the situation observed by the delegation was not so positive. It quickly became apparent that returning remand prisoners to police establishments was still a widespread practice. The majority of remand prisoners with whom the delegation spoke (including juveniles) had been returned to police establishments on a number of occasions. In this connection, a review of the files revealed that the decisions on which these returns were based often consisted solely of stereotypical phrases. Furthermore, although the maximum period for which a remand prisoner could be held in a police establishment was 15 days, the delegation met many remand prisoners (adults) who had in fact remained in police establishments for prolonged periods – several successive periods of 15 days, interrupted by a brief return (sometimes for only one or two days) to prison.

The CPT must stress once again that, from the standpoint of the prevention of ill-treatment but also in view of the conditions prevailing in police detention centres (see paragraphs 25 to 27), it is far preferable that further questioning of persons already committed to a remand prison be undertaken by police officers in prison rather than on police premises. The return of remand prisoners to police establishments should be sought and authorised only very exceptionally, for specific reasons and for the shortest possible period of time. **The CPT recommends that the Lithuanian authorities pursue their efforts to achieve this objective.**

#### 4. Conditions of detention

25. Material conditions of detention in the three police detention centres visited ranged from very good (Kaunas) to satisfactory (wing 2 at Klaipėda) to poor – and in some areas very poor (wing 1 at Klaipėda and Vilnius).

*Kaunas City Police Detention Centre* had been renovated prior to the 2008 visit and the CPT's report commented favourably on the material conditions. The delegation which carried out the 2010 visit observed that those conditions remained of a very good standard.

*Klaipėda City Police Detention Centre* had been partially refurbished. In the renovated wing of the building (wing 2), material conditions were satisfactory on the whole. Nonetheless, access to natural light left something to be desired, and the toilets were insufficiently partitioned. Conversely, conditions in the non-renovated wing (wing 1) were very poor. The cells were in a dilapidated state, dirty and damp, and the same was true of the mattresses and blankets. Further, access to natural light, artificial lighting and ventilation were limited, and the toilets lacked a partition and were malodorous. As for the electrical installations, they seemed hazardous. The delegation was also informed that, in winter, the cells were very cold.

At *Vilnius City Police Detention Centre*, the cells were in a poor state of repair and hygiene, and access to natural light and ventilation were inadequate. Moreover, the toilets only had a low partition. In four cells (Nos. 8 to 11), the windows had been concreted over, and there was therefore no access to natural light and no evident means of ventilation; the atmosphere in these cells was damp and suffocating.

Consultation of the custody registers revealed that both of the latter two establishments were frequently overcrowded.

26. Soap and toilet paper were supplied at Kaunas and Vilnius. However, at Klaipėda, detained persons received no personal hygiene products.

27. The regime was impoverished in the three establishments visited. Detained persons were in principle entitled to one hour of outdoor exercise per day. However, the delegation received numerous allegations that outdoor exercise periods often lasted no longer than 30 or 40 minutes. Furthermore, the outdoor areas were too small to allow detained persons to exert themselves physically. No other out-of-cell activity was proposed. Detained persons, including juveniles, accordingly spent 23 hours (or more) per day locked up in their cells in a state of enforced idleness.

28. It should be added that persons could be detained in the above conditions for prolonged periods, sometimes for several weeks, and on occasion even months, in the case of remand prisoners or persons placed in administrative detention.

29. During the end-of-visit talks, the delegation emphasised that cells Nos. 8 to 11 at Vilnius City Police Detention Centre should be immediately fitted with windows or taken out of use. It also stated that one cell (No. 12) at Klaipėda City Police Detention Centre, which was in a deplorable state of repair and hygiene, should no longer be used for detention purposes.

In their letter of 10 September 2010, the Lithuanian authorities indicated that a police establishment optimisation programme for 2009-2015 had been adopted. The aim was to reduce the number of police detention centres in Lithuania to 27 by 2015 and to ensure that all the centres offered satisfactory conditions. In this context, it was planned to renovate wing 1 at Klaipėda City Police Detention Centre and to build a new police detention centre in Vilnius. It was not possible to carry out works in the current detention centre in Vilnius, since the building was included in "the list of the state's protected objects".

**The CPT would like to receive confirmation that cells Nos. 8 to 11 at Vilnius City Police Detention Centre have been taken out of use as accommodation for detained persons and that cell No. 12 at Klaipėda City Police Detention Centre has been refurbished or, failing that, is no longer being used for detention purposes.**

30. **The CPT recommends that the projects to renovate wing 1 at Klaipėda City Police Detention Centre and to build a new police detention centre in Vilnius be given high priority.**

Pending the completion of these projects, **the CPT recommends that the Lithuanian authorities take steps to ensure that, in the police detention centres in Klaipėda and Vilnius:**

- **the official cell occupancy rate is complied with;**
- **all persons detained overnight are provided with a clean mattress and clean blankets;**
- **lighting (including, preferably, access to natural light) and ventilation of the cells are adequate;**
- **the cells are properly heated;**
- **the state of repair (including of the electric installations) and hygiene in the cells and the sanitary facilities are of an adequate level;**
- **detained persons have access to basic personal hygiene products.**

Further, **all persons who are detained for more than 24 hours in a police detention centre should benefit from at least one hour of outdoor exercise per day.**

## **B. Kaunas Juvenile Remand Prison and Correction Home**

### **1. Preliminary remarks**

31. The Juvenile Remand Prison and Correction Home in Kaunas (hereinafter the Kaunas establishment), the only prison facility for juveniles in Lithuania, was visited for the first time by the CPT in 2004. In its report on that visit, the Committee made recommendations with the aim of securing an immediate improvement in detention conditions in the remand prison, which were deemed "particularly unsuitable for young persons" and "totally unsatisfactory".<sup>6</sup>

Despite the measures announced by the Lithuanian authorities to implement these recommendations, the visit made by the CPT in 2008 revealed that there had been virtually no improvement and that juveniles continued to be held under unacceptable conditions.<sup>7</sup>

The CPT therefore decided to carry out another visit to the Kaunas establishment in 2010, primarily in order to ensure that the action plan drawn up by the Lithuanian authorities after the 2008 visit with a view to improving material conditions and the programme of activities in the remand prison had been implemented.<sup>8</sup> In this connection, the CPT wishes to underline from the outset that clear progress has been observed regarding the material conditions of detention; additional efforts must, however, still be made with regard to the activities offered to remand prisoners.

32. The Kaunas establishment, which has a total official capacity of 313 places, was accommodating 196 prisoners, all male, at the time of the visit: 77 in the remand prison (with a capacity of 163 places<sup>9</sup>) and 119 sentenced prisoners in the correction home (with a capacity of 150 places).

The delegation was informed that the average length of stay in the remand prison was about three months. However, at the time of the visit, fifteen prisoners had been accommodated there for more than six months, including three who had been there for some two years.

