

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 Riga 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 Riga 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.