



Response

of the Lithuanian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Lithuania

from 5 to 15 September 2016

The Lithuanian Government has requested the publication of this response. The CPT's report on the September 2016 visit to Lithuania is set out in document CPT/Inf (2018) 2.

Strasbourg, 1 February 2018

**REPORT OF THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA
ON MEASURES ALREADY ADOPTED OR ENVISAGED IN ORDER TO IMPLEMENT
THE RECOMMENDATIONS OF THE COMMITTEE FOR THE PREVENTION OF
TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT ('THE
COMMITTEE') SET OUT IN THE REPORT ON THE VISIT TO LITHUANIA CARRIED
OUT FROM 5 TO 15 SEPTEMBER 2016¹**

POLICE ESTABLISHMENTS

Preliminary remarks

Recommendations

- **The Committee once again calls upon the Lithuanian authorities to ensure that persons remanded in custody are promptly transferred to a remand prison. The objective should be to put an end to the practice of holding remand prisoners in police establishments (paragraph 10).**

On 1 September 2015, amendments to the Law of the Republic of Lithuania on Pre-trial Detention came into force, limiting the possibilities of holding remand prisoners in police arrest houses and reducing threefold (from 15 to 5 days) the maximum period for which, under certain circumstances, remand prisoners may be temporarily transferred from remand prisons to police detention facilities.

Under the new legal regulation, persons placed in police arrest houses for the first time may be held there only for as long as that is necessary to carry out preliminary pre-trial investigation actions and only where such actions are impossible when the said persons are in a remand prison. Therefore, they are transferred to a remand prison as soon as the preliminary pre-trial investigation actions have been completed.

Accordingly, remand prisoners may be transferred from the remand prison to a police arrest house for a maximum period of 5 days only if pre-trial investigation actions cannot be carried out at the remand prison or for the purposes of a trial. A decision on the transfer of a remand prisoner to a police arrest house may be adopted only by a reasoned decision, issued by order of, respectively, a prosecutor or a judge or court.

- **The Committee recommends that the Lithuanian authorities take further steps to ensure that the return of prisoners to police arrest houses is sought and authorised only very exceptionally (as required by law), for specific reasons and for the shortest possible time. As a rule, the prisoners concerned should not be held overnight in police establishments.**

Order No 1V-247 of the Lithuanian Minister of the Interior of 3 April 2017 'Approving the Internal Rules of Procedure for the Arrest Houses of Local Police Establishments' approved the Internal Rules of Procedure for the Arrest Houses of Local Police Establishments (the 'Internal Rules of Procedure for Police Arrest Houses'), which do not allow holding convicted persons in police arrest houses. Therefore, persons that do not have the status of a person remanded in custody its equivalent are no longer admitted to police arrest houses.

¹ The Government's Report was adopted and its publication was approved at the meeting of the Government of the Republic of Lithuania on 31 October 2017.

Ill-treatment

Recommendations

- **The CPT recommends that the Lithuanian authorities establish a national system for compiling statistics on complaints of ill-treatment, investigations and disciplinary and criminal sanctions imposed on law enforcement officials (paragraph 14)**

In accordance with the Regulations of the Register of Law Enforcement Officers, approved by Resolution No 1426 of the Government of the Republic of Lithuania of 18 November 2003 ‘On the establishment of the Register of Law Enforcement Officers and approval of the Regulations of the Register of Law Enforcement Officers’, the register keeps data on law enforcement officers regarding disciplinary sanctions imposed on them and early revocation thereof: the disciplinary sanction, the regulation infringed, the date of imposition, the term of validity and the date of revocation. Data on the sanctions imposed on police officers are handled by police establishments, which makes it possible to collect statistical information on the sanctions imposed on police officers. In addition, complaints, requests and applications from residents received by the Lithuanian Ministry of the Interior and the institutions within its area of administration are registered, in accordance with the applicable procedure, in the institutional document management systems. Thus, the already functioning registers and databases are capable of providing the full range of required statistics on the complaints registered (including those on ill-treatment by officers), the respective investigations and the sanctions imposed on officers.

As the establishment of a separate national register of ill-treatment complaints (which, as a matter of fact, would duplicate the functions of the already existing registers and databases) would require budgetary funds, there are no plans to establish such a register.

- **The CPT recommends that the Lithuanian authorities take steps accordingly, in order to ensure an independent and impartial investigation of complaints of police ill-treatment (paragraph 15)**

Presently, internal and pre-trial investigations of ill-treatment of detainees by police officers are carried out by the immunity divisions of county police headquarters. It should be noted that pre-trial investigations are overseen by respective prosecutors. This ensures that complaints against ill-treatment by the police are examined objectively and impartially.

In order to dispel any doubts regarding the objectivity of the above investigations, there are plans to centralize the policy immunity divisions by including them into the structure of the Police Department under the Ministry of the Interior of the Republic of Lithuania.

Safeguards against ill-treatment

Recommendations

- **The CPT reiterates its long-standing recommendation that the Lithuanian authorities render fully effective in practice the right of persons deprived of their liberty by the police to inform a close relative or another third party of their situation, as from the very outset of their deprivation of liberty. It also reiterates its recommendation that detained persons be provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention (paragraph 17)**

In order clearly establish police officers’ duty to inform the detained person’s family members or close relatives or other persons about his detention, amendments to Article 140 of the Lithuanian Code of Criminal Procedure (‘CCP’) came into effect on 25 May 2017 requiring that detention of a person should be immediately notified to one of the detainee’s family members, close relatives or other persons of his choice. Where the detainee does not specify any such person, the officer must himself choose and notify a family member or close relative of the detainee, provided that such a person can be identified.

Where the detained person is a minor, his detention must be immediately notified to his parents or other statutory representatives or, where such a notification would contradict the detained minor's interests, to another appropriate adult. In that case, also where the detained minor has no parents or other statutory representatives or it is impossible to determine them or such notification would be against the interests of the minor, his detention should be immediately notified to the state children's rights protection authority.

Moreover, a detained person must be immediately provided with an opportunity to contact a family member, closer relative or another person of his choice.

Detention of a foreign national must be immediately notified to the Lithuanian Ministry of Foreign Affairs and, if the detainee so desires, to the diplomatic representation or consular office of his State. Where the detained person is a national of two or more States, he may, as far as possible, choose the State whose diplomatic representation or consular office should be notified of his detention. Moreover, at the detained person's request, he must be immediately enabled to contact the diplomatic representation or consular office of his State himself. The detainee must be informed, without delay and in a language he can understand, of his right to contact the above institutions.

Notification of a person's detention may be refused or contact with the person of the detainee's choice may be prevented only by a reasoned decision of the prosecutor where such notification or contact would compromise the success of the investigation or endanger the safety of the detained persons' family members, closer relatives or other persons.

- **The CPT once again calls upon the Lithuanian authorities to ensure that the right of access to a lawyer (including *ex officio* lawyer) is enjoyed by all persons obliged to remain with the police, as from the very outset of their deprivation of liberty (paragraph 18).**

Amendments to CCP Article 50 came into force on 25 May 2017 providing detained persons with the right to meet with a lawyer in private as early as before the first questioning. CCP Article 10 has been amended accordingly, stipulating that the right of defence is guaranteed to suspected, accused and convicted persons from the moment of deprivation of liberty or first questioning.

- **The CPT once again calls upon the Lithuanian authorities to adopt legislation granting persons detained by the police an express right of access to a doctor as from the very outset of their deprivation of liberty; that right of access should include the right, if the detained person so wishes, to be examined by a doctor of his/her choice, in addition to any medical examination carried out by a doctor called by the police (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his/her own expense) (paragraph 19).**

The Lithuanian legislation governing the provision of health care services does not limit the right of persons, including those deprived of liberty, to a doctor of their choice. Consequently, a detained person wishing to be examined by a doctor of his choice, has to submit a relevant request to the administration of the police arrest house in accordance with the procedure prescribed in paragraphs 12 and 13 of the Internal Rules of Procedure for Police Arrest Houses, and the latter will organise his transportation to the doctor selected.

- **The CPT recommends that the Lithuanian authorities take steps to ensure that:**
 - **Health care professionals are as a rule not directly involved in the administrative procedure of handover² of custody of detained persons to a police arrest house;**

² Naturally, a health-care professional should be consulted immediately whenever a newly-arrived detained person requires urgent medical assistance or if there are doubts as to whether the state of health of the person concerned is compatible with admission to a police arrest house.

- persons found to display injuries on their admission are not questioned by anyone about the origin of those injuries during the above-mentioned handover procedure;
 - the record made by the receiving officer, and any photographs taken, of injuries during the handover-of-custody procedures are forwarded without delay to health-care professionals;
 - all persons admitted to police arrest houses are properly interviewed and thoroughly examined by qualified health-care staff as soon as possible, and no later than 24 hours after their admission;³
 - the same approach is adopted each time a person returns to a police arrest house after having been taken back to the custody of a law enforcement agency for investigative purposes (even for a short period of time);
 - all medical examinations are conducted out of the hearing and – unless the health-care professional concerned expressly requests otherwise in a given case – out of the sight of staff not carrying out health-care duties.
- The Committee also recommends that the Lithuanian authorities take further action to ensure that:
- the record drawn up following the medical examination of a detained person in a police arrest house contains: (i) an account of statements made by the person in question which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment);
(ii) a full account of objective medical findings based on a thorough examination;
(iii) the health-care professional's observations in the light of i) and ii), indicating the consistency between any statements made and the objective medical findings; this record should take fully into account any attestation of injuries observed upon admission during the procedure of handover of custody;
 - the record also contains the results of additional examinations performed, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed;
 - the results of every examination, including the above-mentioned statements and the health-care professional's conclusions, are made available to the detained persons and, upon their request, their lawyer;
 - 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 relevant prosecutor, regardless of the wishes of the person concerned;
 - special training is provided to health-care professionals working in police arrest houses. 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, that training should cover the technique of interviewing persons who may have been ill-treated;
 - - law enforcement and custodial staff having no health-care duties only have access to medical information strictly on a need-to-know basis, with any information provided being limited to that necessary to prevent a serious risk for the detained person or other persons. There is no justification for giving staff having no health-care duties access to information concerning the diagnoses made or statements concerning the cause of injuries.
- More generally, as regards the independence of health-care staff, the CPT recommends that the Lithuanian authorities consider the option of placing such staff working in police arrest houses under the authority of the Ministry of Health (paragraph 21).

³ In the case of police arrest houses without on-site health-care staff, this requirement could be met by having recourse to outside medical services.

The functions of the community nurse of a police arrest house are laid down by the Lithuanian medical standard MN 129:2004 ‘The medical unit/office of a local police establishment’, approved by Order No V-8 of the Minister of Health of the Republic of Lithuania ‘On the approval of the Lithuanian medical standard MN 129:2004 “The medical unit/office of a local police establishment”’. According to paragraph 18.1 of the above medical standard, the community nurse of a medical unit must examine the new arrivals at the police arrest house and, with their consent, evaluate their health status.

All the recommendations issued as regards medical examination of such persons, in particular the examination of persons placed in or returned to a police arrest house upon completion of the pre-trial investigation or other actions, records of the findings of such examinations and, where appropriate, transfer of these findings to health care specialists, confidentiality of medical examinations and completion of medical examination reports are being implemented.

It should be noted that, in terms of patients’ rights and personal health care service quality, the legal status of the provider of health care services for persons held in police detention facilities and the subordination of the health care specialists providing such services are irrelevant, as the service quality, patients’ rights guarantees and the persons providing the services are bound by the same requirements regardless of the provider of the said services.

All personal health care establishments and all public health care specialists providing personal health care services to patients, including persons in police custody, are subject to the same service requirements, i.e. the services are provided in premises that meet the hygiene requirements, nurses must hold the required nursing practice licences, attend regular professional training and periodically supply information on their practice and professional development to the State Health Care Accreditation Agency under the Ministry of Health (*Valstybinė akreditavimo sveikatos priežiūros veiklai tarnyba prie Sveikatos apsaugos ministerijos*, ‘VASPVT’) and they must have and use only those medical instruments (apparatuses) that are in compliance with the statutory requirements. All patients, including those in police custody, enjoy the same patient rights, while VASPVT is responsible for ensuring those rights as well as the supervision of all personal health care establishments, including police arrests houses, and of the services provided.

Smaller police arrest houses no longer have community nurses but instead have contracts with national or municipal personal health care establishments for the provision of necessary health care services at police arrest houses.

At larger police detention facilities, community nurses are constantly on duty. It is noteworthy that persons held at these police facilities are completely free, where necessary, to seek the personal health care services they require from the health care specialists working at national or municipal health care establishments and to obtain qualified health care services/medical assistance.

Request for information

- **The Committee would like to receive clarification from the Lithuanian authorities on the continuous methadone therapy procedures applicable in Lithuania and wishes to stress that, as a rule, persons enrolled in methadone (or other opiate agonists) programme should be guaranteed the continuation of their treatment while being placed in police custody (paragraph 22).**

In view of the provisions of the Law of the Republic of Lithuania on Pre-trial detention, which stipulates that detained as well as convicted persons must be guaranteed the same quality and level of treatment as free persons, pharmacotherapeutic treatment with opioid medications has been available at police arrest houses since 2007. In order to ensure the continuity of health care services at the health care establishments of different institutions, if a drug addict in police custody informs the facility of his participation in a programme for pharmacotherapeutic treatment with opioid

medications, he is allowed to receive the medication at the arrest house, in individual doses, from the personal health care establishment where he was treated.

