

Report

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

from 10 to 20 May 2022

The Government's response is set out in document CPT/Inf (2023) 17.

Strasbourg, 11 July 2023

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EXECUTIVE SUMMARY

The main objective of the visit was to review the treatment and safeguards afforded to persons detained by the police and the Border Guard as well as the treatment and conditions of detention of persons held in prisons. Further, the CPT delegation examined the situation of patients held in two psychiatric hospitals.

The co-operation received by the delegation throughout the visit from the national authorities and staff at the establishments visited was, on the whole, excellent. However, the CPT notes with grave concern that many of its long-standing recommendations remain unimplemented or only partially implemented (in particular as regards inter-prisoner violence and the informal prisoner hierarchy) and recalls that the principle of co-operation also requires that decisive action be taken to improve the situation in light of the Committee's recommendations.

Police custody

The majority of persons interviewed (who were or had recently been in police custody) by the delegation stated that they had been treated correctly by the police. However, the delegation did receive several allegations from detained persons of physical ill-treatment by police officers. Most of these allegations referred to an excessive use of force in the context of apprehension after the persons concerned had been handcuffed or otherwise brought under control, and the ill-treatment alleged consisted primarily of slaps, punches and kicks. Further, at Valmiera Police Station, the delegation also heard a few allegations of beatings inside the police station during the first hours of custody, apparently with the aim of securing confessions. By way of illustration, the report details some cases of alleged ill-treatment.

The CPT recommends that police officers throughout Latvia be instructed, at regular intervals, that all forms of ill-treatment of persons deprived of their liberty are unacceptable and will be punished accordingly. They should also be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them.

As regards the fundamental safeguards against ill-treatment (namely, the rights of detained persons to notify a third person of the fact of their detention and to have access to a lawyer and a doctor), although it appeared that detained persons were generally able to benefit from the right to notification of custody shortly after apprehension, the right to have access to a lawyer usually became effective not from the outset of deprivation of liberty but only from the moment when a person was formally detained (or even later, during the first formal interview by the police). In this context, several detained persons claimed that they had been informally questioned by the police about the suspected offence without the presence of a lawyer, prior to the taking of a formal statement in the lawyer's presence.

The Latvian authorities should ensure that the right of all detained persons to have access to a lawyer (which includes the rights to talk in private with a lawyer before the first questioning and to have them present during any questioning) is effective as from the very outset of deprivation of liberty. Action is also required to ensure that all detained persons are fully informed of their fundamental rights as from the moment when they are obliged to remain with the police.

On the positive side, the Detention Facility of the Public Order Police in Rīga benefited from the permanent presence of healthcare staff. However, it appeared that detained persons were not always physically examined upon arrival. The delegation also noted that initial medical examinations were rather superficial and were usually conducted in the presence of police officers.

With only a few exceptions, material conditions of detention in the police establishments visited were generally good. It is also positive that, in line with a previous CPT recommendation, detained persons were offered one hour of outdoor exercise every day.

Immigration detention

In August 2021, Latvia started to experience a large influx of foreign nationals irregularly entering its territory through its border with Belarus. In response, the Latvian Government declared a state of emergency in the four administrative territories on the border, in particular authorising the border guards (assisted by the police and the army) to use force, if necessary, in order to prevent foreign nationals from crossing the border in an irregular manner. The state of emergency remained in force at the time of the CPT visit.

The delegation visited Latvia's two dedicated detention facilities for foreign nationals, namely Daugavpils and Mucenieki Immigration Detention Centres. Most of the foreign nationals interviewed at these centres stated that they were treated correctly and, except for some accounts of verbal abuse at Daugavpils, the delegation did not receive any allegations of ill-treatment by the staff of the two establishments.

However, the delegation received a number of allegations of severe ill-treatment from detained foreign nationals relating to the period between August 2021 and March 2022, in the context of the above-mentioned influx of migrants. The alleged ill-treatment concerned members of Latvian special police forces patrolling the border area and was said to have been inflicted with the aim of forcing the persons concerned to return to Belarus. The allegations mainly consisted of punches, kicks, truncheon blows, and electric shocks inflicted on various parts of the body (including the genitals) at the time of or immediately following apprehension, after the foreign national concerned had been brought under control. The Latvian authorities should ensure that all law enforcement agencies concerned receive a clear and firm message on a regular basis that any use of excessive force is illegal and will be punished accordingly. They should also be provided with further practical training relating to the proportionate use of force, including control and restraint techniques, in the context of apprehending foreign nationals at the border.

At both Daugavpils and Mucenieki Immigration Detention Centres, material conditions of detention in the living units were generally of a good standard. It is also noteworthy that, in both establishments, foreign nationals benefited from an open-door regime, being able to move about freely within their living unit and to associate in common rooms throughout the day. That said, the Latvian authorities should ensure that detained foreign nationals are also offered some purposeful activities (for example, language classes, computer courses, etc.) as well as longer outdoor exercise time. The Committee further stresses that every effort should be made to avoid resorting to the detention of migrant children; as regards more specifically unaccompanied minors, given their particular vulnerability, they should not, as a rule, be held in an immigration detention facility.

The delegation gained a generally favourable impression of the provision of healthcare to foreign nationals at Mucenieki Immigration Detention Centre. It appeared that access to healthcare staff was not problematic and that the medical supervision of detainees was satisfactory. However, the CPT expresses serious misgivings about the manner in which the provision of healthcare services was organised at Daugavpils Immigration Detention Centre and recommends that urgent measures be taken to address the deficiencies found there.

In both detention centres, newly arrived foreign nationals underwent medical screening by a doctors' assistant shortly after admission, which also included a questionnaire-based interview. However, in neither of the establishments visited was screening/testing carried out for detecting transmissible diseases other than tuberculosis. The report is also critical of the fact that, in both centres, access to psychiatric care was limited to emergencies and psychological assistance was unavailable.

Furthermore, the CPT recalls that – in the same way as other categories of detained persons – detained irregular migrants should benefit, as from the very outset of their deprivation of liberty, from the three fundamental safeguards against ill-treatment. As regards more specifically the right of access to a lawyer, the visit revealed that this safeguard was not operating properly in practice. In particular, the delegation noted that the vast majority of foreign nationals held at Daugavpils Immigration Detention Centre were deprived of effective access to legal representation. Action is

therefore required to ensure that detained foreign nationals can effectively benefit from the services of a lawyer as from the outset of their deprivation of liberty and in all phases of the legal proceedings (including through the provision of free legal aid for foreign nationals who are not able to pay for a lawyer).

The CPT also points out that it is essential for foreign nationals to have effective access to an asylum procedure (or other residence procedure) which involves an individual assessment of the risk of ill-treatment in case of expulsion of the person concerned to the country of origin or a third country, on the basis of an objective and independent analysis of the human rights situation in the countries concerned.

Prisons

The CPT welcomes the continued efforts made by the Latvian authorities over recent years to combat prison overcrowding; as a result of these efforts, the incarceration rate has substantially decreased, although it remains high in comparison with that of most other Council of Europe member states, especially those in the European Union.

In the course of the visit, the delegation examined the situation of persons held at Daugavgrīva, Jelgava and Rīga Central Prisons. The majority of prisoners interviewed indicated that staff treated them correctly. However, the delegation did receive a few allegations of recent physical ill-treatment by staff at Daugavgrīva and Rīga Central Prisons. The report highlights the duty of the Latvian authorities to provide safe custody for all persons deprived of their liberty in prison. The authorities must not only undertake effective investigations into allegations or any information indicative of ill-treatment, but also institute measures to ensure that all prison officers and managers understand why ill-treatment is unacceptable and unprofessional and that, furthermore, it will result in severe disciplinary sanctions and/or criminal prosecution.

The CPT is also seriously concerned to note that no significant progress has been made in reducing the scale of inter-prisoner violence, which has been repeatedly criticised by the Committee during its previous visits. During the 2022 visit, the delegation once again received many credible allegations of inter-prisoner violence, including beatings, as well as psychological pressure. The information gathered during interviews with staff and inmates and an examination of registers of bodily injuries suggested that inter-prisoner violence remained a serious problem at Jelgava and Daugavgrīva Prisons. As in the past, this state of affairs appeared to be the result of a combination of factors, mainly the existence of informal prisoner hierarchies, insufficient staff presence in prisoner accommodation areas and the lack of purposeful activities for most inmates, especially sentenced prisoners under the low-level regime and those on remand, who generally spent 23 hours a day in their cells.

The informal prisoner hierarchy (or caste system) still seemed to be a key foundation of prisoners' life in the three prisons visited, with its traditions dictating internal order and being given priority over official rules. Clearly, those worst affected by this state of affairs were the "lowest caste" prisoners – the so-called "untouchables" – from whom most of the accounts received of inter-prisoner violence originated. The Latvian authorities should take resolute action, without further delay, to address these systemic and persistent problems throughout the prison system.

Material conditions of detention were on the whole good in the renovated blocks of Rīga Central Prison. However, a number of cells in certain parts of this prison offered less than 4 m² of living space per inmate. The widespread infestation of bedbugs at Rīga Central Prison was also problematic. Further, generally speaking, the Grīva Section of Daugavgrīva Prison failed to provide decent accommodation for prisoners, due to its outdated design and the level of dilapidation of the facilities.

The Latvian authorities should increase their efforts to move away from large-capacity dormitories towards smaller living units and such a move must be accompanied by measures to ensure that prisoners spend a reasonable part of the day engaged in purposeful activities of a varied nature outside their living unit. In the three prisons visited, organised activities were mostly offered to sentenced prisoners on high-level regime. For most sentenced prisoners on low-level regime and remand prisoners, the regime consisted of cellular confinement with hardly any out-of-cell activities available.

The visit also revealed that the provision of healthcare in the prisons visited remained insufficient and the problem of lack of medical personnel was persistent.

Turning to prisoners' contact with the outside world, the visit entitlement for both remand and sentenced prisoners remained low, notwithstanding a recent increase. The report also highlights the problematic situation regarding solitary confinement as a disciplinary punishment. The Committee stresses that there should be a prohibition on sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period. Finally, solitary confinement should never be imposed on juveniles as a disciplinary punishment.

Psychiatric hospitals

The vast majority of patients interviewed by the delegation at Daugavpils and Akniste Neuropsychiatric Hospitals made no allegations of ill-treatment by staff. Indeed, the atmosphere at both hospitals appeared to be relaxed and many patients spoke positively about staff. That said, a few isolated accounts were received from patients at Akniste that they had been slapped on the back of their heads and had been forced into cold showers by orderlies (*sanitārs*) for having soiled their clothes. The management of the hospital should regularly instruct staff that patients are to be treated with respect and dignity.

At both Daugavpils and Akniste Neuropsychiatric Hospitals, patients' living conditions were generally good. The entire premises of both establishments, including the patient accommodation areas, were in a good state of repair, clean, well lit (including access to natural light) and ventilated. As regards Daugavpils Hospital in particular, this represents a marked improvement when compared to the situation observed by the CPT in 2007. Nevertheless, steps should be taken at both hospitals to ensure that all patients' rooms and common areas are decorated with a view to providing a more suitable therapeutic environment; patients themselves should be encouraged and supported to personalise their rooms.

At both Daugavpils and Akniste Hospitals, patients' rooms were not locked, and all patients were in principle free to move within their wards (including in the common area which was equipped with a television set, sofas and benches) and associate with each other. Further, both hospitals had spacious and pleasant outdoor walking areas for patients; however, it appeared that for the majority of patients accommodated on closed wards access to the open air was limited to a maximum of one hour per day. The daily outdoor exercise period for patients should be significantly extended and should be combined – weather permitting – with a range of organised activities. The aim should be to ensure that all patients benefit from unrestricted access to outdoor exercise during the day unless treatment activities require them to be present on the ward.

As regards staff, the Latvian authorities should significantly increase the number of psychiatrists at Akniste Neuropsychiatric Hospital; at the time of the visit, the establishment had only one full-time and one part-time psychiatrist for 325 patients (with four psychiatrists' posts being vacant).

The CPT acknowledges the efforts made by the management of the two hospitals visited to provide psycho-social therapies and occupational activities to patients. However, more efforts should be made to increase the number of patients taking part in these activities, in particular at Akniste where the proportion of such patients was very low. In this regard, the Committee notes with concern that Akniste Hospital did not have enough specialised staff for this purpose.

There were generally no problems in the hospitals visited with the supply of psychotropic medication. However, both establishments still largely relied on first-generation antipsychotics, despite the fact that second-generation antipsychotics were available. Further, the CPT expresses misgivings about the practice of polypharmacy observed at both Daugavpils and Akniste Hospitals, which is known to have several negative side effects.

Finally, the CPT formulates a number of specific recommendations and comments regarding the legal safeguards surrounding the involuntary placement of patients in a psychiatric hospital and regarding the fact that many patients were *de facto* deprived of their liberty, without benefiting from the appropriate safeguards.

I. INTRODUCTION

A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Latvia from 10 to 20 May 2022. The visit formed part of the CPT’s programme of periodic visits for 2022 and was the Committee’s sixth periodic visit to the country.¹

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

- Jari Pirjola (Head of the delegation)
- Alan Mitchell, President of the CPT (10-14 May 2022)
- Dagmar Breznoščáková
- Nikola Kovačević
- Ceyhun Qaracayev
- Aleksandar Tomcuk
- Elsa Bára Traustadóttir.

They were supported by Elvin Aliyev and Natacha De Roeck of the CPT Secretariat, and were assisted by an expert, Kate Wood, medical doctor (United Kingdom).

3. A list of the establishments visited by the delegation is set out in Appendix I.

4. The report on the visit was adopted by the CPT at its 109th meeting, held from 24 to 28 October 2022, and transmitted to the Latvian authorities on 13 December 2022.

The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The Committee requests the Latvian authorities to provide within six months a response containing a full account of action taken by them to implement the Committee’s recommendations and replies to the comments and requests for information formulated in this report.

B. Consultations held by the delegation and co-operation encountered

5. In the course of the visit, the delegation held consultations with Jānis Bordāns, Minister of Justice, Daniels Pavļuts, Minister of Health, Gatis Eglītis, Minister of Welfare, and Dmitrijs Kaļins, Head of the Prison Administration, as well as with senior officials from the Ministries of Justice, the Interior, Health, and Welfare.

In addition, meetings were held with Juris Jansons, Ombudsman of Latvia, his colleagues from the National Preventive Mechanism (NPM), and representatives of non-governmental organisations active in areas of concern to the CPT.

A list of the national authorities and organisations with which the delegation held consultations is set out in Appendix II.

¹ See the previous CPT reports and responses by the Latvian authorities on the CPT’s website (<https://www.coe.int/en/web/cpt/latvia>).

6. The co-operation received by the delegation throughout the visit from the national authorities and staff at the establishments visited was, on the whole, excellent.² The delegation enjoyed rapid access to the establishments visited, was provided with the information – including medical and personal records – necessary for carrying out its tasks and was able to speak in private with persons deprived of their liberty.

The CPT would like to express its appreciation for the assistance provided before and during the visit by its liaison officer, Elīna Goškina, from the Ministry of Foreign Affairs.

7. However, as repeatedly stated by the CPT, the principle of co-operation set out in the Convention is not limited to steps taken to facilitate the task of visiting delegations. It also requires that recommendations made by the Committee are effectively implemented in practice.

In this context, the CPT must note with grave concern that many of its long-standing recommendations, some of them dating back to the first visit to Latvia in 1999, remain unimplemented (or only partially implemented). This concerns, in particular, recommendations on widespread inter-prisoner violence (the extent of which is largely underestimated due to the lack of follow-up/investigations or due to pressure on prisoners not to file a complaint) and the informal prisoner hierarchy (for a more detailed description of the situation, see paragraphs 71 to 81).

The CPT must recall that the principle of co-operation between Parties to the Convention and the Committee also requires that decisive action be taken to improve the situation in light of the CPT's recommendations. Such a state of affairs, if it persists, could well raise an issue under Article 10, paragraph 2, of the Convention.³

8. Since the CPT's very first visit to Latvia, the Latvian authorities have considered it important to follow the standard practice of requesting the publication of the Committee's visit reports together with the corresponding government responses. The CPT welcomes this approach.

Having said that, in recent years, both the Committee of Ministers and the Parliamentary Assembly of the Council of Europe have been encouraging the Organisation's members states which have not done so to request the automatic publication of future CPT visit reports and related government responses.⁴

The Latvian authorities are invited to consider authorising in advance the publication of all future CPT visit reports concerning Latvia and related Government responses (subject to the possibility of delaying publication in a given case).

C. Monitoring of places of deprivation of liberty

9. Since the very outset of its activities, the CPT has been recommending the establishment of independent monitoring mechanisms at national level for all types of places of deprivation of liberty. Provided they possess the necessary knowledge and are adequately resourced and truly independent, such mechanisms can make a significant contribution to the prevention of ill-treatment of persons deprived of their liberty.

In this regard, the Committee welcomes the fact that, in January 2022, Latvia became the 91st State party to the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. With the ratification of the Optional Protocol, the Ombudsman

² See paragraph 72 on the lack of transparency regarding one specific case at Jelgava Prison.

³ Article 10, paragraph 2, reads: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter".

⁴ See, in particular, Parliamentary Assembly Resolution 2160 (2017) adopted on 26 April 2017, and Committee of Ministers' reply to Recommendation 2100 (2017), adopted at the 1301st meeting of the Ministers' Deputies of 29 November 2017. See also www.coe.int/en/web/cpt/faqs#automatic-procedure

institution has been designated as the National Preventive Mechanism (NPM) for the prevention of torture in Latvia.

This function is not new for the Ombudsman; since its inception, staff of the Ombudsman's Office have been conducting visits to places of deprivation of liberty. In March 2018, the Ombudsman's Office established its Prevention Division, whose primary task is to conduct regular visits to institutions where persons are or may be deprived of their liberty, with the aim of preventing ill-treatment.

The CPT notes that the assignment of additional tasks as NPM to the Ombudsman's Office has not given rise to any organisational changes within the Office. Instead, the staff members concerned continue to be engaged in both the traditional Ombudsman-related tasks and NPM work. The CPT is not convinced that this is the best way to ensure an optimal functioning of the NPM in accordance with the letter and the spirit of the OPCAT.

In this regard, reference might be made to paragraph 32 of the Guidelines on national preventive mechanisms adopted by the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) in November 2010, according to which: "Where the body designated as the NPM performs other functions in addition to those under the Optional Protocol, its NPM functions should be located within a separate unit or department, with its own staff and budget".

10. The CPT trusts that the setting-up of the NPM will ensure that regular, frequent and comprehensive monitoring visits of a preventive nature are carried out to all places of deprivation of liberty in Latvia. **The Committee encourages the Latvian authorities to ensure that the NPM is provided with sufficient resources to effectively carry out its mandate.**

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement establishments

1. Police custody

a. preliminary remarks

11. One of the main objectives of the visit was to examine the treatment and conditions of detention of persons deprived of their liberty by the police. For this purpose, the delegation visited the Detention Facility of the Public Order Police Department of the Rīga Regional Department of the State Police (hereinafter: “Rīga Police Detention Facility”) and various other police establishments in different parts of the country, and interviewed numerous persons who were, or had recently been, in police custody (including those who were remanded in prison at the time of the visit).

12. The legal framework governing the deprivation of liberty by the police remained by and large unchanged since the CPT’s last periodic visit in 2016. It is recalled that criminal suspects may be held in police custody (before being seen by a judge) for a maximum of 48 hours. Further, persons may be deprived of their liberty by the police under the Police Act and the Administrative Violations Code on various other legal grounds, such as to verify their identity or when the interests of public safety, order, health or morals so require (for a maximum period of three hours), or when they may present a danger to themselves or others due to alcohol or drug intoxication (for a maximum period of 12 hours).

