



CPT/Inf (2009) 36

Responses of the Latvian 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 Latvia**

from 27 November to 7 December 2007

The Latvian Government has requested the publication of these responses. The report of the CPT on its November/December 2007 visit to Latvia is set out in document CPT/Inf (2009) 35.

Strasbourg, 15 December 2009

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A. Response of the Latvian Government to the request for information and recommendations made in paragraphs 42, 58 and 89 of the visit report (letter dated 3 July 2008)

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/Coat of arms/

MINISTRY OF JUSTICE OF THE REPUBLIC OF LATVIA

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Rīga

No. _____

9/05/2008 No. 37/3820dv

**Deputy State Secretary
of the Ministry of Foreign Affairs
I.Kļava**

3 K. Valdemāra Street, Rīga, LV-1395

*Information for the European Committee
for the Prevention of Torture and Inhuman or
Degrading Treatment or Punishment regarding
Implementation of its Recommendations (Article 42, 58 and 89)*

On 10 May 2008 the Ministry of Justice (hereinafter referred to as “the Ministry”) received the Report on the visit to Latvia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Committee”) from 27 November to 7 December 2007. In addition to this letter a request was made to submit information in English by 1 July of this year regarding recommendations stated in Articles 42, 58 and 89 to the Final Report of the Committee.

The Ministry in cooperation with the Latvian Prisons Administration (hereinafter referred to as “the LPA”) has gathered the following information.

In Article 42 of the Committee’s Report it has been said that detailed information on Jēkabpils prison evaluation results and decisions passed on the search results should be delivered to the Committee. The Ministry in its letter No. 1 – 8/5ip dated 23 January 2008 requested the Ombudsman Office to carry out an independent evaluation in the Jēkabpils prison, to which the Ombudsman Office on 31 January 2008 replied affirmatively. However, the Ministry has not received the evaluations results so far.

Though, the Ministry has received the results of an evaluation carried out in the Jēkabpils Prison by the LPA that are currently being gathered and analysed in order to take appropriate measures. We have also received a reply from the State Civil Service Administration and the General Prosecutor’s Office which are being analysed in the context of the evaluation results carried out by the LPA.

Taking into account that we have not received yet the results from the Ombudsman Office, at the present moment the Ministry cannot conclude the initiated evaluation on the situation in the Jēkabpils Prison. Moreover, if considering the volume of materials forwarded by the LPA and the necessity to compare them with the prison evaluation results gathered by the Ombudsman Office, the Ministry concludes that evaluation cannot be completed within the

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stated deadline by the Committee and thus we would like to request the Committee to prolong this deadline by 31 December 2008.

In Article 58 of the Committee's Report it has been said the Committee invites competent authorities in Latvia to close Pre-trial Detention Division in Cēsis Educational Facility for Juveniles (hereinafter referred to as the "Cēsis EFJ").

In pursuance with the information submitted by the Latvian Prison Administration on 2 June 2008, Pre-trial Detention Division in Cēsis EFJ was closed as the Committee had suggested. 10 detained juveniles placed in this prison division were transferred to Matīsa Prison Division for Juveniles. In Matīsa Prison Pre-trial Detention Division there are provided 100 places, but on 26 May 2008 there were placed 40 juveniles, therefore no problems should incur while transferring these juveniles.

In addition I inform you that a project "Elaboration of Prison Building Standards" was elaborated by the Latvian Prison Administration within the framework of Norwegian Government bilateral financial instrument with the priority in "Justice", which was later approved. This project provides reconstruction of Cēsis EFJ Pre-trial Detention Division. Enclosed you will find information on activities planned within the project's scope and implementation time schedule. Considering all information given above in near future implementation of the project in Cēsis EFJ will be started.

In Article 89 of the Committee's Report it was mentioned that the Committee requests competent authorities to ensure in all Latvia's prisons for all prison inmates placed in punishment cells at least one-hour daily walk immediately.

Since present valid normative regulations do not provide such provision, then in case of amending regulatory enactments it will be necessary to create appropriate infrastructure to ensure walking space.

In order to conceptually solve infrastructure problems in the prisons, the Ministry developed draft of Prison Infrastructure Development Concept that was announced in the State Secretary Meeting (Minutes No. 14, paragraph 38) on 3 April 2008. In the above-mentioned draft concept creation of a completely new prison system has been marked by defining new principles in relation to prison placement (ensuring that a person serves one's sentence closer to his/her family), determining new organizational principles for enforcement of a sentence and envisaging new solutions for funding of provision of new infrastructure (Public and Private Partnership). Implementation of the Concept has been planned in long-term: it has been planned to reduce the number of prisons and build new eight ones until 2019, by closing the existing detention places alongside. Presumably, the Concept after coordination with other ministries shall be submitted for approval in the Cabinet of Ministers by the end of the summer.

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Thus by creating new prison infrastructure we plan to ensure compliance with all international recommendations in relation to a living area per each prison inmate (4m²) and ventilation, day-light and any other aspects connected with serving one's sentence in the prison. Not to mention that in the existing prison system it is impossible to implement international recommendations to full extent.

Enclosed: information on the project "Elaboration of Prison Building Standards" submitted within the framework of the Norwegian Government bilateral financial instrument with the priority "Justice" on 2 pages.

Sincerely Yours,

Deputy State Secretary
On Sectorial Policy

L. Medina

Ҷипѐна 67162616

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Application of Individual Project "Elaboration of Prison Building Standards" submitted within the framework of the Norwegian Government
Bilateral Financial Instrument with the Priority in Justice

No.																				
1	Project applicant	Latvian Prison Administration																		
2	Total budget	EUR 1 280 500																		
3	Requested co-funding for the Norwegian financial instruments (85%)	EUR 1 088 425																		
4	Project applicant's funding (15%)	EUR 192 075																		
5	Planned activities within the project	<ol style="list-style-type: none"> 1. Carry out a research related to elaboration of prison building standards; 2. Elaborate prison building standards according to international recommendation norms; 3. According to the developed standard adopt one treatment block in Cēsis Educational Facility for Juveniles. 																		
6	Time schedule	32 months - from September 2008 to April 2011																		
7	Place of project implementation	Cēsis Educational Facility for Juveniles																		
8	Detailed budget and time schedule of the project	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Project activity</th> <th style="text-align: center;">Costs (EUR)</th> <th style="text-align: left;">Planned time schedule</th> </tr> </thead> <tbody> <tr> <td>Research and recommendation draft</td> <td style="text-align: right;">12 984</td> <td style="text-align: center;">6 months (from September 2008 to February 2009)</td> </tr> <tr> <td>Renovation works in Cēsis Educational Facility for Juveniles</td> <td style="text-align: right;">1 128 092</td> <td style="text-align: center;">30 months (from October 2008 to March 2011)</td> </tr> <tr> <td>Publicity</td> <td style="text-align: right;">11 292</td> <td style="text-align: center;">32 months (from September 2008 to April 2011)</td> </tr> <tr> <td>Project management, monitoring</td> <td style="text-align: right;">215 072</td> <td style="text-align: center;">32 months (from September 2008 to April 2011)</td> </tr> <tr> <td>Total</td> <td style="text-align: right;">1 280 500</td> <td style="text-align: center;">32 months</td> </tr> </tbody> </table>	Project activity	Costs (EUR)	Planned time schedule	Research and recommendation draft	12 984	6 months (from September 2008 to February 2009)	Renovation works in Cēsis Educational Facility for Juveniles	1 128 092	30 months (from October 2008 to March 2011)	Publicity	11 292	32 months (from September 2008 to April 2011)	Project management, monitoring	215 072	32 months (from September 2008 to April 2011)	Total	1 280 500	32 months
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9	Project results:	<ol style="list-style-type: none">1) Improved standards in juvenile detention facilities (one technical project has been drafted and construction of a detention facility within area of 1400 sq. m. has been carried out);2) Reconstruction of pre-trial detention facility (one pre-trial detention place adopted to the standard);3) Recommendations have been elaborated regarding juvenile pre-trial process and general prison rules (output of juvenile pre-trial guidelines (implementation, training and required infrastructure), as well as development of guidelines in one state prison).
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B. Additional information provided by the Latvian authorities concerning the request for information and recommendations made in paragraphs 42, 58 and 89 of the visit report (letter dated 29 August 2008)

Reply of the Ministry of Justice of the Republic of Latvia

COURTESY TRANSLATION

On 31.07.2008. Nr. 37/665-6159
(TM reg.No. 12755)

Additional information for the Committee for the Prevention of Torture (CPT)

The Ministry of Justice has received the letter of the European *Committee for the Prevention of Torture (CPT)* of 30 July 2008 with additional questions in connection with visit to Latvia from 27 November 2007 until 7 December 2007.