It should be noted that continuous methadone treatment of persons addicted to opioids, by administering relatively stable doses of opioid medications, with the aim to normalise the patient's physical and mental condition as much as possible, is available at all police arrest houses across the country.

Recommendations

- **The CPT calls upon the Lithuanian authorities to ensure without further delay that all persons detained by the police – for whatever reason – are fully informed of their rights as from the very outset of their deprivation of liberty (that is, from the very 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 (paragraph 23).**

CCP Article 21(4) enumerates the rights and obligations of a detained person of which he must be informed upon detention. The Police Department under the Lithuanian Ministry of the Interior has drafted model Rules of Procedure of a Police Arrest House listing the main rights and obligations as well as prohibitions and restrictions applicable to persons taken into police custody. This Procedure has been translated into English, German, French and Russian and delivered to all police establishments. Detained persons are informed of their rights against signature, in a language they can understand.

- **The CPT recommends that the Lithuanian authorities introduce such systematic recording nationwide, given its role as important additional safeguard against the ill-treatment of detained persons.⁴ (paragraph 24)**

CCP Article 179 'Records of the process and results of investigative acts' provides officers with a right, but not an obligation, to film or otherwise record the investigative acts, including interviews of suspects. The majority of interview rooms at police arrest houses are equipped with surveillance cameras to make video and sound records of the interviews.

To implement the above recommendation, the need for and the possibility of installing video surveillance cameras in all the interview rooms at police detention facilities will be evaluated.

Conditions of detention

Recommendations

- **The CPT recommends that steps be taken in all police arrest houses to ensure that:**
 - **in-cell toilets in multi-occupancy cells are fully partitioned (up to the ceiling);**
 - **a call system is installed in all the cells;**
 - **anyone detained for over 24 hours (irrespective of legal status) is granted access to a shower.**

⁴ 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. Electronic recording of police interviews also reduces the opportunity for persons to later falsely deny that they have made certain statements.

The Committee also reiterates its recommendation that steps be taken to ensure that persons detained in a police arrest house for 24 hours or more are offered at least one hour of outdoor exercise every day in facilities of adequate size. The exercise yard at Utena City Police Headquarters Arrest House should be reconstructed to allow more daylight

Finally, the Committee calls upon the Lithuanian authorities to take out of use the small (some 5 m²), dark and unventilated “kartzler” cell, seen by its delegation at Marijampolė Arrest House (paragraph 29)

Concerning the partitioning of in-cell toilet facilities in police arrest houses. Order No 5-V-31 of the Lithuanian Police Commissioner-General of 12 January 2015 amending Order No 380 of the Lithuanian Police Commissioner-General of 10 July 2002 ‘On the approval of the Safety and Use Requirements for the arrest houses of local police establishments’ (‘the Requirements’) amended Article 29 of the Requirements, stipulating that the cells in arrest houses must have a toilet facility with a partition at least 160–180 cm. high (previously: 120-130 cm) and a 120 cm high hinged door (previously there was no requirement to install doors). Funds have been provided for police establishments to increase the partition height and to install the doors. The recommendation on raising the partitions up to the ceiling will be implemented in the future, when designing new police arrest houses.

Concerning the installation of call buttons in arrest house cells. The above-mentioned Order of the Lithuanian Police Commissioner-General amended paragraph 80 of the Requirements laying down the requirement to install a remote surveillance system in police detention facilities, i.e. systems for video surveillance (surveillance cameras with the recording function are installed in arrest house cells) and for communication between the detainees in the cells and the arrest house’s (police headquarters’) warden (entry phones for contacting the arrest house’s (police headquarters’) warden who monitors the cell cameras on the video monitor). Video surveillance cameras must be installed in cells in a way that precludes monitoring (filming) of the inside of the toilet facilities. This provision is applicable to the new or reconstructed police arrest houses. It should be noted that such a system has been installed in the newly built arrest house of the Klaipėda County Police Headquarters and will be installed in the new arrest house of the Vilnius County Police Headquarters.

Concerning 24-hour access to a shower for persons in police custody. Under paragraph 59 of the Rules, arrestees are entitled to a shower at least once a week. New arrestees arriving at the police arrest house as well as arrestees transferred from other custodial establishments are granted access to the shower on the same day or, in the event of a large number of arrestees or late arrival (after 10.00 PM), no later than on the next day.

Concerning the reconstruction of the exercise yard of the arrest house of the Utena County Police Headquarters to allow more daylight into it. Major repairs will be carried out on the arrest house of the Utena County Police Headquarters. The task for the major repairs project has been approved and a call for tenders for the preparation of a project has been published. The preparation of a major repairs project for the Utena County Police Headquarters arrest house is expected to be completed by the end of 2017. The arrest house’s major repairs project will be prepared in the light of the issued recommendation on the exercise yard. Given that persons are held in police custody for a very short period of time, during which they take part in pre-trial investigative acts or court proceedings, and then are immediately returned to remand prisons, building special sports grounds for sporting activities of persons detained in police arrest houses would not be reasonable.

Concerning the recommendation to discontinue the use of the punishment cell (‘karceris’) at the arrest house of the Marijampolė County Police Headquarters. Cells smaller than 5 sq. m (punishment cells) are no longer used to hold people.

- **The CPT encourages the Lithuanian authorities to implement the plans for a new Vilnius City Police Arrest House and requests to be provided with more detailed information on the new facility (capacity, floor plans, envisaged staffing, etc.) (paragraph 30)**

A plan for the construction of a new arrest house of the Vilnius County Police Headquarters with a capacity for 100 detainees has been drafted and approved, and construction work will begin shortly and be completed by 2020.

The new arrest house of the Vilnius County Police Headquarters will have a police staff of 35 to 45 officers. The arrest house will occupy the ground floor and the first floor of the building, while the second floor will be used to set up exercise yards (the building's floor plans can be found in Annex 1 to the Report).

- **The Committee must reiterate its view that police arrest houses are not suitable for detention periods longer than the period of police custody i.e. 48 hours (as it is still presently frequently the case for persons remanded into custody). Steps must be taken to further reduce the time they spend in arrest houses, the objective being to stop this practice altogether (see paragraph 10 above). Pending this, persons remanded in custody held in police arrest houses should systematically be offered some form of activity (paragraph 31)**

Regarding the activities available for persons in police custody. Under Article 2(2) of the Law of the Republic of Lithuania on Pre-trial Detention, the maximum time limit for the transfer of remand prisoners to police detention facilities for the purposes of procedural acts or trial has been reduced to 5 days. It is noteworthy that the said persons are transferred to police custody for specific proceedings, i.e. most of the time they are busy anyway (procedural acts, court proceedings) and, after all the necessary actions have been completed, they are usually taken to remand prisons even before the expiry of the said 5 days. Therefore, providing persons placed in police arrest houses with additional activities would be unreasonable.

PRISONS

Introductory remarks

Recommendations

- **From the outset, the CPT wishes to acknowledge the efforts of the Lithuanian authorities to reduce prison population. At the time of the visit, the prison population stood at 7 004 (compared to 9 754 at the time of the 2012 visit)⁵. Further, the Committee notes as a positive development the decrease in the number of remand prisoners from 1 304 in 2012 to 611 in 2016. The Committee recommends that the Lithuanian authorities pursue their efforts in reducing the prison population and the number of remand prisoners (paragraph 35)**

Purposeful changes in the criminal policy in the 2012-2016 have resulted in a steady decrease in the prison population. These changes have contributed to both a wider use of alternatives to imprisonment (for instance, 20.6 per cent of fixed-term imprisonment sentences were suspended in 2014, 26 per cent in 2015 and 28.9 per cent in 2016) and fewer actual imprisonment sentences (4 029 persons were sentenced to actual imprisonment in 2014, 2 362 in 2015 and 1 898 in 2016).

Since the delegation's visit to Lithuania (in September 2016), the number of remand prisoners and convicted persons has declined additionally by roughly 5 per cent (6 101 convicts and 527 remand prisoners according to the 1 September 2017 data).

In the first half of 2018, the Lithuanian Government is planning to review the use of the legal instruments intended to reduce imprisonment, to create new alternatives to deprivation of liberty and, through organisational instruments, to look for ways that would help further reduce the number of imprisoned persons. Presently, the Lithuanian Law Institute is conducting a research project to explore possibilities for the enhancement of the institutes of probation and non-custodial sentences and for the introduction of new alternatives to imprisonment and is drafting specific proposals to the Lithuanian Ministry of Justice.

- **The new Programme foresees that there will be six modern penitentiary institutions in Lithuania by 2022. Its main objectives are the construction of new prisons in Vilnius, Šiauliai, Klaipėda and Panevėžys, as well as the closing down of Lukiškės Prison which would be transferred to a new establishment in Pravieniškės. Further, the Programme includes plans of a partial reconstruction of Marijampolė Prison (and, eventually, its closure not earlier than in 2022) as well as partial reconstruction of Alytus Prison. The CPT calls upon the Lithuanian authorities to take decisive steps to achieve these objectives. (paragraph 36)**

The following measures are being or have been implemented in modernising penitentiary institutions:

- the Central Prison Hospital has been moved to new premises in Pravieniškės (August 2016);

⁵ The number of imprisoned persons per 100 000 residents has gone down from 330 in 2012 to 254 in 2016, see <http://www.prisonstudies.org/country/lithuania>.

- the dormitory of the Marijampolė Correction House was reconstructed into a cell-type facility (May 2017);
- the dormitory-type living areas of the third block of the Pravieniškės Correction House-Open Colony are being converted into cell-type living areas. Completion of the work is scheduled in December 2017;
- outdoor communication networks and perimeter enclosures (the masking fence and main fence) have been installed in the newly built place of deprivation of liberty in Šiauliai. All the construction work in this establishment is scheduled to be completed by 2021. The new establishment, with a capacity of 600 places, will first of all accommodate the persons currently held at the Šiauliai Remand Prison.
- repairs of the southern wing of the Second Block (former premises of the Central Prison Hospital) are in progress at the Lukiškės Remand Prison-Closed Prison. The plan is to set up additional 83 places for remand prisoners here by 2019;
- design work has been completed to convert the dormitory-type living areas of the Alytus Correction House into cell-type living areas. Reconstruction is scheduled to begin in late 2017.

Upon receipt of the funds from the 2014-2021 Norwegian Financial Mechanism, the design of a correctional facility with a capacity for 210 inmates is planning to start in 2018. This new prison establishment is expected to open doors in 2022.

In the light of the significant decrease in the number of remand prisoners and convicted persons, the need for other penitentiary establishments (in Vilnius, Klaipėda and Panevėžys) will be evaluated later, yet construction thereof should begin after the completion of the construction/reconstruction of the penitentiary establishments mentioned above.

- **The Committee also notes that some steps are being taken at Marijampolė Prison (and planned at Alytus Prison) to move away from the system of large-capacity dormitories/cells towards accommodation based on smaller living units⁶. As repeatedly stressed by the CPT in the past, and as confirmed once again during the 2016 visit to Lithuania, large-capacity accommodation facilitates the development of offender subcultures within penitentiary establishments and entails a high risk of inter-prisoner intimidation and violence⁷. Consequently, the Committee encourages the Lithuanian authorities to accelerate the refurbishment of the two above-mentioned prisons (and initiate the same in other penitentiary establishments, where relevant) with the aim of replacing all the large-capacity dormitories with smaller living units.**

On 5 May 2017, 87 prisoners were already living in the refurbished double and triple occupancy cells of the Marijampolė Correction House. In addition, by December 2017 cell-type accommodation will be established following the reconstruction of the living areas of the third block of the Pravieniškės Correction House-Open Colony. 364 sentenced prisoners will be accommodated in the new single, double, triple and quadruple cells.

Conversion of the convicts' dormitory of the Alytus Correction House into cell-type accommodation for 199 prisoners is scheduled to begin by the end of 2017.

4 new half-way houses were opened in 2016 near the correctional facilities of Vilnius, Alytus, Marijampolė and Pravieniškės, with a capacity for 80 sentenced prisoners living in single to quadruple occupancy rooms.

- **The Committee once again calls upon the Lithuanian authorities to raise the minimum standard of living space per prisoner to at least 4 sq. m in multi-occupancy cells (not**

⁶ See also paragraphs 48 and 51 below.

⁷ See paragraph 44 below.

counting the area taken up by any in-cell toilet facility) and 6 sq. m in single-occupancy cells. The official capacities of all prisons should be reviewed accordingly (paragraph 38)

The minimum standard of living space per prisoner was established back in 2010, when the total number of prisoners amounted to 9 000. Considering that this number has currently been reduced by 28 per cent and the number of remand prisoners has decreased by 55 per cent, they now actually enjoy a living space equal to, and in some penitentiary establishments even larger than, the CPT-recommended minimum living space.

In newly reconstructed/constructed penitentiary establishments, the living areas for remand prisoners and sentenced prisoners will provide a minimum living space of 7 sq. m per person in single occupancy cells and 6 sq. m per person in multi-occupancy cells.

Ill-treatment

Recommendations

- **The CPT recommends that staff at Panevėžys and Kaunas Prisons be reminded that verbal abuse of inmates is prohibited and will be punished (paragraph 39)**

In order to define yet more clearly and unequivocally the grounds for the use of force and special means in order to avoid overuse of coercion (both physical and mental), the amendments to the Staff Regulations of the Prison Department under the Ministry of Justice of the Republic of Lithuania of 1 September 2017, which entered into force on 1 September 2017, have clearly set out the criteria that allow officers to use mental or physical coercion against detained and convicted persons.