The above-mentioned time-limits appeared to be respected in practice.

Further, the CPT welcomes the fact that the administrative detention (up to 15 days) of persons who have committed an administrative offence has been abolished.

13. Regrettably, it remained the case that persons remanded in custody by courts were frequently held in police detention facilities well beyond the statutory limit of 48 hours, pending their transfer to a remand facility. Further, as had been the case during previous CPT visits, persons placed in a remand prison were frequently returned to a police establishment for investigation purposes. Examination of the custody registers at police stations visited revealed that stays of two to three weeks by persons on remand were not uncommon (up to 24 days in one case at Jelgava Police Station).

The CPT must stress once again that, as a matter of principle, prisoners should not be held in police detention facilities; such facilities are not designed for lengthy stays. Moreover, prolonged detention on police premises increases the risk of intimidation and ill-treatment. In this regard, the Committee acknowledged in its last report the steps taken by the Latvian authorities to introduce a maximum time-limit of seven days for such stays. However, the aim should be to abolish the above-mentioned practice as soon as possible.

The CPT calls upon the Latvian authorities to take the necessary measures to ensure that persons remanded in custody are always promptly transferred to a prison. Further, Latvian authorities should take steps – including at the legislative level – to ensure that the return of remand (and sentenced) prisoners to police detention facilities is sought and authorised only very exceptionally, for specific reasons and for the shortest possible time. Such a return should in each case be subject to the express authorisation of a prosecutor or judge. As a rule, the prisoners concerned should not be held overnight in police establishments.⁵

⁵ See also paragraphs 69 and 70 of the 26th General Report on the CPT’s activities (CPT/Inf (2017) 5).

b. ill-treatment

14. The majority of persons interviewed (who were, or had recently been, in police custody) by the delegation stated that they had been treated correctly by the police.

However, the delegation received several allegations from detained persons of physical ill-treatment by police officers. Most of these allegations referred to an excessive use of force in the context of apprehension after the persons concerned had been handcuffed or otherwise brought under control, and the ill-treatment alleged consisted primarily of slaps, punches and kicks.

By way of example, the following case may be mentioned: a person interviewed at Daugavpils Police Station alleged that, during his arrest about 48 hours earlier, he had been thrown to the ground, held down and beaten with fists in the street by several plain-clothed police officers, one of whom allegedly jumped on his back and leg. He stated that one of the officers had thrown a stone at his head causing abrasions and that handcuffs had been applied to him for more than nine hours. He was taken to hospital from the police station for assessment including an X-ray of his foot, and then returned to Daugavpils Police Station. On examination during the interview, the delegation's doctors found the following: swelling on his left foot, a bruise 2 x 3 cm on the back of his lower right thigh, swelling above back of knee; abrasions above right eyebrow and right cheekbone; abrasions on his right hand and across the knuckles of his left hand. Further, the medical records relating to this detainee stated: "*The detainee is complaining of pain in his right leg. Visible abrasions on his face*". His detention protocol which was drawn up by officers from the Department of Organised Crime documented the same injuries as the registration form. Police officers in the facility explained that if a detained person alleged ill-treatment by the police, they did not document what the detainee said, but just described what they called "objective data" about visible injuries.

Another allegation was related to the disproportionate and potentially life-threatening restraint of the person face down on the ground. The detainee in question was interviewed by the delegation at Rīga Central Prison and alleged that during his arrest in a public space on 4 May 2022, he had been pushed to the ground, handcuffed and beaten. He stated that he had told the police he was feeling short of breath and alleged that they had ignored him and just pushed his face down further into the ground. He said that he had been seen by a feldsher at the police station, who examined him and offered him analgesia. His medical record included a copy of the police trauma report from Rīga Central Police Station which read as follows: "*Bruise on the face (below the right eye), swelling of his cheek, an abrasion on his forehead, marks on both wrists (from the application of handcuffs), bruises on both hands and swollen fingers*". A 'body chart' had also been completed. Further, the detained person's medical record included a copy of the ambulance report (called into Rīga Central Police Station) which read as follows: "*Bruise below the left eye and a bruise on the left hand*", with a note that the detainee could remain at the police station.

At Valmiera Police Station, the delegation also received a few allegations of beatings inside the police station during the first hours of custody, apparently with the aim of securing confessions.

The CPT reiterates its recommendation that police officers throughout Latvia be instructed, at regular intervals, that all forms of ill-treatment of persons deprived of their liberty are unacceptable and will be punished accordingly. Police officers should also be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them.

The Latvian authorities should also ensure that an effective investigation is carried out into every allegation of ill-treatment and that senior officers are held accountable for their line-management responsibilities.

The CPT also considers that the systematic use during any incidents of body-worn cameras represents an additional safeguard against abuse by law enforcement officials as well as a protection against unfounded allegations of ill-treatment.

15. An unlabelled non-standard issue item (a wooden club) was found in one of the offices at Daugavpils Police Station. The duty officers could not explain what the purpose of such a club was. The CPT has repeatedly stressed that, apart from inviting speculation about improper conduct on the part of police officers, objects of this kind are a potential source of danger to staff and criminal suspects alike. Consequently, **any non-standard issue objects that might be used for inflicting ill-treatment should be removed from all police premises where persons may be held or questioned. Any items seized as evidence should always be properly labelled, recorded and stored in a dedicated room.**

16. As described in the report of the 2016 visit⁶, the Internal Security Bureau (ISB) has the mandate to carry out criminal investigations of acts allegedly involving State police officers and other law enforcement officials (except Security Police) as well as prison officers (for violence-related offences). As far as police officers are concerned, the mandate of the ISB covers all types of criminal offence (i.e. not only those committed by officers whilst on duty). The ISB is affiliated to the Ministry of the Interior, independent from the State Police and under the direct supervision of the Minister of the Interior. The Head of the ISB is nominated by the Minister of the Interior and appointed by the Government as a whole. The ISB normally carries out preliminary criminal inquiries on its own (*ex officio* or following a complaint), and the competent prosecutor is notified once a formal criminal investigation has been opened by the ISB. The prosecutor is responsible for the supervision of all investigative actions subsequently taken by ISB investigators. Upon completion of the investigation, the criminal file is transmitted to the prosecutor, who then takes a decision on a possible indictment.

At the time of the visit, ISB staff included 25 operational officers and 20 investigators. As a rule, investigative and operational actions were carried out only by ISB officers. However, it was not excluded that, in urgent matters, operational actions were delegated to local police officers (including the questioning of suspected law enforcement officials).

From 1 January 2019 to December 2021, the ISB initiated 27 criminal investigations for violations committed by police officers while on duty⁷ and 54 criminal proceedings which were related to violent offences. In the same period, ten police officers were convicted for crimes related to the use of force/violence while on duty.

17. It is noteworthy that the ISB is also mandated to conduct visits of a preventive nature to law enforcement establishments, as well as awareness-raising activities for law enforcement officers. In the period between 2019 and 2021, the ISB did not carry out any preventive on-site visits to places of deprivation of liberty. However, various awareness-raising activities were organised, such as: a conference on "The importance of recording bodily injuries and related issues"; training sessions for prison officers and police staff on criminal offences involving violence at work; a public survey among citizens who have been subjected to illegal actions by law enforcement officers; an effectiveness assessment of the internal control systems of institutions subordinate to the Ministry of the Interior; and activities related to the asylum procedure. The CPT welcomes these initiatives.

18. As stressed by the CPT in the past, the electronic (audio-visual) recording of police interviews represents an important additional safeguard against the ill-treatment of detained persons. Such a facility can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of any allegations of ill-treatment. This is in the interest both of persons who have been ill-treated by the police and of police officers confronted with unfounded allegations that they have engaged in physical ill-treatment or psychological pressure.

The CPT welcomes the fact that a legislative provision was introduced to this end in respect of minors;⁸ **it invites the Latvian authorities to introduce audio (in addition to visual) recording of police questioning of all persons detained by the police.**

⁶ See CPT/Inf (2017) 16, paragraphs 18 and 19.

⁷ Out of a total of 911 complaints received (2019 – 361; 2020 – 214; 2021 – 270; 2022 – 66).

⁸ Pursuant to amendments to the Criminal Procedure Code of 23 November 2016 (Section 152), which became effective in January 2019.

c. safeguards against ill-treatment

19. The fundamental safeguards against ill-treatment (namely, the rights of detained persons to notify a close relative or another person of their detention and to have access to a lawyer and a doctor) are stipulated in Section 60.2 of the Criminal Procedure Code, enumerating the basic rights of detained persons.

20. On a positive note, it appeared that detained persons were generally able to benefit from the right to notification of custody shortly after apprehension, although there seemed to be occasional delays.

21. By contrast, it remained the case that the right to have access to a lawyer usually became effective not from the outset of deprivation of liberty but only from the moment when a person was formally detained or even later – during the first formal interview by the investigating officer. In this context, several detained persons claimed that they had been informally questioned by the police about the suspected offence without the presence of a lawyer, prior to the taking of a formal statement (in the lawyer's presence). The situation was even worse for those detained persons who could not afford to pay for a lawyer. Some detainees reported that *ex officio* lawyers had been appointed only after they were taken before a judge and that such lawyers had had a passive attitude.

The CPT once again calls upon the Latvian authorities to take the necessary steps to ensure that the right of all detained persons to have access to a lawyer (which includes the rights to talk in private with a lawyer before the first questioning and to have him/her present during any questioning) is effective as from the very outset of deprivation of liberty.⁹

In this context, the CPT considers that **any practice of subjecting detained persons to informal questioning about the suspected offence without the presence of a lawyer should be ended.** In the Committee's experience, it is precisely during the first hours of police custody that the risk of intimidation and ill-treatment is at its greatest.¹⁰

22. It is positive that the Rīga Police Detention Facility benefited from the permanent presence of healthcare staff. Although the delegation was told by the establishment's management that all detained persons were subjected to medical screening upon admission and that any bodily injuries were recorded in a register, it transpired from the information gathered during the visit that detained persons were not always physically examined upon arrival. The delegation also noted that initial medical examinations were rather superficial.

⁹ See paragraphs 18 to 25 of the 21st General Report on the CPT's activities (CPT/Inf (2011) 28). See also Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, as well as Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings.

¹⁰ The CPT fully recognises that it may exceptionally be necessary to delay for a certain period a detained person's access to a lawyer of his/her choice. However, this should not result in the right of access to a lawyer being totally denied during the period in question. In such cases, access to another independent lawyer who can be trusted not to jeopardise the legitimate interests of the investigation should be organised.

The CPT recommends that the Latvian authorities take steps to ensure that:

- the record drawn up following the medical examination of a detained person in a police detention facility contains: (i) a full account of objective medical findings based on a thorough examination; (ii) an account of statements made by the person concerned which are relevant to the medical examination (including their description of their state of health and any allegations of ill-treatment), (iii) the healthcare professional's observations in light of i) and ii), indicating the consistency between any statements made and the objective medical findings. The results of every examination, including the abovementioned statements and the healthcare professional's conclusions, should be made available to the detained person and their lawyer;
- any traumatic injuries observed in the course of the medical examination are recorded in a dedicated register. In addition to this, all injuries should be photographed in detail and the photographs kept, together with 'body charts' for marking traumatic injuries, in the detained person's individual medical file;
- whenever injuries are recorded which are consistent with allegations of ill-treatment made by a detained person (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the competent investigative authority, regardless of the wishes of the person concerned. The healthcare staff should advise detained persons of the existence of the reporting obligation and that the forwarding of the report to the competent investigative authority is not a substitute for the lodging of a complaint in a proper form;
- special training is provided to healthcare professionals working in police detention facilities; in addition to developing the necessary competence in the documentation and interpretation of injuries as well as ensuring full knowledge of reporting obligations and procedures, such training should cover the technique of interviewing persons who may have been ill-treated.

23. Another area of concern was the lack of medical confidentiality during medical examinations in police stations. At the Rīga Police Detention Facility, the feldsher explained to the delegation's doctors that there were usually two to three police officers present during the medical examination of a detainee upon arrival. **The CPT reiterates its recommendation that steps be taken to ensure that all healthcare examinations are conducted out of the hearing and – unless the healthcare professional concerned expressly requests otherwise in a given case – out of the sight of police staff.**

24. As regards information on rights, the majority of detained persons interviewed during the visit stated that they had not been informed of their rights shortly after their arrival at a police station. The delegation noted that, although the list of the detainees' rights and obligations (in Latvian, English, Russian, and some other languages) were posted at the entrance of most of the police establishments visited, detained persons were not provided with a leaflet containing their rights. Moreover, such posters were drafted in a rather legalistic manner (i.e. consisting of excerpts from the Criminal Procedure Code) and were thus not user-friendly.

The CPT reiterates its recommendation that the Latvian authorities take measures to ensure that all persons detained by the police are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information upon apprehension, to be supplemented at the earliest opportunity (that is, immediately upon first entry into police premises) by provision of a written form setting out the detained person's rights in a straightforward manner. This form should be made available in an appropriate range of languages. Moreover, particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case.¹¹

¹¹ See also Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right

d. conditions of detention

25. Material conditions of detention in the police establishments visited were generally good. However, except for Ogre Police Station, none of them had functioning call bells. **The CPT recommends that steps be taken in all police detention facilities to ensure that each detention cell is equipped with a call bell.**

26. The delegation observed poorer material conditions at Jekabpils Police Station, where cells were dirty and had insufficient ventilation. **The Committee recommends that steps be taken to remedy these deficiencies.**

27. An amendment was made to Section 7 (7) of the Law on the Procedure for Holding Detained Persons in May 2016, stipulating that, if held for longer than 24 hours, detained persons should be offered at least one hour of outdoor exercise (instead of 30 minutes previously), in line with a previous CPT recommendation. This provision seemed to be respected in practice in the police establishments visited during the 2022 visit. The Committee welcomes this development.

2. Immigration detention

a. preliminary remarks

28. One of the objectives of the 2022 visit was to examine the situation of foreign nationals detained under aliens legislation. For this purpose, the delegation visited the country's two dedicated detention facilities for foreign nationals, namely Daugavpils Immigration Detention Centre and Mucenieki Immigration Detention Centre.¹² Both centres are managed by the State Border Guard (SBG), which is under the authority of the Ministry of the Interior.¹³

Daugavpils Immigration Detention Centre was visited by the CPT in 2011.¹⁴ Located in a two-storey building, the centre consists of three separated living units: for adult male asylum seekers, for adult male irregular migrants, and for women, families and unaccompanied minors. With a total capacity of 84 beds, the establishment was accommodating 30 foreign nationals (all adults) at the time of the visit, including 24 asylum seekers and six irregular migrants. While the latter had been held at the centre for only a few days, the asylum seekers had been detained for periods ranging from one to seven months (many of them initially as irregular migrants; see paragraph 47).

Mucenieki Immigration Detention Centre, opened in 2017, is located some 20 km from Rīga, next door to an open reception centre for asylum seekers. The centre comprised two separate living units, one for male adults and another for women, families and unaccompanied minors, with a total capacity of 84 beds. On the first day of the delegation's visit, the establishment was accommodating fifteen foreign nationals (including two unaccompanied minors),¹⁵ all of whom were asylum seekers.¹⁶ Most of them had arrived at the centre two to three months earlier.

to information in criminal proceedings.

¹² The official name for these centres is 'Accommodation Centre for Detained Foreigners'.

¹³ According to Section 59 (1) of the Immigration Law, the SBG can also detain foreign nationals in 'temporary holding rooms' (located in the regional branches of the SBG, the SBG Headquarters, Rīga International Airport, and other border crossing points). Detained foreigners may also be held in police premises if there is a likelihood of escape or if the foreigner poses a threat to national security or public order and safety (Section 59 (1)).

¹⁴ See CPT/Inf (2013) 20, paragraphs 33 to 42.

¹⁵ On the second day of the visit, one family (consisting of two adults and two children) and the two unaccompanied minors were transferred to the neighbouring reception centre for asylum seekers. Both unaccompanied minors had a legal representative appointed by the Orphan's Court (child custody court).

¹⁶ The delegation was informed that, as of August 2021, the centre only accommodated detained asylum

29. The general legal framework governing the deprivation of liberty of foreign nationals under aliens legislation is set out in the 2003 Immigration Law and the 2015 Asylum Law.

Pursuant to Section 54 (1) of the *Immigration Law*, a foreign national who is subject to removal, or to return based on a readmission agreement, may be detained by the SBG, on their own authority, for up to ten days, if there are grounds to believe that the person concerned will avoid or impede the removal proceedings or if a risk of absconding exists.¹⁷ Under Section 56 (1), foreign nationals should be informed at the moment of detention about their rights to appeal against the detention order, to contact the consular authorities of their country and to receive legal assistance. Detention beyond ten days must be authorised by a court, which may extend the detention period to up to two months (Section 54 (2)). If removal is not possible within this period, the foreign national's detention may be repeatedly extended up to a maximum period of six months and, under certain circumstances,¹⁸ up to 18 months.

According to Sections 17 and 18 of the *Asylum Law*, an asylum seeker may be detained by the SBG, on their own authority, for up to six days; detention beyond this period requires a court decision.¹⁹ The detention of an asylum seeker, as authorised by the court, may be prolonged to up to two months, while the total period of detention may not exceed the total length of the asylum procedure (Section 19 (1)).

The detaining SBG official draws up a detention order containing, *inter alia*, the reasons for detention as well as information about appeal procedures and the possibility to request free legal aid, one copy of which is given to the detained asylum seeker. The law also requires that this information be conveyed to the person concerned orally, in a language he/she understands or can reasonably be expected to understand (Section 17).

30. Section 9 (6) of the Asylum Law allows for the accommodation of unaccompanied minors in immigration detention centres. Further, Section 59⁵ (1) of the Immigration Law provides that unaccompanied minors aged over 14 shall be "accommodated in the relevant structural unit of the State Police". As indicated above, Mucenieki Immigration Detention Centre was holding two unaccompanied minors at the time of the delegation's visit; both had stayed at the centre for approximately three months.

In this regard, the CPT wishes to stress that every effort should be made to avoid resorting to the deprivation of liberty of migrant children. As regards more specifically unaccompanied minors, given their particular vulnerability, they should not, as a rule, be held in an immigration detention facility. **The Committee recommends that the Latvian authorities take the necessary measures to ensure that unaccompanied minors are accommodated in an open (or semi-open) specialised establishment for juveniles (for example, a social welfare/educational institution) where they can be provided with appropriate care and activities suitable for their age; the relevant legal provisions should be amended accordingly.**

seekers.

¹⁷ Further, under Section 60 of the Immigration Law, when a border official refuses entry to a foreign national and it is not possible to return him/her immediately to the country from which he/she has arrived, the person concerned can be detained for up to 48 hours.

¹⁸ If the foreign national refuses to co-operate or delays the receipt of the necessary documents from third countries.

¹⁹ Under Section 16, an asylum seeker may be detained if: (1) it is necessary to ascertain or verify the person's identity or nationality; (2) it is necessary to ascertain the facts on which the asylum application is based; (3) it is necessary to decide on the person's right to enter Latvia; (4) there are grounds for assuming that the person submitted an application to hinder his/her removal; (5) the competent authorities (including the SBG) have reason to believe that the asylum seeker presents a threat to national security or public order and safety; (6) detention is necessary for transfer proceedings in accordance with the EU Dublin Regulation.