33. The CPT is pleased to note that, under new rules adopted by the Ministry of Justice in 2010, the minimum living space at the Kaunas establishment has been increased to 4.1 m<sup>2</sup> per prisoner.

However, despite the recommendation made by the Committee on this subject, the official minimum living space in the dormitories and cells of adult prisons in Lithuania is still respectively 3.1 and 3.6 m<sup>2</sup> per prisoner.<sup>10</sup>

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<sup>6</sup> CPT/Inf (2006) 9, paragraphs 77 and 79.

<sup>7</sup> CPT/Inf (2006) 10, page 25, and CPT/Inf (2009) 22, paragraph 53.

<sup>8</sup> CPT/Inf (2009) 24, pages 22 and 23.

<sup>9</sup> This capacity includes an "arrest" section with 14 places. "Arrest" is the term for a short prison sentence (45 days maximum) handed down for minor criminal offences. The section, which was accommodating five prisoners, was not visited.

<sup>10</sup> Order No. 1A-85 of 26 April 2010 of the Ministry of Justice amending Order No. 194 of 2 July 2003 approving the prisons' internal regulations, and Decree No. V-124 of 11 May 2010 of the Director of the Ministry of Justice Prisons Department.

**The CPT recommends that the standard living space per adult prisoner in all multi-occupancy accommodation in prison facilities in Lithuania be increased as soon as possible to at least 4 m<sup>2</sup>. The official capacities of the prisons concerned should be reviewed accordingly.**

## **2. Ill-treatment**

34. The vast majority of the inmates met by the delegation in the Kaunas establishment had no complaints about the way in which they were treated by the prison staff. Moreover, several of them said that their relations with staff were good.

Nevertheless, the delegation received isolated allegations of physical ill-treatment by prison officers, and more specifically of blows with truncheons while prisoners were being taken to/from the outside exercise yards during the day or during the rounds of the accommodation areas in the evening.

The prison's management also informed the delegation that three complaints of ill-treatment had been lodged by prisoners against staff in 2009, and one complaint in 2010 (as of 15 June).

**The CPT recommends that the management of the Kaunas establishment regularly remind staff that all forms of ill-treatment of prisoners are unacceptable and will be punished accordingly.**

35. Despite the CPT's recommendation in its report on the 2008 visit, investigations at the Kaunas establishment into possible ill-treatment by prison staff were as a rule still conducted by the establishment's own investigations department.

Furthermore, the delegation was informed that the action taken by the relevant prosecutor was very limited. The prosecutor had not made any inspection visit to the offices of the investigations department of the Kaunas establishment for a number of months; he simply acknowledged receipt of the files transmitted to him by the establishment once internal investigations had been completed. In this connection, it can moreover be seen from the Lithuanian authorities' response to the report on the 2008 visit that, regardless of the prison facility concerned, prosecutors only rarely investigate cases of possible ill-treatment by prison staff.<sup>11</sup>

The Committee has already recalled on many occasions that, for an investigation into possible ill-treatment to be effective, it is essential that the persons responsible for carrying it out be independent from those implicated in the events.<sup>12</sup>

**The CPT reiterates its recommendation that the Lithuanian authorities take the necessary steps to ensure that investigations into possible ill-treatment by prison staff at the Kaunas establishment are no longer conducted by members of staff from that establishment (and the same approach should be followed in relation to other prisons in Lithuania). Such investigations should preferably be conducted by a body which is entirely independent of the prison system.**

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<sup>11</sup> In 2008, out of 195 complaints of ill-treatment by prison staff received by the management of prisons from prisoners, none resulted in the opening of a pre-trial investigation; CPT/Inf (2009) 24, page 15.

<sup>12</sup> See, *inter alia*, the 14<sup>th</sup> General Report on the CPT's activities, CPT/Inf (2004) 28, paragraph 32.



36. To have an overview of the situation throughout the country, **the CPT would like to receive, in respect of 2009 and 2010, the following information for all prison establishments in Lithuania (including the Kaunas establishment): the number of complaints of ill-treatment lodged against prison staff; the number of resulting disciplinary and/or criminal proceedings; an account of the outcome of those proceedings.**

37. All the persons with whom the delegation spoke (managers, members of staff and prisoners) stated that inter-prisoner intimidation and violence had decreased.<sup>13</sup> In this connection, the managers and staff stressed, *inter alia*, that the measures taken to improve detention conditions (for example, a reduction in the number of prisoners per cell and an increase in the number of activities for prisoners) and to reinforce the staff presence in detention areas<sup>14</sup> had helped to bring down the number of acts of this kind. This is a positive development.

**The CPT encourages the management of the Kaunas establishment to maintain its vigilance in this area.**

### **3. Conditions of detention**

38. As already indicated (see paragraph 31), material conditions in the remand prison had considerably improved since 2008. Significant investments had been made, and all the renovation and reconstruction work announced by the Lithuanian authorities in their response to the report on the 2008 visit (for example, construction of a gable roof, installation of a new – underfloor – heating system, replacement of pipes and repair of the electrical system) had been carried out.

The cells (intended for two, three or four prisoners) had been fully renovated. They were of an appropriate size<sup>15</sup> and had good access to natural light and good artificial lighting. All had been equipped with a call system and a partitioned sanitary annexe (toilets and a shower). The furniture (beds, shelves, tables and chairs) was new. However, the cells had insufficient storage units (there was only one shelf per cell), and a number of mattresses were dirty and worn. The delegation was also informed that hot water was available only once a week for one hour.

**The CPT invites the Lithuanian authorities to remedy the above-mentioned material shortcomings in the cells. Steps should also be taken to increase the frequency with which a warm shower can be taken<sup>16</sup>.**

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<sup>13</sup> The delegation was informed that three cases of inter-prisoner violence (two assaults and one case of sexual abuse) had given rise to criminal proceedings in 2009 and that three case-files had been transferred to the relevant prosecutor in 2010 (as of 15 June).

<sup>14</sup> In particular, the social workers visited all of the cells on a daily basis.

<sup>15</sup> About 14.5 m<sup>2</sup> for cells with two beds, 19 m<sup>2</sup> for cells with three beds and 22.5 m<sup>2</sup> for cells with four beds.

<sup>16</sup> See Rule 65.3 of the European Rules for juvenile offenders subject to sanctions or measures (Recommendation CM/Rec(2008)11 adopted by the Committee of Ministers of the Council of Europe on 5 November 2008), and Rule 19.4 of the European Prison Rules (Recommendation Rec(2006)2 adopted by the Committee of Ministers of the Council of Europe on 11 January 2006).

39. During their detention, remand prisoners had to purchase personal hygiene products (they were not authorised to receive such products during visits or in parcels sent from outside). Those who were indigent received, on request, a small sum for this purpose (LTL 10, or about 3 Euros, per month). In this context, a number of prisoners said that they did not always have soap or toilet paper at their disposal.