During the professional training course in 2017, the staff of Panevėžys and Kaunas penitentiary establishments were once again reminded that ill-treatment of convicted and detained persons would not be tolerated and that the staff of these establishments would not avoid liability for such actions.

- **The Committee recommends that the management of Alytus and Marijampolė Prisons take appropriate steps to ensure that prison staff do not abuse their authority and resort to ill-treatment. As part of their training, staff should be delivered the clear message that the ill-treatment of inmates is not acceptable and will be punished accordingly. (paragraph 40)**

A total 710 training courses were organised for the officers of the Alytus Correction House in 2016 to enhance their professional qualifications (including on human rights protection and prevention of ill-treatment of inmates). The courses were attended by 260 out of the establishment's 298 employees (88 per cent). 462 such training courses were held at the Marijampolė Correction House, which were attended by 216 out of its 282 employees (76 per cent.)

On 1 February 2016, the Training Centre of the Prison Department under the Lithuanian Ministry of Justice launched a 10-month Modular Professional Training Programme for Correctional Officers. 18 class periods under this programme are devoted to human rights protection issues.

In implementing the programme LT14 'Correctional Services including Non-custodial Sanctions', financed under the Norwegian Financial Mechanism, in 2014-2016 the Prison Department under the Lithuanian Ministry of Justice ('the Prison Department') carried out the project entitled 'Prison staff competency building with a focus on inmate training'. In the course of the project implemented in cooperation with the partners, the Correctional Service of Norway Staff Academy, 16 training programmes for the professional development of prison staff were prepared and training was provided to 1 515 employees.

To implement this recommendation, the directors of the Alytus and Marijampolė correctional establishments were once again instructed on their duty to regularly brief their officers on the obligation to treat inmates properly, humanely and in accordance with the law as well as on the

liability for abuse of power and ill-treatment, also to include in officer training plans the subjects of legal grounds for and the limits of using coercion and special means and liability for overstepping these limits when using force. Respective subjects were included into the plans for officer professional training and qualification improvement implemented by the Training Centre of the Prison Department under the Lithuanian Ministry of Justice.

Request for information

- **The CPT would like to be informed whether any internal inquiries and/or criminal investigations have been carried out into the allegations of ill-treatment by members of special intervention units of the Public Security Service of the Ministry of the Interior and the Prison Department and, if so, what was the outcome of these inquiries/investigations. (paragraph 41)**

Internal investigations are carried out every time when special means or combat wrestling methods are employed against detained/convicted persons, also where detained/convicted persons claim that such special means or combat wrestling methods were used against them. If the internal investigations find that the officers' actions may have been unlawful, pre-trial investigations are initiated as well.

In 2007, complaints were received from four prisoners at the Marijampolė Correction House who alleged that officers of the special intervention units of the Public Security Service and the Prison Department had unlawfully used special means against them. In all these cases (internal investigation report No 63/05-4 of 3 March 2017 and internal investigation reports Nos 63/05-33, 63/05-34 and 63/05-35 of 8 August 2017), the internal investigation determined that no special means had been used against the convicts concerned.

At the Kybartai Correction House, pre-trial investigation No 03-2-00453-16 was initiated in 2016 into possible abuse of power (ill-treatment of prisoners) by officers of the special intervention units of the Public Security Service and the Prison Department. This pre-trial investigation was conducted by the Marijampolė County Police Headquarters, yet on 5 April 2017 the pre-trial investigation was terminated by the prosecutor's decision because no elements of a crime or misdemeanour had been established.

On 10 July 2017, the Criminal Intelligence Unit of the Alytus Correction House opened pre-trial investigation No 02-0-00024-17 based on statements received from three inmates of this establishment, alleging overuse of coercion against them by officers of the special intervention unit of the Prison Department who had conducted a search in the cells of the Alytus Correction House. The pre-trial investigation is still pending.

Recommendations

- **The CPT reiterates its recommendation that the Lithuanian authorities take the necessary measures in the light of these remarks (it should be ensured that subsequent identification of the officers concerned is always possible by the relevant authorities and by prisoners, through both a clearly distinctive badge and a prominent identification number on each uniform/helmet. In addition, any interventions of this type should be video-recorded and the footage preserved for investigation purposes, as well as for subsequent debriefing, evaluation and training. (paragraph 42)**

The possibility of officer identification has been ensured: each officer wearing special gear has a clearly visible identification number on the back of the helmet. To implement the recommendation, additional identification numbers have been placed on the front of the helmet.

The video recording devices installed at prison establishments constantly film both indoor as well as outdoor spaces of the establishments, which means that officers of the special intervention unit and their actions are also video-recorded.

In 2016, the Prison Department additionally acquired 58 video recorders and distributed them to prison establishments, which now have a total of 191 video recorders that record, among other things, the actions of the officers of the special intervention unit.

Procedures for the use of video-recorders are in place at all prison establishments. To ensure effective use of video-recording devices and a consistent manner of using them at all prison establishments, the Prison Department has also adopted a single Procedure for the use of video-recorders at prison establishments. The Procedure requires that the records made by the video-recorder should be stored on a digital medium for a minimum period of 30 calendar days from the date of the recording. Where investigations are opened on allegations of ill-treatment by officers, the video records will be stored until the completion of the investigations.

Request for information

- **Committee has some concerns regarding the legal basis for participation of members of special intervention units belonging to the Public Security Service of the Ministry of the Interior in large-scale searches carried out inside prisons. The Committee finds that assisting prison staff in carrying out cell searches is not provided for by the Law on the Public Security Service. The CPT would welcome the Lithuanian authorities' observations on this subject. (paragraph 43)**

The cases in which assistance may be sought from the officers of the Public Security Service under the Lithuanian Ministry of the Interior are specified in Article 114 of the Lithuanian Code for the Execution of Sentences. The Service's officers assist in restoring order at a prison establishment and to ensure public security only in the event of an emergency (such as riots of inmates, group resistance against the correctional facility's security and administration, illegal group acts in gross violation of the internal procedure of the correctional facility, hostage situations).

The procedure for seeking assistance from the Public Security Service of Lithuanian Ministry of the Interior in guarding prison establishments and the joint actions to be taken by its officers and the officers of prison establishments in maintaining and (or) restoring public order at prison establishments are laid down by Order No 101/1V-119 of the Minister of Justice of the Republic of Lithuania and the Minister of the Interior of the Republic of Lithuania of 14 April 2003.

Thus, the officers of the Public Security Service under the Ministry of the Interior of the Republic of Lithuania do not conduct searches at prison establishments and this practice is strictly observed. Their participation is limited only to ensuring public order in the course of searches conducted by correctional officers as well as pre-emption and prevention of resistance and disobedience against correctional officers.

Recommendations

- **In the light of the remarks in paragraphs 44 and 45 above, the CPT recommends that an effective strategy to tackle inter-prisoner violence be put in place in Alytus, Marijampolė and Panevėžys Prisons; this strategy will also have to include investing far more resources in recruiting additional staff and developing staff professionalism (paragraph 47)**

In 2017, a dynamic security model was introduced at the correctional facilities of Marijampolė and Panevėžys and at the Kaunas Remand Prison in order to enhance the effectiveness of the control of prisoner behaviour, to reduce uncontrolled movement of prisoners outside the area of their sections, to prevent inter-prisoner violence more effectively and to assist prisoners in finding solutions to their issues locally.

Major advantages of dynamic security:

- an increase in staff at the establishment during the day and on non-working days as well as holidays;
- a more effective control of prisoners living in section areas as well as better opportunities to prevent them from entering the areas where they are not allowed;
- local resolution of problems encountered by prisoners (registration with a doctor, coordination of visiting times, granting of visits, etc.)

In order to properly prepare for the introduction of the above model, the management as well as junior officers of the said establishment are receiving intense training (16 class periods) to learn the main principles of dynamic security in correctional facilities. After specific junior officers are selected to conduct dynamic security, they attend additional training under the programme 'Preparation of wardens to work in dynamic protection' developed by the Correctional Service of Norway Staff Academy (40 class periods).

In November and December of 2016 such training was organised for the officers of Panevėžys Correction House and in 2017 it was attended by the officers of the Kaunas Juvenile Remand Prison, Kaunas Remand Prison and Marijampolė Correction House.

At the Panevėžys Correction House, the dynamic security model was fully introduced in January 2017. Dynamic security officers stand watch in two shifts made up of 8 officers each. The work schedule consists of 12-hour shifts from 9.00 AM to 9.00 PM (3 working days and 3 days off). At the Kaunas Juvenile Remand Prison and the Kaunas Remand Prison, the dynamic security model has been fully operational as of June 2017 and at the Marijampolė Correction House – as of September 2017.

In other prison establishments (the correction houses in Vilnius and Alytus and the Pravieniškės Correction House-Open Colony), the dynamic security model in 2017 covered only certain localised sections, while full implementation of the model (covering the entire establishment) will be completed in 2018.

Application of financial incentives for the staff is covered in the response to the recommendation given in paragraph 76.

Conditions of detention

a) material conditions

Recommendations

- **In the light of the information referred to in paragraphs 48 to 52 above, the CPT recommends that the Lithuanian authorities take steps to:**
 - **reduce occupancy rates in all penitentiary establishments visited, with a view to offering a minimum of 4 sq. m of living space per inmate in multiple occupancy cells and dormitories (not counting the area taken up by any in-cell toilet facility); see also paragraph 38;**
 - **refurbish the accommodation areas, paying particular attention to the state of the floors, the walls and the ceilings;**
 - **ensure that all prisoner accommodation areas, as well as communal sanitary facilities, at Alytus and Marijampolė Prisons are maintained in a clean condition;**
 - **improve ventilation in the cells at Kaunas Prison;**
 - **provide all in-cell toilets with a full partition, i.e. up to the ceiling.**

More generally, reference is made to the recommendations in paragraphs 36 and 37 above (paragraph 53).

As mentioned in the response to the recommendation in paragraph 38, due to a significant decrease in the number of remanded/convicted prisoners, they now actually enjoy a living space equal to, and in some penitentiary establishments even larger than, the CPT-recommended minimum living space.

In newly built (reconstructed) penitentiary establishments, the toilet facilities are completely separated from the cell area. In those penitentiary establishments where the ventilation system's structure and cell layout prevent isolation of the toilet facilities and/or installation of doors to them, partitions of a minimum height of 1.5 m. and special retractable curtains are installed.

At the Marijampolė Correction House, 51 living spaces (1 684 sq. m) for prisoners and 16 toilet facilities were refurbished in 2015; 37 living spaces (1 013 sq. m) and 17 toilet facilities in 2016; and 2 living spaces⁸ (86 sq. m) and 2 toilet facilities in 2017.

Simple repairs carried out at the Alytus Correction House in 2017 covered cell-type living spaces: the temporary detention cell (10.04 sq. m) and 3 cells (74.76 sq. m).

At the Lukiškės Remand Prison-Closed Prison, 37 cells (401.93 sq. m) and 12 exercise yards (232.34 sq. m) were refurbished in 2016 and 32 cells (293.46 sq. m) and 10 exercise yards in 2017.

The directors of all penitentiary establishments were instructed to ensure regular cleaning and adequate ventilation in the prisoners' living areas as well as shared facilities (including toilet facilities).

- **The Committee reiterates its view that prisoners should be able to take a shower at least twice a week and more frequently if warranted by the circumstances⁹. The CPT recommends that the Lithuanian authorities increase the frequency of showers accordingly (paragraph 54)**

Most prisoners have access to a shower more frequently than recommended by the Committee. For instance, working prisoners can take a shower every day after work. Hot water is also available on a daily basis to female prisoners and the residents of half-way houses; detained as well as convicted prisoners can take a shower after sporting events. In addition, the Minister of Justice has instructed the directors of penitentiary establishments to provide all detainees and convicts with access to a shower at least twice a week.

- **The CPT recommends that the Lithuanian authorities take steps to review the quality and quantity of the food provided to inmates in all prisons visited. Additionally, measures should be taken, without delay, to refurbish the kitchens and to investigate the allegations of food theft at Alytus and Marijampolė Prisons (paragraph 55).**

In 2017, the canteen of the Marijampolė Correction House and the kitchen of the Alytus Correction House were refurbished. Funds have been allocated to refurbish the canteen at the Alytus establishment and the refurbishment will be completed by the end of 2017.

Order No 257 of the Director of the Prison Department of 14 June 2017 'On the approval of menus for persons held in remand prisons and penitentiary establishments' approved new menus for convicted/detained persons, increasing the rations of rice and the rations and the range of salads of all vegetables and introducing a menu for vegans.

⁸ Not counting the 32 cells refurbished when reconstructing the entire prisoner dormitory building.

⁹ See also Rule 19.4 of the European Prison Rules: "Adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene."

All prison establishments have been involved in the project 'Green oasis': vegetable gardens have been planted and greenhouses have been built to enable prisoners to grow vegetables and spices by themselves. The project not only stimulates prisoners' interest in vegetable growing but also enhances their food ration.

The Economy Division of the Prison Department has reinforced food quality control at prison establishments. The Department's director issued an order forming a special group that conducts scheduled visits to prisons, meets with their staff, communicates with the remand prisoners and sentenced prisoners, inspects their living conditions as well as food quantities and quality.

No cases of theft from the kitchen of the Alytus Correction House were registered in 2016-2017.