31. In August 2021, Latvia started to experience a large influx of foreign nationals irregularly entering its territory through its border with Belarus.²⁰ In response, the Latvian Government issued a decree on 10 August 2021 on the declaration of a state of emergency in the municipalities of Ludza, Krāslava, Augšdaugava and Daugavpils.²¹ In particular, the decree authorised the border guards to instruct foreign nationals entering the country irregularly to return and, if necessary, to use physical force to expel them. It also enabled the National Armed Forces and the State Police to assist the SBG and to use force in order to prevent foreign nationals from crossing the border in an irregular manner.²² Further, the decree specified that, as a matter of principle, any asylum requests from such persons should not be accepted by border guards or other competent authorities based in the four administrative territories on the border with Belarus. For further details regarding the legal situation of foreign nationals who entered Latvia after the introduction of the state of emergency, see paragraphs 46 to 48.

b. ill-treatment

32. Most of the foreign nationals interviewed by the delegation at Daugavpils and Mucenieki Immigration Detention Centres stated that they were treated correctly, and the delegation did not receive any allegations of recent physical ill-treatment by the staff of the two establishments. Further, it received no allegations and found no other indications of violence between detained foreign nationals.

That said, at Daugavpils, some accounts were received of verbal abuse and inappropriate language by certain members of custodial staff. **The CPT recommends that a clear message be delivered at regular intervals to staff at Daugavpils Immigration Detention Centre that detained foreign nationals should be treated with respect and that any form of ill-treatment, including verbal abuse, is unacceptable and will be sanctioned accordingly.**

33. In the course of the visit, the delegation received a number of allegations of severe ill-treatment from detained foreign nationals relating to the period between August 2021 and March 2022, in the context of the above-mentioned influx of irregular migrants. The alleged ill-treatment concerned members of Latvian special police forces patrolling the border area and was said to have been inflicted with the aim of forcing the persons concerned to return to Belarus. The allegations mainly consisted of punches, kicks, truncheon blows, and electric shocks inflicted on various parts of the body (including the genitals) at the time of or immediately following apprehension, after the foreign national concerned had been brought under control.

The CPT recommends that all law enforcement agencies concerned are given a clear and firm message on a regular basis that any use of excessive force is illegal and will be punished accordingly. Further, they should be provided with further practical training relating to the proportionate use of force, including control and restraint techniques, in the context of apprehending foreign nationals at the border.

As regards more specifically the use of electrical discharge weapons, reference is made to the principles listed in paragraphs 65 to 84 of the 20th General Report on the CPT's activities.²³

²⁰ According to the SBG, 40 to 50 people on average attempted to cross from Belarus into Latvia every day, most of them Iraqi nationals.

²¹ The state of emergency in these municipalities has since been prolonged on a three-monthly basis, most recently until 10 February 2023.

²² According to the Latvian Ministry of the Interior, between August 2021 and March 2022, over 6 500 people were prevented from illegally crossing the country's border. Overall, 453 persons were detained for irregular border crossing between August 2021 and January 2022.

²³ See CPT/Inf (2010) 28 (<https://rm.coe.int/16806cce1c>).

c. conditions of detention

34. At both Daugavpils and Mucenieki Immigration Detention Centres, material conditions in the living units were generally of a good standard. Each living unit comprised several multiple-occupancy rooms²⁴ which were in a good state of repair, had ample access to natural light and sufficient artificial lighting, and were well ventilated and clean. They were also suitably furnished (beds with full bedding, lockable cupboards, a refrigerator and a fully partitioned sanitary annexe with a toilet and a shower).

Further, at both centres, living space was sufficient for the number of persons held at the time of the visit and the national standard of at least 4 m² per person²⁵ was observed throughout the establishments. That said, it was clear that, if they operated at full capacity, the living conditions in a number of accommodation rooms at both centres would be cramped. For instance, at Daugavpils Immigration Detention Centre, a room with four beds measured some 11 m², excluding the floor space taken up by the sanitary annexe.²⁶ At Mucenieki, rooms with five beds measured between 17 and 18 m² and a room with seven beds some 22 m² (excluding the sanitary annexe).²⁷

In the light of the above, the CPT recommends that the official capacities of Daugavpils and Mucenieki Immigration Detention Centres be recalculated to ensure that all accommodation rooms provide at least 4 m² of living space per person, excluding the area taken up by the sanitary annexe.

35. It is noteworthy that, in both establishments, foreign nationals benefited from an open-door regime, being able to move about freely within their living unit. They could associate, throughout the day, in common rooms equipped with a television set and in a dining room with a kitchenette, play board games and borrow books from the library.

However, in neither of the centres visited were detained foreign nationals offered any purposeful activities,²⁸ the out-of-unit activities on offer being limited to daily outdoor exercise (see, in this regard, paragraph 36). It is also a matter of concern that the juveniles held at Mucenieki Immigration Detention Centre were not provided with any educational activities.

The CPT recommends that the Latvian authorities take steps to ensure that foreign nationals held at Daugavpils and Mucenieki Immigration Detention Centres are offered a range of purposeful activities (for example, language classes, computer courses, crafts, etc.). The longer the period for which foreign nationals are detained, the more developed should be the activities which are offered to them. Further, every effort should be made to provide children of school age with suitable educational activities.

36. The Internal Rules of Accommodation Facilities for Detained Foreigners and Asylum Seekers²⁹ provide that detained foreign nationals are entitled to at least two hours of outdoor exercise per day (Section 21.1).

Mucenieki Immigration Detention Centre had two separate courtyards (each equipped with a pavilion), one for male adults and the other for families and children, to which foreign nationals had access for two hours a day and usually for much longer. However, the latter courtyard, which

²⁴ At Daugavpils, most of the accommodation rooms contained four or six beds. At Mucenieki, rooms had between two and eight beds.

²⁵ See Section 4 of the Cabinet of Ministers' Regulation (No. 231; 3 May 2017) on Requirements for Accommodation Facilities for Detained Foreigners and Asylum Seekers.

²⁶ Another room with six beds measured some 19 m² (excluding the sanitary annexe).

²⁷ It is noteworthy that the rooms in the living unit for women and families were more spacious (for example, a four-bed room measuring some 17 m², excluding the sanitary annexe).

²⁸ Each of the establishments possessed a small fitness room with some exercise equipment. However, at Mucenieki, the fitness room was located in the unit for women and families to which men had no access, while at Daugavpils, it appeared to be largely underused.

²⁹ Cabinet of Ministers' Regulation No. 254 from 16 May 2017.

included a playground for children, was austere and oppressive, surrounded by walls painted dark grey and lacking decoration; **steps should be taken to remedy this shortcoming.**

Daugavpils Immigration Detention Centre also possessed two outdoor exercise areas (one for irregular migrants and another for asylum seekers); however, from the examination of relevant records and interviews with foreign nationals, it transpired that outdoor exercise was not granted every day and usually lasted only up to one hour.

The CPT recommends that the Latvian authorities take steps to increase significantly the daily outdoor exercise period for foreign nationals held at Daugavpils Immigration Detention Centre. In the Committee's view, detained foreign nationals should, as a rule, have ready access to an outdoor area throughout the day.

37. Material conditions in the holding room for inadmissible passengers at Rīga International Airport were only suitable for very short periods of stay; it was deprived of any access to natural light and there was no possibility for outdoor exercise. These structural deficiencies apart, the room was in an adequate state of repair, clean and well ventilated and had good artificial lighting. Further, it measured some 9 m² and was equipped with a single bed, a toilet with a washbasin and a CCTV camera.

From an examination of the custody records, it transpired that the holding room had last been used for the detention of foreign nationals in 2019; a total of six persons had been held in the room during that year.³⁰ It is also noteworthy that the periods of detention of foreign nationals were usually well below the maximum time-limit of 48 hours³¹ (i.e. a few hours or overnight, pending their departure on the next possible flight).

d. healthcare

38. At both Daugavpils and Mucenieki Immigration Detention Centres, healthcare staff consisted of two full-time doctors' assistants³² (with higher medical education) who were present in the establishments on working days from 8 a.m. to 4 p.m. (and were on call outside working hours and during the weekend).³³ In case of need (for example, diagnostic procedures, specialist examinations, etc.) or for emergency medical assistance, foreign nationals were transferred to general hospitals. **The CPT recommends that the Latvian authorities take steps to ensure that someone competent to provide first aid, preferably a qualified nurse, is always present at Daugavpils and Mucenieki Immigration Detention Centres, including at night and weekends.**

39. The delegation gained a generally favourable impression of the provision of healthcare to foreign nationals at *Mucenieki Immigration Detention Centre*. From interviews with detainees and staff as well as from the consultation of relevant documentation, it transpired that access to healthcare staff was not problematic and that the medical supervision of detainees was satisfactory. Further, medical files were well kept and comprehensive.

40. However, the Committee has serious misgivings about the manner in which the provision of healthcare services was organised at *Daugavpils Immigration Detention Centre*.

First of all, a number of detained foreign nationals met by the delegation expressed dissatisfaction with the medical care provided at the centre and referred to difficulties in communicating with healthcare staff due to language barriers. In this regard, the examination of medical records revealed that, in several cases, detainees' requests to be seen by a specialist doctor were not followed up by the establishment's healthcare staff.

³⁰ According to information provided to the delegation, 672 foreign nationals were refused entry to the country at Rīga International Airport in 2021. There had been 176 such cases from 1 January to 20 May 2022.

³¹ See Sections 51 and 60 of the Immigration Law.

³² 'Ārsta palīgs' in Latvian.

³³ At weekends, a doctors' assistant only came to distribute medicines to detainees who were on chronic oral therapy.

Secondly, the delegation noted that one of the doctors' assistants working at the centre could, on her own authority, prescribe the types of medication which – as the delegation was told – she was not legally entitled to prescribe (such as oral antidiabetics and antiepileptic oral therapy). Further, of particular concern is the fact that, in at least two cases, the doctors' assistant had failed to follow the recommendations of a neurologist (for discontinuation of antiepileptic therapy) and of a surgeon (for a necessary check-up after seven days); she told the delegation that those recommendations were not binding on her (see also paragraph 43).³⁴

The CPT recommends that the Latvian authorities take urgent measures to significantly improve the provision of healthcare to foreign nationals held at Daugavpils Immigration Detention Centre, in light of the above remarks.

41. The CPT was also concerned to note that both detention centres were lacking basic life-saving equipment (such as defibrillators and oxygen). **The Committee recommends that steps be taken to supply Daugavpils and Mucenieki Immigration Detention Centres with such equipment and, if necessary, to provide training in resuscitation techniques to healthcare staff.**

42. The importance of systematic and prompt medical screening of detained migrants upon admission cannot be overstated. Such screening is essential for the timely detection of transmissible diseases, as well as for the prevention of police ill-treatment by recording injuries and reporting allegations of ill-treatment to the competent authorities. Effective medical screening is also indispensable in the interests of identifying those with health problems, including mental health problems and post-traumatic stress disorder.

43. In both detention centres, newly arrived foreign nationals underwent medical screening by a doctors' assistant usually within 24 hours of admission, which also included a questionnaire-based interview. However, in neither of the establishments visited was screening/testing carried out for detecting transmissible diseases other than tuberculosis, nor were newly arrived foreign nationals screened for psychological traumatic experiences.

Further, unlike Mucenieki Immigration Detention Centre, where new arrivals were as a rule subjected to a comprehensive medical screening, at Daugavpils, initial medical screening was perfunctory and usually only involved measuring the person's height and weight and checking the body temperature, accompanied by a rapid and superficial physical examination. Moreover, whenever foreign nationals arrived with visible injuries, the latter were recorded, together with the statements made by the foreign national concerned, but the healthcare staff of the two establishments never wrote down any conclusions regarding the consistency between the person's statement and the medical findings.

It should also be added that, at both establishments, medical examinations of foreign nationals were usually carried out in the presence of custodial staff.

In the light of the above, **the CPT recommends that the Latvian authorities take the necessary steps to ensure that:**

- **all newly arrived foreign nationals benefit from a comprehensive medical examination (including voluntary testing for HIV and hepatitis B/C) by a doctor (or a fully-qualified nurse reporting to a doctor) as soon as possible after their admission. In this connection, particular attention should be paid to the possible existence of mental disorders and other vulnerabilities (such as traumatic experiences). When conducting such examinations, it is imperative that healthcare staff have access to appropriate**

³⁴ Moreover, in one case, a detainee whose medical records contained no indication of diagnosed diabetes was prescribed an oral antidiabetic (Metformin) by the doctors' assistant, based on anamnestic data and without consulting an endocrinologist or an internist. The patient's glycaemic control had been assessed only once since his admission to the establishment on 5 April 2022.

translation/interpretation services to ensure that a comprehensive assessment can be formulated and communicated to the person concerned;

- the record drawn up after a medical examination of a detainee, whether newly arrived or not, contains: (i) a full account of objective medical findings based on a thorough examination (supported by a 'body chart' for marking traumatic injuries and photographs of injuries); (ii) an account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment); (iii) the healthcare professional's observations in light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings. The results of every examination, including the above-mentioned statements and the healthcare professional's observations, should be made available to the detainee and his/her lawyer;
- whenever injuries are recorded which are consistent with allegations of ill-treatment by the foreign national (or which, even in the absence of the allegations, are indicative of ill-treatment), the information is systematically brought to the attention of the competent investigative authority, regardless of the wishes of the person concerned. The healthcare staff should advise detainees of the existence of the reporting obligation and that the forwarding of the report to the relevant authorities is not a substitute for the lodging of a formal complaint;
- all medical examinations of detained foreigners are conducted out of the hearing and – unless the healthcare professional concerned requests otherwise in a particular case – out of the sight of non-medical staff.

44. It is also a matter of concern that, in both detention centres, access to psychiatric care was limited to emergencies and psychological assistance was unavailable. **The CPT recommends that steps be taken at Daugavpils and Mucenieki Immigration Detention Centres to ensure adequate access to psychiatric care and psychological assistance for foreign nationals, combined with the provision of professional interpretation.**

45. The delegation was informed that, since the outbreak of the Covid-19 pandemic, both centres had followed instructions issued by the Ministry of Health on measures to prevent the disease. At the time of the visit, PCR testing was still mandatory for every newly admitted foreign national. Further, vaccination against Covid-19 was available to all interested detained foreigners. The delegation was also told that there had been no cases of death among detainees due to Covid-19 in either of the two establishments visited.

e. legal situation of immigration detainees

46. As already mentioned above (see paragraph 31), at the time of the visit, the Cabinet of Ministers' Decree No. 518 from 10 August 2021 on the Declaration of a State of Emergency in four municipalities, which was introduced in response to the increasing number of irregular entries into the territory of Latvia, remained in force. Article 6 of the Decree initially provided that applications from foreign nationals for the granting of refugee or alternative status should not be accepted in the structural units of the SBG and other institutions located in the territory where an emergency situation was declared. Subsequently, following the introduction of amendments to this provision on 6 April 2022, foreign nationals were allowed to submit a request for asylum only at official border crossing points or during their stay at Daugavpils Immigration Detention Centre.³⁵

³⁵ The amendments in question were triggered by rulings of Rēzekne Administrative District Court, in which the court ordered the SBG to accept and register asylum applications of complainants, in line with the relevant standards of the EU bodies as well as the jurisprudence of the European Court of Human Rights and in particular its judgment in the case of *N.D. and N.T. v. Spain*. (applications Nos. 8675/15 and 8697/15; Grand Chamber Judgment of 13 February 2020, paragraph 232).

47. It should be noted that the vast majority of foreign nationals met by the delegation in the course of the visit had initially been subjected to the legal regime which was in force until 6 April 2022; they had been automatically placed in detention and served a deportation order, being prevented from lodging an asylum application.

Many of these persons told the delegation that they had repeatedly attempted to access Latvian territory but had been intercepted by the border guards (or police) and forced to cross back to Belarus, on occasion violently (see paragraph 33), without any identification or processing of their cases (including possible asylum requests). They were allegedly often unable to return to Belarus, thus stranded in a forest at the border area, without adequate access to basic necessities, such as clean water, food, shelter, appropriate clothing and footwear, and protection from adverse weather conditions (with temperatures in the winter period falling below zero).³⁶ It was also stated that they had been eventually allowed to access Latvian territory after their state of health had required hospitalisation and/or they had accepted to sign up for voluntary return from Latvia to their country of origin.³⁷

48. The CPT recalls that on the basis of the principle of non-refoulement and the established case law of the European Court of Human Rights, States are under an absolute obligation not to send a person to a country where there are substantial grounds for believing that he or she would run a real risk of being subjected to torture or other forms of ill-treatment. This obligation is applicable to any form of forcible removal, including deportation, expulsion, informal transfer and non-admission at the border, and in respect of return to any other country to which the person may subsequently be removed (“chain refoulement”).

In the Committee’s view, any practices of the kind described in paragraph 47, that is, immediately and forcibly returning irregular migrants to Belarus without any prior screening of their needs, would be contrary to the above-mentioned principle. In order to effectively protect persons against the risk of refoulement (including possible chain refoulement), **the CPT recommends that the Latvian authorities take the necessary measures to ensure that irregular migrants arriving at the border or present in the territory of Latvia are not forcibly returned to Belarus prior to an individualised screening with a view to identifying persons in need of protection, assessing those needs and taking appropriate action. Further, it is essential that foreign nationals have effective access to an asylum procedure (or other residence procedure) which involves an individual assessment of the risk of ill-treatment in case of expulsion of the person concerned to the country of origin or a third country, on the basis of an objective and independent analysis of the human rights situation in the countries concerned.**³⁸ The CPT considers that the relevant provisions of the Cabinet of Ministers’ Decree No. 518 on the Declaration of a State of Emergency should be revised accordingly.

³⁶ On 25 August 2021, the European Court for Human Rights decided, in the case of *H.M.M. and Others v. Latvia* (application no. 42165/21), to indicate interim measures to the Latvian authorities to provide “food, water, clothing, adequate medical care and, if possible, temporary shelter” to the applicants. It clarified, at the same time, that this measure should not be understood as requiring that Latvia let the applicants enter its territory. The Court also noted that this decision was taken in accordance with the fact that Contracting States have the right, as a matter of well-established international law and subject to their treaty obligations, including the Convention, to control the entry, residence and expulsion of aliens.

³⁷ In the context of the ‘Assisted Voluntary Return and Reintegration’ programme of the International Organisation for Migration (IOM).

³⁸ See also paragraphs 93 to 95 of the 19th General Report on the CPT’s activities (CPT/Inf (2009) 27).

49. The CPT wishes to recall that – in the same way as other categories of detained persons – detained irregular migrants should benefit, as from the very outset of their deprivation of liberty, from three fundamental safeguards against ill-treatment, namely the right to inform a relative, or another person of their choice, of their situation and the rights to have access to a lawyer and a doctor. The foreign nationals concerned should be expressly informed, without delay and in a language they understand, of their rights and the procedure applicable to them. To this end, all immigration detainees should be systematically provided with a document setting out this information; the document should be available in the languages most commonly spoken by those concerned and, if necessary, the services of an interpreter should be made available. The persons concerned should confirm in writing that they have been informed of their rights, in a language they can understand.

50. As regards more specifically the right of access to a lawyer, it should include the right to have access to legal advice for issues related to residence, detention and deportation. This implies that when irregular migrants are not in a position to pay for a lawyer themselves, they should benefit from access to free legal aid.

From the information gathered by the delegation during the visit, it appeared that this particular safeguard was not operating properly in practice. The delegation was informed that in not one single case over the last two years had detained irregular migrants and asylum seekers been provided with the possibility to challenge their initial detention or expulsion order with the assistance of a legal representative, either *ex officio* or of their own choice.