**The CPT recommends that measures be taken to ensure that all persons detained at Kaunas Juvenile Remand Prison (as well as in other prisons in Lithuania) have a sufficient quantity of basic personal hygiene products at their disposal, from the time of their admission.**

40. In response to the recommendation made by the CPT in its report on the 2008 visit, the grille-covered "cubicles" intended for outdoor exercise, which were located on the roof of the remand prison, had been decommissioned and replaced by eight yards, installed in part of the prison grounds.

It is nonetheless regrettable that the new exercise areas were of a similar cage-like construction, which gave them an oppressive appearance. In addition, most of them were too small<sup>17</sup> and several were devoid of any equipment (there were basketball hoops in four of the yards).

**The CPT recommends that the design of the outdoor exercise yards at Kaunas Juvenile Remand Prison be reviewed, in the light of the above remarks. In particular, they should all be made spacious enough to give young prisoners a real opportunity to exert themselves physically, e.g. to practise sports.**

41. The CPT recalls that, although a lack of activities is detrimental for any prisoner, it is especially harmful for juveniles, who have a particular need for physical activity and intellectual stimulation. All juveniles deprived of their liberty, whether they are remand or sentenced prisoners, should be offered a varied programme of education, sport, recreation and other purposeful activities, taking place outside their cells. Physical education should constitute an important part of this programme.

Despite the authorities' efforts (creation of seven social workers' posts and installation/renovation of the exercise yards and activity rooms), it was clear that much remained to be done. Indeed, for remand prisoners, the only regular out-of-cell activity was outdoor exercise for two hours per day. Teaching hours – one 30-minute lesson per day in a classroom from Monday to Friday (during term-time) – were often halved and sometimes even cancelled if the teacher (from the Ministry of Education) was absent. The frequency of other activities (use of the sports room, film, computer) varied from one to four sessions per week (each lasting between 15 and 60 minutes). The remand prisoners therefore generally spent about 21 hours per day confined to their cells, watching television (if they had a TV set), reading or in a state of enforced idleness.

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<sup>17</sup> 12 m<sup>2</sup> (2 yards), 13 m<sup>2</sup> (3 yards), 17 m<sup>2</sup> (1 yard), 65 m<sup>2</sup> (1 yard) and 90 m<sup>2</sup> (1 yard).

**The CPT reiterates its recommendation that the Lithuanian authorities pursue their efforts with a view to ensuring that all prisoners detained at Kaunas Juvenile Remand Prison spend a reasonable part of the day outside their cells, participating in a variety of activities, including group association activities. The longer the period for which remand prisoners are detained, the more developed should be the programme of activities offered to them. These objectives are unlikely to be achieved if the rule prohibiting contact between remand prisoners from different cells is not reviewed or more flexibly applied.**

**In this context, the CPT would like to receive detailed information on the schooling programme and plans of the Ministry of Education for juveniles deprived of their liberty, in particular remand prisoners.**

42. The delegation received a number of allegations that, when one prisoner refused to participate in an activity (including a lesson), all the other prisoners in the cell were also deprived of that activity. The CPT must stress that any form of collective punishment is unacceptable; **if the above-mentioned practice exists, it should be terminated immediately.**

43. The premises in which activities took place had been renovated (classrooms, sports rooms, computer rooms, etc.) and material conditions there were satisfactory on the whole. However, the classrooms' capacity was inadequate.

In this connection, the prison's management informed the delegation that the project to install classrooms in the roof space had been suspended for lack of funds. **The CPT recommends that this project be given high priority and rapidly implemented.**

44. The first floor, where the facilities for admission of prisoners and the staff premises were located, had not been renovated. The delegation noted in particular that the premises for staff were cramped and in a poor state of repair.

**The CPT invites the Lithuanian authorities to renovate the first floor of Kaunas Juvenile Remand Prison.** A satisfactory working environment will have a beneficial effect on the general atmosphere in the establishment and, hence, on relations between staff and prisoners.

#### 4. Health-care services

45. The number of health-care staff was satisfactory. The medical team, serving the whole establishment, included a full-time head doctor (paediatrician), a part-time (75%) general practitioner and four specialists, each working part-time (50%): a psychiatrist, a dentist, a dermatologist/venereologist and a radiologist. There were also two full-time psychologists' posts and seven full-time nurses' posts, all of which were filled. A doctor was present from 7 a.m. to 8.30 p.m., Mondays to Fridays, and there was a nursing presence every day of the week (including Saturdays and Sundays) and at night.

46. The programme to renovate the remand prison provided for the installation of new health-care facilities on the third floor of the building. The work had begun in spring 2010. At the time of the visit, a consulting room, a nursing treatment room, a radiology room and an observation/isolation room (with a glass door, bed, shower, washbasin and toilets) had been refurbished and equipped but were not yet fully operational. Other rooms – in particular a radiology laboratory and two rooms for the doctors – were still to be installed.

47. In general, the delegation gained a favourable impression of the medical examination on admission and the quality of the health care provided to prisoners. However, there was one major failing: screening for tuberculosis was not being carried out either on admission or during subsequent medical checks. The X-ray machine was out of order and the establishment was awaiting the arrival of a new machine (the purchase of which had been provided for in the budget). This is no justification for suspending tuberculosis screening, as there are other methods of performing such screening.

**The CPT recommends that tuberculosis screening be reintroduced immediately at the Kaunas establishment; until such time as the defective X-ray machine has been replaced, the screening should be performed by other means.**

48. In response to the CPT's recommendations in its report on the 2008 visit, the management of the Kaunas establishment had issued instructions on access to a doctor and medical confidentiality (Order No. 1-59 of 2 April 2009).

In practice, remand prisoners submitted their requests for consultation to the staff of the social rehabilitation unit (not to prison officers as had previously been the case), and these requests were rapidly passed on to the medical unit. This undeniably constitutes progress compared to the situation observed in 2008.

Further, the information gathered during the visit indicates that medical confidentiality was usually respected during medical examinations. However, the above-mentioned instructions provide that where a prisoner represents a risk for the medical staff performing an examination, if the latter so request, a prison officer shall be "present in the room". **The CPT wishes to recall its recommendation that medical examinations should always be conducted out of the hearing of non-medical staff.**

49. The CPT is concerned about the role played by the establishment's doctors in disciplinary procedures.

The delegation was informed that the head doctor (who apart from her managerial functions also served as a practitioner within the establishment) was a member of the disciplinary board. In addition, whenever it was decided to place a prisoner in a disciplinary isolation cell, one of the establishment's doctors had to certify that the prisoner concerned was fit to undergo this sanction.