No cases of theft from the kitchen of the Marijampolė Correction House were registered in 2016, but two such cases were registered in 2017, and internal investigations were conducted in that regard. In the first case, concerning a theft of 7 kg of minced meat and 2.5 kg of rice from the canteen, an auxiliary worker, an accountant and a cleaner of the canteen were punished. All these workers (convicts) were dismissed from the job and received disciplinary sanctions. In the second case, concerning a theft of 31 kg of meat from the canteen, the responsible auxiliary worker (convict) of the kitchen was punished by dismissal from the job and disciplinary sanction.

b) regime

Recommendations

- **After evaluating the regimes, the CPT once again calls upon the Lithuanian authorities to take decisive steps to develop programmes of activities for both sentenced and remand prisoners. The aim should be to ensure that prisoners are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, education, sport, etc.) tailored to the needs of each category of prisoner (adult remand or sentenced prisoners, inmates serving life sentences, female prisoners, etc.) (paragraph 58)**

The number of working and/or studying prisoners has been constantly rising (for instance, in 2015 33.1 per cent of all the inmates of the prison establishments worked and 30 percent studied, while in 2016 working prisoners already accounted for 37 per cent and studying prisoners for 35.7 per cent of the prison population). The Prison Department has worked out an activity strategy for sentenced prisoners and remand prisoners that will enable further development of engagement these prisoners in meaningful and diverse activities.

The directors of prison establishments are also encouraged (by setting relevant targets in their annual tasks) to transfer more sentenced prisoners to correctional facilities of an open type (open colony or half-way house) or to go outside the correctional facility without guards during daytime (for the purposes of working, studying, activities or participation in social rehabilitation programmes).

Special attention is devoted to the development of the forms of activities available to remand prisoners. The heads of remand prisons have been instructed to allow sentenced prisoners to spend as much time outside the cell as possible: to take a walk or exercise in open air and to engage in group activities such as studying, sport, participation in various programmes, watching videos, etc. Due to various measures that have been taken, for instance, as many as 67 per cent of all the inmates of the Šiauliai Remand Prison took part in various group activities in July 2017. Information on the activities available to convicts and remand prisoners held at the Lukiškės Remand Prison-Closed Prison is provided in Annex 2 to this Report.

In 2017, the Lithuanian Law Institute will conduct a scientific evaluation of the regimes of the inmates of all prison establishments and submit proposals for the improvement of the physical environment of remand prisoners as well as convicted persons.

Request for information

- **At Lukiškės Prison, the delegation was informed of plans to adapt parts of the adjoining premises of the former Prison Hospital for organised activities such as work, schooling and sports. The Committee would like to be informed whether these plans have now been implemented and if so, how many remand prisoners participate in the aforementioned activities (paragraph 59)**

Refurbishment of the southern wing of the Second Block of the Lukiškės Remand Prison-Closed Prison (the premises of the former Central Prison Hospital) is in progress and scheduled to be completed by 2019. According to the project, 30 cells for 83 inmates, along with a 120 sq. m space for leisure activities, sport and studies of persons detained on remand and sentenced prisoners, will be established here.

Recommendations

- **The Committee calls upon the Lithuanian authorities to amend the existing legislation in order to allow, as a rule, remand prisoners from different cells to associate¹⁰ (paragraph 60)**

On 1 April 2016, amendments to the Law of the Republic of Lithuania on Pre-trial Detention came into force eliminating the previous absolute prohibition of association between remand prisoners from different cells. Presently, remand prisoners may associate with persons held in other cells, with the permission of the remand prison's administration.

- **The Committee calls upon the Lithuanian authorities to review the legal provisions and practice as regards life-sentenced prisoners, in the light of the above remarks. In so doing, the authorities should be guided, *inter alia*, by Recommendation Rec(2003)23 of the Committee of Ministers of the Council of Europe on the management by prison administrations of life sentence and other long-term prisoners (adopted at the 855th meeting of the Ministers' Deputies on 9 October 2003), as well as by the CPT's standards set out in its 25th General report.¹¹ (paragraph 61)**

Although the process of resocialisation of prisoners serving the life sentence began earlier, the amendments to the Lithuanian Code for the Execution of Sentences in force as of 1 September 2015 have included life sentence prisoners in the scope of the same resocialisation mechanism that is applicable to all other inmates: (1) social rehabilitation of life sentence prisoners is conducted in accordance with the sentenced person's 'Individual social rehabilitation plan', drawn up with the participation of the convict in question; (2) formulation of an 'Individual social rehabilitation plan' may also involve national and municipal authorities, non-governmental organisations, religious communities and associations, volunteers and other natural as well as legal persons whose participation in the implementation of the measures envisaged in the 'Individual social rehabilitation plan' may help the life sentence prisoner to achieve social rehabilitation; (3) an 'Individual social rehabilitation plan' is devised taking into consideration the degree of the sentenced person's criminal risk, the measures envisaged to eliminate the criminogenic needs, and the regime of the correctional facility in which the sentenced person is held; (4) an 'Individual social rehabilitation plan' contains an assessment of the sentenced person criminal risk and criminogenic needs, measures to eliminate the variable criminogenic needs, with deadlines for implementation thereof, measures that will help the sentenced person comply with the correctional facility's regime, the forms of leisure activities available to him, the forms of maintaining

¹⁰ Naturally, it should still be possible to separate from each other remand prisoners who are co-accused in the same criminal case.

¹¹ See Report CPT/Inf (2016) 10 <https://rm.coe.int/CoERMPublicCommonSearchSrvics/DisplayDCTContext?documnId=0900001680696a9d>.

(expanding) the sentenced person's social ties and implementation thereof, and other measures that would contribute to the convict's social rehabilitation.

Information on the activities available to prisoners serving the life sentence and other long-term prisoners (at the Lukiškės Remand Prison-Closed Prison) is provided in Annex 2 to this Report.

It should be mentioned that 29 out of the 120 life sentence prisoners have been transferred from the prison to a correction house to serve the remainder of their sentences. At the correction house, they live under the same regime applicable to other inmates of that correctional facility: they may associate with other inmates, participate in group activities, exercise for 3 hours a day, practice sports in open air, receive visitors, etc.

The Ministry of Justice is also drafting amendments to the Lithuanian Criminal Code, the Code for the Execution of Sentences and the CCP that are intended to create a possibility of review of life sentences so that they could be replaced by fixed-term imprisonment. The Seimas is expected to consider these proposals in 2017. The possibility of review of life sentences will provide convicted persons with an extra incentive to participate in various social rehabilitation programmes and activities.

Health-care services

a) Introduction

Recommendations

- **In Lithuania, the responsibility for health-care in prisons lies primarily with the Ministry of Justice. In this context, the CPT wishes to stress that it supports, in principle, the clear policy trend that can be observed in Europe, favouring prison health-care services being placed, to a great extent or entirely, under the responsibility of the Ministry of Health.¹² In any event, the Committee is convinced that a greater participation of the Ministry of Health in this area (including as regards recruitment of health-care staff, their in-service training, evaluation of clinical practice, certification and inspection) will help to ensure optimum health-care for prisoners, as well as implementation of the general principle of the equivalence of health-care in prison with that in the wider community.**

The CPT reiterates its recommendation that the Lithuanian authorities review the provision of prison health-care, taking into consideration the above-mentioned remarks.

Further, in the light of the delegation's findings (see paragraphs 64 to 75 below), the CPT invites the Lithuanian authorities to develop a comprehensive long-term strategy for the organisation and provision of health-care in the penitentiary system. (paragraph 62)

As it has already been mentioned in the response to the recommendation presented in paragraph 21, the legal status of the organiser of healthcare services for persons held in remand prisons and correctional institutions is irrelevant in terms of patients' rights and health-care quality, as the quality of health services provided and the assurance of patients' rights fall subject to uniform requirements that are independent of the provider of the above-mentioned services.

Prison health-care is organised in line with health-care legislation of the Republic of Lithuania, and the licensing of prison health-care staff falls subject to the same legislative requirements as that of

¹² See Rules 40.1 and 40.2 of the European Prison Rules and the Commentary on these Rules as well as Rule 24(1) of the United Nations Standard Minimum Rules on the Treatment of Prisoners (Nelson Mandela Rules) and Principle 24 of the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (A/RES/43/173). Reference is also made to a document published in 2013 by the United Nations Office on Drugs and Crime and the WHO Regional Office for Europe, entitled „Good governance for prison health in the 21st century: a policy brief on the organisation of prison health“, http://www.euro.who.int/_data/assets/pdf_file/0017/231506/Good-governance-for-prison-health-in-the21st-century.pdf?ua=1.

their medical counterparts engaged in medical practices in public or other type of health-care institutions. All the patients, including the prison population, are entitled to the same patients' rights; and the enforcement of these rights, just like the activities of health-care institutions and the delivery of the services are overseen by the State Health-care Accreditation Agency.

Based on the current prison health-care provision model, part of prison health-care services are provided by health-care institutions or by individual health-care professionals that are outside the penitentiary jurisdiction. Please note that a part of secondary health-care services that are not available at the Central Prison Hospital and all the tertiary level services are provided in public health-care institutions. Besides, part of primary (out-patient) health-care services, for the delivery of which the recruitment of health-care professionals of relevant qualifications is considered unreasonable, are also ensured through the contracts with public health-care institutions (i.e. by procuring the required services). Please also note that certain groups of prisoners must use health-care services provided only by public health-care institutions (convicts held in open prison colonies or half-way houses).

Request for information

- **The CPT would like to receive updated information on the health-care staff complement at the Prison Hospital and the number of vacant posts (per specialty). The Committee would also like to receive the Lithuanian authorities' observations regarding the above-mentioned concerns as regards prisoners' access to outside medical care (paragraph 63).**

The Central Prison Hospital currently employs all the health-care staff required for this institution to carry out its activities and deliver health-care services to the detained and convicted persons. For more information on health-care staff at the Prison Hospital (at 31 October 2017), please see Annex 3 to the Report.

As it has already been mentioned in the response to the recommendation presented in paragraph 62, the prison health-care is arranged so that part of prison health-care services required is provided in prisons and the Prison Hospital, while other services are delivered by public health-care institutions. Notably, the current model is not intended to be modified.

Only primary (outpatient) health-care services (family medicine, dentistry, psychiatry and nursing) are delivered in prisons. Where there is a need for secondary health-care services (outpatient or inpatient), the patient is taken to the Central Prison Hospital or a public health-care institution in the immediate vicinity. The weekly average number of patients taken for this type of consultations is about 10.

The Central Prison Hospital provides only those (secondary level) services that are appropriate in accordance with the principle of cost-efficiency, i.e. the recruitment of a specific health-care professional becomes appropriate where there is a larger number of patients. Therefore, taking into account the morbidity rates among the detainees and convicts, the Central Prison Hospital focuses mainly on the provision of the services in the following fields: internal medicine, pulmonology, psychiatry, radiology, tuberculosis, nursing and palliative care and laboratory diagnosis. For other health-care services (including all the tertiary services), patients are taken to public health-care institutions.

b) staff, treatment and facilities

Recommendations

- **The CPT calls upon the Lithuanian authorities to take urgent steps to reinforce health-care resources in the prisons visited, by providing working conditions that are sufficiently attractive to recruit and retain staff, and in particular to:**
 - **employ the equivalent of at least two additional full-time general practitioners at *Alytus Prison* and one additional full-time general practitioner at *Marijampolė Prison*;**

- significantly reinforce the nursing staff complements at *Alytus and Marijampolė Prisons*; efforts should also be made to reinforce nursing staff complements at *Kaunas and Lukiškės Prisons*;
- ensure that someone qualified provide first aid, preferably with a recognised nursing qualification, is always present on the premises of all prisons visited (and, more generally, all penitentiary establishments in Lithuania), including at night and on weekends.
- urgently fill the vacant psychiatrists' posts at *Alytus and Marijampolė Prisons*, and recruit a psychiatrist at *Kaunas and Panevėžys prisons* (and other prisons where such a post is absent or vacant). (paragraph 66)

In 2017, Alytus Correction House has recruited a new family doctor. Hence, the number of the filled vacancies of the staff providing general practitioner's services currently exceeds the number of posts provided for in the common standards approved by the Order of the Minister for Justice and the Minister for Health of the Republic of Lithuania. Besides, this correctional facility has all the planned nursing staff (10.5), and its number also exceeds the number of posts provided for in the common standards.

The number of the filled vacancies of the staff providing general practitioner's services and the staff providing nursing services at Marijampolė Correction House currently also exceeds the number of posts provided for in the common standards (1.25 and 7.5 respectively).

It should be noted that, in principle, there is no shortage of nursing staff in prisons (over 90 per cent of the required nursing posts have been filled). This, as a result, ensures that these prisons have nursing services 24 hours a day (including on weekends).

In penitentiary facilities that have not a psychiatrist among their staff, this service is purchased from public health-care institutions.

- **The CPT recommends that the Lithuanian authorities reinforce the provision of psychological assistance in prisons and, in, develop, within the health-care services, the therapeutic role of the psychologists. The objective should be to separate completely the risk assessment and the therapeutic functions; this will require recruiting more clinical psychologists. (paragraph 67)**

A therapeutic (clinical) psychologist is currently employed only at Lukiškės Remand Prison-Closed Prison. Following the recommendation, these health-care professionals are planned to be hired across all the prisons.