As regards access to legal representation for foreign nationals held at Daugavpils and Mucenieki Immigration Detention Centres, the situation varied. At Mucenieki, the records showed that detained foreigners had unhindered access to legal aid,³⁹ and the delegation did not receive any complaints from them in this respect.

However, at Daugavpils, a number of detained asylum seekers complained about major obstacles impeding their communication with lawyers. The delegation noted that, due to the restrictions imposed on the use of cell phones (from 15 minutes to one hour per day) and the limited number of visits by lawyers,⁴⁰ the vast majority of foreign nationals detained in this centre were deprived of effective access to legal representation. It is also a matter of concern that no arrangements had been made to establish a legal counselling service at the establishment. Some legal assistance was provided (over the telephone) by the Latvian Centre for Human Rights, a non-governmental organisation, whose representatives assisted detained foreign nationals with their immigration and asylum procedures on a *pro bono* basis.

The CPT recommends that the Latvian authorities take steps – in consultation with the Latvian Bar Association – to ensure that detained foreign nationals can effectively benefit from the services of a lawyer as from the outset of their deprivation of liberty and in all phases of the legal proceedings (including through the provision of free legal aid for foreign nationals who are not able to pay for a lawyer). Efforts should also be made to facilitate access to the immigration detention centres by non-governmental organisations providing legal aid to refugees, asylum seekers and migrants.

51. In both detention centres, newly arrived foreign nationals were generally provided with written information about their rights and duties during their stay in the establishment. This information was also displayed, in various languages, on notice boards in accommodation areas. That said, no written information (for example, leaflets) setting out their procedural rights and legal situation was provided to them. In this regard, a number of foreign nationals interviewed by the delegation claimed that they had not been informed about the next stages in their (deportation) procedure and/or about the expected length of their stay. **The CPT recommends that steps be taken to remedy this shortcoming.**

³⁹ Foreign nationals held at this centre received 37 visits from different legal representatives in the period from 1 January 2021 to 12 May 2022.

⁴⁰ In the period from 1 January 2021 to 13 May 2022, the centre was visited only 11 times by the same lawyer.

52. The Immigration Law provides for the possibility of alternatives to detention which can be applied to foreign nationals when there are “reasons of humanitarian nature”. Section 51 (3) of the law specifies that an SBG official may decide to apply one of the following alternative measures: (a) regular reporting at the specified unit of the SBG, and (b) the handing over of a travel document and other personal identification documents to the SBG.

As regards asylum seekers, the legislation provides for only one type of non-custodial alternative to detention, in the form of regular reporting at the specified unit of the SBG.⁴¹

According to information provided by the Latvian authorities, as at 10 May 2022, alternative means had been applied to one asylum seeker and seven foreign nationals subject to removal.

53. The CPT wishes to stress that deprivation of liberty under aliens legislation should only be a measure of last resort, after a careful and individual examination of each case. Detention of asylum seekers should be even more exceptional. In this regard, the Committee has serious misgivings about the practice of almost systematically detaining the foreign nationals who irregularly crossed the border into Latvia, with little resort made to alternatives to detention. **The Committee therefore invites the Latvian authorities to introduce a wider range of alternative (non-custodial) measures to immigration detention (such as bail schemes, guarantors and supervision). The CPT also considers that the use of alternatives to detention in the immigration context should not be limited to “humanitarian grounds”.**⁴²

f. other issues

54. As regards foreign nationals’ contact with the outside world, the delegation noted that, at both Daugavpils and Mucenieki Immigration Detention Centres, electronic communication devices (such as telephones and tablets) were taken away from them upon admission. Subsequently, detainees were allowed to use their phones every day in a dedicated room equipped with a wireless internet network. The maximum permitted time for the use of a telephone was fixed by an internal order of the centre’s director and depended on the number of persons detained in the establishment.

55. At Daugavpils, the internal order entitled the detainees to use their phones for up to two hours per day. However, according to the relevant records, in the period from 31 March 2022 to 15 April 2022, foreigners could only use their cell phones between 15 and 30 minutes per day. After 15 April 2022, they were allowed to use their phones for one hour per day. At Mucenieki, foreign nationals had access to their phones for one to two hours every day.

The delegation received many complaints from detained foreign nationals that such arrangements were not sufficient to maintain adequate contact with the outside world (see also paragraph 50). **The CPT recommends that steps be taken at both establishments to increase significantly detained foreign nationals’ access to their telephone.**

56. According to Section 51 of the Internal Rules of Accommodation Facilities for Detained Foreigners and Asylum Seekers, foreign nationals who have violated the internal rules may be subjected to the disciplinary sanction of placement in cellular confinement for up to ten days. The decision is taken by the director of the detention centre who should hear the person concerned.

Both detention centres visited possessed specially equipped cells for such placements; material conditions in these cells were satisfactory.⁴³ Further, from the consultation of relevant documentation, it appeared that resort to the above-mentioned sanction was not frequent.⁴⁴

⁴¹ See Section 14 of the Asylum Law.

⁴² See also the Council of Europe’s Practical Guide on Alternatives to Immigration Detention (<https://bit.ly/3R75pUH>).

⁴³ Cells measured some 8 m² each (excluding the in-cell sanitary annexe), had adequate lighting (including access to natural light) and were equipped with a bunk bed with full bedding, a table and stools.

⁴⁴ At Daugavpils, there had been eleven placements since January 2022, which usually lasted less than ten

However, it would appear that, at Daugavpils Immigration Detention Centre, the person concerned was not always heard in person by the director (or officer-in-charge) before the imposition of the sanction and did not receive a copy of the decision. Further, the information gathered by the delegation in this establishment suggested that foreign nationals subjected to cellular confinement were not allowed to go to the open air. It also appeared that detainees were not visited by a member of healthcare staff during their stay in a disciplinary cell.

57. The CPT recommends that steps be taken at Daugavpils Immigration Detention Centre to ensure that detainees facing disciplinary charges are always heard by the person who takes the decision and receive a copy of the disciplinary decision in a language they understand, informing them about the reasons for the decision and the avenues for lodging an appeal.

Steps should also be taken at this establishment to ensure that foreign nationals subjected to cellular confinement are offered outdoor exercise for at least one hour every day. Further, they should be visited by a member of healthcare staff on a daily basis.

58. The findings of the visit indicate that, at Daugavpils Immigration Detention Centre, foreign nationals were systematically subjected to a strip-search upon admission. Moreover, it appeared that they were usually required to fully undress at once.

The CPT must stress that a strip-search is a very invasive and potentially degrading measure. When conducting such a search, every reasonable effort should be made to minimise embarrassment; persons who are searched therefore should not normally be required to remove all their clothes at the same time. They should rather be allowed to remove clothing above the waist and then get dressed again before removing further clothing.

The Committee recommends that the Latvian authorities take steps at Daugavpils Immigration Detention Centre to ensure that strip-searches are only conducted on the basis of a concrete suspicion. Further, every time a strip-search is deemed necessary, it should be carried out in such a manner as to limit embarrassment and preserve the dignity of the person concerned, in accordance with the above-mentioned precepts.

59. Complaints boxes were installed in common areas at both detention centres. Further, the information posted in accommodation areas mentioned possible avenues for submitting complaints to external bodies (such as the Ombudsperson/NPM, IOM, UNHCR, and various NGOs), with an indication of their telephone numbers.

days (for various offences, such as possession of a knife, disturbing sleep of other detainees, damaging the establishment's property, smoking in non-designated places, aggressive behaviour, rude language, etc.). At Mucenieki, there had been only one placement (for one day) since January 2022.

B. Prisons

1. Preliminary remarks

60. The delegation carried out full visits to Jelgava and Daugavgrīva Prisons and a targeted visit to Rīga Central Prison, in order to review the measures taken by the Latvian authorities following previous CPT visits and to interview persons who had recently been in police custody.

61. Daugavgrīva Prison was established in 2008 by the administrative merger of Daugavpils and Grīva Prisons;⁴⁵ it is the second largest prison establishment in Latvia. The Daugavpils Section of the prison had previously been visited by the CPT several times (mainly the unit for prisoners sentenced to life imprisonment),⁴⁶ while the Grīva Section was visited for the first time in 2016.⁴⁷ With a total official capacity of 1 191 places, the prison was accommodating 883 inmates (all male adults) at the time of the visit, of whom 260 were at Daugavpils Section (including 71 on remand and 49 prisoners sentenced to life imprisonment) and 623 at Grīva Section (including 9 prisoners serving a life sentence).

Jelgava Prison, which operates as a closed prison for sentenced male adults, had previously been visited by the CPT on several occasions, most recently in 2016.⁴⁸ The establishment's current official capacity is of 374 places; it was accommodating 325 inmates at the time of the 2022 visit (including one prisoner on remand and five prisoners sentenced to life imprisonment).

Since the CPT's previous visit to Rīga Central Prison in 2016,⁴⁹ the establishment's official capacity has been reduced from 1 936 to 1 271 places. At the time of the 2022 visit, it was accommodating 907 inmates (all male adults), of whom 613 were on remand and 294 were sentenced (including three sentenced to life imprisonment⁵⁰).

62. At the outset of the visit, the delegation was informed that the overall prison population had further decreased by some 1 000 inmates as compared to the previous visit in 2016 and stood at approximately 3 200 (some 25% of whom were on remand).⁵¹ The delegation's official interlocutors attributed this result to a variety of measures, in particular increased resort to alternative sanctions, and the introduction of electronic surveillance to facilitate early release.

In the report on the 2016 visit, the CPT was pleased to note that, pursuant to amendments made in July 2015 to the Law on the Execution of Sentences (LES) and the Law on Pre-Trial Detention (LPTD), the minimum standard of living space per prisoner in multiple-occupancy cells had been raised to 4 m², in line with the Committee's longstanding recommendation. Consequently, the official capacities of the prison establishments were reviewed on the basis of the new standard and the total capacity of the Latvian prison estate was accordingly lowered (amounting to some 4 800 places at the time of the 2022 visit). It is noteworthy that, with some exceptions (see paragraph 82), the new national minimum standard of 4 m² per prisoner was observed in all the establishments visited.

Contrary to what had been advised in 2016, the delegation was informed at the outset of the 2022 visit that the construction of a 1 200-place prison establishment (mainly with double cells) in Liepāja, which was expected to enter into service by 2019, had not begun. It was now foreseen that the new prison would be built by 2025.

⁴⁵ The so-called "White Swan" prison in Daugavpils was built in 1863, while the Grīva section was built in 1861.

⁴⁶ CPT/Inf (2017) 16, paragraph 39; CPT/Inf (2014) 5, paragraph 21; CPT/Inf (2013) 20, paragraph 43; CPT/Inf (2009) 35, paragraph 35; CPT/Inf (2008) 15, paragraph 38; CPT/Inf (2005) 8, paragraph 66.

⁴⁷ CPT/Inf (2017) 16, paragraph 38.

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ The three inmates sentenced to life imprisonment had been transferred from Daugavgrīva and Jelgava prisons because of the type of sentence or because of their profile (e.g. sex offenders or former police officers). Reportedly they would not be safe in other places due to the system of prison hierarchy and their position on its lowest rank (see, in this regard, paragraph 92).

⁵¹ For a total official capacity of 4 822 (as at 1 January 2022; source: World Prison Brief).

63. The CPT welcomes the continued efforts made by the Latvian authorities over recent years to combat prison overcrowding; as a result of these efforts, the incarceration rate had decreased from 225 prisoners per 100,000 inhabitants in 2016 to 160 at the time of the 2022 visit. However, the incarceration rate remains high in comparison with that of most other Council of Europe member states, especially those in the European Union.⁵² **The Committee would like to be kept informed of further developments in this area; it would also like to receive a timetable for the construction of the new prison in Liepāja and information on its general layout. Further, the CPT would like to receive more detailed information on the plans to close three prisons in the near future**, as advised by the prison administration at the outset of the visit.

64. The CPT has noted that the Latvian legislation was amended in February 2022 as regards the system of progressive sentence execution.⁵³ In the framework of this reform, the former three levels of regimes were replaced by two levels of regimes for serving a sentence within a closed prison.⁵⁴ The medium level regime was therefore abolished. It is still too early to assess the effects of such a reform but ideally, it should lead to convicts having the opportunity to attain more quickly the level of regime where they can request conditional release, including with electronic monitoring.

65. The high-level regime involves an open-door policy within the respective living units during the day; however, prisoners on the low-level regime (including most remand prisoners) still have considerably less out-of-cell time – as they are, in principle, subject to confinement in a cell – and fewer possibilities for maintaining contact with the outside world (see paragraph 110).

66. The CPT must stress once again that, although it is for the judicial authority to determine the appropriate length of sentence for a given offence, prison authorities should be responsible for determining security and regime requirements, on the basis of professionally agreed criteria and individual assessments of prisoners. In this context, it is difficult to justify all prisoners being required to serve a minimum part of the prison sentence in a specific regime level.

In the Committee's view, progression from one regime level to another should be based on the prisoner's attitude, behaviour, participation in activities (educational, vocational, or work-related) and, in general, adherence to reasonable pre-established targets set out in a sentence plan. Levels of sentencing regimes should be subject to a meaningful review, based on individualised sentence-planning objectives defined at the outset of the sentence, and reviewed regularly thereafter. This would provide a target to aim for, which should motivate positive behaviour.

The CPT recommends that the current system of progressive sentence execution be revised in light of the above-mentioned remarks.

⁵² See the 2021 SPACE report on prisons and prisoners in Europe: https://wp.unil.ch/space/files/2022/05/Aebi-Cocco-Molnar-Tiago_2022_Prisons-and-Prisoners-in-Europe-2021_Key-Findings-SPACE-I_-220404.pdf.

⁵³ Section 50 of the LES.

⁵⁴ According to Paragraph 3 of Section 50 of the LES, convicted persons shall start serving their sentence at the low-level of the regime and they shall serve at least one fourth of the term of the imposed sentence at this level. The time period spent on remand shall be taken into account. The convicted person shall serve at least one fourth of the term of the imposed sentence at the high-level regime. The convicted person may be transferred from the highest level of the regime in a closed prison to the high-level regime of a partially closed prison or conditionally released from serving the sentence early in accordance with the procedures laid down by law.

2. Ill-treatment and inter-prisoner violence

67. The majority of inmates interviewed by the delegation in the penitentiary establishments visited spoke positively of the staff. It is important to underline, as already observed during the 2016 visit, the generally favourable atmosphere between prisoners and prison staff.

However, the delegation did receive a few allegations of recent physical ill-treatment by staff at Daugavgrīva and Rīga Central Prisons.

68. By way of example, in one case which occurred at Daugavgrīva Prison on 2 May 2022, a prisoner received punches and a kick during an intervention by several prison guards, after he had set fire to his mattress in a disciplinary cell. The delegation had the opportunity to verify this allegation while examining the CCTV recording during the visit to the establishment. The footage showed six prison officers gathering around the cell, from which smoke was seen coming. One of them went into the cell and retrieved a smoking item. The prisoner was taken out of his cell and there appeared to be a struggle; the prisoner was pushed to the ground and received some blows. One of the officers could be seen delivering a kick to the prisoner while the latter was immobilised on the floor. Two more staff arrived, one of whom was seen to stamp once on the prisoner. The latter was then handcuffed and led away. The delegation was particularly concerned by the management's lack of awareness of the case, but the Prison Governor immediately confirmed that an internal inquiry would be initiated. **The CPT wishes to be informed of the findings of the inquiry. It would also like to know whether these findings were transmitted to the ISB.**

69. During an interview at Rīga Central Prison, a prisoner alleged that on 19 April 2022, four guards came into his cell and assaulted his cellmate because he had refused to move to another cell. The person concerned stated that the guards then pushed him against the wall so hard that he hit his head. The man in question stated that he had written a complaint about this incident but had been told by the Head of Security and the doctor who had seen him following it to withdraw the complaint. The prisoner's medical record included the doctor's entry relating to this incident.⁵⁵ **The CPT would like to be kept informed of any follow-up given to this case. Further, in no case should a prisoner be encouraged or threatened to withdraw his/her complaint.**

70. The Committee wishes to recall that the State is under a duty to provide safe custody for all persons deprived of their liberty in prison, and that the frontline in providing safe custody rests with prison officers. The authorities must not only undertake effective investigations into allegations or any information indicative of ill-treatment, but also institute measures to ensure that all prison officers and managers understand why ill-treatment is unacceptable and unprofessional and that, furthermore, it will result in severe disciplinary sanctions and/or criminal prosecution. The Committee is therefore concerned that the Latvian authorities have not yet succeeded in ending the practice of some prison officers resorting to physical ill-treatment and abuse, despite repeated recommendations.

The CPT calls upon the Latvian authorities to take effective action, via prison management, to ensure that custodial staff receive the clear message that physical ill-treatment, excessive use of force, unjustified resort to special means for punitive reasons, verbal abuse and threats, as well as other forms of disrespectful or provocative behaviour vis-à-vis prisoners, are not acceptable and will be dealt with accordingly.

⁵⁵ The record stated as follows: 'Brought by guard on duty, according to his own words, on 19/4/22 in the evening the guard on duty beat him with a baton and pushed him with the result that he injured his left eyebrow and was pushed against the wall. No loss of consciousness. General condition satisfactory, pulse 72, temperature 36.7, BP 120/70. Lungs – vesicular breath sounds, respiratory rate 14, abdomen nil abnormal. Left eyebrow has a fresh haematoma 1.0 x 1.5 cm, pupils equal, vision not impaired. Chest – on left side, two vertical lines (red) – 1.0 x 1.4 cm. Diagnosis: bruises left eyebrow and chest. Declined analgesia. Has been reported to Deputy Governor'.

Prison management should demonstrate increased vigilance in this area, by ensuring the regular presence of prison managers in the detention areas, their direct contact with prisoners, the effective investigation of complaints made by prisoners, and improved prison staff training.

Furthermore, in order to enhance the potential for body-worn video cameras to contribute to the prevention of ill-treatment, **the CPT recommends that the Latvian authorities ensure that body-worn video cameras are issued, worn and turned on by all prison staff who may have to use force in their interactions with prisoners, and that non-compliance with this obligation (in the absence of a reasonable explanation outlining exceptional circumstances) be treated as a disciplinary offence.** This could also contribute to preventing any unfounded allegations of ill-treatment against staff.

71. The Committee is seriously concerned to note that no significant progress has been made in reducing the scale of inter-prisoner violence, which has been repeatedly criticised by the CPT during its previous visits.⁵⁶

The CPT must reiterate its view that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. During the 2022 visit, the delegation once again received many credible allegations of inter-prisoner violence, including beatings, as well as psychological pressure. Such allegations were received from prisoners accommodated across different units within all the prisons visited, but to a much lesser extent at Rīga Central Prison, where the level of inter-prisoner violence seems to have decreased, which is to be commended. By contrast, the information gathered through interviews with staff and inmates and an examination of registers of bodily injuries indicated that inter-prisoner violence remained a serious problem at Jelgava and Daugavgrīva Prisons.

As in the past, this state of affairs appeared to be the result of a combination of factors, mainly the existence of informal prisoner hierarchies,⁵⁷ insufficient staff presence in prisoner accommodation areas (see paragraph 107) and the lack of purposeful activities for most inmates (see paragraphs 87 to 90), especially those on remand or sentenced under the low-level regime, who generally spent 23 hours a day in their cells.