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 is a major factor in safeguarding the health and well-being of prisoners. In order to safeguard this relationship, prison doctors should not participate in disciplinary proceedings. In particular, they should not be obliged to certify that prisoners are fit to undergo punishment. This point was recognised by the Committee of Ministers in its Recommendation on the European Prison Rules and its Recommendation on the European Rules for juvenile offenders subject to sanctions or measures.<sup>18</sup> On the other hand, prison doctors should be very attentive to the situation of prisoners placed in disciplinary isolation cells, and should report to the prison director whenever a prisoner's health is being put at risk by being held in disciplinary isolation.

**The CPT recommends that, in all prisons in Lithuania, the role of prison doctors in relation to disciplinary matters be reviewed, in the light of the above remarks.**

## 5. Other issues

### a. staff

50. The situation regarding the number of prison staff had improved since 2008. Only two of the 100 prison officers' posts were vacant at the time of the visit (whereas more than 10% of these posts were vacant in 2008).

Moreover, the staffing level of the "social rehabilitation" department had been reinforced by the creation of seven social workers' posts, which had made it possible to enhance the range of activities proposed to remand prisoners. However, the post of librarian (attached to the same department) was vacant.

**The CPT invites the Lithuanian authorities to fill the remaining vacant posts.**

51. The CPT wishes to underline that the custody and care of juveniles deprived of their liberty is a particularly challenging task. All staff called upon to fulfil this task, including those with purely custodial duties, should be carefully selected and receive appropriate professional training, taking into account the particularities of working with young people deprived of their liberty.

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<sup>18</sup> Recommendation Rec(2006)2 on the European Prison Rules adopted on 11 January 2006 (Rule 43.2) and Recommendation CM/Rec(2008)11 on the European Rules for juvenile offenders subject to sanctions or measures adopted on 5 November 2008 (Rule 95.5), as well as related commentaries. See also the 15<sup>th</sup> General Report on the CPT's activities (CPT/Inf (2005) 17), paragraph 53.

In their response to the report on the 2008 visit, the Lithuanian authorities informed the Committee that the length of the initial training course for prison officers had been doubled (from one to two months) and that further training, *inter alia*, on the subject of juvenile justice, had been organised. During the 2010 visit, the delegation also noted the efforts made by the management of the Kaunas establishment to offer staff in-service training on matters linked to the custody of juveniles. **The CPT encourages the Lithuanian authorities and the management of the Kaunas establishment to pursue their efforts to ensure that all staff called upon to work with juveniles deprived of their liberty receive specific training in this field.**

b. discipline and good order

52. The findings made during the visit revealed that disciplinary procedures were generally conducted in accordance with the relevant provisions.

The delegation noted that a new form setting out the disciplinary decision had been introduced, which prisoners were required to sign to confirm that they had been informed of the appeals procedure and had received a copy of the decision. This is a positive development. However, the information on the form regarding the appeals procedure was drafted in terms that were both too vague and too general to be helpful for inmates.<sup>19</sup> **This information should be worded in simple and clear terms (specifying the authority to which appeals should be addressed and the time-limit for lodging appeals).** Further, **care should be taken to ensure that prisoners have fully understood this information.**

53. Under Section 34 of the Law of 1 April 2009 on Pre-Trial Detention, the following disciplinary sanctions may be imposed on remand prisoners: a reprimand, withdrawal of additional physical exercise periods,<sup>20</sup> withdrawal of the right to purchase food products, and solitary confinement (placement in a disciplinary cell).

From the information gathered during the visit, it appears that the number of disciplinary sanctions had greatly diminished since the beginning of 2009: from 164 during the first half of 2009 to 77 during the first half of 2010 (as of 15 June), for the whole establishment.

54. The above-mentioned law defines more restrictively the situations in which placement in a disciplinary cell may be imposed;<sup>21</sup> it also reduces the maximum period for which this sanction may be imposed to ten days in the case of adult prisoners and five days in the case of juveniles. This is a positive development.

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<sup>19</sup> "An appeal may be lodged against this decision in accordance with Article 183 of the Code on Execution of Sentences and Section 49 of the Law on Pre-Trial Detention".

<sup>20</sup> At the time of the visit, this sanction had never yet been imposed at the Kaunas establishment.

<sup>21</sup> Under Section 34, paragraph 2, of the Law of 1 April 2009 on Pre-Trial Detention, placement in a disciplinary cell may be imposed only in the event of repeated disciplinary offences (at least three during the year in question) or for serious offences, which the law lists exhaustively (violence against third parties; purchase, manufacture, distribution or consumption of alcoholic beverages or drugs, etc.). Since the entry into force of the new law, the number of segregation placements in disciplinary cells had been halved (20 cases between 1 January and 15 June 2010 for the whole establishment).

The CPT wishes to underline that any placement of juveniles in conditions resembling solitary confinement is a measure which may compromise their physical and/or mental integrity. Resorting to such a measure must therefore be regarded as exceptional, and it should be applied for the shortest possible period of time.<sup>22</sup> In this connection, the Committee has already had occasion to express its opinion that disciplinary segregation of juveniles should not exceed three days.<sup>23</sup> **The CPT encourages the Lithuanian authorities to reduce further the maximum period for which disciplinary segregation may be imposed on juveniles.**

55. As regards the regime during placement in a disciplinary cell, prisoners were allowed one hour of outdoor exercise every day, and had access to reading materials. However, they had no right to receive visits, make telephone calls or send letters.<sup>24</sup>

The CPT recalls that juvenile prisoners upon whom disciplinary segregation is imposed should enjoy appropriate human contact throughout the duration of the measure. In addition, any restrictions on family contacts or visits as a form of punishment should be used only where the offence relates to such contacts or visits. These principles are included in the European Rules for juvenile offenders subject to sanctions or measures (Rules 95.4 and 95.6).

**The CPT recommends that steps be taken to ensure that the above principles are respected whenever segregation in a disciplinary cell is imposed on a juvenile at Kaunas Juvenile Remand Prison.**

56. Kaunas Juvenile Remand Prison had three disciplinary cells, located on floors 4, 5 and 6. These cells were equipped with a bed, toilets, a washbasin and a call system. **The CPT recommends that all disciplinary cells at the Kaunas establishment be equipped with a table and a chair.**

57. Despite the recommendation made by the CPT in its report on the 2008 visit, the remand prison had not been provided with facilities for the placement of agitated and/or violent prisoners. The practice consisting of placing such prisoners in a disciplinary cell to "cool off", and sometimes handcuffing them, was still applied.

In this connection, the delegation received conflicting information regarding the planned use of the observation/isolation room (not yet in service) installed in the premises of the remand prison's health-care unit (see paragraph 46). According to some staff members, this room was intended only for observation/isolation of patients who might be contagious. According to others, it would also be used for the placement of agitated and/or violent prisoners.

**The CPT would like to receive a copy of the protocol and/or instructions concerning the handling of agitated and/or violent prisoners as well as a copy of the policy on restraint in operation at the Kaunas establishment.**

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<sup>22</sup> Rule 95.4 of Recommendation CM/Rec(2008)11 on the European Rules for juvenile offenders subject to sanctions or measures, adopted by the Committee of Ministers of the Council of Europe on 5 November 2008.