- **The Committee recommends replacing the old dental equipment at Panevėžys Prison, as a matter of priority. (paragraph 68)**

The administration of Panevėžys Correction House has evaluated the costs for purchasing a new dental equipment. This equipment is planned to be acquired by end of 2017, as a matter of priority.

c) medical screening and confidentiality

Recommendations

- **The CPT reiterates its long-standing recommendation that steps be taken to ensure in all prisons that the record drawn up after the comprehensive medical examination of a newly-arrived prisoner contains:**
 - 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);
 - a full account of objective medical findings based on a thorough examination;
 - the health-care professional's observations, in the light of the first two recommendations, indicating the consistency between any allegations made and the

objective medical findings; this record should take fully into account any attestation of injuries observed upon admission during the procedure of handover of custody; the results of every examination, including the above-mentioned statements and the health-care professional's conclusions, are made available to the prisoner and his/her lawyer;

- **the procedure described above is also followed whenever a prisoner sustains a traumatic lesion while in prison.**

The record should also contain the results of any additional examinations performed, detailed conclusions of any specialised consultations and an account of treatment given for injuries and of any further procedures conducted.

The recording of medical examinations in cases of traumatic injuries should be made on a special form provided for this purpose, with “body charts” for marking traumatic injuries that will be kept in the medical file of the prisoner. If any photographs are made, they should be filed in the medical record of the inmate concerned. This should take place in addition to the recording of injuries in the special trauma register.

Reference is also made to recommendations in paragraph 21 above¹³ which apply *mutatis mutandis*. (paragraph 70)

Order No V-357 of the Director General of the Prison Department of 31 August 2017 has amended the Description of the Procedure for the Prevention and Investigation of Injuries of the Detainees and Convicts in Places of Imprisonment, and the Description of the Procedure for the Preparation, Management and Accounting of Documents relating to Bodily Injuries of the Detainees and Convicts in Places of Imprisonment. The Descriptions provide for the registration of all the bodily injuries of the detainees (convicts) (irrespective of whether the injuries have been observed upon the admission of the newly-arrived prisoner, or while already in prison).

Pursuant to the above-mentioned amendments, a health-care professional shall record in the medical file of the prisoner the detailed account of a bodily injury (nature of the bodily injury) found upon the medical examination of the detainee (convict); based on the statements of the injured person, specify the circumstances under which the injury occurred, specify the date, time and place. The bodily injuries of the detainee (convict) shall also be recorded in a special form with “body charts”, approved in accordance with the forms recommended by the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). Following the detailed account of the bodily injury in the medical file of the prisoner, the health professional shall promptly draw up an accurate written report on the medical examination of the injured person, specifying the date and time of the examination of the injured person, the nature of the bodily injury detected, as well as the circumstances stated by the injured person.

The written report on the medical examination of the injured person shall be filed in a special Register for written reports on the medical examination of the injured persons, and promptly delivered to the duty assistant to the director of the prison concerned. The latter shall immediately notify the director or his deputy and the head of the Criminal Intelligence Unit of the injury detected. In the case of the self-inflicted injury by the detained (convicted) persons, the coordinator of the Crisis Management Team shall be notified.

All the information related to medical examination, treatment given or medical procedures applied to the injured person shall be recorded in the patient's medical file, which will be made available to the injured person at any time.

It is notable that under Article 8 of the Law of the Republic of Lithuania on the Rights of Patients and Compensation of the Damage to their Health, all the information concerning the patient's health

¹³ Regarding, in particular, the role of health-care staff during the administrative handover procedure and the training for such staff in describing injuries.

state (including the medical information) shall be confidential and may be made available to other individuals only upon the written consent of the patient, except the cases where the patient has specified and confirmed by signature in the medical documents the name of an individual who can access this information. Hence, the results of the medical examination of the detained or convicted persons shall not be available to their lawyers unless the detained (convicted) person has given his/her consent in this regard.

- **The Committee recommends that steps be taken to ensure in all prisons in Lithuania that, whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned. (paragraph 71)**

The Description of the Procedure for the Prevention and Investigation of Injuries of the Detainees and Convicts, and for the Preparation, Management and Accounting of Documents in Places of Imprisonment, approved by the Director General of the Prison Department, provides for an obligation to report at all times to the territorial prosecutor's office any bodily injury sustained by a prisoner (irrespective of the nature of the injury), and in the case of an industrial injury – also to a relevant territorial unit of the State Labour Inspectorate.

When a prisoner is found to display bodily injuries, the origin of which allegedly contains criminal aspects, a decision is taken in any case to initiate a pretrial investigation.

d) drug-related issues and transmissible diseases

Request for information

- **The delegation noted that a “drug-free unit” had been set up at Alytus Prison. However, its precise role, operating procedures and admission criteria were not clear to the delegation.¹⁴ The CPT requests to be provided with detailed information regarding the afore-mentioned unit, including the admission procedure and the unit's role in providing support to prisoners with drug-related problems. (paragraph 73)**

Alytus Correction House has operating Rehabilitation Centre for Prisoners Affected by Addiction (hereinafter – the Centre) with the capacity of 20 places. The Centre aims to provide long-term, complex, psychological and social support to inmates, addicted to psychoactive substances, and to improve their social reintegration in society. The employees working in the Centre are exclusively from the staff of Alytus Correction House, while NGOs and volunteers are mobilised for individual measures only (for education, training, etc.)

Centre objectives:

- increasing the motivation in inmates to refuse the patterns of using psychoactive substances, encouraging the change in lifestyle and behaviour, building social skills;
- provision of support to inmates in addiction treatment;
- provision of support to inmates to improve the quality of their life, as well as the emotional, mental and physical condition;
- raising legal and social awareness among the inmates affected by addiction, and provision of other support required;
- provision of support to inmates on the formation of skills of healthy and sober life-style;
- taking further the cooperation with NGOs and other interested institutions, while promoting the involvement of these organisations in the rehabilitation process of the inmates affected by addiction to psychoactive substances.

¹⁴ Reportedly, the drug-free unit was run by a non-governmental organisation whose representatives were deciding on which inmates could be admitted to the unit.

In its activities, the Centre follows the Rehabilitation Programme for Persons Addicted to Psychoactive Substances approved by the Director General of the Prison Department. The Programme involves the following three stages: 1) Introductory group (3 months outpatient sessions); 2) Intensive motivational-educational therapy (12 days); 3) Drug-addicts' rehabilitation group (12 months inpatient programme).

The Centre admits inmates that:

- admit their addiction to psychoactive substances;
- do not use any psychoactive substances at the time of admission to the Centre;
- have completed the first stage of the Programme (Introductory group);
- have expressed intention to participate in the other stages of the Programme and agree to adhere to the internal rules of the Centre;
- do not maintain the informal inmate sub-culture traditions;
- serve the sentence in a privileged or ordinary group;
- have no diagnosed mental disorders that may hinder the rehabilitation process;
- have still at least 9 months to serve the sentence when they start the long-term rehabilitation programme.

Inmate admission procedure:

The eligible inmate, after the completion of the first stage (Introductory group), should submit an application to the Director of the establishment for his transfer to the Centre. The inmate's application for a transfer to the Centre is considered by a special commission that offers its recommendation to the Director of the establishment regarding the approval/disapproval of the application. Following the decision on the transfer of the inmate to the Centre, he gets an introduction on the obligations, internal rules and the time-table, and signs the obligation to comply with the internal rules of the Centre. Should the number of the applicants exceed the admission capacity of the Centre, the applicants will be put on the Centre's waiting list to be admitted in a consecutive order, with a priority given to the inmate with the shortest time left to serve.

Methods and means applied in the Centre as regards the inmates:

- individual psychological counselling aimed to help clarifying, understanding and addressing personal or interpersonal problems related to psychological feeling or behaviour, to build and strengthen patient's motivation for further rehabilitation;
- individual social counselling aimed at the solution of real-life social problems, provision of social information, and shaping and developing social skills;
- group therapy aimed at teaching the community members to identify with the disease, to observe their own and others' physical condition, thinking, behaviour and feeling, to express them, talk openly and ask for help and support, also teaching to identify with other people, developing assertive approach, ability to address mutual differences and take into account the feelings of other people;
- writing diaries, self-analysis, therapeutic homework aimed at self-analysis skills in writing a diary about changes in their own thinking, behaviour, emotional state, and their relationship with themselves and the environment as well in doing any other individual tasks in writing;
- educational, awareness-raising trainings aimed at giving information about the addiction as a disease, its mechanism and development, and learning to recognise the symptoms of the disease, also focusing on the prevention of relapse, and other important issues;
- community meetings aimed at addressing the major issues of community relevance, with the participation of the Centre staff and the inmates living in the Centre;
- meetings of mutual assistance groups: Alcoholics Anonymous (AA) or Drug Addicts Anonymous (DAA) aimed at helping the inmates to maintain sober life skills developed in the community, while encouraging to seek for new social contacts and draw on the experience of sober life.

Recommendations:

- **The CPT urges the Lithuanian authorities to develop a comprehensive strategy for the provision of assistance to prisoners with drug-related problems (as part of a wider national drugs strategy), in the light of the above remarks. (paragraph 74)**

Prisoners with drug-related problems are subject both to different educational and psychotherapeutic measures as well as medical treatment (abstinence treatment).

Vilnius, Alytus, Marijampolė, Panevėžys and Pravieniškės penitentiary institutions have operating Rehabilitation Centres for Prisoners Affected by Addiction (see response to paragraph 73).

The inter-institutional working group set up by the Prison Department is working on the description of the procedure for ensuring the continuity of the substitution treatment in prisons, which will provide for the continuity of the substitution treatment in prison for the inmates that participated in the treatment programme before the imprisonment. The above-mentioned description should be approved by 1 October 2017.

- **The CPT calls upon the Lithuanian authorities to devise and implement, as a matter of priority, a strategy for the prevention and treatment of transmissible diseases in prisons, with particular attention being paid to *Alytus Prison*. (paragraph 75)**

All the strategic documents have been approved as regards the implementation of the effective prevention of transmissible diseases in prisons, and ensuring the treatment and disease control:

1. The strategy for TB prevention, treatment and control in prisons 2017-2022, approved by order No V-289 of the Director General of the Prisons Department of 22 August 2016;
2. The description of the procedure for the clarification and case management of tuberculosis patients, approved by order No V-837 of the Minister for Health of the Republic of Lithuania of 23 June 2016;
3. Order No V-899/1R-199 of the Minister for Health and Minister for Justice of the Republic of Lithuania of 24 July 2017 on the treatment of acute human immunodeficiency virus infection in prisons;
4. The description of procedure for HIV screening and treatment in prisons, approved by order No V-14 of the Director General of the Prisons Department of 18 January 2017;
5. the description procedure for HIV diagnosis and treatment funded from the compulsory National Health Insurance Fund, approved by order No V-384 of the Minister for Health of the Republic of Lithuania of 3 May 2010;
6. The methodical guidelines for diagnostics and outpatient treatment of chronic viral hepatitis B and viral B liver cirrhosis, funded from the compulsory National Health Insurance Fund, approved by Order No V-458 of the Minister for Health of the Republic of Lithuania of 2 June 2005;
7. Order No V-960 of the Minister for Health of the Republic of Lithuania of 24 October 2012 approving the description of the procedure for the diagnosis and outpatient treatment of chronic viral hepatitis C with compensated medicines.

For the purpose of addressing transmissible diseases in relation to drug-use in Alytus Correction House, the Prison Department, following the consultations with the Ministry of Health, has issued Order No V-28 of 27 January 2017 approving a plan of measures to prevent spreading of HIV cases in Alytus Correction House, which provides for different measures aimed at the reduction of the demand and supply of psychoactive substances in Alytus Correction House, as well as for harm mitigation measures.

Other issues

a) prison staff

Recommendations

- **The CPT calls upon the Lithuanian authorities to take urgent steps to increase both custodial staff levels and presence at Alytus and Marijampole Prisons. Similar efforts should be made in the other establishments visited (and, as applicable, in other Lithuanian prisons) in order to ensure that there is an adequate presence of staff at all times; for this, a recruitment strategy should be developed based on proper funding and enhanced conditions of service, including attractive salaries. Further, the Committee recommends that efforts be stepped up to fill all the vacant posts, especially as regards custodial staff. (paragraph 76)**

On 13 September 2016, changes were introduced in the structure of Marijampolė and Alytus Correction Houses by increasing the number of posts of junior officers (custodial staff) by 5 and 6 respectively.

Alytus Correction House currently has the approved 205 posts of junior officers (custodial staff), with 173 vacancies filled. Marijampolė Correction House has the approved 181 posts of junior officers (custodial staff), with 158 vacancies filled.

To make the profession of the prison staff more attractive and competitive, on 19 October 2017, the amendments to the Law on Service Regulations of the Prison Department under the Ministry of Justice, drafted by the Ministry of Justice, were passed by the Seimas. These amendments provide for new payment procedure for the staff of correctional officers. Following the entry into force of the amendments, salaries for prison staff will increase by 15 per cent on average as of 1 December 2017. To have all the vacancies of the custodial staff filled, the salaries for the junior officers would be subject to the highest growth.

At the same time, measures have been taken to increase staff salaries even before the new payment procedure comes into effect. The custodial staff that had the lowest category were promoted on 1 October 2016, and, as a result, were subject to about 6 per cent salary increase. The promotion involved, for instance, 34 custodial staff in Marijampolė Correction House and 64 in Alytus Correction House.

As already mentioned in the response to the recommendation presented in paragraph 46, following the introduction of a dynamic security model in a part of penitentiary institutions, officers concerned had an extra pay along with the promotion, which has also added to salary increase.

As of 1 September 2017, about 950 correctional officers have been promoted, and their salaries, as a result, increased by about 6-12 per cent.

Further to making the service more appealing, in 2016, the compensation for staff travelling to and from work has increased by 2,3 times.