72. The delegation came across a particularly grave case of suspected inter-prisoner violence at Jelgava Prison, where a frail 71-year old inmate had reportedly been severely beaten by other prisoners and had consequently been transferred to hospital, where injuries that were both recent (five broken ribs on each side) and less recent (older haematomas) were found by the doctors at the hospital, suggesting that he had been repeatedly beaten by other inmates over a period of time, contrary to the information provided by the prison's acting director who initially denied that this person had been beaten. While the presence of those injuries had been noted by prison staff, they were not properly recorded, and no action had been taken to protect the prisoner concerned. Subsequent discussion with another prisoner suggested that the prisoner had been beaten by inmates on account of his criminal offence and that the beating had allegedly taken place with the knowledge of prison officers. **The CPT would like to be informed by the Latvian authorities of the outcome of the investigation.**

73. Another reported case of assault by cellmates leading to serious injuries at Daugavgrīva Prison raised the delegation's particular concerns as the alleged victim was placed back in the same cell on two occasions, reportedly leading to further abuse. The prisoner alleged that he had been assaulted and bullied for weeks. In April 2022, his cellmates broke his nose and two ribs⁵⁸, and he was then placed back in the same cell with the same cellmates after that incident. The cellmates reportedly pressurised him to submit to their demands to serve them and wash their dishes, and

⁵⁶ See, for example, CPT/Inf (2017) 16, paragraphs 43 to 46.

⁵⁷ The criminal hierarchical system in Latvia is similar to other post-Soviet countries, basically distinguishing inmates as "left" or "right", the first group being assimilated to those who are considered to be guilty of rape, abuse of minors, sex-related offences, etc.

⁵⁸ He was then taken to the hospital where an X-ray confirmed the fractures.

when he refused to comply with the cell's hierarchy, he was apparently beaten on several other occasions. He had tried to warn his family over the phone about his wish to change the cell but, apparently, prison officers had informed his cell mates about such a phone call, which led to more assaults (including having his face held down in a bucket filled with water). The prisoner told the delegation that he had then decided that the only way to get moved to a single cell (where he was interviewed on the day of the visit by the delegation) was to self-harm.⁵⁹ He was examined by the delegation's doctors who observed injuries consistent with his most recent allegations. He told the delegation that he had never complained to the prison administration (including to the doctor) because he was too afraid of potential further reprisals by his cell mates. The prison management explained to the delegation that no investigation was taken further as the prisoner did not give the same version about the case (he said that he had simply fallen). In the CPT's view, the types of injuries, the expressed wish to change the cell and the phone call to the family should have raised the prison management's suspicions about the case and led to further action. **The CPT recommends that the Latvian authorities ensure that an investigation is promptly carried out in such cases.**

74. From discussions with staff and consultation of the relevant documentation in the prisons visited, it transpired that some alleged or detected incidents of inter-prisoner violence, as well as any injuries indicative of such violence, were recorded by staff (including healthcare staff) and reported to the internal investigation unit of the Latvian Prison Administration.

However, as acknowledged by staff, even the inquiries regarding cases clearly indicative of the infliction of bodily injuries were usually inconclusive; the victims choosing not to denounce the perpetrators (as did many witnesses among prisoners) and claiming to have sustained the injuries accidentally. Such a state of affairs rendered the official statistics on inter-prisoner violence unreliable; a fact that should be borne in mind by the relevant decision makers.

75. A further indication of the extent of the phenomenon of inter-prisoner violence in the prisons visited was that some inmates who were entitled to be transferred to the high-level of regime refused this opportunity because, according to them, they would not feel safe in the (open) environment controlled by the informal prisoner hierarchy. In this context, the delegation heard numerous accounts that prisoners belonging to the "lowest caste" in the informal prisoner hierarchy were frequently subjected to threats, verbal abuse and demeaning behaviour by other inmates. Further, these prisoners were often compelled to perform "dirty" work, such as cleaning toilets and collecting garbage.

Inter-prisoner violence appeared to be linked not only to the existence of an informal prisoner hierarchy but also to low staffing levels in prisoner accommodation areas (see paragraph 107), especially at Jelgava and Daugavgrīva Prisons. In such a situation, certain informal leaders (the so-called "watchers") seemed to enjoy a privileged position and maintain internal order,⁶⁰ which is totally unacceptable.

76. The informal prisoner hierarchy (or caste system) still seemed to be a key foundation of prisoners' life in the three prisons visited, with its traditions dictating internal order and being given priority over official rules. Clearly, those worst affected by this state of affairs were the relatively numerous lowest caste prisoners – the so-called "untouchables" – from whom most of the accounts received of inter-prisoner violence originated. It was obvious that becoming an "untouchable" significantly increased the risk of victimisation.

⁵⁹ He committed self-harm on 10 May 2022 and was finally moved to a different cell on that day.

⁶⁰ The delegation interviewed one such inmate who was placed in a "luxury cell" with higher-standard furniture, obviously benefiting from much better conditions in his cell than other prisoners.

Many “untouchables” informed the delegation during interviews, that belonging to their caste meant that one could only safely (that is, without risking physical violence, extortion, psychological pressure, etc.) share a cell or a dormitory room with prisoners of the same caste and that they were not “welcome” anywhere else. The “untouchables” said that they had to obey orders given by higher caste prisoners. The delegation was also told that when custodial staff wanted to unofficially punish a higher caste prisoner, they would initiate his transfer to a cell holding “untouchables” (which would then trigger the “usual” chain of events – the prisoner’s refusal to comply, a resultant disciplinary sanction, and his transfer to a low-level regime).

77. The CPT’s findings during this and previous visits to Latvian prisons show that, year after year, the caste system has continued to prevail with the knowledge of prison management and custodial staff. However, it must be underlined that, when asked, prison management did not deny the existence of the problem (as had been the case in the past); on the contrary they acknowledged it and assured the delegation that they were trying to tackle it. This is, of course, a welcome development.

In the Committee’s view, the situation of “untouchable” prisoners in Latvia could be considered to constitute a continuing violation of Article 3 of the European Convention on Human Rights, which prohibits, *inter alia*, all forms of degrading treatment and obliges state authorities to take appropriate measures to prevent such treatment, including when meted out by fellow prisoners.

78. The CPT wishes to stress that the problem of inter-prisoner violence cannot be solved without the management and staff regaining control over the situation in prisons. First of all, custodial staff should be in a position to exercise their authority in an appropriate manner. This implies, *inter alia* that the level of staffing must be sufficient (for more details on staff, see paragraph 107) to enable prison officers to adequately supervise the prisoners and support each other effectively in the performance of their tasks. Low numbers of custodial staff in prisoner accommodation areas increase the risk of violence and intimidation between prisoners, and that of tension between staff and prisoners and precludes the development of positive relationships between them.

Addressing the phenomenon of inter-prisoner violence also requires that prison staff be particularly attentive to signs of trouble and be properly trained to intervene in a determined and effective manner, at the earliest possible stage. In this context, the existence of positive relations between staff and prisoners, based on notions of dynamic security and care, is a decisive factor; such relations can help to overcome the habitual reluctance of victims (or witnesses) to denounce the perpetrators of inter-prisoner violence. Further, both initial and ongoing training programmes for staff of all grades must address the issue of managing inter-prisoner violence.

79. Moreover, a holistic approach is urgently needed to tackle the phenomenon of informal prisoner hierarchy, preferably in the form of a targeted strategy, including the introduction of a comprehensive risk and needs assessment upon admission,⁶¹ the creation of separate units/sectors for prisoners who wish to avoid being involved in the informal prisoner hierarchy, offering adequate (or even superior) conditions and regimes which reward pro-social and cooperative behaviour, allowing separation of informal prisoner leaders, promoting activities which reject prisoners’ classification into castes, developing opportunities for work and education, and further strengthening individual sentence planning; reference is also made to paragraph 84 below regarding the conversion of large-capacity dormitories into cell-type accommodation.

There must also be an improvement in the recording, reporting and thorough investigation of suspected cases of inter-prisoner violence and intimidation and, where appropriate, the adoption of suitable sanctions or other measures, as well as the development of effective inter-prisoner violence reduction interventions.

⁶¹ Such an assessment would, *inter alia*, need to focus on the criminal profile and network of a prisoner, his/her psychological vulnerability and socio-economic status.

80. The CPT calls upon the Latvian authorities to take resolute action, without further delay, to address the systemic and persistent shortcomings throughout the penitentiary system outlined in this and previous reports of the Committee, in light of the remarks in paragraphs 71 to 79.

The Committee also recommends that the Latvian authorities take pro-active steps to combat inter-prisoner violence in light of the above remarks notably by investing far more resources in recruiting additional staff and developing staff professionalism and training as well as offering detained persons a purposeful regime and decent living conditions (see further paragraphs 82 to 90).

81. Another area of concern, related to the phenomenon of informal prisoner hierarchy, was the reluctance of prisoners, in all establishments visited but more specifically at Daugavgrīva Prison, to participate in the rehabilitation programme in Olaine Prison Hospital's Centre for inmates having had experience with addiction. The prisons' managements confirmed that going through such a programme was almost the only channel through which a change of sentencing regime could become possible. In a later stage, it also influenced potential access to early release.⁶² As the management of Daugavgrīva Prison was also well aware, inmates coming back from Olaine Rehabilitation Centre had to face threats to their physical and psychological integrity because they were systematically considered as being part of the lowest caste of the hierarchy. This was the reason why very few prisoners accepted to go through the rehabilitation programme at Olaine (and therefore remained on the low-level regime). **The CPT would like to receive the data on the number of prisoners who have completed the rehabilitation programme at Olaine Rehabilitation Centre since January 2019, as well as the proportion of prisoners who were transferred from the low- to high-level regime in the same period of time.**

The CPT welcomes the project of a "drug-free zone", which was recently launched and implemented in Block 4 at Grīva Section, allowing prisoners coming back from such a rehabilitation programme not to have to be mixed with the general prison population; it therefore ensured them to have access to a safe place upon return. **This type of initiative should also be encouraged in other prison establishments.**

3. Conditions of detention of the general prison population

a. material conditions

82. Material conditions of detention were on the whole good in the renovated blocks of Rīga Central Prison. Prisoner accommodation was provided in adequately-sized cells, which generally had sufficient access to natural light and good artificial lighting, and were suitably equipped (including a toilet facility and a call bell), clean and well-ventilated. That said, the in-cell toilets were still not fully partitioned in multiple-occupancy cells. The delegation also noted that a number of cells in certain parts of the prison (such as Block 2)⁶³ failed to offer at least 4 m² of living space per inmate. **Steps should be taken to remedy the afore-mentioned deficiencies in respect of the partitioning of toilets in multiple-occupancy cells and the living space per inmate.**

Of even greater concern was the widespread problem of infestations of bedbugs throughout the whole establishment, leading to many inmates having visible bites on their skin. Prisoners reported that the issue was so serious that it prevented them from sleeping during the night. **The CPT recommends that the Latvian authorities remedy this problem without delay and make further efforts to tackle pest infestations, including by providing inmates with new, wipeable mattresses.**

⁶² Judges deciding on early release made it conditional upon the prisoner having completed the full rehabilitation programme at Olaine Rehabilitation Centre (based on Section 61 of the Criminal Code).

⁶³ Block 2 was used for quarantine only at the time of the visit (meaning for about seven days and up to 14 days during the Covid-19 pandemic).

83. As already mentioned in the report on the 2016 visit,⁶⁴ the Daugavpils Section of Daugavgrīva Prison had undergone major refurbishment. At the time of the 2016 visit, the Latvian authorities had informed the CPT that no major reconstruction could be undertaken in the Grīva Section given the building's status as a historic monument. The delegation was therefore pleased to learn at the time of the 2022 visit that some prisoner accommodation areas in the Grīva Section were in the process of renovation.⁶⁵

However, generally speaking, the Grīva Section failed to provide decent accommodation for prisoners, due to its outdated design and the level of dilapidation of the facilities. As an example, Block 3 of the Grīva Section, where many inmates were accommodated at the time of the visit in large cells with up to 16 beds, was in a state of advanced dilapidation (e.g. crumbling and dirty walls, badly worn and sometimes even rotten floors, dilapidated furniture, etc.) and was severely affected by humidity, due to the absence of a functioning ventilation system. At the end of the visit, the delegation therefore urged the Latvian authorities to transfer prisoners of Block 3 to the recently renovated Block 2 without further delay. Moreover, the admission unit (Block 1) had not been renovated (unlike the other accommodation areas in Block 1) in the past nine years and was in a very poor state of repair.

The Committee calls upon the Latvian authorities to carry out a comprehensive review of those conditions as a matter of priority. Prisoners should not be accommodated in Block 3 of the Grīva Section until full renovation has been completed.

84. The CPT also wishes to recall that large-capacity dormitories inevitably imply a lack of privacy for prisoners in their everyday lives. Moreover, the risk of intimidation and violence is high. Such accommodation arrangements are prone to foster the development of offender subcultures and to facilitate the maintenance of the cohesion of criminal organisations. They can also render proper staff control extremely difficult, if not impossible; more specifically, in case of prison disturbances, outside interventions involving the use of considerable force are difficult to avoid. With such accommodation, the appropriate allocation of individual prisoners, based on a case-by-case risk and needs assessment, also becomes an almost impossible exercise. All these problems are exacerbated when the numbers held go beyond a reasonable occupancy level.

The CPT recommends that the Latvian authorities increase their efforts to move away from large-capacity dormitories towards smaller living units. The CPT must also stress that such a move is to be accompanied by measures to ensure that prisoners spend a reasonable part of the day engaged in purposeful activities of a varied nature outside their living unit (see also paragraphs 87 to 90).

85. At Jelgava Prison, the state of dilapidation of the low-regime accommodation areas and of the outdoor yards was a matter of serious concern. Moreover, the state of repair of those premises had worsened since the 2016 visit. Many cells throughout the establishment still did not benefit from sufficient access to natural light and ventilation. The in-cell toilets were still not partitioned and emitted a foul smell in the cells. There were 11 outdoor exercise yards, located on the roof, surrounded by damaged and rusty iron grids. During summertime, the yards reportedly become very hot and stuffy. Furthermore, many of the sports facilities in the low-level regime areas had not been in use in the past two years and could certainly not be used until a full refurbishment, given their state of repair. As a consequence, at the time of the visit, prisoners in the low-level regime (including life-sentenced prisoners) did not have access to any type of sports. While acknowledging the problem related to the delayed construction of a new prison establishment and the lack of budget, **the CPT recommends that the Latvian authorities remedy the above-mentioned problems without delay.**

⁶⁴ CPT/Inf (2017) 16, paragraphs 47 to 49.

⁶⁵ Renovation of Block 2 was almost completed; Blocks 1, 4 and 5 had been renovated in 2021.

86. On a more positive note, the CPT observed that, contrary to what had previously been observed, prisoners of the three prisons visited had access to a shower twice a week, which gave them the possibility of maintaining basic personal hygiene.

b. regime

87. At Daugavgrīva Prison, according to information provided by the prison management, *work* opportunities were offered to 17% of sentenced prisoners (including 19 persons sentenced to life imprisonment) in private companies, and about 10% of inmates were working on different tasks linked to the running of the prison (food preparation and distribution, laundry, cleaning, etc.). Further, the prison possessed a well-equipped training centre where *vocational training* (e.g. courses for tailors, plumbers, welders, etc.) was provided to around 20% of inmates. In addition, about 80 sentenced prisoners attended *general education* classes.

At Jelgava Prison, 31% of inmates were *employed* (including 21 in the establishment's dressmaking and wood-processing workshops and some 40 in maintenance/domestic duties), and 40 were involved in *vocational training*. In addition, 22 sentenced prisoners attended *general education* classes.

88. At Rīga Central Prison, efforts were being made to involve remand prisoners in education or vocational training, but the offer remained insufficient. According to information provided by the prison management, work opportunities were offered to 22% of the sentenced prisoners in private companies (food preparation, sewing, etc.), and 73 prisoners were working on different tasks linked to the running of the prison (food preparation and distribution, laundry, cleaning, hairdresser, etc.).

89. To sum up, in the three prisons visited, organised activities were mostly offered to sentenced prisoners on high-level regime. For most sentenced prisoners on low-level regime and remand prisoners, the regime consisted of cellular confinement with hardly any out-of-cell activities available, apart from one hour of outdoor exercise per day and weekly sports sessions (see, however, the comment on outdoor exercise and sports facilities in Jelgava Prison in paragraph 85). It is also a matter of concern that, as a rule, no paid work was available for remand prisoners. The longer the period of remand detention, the more varied the regime should be. Remand prisoners cannot simply be left to languish for weeks, possibly for months up to several years, locked up in their cells. This practice is a relic of the past and should be abolished.

For a number of persons held in each of the prisons visited, the cumulative effect of being accommodated up to several years in cells with poor material conditions, combined with a regime offering extremely limited out-of-cell time could amount to inhuman or degrading treatment.

90. The CPT recommends that the Latvian authorities continue their efforts to increase the provision of purposeful activities to prisoners, with a view to ensuring that as many prisoners as possible participate in a full programme of activities. The aim should be to ensure that all prisoners, including those on remand and sentenced prisoners on the low-level regime, are able to spend a reasonable part of the day (i.e. eight hours or more) outside their cells engaged in purposeful activities of a varied nature (work; vocational training; education; sport; recreation/association).

4. Situation of life-sentenced prisoners

91. The delegation was informed that there was a total of 69 prisoners sentenced to life imprisonment in Latvia at the time of the visit.

The situation of life-sentenced prisoners at Daugavgrīva and Jelgava Prisons was already analysed in detail in the previous visit report.⁶⁶ A few legislative amendments were introduced in February 2022, such as the introduction of the possibility for life-sentenced prisoners to serve their sentence not only in a closed prison together with other sentenced prisoners but also in a partly-closed prison. In order to facilitate the reintegration of life-sentenced prisoners into society, the amendments provide for the possibility of involving them in activities jointly together with other sentenced prisoners.

92. However, once again, the delegation noted that a very limited range of organised activities were offered to such prisoners, especially at Jelgava Prison⁶⁷.

There were only five life-sentenced prisoners at Jelgava. The prison management acknowledged that the establishment was not suitable to accommodate such prisoners. The delegation was informed that some of them used to be accommodated at Daugavgrīva Prison (where there were at least some activities for life-sentenced prisoners) but that they had certain security issues/conflictual situations there and had had to be transferred to Jelgava. While acknowledging that security concerns have to be taken into account, **the CPT recommends that the Latvian authorities increase their efforts not only to ensure a safe environment for life-sentenced prisoners but to also offer them a proper activity programme (including activities aimed at their reintegration into society) from the beginning of their sentence.**⁶⁸ Reference is also made in this regard to the recommendation in paragraph 90.

93. The CPT welcomes the fact that the process of integrating life-sentenced prisoners into the mainstream prisoner population has continued since its last visit and that, at Daugavgrīva Prison⁶⁹ (Grivas Section), a total of nine life-sentenced prisoners have been transferred to ordinary accommodation areas. **The Committee encourages the Latvian authorities to intensify their efforts in this area.**

5. Healthcare

94. The delegation carried out an evaluation of the healthcare services at Daugavgrīva and Jelgava Prisons. In addition, it examined certain healthcare-related issues at Rīga Central Prison, in particular as regards staffing levels, medical screening and recording of injuries. The information gathered during the visit indicates that the provision of healthcare in Latvian prisons remains insufficient.

95. The healthcare staff at *Daugavgrīva Prison* comprised a medical director, six full-time doctors (including the head doctor) as well as a surgeon and a drug-addiction specialist employed at the Daugavpils Section. In addition, the Daugavpils Section was attended by a general practitioner (once a week), a dermatologist (three to four times a week) and a radiologist (when needed). The Grīva Section was visited by a drug-addiction specialist, a dermatologist and a radiologist when needed. The prison's healthcare staff also included four feldshers and six full-time nurses (five of them working at the Grīva Section). A dentist was visiting the establishment once a month; dental

⁶⁶ See CPT/Inf (2017) 16, paragraphs 62 to 68.