The Ministry of Justice would like to inform the CPT that the whole remand detention block at Cēsu Correctional Center for Juveniles (Cēsu AIN) including quarantine cell and punishment cells have been withdrawn from service. In addition I would like to inform you that on September 2008 reparation of five prison cells (together 21 place), (one cell for 10 detainees, one cell for four detainees, one cell for three detainees and two cells for two detainees,) will be completed. Receiving room and isolator for disciplinary punishment will be moved to this renovated part of Cēsu AIN. Moreover, on 30 July 2008 an agreement on implementation of project - „Development of Prison Building Standards” between the Central Financial and Agreements agency and Ministry of Justice (under the financial instrument of European Economical area and government of Norway) was concluded. The project envisages construction of a new prison building (for 40 detainees) at Cēsu AIN. The new prison building will be advanced one not only for placing detainees, but also with area to control the flow of vehicles and persons, comprehensive surveillance system, as well as venue for meeting with family members. Work on construction plan will start on 1 September 2008 and should be completed by 1 March 2009. Construction work is scheduled to start on 1 April 2009.

After CPT visit to Latvia, the Latvian Prison Administration on February 2008 made a personnel optimization and changed the administration of Cēsu AIN. The administration of institution pays great attention to the complaints of detainees, in particular complaints involving violence. Control was also made at the receiving section of Cēsu AIN. In this section detainees stay not longer than 48 hours and they receive medical inspection, sanitary treatment and are introduced with their rights and obligations.

According to information of the Latvian Prison Administration the disciplinary punishments are applied taking into consideration the circumstances of offences, behavior of prisoners before offence committed, previous disciplinary punishments and their nature, as well as explanation of detainee about the offence. Placement in disciplinary isolator is the most serious method of punishment. During seventh month of 2008 33 persons have been placed in the disciplinary punishment isolator for the time period of one to five days.

In addition to the previous letters of to the Ministry of Justice we remind that Ministry of Justice has asked the Office of Ombudsman of the Republic of Latvia to do independent inspection at the Jēkabpils prison and the Office of the Ombudsman responded positively to this request. Until 27 August the Ministry of Justice had not yet received the results of this inspection.

The Ministry of Justice has received the results of inspection of Jēkabpils Prison by the Latvian Prison Administration. The report has 13 Annexes and consists of 973 pages, as well as a „Register of violations of the regime by detainees” in three volumes. The report will be summarized, analyzed and conclusion for further actions will be drawn.

Recently the Ministry of Justice received also reports of the State Civil Service Administration and Specialized Prosecutors Office. Taking into consideration the fact that the

Ministry of Justice has to examine considerable amount of materials to evaluate different aspects of relevant CPT recommendations, as well as taking into account the fact that the report of the Office of the Ombudsman has not been received, the Ministry of Justice can not at this stage finish the evaluation of situation in Jēkabpils prison.

Considering above mentioned the Ministry of Justice still asks to prolong the term of response regarding the evaluation of situation in Jēkabpils prison until 31 December 2008. In the attachment please find reports of State Civil Service Administration and Specialized Prosecutors Office.

The Ministry of Justice recognizes that implementation of recommendation on outdoor exercise of adult prisoners undergoing disciplinary punishment is well overdue and is seriously looking for the ways to implement it. As already mentioned, unfortunately, the existing infrastructure of prisons at present does not allow to provide one hour outdoor exercise a day for the adults prisoners undergoing disciplinary punishment. To solve this problem Ministry has developed the conception project for the Prison infrastructure, which has been announced at the session of the States secretaries (3 April 2008, Protocol. No.14, 38) and has been presented to the Cabinet of Ministers on 21 August 2008. The purpose of mentioned conception is to create the necessary material conditions (infrastructure) for effective punishment implementation, including, resocialization of convicts, as well as increase protection of society against risks created by prisons that are not safe. The conception envisages new framework for the prison system where effective arrests and penalties of deprivation of liberty can be effectively implemented.

To implement the conception considerable amount of additional financial resources are needed. We would like to pay your attention, that in opinion of the Ministry of Justice creation of new prison infrastructure is the only truly effective solution to provide proper conditions and standards for detainees. Unfortunately current economical situation of Latvia substantially limits any investments for improvement of existing prison infrastructure, though the financial aspect is the most important for the implementation of CPT recommendations.

In additional we would like to inform you that Latvian Prison Administration has developed „Plan for the implementation of CPT’s preliminary remarks” (approved 1 February 2008). On the basis of this plan already several practical steps were made:

1. Proposal for modification of Cabinet of Ministers Rules No. 423 of 30 May, 2006 „Rules of Procedure on Deprivation of Liberty” applicable for supervision of persons sentenced for life imprisonment has been developed;
2. Code of Ethics for the Latvian Prison Administration officials with special rank grade has been established and is in the process of harmonization with the Ministry of Justice;
3. In places of imprisonment the information about persons with tendency to violence and humiliation of other detainees will be recorded and analyzed involving psychologist;
4. Prisons are provided of medical personnel also on holidays to guarantee qualitative medical care;
5. Training center of Latvian Prison Administration will include issues of professional ethics in the study programs.

Annex:

1. Reply of State Civil Service Administration translation in English (1 page);
2. Report of Specialized Prosecutors Office, translation in English (2 pages).

Yours respectfully,

State secretary

M. Lazdovskis

State Civil Service Administration

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Riga
05.02.2008. No.08/195
on 29.01.2008. No.1-7.7/426

Ministry of Justice
Mr M.Bicevskis
State secretary

For information

In connection with your request in the letter No.1-7.7/42626.01.2008 of 29.01.2008, regarding received complaints at the State Civil Service Administration from Jēkabpils prison personnel for the period 2005 to 2008, we inform you that in the mentioned period the State Civil Service Administration has not received complaints from Jēkabpils prison personnel.

Head of Department

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PROSECUTOR'S OFFICE OF REPUBLIC OF LATVIA
Specialized Prosecutors Office

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 Telephone 7044685, fax 7044657, e-mail: spec@lrp.gov.lv

RIGA

29 February, 2008
 No.4/1028.08
 on 28.01.2008 No.136ip

Mr G. Berzins
 Minister of Justice
 Ministry of Justice of the Republic of Latvia

**Information with respect to the assesment by European Committee
 for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment,
 following the visit to Jēkabpils prison**

Specialized Prosecutor's office (Office) in 2006 has examined and correspondingly replied to 29 written submissions and complaints (submissions) from the convicts of Jēkabpils prison, in 2007 – 42. After the examination of submissions no further protest or prosecutor's submission regarding prison's administration decisions or factual acts has followed.

To note, only a part of the above mentioned submissions were attributable to the violations of convicts' rights in the prison. From the mentioned 29 submissions in 2006 only 13 may directly be referred to complaints concerning Jēkabpils prison, whereas from 42 in 2007, only 15 are referable to Jēkabpils prison. The rest of the said submissions concerned e.g. requiring the interpretative clarification of law, complaints concerning the administrative action by other prisons, appeals to the prosecutor of higher instance concerning the primary prosecutor's decision.

The subject of examined submissions, which concerned Jēkabpils prison, have been disciplinary punishments, use of physical force by the administration (use of special means), conditions of medical treatment, as well as submissions regarding decisions of administrative commissions (which mostly does not concern a violation by the commission, but rather the understanding of the regulatory basis for lessening the punishment or initiating the probation process. In both 2006 and 2007 Office has not received a complaint concerning the violence among the convicts and corresponding request for relocation to other wards or prisons.