- **The Committee calls upon the Lithuanian authorities to discontinue the practice of 24-hour shift work (paragraph 77)**

With a view to implement the Committee's recommendation, in 2017, all the prison staff on shift work was surveyed to have their opinion in this regard. It is notable that the majority of the staff said they were for continuing under the current schedule, which provides for 3 days off after the 24-hour shift. This is also approved by trade unions that defend officers' rights. Hence, no immediate changes have been planned as regards the shift schedule.

b) contact with the outside world

Recommendations

- **The Committee considers that, as a minimum, all prisoners should be entitled to the equivalent of at least one hour of visiting time per week. The CPT recommends that the Lithuanian authorities amend the relevant legislation accordingly. (paragraph 78)**

With a view to implement the previously given recommendations by the Committee, the minimum number of visits per prisoner (detainees are not subject to visit restrictions) has been increased two times. Please note that prisoners are entitled, as an incentive, to additional three long-term or short-term visits a year, while those serving under privileged and ordinary groups (i.e. 93 per cent of all the inmates) may be granted unlimited number of extra visits, long or short, for maintaining social contacts. Besides, part of the convicts (held in open colony or half-way houses) have no restrictions whatsoever as regards the number of visits.

The implementation of the Committee's recommendation would result in the reduction of the maximum duration of a short-term visit by 1 hour. However, bearing in mind that the inmates prefer to receive longer rather than more frequent visits (many prisons are located in secluded areas, which makes it difficult for the close relatives of the inmates to come to see the inmate on a frequent basis), there are no plans to change the minimum number of visits.

At the same time, efforts are being made to find ways to promote inmates' contacts with the outside world. For example, in 2016, it was legally provided for the inmates to maintain contacts with other people through internet telephony (e.g. Skype).

The number of inmates' short-term home visits has also increased. For instance, in 2015, there were 418 permissions issued for up to three-days home visits, in 2016 – 469, while in the first quarter of 2017 alone – it was as many as 379. Measures have been taken to encourage the prison management to be more active in allowing the inmates to make home visits, while setting this criterion among their annual tasks.

It should be noted that prisoners of certain categories (open colony, half-way houses) that have no disciplinary sanctions are allowed to go home every weekend. Besides, they can see their close relatives and other persons unrestricted outside the prison (for instance, a café, cinema, etc.), as the abovementioned sentences persons are allowed to freely move during the day time in certain parts of the territories of the city/settlement, which are outside the limits of the prison concerned.

- **The Committee has serious misgivings regarding the amendments to the Criminal Code according to which the long-term visits are now only allowed with a spouse, a partner or a person who has a child with the prisoner concerned. The issue was a matter of great concern for all sentenced prisoners interviewed by the delegation but most of all by female prisoners whose opportunities to see their children were now limited to short-term visits only.¹⁵ CPT recommends that the Lithuanian authorities take steps to remedy this lacuna. (paragraph 79)**

We draw Committee's attention to the amendments to the Penal Enforcement Code of the Republic of Lithuania, which came into effect on 1 January 2017, providing for short-term meetings between the inmate and the spouse (partner) or a close relative without separating them by glass (as used before in all the cases of short-term meetings).

At the same time, a mechanism has been introduced allowing to add into one all the short-term visits due to the inmate, and thus have one meeting of up to six-hours' duration. All the prisons have been equipped with special child-friendly rooms for meeting with children. Hence, all the

¹⁵ It is also noteworthy that such limitations run contrary to the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules), especially Rule 26 which reads: "Women prisoners' contact with their families, including their children, and their children's guardians and legal representatives shall be encouraged and facilitated by all reasonable means."

prisoners, including mothers serving a sentence, have favourable conditions for meeting with their children, and the procedure for such meetings is in line with the practice applicable across the prisons of the Council of Europe member states in relation to inmate's meetings with their children.

Furthermore, efforts are being made for the inmates to have more frequent meetings with their children in their homes rather than in the prison. Therefore, as it has already been mentioned in the response to the recommendation given in paragraph 78, measures have been taken to enable the inmates that have no disciplinary sanctions to go home every weekend (formalisation of a possibility of tracking the inmates that are on a home visit through electronic monitoring, opening up of four special half-way houses, encouragement of inmates to go on home visits and their transfer to open colonies or half-way houses).

- **The CPT recommends that the Lithuanian authorities take measures to ensure that all remand and sentenced prisoners are able to receive visits under reasonably open conditions, except when there is a specific and clear security concern. (paragraph 80)**

As it has been mentioned in the response to the recommendation given in paragraph 79, amendments to the Penal Enforcement Code of the Republic of Lithuania and the Law on Pre-Trial Detention, which came into effect on 1 January 2017, which provide for short-term meetings between the inmate and the spouse, a cohabiting partner, a close relative or a person with whom the detainee (the convict) has a child without separating them by glass or otherwise.

Please be informed that the detainee (the convict) shall not be separated (by glass) in his meeting with his spouse, cohabiting partner, a close relative or a person with whom the detainee (the convict) has a child, unless the detainee (convict) has repeatedly violated the visiting procedure, thus incurring a disciplinary sanction, which will result in his noncontact (separated by glass) meetings with the above persons in the time of the sanction.

c) discipline and security

Recommendations

- **The CPT has concerns about some aspects of the disciplinary procedure: inmates were not systematically heard prior to the imposition of sanction, access to legal assistance was purely theoretical and prisoners were not allowed to call witnesses. The Committee recommends that these deficiencies be remedied. (paragraph 82)**

Both the Law on Penal Enforcement of the Republic of Lithuania as well as the Law on Pre-Trial Detention establish that the sanction imposition must take into account the specific circumstances of the violation, the number and nature of sanctions incurred, as well as the written explanation of the inmate. This means that the detainee (the convict) has a possibility to submit an explanation to the prison administration regarding the violation, the circumstance of the violation, and request hearing of witnesses indicated as well as request for defence.

Please note that only mild sanctions: a reprimand and cleaning of the prison territory and premises out of turn – can be imposed orally or in writing by an order or decision of an authorised officer. All the other sanctions, related to the restriction of the inmate's special rights or inmate's solitary confinement can be imposed only through the submission by the sanctions commission of the prison. This means that the inmate that allegedly committed the violation is convened to the meeting of the sanctions commission, where he can provide his oral explanations or submit written requests, explanations and statements, provide witnesses that can testify to his version of events and request their hearing.

- **The CPT has repeatedly stressed that obliging prison doctors to certify that prisoners are fit to undergo punishment is scarcely likely to promote a positive doctor-patient relationship; moreover, it is unethical. 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.¹⁶ The Committee recommends that this practice be discontinued (paragraph 83)

The amendments to the Law on Penal Enforcement Code, withdrawing the provision for the obligation by a prison health professional to certify the fitness of the prisoner sentenced to solitary confinement up to 15 days, came into effect on 1 September 2015 have discontinuing this practice across all the prisons. In consideration of the Committee recommendation, the Panevėžys Correction House administration has been instructed to discontinue the practice that contradicts the legislation, which, as a result, has been discontinued.

- **Material conditions were unacceptable in several of the disciplinary cells at Alytus and Marijampolė Prisons. The cells were dilapidated and filthy, dark, and lacked efficient ventilation. Further, some of the single disciplinary cells at Marijampolė Prison measured only 4 sq. m and were too narrow (less than two metres between the walls). The CPT calls upon the Lithuanian authorities to take immediate steps to remedy the above-mentioned deficiencies at Alytus and Marijampolė Prisons.**

In this context, any cells measuring less than 6 sq. m should either be withdrawn from service or enlarged and it should be ensured that cells are sufficiently wide (at least two metres between opposite walls). (paragraph 84)

Alytus Correction House has no cells measuring less than 6 sq. m.

Marijampolė Correction House has only 5 cells measuring less than 5 sq. m from the existing total of 25 cell-type premises. These cells are allowed to be used only in exceptional cases and only for a temporary isolation (24 hours).

- **Despite the CPT's repeated earlier recommendations, the regime for prisoners placed in disciplinary cells had improved very slightly, i.e. they were now allowed daily outdoor exercise (one hour) an access to reading matter. However, they were still denied visits and telephone calls. The Committee calls upon the Lithuanian authorities to remedy the above failings. (paragraph 85)**

May we draw the Committee's attention to the fact that the sanction of confinement in a disciplinary cell is imposed in the cases of intentional, gross and regular violation of the sentence serving regime only. The isolation time of the inmates, who are subjected to this extremely harsh sanction, is very strictly limited (for adult convicts – up to 15 days, while for minors – up to 10 days), though a shorter isolation time is practiced quite often.

Practical evidence proves that the number of the above-mentioned sanctions has been gradually reducing in penitentiary institutions (for instance, in 2016, Alytus Correction House applied this sanction 444 times, while in the first half of 2017 – only 115 times). In this context, the Ministry of Justice of the Republic of Lithuania plans to review the practice of applying this sanction while making relevant amendments leading to the minimisation of the cases of applying this sanction, as well as to the shorter sanction serving time across all the prisons.

- **In the light of the above observations, the CPT calls upon the Lithuanian authorities to stop using restraint beds in prisons. Agitated inmates who pose a serious danger to themselves or to others could be temporarily isolated in a calming-down cell until they restore behavioural control, only as a last resort when all other reasonable options (such as talking to the inmates in question) have failed to satisfactorily contain these risks. If the inmate does not calm down, he/she should be transferred to a suitable health-care facility, given that restraint beds should not be used in a non-medical setting. (paragraph 86)**

¹⁶ See also the 21st general Report on the CPT activities (CPT/Inf (2011), 28, <http://www.ept.coe.int/en/annual/rep-21pdf>.) paragraphs 62 and 63.

May we note that it happens for prisons to have inmates that pose threat to their own and others' health and safety, and damage the inventory of the establishment. These exceptional cases require measures that would help the inmate to calm down, and the officers – to control the aggressive person by removing the possibility for injuring himself and/or others.

Article 26¹(4) of the Law on Service Regulations of the Prison Department under the Ministry of Justice lays down clearly the grounds for and the duration of the application of handcuffs and tying up measures, including the restraint beds. Hence, prison officers may apply tying up measures only against persons that are aggressive or tend to injure themselves or others.

To your information, 12 certified and safe-to-use restraint beds have been purchased for prisons. These restraint beds have been used in accordance with the procedure approved by each individual prison providing for the requirements for equipping the premises for the use of tying up measures, as well as the use of the tying up measures. However, with a view to standardising the practice of the use of the above-mentioned beds, the Director General of the Prisons Department issued an order of 25 July 2017 approving the description of the procedure for the use of tying up measures mandatory for all prisons.

PSYCHIATRIC ESTABLISHMENTS

Preliminary remarks

Recommendations

- **CPT calls upon the Lithuanian authorities to speed up the pace of legislative reform and ensure that the new Mental Health Act enters into force as soon as possible. (paragraph 88)**

A working group set up by the Minister for Health of the Republic of Lithuania prepared a new version of the draft Law on Mental Health Care of the Republic of Lithuania. This law is planned to be adopted and enter into force on 1 January 2018.

- **In the light of the information the delegation received at Rokiškis Psychiatric Hospital¹⁷ and, to a lesser extent, at Vilnius Mental Health Centre¹⁸, the Committee can only encourage the Lithuanian authorities to pursue efforts of de-institutionalisation, also in the context of the country's obligations stemming from the UN Convention on the Rights of Persons with Disabilities¹⁹. (paragraph 89)**

The problems identified by the Committee will be gradually solved by 2020 when the integrated service provision system enabling a disabled person with intellectual and (or) mental disorder or his/her family (guardians, caretakers) to get access to individual services tailored to their needs as well as necessary community assistance will be developed (see reply to recommendation in paragraph 123 for details).

Ill-treatment

Recommendations

- **The CPT recommends that continued vigilance be exercised in this respect. In particular, all staff at Vilnius Mental Health Centre (especially the orderlies) should be reminded at regular and frequent intervals that any form of ill-treatment of patients, whether physical or verbal, is totally unacceptable and will be punished adequately²⁰. (paragraph 90)**

Observations and recommendations of the Committee were presented to lower-level staff (nurses) of closed type units of all mental health centres; in 2018 additional training on patient treatment standards for the above-mentioned staff (especially orderlies) is planned.

It should be noted that administrations of mental health centres do not tolerate ill-treatment of patients from the staff side and in all cases confer heavy responsibility on staff members violating the rules. It is also should be noted that in recent years one assistant nurse employed in a mental health centre was dismissed from job because of ill-treatment of patients.

¹⁷ Where there were patients who no longer required hospitalisation but whose release had been refused by the court because of the lack of available places in appropriate outside structures such as social homes.

¹⁸ Where some patients had had to wait for several months before obtaining a place in a social home (or another outside structure).

¹⁹ Ratified by Lithuania on 18 August 2010.

²⁰ See also paragraph 104 below.

Account should be paid to the fact that in 2017 the Seimas Ombudsman of the Republic of Lithuania assessed the human rights situation in the Department of Psychiatry of the Kaunas Hospital of the Lithuanian University of Health Sciences and public institution Vilnius Mental Health Centre. Report No 2017/1-35 of 15 June 2017 contains no remarks concerning possible ill-treatment of patients from the side of staff.

Living conditions

a) follow-up visit to Rokiškis Psychiatric Hospital

Recommendations

- **The CPT recommends that steps be taken to ensure that all patients have unrestricted access to a shower. (paragraph 92)**

Clinical units of the Rokiškis Psychiatric Hospital are provided with showers and patients have unrestricted access to them. In addition, internal administrative rules establish that patients are obliged to take a shower at least once a week and if they do not (or cannot) take a shower, they are washed by hospital staff.