⁶⁷ See also Extract from the 25th General Report of the CPT, published in 2016, CPT/Inf (2016)10-part.

⁶⁸ See also Recommendation Rec (2003) 23 of the Council of Europe's Committee of Ministers to member states on the management by prison administrations of life sentence and other long-term prisoners.

⁶⁹ There was a total of 58 prisoners sentenced to life imprisonment at Daugavgrīva Prison (49 at Daugavpils Section and 9 at Grīva Section).

emergencies arising at other times were taken to the town hospital. Clinical staff worked 08:30-17:00 shifts every day including weekends. There was no health provision at night in either site. If there was a medical need at night, prison staff called an ambulance.

There was one vacancy at the time of the visit (one doctor) and two nurses were on maternity leave. The delegation was also informed that the prison had a vacant full-time post for a psychiatrist. In this regard, the CPT wishes to stress once again that it is a matter of particular concern that Daugavgrīva Prison, with its inmate population of almost one thousand, did not benefit from the presence of a psychiatrist, on even a part-time basis. One of the doctors who has a background in substance misuse also provides psychiatric services three days a week.

96. The healthcare staff at *Jelgava Prison* was composed of a full-time head doctor, a half-time general practitioner and a part-time (25%) X-ray technician as well as a full-time feldsher (present on weekdays from 08:30 to 17:00) and two full-time nurses (including on weekends). In addition, the establishment was visited once or twice a week by a psychiatrist, a dentist and a drug-addiction specialist. There was also a visiting dermatologist. There was no healthcare staff present at night-time. If a prisoner had a medical need which could not wait until the next day, an ambulance was called by the prison officers.

At the time of the visit, the head doctor, the general practitioner, the radiology assistant and the drug-addiction specialist had all recently resigned. **The Committee would like to receive updated information on healthcare staff resources at Jelgava Prison.**

97. The official healthcare staffing complement at Rīga Central Prison had remained practically unchanged since the 2016 visit. It included the head doctor, two general practitioners, a dermatologist, two psychiatrists, four feldshers, six nurses and a radiology assistant; one additional doctor's post and the post of the head nurse were vacant.

There was also a full-time dentist; however, at the time of the visit the dentist had been on sick leave for some time and there was no dental care available. It was further explained to the delegation that there was one feldsher on duty 24 hours a day, seven days a week, together with another feldsher on duty (present on weekdays from 08:30 to 17:00). The duty feldsher had access to an emergency bag with appropriate equipment and drugs therein.

98. In September 2016, the Latvian authorities had informed the CPT that "the Ministry of Justice together with the Ministry of Health has evaluated the current situation in the healthcare in prisons and has developed different possible solutions for improvement of the social guarantee system and remuneration in order to motivate medical staff to work in prisons". The effects of such initiatives were not yet visible at the time of the 2022 visit.

The CPT calls upon the Latvian authorities to address, as a matter of highest priority, the causes of the persistent problem of vacancies among medical personnel in prison establishments. The Committee also recommends that the Latvian authorities search for new ways to render positions for prison healthcare staff more attractive (in addition to increasing salaries) in order to reinforce the healthcare teams at the prisons visited, and in particular to ensure that:

- **the vacant doctors' posts at Daugavgrīva and Rīga Central Prisons (in particular the posts of general practitioners and psychiatrist) are filled, and prisoners at the latter establishment have access to dental care;**
- **nursing staff complements are significantly reinforced in all the prisons visited (including by recruiting mental health nurses);**
- **a person competent to provide first aid (who holds a valid certification in training in the application of cardiopulmonary resuscitation and the use of an automated external defibrillator), preferably a qualified nurse, is present at all times in every prison.**

99. The supply of medication did not seem problematic in any of the establishments visited. However, the delegation's doctors were concerned about a likely overuse of a high-risk medication (Clozapine) at *Rīga Central Prison*. Approximately 100 prisoners were prescribed Clozapine at the time of the visit without regular blood tests, contrary to recognised international guidelines. The delegation's doctors did not receive a clear answer to the question of why such a high number of inmates were on Clozapine but the delegation was told that it was often prescribed in the context of the treatment of drug withdrawals (which cannot be considered appropriate). **The CPT would like to receive clarification of this situation from the Latvian authorities.**

More generally, as stressed by the Committee in the past, Clozapine can have as a side-effect a potentially lethal reduction of white blood cells (granulocytopenia). **The CPT therefore recommends that the Latvian authorities take urgent steps to render regular blood tests mandatory in all prison establishments whenever Clozapine is used; staff should be trained to recognise the early signs of the potentially lethal side effects of Clozapine. Moreover, the existing national indications concerning the prescription of Clozapine should be strictly adhered to.**

It should also be noted that the delegation's doctors were not convinced that every inmate who might benefit from opioid agonist therapy had access to it.

100. Healthcare facilities were generally found to be satisfactory in the establishments visited. However, there were no defibrillators, nebulisers or oxygen in any of the prisons visited. **The Committee recommends that all prison healthcare services (including in the prisons visited in 2022) be provided with such equipment.**

101. In all the establishments visited, medical screening on admission was performed by a doctor or a nurse reporting to a doctor, usually within 24 hours of admission. In addition, as regards transmissible diseases, a mandatory X-ray examination was performed for remand prisoners, and blood tests for HIV and hepatitis were offered to all inmates (as well as necessary treatment). The latter is a positive development in comparison with the last visit.

The CPT is also pleased to note that the recording of medical examinations was now done by healthcare staff on a special form containing a "body chart" for marking traumatic lesions (which was kept in the medical file of the prisoner). However, it transpired from the delegation's interviews with prisoners that medical entry examinations did not always entail physical examination of the body but were limited to asking basic questions about the inmate's state of health.

In addition to the above-mentioned special form, physical injuries observed on admission (or following a violent incident within the prison) were also recorded in a central register of traumatic lesions in each prison. However, as in the past, the delegation noted that in most cases injuries were not described in sufficient detail. Further, prisoners' statements as to the origin of their injuries were not always recorded and, as a rule, there were no doctor's conclusions on the consistency of any recorded statements with the injuries.

The CPT reiterates its long-standing recommendation that steps be taken to ensure that the record drawn up after a comprehensive medical examination contains the healthcare professional's observations indicating the consistency between any allegations made by the examined prisoner and the objective medical findings; if necessary, relevant legislative changes should be adopted.

Steps should also be taken to ensure that injuries are recorded in a detailed and comprehensive manner, as required by the national legislation (including the use of 'body charts'). Further, all injuries should be photographed in detail and the photographs kept, together with 'body charts' for marking traumatic injuries, in the prisoner's individual medical file. The results of every examination, including the above-mentioned statements and the healthcare professional's conclusions, are to be made available to the prisoner and their lawyer.

102. It appeared in the prisons visited that reports of recorded injuries (especially upon arrival but also during imprisonment) were routinely transmitted by the healthcare staff to the prison management. However, while the injuries indicative of inter-prisoner violence seemed to be systematically reported by the latter to the internal investigation unit of the Latvian Prison Administration, the same could not be said of the injuries recorded upon admission; apparently, such injuries were not systematically reported by prison management to the competent investigative authority (namely, the ISB). The Committee recommends that steps be taken to eliminate this lacuna.

103. Medical confidentiality was generally respected during medical examinations (prison guards waiting outside of the room). Nevertheless, at Daugavgrīva Prison, applications related to health issues were processed by prison staff, who therefore had access to confidential data concerning prisoners. **The CPT recommends that this work should be done by health care staff.**

104. The analysis of the register of disciplinary violations at Daugavgrīva Prison revealed that a recurrent violation consisted of refusal of certain medical tests, such as TB screening, by the prisoner. The CPT considers that every patient capable of discernment is free to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances. **The Committee would like to receive the Latvian authorities' comments in this respect.**

105. In Latvia, the responsibility for healthcare in prisons continues to be primarily with the Ministry of Justice. The policy trend in Europe has favoured prison healthcare services being placed, either to a great extent, or entirely, under the responsibility of the Ministry of Health. In principle, the CPT supports this trend. In particular, it is convinced that a greater participation of health ministries in this area (including as regards recruitment of healthcare staff, their in-service training, evaluation of clinical practice, certification and inspection) will help to ensure optimum healthcare for prisoners, as well as implementation of the general principle of the equivalence of healthcare in prison with that of the wider community.

The CPT therefore reiterates its recommendation that the Latvian authorities review the provision of prison healthcare, taking into consideration the above-mentioned remarks.

106. At the outset of the visit, senior Prison Administration officials informed the delegation that, since 2021, the task of coordinating and managing all prison healthcare services had been conferred upon the Director of the Central Prison Hospital, the aim being to harmonise the provision of healthcare services in all prisons.

6. Other issues

a. prison staff

107. As had been the case during previous visits to Latvia,⁷⁰ there was often a very low number of custodial staff present in the detention areas in the prisons visited. At Daugavgrīva Prison, the situation had slightly improved in terms of custodial staff ratio (there were almost no vacancies at the time of the visit). Nevertheless, in one of the accommodation units in Grīva Section (Block 3), only two prison guards were responsible for the supervision of a whole floor (18 large cells accommodating almost 200 prisoners). Given the design of the accommodation area (long corridor) and the large size of the cells (up to 16 prisoners), in the event that a conflict should arise in a cell, it would not be safe for only those two guards (and for prisoners) to intervene.

The staffing situation was particularly unsatisfactory at Rīga and Jelgava Prisons. As an example, at Jelgava Prison, there were 14 vacancies for monitoring guards (inside accommodation areas) and

⁷⁰ See CPT/Inf (2017) 16, paragraph 90.

19 vacancies for security guards (outside the accommodation areas) – for a population of 325 inmates (capacity: 374). At Rīga Central Prison, there were 61 vacancies for monitoring guards and 24 vacancies for security guards – for a population of 901 inmates (capacity: 1 271).

The CPT's recommendation on the introduction of 12-hour shifts made in the report of the 2016 visit⁷¹ had admittedly been implemented, but it was done without improving staff working conditions and without an overall reflection on human resources' strategy. As a consequence, the staff situation had actually worsened since the last visit.

108. The Committee wishes to stress once again that ensuring a positive climate in prison requires a professional team of staff, who must be present in adequate numbers at any given time in detention areas as well as in facilities used by prisoners for activities. A low staff complement negatively affects the quality and level of activities provided to prisoners and their access to these activities.

The CPT calls upon the Latvian authorities to take steps without further delay to review staff complements at Jelgava and Rīga Central Prisons (as well as at other prison establishments where similarly low levels of staffing occur), with a view to increasing the number of custodial staff present in the detention areas. In this regard, a recruitment strategy based on proper funding and enhanced conditions of service should be developed.

109. In the prisons visited, certain members of staff working in direct contact with prisoners were openly carrying rubber truncheons. **The CPT reiterates its view that the open display of truncheons is not conducive to developing positive relations between staff and inmates; if it is considered necessary for prison officers to carry truncheons, they should be hidden from view.**

b. contact with the outside world

110. The CPT notes that the amendments made to the LES in February 2022 have increased both the frequency and duration of visits for sentenced prisoners. Prisoners on the high-level regime in closed prisons are now entitled to eight long visits (24 to 48 hours) and eight short visits (1½ to two hours) and those on the low-level regime to five long (12 to 24 hours) and four short visits per year.⁷² However, the Committee considers that, notwithstanding this increase, sentenced prisoners' short-term visit entitlement remains low, in particular for prisoners on the low-level regime. As for adult remand prisoners, their visit entitlement also remains very limited (i.e. one visit of one hour per month).⁷³

The CPT calls upon the Latvian authorities to significantly increase the short-term visit entitlement of prisoners serving a sentence in closed prisons; all prisoners (irrespective of their regime level) should, preferably, be able to receive a visit every week.

The CPT also reiterates its recommendation that remand prisoners be allowed to communicate with family and other persons in the same way as sentenced prisoners – “unless there is a specific prohibition for a specified period by a judicial authority”.⁷⁴

⁷¹ *Ibid.*

⁷² Section 50.4 of the LES.

⁷³ Section 13 (1) (6) of the Law on the Procedure of Holding in Custody.

⁷⁴ See Rule 99 of the European Prison Rules.

111. Under Section 13.3 (1) of the Law on the Procedure of Holding in Custody, remand prisoners are entitled to make one telephone call (of at least five minutes) per week. Expenses for telephone calls shall be borne by the prisoners or the person with whom they communicate.

According to recent legislative amendments to the LES, sentenced prisoners serving their sentence both on the low and high-level regimes in a closed prison have the right to make an unlimited number of telephone calls.⁷⁵ The same applies to life-sentenced prisoners.⁷⁶

112. Section 49 of the LES provides that all phone conversations should be listened to by staff. Some prisoners complained about this systemic supervision of phone calls. **The Committee recommends that the Latvian authorities ensure that prisoners in closed prisons are able to make telephone calls in private, unless there are clear indications that a prisoner uses his/her right to make a phone call for illegal purposes or when it is justified for security-related reasons.**⁷⁷

113. Life-sentenced prisoners were allowed to make free-of-charge online video calls for one hour, at least once a month, and senior officials of the Latvian Prison Administration met at the outset of the visit informed the delegation that this right would be extended to other categories of sentenced prisoners in the course of autumn of 2022. **The CPT would like to be updated on the implementation of these plans.**

c. discipline

114. The February 2022 legislative amendments also provide for a decrease in the maximum duration of disciplinary confinement (from 15 to 14 days for adults and from 10 to 3 days for juveniles).⁷⁸ Notwithstanding this, **the Committee recommends that, given the potentially detrimental effect on the physical and/or mental well-being of juveniles, solitary confinement should never be imposed on juveniles as a disciplinary punishment.**⁷⁹

Further, the CPT has serious misgivings about the practice observed at Daugavgrīva Prison (Daugavpils Section) of applying consecutively (that is, without any interruption between the sanctions) several disciplinary sanctions of placement in a punishment cell. As a result, some prisoners had been continuously kept in solitary confinement for periods well beyond the maximum time limit of 14 days, in material conditions which fell below acceptable standards (in dilapidated and humid cells).

The CPT considers that, given the potentially very damaging effects of solitary confinement, there should be a prohibition on sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period.⁸⁰ **The Committee recommends that this precept be implemented in practice in all prisons in Latvia.**

⁷⁵ Section 50.4 of the LES.

⁷⁶ Section 50.8 of the LES.

⁷⁷ See also Rule 24.2 of the European Prison Rules: "Communication and visits may be subject to restrictions and monitoring necessary for the requirements of continuing criminal investigations, maintenance of good order, safety and security, prevention of criminal offences and protection of victims of crime, but such restrictions, including specific restrictions ordered by a judicial authority, shall nevertheless allow an acceptable minimum level of contact."

⁷⁸ Section 70 of the LES.

⁷⁹ See, in this regard, Rule 60.6.a of the European Prison Rules, which reads: "Solitary confinement, that is the confinement of a prisoner for more than 22 hours a day without meaningful human contact, shall never be imposed on children, pregnant women, breastfeeding mothers or parents with infants in prison." See also Rule 98 of Recommendation CM/Rec (2008) 11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures.

⁸⁰ See paragraph 56 (b) of the 21st General Report of the CPT (CPT/Inf (2011) 28). See also Rules 43, 44 and 45 of the UN Standard Minimum Rules for the Treatment of Prisoners (*Nelson Mandela Rules*).

115. The CPT is also concerned by the practice observed in the prisons visited of imposing disproportionate sanctions for minor violations of prison rules.⁸¹ In addition to seriously reducing prisoners' chances for conditional release, each sanction for a minor violation of the rules prevented the inmates concerned from applying to the relevant commission for a change of regime (from a low to a high one) during a period varying between six and twelve months (the latter in the case of placement in a disciplinary cell).

The CPT recommends that the Latvian authorities take decisive action to ensure the proportionality of disciplinary sanctions imposed on prisoners. The Directors of all the penitentiary establishments of Latvia should be reminded that the severity of any disciplinary punishment must be strictly proportionate to the gravity of the offence. Cellular confinement should be reserved for the most serious disciplinary offences.

The Committee also recommends that the Latvian authorities review the system of disciplinary punishment of prisoners by determining in the national legislation the acts or omissions by prisoners which constitute disciplinary offences and ensuring that only those that are genuinely likely to constitute a threat to good order, safety or security are defined as a disciplinary offence.

116. As had been the case during previous visits, the delegation met numerous persons in the prisons visited who had been disciplined for having committed an act of self-harm. The Committee has repeatedly emphasised that acts of self-harm most often reflect psychological or mental health issues which should be dealt with from a therapeutic rather than punitive perspective.

The CPT calls upon the Latvian authorities to ensure that acts of self-harm are no longer considered as a disciplinary offence, in light of the above remarks, and should be assessed and managed by health care professionals.

117. Finally, it is regrettable that, despite the specific recommendation made by the Committee after previous visits,⁸² the delegation once again observed in the prisons visited that, before a prisoner was placed in a disciplinary cell, a prison doctor was required to certify that the inmate concerned was fit to sustain the disciplinary measure ("fit for punishment" certificates).

The CPT does not contest as such the involvement of doctors in the context of the placement of prisoners in solitary confinement for disciplinary reasons, quite the contrary. However, the Committee wishes to stress once again that medical practitioners in prisons act as the personal doctors of prisoners. Ensuring that there is a positive doctor-patient relationship between them is therefore a major factor in safeguarding the health and well-being of prisoners. Against this background, the practice of prison doctors certifying that a prisoner is fit to undergo punishment is scarcely likely to promote that relationship. As a matter of principle, medical personnel should never participate in any part of the decision-making process resulting in any type of solitary confinement, except where the measure is applied for medical reasons.

On the other hand, healthcare staff should be very attentive to the situation of prisoners placed in disciplinary cells. Healthcare staff should immediately be informed of every such placement and should visit the prisoner without delay after placement and thereafter on a regular basis, at least once per day, and provide them with prompt medical assistance and treatment as required. They should report to the prison director whenever a prisoner's health is being put seriously at risk by being held in disciplinary confinement.

The CPT calls upon the Latvian authorities to review the role of healthcare staff in relation to disciplinary matters, in light of the above remarks. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the Committee in its 21st General Report (see paragraphs 62 and 63 of CPT/Inf (2011) 28). Doctors should no longer be requested by prison management to issue "fit for punishment" certificates.

⁸¹ For instance, being late for a roll call, using the informal 'you', not having made one's bed properly, being rude to staff, etc.

⁸² CPT/Inf (2017) 16, paragraph 101.

C. Psychiatric hospitals

1. Preliminary remarks

118. At the outset of the visit, representatives of the Ministry of Health informed the CPT's delegation about ongoing reforms in the field of mental health. It was indicated that the creation of community mental health centres, the de-institutionalisation of long-term patients and the gradual downsizing of psychiatric hospitals were among the key priorities of the recently adopted Action Plan for the improvement of mental health services in Latvia for 2023-2025. It was pointed out in this context that various measures had been taken or envisaged by the Latvian authorities with a view to facilitating the transition from institutional to community-based care, such as expanding the network of outpatient mental health facilities throughout the country, improving patients' access to multi-professional rehabilitation, promoting interprofessional collaboration between general practitioners and psychiatrists, and improving the quality of mental health services through developing common standards for healthcare institutions and measuring patient satisfaction.⁸³

The CPT takes due note of the information provided by the Latvian authorities; **it would like to be kept informed of future developments in this field.**

119. In the course of the visit, the delegation carried out a follow-up visit to Daugavpils Neuropsychiatric Hospital and visited for the first time Akniste Neuropsychiatric Hospital (which is administratively attached to Daugavpils Neuropsychiatric Hospital).