<sup>23</sup> 18<sup>th</sup> General Report on the CPT's activities (CPT/Inf (2008) 25), paragraph 26.

<sup>24</sup> Section 38 of the Law of 1 April 2009 on Pre-Trial Detention.

c. contact with the outside world

58. Regarding contact with the outside world, the CPT has noted that the law of 1 April 2009 on pre-trial detention introduced a number of key improvements. In particular, access to a telephone is now expressly guaranteed for remand prisoners (with no limit on the number of phone calls, each of which can last a maximum of 15 minutes).<sup>25</sup> In addition, remand prisoners can in principle receive an unlimited number of visits (each lasting a maximum of two hours).<sup>26</sup>

However, under the above-mentioned law, the enjoyment of visits and access to the telephone still requires authorisation by the prosecutor or the court dealing with the case.

59. As regards visits and telephone calls, the information gathered during the visit to Kaunas Juvenile Remand Prison revealed that the situation had improved since the entry into force of the above-mentioned law. In particular, contrary to the findings of the 2008 visit, the delegation did not encounter any prisoners who had been deprived of visits for several months. Further, a number of remand prisoners had been given permission to make phone calls.

Nonetheless, the prosecutorial/judicial authorities' approach was often still restrictive. By way of example, juveniles authorised to receive visits were generally permitted only one or two visits per month, and some juveniles had to seek permission for each visit (although by law the judge or prosecutor may authorise multiple visits). In addition, many of the requests for permission to use the telephone were refused. Moreover, several prisoners informed the delegation that they had not requested permission to use the telephone because they considered it would be futile to do so.

60. The CPT recalls that it is essential that all prisoners, including remand prisoners, are able to maintain good contact with the outside world. Granting of contact (via mail, visits or telephone) should therefore be the rule, and restrictions the exception. Any restriction should be based on the requirements of the investigation or security considerations and be applied for a limited period; in accordance with the proportionality principle, the restriction should also be the least severe possible (a supervision measure should, for example, be chosen rather than a prohibition).

Restrictions should be imposed even more sparingly when the prisoner is a juvenile, since it is acknowledged that the active promotion of contact with the outside world can be especially beneficial for juveniles deprived of their liberty, many of whom may have behavioural problems related to emotional deprivation.

**The CPT recommends that the relevant legislation be amended in order to establish the principle that remand prisoners are entitled to receive visits and make telephone calls. Any restriction on a given remand prisoner's right to receive visits or make telephone calls should comply with the above criteria (i.e. be based on the requirements of the investigation or security considerations, be applied for a limited period, and be the least severe possible). Moreover, the restrictive approach to visits and phone calls taken by the prosecutorial/judicial authorities must be reviewed without waiting for the adoption of new legislation or regulations.**

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<sup>25</sup> Ibid. Section 23.

<sup>26</sup> Ibid. Section 22.



61. Many of the prisoners at the remand prison with whom the delegation spoke said that they could not afford to purchase telephone cards. **The CPT invites the management of the Kaunas establishment to consider the possibility of allowing indigent prisoners one free telephone call per month.**

62. Under Section 16, paragraph 2, of the Law of 1 April 2009 on Pre-Trial Detention, remand prisoners are entitled to send and receive letters without restriction, unless they have been expressly prohibited from doing so by a prosecutorial/judicial authority, and not by the police as had previously been the case. This is a positive development. At Kaunas Juvenile Remand Prison, freedom of correspondence was the rule: at the time of the visit, the correspondence of two prisoners (out of a total of 77) was being censored. **The CPT would like to know whether decisions to restrict freedom of correspondence can be challenged and, in the affirmative, under what procedure.**

d. inspections

63. The CPT has already underlined on many occasions that all prison establishments, including those for juveniles, should be inspected by an independent body with the authority to visit the premises and to receive prisoners' complaints and, if necessary, take action on them.

In this connection, the delegation was informed that the Ministry of Justice had made a full inspection of the Kaunas establishment in 2008 and that it regularly inspected certain departments of the establishment (in particular the finance department). However, the establishment had never been visited by an independent body such as the Parliamentary Ombudsman or the Children's Ombudsman. **The CPT trusts that this deficiency will be remedied.**

**C. Alleged existence of secret detention facilities in Lithuania**

64. In August 2009, reports appeared in the media that secret detention facilities for "high-value" terrorist suspects, operated by the Central Intelligence Agency (CIA) of the United States, had existed in Lithuania until the end of 2005. According to these reports, as many as eight persons were held in those facilities for more than a year. The sources of this information were said to be former CIA officials directly involved with or briefed on a programme of that Agency to detain and interrogate suspected terrorists at sites abroad. Further, it was affirmed that CIA planes made repeated flights into Lithuania during the period in question.

On 25 August 2009, the President of Lithuania announced that the above-mentioned reports would be investigated. They were subsequently the subject of an investigation (started in November) by the National Security and Defence Committee of the Lithuanian Parliament. The findings of that Committee were endorsed by the Lithuanian Parliament on 19 January 2010, and a pre-trial investigation was launched on 22 January by the Prosecutor General's Office. That investigation was still underway at the time of the CPT's visit in June 2010.

65. In recent years there have been many allegations of secret detention of terrorist suspects, as well as of the related phenomenon of unlawful inter-State transfers of such persons. And on 6 September 2006, the President of the United States publicly acknowledged that the CIA had been holding and questioning, in secret locations overseas, a number of persons suspected of involvement in acts of terrorism.

The possible implication of European countries in the above-mentioned practices has been examined within the framework of the Council of Europe and the European Union, and reports from both the Council's Parliamentary Assembly and the European Parliament have affirmed that there has been collusion by certain of those countries.

66. As the CPT emphasised in its 17<sup>th</sup> General Report, secret detention can certainly be considered to amount in itself to a form of ill-treatment, both for the person detained and for members of his or her family. Further, the removal of fundamental safeguards which secret detention entails – the lack of judicial control or of any other form of oversight by an external authority and the absence of guarantees such as access to a lawyer – inevitably heightens the risk of resort to ill-treatment.

The interrogation techniques applied in the CIA-run overseas detention facilities have certainly led to violations of the prohibition of torture and inhuman or degrading treatment. Any doubts that might have existed on this subject were removed by the publication on 24 August 2009 of a Special Review of CIA counterterrorism detention and interrogation activities, dated 7 May 2004 and covering the period September 2001 to October 2003, carried out by the Agency's own Inspector General<sup>27</sup>. Despite being extensively censored, the published version of the Special Review makes clear the brutality of the methods that were being used when interrogating terrorist suspects at sites abroad.

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<sup>27</sup> The document was made public following proceedings initiated by the American Civil Liberties Union (ACLU) under the Freedom of Information Act.