Evaluating the abovementioned submissions, they do not indicate certain persisting problems in Jēkabpils prison, which would require to perform a specified inspection.

It must be stressed that during the said period as convicts in Jēkabpils prison were located such persons as Mr V.M. D.M. S.D. and a few others, which had particularly negative attitude both towards the administration of Jēkabpils prison and the law enforcement system in general, and the major part of submissions were received from the persons mentioned – accordingly in 2006, 8 submissions were from D.M. „5” – from A.S. „3” – from V.M. in 2007, 9 – from A.S. „8” – from V.M. „6” – from S.D.

Office always examines materials in cases, when the investigator of Jēkabpils prison or investigators of Latvian Prison Administration regarding submissions have decided not to initiate criminal proceedings on the basis that the case does not constitute a criminal offence (several decisions have recognized legitimate use of handcuffs and special methods of fight in cases when convicts have not complied with legitimate orders of prison's administration). Both concerning the submissions of 2006 and 2007, all such decisions taken by investigators have been recognized as valid by Office.

The quality of investigation in prisons has improved in the recent years. Each prison has an authority, which performs criminal procedural functions and the turnover of personnel in this

regard has not been high in the recent years. Cooperation with the investigators of Latvian Prison Administration is good.

In 2006 – 2007 only 1 criminal case concerning the violence among prisoners was under the supervision of Office. Case (the beating to death of convict V.K. in 2006) was investigated by the investigator of Jēkabpils prison and sent to Office for initiation of criminal proceedings. Court of first instance on January 2008 found guilty 3 convicts, 2 of which were sentenced to imprisonment for 8 years and 1, the instigator and organizer, - for 10 years. During the pretrial investigation it was established that one of the main causes for the committed offence was psychological disparity of convicts, which tends to particularly escalate in the overpopulated living conditions, and, e.g. during the night, there is a high risk of reciprocal violence. In this case, convict V.K. was beaten to death in the nighttime period, with a motive “to teach V.K. how to treat other convicts”.

In order to reduce the reciprocal violence among convicts, prisons should provide smaller facilities with no more than 4-6 persons per living area (ward). That would give a possibility for prison's administration to accommodate psychologically compatible groups of convicts per ward and accordingly to manage their behavior more efficiently. Currently, there is still a large proportion of convicts in Jēkabpils prison being located in highly populated wards, thus maintaining a risk of reciprocal violence among convicts.

Sincerely,

Chief Prosecutor

S. Daugaviete

**C. Full response of the Latvian Government to the visit report
(letter dated 20 October 2008)**

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Information from the Ministry of the Interior

According to the European Committee for the Prevention of Torture (hereinafter - CPT) final report concerning the visit to Latvia (27 November to 7 December 2007) the **Ministry of the Interior**, within its competences, provides information considering this report and the recommendations stated therein.

Police Institutions

Mistreatment

In order to increase the professional qualification of the State Police officers in communicating with detainees, the State Police officials were provided with training (seminars, courses) in 2008 concerning the following issues:

- “Conflict Resolution”;
- “The Psychology of Violence. Peculiarities of communication with victims”.

In the State Police-school education and process, several issues concerning communication with detained individuals are included. Thus, such disciplines as “Police Rights”, “Police Officer Duty”, “Criminal Procedure Rights”, and “Criminal Law” are implemented in the vocational education programme. Study courses implemented within the first level of the higher vocational education programme include “Human Rights in Police Work”, “Police Officer Duty”, “Police Rights”, “Criminal Procedure. Overview”, “Criminal Procedure. Specific Points”, “Criminal Law. Specific Points”.

Moreover, in cooperation with the Ombudsman’s Office, the State Police-school Professional Development Department will organise professional development education courses starting on September 2008, concerning issues stated in the CPT report. The target audience will be the Chiefs of the State Police Territorial Divisions, who afterwards will organise and manage training in their local service departments.

In accordance with the State Police Circular of 13 June 2008, for every complaint received from detained or arrested individual regarding police brutality, the State Police officials must promptly start a criminal procedure and order a forensic medical examination and conduct immediate investigation measures. Afterwards they are to send the criminal procedure to the State Police Internal Security Bureau for further investigation.

The State Police Internal Security Bureau, in compliance with relevant laws and regulations of the Republic of Latvia, conducts a thorough investigation of each complaint received regarding police brutality or mistreatment. Moreover, the State Police Internal Security Bureau directs the attention of the CPT to cases wherein the detained or arrested individual has sustained injury – in such cases a medical statement of the injury is essential (all detained individuals are guaranteed medical aid according to the Law on the Procedure of Holding Detainees), which will be taken into account and evaluated by a forensic medicine expert for the initiated criminal procedure in the process of investigating the complaint.

The State Police has not denied the possibility of establishing an institution that would be entirely independent from the police and would conduct effective and thorough investigations and examine complaints of being mistreated by the police. However, it has always been stressed that this is not only an internal matter of the State Police, but that it should be solved on the state level as well.

The State Police Internal Security Bureau (established 1 May 2003) deals with investigations concerning the cases of police brutality and is subordinated to the Chief of the State Police, but, in the field of criminal procedure, is controlled by the prosecutor's offices. It must be noted that cases concerning police brutality are only a part of the work of the Internal Security Bureau; its tasks and duties cover a much wider range.

Fundamental Preventative Measures against Mistreatment.

The procedure in which an individual detained by a State Police official is placed into the specially equipped police premises (temporary detention facility) is set by the Law on the Procedure of Holding Detainees. The law provides that arrested and convicted individuals are also held there for the performance of procedural actions.

In accordance with the State Police Circular of 17 July 2008, all State Police Territorial divisions must ensure:

- immediate call for medical personnel, if an individual placed in the temporary detention facility (hereinafter – TDF), requests it;
- conduction of a medical inspection of a person placed in the TDF without the presence of police officials, except in cases, when requested by the medical personnel, as well as the prevention of other people from seeing and hearing the examination procedure;
- confidentiality of the medical information acquired during the medical examination.

According to the requirements of Article 265 of the Criminal Procedure Law, when detaining an individual, a State Police official must immediately notify of the reason of detention and inform the individual of his/her right to remain silent and explain that everything said by the individual can be used against them.

The law does not foresee notification of other rights (to a lawyer, doctor) at the moment of detention. To ensure the execution of this recommendation, amendments in the Criminal Procedure Law must be made; therefore, we believe that an opinion and initiative from other law enforcement institutions concerning this matter, whose workers conduct detention of individuals, is necessary.

In the place of detention or after taking an individual to the detention facility, the official performing the detention, according to Article 266 of the Criminal Procedure Law, immediately prepares a detention protocol, wherein the condition and health complaints of the detainee are stated, as well as the fact that:

- the detainee was explained his/her rights;
- the detainee has received a statement of the law in a language understood by him/her, concerning his/her rights and obligations as stated in Articles 63 – 64 of the Criminal Procedure Law;
- complying with the request of a detainee, a list of lawyers is provided, as is the opportunity to use a telephone, and the name and surname of the summoned attorney is registered;
- the detainee has declared a desire to inform a close relative of his/her detention; the name, surname, degree of relation, telephone number and address, educational establishment or employer of the relative;

- that corresponding right restrictions have been set for the detainee.

The detainees' attitude towards the validity of the detention must be recorded in the protocol, which s/he confirms with his/her signature and receives a copy of the detention protocol.

According to the requirements of the Law on the Procedure of Holding Detainees, when making a decision to place the detainee in the State Police TDF, the individual must be introduced to (and sign off on) the internal regulations of the TDF as set in this law and be given a list of objects allowed in the cell, both in a language understood by him/her (if necessary, by means of an interpreter). Moreover, in each TDF, a list of lawyers is available and the individuals placed there are given an opportunity to contact them if the individual had previously refused a counsel at the moment of preparing the protocol.