Daugavpils Neuropsychiatric Hospital was first visited by the CPT in 2007. The hospital's official capacity had since been reduced from 685 to 370 beds, and it was accommodating 228 patients (including 119 adult women and 18 juveniles) at the time of the visit. Fourteen of the adult patients were subject to a court-imposed measure of compulsory in-patient treatment under Section 69 of the Criminal Code.⁸⁴ Among adult civil patients, eight had restricted legal capacity and were under guardianship. The hospital comprised ten wards (including adult male, female and mixed-gender wards and a ward for children aged below 14),⁸⁵ of which five were closed wards. Most of the wards contained 34 to 48 beds, with up to eleven beds per patient's room. In addition, the hospital had an outpatient day-care facility.

The delegation was informed that the hospital had seen a declining trend in the number of admitted patients in the last five years (from 4 150 in 2017 to 2 949 in 2021), with approximately the same average length of hospital treatment of 30 days.

Akniste Neuropsychiatric Hospital, opened in 1954, is located in a rural area some 70 km north-west of Daugavpils, in large grounds within a pleasant park. It mainly operates as a facility for the

⁸³ The CPT also received detailed information from the Ministry of Welfare on the process of developing community-based social services in Latvia and the creation of the necessary infrastructure. According to this information, the de-institutionalisation projects funded by the European Social Fund (ESF) and implemented by the planning regions of Latvia envisage the provision of community-based social services to 2 100 persons with mental disabilities in the period from 2015 to 2023, both to those living in the community to prevent them from entering long-term care institutions and to those residing in such institutions to support their transition to independent living. By 31 March 2021, 918 persons with mental disabilities (that is, almost 44% of the planned number) had received support from de-institutionalisation projects, including 84 persons who had moved from institutional care to community-based services in municipalities. In total, between 2015 and 2020, 319 residents of long-term care institutions started independent living. In addition to the ESF-funded projects, 70 projects for the development of community-based social services infrastructure were being implemented in 39 municipalities.

⁸⁴ These patients were allocated to different locked wards and benefited from the same living conditions and treatment as any other patients.

⁸⁵ There were also separated patients' rooms in Ward 3 (female) and Ward 8 (male) for children aged 15 to 18.

treatment of long-term patients suffering from chronic mental disorders⁸⁶ and admits patients from all over Latvia (primarily from other psychiatric or social care institutions). The hospital had an official capacity of 350 beds and was accommodating 325 adult patients at the time of the visit (including 106 women).⁸⁷ Some 80 patients had a court-appointed guardian. Further, the establishment was accommodating five persons undergoing compulsory outpatient treatment in the context of criminal proceedings, who had chosen to reside temporarily in the hospital because they had no other place to live.

Patient accommodation was provided on six wards (four for men and two for women) spread over three separate buildings, of which five were closed wards and one was open.⁸⁸ The wards' capacity ranged from 50 to 80 beds, with three to five beds per room. The hospital also had on its premises a social rehabilitation facility.

About 60% of the patients suffered from schizophrenia, and the remainder mostly from various diagnostic categories of learning disabilities and organic damage to brain. The delegation was informed that the average stay in the hospital was about one year, until permanent placement in a social welfare institution or return to the family was ensured.⁸⁹ As such, the establishment was in fact functioning as a long-term social care facility.

120. All the civil patients accommodated in both Daugavpils and Akniste Neuropsychiatric Hospitals at the time of the visit had been formally admitted on a voluntary basis. However, the great majority of those "voluntary" patients had been subsequently placed in closed wards and were prevented from leaving the hospital premises on their own; thus, they appeared to be *de facto* deprived of their liberty, without benefiting from the safeguards otherwise provided for by law for involuntary patients. This issue will be dealt with in the relevant section of this report (see paragraphs 146 to 148).

121. There was a social rehabilitation centre within the compound of Daugavpils Neuropsychiatric Hospital, which occupied two buildings and had a total capacity of 177 beds. The Centre was under the authority of the local municipality and the State Social Integration Agency and was intended for the permanent accommodation of persons with different diagnostic categories of mental disorders.

The delegation noted that the number of hospital patients permanently placed in the Centre had been on the increase. In the CPT's view, transfer to a social welfare institution after the completion of hospital treatment is not in itself a good example of de-institutionalisation. **The Committee encourages the management of Daugavpils Neuropsychiatric Hospital to make additional efforts to include as many patients as possible in rehabilitation and resocialisation programmes and activities in order to better prepare them for return to their families and communities.**

⁸⁶ In the words of the hospital management, "patients with resistance to therapy who had contraindications to placement in a social care institution".

⁸⁷ The delegation was told that the hospital's patient population had been gradually decreasing in recent years (for example, it accommodated 390 patients at the beginning of 2019).

⁸⁸ The latter also being the biggest ward with 68 patients at the time of the visit.

⁸⁹ Over the last four years, some 100 patients of the hospital had reportedly been relocated to social welfare institutions.

2. Ill-treatment

122. The vast majority of patients interviewed by the delegation at Daugavpils and Akniste Neuropsychiatric Hospitals made no allegations of ill-treatment by staff. Indeed, the atmosphere at both hospitals appeared to be relaxed and many patients spoke positively about staff.⁹⁰

That said, a few isolated accounts were received from patients at *Akniste Hospital* that they had been slapped on the back of their heads and had been forced into cold showers by orderlies (*sanitārs*) for having soiled their clothes. **The CPT trusts that the management of Akniste Neuropsychiatric Hospital will exercise continuous vigilance and will regularly instruct staff that patients should be treated with respect and dignity.**

123. Inter-patient violence did not appear to be a major problem at *Daugavpils Hospital*. Indeed, most of the patients interviewed by the delegation stated that they felt safe in the establishment.

By contrast, the consultation of relevant documentation and interviews with patients and staff at *Akniste Hospital* suggested that instances of violence between patients were frequent, in particular in Wards 4 and 6 (both accommodating male patients).⁹¹ Staff felt that this situation was partly due to the fact that patients with a learning disability were accommodated together on the same wards with patients whose primary diagnosis was a mental illness.

The CPT recommends that steps be taken at Akniste Neuropsychiatric Hospital to ensure that staff protect patients from other patients who might cause them harm. This requires not only adequate staff presence and supervision at all times, but also that staff be properly trained in handling challenging situations/behaviour by patients (see also paragraph 135).

The Committee also recommends that the practice of accommodating patients with disorders of a completely different nature (e.g. psychosis and severe learning disability) together on the same wards be discontinued at Akniste Neuropsychiatric Hospital and, where appropriate, in other psychiatric establishments.

124. At *Akniste Hospital*, a register of incidents was kept on each ward, in which instances of inter-patient violence were recorded, together with any traumatic injuries observed.

At *Daugavpils Hospital*, such a register was maintained at the hospital level. However, the delegation was surprised to find that, in the period since January 2019, the register contained only three entries. This raises serious doubts as to whether the recording of incidents was systematic; indeed, it is highly unlikely for an establishment of this size, which had had over 10 000 admissions during the period in question, to have so few incidents.

The CPT recommends that steps be taken at Daugavpils Neuropsychiatric Hospital to ensure that the register of incidents is properly maintained, so as to facilitate monitoring of the situation by the management and identify potential tensions and risks.

⁹⁰ It is noteworthy that a large number of patients at Akniste Hospital needed daily care and assistance (five bed-bound patients, 83 patients receiving a puréed diet, most of whom required assistance with eating, and some one hundred patients using diapers daily).

⁹¹ For example, according to the hospital records, there had been 20 instances of inter-patient violence in Ward 6 (which was accommodating 47 patients at the time of the visit) since 1 January 2022.

3. Patients' living conditions

125. At both Daugavpils and Akniste Neuropsychiatric Hospitals, patients' living conditions were generally good. The entire premises of both establishments, including the patient accommodation areas, were in a good state of repair, clean, well lit (including access to natural light) and ventilated. As regards Daugavpils Neuropsychiatric Hospital in particular, this represents a marked improvement when compared to the situation observed by the CPT in 2007.

Patients' rooms in both hospitals also offered sufficient living space. For instance, at Akniste, rooms containing three, four and five beds measured respectively some 17, 18 and 20 m². Similarly, at Daugavpils, patients' rooms with four and six beds measured some 16 and 24 m² respectively.

That said, the delegation noted that, in most of the bigger rooms at Daugavpils Hospital, many beds remained unused (for example, a room with four patients containing nine beds),⁹² taking up most of the floor space, which significantly reduced the living space for patients. Considering that the number of admissions to the hospital has been continuously decreasing in recent years and that at the time of the visit the establishment was operating well below its official capacity (see paragraph 119), **steps should be taken to have such excess beds removed.** It should also be noted in this context that, in the CPT's view, **patients' rooms in psychiatric establishments should not as a rule accommodate more than four patients.**

126. Further, the delegation noted that, with some exceptions,⁹³ patients' rooms at both Daugavpils and Akniste Neuropsychiatric Hospitals were only equipped with beds and cupboards; the absence of other pieces of furniture, such as tables and chairs, or of decoration, contributed to an impersonal and austere atmosphere. This was of even more concern as regards Akniste Hospital, where patients could spend months or even years on end. Moreover, although patients in both hospitals were allowed to keep some private items, many of them did not have access to lockable space to keep their personal belongings.

The CPT recommends that steps be taken at Daugavpils and Akniste Neuropsychiatric Hospitals to ensure that all patients' rooms and common areas are decorated with a view to providing a more suitable therapeutic environment; patients themselves should be encouraged and supported to personalise their rooms. Steps should also be taken at both establishments to provide patients with personal lockable space for their belongings.

127. In both hospitals, the delegation was told that the resources allocated were sufficient for the establishments' needs, including for the provision of adequate food to patients. Indeed, most of the patients interviewed by the delegation stated that the food was sufficient both in quantity and quality. The delegation could also observe that special meals were prepared in both hospitals for patients depending on the prescribed diet menu (for example, diabetic, vegetarian, kidney disease, puréed diet, etc.).

128. At both Daugavpils and Akniste Neuropsychiatric Hospitals, patients' rooms were not locked, and all patients were in principle free to move within their wards (including in the common area which was equipped with a television set, sofas and benches) and associate with each other.

Further, both hospitals had spacious and pleasant outdoor walking areas equipped with a shelter and benches or – as at Daugavpils Hospital – wooden pavilions. Although several patients told the

⁹² This was even more noticeable at ward level: for example, Ward 5, which had 46 beds, was only accommodating 20 patients at the time of the visit, and Ward 4, with 38 beds, only 19 patients.

⁹³ For instance, the accommodation areas for juvenile patients at Daugavpils Neuropsychiatric Hospital were suitably furnished and pleasantly decorated (with pictures, plants, etc.).

delegation that they were allowed to go out for walks twice or even three times a day, it appeared that for the majority of patients accommodated on closed wards access to the open air was limited to a maximum of one hour per day. Further, it is of particular concern that, at Akniste Hospital, bed-bound patients (five of them at the time of the visit) were not offered any outdoor exercise.

The CPT recommends that steps be taken at Daugavpils and Akniste Neuropsychiatric Hospitals to extend significantly the daily outdoor exercise period for patients, to be combined – weather permitting – with a range of organised activities. The aim should be to ensure that all patients benefit from unrestricted access to outdoor exercise during the day unless treatment activities require them to be present on the ward. Further, bed-bound patients should also be regularly taken to the open air.

129. At the time of the visit, an old three-storey building located on the premises of Daugavpils Neuropsychiatric Hospital was undergoing major reconstruction. The delegation was told that the building was intended for the accommodation of some one hundred patients from Akniste Neuropsychiatric Hospital. It was also pointed out that, once the planned transfer of patients takes place, the official capacity of Akniste Hospital would be reduced accordingly. **The CPT would like to receive more detailed information about the Latvian authorities' plans regarding the function of the aforementioned building.**

4. Staff and treatment

130. At the time of the visit, *Daugavpils Neuropsychiatric Hospital's*⁹⁴ in-patient services employed 25 full-time equivalent psychiatrists. The nursing staff consisted of 148 nurses,⁹⁵ 182 nursing assistants and 18 orderlies. In addition, two internists and one neurologist were employed on a full-time basis, and visits to the hospital by various specialists (such as orthopaedist, pulmonologist, gynaecologist, paediatrician, and haematologist) were arranged as needed. It is also noteworthy that the hospital employed a telemedicine system which allowed for remote consultations by specialists.

131. As regards *Akniste Neuropsychiatric Hospital*,⁹⁶ it is a matter of serious concern that the establishment had only one full-time and one part-time (60%) psychiatrist.⁹⁷ One more psychiatrist had been on extended sick leave and another four full-time psychiatrists' posts were vacant at the time of the visit.

The establishment's healthcare team also included ten doctors' assistants⁹⁸ (who ensured a 24-hour presence) as well as 58 nurses and 105 nursing assistants. Further, the hospital employed, on a part-time (25%) basis, an internist, an infectious diseases specialist, a cardiologist and a radiologist.⁹⁹ Other specialist services (including dental services) were available in nearby medical facilities. In addition, the establishment employed 122 orderlies and auxiliary staff.

During the day, two to four doctors' assistants were present in the hospital, including at weekends. Further, as a rule, each ward was staffed with two nurses, two orderlies and several auxiliary staff at all times, together with a head nurse during the day shift (until 3 p.m.) on working days.

The CPT recommends that the Latvian authorities take the necessary steps to significantly increase the number of psychiatrists at Akniste Neuropsychiatric Hospital; in the first place, urgent steps should be taken to fill the existing vacancies.

⁹⁴ 228 patients at the time of the visit.

⁹⁵ The nurses had not received specialised training in psychiatry but were being trained on the job.

⁹⁶ 325 patients at the time of the visit.

⁹⁷ One psychiatrist remained on call outside working hours.

⁹⁸ The doctors' assistants had received no training in psychiatry and were mainly responsible for the provision of somatic care to patients.

⁹⁹ The hospital had an X-ray room, staffed by a full-time assistant radiologist.

132. *Daugavpils Neuropsychiatric Hospital* also employed a number of other professional staff (including ten clinical psychologists, three occupational therapists and seven physiotherapists) to provide forms of treatment other than pharmacotherapy. The CPT was impressed by the variety of therapeutic, rehabilitative and recreational activities available at this hospital. The establishment possessed a range of good-quality facilities (occupational workshops, physiotherapy rooms, classrooms, a kitchen, a beauty studio, etc.) in which diverse activities for patients were organised, such as painting, drawing, sewing, knitting, music therapy, pottery, handicrafts, cooking, housekeeping, social skills development, and so on. Further, group and individual psychotherapy were also available. It is also noteworthy that efforts were being made to provide juvenile patients with some activities and diversions adapted to their needs (including individual psychotherapy, educational and sports activities, and physiotherapy).¹⁰⁰

In addition, the social rehabilitation centre located on the hospital's premises (see paragraph 121), which had workshops (sewing, ceramics, weaving, handicrafts, woodwork), physiotherapy rooms and hydrotherapy facilities, served both in- and out-patients.

However, the hospital's management estimated that only about one-third of the patients were regularly involved in some form of psycho-social rehabilitative activities. In this regard, the delegation noted that a number of patients were not aware of the range of activities available to them.

133. *Akniste Neuropsychiatric Hospital* employed one occupational therapist, three physiotherapists and one art therapist. Further, the hospital had a part-time (60%) clinical psychologist who mainly dealt with preparation for discharge and conflict prevention.¹⁰¹ The hospital's social rehabilitation centre, located in a separate building, comprised an activity room for drawing/knitting, physiotherapy rooms, a music therapy room, a classroom and a library. The information gathered by the delegation during the visit indicated that on average about 15 patients (that is, less than 5% of the patient population) took part in socio-therapeutic and recreational activities on a regular basis.

134. To sum up, for the majority of patients at Daugavpils Hospital and the vast majority of patients at Akniste Hospital, psychiatric treatment was predominantly based on pharmacotherapy. Further, in neither of the hospitals visited did the delegation see any evidence of a multi-disciplinary approach to the treatment of patients. Both establishments used a standard template for an individual treatment plan, which was drawn up by the treating psychiatrist and signed by the patient;¹⁰² the plan did not reflect a multidisciplinary approach to the patient's treatment, nor was the patient an active participant in the creation of the plan. It also did not indicate the specific goals of treatment nor continuous monitoring, which would include the evaluation of the patient's progress and possible revision of the plan.

135. The CPT acknowledges the efforts made by the management of the two hospitals visited to provide psycho-social therapies and occupational activities to patients. However, more efforts should be made to increase the number of patients taking part in these activities, in particular at Akniste Hospital where the proportion of such patients was very low. In this regard, the Committee was concerned to note that Akniste Hospital did not have a sufficient number of specialised staff for this purpose. Further, all patients should be made fully aware of the activities on offer.

In light of the above, **the CPT recommends that the management of Daugavpils and Akniste Neuropsychiatric Hospitals strive to involve a greater number of patients in psychosocial rehabilitative activities, preparing them for a more autonomous life or return to their families;**

¹⁰⁰ The hospital organised specialised therapeutic activities intended for the rehabilitation of children (for example, a multisensory room for children with developmental disorders, a virtual room for movement coordination exercises through play using a video screen, choreography and dance, sand therapy, etc.).

¹⁰¹ According to the records, the psychologist performed 65 interventions with 20 patients in the first four months of 2022.

¹⁰² The form contained a general overview of planned interventions during treatment (drug therapy, biochemical analysis and other diagnostic medical interventions, planned consultations by other specialists, and the types of occupational activity in which the patient was enrolled).

occupational therapy should be an important part of a patient's long-term treatment programme, providing for motivation, development of learning and relational skills, acquisition of specific competences and improved self-image. To this end, the staffing levels of psychologists, occupational therapists and other professionals should be increased accordingly.

Further, the Committee reiterates its recommendation that an individual treatment plan be drawn up for every patient shortly after admission (taking into account the special needs of acute, long-term and forensic patients including, with respect to the latter, the need to reduce any risk they may pose), comprising the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be involved in the drafting of these plans and their subsequent modifications.

136. There were generally no problems in the hospitals visited with the supply of psychotropic medication. However, the delegation noted that both establishments still largely relied on first-generation antipsychotics, despite the fact that second-generation antipsychotics were available. In consequence, many patients showed extrapyramidal symptoms as side effects of the use of first-generation antipsychotics.

Further, the CPT has misgivings about the practice of polypharmacy observed at both Daugavpils and Akniste Hospitals, which is known to have several negative side effects.

In light of the above, **the CPT recommends that a review be carried out of the above-mentioned practices of prescribing psychotropic medication at Daugavpils and Akniste Neuropsychiatric Hospitals.** Such a review would imply a gradual reduction in the number of administered antipsychotics, especially first-generation medication, and their replacement by second-generation antipsychotics at an adequate dose.

137. As regards the measures taken in the context of the Covid-19 pandemic, both hospitals followed instructions issued by the Ministry of Health with a view to preventing the propagation of the Sars-Cov-2 virus. According to the management of the two hospitals, there had been no cases of death among patients due to Covid-19 and almost all patients and staff members were vaccinated against Covid-19 in a timely manner.

138. According to the register of deaths at Akniste Neuropsychiatric Hospital, a total of 52 patients died on the hospital premises from 2019 to 2021. An examination of the medical records of the 26 patients who died in 2021 revealed that, in almost all cases, "chronic heart failure" was recorded as the cause of death.