- **In this context, the Committee must stress that there should be a move away from the current policy of keeping patients locked up in their rooms; this should be accompanied by further development of recreational, psychosocial and occupational therapeutic activities (see paragraph 99 below). The CPT reiterates its recommendation that steps be taken at Rokiškis Psychiatric Hospital to progressively abolish lock-up periods during the day for patients in maximum and medium security units.**

The Committee also invites the Lithuanian authorities to seek ways to provide more living space for patients accommodated in larger rooms, for example by ensuring a more even allocation throughout the available accommodation. (paragraph 93)

Depending on mental disorders of a person, gravity of criminal offences and dangerousness to the society, the Criminal Code permits the court to order to apply three types of in-house compulsory medical measures – observation and treatment involving general, enhanced or strict observation. The court shall order to ensure enhanced or strict observation in exceptional cases related to patients who have serious mental disorders and have committed serious offences. Such patients show aggressiveness, the degree of their dangerousness to the society and probability of re-offending is extremely high, thus with a view to ensuring the safety of other patients and staff of the hospital, such patients are constantly observed and accompanied by the staff or security guards and are locked during the day. Moreover, the abilities of the above-mentioned patients to engage into certain activities are minimal due to the state of their mental health.

It should be noted that in case the aggressiveness of such patients and degree of their dangerousness to the society decline or the state of their health improves, enhanced or strict observation is replaced by general observation involving no locking during the day. Furthermore, efforts are made to engage such patients in various active psychosocial activities (see reply to recommendation in paragraph 99).

It should also be noted that it was already in 2016 that the Rokiškis Psychiatric Hospital drafted a document ordering to provide more living space of female wards unit and to improve living conditions of female patients. Currently opportunities are being sought for financing the above-mentioned project.

Request for information

- **Almost all patients interviewed by the delegation complained about the poor quality and insufficient quantity of the food provided at the Hospital. The delegation raised the issue with the Director who promised to discuss it with the catering company. The CPT would like to be informed of the outcome of these discussions. (paragraph 94)**

The Rokiškis Psychiatric Hospital has food supply contract with public institution 'Kretingos maistas'. This enterprise was awarded the contract in accordance with public procurement procedure. Dietary food for patients is prepared on the basis of compulsory standards applicable in the country. On 21 October 2016 the State Food and Veterinary Service checked the provision of food services and found no infringements. In order to increase the quality of food and satisfaction of patients in all health care establishments, the draft Description of procedure for the provision of food services in health care establishments is under preparation. This draft Description of procedure will lay down detailed food quality requirements. It is scheduled for adoption by the end of 2017.

Recommendations

- **The delegation noted that the privacy of female patients in Building A was not protected sufficiently. In particular, male patients from other units could observe female patients in their rooms (as the windows had no privacy screens) and during outdoor exercise. Some of the women interviewed by the delegation felt uncomfortable about this situation. The Committee recommends that steps be taken to address this problem. (paragraph 95)**

Aiming at increasing the privacy of female patients their rooms were equipped with protective blinds. Female patients have full discretion regarding their use. Moreover, when walking outside male patients are not allowed to approach the windows of female patients.

b) Vilnius Mental Health Centre

Recommendations

- **In the light of the delegation's findings, the CPT recommends that the Lithuanian authorities implement plans to build new purpose-built premises²¹ for the closed and psicho-geriatric wards (with sufficient space for activities)²² as a matter of priority. Pending this, efforts should be made to offer a more congenial and personalized surroundings for patients. To the extent this is economically justified, some redecoration of the existing premises should be carried out. Further, male patients on the closed ward should be encouraged to wear their own clothes during the day or be provided with appropriate non-uniform garments. (paragraph 97)**

Draft technical design of new premises that could house acute psychiatry and gerontopsychiatry units was prepared and building permit was obtained. At present preparations for the auction of assets are taking place, the aim of which is to collect funds necessary to cover part of construction expenses; efforts are made to find other sources of financing for construction of the above-mentioned new premises.

²¹ Reportedly, the new premises would have accommodation based on smaller rooms (measuring up to 18 m²) for one or two patients, with en-suite toilets and showers.

²² The plan was to sell the old buildings to a private investor and use the proceeds to construct new premises. All the relevant procedures were reportedly completed and the Director hoped the sale and subsequent construction could go ahead in the course of 2017.

The internal rules of the Vilnius Mental Health Centre stipulate that its patients are allowed to wear their own clothes. The centre provides uniform garment (night garment) only to patients who do not have clothes of their own or their own clothes are no longer fit for wearing (for example, the clothes of a newly arrived patient are unclean, wet, etc., he/she has no relatives who could bring clothes etc.).

Treatment

Recommendations

- **The CPT recommends that efforts be made to involve more patients on closed wards at Vilnius Mental Health Centre and those on maximum and medium security units at Rokiškis Psychiatric Hospital in psycho-social rehabilitation activities, in the light of the above remarks. As regards more specifically, the latter establishment, more focus is required on needs assessment and on reducing the risk to society posed by forensic patients.**

In this context, the Committee recommends that the Lithuanian authorities take steps to separate completely the risk assessment and therapeutic functions of the psychologists.

Further, long-term patients should be involved in more activities preparing them for independent life or return to their families, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improvement of self-image. As far as possible, this should happen in coordination with the existing community care structures. (paragraph 99)

As it was already stated in reply to recommendation in paragraph 93, patients of Rokiškis Psychiatric Hospital who receive treatment involving enhanced or strict observation are actively observed and receive intense treatment. Since the degree of their dangerousness to the society remains high, such patients are not allowed to leave their ward unaccompanied by the staff with the aim at protecting other patients. This limits their access to other units, they must be accompanied by the staff. Moreover, abilities of the above-mentioned patients to engage into certain attention involving activities are much lower due to active mental disorder and intense treatment.

It should be noted that the court orders to apply enhanced and strict observation regime only in exceptional cases, when such patients suffer from severe mental disorders and have committed serious crimes. However, the period of treatment of such patients in enhanced and strict observation units is relatively short and when the court orders to replace enhanced or strict observation by general observation, efforts are made to involve the above-mentioned patients into various psycho-social activities to the maximum extent possible.

The Vilnius Mental Health Care Centre has the Psycho-social rehabilitation unit that provides psycho-social rehabilitation services to majority of patients. Psycho-social rehabilitation services are provided by multi-disciplinary team comprising of nurses, occupational therapists, social workers, activity therapists, physiotherapists, psychologists, doctors, other specialists as well as volunteers, including relatives and family members. The situation in relation to psycho-social rehabilitation services will improve, when new premises of Vilnius Mental Health Care Centre housing psycho-social rehabilitation unit will be built.

It should be noted that at present clinical psychologists carry out diagnosis and provide psychological consultations, if necessary. In most cases different psychologists are involved, for example, psychology apprentice and volunteers perform psychological assessment and psychologist with higher qualification consults the patient. However, in certain cases it is better to ensure that the patient is examined and consulted by the same specialist.

- **The Committee recommends that all patients (female and male) in both establishments benefit in fact from unrestricted access to outdoor exercise during the day unless treatment activities require them to be present on the ward. (paragraph 100)**

At present the possibilities to ensure unrestricted access to outdoor exercise for patients are limited due to technical characteristics of premises. Following the construction of new premises of Vilnius Mental Health Care Centre the situation will improve considerably. Taking into account the fact that the areas for outdoor walking of the two establishments are limited, at present patients are allowed to have an outdoor walk in line with the internal rules set up by the above-mentioned establishments.

Staff

Recommendations

- **Staff should be encouraged to engage more with the patients on closed wards at Vilnius Mental Health Care Centre and those on maximum and medium security units at Rokiškis Psychiatric Hospital, and stimulate them to participate in psycho-social rehabilitation activities.**

Further, in order to implement fully the CPT's recommendation in paragraph 100 above, employing more qualified staff may well be necessary in both establishments visited. (paragraph 101)

As it was already stated in reply to recommendation in paragraph 99, whenever the patients' state of health allows, majority of them are immediately involved into the psycho-social rehabilitation process; such patients become subject to intense treatment administered by specialists of different fields, efforts are made to ensure that the psycho-social rehabilitation process involves volunteers and relatives of patients.

- **The Committee invites the Lithuanian authorities to reflect upon ways to address this problem by creating conditions that would render work at Rokiškis Psychiatric Hospital and Vilnius Mental Health Care Centre more attractive to younger health-care staff. Efforts should also be made to fill the vacant posts of clinical psychologist in Rokiškis. (paragraph 102)**

The Rokiškis Psychiatric Hospital currently employs 7 clinical psychologists, however, as it was already stated in reply to recommendation in paragraph 101, it is very difficult to attract more clinical psychologists or other specialists working in other fields due to the specific character of the establishment.

- **The Committee wishes to reiterate its view that, as a matter of principle, means of restraint should only be applied by adequately trained health-care staff (see also paragraph 104 below). (paragraph 103)**

At present means of restraint are applied only by health care specialists who received adequate training in the application of such means. It should be noted that the Description of procedure for the application of means of restraint will specifically govern members of staff allowed to apply such means and their application (see reply to recommendation in paragraph 105).

Means of restraint

Recommendations

- **The CPT reiterates its recommendation that the current practice with respect to means of restraint be amended (at Rokiškis Psychiatric Hospital, Vilnius Mental Health Centre and, as applicable, in all other psychiatric establishments in Lithuania) so as to ensure that:**
 - **all types of restraint and the criteria for their use are regulated by law;**
 - **every instance of recourse to means of mechanical or chemical restraint is recorded in a dedicated register as well as in the patient's file. The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the means and/or medication used, the name of the doctor who**

ordered or approved it, the names of the staff who participated in the application of the restraint measure, and an account of any injuries sustained by patient or staff. This will greatly facilitate both the management of such incidents and oversight into the extent of their occurrences;

- restraint is always performed by duly trained health-care staff;
- patients subject to mechanical restraint are not medicated without consent, except in situations where they may be in danger of suffering serious health consequences if medication is not administered;
- whenever a patient is subject to restraint, a qualified health-care staff member is continuously present in order to regularly record the patient's situation, maintain the therapeutic alliance and provide assistance. Such assistance may include escorting the patient to a toilet facility or helping him/her to drink/consume food. Contact is to be maintained in an appropriate way aiming at de-escalating the situation and discontinuing the measure. Video surveillance cannot replace such a continuous staff presence;
- restrained patients are not exposed to other patients, unless they explicitly express a wish to remain in the company of certain fellow patients;
- a debriefing with a patient takes place at the end of the application of any means of restraint.²³

The Committee invites the Ministry of Health to issue such rules in the form of nationwide guidelines for all psychiatric establishments, pending the adoption of the new Mental Health Act²⁴; at present, this is left to every establishment's own initiative and the coherence of such rules and adequate supervision of their implementation cannot be ensured. (paragraph 105)

A working group set up by the Minister for Health of the Republic of Lithuania is preparing the Description of procedure for the application of means of restraint the provisions of which will reflect the recommendations of this paragraph. This Description of procedure is planned to be finalised by the end of 2017.

Safeguards in the context of involuntary hospitalisation

Recommendations

- **As the Committee has made clear in the reports on its previous visits, if it is considered that a given patient, who has been voluntarily admitted and who expresses a wish to leave the hospital, still requires in-patient care, then the involuntary civil placement procedure provided by the law should be fully applied. The Committee calls upon the Lithuanian authorities to review the legal status of patients at_Vilnius Mental Health Centre, in the light of the above remarks. (paragraph 107)**

Article 27 of the Law of the Republic of Lithuania on Mental Health Care stipulates that a person who is ill with severe illness and refuses hospitalisation may be admitted involuntarily to the custody of the hospital only if there is real danger that by his/her actions he/she is likely to commit serious harm to his/her life, health or to the health of others. It should be noted that a patient may be involuntarily admitted to the custody of the hospital and receive compulsory treatment at a psychiatric establishment for no longer than 48 hours without permission of the court. If the court

²³ This debriefing will provide an opportunity for the doctor to explain the need for the measure and thus help relieve uncertainty about its rationale. For the patient, such debriefing provided an occasion to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour. Although Directors and doctors with whom the delegation spoke were adamant that such debriefing took place in both establishments, not all the interviewed patients confirmed it.

²⁴ The delegation was told at the Ministry of Health that the new Mental Health Act would contain such detailed provisions, thus eliminating the lacunae of the existing law. See also paragraph 88 above.

grants no such permission within 48 hours, involuntary hospitalisation and compulsory treatment must be terminated. When patients who have been voluntarily admitted because of severe mental disorder and who express a wish to leave the hospital when their treatment has not yet been completed (and only in case such termination of treatment may pose harm to their health and life or health and life of their relatives), the compulsory treatment is provided in line with the procedure laid down in Chapter XXXIX of the Code of Civil Procedure of the Republic of Lithuania.

It should be noted that, having considered the recommendations of psychiatrists, the court has a right to decide to apply involuntary hospitalisation and compulsory treatment or extend their application (for a period not exceeding one month), however, the administration of the establishment, on the recommendation of psychiatrist, has a right to terminate patient's involuntary hospitalisation and compulsory treatment prior to the expiry of the prescribed period. On this basis, involuntary hospitalisation and compulsory treatment are terminated solely based on changes in the state of health of a patient.