Prior to placement in a cell, a detainee is questioned regarding the state of his/her health and asked to inform about the existence of such illnesses, due to which the life of the detainee him/herself can be endangered or can be dangerous to other individuals, or due to which special arrangements must be provided to the detainee. Health complaints are registered in a separate register. If necessary, a call for medical personnel is provided, who can give permission to place an individual in hospital, or gives instruction on how to hospitalize them. A detainee placed in a cell is provided the opportunity to at any time become acquainted with the internal regulations of the TDF.

In turn, if an individual is taken to the State Police, the senior duty officer ensures that, at the request of this individual, a relative, employer or educational establishment administration is notified of his/her whereabouts. It is mandatory to inform the parents or individuals representing them (Article 256 of the Administrative Offence Code) of the detention of a juvenile. The administrative detention protocol indicates:

- who has been notified of the whereabouts of the individual;
- complaints concerning the state of the health of the individual;
- physical injuries found during the examination.

At the end of the protocol, the individual signs off on having become acquainted with its contents and the procedure of appeal to a higher institution (official) or public prosecutor for the administrative detention, the conducted personal examination, examination of belongings and the removal of belongings and documents.

According to Article 255 of Administrative Offence Code, the time of administrative detention begins from the moment when the violator is taken to prepare a protocol, but, to a person who is under the influence of alcohol, narcotics or other controlled substances, from the moment they become sober. In addition, escort to the police premises can be conducted by civil guards, border guards and soldiers, as well as authorized personnel – officers responsible for the control of traffic and safety regulations, officials of the state institution of environmental protection, the State Forrest Service, and authorized officials of institutions that carry out the supervision of adherence to the Hunting Law, etc. (Article 251 of the Administrative Offence Code). Thus, in this event, the fulfilment of the recommendation to inform the individual of their rights at the actual moment of their detention can not be fulfilled without corresponding amendments of the Administrative Offence Code.

Over the past years, laws and regulations have been passed in Latvia, which bind an obligation to institutions to ensure adequate accommodation conditions in all detention facilities (Criminal Procedure Law, the Law on the Procedure of Holding Detainees, the Law Governing Holding in Custody etc.).

The Law Governing Holding in Custody provides that, per the request of a prosecutor, the detainee can be placed in a TDF for the time necessary to conduct the procedural actions and court proceedings. The rules and regulations do not provide a term measured in days or hours during which an individual can be held in a TDF. Nonetheless, the legislation restricts the term of holding the arrested individual in the TDF – the time necessary to conduct procedural actions and court proceedings. As soon as this goal (necessity) ceases to exist, the arrested individual must immediately be sent to the place of custody. As it has been mentioned, the State Police has made appropriate arrangements in the development of work organisation and following the required instructions to eradicate unjustified placement of individuals in a TDF from the investigation prison and the extended holding of individuals there in all territorial departments that have an operational TDF.

In turn, the control over the process of investigation and the compliance to the rule of law according to the procedures stated in the Criminal Procedure Law is performed by the public prosecutor and investigating judge.

Therefore, we believe that there is no necessity to undertake measures to improve legislation to ensure that the decision concerning the temporary placement of an individual in a TDF would be sanctioned by a public prosecutor or a judge.

Conditions in Detention Places.

In order to fulfil a CPT recommendation and to immediately improve the conditions of detention places in Cēsis, Jēkabpils, Jelgava, Preiļi and Sigulda, I hereby inform that:

- Natural lighting can not be made possible in cells in the **Cēsu Police Department** without conducting capital reconstruction of the building, since the cells are located inside the building. In order to ensure access of natural light, the construction of larger windows above cells must be conducted. Estimates have already been made regarding the necessary funding for this reconstruction, as well as improvement of cells that, at the moment, do not contain a separate bed, shelf, a bench secured to the floor, a sink with a water tap and toilet with an isolating wall. After receiving adequate funding, the corresponding improvements will be conducted.

- The Internal Affairs Property State Agency has received a TDF design plan for the development of technological task from the **Jēkabpils District Police Department**. It foresees the construction of new police office TDF corresponding to the new requirements. At the moment, there is a possibility being considered to close the Jēkabpils Police Department TDF due to inadmissible detainment conditions of individuals and, until the construction of the new building, build and place a cell sufficient for holding 18 individuals and equipped according to all requirements of the legislation.

- The TDF of the **Jelgava District and City Police Department** corresponds to the requirements of the Law on the Procedure of Holding Detainees; a new ventilation system, walk area, natural lighting, etc., have been constructed. The individuals placed in the cell maintain the order and cleanliness in the cells. Police officers supply with the necessary equipment and detergents for cleaning. If a person held in the cell does not wish to clean, this is their choice. The stuffy air in the cells develops due to smoking of the individuals placed there, since the ventilation only gradually draws out the air.

- **The Preiļi District Police Department** has estimated the amount of necessary funds and, after receiving adequate funding, will make corresponding improvements to the TDF in order to install separate beds, shelves, benches and sufficient artificial lighting.

- The premises of the Riga Regional Police Department **Sigulda District** do not contain a TDF, but have temporary holding rooms. Individuals are placed in these rooms for only up to three hours or until they sober up, but no longer than 12 hours.

Both in the above mentioned and other TDFs, individuals are provided with means for personal hygiene and sustenance according to the Issued by the Cabinet of Ministers 10 January 2006 Regulations No. 38 “Regulations regarding the norms of provision of sustenance, washing and personal hygiene means to individuals placed in temporary detention facilities”

Open access to sanitary facilities in cells is ensured in 22 TDFs. In the remaining TDFs, a police official on duty ensures access to facilities after the request of individuals placed in cells. The facilities in these TDFs will be installed according to the allocated funding, as well as within the framework of a new construction design.

In addition to the abovementioned, according to the State Police Circular of 17 July 2008, the following must be provided:

- order and cleanness, regular disinfection, deratization and disinsection measures in the premises (including cells);
- sufficient natural lighting in cells where possible;
- sufficient ventilation and artificial lighting in cells;
- clean bedding, access to toilet and a daily walk in the fresh air for the detained individuals.

In order to improve the holding conditions of individuals in TDFs, the State Police have developed a design project considering improvement of TDFs in the State Police territorial divisions and the funding required for this purpose. The design project includes a State Police territorial division TDF improvement schedule, considering the state budget funding and questions regarding:

- 1) The closing of the temporary detention facility of the Jēkabpils District Police Department and placement of a cell sufficient for holding 18 individuals and equipped according to all requirements of the legislation;
- 2) Construction of new TDFs in the regional police departments of the Aizkraukle, Alūksne and Balvu districts;
- 3) Continuation of the initiated construction or reconstruction projects of the State Police territorial division administrative complexes, including a TDF, in Daugavpils, Jēkabpils, Krāslava, Kuldīga, Ventspils, Riga, Jelgava and Valmiera.

The Law on the Procedure of Holding Detainees stipulates that the detained individuals are ensured with at least a 30 minute (juveniles – one hour) walk in the fresh air. These requirements are fulfilled in TDFs of the State Police territorial divisions, where walk areas have been established.

Since 21 October 2005 when the Law on the Procedure of Holding Detainees of came into effect, walk areas have been established in seven temporary detention facilities (Riga Regional police district, regional police districts of Rēzekne and Ventspils and police departments of Alūksne, Preiļi, Saldus and Talsis) during the reconstruction of police departments, where the building layout enables it.

Currently, walk areas have not been created in six out of 28 TDFs:

- Daugavpils Police Department (a new building design plan is being developed);
- Aizkraukle District Police Department (will resolve issues, is looking into options);
- Jēkabpils District Police Department (will have a mobile cell with 18 places);
- Krāslava District Police Department (under construction);

- Kuldīga District Police Department (a new building design project is being developed);
- Valmiera District Police Department (a new building design project is being developed).

According to the above, construction or existing reconstruction projects of the State Police territorial division administrative complexes, including TDFs, walk areas will gradually be established in TDFs in accordance with the allocated funds and the individuals placed there will be guaranteed the right to a daily walk in the fresh air.