With this in mind, and considering that the hospital accommodates many elderly patients with cardiovascular disease, **the CPT recommends that steps be taken at Akniste Neuropsychiatric Hospital to ensure more active involvement of specialists in the fields of internal medicine and cardiology, in order to better monitor and, wherever possible, adjust the existing therapeutic protocols and polypharmacy practices, as well as more frequent screening of potential side effects of psycho-pharmacological treatment** (that is, mandatory ECG before the introduction of antipsychotic drug treatment and periodic ECG monitoring during the application of the therapy).¹⁰³

¹⁰³ By way of example, according to the medical records of a 49 year-old deceased patient who had suffered from coronary heart disease, his therapeutic protocol included the following drugs from the group of psychopharmaceuticals: *Haloperidol* tbl a 10mg 3x1 (30mg per day), *Trihexyphenidyl* tbl a 4mg 3x1 (12mg per day), *Trifluoperazine* a 5mg 3x1 (15mg per day), *Clozapine* tbl (200mg per day), *Levopromazine* a 50mg 3x1 (150mg per day), *Diazepam* tbl a 5mg 2x1 (10mg per day), *Sodium valproate* a 500 mg 3x1 (1500mg per day), *Chlorpromazine* injection and *Levopromazine* injection (that is, five different antipsychotics, while no ECG monitoring being carried out).

139. More generally, it is a matter of concern that, despite the specific recommendation made by the Committee in the report on the 2016 visit, deaths occurring in a psychiatric hospital are still, as a rule, not subject to any post-mortem examination.¹⁰⁴ **The CPT reiterates its recommendation that the Latvian authorities take the necessary steps – including at the legislative level – to ensure that, whenever a patient dies in a psychiatric hospital, an autopsy is carried out unless a clear diagnosis of a fatal disease has been established prior to death by a doctor.**

5. Means of restraint

140. The use of means of restraint in psychiatric establishments is regulated by Section 69¹ of the Law on Medical Treatment (LMT) and the Cabinet of Ministers' Regulation No. 453 (of 12 July 2016) on the procedure for restraining patients in a psychiatric institution. They provide that patients who display violent behaviour towards other persons or who are at risk of harming themselves or others may be subjected to one or more of the following measures: physical restraint (manual control), mechanical restraint, forcible administration of medication (chemical restraint) and placement in an observation room (seclusion).

The Regulation further stipulates that means of restraint may only be used as a last resort and must always be ordered by a doctor (or brought to his/her attention if ordered, in the case of emergency, by another member of healthcare staff). Patients may be subjected to means of mechanical restraint for a maximum period of two hours; any prolongation of the measure requires a review of the situation by a doctor. Further, every resort to means of restraint must be recorded in a special register (in addition to the patient's file). Patients subjected to means of mechanical restraint must remain under constant supervision by a member of staff; the supervising staff member is obliged to maintain a logbook in which the condition of the patient is noted down every 15 minutes. The Regulation also requires that, once means of restraint have been removed, the reasons for their application be explained to the patient.

141. The information gathered by the delegation suggests that means of restraint were generally applied in accordance with the above-mentioned legal requirements at both Daugavpils and Akniste Neuropsychiatric Hospitals (see, however, paragraph 143). In particular, there appeared to be no excessive resort to means of restraint in either of the establishments visited.¹⁰⁵ Further, the delegation was informed that individual seclusion was not practised in the two hospitals.

142. In both hospitals, mechanical restraint (fixation to a bed with cloth straps) was applied by nursing staff in dedicated rooms, which offered adequate privacy to restrained patients. At Daugavpils, fixation was occasionally applied in combination with chemical restraint (injection of tranquilising medication), which was usually administered at the outset of the restraint episode.

From interviews with patients and staff and the consultation of relevant documentation, it transpired that the duration of fixation usually did not exceed one hour and that, during the application of the measure, a member of the healthcare staff was constantly present in the room, keeping a record of the patient's condition every 15 minutes. It would also appear that, after every measure of fixation, the patient concerned was given the opportunity to discuss the episode with healthcare staff.

¹⁰⁴ The Law "On the protection of the body of deceased persons and the use of human tissues and organs in medicine" specifies that an autopsy shall be mandatory if the possible cause of death is an infectious disease or if the cause of death is an undiagnosed condition, or when a forensic medical examination is required in the context of criminal proceedings (Section 6).

¹⁰⁵ According to the registers, Daugavpils Hospital had 39 cases of mechanical restraint and 51 episodes of chemical restraint in the period from May 2021 to May 2022. At Akniste Hospital, there were 97 instances of chemical restraint in 2021 and 43 between January and May 2022.

143. That said, unlike Daugavpils Hospital where recourse to both mechanical and chemical forms of restraint was duly recorded in a dedicated register, at Akniste, such records were kept only in relation to the use of chemical restraint¹⁰⁶ (in both central and ward-level registers). Whilst acknowledging that fixation was only rarely applied in this establishment, **the CPT recommends that steps be taken at Akniste Neuropsychiatric Hospital to ensure that every instance of mechanical restraint of a patient is recorded in a specific register established for this purpose.** The entry in the register should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to such a measure, the name of the doctor who ordered or approved it, the time at which the patient had a debriefing, and an account of any injuries sustained by patients or staff.

144. Despite the specific recommendation made by the CPT after its 2016 visit and contrary to the legal requirement under Section 69¹ (7) of the LMT that “means of restraint may be forcibly applied to a patient only if the patient is hospitalised in a psychiatric treatment facility without his/her consent”, patients in both hospitals could be restrained against their will and no difference was made between voluntary and involuntary patients in this regard. **The CPT must reiterate its recommendation that, if the application of means of restraint to a voluntary patient is deemed necessary and the patient disagrees, the legal status of the patient be reviewed.**

6. Legal safeguards

a. placement and review procedures

145. The legal framework governing involuntary hospitalisation of a civil nature in a psychiatric establishment has remained unchanged since the CPT’s 2016 visit. It is recalled that, according to Section 68 of the LMT, if it is deemed necessary to place the patient in a psychiatric establishment without his/her consent, the patient shall be examined by a panel of three psychiatrists within 72 hours of admission, who then have 24 hours in which to submit an opinion to a court as to the need for involuntary hospitalisation. Within the following 72 hours, the judge shall hold a hearing on the hospital premises and decide on the patient’s placement for a period of up to two months or order his/her release.¹⁰⁷ The decision shall be delivered to the patient and his/her representative, who can appeal against it within ten days. Further extensions of involuntary placement – each for a period not exceeding six months – may be authorised by the judge on the recommendation of the panel of psychiatrists, following the same procedure as for the initial placement. Moreover, patients themselves are entitled to request a judicial review of their placement every two months.

146. As already mentioned in paragraph 120, out of over 500 adult civil patients held in the two hospitals at the time of the delegation’s visit, not a single one had been subjected to an involuntary placement order under Section 68 of the LMT. All civil patients were therefore classified as ‘voluntary’. The delegation was told at both Daugavpils and Akniste Neuropsychiatric Hospitals that the involuntary placement procedure was applied in practice only very rarely.¹⁰⁸

At the same time, most of the wards at Akniste and half of them at Daugavpils were locked wards and the great majority of “voluntary” patients were not allowed to leave their wards (or the hospital)

¹⁰⁶ Intra-muscular injection of antipsychotic medication (in most cases, Chlorpromazine or Haloperidol) or a combination of antipsychotics and anxiolytics (Diazepam).

¹⁰⁷ The hearing is attended by the patient (if his/her state of health so permits), his/her representative or lawyer and a representative of the hospital. If the patient has no legal representative, the judge shall immediately request the Latvian Bar Association to appoint a lawyer to represent the patient's interests.

¹⁰⁸ At Daugavpils Neuropsychiatric Hospital, there had only been eight civil involuntary admissions in 2020 (3 484 admissions in total) and 14 such admissions in 2021 (2 949 admissions in total). There had been no cases of involuntary admission since January 2022. At Akniste Neuropsychiatric Hospital, the delegation was informed that the involuntary placement procedure had been applied only a few times in the last two to three years.

without being accompanied by a member of staff or family member. Moreover, as already indicated, it was not uncommon for such patients to be subjected to means of restraint.

A number of patients in both hospitals claimed that they had been persuaded by staff and/or family to agree to their placement and to sign the relevant consent form upon admission. In this connection, many of the interviewed patients did not seem to be aware of the fact that consent to hospitalisation entailed the possibility to be discharged at their own request. Several of them indicated to the delegation that they wished to leave the hospital; however, it would appear that in practice patients were usually only discharged if it was established that family members were able and willing to take care of them. Consequently, in the CPT's view, such patients were *de facto* deprived of their liberty, without benefitting from the legal safeguards accompanying the involuntary placement in psychiatric establishments.

147. In the case of patients who had restricted legal capacity and were under guardianship, the consent form was signed by both the patient and the guardian (although guardians are not competent to take decisions in the context of hospitalisation of adults with restricted legal capacity).¹⁰⁹ As already mentioned, Akniste Hospital was accommodating some 80 patients who had a court-appointed guardian. It was clear to the delegation that many of these patients were not at all capable of giving an informed consent to their hospitalisation (or medical treatment) because of severe cognitive deficiencies, an assessment fully shared by staff of the hospital. Consequently, the CPT has serious misgivings about the fact that the patients concerned were considered by the management to be voluntary. In the Committee's view, one possible solution would be to apply to such patients the involuntary placement procedure provided by the LMT.

148. The CPT recommends that steps be taken by the management of Daugavpils and Akniste Neuropsychiatric Hospitals and, where appropriate, of other psychiatric establishments to ensure that the legal status of all civil patients be reviewed, in light of the above remarks. More specifically, steps should be taken to notify to the competent court all patients who:

- **have been voluntarily admitted and who express a wish to leave the hospital, but still require in-patient treatment;**
- **are not or no longer able to give informed consent to their hospitalisation and/or medical treatment (irrespective of whether they have been partially deprived of their legal capacity).**

149. The CPT was concerned to note that, despite the specific recommendation repeatedly made by the Committee in previous visit reports, judges were still under no obligation to seek an opinion from a psychiatrist outside the hospital concerned during civil involuntary placement procedures (and apparently did not do so in practice). As the CPT has stressed in the past, the procedure by which involuntary placement in a psychiatric establishment is decided should offer guarantees of independence and impartiality as well as of objective psychiatric expertise.

The CPT once again reiterates its recommendation that the Latvian authorities take the necessary steps – including at the legislative level – to ensure that, in the context of involuntary hospitalisation of a civil nature and extensions thereof, the court always seeks an opinion from a psychiatrist who is not attached to the psychiatric institution admitting the patient concerned.

¹⁰⁹ In 2013 Latvia abolished the legal institutions of total deprivation of legal capacity and plenary guardianship for adults. According to the amended Sections 217 (1), 357 and 356¹ of the Civil Code, the legal capacity of "persons with health disorders of a mental nature" can only be *restricted* to the extent to which the persons concerned cannot understand the meaning of their actions or cannot control their actions, if it is necessary in the interests of the persons concerned and if it is the only way to protect them. At the same time, the legal capacity of adults shall not be restricted in personal non-financial matters. Under Section 364¹ of the Civil Code, restrictions of a person's legal capacity must be reviewed by the competent court at least once every seven years.

150. As regards compulsory psychiatric treatment for patients subject to forensic placement,¹¹⁰ such treatment is ordered by a criminal court for an indefinite period of time.¹¹¹ However, the patient concerned, his/her legal representative or close relative may request, every three months, a judicial review of the compulsory treatment. In the absence of such a request, the court reviews the placement on its own initiative once a year (on the basis of a report by a psychiatric commission of the hospital where the person is placed).¹¹²

151. The examination of the relevant files at Daugavpils Neuropsychiatric Hospital revealed that the procedural time limits for the review of the placement by the court were generally complied with and that patients always had a private or *ex officio* lawyer who was present during court hearings. That said, as had been the case during previous visits, patients were usually not seen by the judge in the context of review procedures, in view of the hospital's assessment that the patient concerned was not fit to appear in court due to his/her mental state. **The CPT reiterates its recommendation that the Latvian authorities take the necessary measures – through appropriate channels – to ensure that patients subject to forensic psychiatric placement are as a rule heard in person by the judge during court hearings in the context of judicial review procedures.**

Moreover, **the CPT considers that commissioning, at reasonable intervals, in the context of the review of the forensic psychiatric placement, a psychiatric expert opinion which is independent of the hospital in which the patient is held would offer an additional, important safeguard. This is of all the more relevance in respect of patients who have already spent lengthy periods of time in that hospital.**

b. safeguards during placement

152. At both Daugavpils and Akniste Neuropsychiatric Hospitals, newly arrived patients were asked upon admission to sign in two places a form of 'consent to hospitalisation and treatment', consenting, respectively, to placement and to medical treatment.¹¹³ Hence, by consenting to their treatment at the very outset of hospitalisation – before the clinical indications for a particular form of treatment could possibly be established, patients gave a blanket consent to undergo any treatment regarded as necessary by the treating doctor. Indeed, there appeared to be a widespread perception among patients in both establishments that they had no choice other than to accept any treatment proposed by the doctor. Moreover, the consent form did not specify that it was possible for patients to subsequently withdraw their initial consent to treatment, and many patients stated that they had not been informed of such a possibility.

Thus, it is clear that the consent to treatment given by patients upon admission could not be considered to be an 'informed consent'.

153. The CPT wishes to stress that, as a general principle, all categories of patient with psychiatric disorders (i.e. voluntary or involuntary, civil or forensic, with full or restricted legal capacity) should be placed in a position to give their free and informed consent to treatment.¹¹⁴ Consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient's condition, the treatment which is proposed and its possible side effects, as well as about the possibility to withdraw the consent, and if the patient concerned has the capacity to give valid consent at the moment when it is sought. Further, it is essential that all patients who have given their consent to treatment are continuously informed about their condition and the

¹¹⁰ That is, patients declared not to be (fully) criminally responsible for their acts but considered dangerous.

¹¹¹ Until "(...) the person concerned has recovered or the nature of the illness has changed to such a degree that it is not necessary to provide such treatment" (Section 69 (4) the Criminal Code).

¹¹² Sections 607 and 608 of the Code of Criminal Procedure.

¹¹³ The latter section contained a pre-printed statement that the patient had been informed of the objectives, risks, consequences, and methods of treatment.

¹¹⁴ That is to say, the admission of a person to a psychiatric establishment on an involuntary basis, be it in the context of civil or criminal proceedings, should not preclude seeking informed consent to treatment.

treatment applied to them and that they are placed in a position to withdraw their consent at any time. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances and should be accompanied by appropriate safeguards.

The CPT recommends that the Latvian authorities take the necessary steps to bring the relevant legislation and practice in line with the above-mentioned precepts. In particular, steps should be taken to ensure that:

- **all patients are placed in a position to give their free and informed consent to treatment through the systematic provision of full, clear and accurate information about their condition, the treatment proposed and its possible side effects, as well as about the possibility to withdraw their consent subsequently;**
- **an assessment of the patient's capacity to give valid consent to their treatment is systematically carried out;**
- **a second psychiatric opinion (i.e. from a psychiatrist not involved in the treatment of the patient concerned) is sought in any case where a patient does not agree with the treatment proposed by the treating doctor;**
- **patients are able to challenge an involuntary treatment decision before an independent outside authority and are informed in writing of this right.**

154. At both Daugavpils and Akniste Neuropsychiatric Hospitals, newly admitted patients generally received information on patients' rights and on the hospital's internal rules orally. The delegation also noted that such information was posted on the ward corridors. That said, as far as the delegation could ascertain, newly arrived patients still did not usually receive a brochure or information sheet about their rights and the house rules, despite the specific recommendation repeatedly made by the Committee after previous visits.

The CPT once again reiterates its recommendation that an information brochure setting out the hospital's internal rules and patients' rights – including information on legal assistance, review of placement, consent to treatment and complaints procedures – be issued systematically to patients (and their families/guardians) upon admission to a psychiatric establishment. This brochure should be available in an appropriate range of languages and patients who are unable to understand it should be provided with the necessary assistance.

155. Patients could lodge complaints with various outside bodies, including the Health Inspectorate and the Ombudsman's Office which also carried out inspection and monitoring visits on a regular basis. Further, at both hospitals, wards had a complaints box in the common area, in which patients could file complaints about all aspects of hospital life.

156. As regards patients' contact with the outside world, arrangements in place for visits, telephone calls and correspondence were adequate in both establishments visited and do not call for any particular comments.

APPENDIX I

Establishments visited by the CPT delegation

Law enforcement establishments

- Detention Facility of the Public Order Police Department, Rīga Regional Department
- Daugavpils Police Station
- Jekabpils Police Station
- Ogre Police Station
- Daugavpils Municipal Police Station

- Daugavpils Immigration Detention Centre
- Mucenieki Immigration Detention Centre
- Holding room of the State Border Guard at Rīga International Airport

Prisons

- Daugavgrīva Prison
- Jelgava Prison
- Rīga Central Prison

Psychiatric hospitals

- Akniste Neuropsychiatric Hospital
- Daugavpils Neuropsychiatric Hospital

APPENDIX II
National authorities and organisations
with which the CPT delegation held consultations

A. National authorities

Ministry of Justice

Jānis BORDĀNS	Minister
Anda SMILTĒNA	Deputy State Secretary
Dmitrijs KAĻINS	Head of the Prison Administration
Kristīne ĶIPĒNA	Head of the Punishment Execution Policy Unit, Sectoral Policy Department

Ministry of Health

Daniels PAVĻUTS	Minister
Dace SPALIŅA	Legal Adviser to the Minister
Boriss KŅIGINS	Deputy State Secretary for Finance
Sanita JANKA	Director of the Health Care Department
Marika PETROVIČA	Head of the Integrated Health Care Division of the Health Care Department
Ineta BŪMANE	Head of the Health Care Organization Division of the Health Care Department
Rimma BEĻIKOVA	Senior Expert of the Health Care Organization Division of the Health Care Department
Marta KRIVADE	Adviser to the Minister of Health on Policy Planning
Kārlis PANTEĻEJEVS	Senior Expert of the Department of European Affairs and International Cooperation
Indira BALCERE	Senior Expert of the Integrated Health Care Division of the Health Care Department

Ministry of Welfare

Gatis EGLĪTIS	Minister
Aldis DŪDIŅŠ	Director of the Department of Social Services and Disability Policy

Ministry of the Interior

Jānis BEKMANIS	Deputy State Secretary
Gatis ŠVIKA	Director of the Sectoral Policy Department
Imants ZAĶIS	Deputy Director of the Sectoral Policy Department
Didzis MEŽJĀNIS	Chief Inspector of the Internal Security Bureau
Normunds GRŪBIS	Deputy Chief of the State Police, Head of the Main Administrative Board
Andris ZELLIS	Deputy Chief of the State Police, Head of the Main Public Order Police Department
Inese BUTĀNE	Deputy Chief of the Criminal Intelligence Management Board of the Main Criminal Police Department of the State Police
Renāte SIRSNĪŅA	Chief Inspector of the Return and Asylum Affairs Division of the State Border Guard

Ministry of Foreign Affairs

Elīna GOŠKINA	Third Secretary, International Organisations and Human Rights Department CPT's liaison officer
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B. Office of the Latvian Ombudsman

Juris JANSONS	Ombudsman
Ineta PIĻĀNE	Deputy Ombudsman, Head of the Civil and Political Rights Division
Liene NAMNIECE-BĒRZIŅA	Head of the Prevention Department
Evita BERĶE	Head of the Communication and International Cooperation Division

C. Non-governmental organisations

Latvian Centre for Human Rights

Resource Centre for people with mental disability "ZELDA"