67. It was against this backdrop that the CPT's delegation examined the question of the alleged existence of secret detention facilities in Lithuania. The delegation had talks with the Chairman of the Parliament's Committee on National Security and Defence about the findings from the Committee's investigation into this matter, and met members of the Prosecutor General's Office entrusted with the pre-trial investigation which was underway.

The central issue for the delegation was to try to assess the effectiveness of the pre-trial investigation. However, for the record, the delegation considered that it should also visit the two tailored facilities that had been identified in the Parliamentary Committee's report when referring to partnership co-operation Projects Nos. 1 and 2.

68. The facilities of Project No. 1 consisted of a small, single-storey, detached building located in a residential area in the centre of Vilnius. According to the Parliamentary Committee's report, "facilities suitable for holding detainees were equipped, taking account of the requests and conditions set out by the partners. ... however, according to the data available to the Committee, the premises were not used for that purpose."

The facilities of Project No. 2 were located in a small locality situated some 20 kilometres outside Vilnius. Far larger than those previously mentioned, the facilities of this project consisted of two buildings (respectively with a brown and a red roof) which were connected and divided into four distinct sectors. As regards the red-roofed building, the layout of the premises resembled a large metal container enclosed within a surrounding external structure. Two parts of this building (a fitness room and a technical area) contained apparatus, machinery and spare parts of US origin as well as instructions and notices written in English. A Lithuanian official accompanying the delegation said that this equipment and written material had been left behind by the previous occupants. According to the Parliamentary Committee's report, "the progress of works [to equip these facilities] were ensured by the partners themselves... The persons who gave testimony to the Committee deny any preconditions for and possibilities of holding and interrogating detainees at the facilities of Project No. 2, however, the layout of the building, its enclosed nature and protection of the perimeter as well as fragmented presence of the SSD [State Security Department] staff in the premises allowed for the performance of actions by officers of the partners without the control of the SSD and use of the infrastructure at their discretion".

The CPT shall refrain from providing a detailed description of the above-mentioned facilities. Suffice it to say that when visited by the delegation, the premises did not contain anything that was highly suggestive of a context of detention; at the same time, both of the facilities could be adapted for detention purposes with relatively little effort.

69. It is axiomatic that the relevant authorities must take resolute action when any information indicative of serious human rights violations emerges. More specifically, an effective investigation, capable of leading to the identification and punishment of anyone responsible for such violations, must be carried out. It is well established through the case-law of the European Court of Human Rights that in order to be considered as "effective", an investigation must be conducted in a prompt and reasonably expeditious manner, and must be comprehensive and thorough.

70. As already indicated, the allegations of secret detention facilities in Lithuania that surfaced in August 2009 led to the setting up of a Parliamentary investigation in November 2009, the findings of which in turn resulted in the launching of a pre-trial investigation by the Prosecutor General's Office in January 2010.

It can first be asked whether the Prosecutor General's Office displayed the necessary promptitude when the reports of secret detention facilities appeared in August 2009. Admittedly, it was a question of allegations made in the media. However, those allegations had to be seen in the context of certain undisputable facts that were by that time in the public domain, namely that the CIA had been holding and questioning, in secret locations overseas, a number of suspected terrorists and that the persons concerned had been subjected to ill-treatment (see paragraphs 65 and 66). In addition, there was a growing body of evidence, emanating from reports drawn up within the framework of the Council of Europe as well as other bodies, that some of the CIA facilities concerned might have been located in European countries. Against this background, it might be argued that the Prosecutor General's Office should itself have taken the initiative and launched an investigation when the issue of the possible existence of secret detention facilities in Lithuania first came to light in the summer of 2009.

71. The question also arises whether the pre-trial investigation that was initiated on 22 January 2010 is sufficiently wide in scope to qualify as comprehensive. The investigation relates to a possible abuse of official position as set out in Article 228, paragraph 1, of the Criminal Code. Certainly, the uncovering of evidence indicative of a possible abuse of official position by certain Lithuanian civil servants was an important outcome of the Parliamentary investigation; however, it was not the only outcome.

According to the data collected by the Parliamentary Committee, aircraft which official investigations had linked to the transportation of CIA detainees repeatedly crossed Lithuanian airspace during the period 2002 to 2005 and did land in Lithuania during that period. Further, although the Committee failed to establish whether CIA detainees were brought into/out of Lithuanian territory, it concluded that the conditions for such transportation did exist. The Committee also "established" that the Lithuanian State Security Department had received a request from the partners to equip facilities in Lithuania suitable for holding detainees. And, although reaching the conclusion that the facilities of Project No. 1 were ultimately not used for detention purposes, the Committee explicitly refrained from ruling out such a possibility as regards the facilities of Project No. 2 (see paragraph 68).

When the delegation raised the issue of the scope of the pre-trial investigation with members of the Prosecutor General's Office, they replied that "facts" were needed to launch a criminal investigation, not "assumptions"; at the same time, they emphasised that if evidence of other criminal acts did come to light during the investigation, its scope could be broadened accordingly. For its part, the CPT considers that when the above-mentioned findings of the Parliamentary Committee are combined with the other elements identified in paragraph 70, it becomes clear that it would have been more appropriate for the scope of the pre-trial investigation to have expressly covered, as from the outset, the possible unlawful detention of persons (and their possible ill-treatment) on Lithuanian territory.

72. During its meeting with members of the Prosecutor General's Office, the CPT's delegation sought to ascertain whether the pre-trial investigation complied with the criterion of thoroughness. This was followed up after the visit by a written request from the CPT's President for a chronological account of all steps taken as from the opening of the pre-trial investigation (persons from whom evidence had been taken, whether orally or in writing; documents obtained and examined; on-site inspections carried out; material seized; etc.); information was also sought on whether the assistance of authorities outside Lithuania (in particular of the United States and NATO) had been requested and, if so, whether that assistance had been forthcoming.

The delegation did not receive the specific information it requested, either during the above-mentioned meeting or from the Lithuanian authorities' response of 10 September 2010. The Committee has been told that: persons related to the subject of the investigation who had meaningful information have been questioned; documents that were meaningful to the investigation have been received; the premises designated as Projects Nos. 1 and 2 have been inspected; no obstacles have been encountered in the conduct of the investigation. It is affirmed that more specific information cannot be provided as the major part of the data gathered during the investigation constitutes a state or service secret.

The CPT is not convinced that all the information that could have been provided to the Committee about the conduct of the investigation has been forthcoming. Certainly, given the paucity of the information currently available, it remains an open question whether the pre-trial investigation meets the criterion of thoroughness.

73. The pre-trial investigation has not yet been finalised. According to the Prosecutor General's Office, the collected data is still being analysed and decisions remain to be made as regards the necessity for additional investigative acts. The prosecutors met hoped that the investigation would be completed by the end of 2010.