Information from the Ministry of Justice

In item 36 of the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter – CPT) reiterates its recommendation that the existing legal standards on living space for prisoners be raised without any further delay, so as to provide for at least 4 m² per prisoner in multi-occupancy cells, and that official capacities and occupancy levels of cells in Latvian prisons be revised accordingly. Cells measuring less than 8 m² should be used for single occupancy only.

The Ministry of Justice of Latvia (hereafter – Ministry) admits that living space per prisoner in Latvia not always corresponds to the standards recommended by the CPT. Unfortunately this problem can be solved only in long term with reconstruction of prisons. For implementation of this and other objectives the Ministry in cooperation with the Prisons Administration has developed the Draft Concept of Infrastructure Development of Imprisonment Places (hereinafter – Concept), that was introduced at the meeting of State Secretaries on 3 April 2008. Pursuing the procedure prescribed by normative acts, Concept was coordinated with other ministries and on 21 August 2008 it was sent to the Committee of Cabinet of Ministers for consideration. In accordance with the procedure on 9 September 2008 the resolution of the Prime Minister of Latvia No.18/TA – 2531 was received, in which the Ministry is given a task to include opinion of legal adviser of the Chancellery in the text of Concept.

The aim of this Concept is to develop a framework for the new prison system, to define new principles of prison location in the state (to provide even regional distribution), to set living space per prisoner recommended by the CPT, and also to provide for effective implementation of imprisonment in accordance with international standards (inter alia, prescribing that prisoners are placed in cells for two persons), as well as to set new methods for development of a new prison system (use of state and private partnership). As a result of implementation of this Concept prisoners will be placed in accordance with international requirements. After the Cabinet of Ministers approves the Concept, the Ministry will forward its translated version also to the CPT.

In item 40 of the report CPT recommends that the system of “delegation of powers” to certain prisoners be abolished at Jēkabpils Prison and in any other prisons in Latvia where it exists. Further, steps should be taken to ensure adequate supervision of prisoners in dormitories by prison officers.

Custody of prisoners is carried out in accordance with Procedure as of 28 February 2007 “Custody procedure of pre – trial detainees and prisoners at the prisons” (No. 1/12–1/kārt.), which was coordinated with the Ministry of Justice on 26 February 2007 and which prescribes a continuous 24-hour custody of prisoners. Custody plans of every prison is developed and approved by the Head of Prisons Administration their. Custody plans contain the scheme of prison custody, a table of custody posts (location and description of posts, quantitative structure of custodians), necessary additional posts, their location and substantiation (description), itinerary of custody (descriptions), backup groups of officers, actions of officials in emergency situations, schemes of location of cells (units) in prison, with posts’ location shown, daily routine, duties of officers and procedure of shifts at the posts, as well as other information.

Prisons Administration informed, that in year 2008 officers of Prisons Administration (deputies of Head) activated carrying out unexpected checkups in prisons. Besides, administration of prison in accordance with requirements of item 25 of Procedure “Custody procedure of arrested persons and prisoners at the places of imprisonment” (Nr.1/12–1/kārt.), has to carry out sudden checkups of watch change in accordance with the schedule in such a way, that each watch at the prison is checked at least once a month. Up to September 2008 deputies of Head of Prisons Administration did carry out unexpected checkups at places of imprisonment and starting from September 2008 in Prison Administration a regular timetable of unexpected checkups in prisons has been worked out for deputies of Head of Prisons Administration. According to this timetable already in September four prisons were checked: on 13 September – Valmieras prison and Cēsu institution of juveniles, on 14 September – Jelgavas and Pārlielupes prison and on 20 September – Cēsu institution of juveniles.

Additionally, we inform you that prisoners who are placed in cells can call for help by knocking at the cell’s door. The guards immediately have to clarify what has happened. Opening of any cell’s door has to be done in accordance with the requirements of normative acts and this fact is immediately informed to assistant on duty of the Head of the prison (hereinafter- CPDP). If in cells of the prison are equipped with alarm buttons, prisoners are able to call for help instantly by pressing the button, which is accessible to any prisoner. When an alarm button is pressed, signal switches on at the switchboard in the room of guards, after that reason of the call is immediately found out.

Prisoners, who are placed in multiple occupancy cells and whose health or life could be threatened, can call for help over the phone 24 hours a day; it is available in every unit. Phones are connected with guard posts and all the time at least one guard is at the post. During the daytime a prisoner can address different officials of the prison – head of the unit, officer of Custody department or officer of Security department, who consult prisoners in units and during nights also to guard who carry out inspection of the unit.

If prisoners address prison administration with allegations of existing threat to their health of life, inspections are carried out in all cases to find out persons involved in the conflict situation and reasons of the conflict. Initiators of the conflict found out during the check-up are isolated from other prisoners, and the prisoner, whose health or life had been threatened, may on his own choice be isolated from other prisoners.

On occasions when an attempt of some prisoner is found out to influence another prisoner – violent behaviour or other violations, prison administration in accordance with the procedure prescribed in normative acts apply disciplinary punishment, as well as carry out individual discussions with conflicting prisoners and in case of necessity provide for isolation of specific prisoners from each other, thus preventing further development of the conflict.

Life-sentenced prisoners who are serving their sentence in a middle or highest regime of closed prison are placed in a separate local unit and are under reinforced custody, thus contacts with other prisoners are excluded. At the local unit the premises and number of prisoners has to be checked at least every hour.

Additionally we would like to inform you that several prisons during last years have been equipment with video surveillance system and alarm buttons was continued, which makes it easier to ensure custody, and also allow prisoners to sooner inform of threats to their life or health.

In item 42 of the Report the CPT would like to receive detailed information on the outcome of the inspection in Jēkabpils prison and on the action subsequently taken at all levels.

As Ministry wrote you earlier (letter No. 1 -8/53dv, 3rd July 2008, letter No. 1 – 7.5.2./3956, 27th August 2008), full analyses of results of initiated inspection of Jēkabpils Prison will be sent to you by end of this year. Ministry received also letter of Ombudsmen (letter No. 1-5/27110th, 10th September, 2008,) with results of inspection in Jēkabpils prison.

In item 43 it was recommended to that the management at Cēsis Correctional institution for juveniles (hereafter – Cēsis Institution) be instructed to remind their staff that all forms of ill-treatment of prisoners (including verbal abuse) are not acceptable and will be the subject of severe sanctions.

In item 45 it was recommended that the management at Daugavpils and Jelgava Prisons be instructed to remind their staff that all forms of ill treatment of prisoners (including verbal abuse) are not acceptable and will be the subject of severe sanctions.

In order to enforce personnel control in matters concerning prohibition of torture, inhuman, cruel or humiliating treatment of prisoners, Head of prison or his Deputy daily carry out briefings for personnel (guards). Prisons Administration daily analyses 24 hour events in each place of imprisonment. In January 2008 Deputy Heads of Prisons Administration carried out unexpected check-ups of places of imprisonment more actively.

Ministry would like to inform that the implementation of this recommendation will be enhanced next year, when State Probation Service in cooperation with Prisons Administration will implement project supported by European Economic zone financial instrument and bilateral financial instrument of the government of Norway „Increase of capacity of personnel in the system of probation and places of imprisonment of Latvia” No. LV0024. Within the framework of the project training programmes for personnel of prisons will be developed and training of personnel will take place. The project was started already in September 2008.

In item 44 CPT informs, that it wishes to receive more detailed information on this project; it encourages the Latvian authorities to redouble their efforts to find a way to replace large dormitories with smaller living units at Cēsis Institution.

On 30 July 2008, on the basis of normative acts regulating management of European Economic zone financial instrument and bilateral financial instrument of the government of Norway an agreement has been concluded between Central Finance and Agreement Agency, Ministry of Justice and individual beneficiary of co-financing for development of individual project “Development of standard of buildings for places of imprisonment” construction of a new building (40 places) in Cēsis Institution. As a result of project implementation a modern building will be built for accommodation of prisoners, where premises for control of transport and prisoners are envisaged, as well as for custody provision, and also premises where the pre – trial detainees and prisoners will be able to meet with their relatives. The new building will be located at the territory of the establishment at the side of Līgatnes Street. On 1 September work was started on development of project for this new building and it is planned to be finished on 1 March 2009. Construction of the new building will be commenced on 1 April 2009.