Request for information

- **Members of the delegation learned that the complaints procedure at Vilnius Mental Health Centre prevented patients from sending confidential written complaints.²⁵ The CPT would welcome the Lithuanian authorities' clarification of this point. (paragraph 108)**

All units of Vilnius Mental Health Centre are provided with mailboxes in order to guarantee the patients' right to mail letters in a confidential manner.

Recommendations

- **Obviously, granting guardianship to the staff of the very same institution may easily lead to conflict of interest and compromise the independence and impartiality of the guardian. Moreover, the Committee calls upon the Lithuanian authorities to find alternative solutions which would better guarantee the independence and impartiality of guardians. (paragraph 109)**

In all cases guardians for incapacitated patients are chosen and appointed by the court. It should be noted that the court is obliged to initiate the procedure for the appointment of the guardian as soon as a decision on the incapacitation of a person is taken.

Please note that cases when a member of staff of a mental health care establishment is appointed as a guardian for an incapacitated patient are very uncommon (see statistical data presented in reply to recommendation in paragraph 109). It should be explained that if a guardian is appointed for an incapacitated patient prior he/she is admitted to a mental health care establishment, that guardian continues to perform the functions of a guardian. In cases when a person is recognized as incapacitated in the course of treatment undertaken in a mental health care establishment, the administration of the said establishment shall endeavour to ensure that the court appoints an incapacitated patient's guardian who is not a staff member of the establishment (person's spouse, close relative or the like). And only if the said patient who need guardianship has no relatives or they refuse to become his/her guardian, a member of staff of a mental health care establishment is appointed as guardian.

Request for information

- **The Committee would like to be informed of the outcome of the review of incapacitation decisions for persons placed in psychiatric (and social care) institutions. The Committee would like to be informed of the outcome of this review and, in particular, whether it has resulted in a change of legal status for any of the persons currently accommodated at Rokiškis Psychiatric Hospital and Vilnius Mental Health Centre. (paragraph 109)**

²⁵ Patients submitted such complaints in an open form to the doctor on the ward, and the latter screened and filed them before transmitting them further to the addressee.

On 1 January 2016 amendments to the Civil Code of the Republic of Lithuania came into effect; they introduced fundamental changes to the concept of limitation of capacity of a person in order to emphasize that limitation of capacity of a person is a last resort measure and the main goal is to preserve full capacity of a person by ensuring him/her possibility to receive assistance necessary to exercise his/her rights.

The Action plan for the implementation of the Government Programme (hereinafter – the Plan) was approved by Resolution No 167 of 13 March 2017 of the Republic of Lithuania. The fifth action under step 5.3.4. ‘Strengthening of protection of human rights and trust in judicial system’ under strand 5.3. ‘Promotion of citizenship, strengthening of civil power and protection of human rights’ of the Plan is the empowerment of the disabled in relation to the protection of their rights by gradually developing a decision making assistance model the implementation of which is scheduled in the second quarter of 2020. Thus, seeking full implementation of recommendations the initiation of proposals for amendments to abandon the institution of full incapacity is planned.

According to data of July 2017, the Rokiškis Psychiatric Hospital housed 32 incapacitated persons of which 10 persons were given the guardianship of an institution (hospital), the status of 7 persons was under consideration in the course of judicial procedure and the hospital has no data in relation to them, and the legal status of 6 incapacitated persons was review by the court, of which 4 persons were recognized as persons with limited capacity (their legal status was changed). Judicial procedures in relation to the review of incapacity status of remaining patients have not yet been started by guardians of the said patients and municipalities.

We would like to draw the attention of the Committee to the fact that patients at the Vilnius Mental Health Centre receive very short treatment (up to one month on average) and only in case their mental state deteriorates, thus review of incapacity status is not carried out in this establishment.

SOCIAL CARE ESTABLISHMENTS

Living conditions

Recommendations

- **The older accommodation building could benefit from some refurbishment. Indeed, the delegation saw signs of dilapidation, both in residents' rooms (equipped with old furniture) and in the dark corridors; more generally, the atmosphere was not as home-like as in the newer building. The CPT recommends that the Lithuanian authorities improve living conditions in the older accommodation building, in the light of the above remarks. (paragraph 113)**

The Ministry of Social Security and Labour implements the Action plan of the transition from institutional care to the provision of services in a family and community for the disabled with intellectual and (or) mental disorder and children deprived of parental care for 2014–2020 approved by Order No A1-83 of 14 February 2014 of the Minister for Social Security and Labour aimed at creating the integrated service provision system that would enable a disabled person or his/her family (guardians, caretakers) to get access to individual services tailored to their needs as well as necessary community assistance. Taking into account the fact that Lithuania plans gradual transition from institutional care to the provision of services in a community, substantial investments into the current institutional care system are not foreseen. Establishments providing institutional care receive public investment funds for the sole purpose of solving the problems related to poor living conditions that pose risk to health and life of residents.

Staff and care of residents

Recommendations

- **The night shift (from 3.30 p.m. to 8.00 a.m.) comprised only one nurse, a nurse assistant and two social worker assistants. In the Committee's view, such a presence of health-care staff is inadequate for over 200 of often needy and highly dependent residents, spread across two quite distant accommodation buildings. The CPT trusts that the Lithuanian authorities will review night-time staff presence at Suvalkija Social Care Home, in the light of these remarks. (paragraph 114)**

Suvalkija Social Care Home reconsidered the issue concerning the number of staff working in a night shift and increased it; at present the night shift comprises one nurse, two nurse assistants, six social worker assistants.

- **Psychiatric care is provided by a part-time psychiatrist occupying the equivalent of a quarter of a full-time post. Bearing in mind that (with the exception of eight to ten**

residents diagnosed with Down's syndrome) approximately 200 residents suffered from serious mental disorders²⁶ and are receiving psychotropic medication, this level of input is too low. The Committee recommends that steps be taken to increase the presence of a psychiatrist at Suvalkija Social Care Home. (paragraph 117)

In line with legislation governing the organisation and provision of health care services to individuals, health care services to all individuals are provided in health care establishments. Thus, all the residents of the Suvalkija Social Care Home on the basis of their requests are registered in primary health care establishments and have a right to choose the general practitioner. Nurses responsible for general care of social care home inform about changes in residents' health the general practitioners of health care establishments who direct patients to specialists (including psychiatrist, psychologist) for consultation, make modifications to treatment with medications, foresee time and duration of treatment with medications. Social care home provides residents with medications prescribed by doctors, nurses of social care home responsible for general care ensure the follow-up of such prescriptions and accordingly document the administration of medicines in line with the prescriptions. If necessary, services to residents of social care home are provided in health care institutions providing secondary or tertiary level health care services, including psychiatry (i.e. specialised higher level assistance is provided). In case the health of a resident deteriorates, the member of staff of social care home calls medical emergency, if necessary.

It should be noted that the psychiatrist of the Suvalkija Social Care Home provides additional health care services. This contributes to satisfying health care needs of residents of social care home, ensures more prompt provision of necessary assistance and the like.

Sub-paragraph 6.3 of Annex 4 of the Description of social care norms approved by Order No A1-46 of 20 February of 2007 of the Minister for Social Security and Labour provides that social care home, homes housing groups of residents shall organise the provision of health care services on the basis of person's needs; care services for a person who is a resident of a social care home (when long-term social care is provided to 25 or more recipients) should be provided in the same establishment. Other health care services may also be provided in a care establishment in line with the procedure stipulated in the legislation. The State Health Care Accreditation Agency under the Ministry of Health has licensed the Suvalkija Social Care Home to provide secondary level outpatient health care services, that is psychiatry, nursing services, that is nursing in terms of general care, and other outpatient health care services: kinesiotherapy, occupational therapy, massage.

Means of restraint

Recommendations

- **The Committee recommends that steps be taken at Suvalkija Social Care Home (and, as appropriate, in other social care institutions in Lithuania) to ensure that means of restraint are applied in strict compliance with the requirements set out in this paragraph. (paragraph 119)**

The administration of the Suvalkija Social Care Home took measures that allowed to refrain from the application of means of restraint during the period starting from the day on which the visit of members of the Committee ended (except physical restraint of residents during the application of IV drips²⁷). Now, in acute cases members of staff immediately call for emergency medical aid and apply individualised procedures (try to comfort the person, remain in his/her company, ensure that a resident is assisted by the team of specialists, etc.)

²⁶ See also paragraph 110.

²⁷ Data provided by the Suvalkija Social Care Home indicates that during 2016–2017 one case of physical restriction applied to a resident due to IV drips (antibiotics) per month was registered; all cases of such physical restraint were registered in the Residents' Physical Restraint Register and in resident's files.

In order to ensure better response to the needs of residents and quality of such response, the staff participated in professional competence training courses targeted at improving skills related to effective human contact with residents, recognition of dangerous health status developments and response, etc. (in 2016 the staff participated in the following courses: ‘Development of skills in relation to work with aggressive clients, conflict prevention and ways of exit from conflict’, ‘Successful communication with various types of clients in social work’, in 2017 the staff participated in the following courses: ‘Development of positive thinking and communication skills’, ‘Physical and emotional security in social work. Means to ensure it’, ‘Development of communication skills necessary for social work’, etc.).

In addition, in the short term the procedure regulating possible application of means of restraint is planned to be clarified taking into account the recommendations of the Committee. The staff of the Suvalkija Social Care Home was familiarised with the form of the Residents’ Physical Restraint Register approved by the order of the Director to be used for registering cases involving the application of means of restraint, if any, and was provided with guidelines for filling in the form of the Register.

Draft law amending the Law on Mental Health Care of the Republic of Lithuania has been drawn up the provisions of which stipulate the key conditions for applying means of physical restraint to a person. This law is planned to be adopted and enter into force on 1 January 2018.

- **The CPT recommends that steps be taken to ensure that residents placed in intensive observation rooms at Suvalkija Social Care Home have ready access to a proper toilet facility at all times. Further, as regards general safeguards relating to seclusion, reference is made to the precepts enumerated in paragraph 105 above, which apply *mutatis mutandis*. (paragraph 120)**

The use of intensive observation room (as a place where residents may be temporarily kept) is prohibited by Order No V-61 of 28 April 2017 of the Director of the Suvalkija Social Care Home on intensive observation room.

Safeguards

Recommendations

- **In the light of the remarks in paragraphs 121 and 122 above, the CPT recommends that the relevant legislation be amended so as to introduce appropriate safeguards for persons placed in social care establishments in Lithuania. In particular, steps should be taken to ensure that:**
 - **all residents of social care establishments have the effective right to bring proceedings to have the lawfulness of their placement decided by a court, that they are duly informed of this right, and that in this context, they enjoy the rights to a lawyer and to be heard by the judge concerned;**
 - **the decision on continued placement of legally incompetent persons is automatically reviewed by a court and residents themselves are able to request at reasonable intervals that the necessity for continued placement to be considered by a judicial authority. (paragraph 123)**

On 1 January 2016 amendments to the Civil Code of the Republic of Lithuania came into effect; they introduced fundamental changes to the concept of limitation of capacity of a person in order to emphasize that limitation of capacity of a person is a last resort measure and the main goal is to preserve full capacity of a person by ensuring him/her possibility to receive assistance necessary to exercise his/her rights.

Moreover, (refer to reply to recommendation in paragraph 109) the initiation of proposals for legislative amendments to abandon the institution of full incapacity is planned.

- **The CPT would like to reiterate its view that granting guardianship to the very same establishment in which the resident concerned is accommodated may easily lead to a conflict of interest. The Committee calls upon the Lithuanian authorities to search for alternative solutions which would better guarantee the independence and impartiality of guardians²⁸. (paragraph 124)**

On 16 November 2012 the Strategic guidelines for the deinstitutionalisation of the social care homes for disabled children deprived of parental care and adult disabled persons (hereinafter – the Guidelines) were approved by the Order of the Minister for Social Security and Labour of the Republic of Lithuania. Action plan of the transition from institutional care to the provision of services in a family and community for the disabled and children deprived of parental care (hereinafter – the Action plan) was approved by Order of the Minister for Social Security and Labour. The implementation of provisions of the Guidelines and measures stipulated in the Action plan is aimed at establishing by 2030 a coherent and coordinated assistance and service provision system enabling each disabled child deprived of parental care and adult disabled person to get access to individual services tailored to their needs through integration into community life and participation in it without experiencing any social exclusion. One of the objectives is to ensure that assistance is provided in the community, as close to the home of an individual as possible, or, in other words, priority is given to reducing the need for services provided by institutions by enabling the individuals to stay at home and receive assistance they require at home. Thus, reduced need for services provided by institutions is expected to reduce the number of cases when guardianship is granted to social care establishments.

As it was already stated in reply to recommendation in paragraph 123, in 2016 fundamental changes to the concept of limitation of capacity of a person were introduced in order to emphasize that limitation of capacity of a person is a last resort measure and the main goal is to preserve full capacity of a person by ensuring him/her possibility to receive assistance necessary to exercise his/her rights. Moreover, amendments to the legislation are planned to be made by second quarter of 2020 to abandon the institution of full incapacity; this measure should also contribute to the reduction of cases when guardianship is granted to social care establishments.

It should be noted that guardians (caretakers) are appointed by the court. Guardians (caretakers) are given the right to apply to the court and ask to review incapacitation decisions made by the court. However, in order to ensure the exercise of rights of persons who are considered to be incapacitated persons and aiming to ensure that review of court decisions is not dependent only on the will or decision of guardians, a legal provision was introduced stipulating that in case guardians (caretakers) do not apply to court for the review of a decision, obligation to do that falls on the administration of municipality in which such incapacitated person resides or an institution authorised by it.

Note: The annexes have not been published.

²⁸ See also paragraph 109.