Once it has been completed, **the CPT trusts that the fullest possible information will be made public about both the methodology and the findings of the pre-trial investigation. Any restrictions on access to information on grounds of state or service secrecy should be kept to the absolute minimum.** This will enable a proper assessment of the overall effectiveness of the investigation to be made and ensure that there is sufficient public scrutiny of its results.

**The CPT requests that the findings of the pre-trial investigation be forwarded to the Committee as soon as they become available.**

74. Finally, the CPT has been informed that, on 20 September 2010, the UK-based non-governmental organisation REPRIEVE wrote to the Prosecutor General of Lithuania on the subject of a named person who is currently being held by the US authorities in the detention facilities at Guantanamo Bay. The organisation affirms that it has received information from "the most credible sources inside the United States" that this person "was held in a secret CIA prison in Lithuania" during the period 2004 to 2006, and requests that this matter be investigated.

**The CPT would like to be informed of the action taken by the Prosecutor General's Office in the light of the above-mentioned letter.**

## APPENDIX I

### **List of the CPT's recommendations, comments and requests for information**

#### **Police establishments**

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

###### recommendations

- law enforcement officials to be reminded, at regular intervals, that all forms of ill-treatment (including verbal abuse and insulting behaviour) are not acceptable and will be punished accordingly (paragraph 11);
- law enforcement officials to be instructed 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 11);
- the system for investigating possible cases of ill-treatment by law enforcement officials and for prosecuting and/or disciplining the alleged perpetrators to be reviewed, in the light of the requirements identified in paragraphs 31 to 41 of the Committee's 14<sup>th</sup> General Report. In particular, measures must be taken to ensure that prosecutors conduct effective investigations whenever they receive credible information that ill-treatment may have occurred (even in the absence of a formal complaint) and that appropriate penalties are imposed when ill-treatment has been proven (paragraph 14);
- any person alleging ill-treatment (or that person's lawyer) to be given the right to request a forensic medical examination without prior authorisation by the police, the prosecution service or a court (paragraph 15).

###### comments

- the Lithuanian authorities are invited to establish a national system for compiling statistics on complaints, prosecutions and disciplinary and criminal penalties imposed on law enforcement officials (paragraph 14).

###### requests for information

- a copy of the forensic medical report concerning the juvenile who alleged that he had been raped in one of the police detention centres visited by the delegation and, once the pre-trial investigation has been completed, a full copy of the investigation file (paragraph 18).

## **Safeguards against ill-treatment**

### recommendations

- measures to be taken to ensure that all persons deprived of their liberty by the police effectively benefit from the right to inform a close relative of their situation and the right of access to a lawyer, from the very outset of their deprivation of liberty (paragraph 19);
- all persons deprived of their liberty to be formally guaranteed the right of access to a doctor, including a doctor of their own choice (it being understood that an examination by a doctor of the detained person's choice may be carried out at his/her expense), as from the very outset of their deprivation of liberty (paragraph 19);
- measures to be taken to ensure that in police detention centres:
  - medical examinations are conducted out of the hearing and – unless the doctor or nurse concerned specifically requests otherwise in a given case – out of the sight of police officers;
  - the confidentiality of medical data is strictly respected (paragraph 20);
- steps to be taken to ensure that all persons who are placed in a police detention centre following their remand in custody are medically screened, within 24 hours of their arrival, by a doctor or a nurse reporting to a doctor (paragraph 20);
- measures to be taken to ensure that a form setting out the rights of persons taken into police custody is systematically given to such persons upon their arrival at a police establishment. The form should be made available in an appropriate range of languages (paragraph 21);
- steps to be taken to ensure that detained juveniles are not required to make any statement or sign any document without the benefit of a lawyer and ideally another trusted adult being present to assist them (paragraph 22);
- the Lithuanian authorities to pursue their efforts to ensure that the return of remand prisoners to police establishments is sought and authorised only very exceptionally, for specific reasons and for the shortest possible period of time (paragraph 24).

## **Conditions of detention**

### recommendations

- the projects to renovate wing 1 at Klaipėda City Police Detention Centre and to build a new police detention centre in Vilnius to be given high priority (paragraph 30);
- steps to be taken to ensure that, in the police detention centres in Klaipėda and Vilnius:
  - the official cell occupancy rate is complied with;
  - all persons detained overnight are provided with a clean mattress and clean blankets;
  - lighting (including, preferably, access to natural light) and ventilation of the cells are adequate;
  - cells are properly heated;
  - the state of repair (including of the electric installations) and hygiene in the cells and the sanitary facilities are of an adequate level;
  - detained persons have access to basic personal hygiene products (paragraph 30);
- all persons who are detained for more than 24 hours in a police detention centre to benefit from at least one hour of outdoor exercise per day (paragraph 30).

### requests for information

- confirmation that cells Nos. 8 to 11 at Vilnius City Police Detention Centre have been taken out of use as accommodation for detained persons and that cell No. 12 at Klaipėda City Police Detention Centre has been refurbished or, failing that, is no longer being used for detention purposes (paragraph 29).

## **Kaunas Juvenile Remand Prison and Correction Home**

### **Preliminary remarks**

#### recommendations

- the standard living space per adult prisoner in all multi-occupancy accommodation in prison facilities in Lithuania to be increased as soon as possible to at least 4 m<sup>2</sup>. The official capacities of the prisons concerned should be reviewed accordingly (paragraph 33).

### **Ill-treatment**

#### recommendations

- the management of the Kaunas establishment to regularly remind staff that all forms of ill-treatment of prisoners are unacceptable and will be punished accordingly (paragraph 34);
- steps to be taken to ensure that investigations into possible ill-treatment by prison staff at the Kaunas establishment are no longer conducted by members of staff from that establishment (and the same approach should be followed in relation to other prisons in Lithuania). Such investigations should preferably be conducted by a body which is entirely independent of the prison system (paragraph 35).



comments

- the management of the Kaunas establishment is encouraged to maintain its vigilance as regards inter-prisoner intimidation and violence (paragraph 37).

requests for information

- in respect of 2009 and 2010, the following information for all prison establishments in Lithuania (including the Kaunas establishment): the number of complaints of ill-treatment lodged against prison staff; the number of resulting disciplinary and/or criminal proceedings; an account of the outcome of those proceedings (paragraph 36).