In item 48 it is recommended that the material conditions of detention be improved at Jēkabpils Prison and Rīga Central Prison, in the light of the above remarks. Immediate steps should be taken to remove the metal shutters at Rīga Central Prison and, as appropriate, in other prisons in Latvia. Further, the Committee would like to receive updated information on the progress made in the ongoing renovation of Rīga Central Prison.

Within the available resources for 2007 renovation of engineering and technical means and reconstruction of barriers, repairing of the roof of diesel generator room and heating mains was carried out, feeding tank of boiler house was made and two sets of diesel generator were purchased for Central prison. Metal shutters were taken off the windows in the second and fourth block, but in the first block, where pre trial detainees are accommodated, shutters were not taken off the windows for reasons of security and necessity to isolate the prisoners.

After CPT visit repair works of disciplinary isolator cells were started in Jēkabpils prison, the following has been completed:

- Flooring with heat isolation was replaced;
- Toilet facilities were dismantled, WC sets, washbasins, water taps were mounted;
- Sewage piping was dismantled and replaced by a new one;
- Toilet facilities were separated from the premises by a wall;
- Equipment in the cells was replaced (beds, tables, chairs);
- Electric installation in cells was replaced.

In item 51 it was recommended to Latvian authorities to take steps at Rīga Central Prison to devise and implement a comprehensive regime of out-of-cell activities (including group association activities) for remand prisoners. Further, additional steps should be taken at Jēkabpils Prison to provide more purposeful activities (work, education and vocational training) to prisoners. Finally, the Committee recommends that the outdoor exercise areas at Jēkabpils Prison (Unit 3) and Rīga Central Prison be enlarged, in order to enable prisoners to exert themselves physically.

In Central prison outdoor exercise for prisoners is organised in accordance with provisions of Penal Code of Latvia and Regulations No.1/12-1 “Custody procedure of pre – trial detainees and convicts at the places of imprisonment” as of 28 February 2007. Outdoor exercises for prisoners take place daily at the time, provided in Regulations, and prisoners use these rights. At the outdoor exercise areas prisoners have an opportunity to do various physical activities.

In Jēkabpils prison outdoor exercises of convicts are organised according to the schedule. The last outdoor walk ends at 17.40 hrs. Daily routine prescribes also the following events:

- breakfast, dinner, supper;
- morning and evening quantitative checkups;
- personal time;
- visits to medical department;
- conversations over the phone;
- attendance of school and vocational school and other events.

Due to the said daily routine, it is impossible to provide for a longer outdoor exercise of convicts, than on hour per day. Convicts have an opportunity to be outdoors:

- when visiting canteen three times per day;
- during morning and evening quantitative checkups;
- during classes at school, vocational school, where during the breaks convicts are outdoors.

Convicts serving their sentence in middle or highest level of regime can be outdoors from morning when they get up till going to bed (from 07.00 hrs to 23.00 hrs).

Ministry inform you that full implementation of this recommendation will be possible after enforcement of before mentioned Concept.

In item 52 it is recommended to improve material conditions in Ilguciema prison, taking into account the recommendations given in the Report. Steps should to be taken to provide an adequate quantity of personal hygiene products, decrease the number of prisoners in one cell, provide for 4 m² per one prisoner in premises, where there are several female prisoners, to provide that cells which are about 6 m² large are used for placement only of one person without any delay. Besides, CPT wishes to receive information about the going on renovation programme.

In Iļģuciema prison female prisoners are provided with personal hygiene products and other products in accordance with Regulations No.1022 of the Cabinet of Ministers as of 19 December 2006 „Regulations on norms of material provision of prisoners with substance and everyday needs”. Unfortunately allocated financial are not enough to ensure other products for prisoners. The norm of personal hygiene products for imprisoned women is the following:

- toilet paper (30 m roll);
- laundry soap 200 g;
- toilet soap 100 g;
- hygienic packages 10 pc.;
- tooth brush 1 pc. per 6 month;
- tooth paste 50 g.

Additionally to these norms women can purchase personal hygiene products in the prison shop.

In item 56 and 58 it is recommended to close detention unit premises in Cēsu Institution.

As already mentioned in Ministry's letter No. 1-8/53dv as of 3 July 2008, in accordance with information provided by Prisons Administration, on 2 June 2008 Cēsu Institution Investigation unit was closed as recommended by the CPT. 10 juveniles from this unit were transferred to investigation unit for juveniles in Maļiņa prison. The capacity of investigation unit in Maļiņa prison is 100 juveniles and since on 26 May 2008 there were 40 juveniles such transfer will cause no problems.

In item 59 it is recommended to review the system of “self-governance” at Cēsis Institution, when prisoners keep their „position” (e.g., the person responsible for the shop) till the end of their period of sentence.

In Cēsu Institution in accordance with provisions of article 60 of Punishment Execution Code, functions a self-government organisation of convicts. Representatives of administration of the establishment manage functioning of this self-government organisation. Prisoners, who engage in this organisation with their positive example foster positive attitude of others to socially useful events and norms. Self-government organisation of convicts indulges in sport, educational and other activities.

In 2008 a working group of the Ministry for improving Punishment Execution Code was formed (hereafter – Working group). Representatives of other Ministries, Prosecutor General Office, State President Amnesty Office, Police Academy, University of Latvia, courts etc. are involved in the Working group in order to ensure dialogue among all institutions. Working group is planned to discuss this recommendation in the beginning of 2009.

In item 60 it is recommended to provide for a special training for prison personnel regarding specific work with juveniles in Cēsu Institution and other places of imprisonment, where juveniles are placed.

According to training programmes of Cēsu Institution employees for the years 2008/2009 it is planned to train 44 officers of supervising unit in interrelation with prisoners (including communication skills). Training is planned on the following dates: 15.10.2008., 05.11.2008., 03.12.2008., 14.01.2009., 04.02.2009., 04.03.2009., 01.04.2009., 06.05.2009. One lecture will last 50 minutes. Training will be carried out in the premises of Cēsu Institution School by senior inspector of Social rehabilitation unit Zeltīte Millere. Purpose of training:

1. To give knowledge and understanding of the notion interrelation, communication skills and their essential role in life of individuals.
2. To give knowledge about levels, functions, factors of impact, styles and types of interrelation and their important role in work with prisoners.
3. To give knowledge about psychological peculiarities of teenagers', juveniles' age and essence of socialization.

In item 61 it is recommended without any delay to take steps to ensure adequate out-of-cell activities system in regard to all life-sentenced prisoners in Jelgavas and Daugavpils prisons.

In item 62 CPT points out that it wishes to receive confirmation, that the said measures have been implemented (in regards to replacement of glass blocks with glass, and also regarding improvements in ventilation system, which creates noise).

In item 63 CPT points out, that it wishes to receive information about enlargement of premises for life-sentenced prisoners in Jelgavas prison.

In July 2008 repairing works were finished in the block for placement of life-sentenced prisoners in Daugavpils prison. The maximum quantity of places in the block is 33, 17 places in the grade of middle level regime and 16 – in the lower level regime. As of 22 September 2008 19 life-sentenced prisoners were serving their sentence in Daugavpils prison: 10 at the middle level regime in a closed prison, 9 at the lower level regime of a closed prison. One person was located in the prison's Investigation unit. This block comprises the following premises: living premises (space of each – 14m²), four premises for employment of convicts (space of each - 8,8 m²); leisure room (space – 24,9 m²); gym (space – 41 m²) and outdoors activities areas.

Life-sentenced prisoners have an opportunity to attend computer class and a library. There is a cable television and local television connection in the cells.

Eight convicts from Jelgavas prison, who were transferred from the lower level to middle level regime, were sent to Daugavpils prison.

Reconstruction of the block for life-sentenced prisoners in Jelgavas prison has been terminated due to lack of funds.

In item 64 CPT calls upon the Latvian authorities to put a definitive end to the use of dogs at Jelgava Prison when escorting life-sentenced prisoners within the confines of the prison.

With a verbal decision of the Head of Jelgavas prison, permanent use of dogs while escorting life-sentenced prisoners within the territory of Jelgavas prison was stopped, with exception of cases when it is necessary for providing safety of imprisonment – in accordance with recommendation of Committee of Ministers of the Council of Europe Rec (2006) 2 items 51.1., 51.4., 51.5., 52.1., 53.1 and in accordance with Procedure (No.1/12–2kārt) as of 31 March 2006 “Procedure for use of special measures at places of imprisonment”.

In item 65 CPT calls for authorities of Latvia to take immediate steps, in order to provide regular individual risk-assessment of all life-sentenced persons and in accordance with this assessment to define security measures to be taken.

After the visit of CPT to Daugavpils and Jelgavas prisons individual risk-assessment of all life-sentenced persons was done by a committee (members of the committee include: officers of social rehabilitation, psychologist, chaplain, physician and other officers). Until 17 October the committee has assessed 16 convicts - for five of them use of handcuffs during escorting at the prison territory was cancelled.

Competence of this committee includes assessment of individual risk level of each life-sentenced prisoner, and to individually determine the necessary security measures for each prisoner (use of hand-cuffs and police dogs). Committee assess behaviour of the prisoner, his attitude to measures taken, the committed crime, disposition to self-injury or suicide, possible aggressiveness against other prisoners or personnel of the prison, and provoking of other prisoners for aggressiveness, physical and psychic condition, and level of social adaptation is also assessed, which can lead to conflict between the prisoner and the administration. Decision not to use the necessary safety measures (hand-cuffs and police dogs) is taken by voting and it is depicted in the Committee's meeting minutes.

In item 66 it is recommended without any delay to cancel provisions that for sitting or lying on bed in day time disciplinary punishment is applied, as well as, that the prisoner has to say his name, surname and article of Criminal Law, according to which he was sentenced, when a prison officer enters the cell.

Cabinet of Ministers in its Regulations No.423 as of 30 May 2006 „Regulations of internal procedure in imprisonment establishments” prescribes the following duties of prisoners: to observe the determined daily routine, keep his berth in accordance with the united sample set for places of imprisonment, be polite in interrelations with other inmates, representatives of administration, visitors etc. If a prisoner does not observe the said duties, administration can apply to him a disciplinary punishment according to the procedure prescribed by law. After analyses of Daugavpils prison disciplinary practice, Prisons Administration concluded that disciplinary punishments applied to life-sentenced prisoners are considered adequate to severity of violation done.

Disciplinary practice regarding violations and application of disciplinary punishment to life-sentenced persons is monthly summarised by Head of Social Rehabilitation Department unit of Daugavpils prison. Summarising disciplinary practice, Head of the unit follows the dynamics of violation peculiarities of particular life-sentenced person, taking into account their capability and peculiarities, and depicts it in the prisoner's Sentence execution plan. As necessary other specialists are invited to participate in the analyses of disciplinary practice of life-sentenced persons.

Information on disciplinary practice of life-sentenced persons is used while compiling testimonials and preparing the files of life-sentenced persons for consideration in administrative committee, and also preparing the files of life-sentenced persons for individual risk assessment Committee that meets twice a year.

In before mentioned inspection initiated by Ministry in Jēkabpils prison, also issue of disciplinary punishment were analysed. Analyse shows that very different disciplinary punishments were applied for similar offences. Full information regarding results of analyse CPT will receive by the end of 2008. Taking into account other duties of Ministry regarding punishment execution policy, Ministry inform you, that we plan to analyse disciplinary punishment practise in some other prisons during 2009. Ministry has planned reform of the above-mentioned punishments in 2010.

In item 67 CPT recommends, that search of life-sentenced persons with complete undressing is to take place only if there is concrete suspicion and it should be done in corresponding conditions.

Search of life-sentenced persons is conducted in accordance with Procedure as of 9 March 2006 “Procedure of search at places of imprisonment” (No. 1/12-1/kārt.), which was coordinated with the Ministry of Justice on 6 March 2006. On the bases of the said Procedure search of imprisoned person may be conducted with undressing of the searched person (complete search) or without it (partly search). Complete search is conducted in a special room and only in cases when behaviour of prisoner during partial search causes suspicions.

In item 68 CPT calls for authorities of Latvia, to take immediate steps to ensure that all medical examinations of life-sentenced prisoners are conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers. Besides, the practice of placing life-sentenced prisoners behind metal bars during consultations with psychiatrist or psychologist has to be ceased immediately.

In Daugavpils and Jelgavas prisons medical personnel and psychologist consult life-sentenced prisoners in consulting rooms equipped with an alarm button. Prior to psychologist consultation or physician examination prisoners are searched for security purposes.

In item 69 certain issues are recommended, in which representatives of prison management (senior officers), who work in prisons where life-sentenced persons are placed, are to be trained.

In year 2008 in Jelgavas and Daugavpils prison psychologists and social workers conducted lectures, with the purpose to train guards in communication with life-sentenced prisoners. To train officers of Surveillance unit of Daugavpils prison in communication with prisoners, in 2007/2008 school year lectures are organised in accordance with thematic plan. Lectures were conducted both by a psychologist and the officer responsible for special training, length of lecture - 60 minutes. Psychologist conducted the following lectures:

1. "Communication with aggressive prisoners".
2. "Person's inner conflicts".
3. "Peculiarities of communication with prisoners".
4. "Peculiarities of custody of life sentenced prisoners, who serve their sentence in closed prison in intermediate grade".
5. "Skills of constructive communication".
6. "Mechanism of psychological protection".

In 2007/2008 school year 78 officers were trained.

In Jelgavas prison in 2007/2008 school year a psychologist and a social worker conducted the following lectures for officers of Surveillance unit:

1. "On attitude of prison officers in communication with life-sentenced persons and peculiarities of communication with them":

- Theory of social isolation impact,
- Skills acquired from practice while working with life-sentenced persons.

51 officer of Surveillance unit participated in the lecture.

2. "Development of understanding about life-sentenced persons' needs and values":

- Feedback from custodians regarding knowledge received at the first lecture and its use in practice,

- To comprehend own emotional reaction against life-sentenced persons and control them.

48 officers of Surveillance unit participated in the lecture.

Length of one lecture is 60 minutes.

In Training centre programmes of the personnel training of professional training course of the second level "Senior prison custodian", professional training course of the third level "Junior prison custodian" and course of professional skills improvement were included issues on prohibition of torture and inhuman or degrading treatment or punishment of prisoners. Problem of custodian's communication with prisoners was discussed also at the meeting of Managers of prisons on 25 April and 19 August 2008.

In item 70 it is recommended to authorities of Latvia to assess segregation policy in regard to life-sentenced persons. In this context plans should be revised concerning construction of a new block in Jelgavas prison.

In compliance with requirements of article 50⁴ of LSIK in Daugavpils and Jelgavas prisons persons sentenced to deprivation of liberty for life (life-sentence) and persons, for whom death penalty was substituted by deprivation of liberty, are to be placed in a separate prison block with enforced monitoring, precluding contacts with other prisoners.

In Jelgavas prison reconstruction of the block for the life-sentenced has been stopped due to lack of financial funds. Additionally we would like to inform you that a project application "Re-socialization programme for the long-term- and life-sentenced prisoners" for funds of bilateral financial instrument of the government of Norway was submitted by Prisons Administration on 1 July 2008. Within the framework of this project a change of experience visit to the Ila prison in Norway is envisaged. Programme could later be applied to those prisoners, who serve their sentence in other prisons, thus increasing effectiveness of work.

On 12 September 2008 State agency of Regional Development with its resolution No. 1–2/NOR/08/009/0066 "On approval of application of sub-project according to quality assessment criteria" approved the project, submitted by Prisons Administration "Re-socialization programme for the long-term- and life-sentenced prisoners", accepted the requested amount of co-financing and decided to conclude an agreement with Prisons Administration for implementation of the project "Re-socialization programme for the long-term- and life-sentenced prisoners".