**Conditions of detention**

recommendations

- measures to be taken to ensure that all persons detained at Kaunas Juvenile Remand Prison (as well as in other prisons in Lithuania) have a sufficient quantity of basic personal hygiene products at their disposal, from the time of their admission (paragraph 39);
- the design of the outdoor exercise yards at Kaunas Juvenile Remand Prison to be reviewed, in the light of the remarks made in paragraph 40. In particular, all yards should be made spacious enough to give young prisoners a real opportunity to exert themselves physically, e.g. to practise sports (paragraph 40);
- efforts to be pursued with a view to ensuring that all prisoners detained at Kaunas Juvenile Remand Prison spend a reasonable part of the day outside their cells, participating in a variety of activities, including group association activities. The longer the period for which remand prisoners are detained, the more developed should be the programme of activities offered to them. These objectives are unlikely to be achieved if the rule prohibiting contact between remand prisoners from different cells is not reviewed or more flexibly applied (paragraph 41);
- the project to install additional classrooms at Kaunas Juvenile Remand Prison to be given high priority and rapidly implemented (paragraph 43).

comments

- the Lithuanian authorities are invited to equip the cells at Kaunas Juvenile Remand Prison with sufficient storage units and to replace those mattresses which are dirty and worn. Steps should also be taken to increase the frequency with which a warm shower can be taken (paragraph 38);
- the practice, if it exists, of depriving all prisoners in the same cell of an activity if one of them refuses to participate in that activity should be terminated immediately (paragraph 42);
- the Lithuanian authorities are invited to renovate the first floor of Kaunas Juvenile Remand Prison (paragraph 44).

requests for information

- detailed information on the schooling programme and plans of the Ministry of Education for juveniles deprived of their liberty, in particular remand prisoners (paragraph 41).

**Health-care services**

recommendations

- tuberculosis screening to be reintroduced immediately at the Kaunas establishment. Until such time as the defective X-ray machine has been replaced, the screening should be performed by other means (paragraph 47);
- medical examinations to always be conducted out of the hearing of non-medical staff (paragraph 48);
- in all prisons in Lithuania, the role of prison doctors in relation to disciplinary matters to be reviewed in the light of the remarks made in paragraph 49 (paragraph 49).

**Other issues**

recommendations

- on the form setting out a disciplinary decision, the information regarding the appeals procedure to be worded in simple and clear terms (specifying the authority to which appeals should be addressed and the time-limit for lodging appeals). Further, care should be taken to ensure that prisoners have fully understood this information (paragraph 52);
- steps to be taken to ensure that, at Kaunas Juvenile Remand Prison, juvenile prisoners upon whom disciplinary segregation is imposed enjoy appropriate human contact throughout the duration of the measure. In addition, any restrictions on family contacts or visits as a form of punishment should be used only where the offence relates to such contacts or visits (paragraph 55);
- all disciplinary cells at the Kaunas establishment to be equipped with a table and a chair (paragraph 56);
- the relevant legislation to be amended in order to establish the principle that remand prisoners are entitled to receive visits and make telephone calls. Any restriction on a given remand prisoner's right to receive visits or make telephone calls should comply with the criteria mentioned in paragraph 60 (i.e. be based on the requirements of the investigation or security considerations, be applied for a limited period, and be the least severe possible). Moreover, the restrictive approach to visits and phone calls taken by the prosecutorial/judicial authorities must be reviewed without waiting for the adoption of new legislation or regulations (paragraph 60).

comments

- the Lithuanian authorities are invited to fill the remaining vacant posts at the Kaunas establishment (paragraph 50);
- the Lithuanian authorities and the management of the Kaunas establishment are encouraged to pursue their efforts to ensure that all staff called upon to work with juveniles deprived of their liberty receive specific training in this field (paragraph 51);
- the Lithuanian authorities are encouraged to reduce further the maximum period for which disciplinary segregation may be imposed on juveniles (paragraph 54);
- the management of the Kaunas establishment is invited to consider the possibility of allowing indigent prisoners one free telephone call per month (paragraph 61);
- the CPT trusts that the Kaunas establishment will be the subject of visits by an independent body such as the Parliamentary Ombudsman or the Children's Ombudsman (paragraph 63).

requests for information

- a copy of the protocol and/or instructions concerning the handling of agitated and/or violent prisoners as well as a copy of the policy on restraint in operation at the Kaunas establishment (paragraph 57);
- whether decisions to restrict freedom of correspondence of remand prisoners can be challenged and, in the affirmative, under what procedure (paragraph 62).

**Alleged existence of secret detention facilities in Lithuania**

comments

- the CPT trusts that the fullest possible information will be made public about both the methodology and the findings of the pre-trial investigation launched by the Prosecutor General's Office regarding the allegations of secret detention facilities in Lithuania. Any restrictions on access to information on grounds of state or service secrecy should be kept to the absolute minimum (paragraph 73).

requests for information

- the findings of the pre-trial investigation launched by the Prosecutor General's Office regarding the allegations of secret detention facilities in Lithuania, as soon as they become available (paragraph 73);
- the action taken by the Prosecutor General's Office in the light of the letter sent to the Prosecutor General of Lithuania by the UK-based non-governmental organisation REPRIEVE on 20 September 2010 (paragraph 74).

## APPENDIX II

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

#### **A. National authorities**

##### Ministry of Justice

Remigijus Šimašius	Minister
Gytis Andrulionis	Vice-Minister
Algimantas Čepas	Adviser to the Minister
Vaida Vincevičiūtė	Adviser to the Minister
Antanas Laurynėnas	Adviser to the Director General of the Prison Department
Aušra Bernotienė	Director, International Law Department, CPT's liaison officer
Simona Mesonienė	Director, Administrative and Criminal Justice Department

##### Ministry of the Interior

Algimantas Vakarinas	Vice-Minister
Olegas Skinderskis	Director, International Co-operation Department
Tomas Žilinskas	Director, Public Safety Policy Department
Renatas Požėla	Head of the Public Order Division, Public Police Board, Police Department
Rolandas Štaupas	Chief Specialist of the Public Order Division, Public Police Board, Police Department
Aleksandras Kislovas	Major, Head of the Investigation Section, Foreigners Registration Centre, State Border Guard Service
Pavel Andrejevas	Lieutenant Colonel, Head of the Operative Management Subdivision, Management and Activity Supervision Division, Public Safety Policy Department
Lina Bartaševičiūtė	Head of the Public Safety Programmes and Projects Management Division, Public Safety Policy Department
Asta Vėjalienė	Deputy Head of the International Relations Division, International Co-operation

##### Prosecutor General's Office

Algimantas Kliunka	Chief Prosecutor, Organized Crime and Corruption Investigation Department
Mindaugas Dūda	Prosecutor, Organized Crime and Corruption Investigation Department
Kęstutis Gudžiūnas	Deputy Chief Prosecutor, Pre-trial Investigation Control Division
Egidijus Šleinius	Prosecutor, District Prosecutor's Office of Vilnius City

Office of the President of the Republic of Lithuania

Jonas Markevičius	Chief Adviser to the President
Kęstutis Budrys	Adviser

Parliament (Seimas)

Arvydas Anušauskas	Chairman of the Committee on National Security and Defence
Vitalij Dmitrijev	Head of Office, Committee on National Security and Defence

**B. Non-governmental organisations**

Henrikas Mickevičius	Executive Director, Human Rights Monitoring Institute
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