Purpose of the project is to develop re-socialization programme for the long-term- and life-sentenced prisoners. Basic activities of the project:

- Preparation of a questionnaire;
- Questioning of the life-sentenced prisoners with the questionnaire;
- Summarising the results of questioning;
- Organisation of an exchange of experience visit.

As a result of these activities with the help of questionnaires information of needs of sentenced for life and long-term sentenced prisoners will be received. The essential result will be the acquired practical experience regarding the re-socialization work carried out in prison of Norway with the long-term- and life-sentenced prisoners in the sphere of employment and education in programmes where the prisoners are involved. The project plans to develop re-socialization programme for the long-term- and life-sentenced prisoners. In the future the programme could be applied also for those prisoners who serve their sentence in other prisons, thus increasing effectiveness of put in work.

In item 71 CPT recommends that in cases, when significant officers for different reasons are absent for more than several weeks, it is necessary to ensure involvement of out-of-prison system specialists.

On 1 September 2008 psychologist of Jelgavas prison returns to work from maternity leave. With resolution of Prisons Administration as of 10 July 2008 in social rehabilitation unit of Jelgavas prison for work with prisoners additionally was introduced one position of psychologist and one position of social worker (enclosed - resolution of Prison Administration Board as of 10 July 2008 N0.117 "On organisational position issues").

In item 74 CPT recommends to ensure without any delay that vacancies of prison doctors in Jēkabpils prison are filled, qualified personnel of medical nurses is provided for in Jēkabpils prison and Central prison, and also to ensure that a qualified medical nurse is always available for prisoners in Jēkabpils prison and Central prison, including night time and days off.

Since 2005 Jēkabpils prison has informed Jēkabpils Employment Service of vacant doctors' positions in prison and placed information of it in a local newspaper monthly, but with no positive result. From 2007 an advertisement of free positions for medical personnel in Jēkabpils prison has been placed also at the site of Prisons Administration and is available for a wide audience, but no general practitioners/family doctors have applied so far. Appeal to doctors of Jēkabpils region central hospital polyclinic to take the position in Jēkabpils prison brought no results – doctors are not willing to work in prison. Nevertheless on 22 February 2008 prison succeeded to employ a psychiatrist for 1/4 of staff tariff. Prisons Administration is of opinion that at present there is no use increasing rates of basic positions of qualified medical personnel, since as already mentioned, it is impossible to complete even the existent positions of medical personnel.

Medical isolators at places of imprisonment operate as day stationary. In compliance with requirements of the existing normative acts in day stationary presence of medical personnel at night hours is not envisaged. In occasions, when a prisoner needs medical care at night, the prisoner is transferred to Prison hospital of Latvia (hereinafter – LCS). For 24 hours a call of ambulance from public health care sector institution is available for prisoners.

In Jēkabpils prison medical personnel works every day including holidays from 8:30 to 17:00. In Central prison medical help for prisoners is ensured: on working days from 8:00 to 20:00, on days off and holidays from 8:00 to 16:00. In other places of imprisonment where medical stationery is available there is a similar work organisation.

In item 75 CPT recommends carrying out activities to prevent not sufficient dental treatment in Ilguciems prison.

Dental treatment in Ilguciems prison is organized in accordance with prisoners' request. In 2007 the prison dentist in average had 6 patients a day, which corresponds to the current staff unit load. Unfortunately according to the austerity measures proclaimed in the state and the task assigned by the government to reduce the number of civil servants in state administration by 10% till 1 July 2009, the Ministry of Justice and the Prisons Administration do not foresee possibilities to raise the number of dentist staff units in the prison in 2009.

In item 76 CPT recommends ensuring that prisoners who in the Central prison are isolated due to health problems are adequately provided with the basic personal hygiene products.

Prisoners of the Central prison, who are isolated due to health problems, shall receive personal hygiene products and detergents, on the basis of Article 6 of Attachment 3 to Regulations of the Cabinet of Ministers No 1022 „Regulations for provision of prisoner food and household needs”.

Besides, in accordance with the „Schedule for planned cell inspection” confirmed by the chief of the Central prison, the Commission shall carry out planned inspection of the prison buildings each month. In April 2008 scheduled inspections were carried out also in the cells for prisoners isolated due to health problems. The Commission stated that all isolated prisoners are provided with personal hygiene products and detergents. The Commission received no claims from prisoners during the inspection.

Personal hygiene products and detergents are provided by prison Provision unit employees. Their registration and control is recorded in prisoners's record card.

In item 77 CPT recommends ensuring systematic health examinations for newly admitted prisoners in Jēkabpils prison.

According to information provided by Prison Administration, in accordance with Prisons Administration Order 29 of 12 February 2008, on March 5 and 6, 2008 in Jēkabpils prison verification of prisoners' medical documentation was carried out and it was stated that patients' medical cards contain objective results of health examination. Head of Prisons Administration Medical department R.Fedosejeva verified examination and within the framework of this verification work of the prison Medical unit was also carried out. During verification, reviewing and evaluating the accomplished, it was stated that in accordance with Regulations of the Cabinet of Ministers No 199 of 20 March 2007 „Regulations for imprisoned and convicted person healthcare in investigation prisons and in establishments for deprivation of liberty” ambulatory medical treatment to the prisoners is provided in the Medical department or in the prisoner's location (in the solitary confinements or in cell-type special medical premises) in the patient appointment hours. In urgent cases the personnel of the prison's Medical department within their working hours provide medical treatment. On weekends and holidays a staff member of the Medical department on duty provides medical treatment. Besides, medical treatment is organized in accordance with prisoners' request (appointments). All prisoners applied for medical treatment, receive it.

Preventive health checkups for prisoners are performed upon admitting the prisoner to the prison and also once a year. Twice a year preventive examinations for detecting early stage of tuberculosis, as determined in „Tuberculosis prevention programme in prisons for 2005 – 2010” is performed.

In item 78 CPT recommends ensuring that in the Central prison and in the Jekabpils prison, as well as in other prisons in Latvia, prisoners' health examination results (upon admitting at the prison or after complaints on violence) contain the following information:

- **full record on prisoner's complaints regarding health examination, including any suspicion for violence;**
- **full record of the objective medical statements during examination;**
- **doctor's conclusion including facts indicated in point one and two. In the conclusion the doctor shall indicate relation between patient's complaints and the objectively stated, this conclusion should be available to the prisoner and his/her lawyer.**

Recommendations were discussed in workshops organized for heads of prison medical departments on 27-18 March 2007 and on 6 June 2008. Prisons Administration will also pay attention to these issues further when carrying out verifications in the prison medical departments.

In item 79 CPT recommends instructing medical personnel of Jekabpils prison upon specifics of application of gentamicin.

Prisons Administration introduced Jēkabpils prison Medical department personnel with CPT clinical opinion in gentamicin application issues.

In item 80 CPT recommends urgent taking of the required measures to ensure in Jekabpils prison and in Cēsu Institution regular psychiatric and clinical psychologist availability (both specialists for full time work in Jekabpils prison).

We are drawing your attention to the fact that the profession of clinical psychologists is not sufficiently widespread. Also in public healthcare sector medical treatment establishment's clinical psychologists are practically not available. In 22 February 2008 Jekabpils prison employed a psychiatrist (for 1/4 time) and a psychologist (for full time). We would like to point out that even in Jekabpils district central hospital outpatient department, servicing the entire district, has no clinic psychologist.

For Cēsu Institution psychiatrist services for prisoners are provided regularly by public healthcare sector institution. In a case of need psychiatrist treatment is provided in the Prison hospital of Latvia. Unfortunately even in such public treatment institution like Cēsu district Health treatment centre clinical psychologist treatment is not available. The currently working Cēsu Institution psychologist will continue training and will specialize in the clinical psychology.

In item 81 CPT recommends ensuring that all minimal standard regulations and principles, represented in the article in detail are provided in Jekabpils prison and in any other prison, applying patient fixation as a medical treatment.

According to information provided by Prisons Administration, in Jekabpils prison and in other prisons the mechanical infringement (fixation in bed, a special shirt or handcuffs) due to medical (psychiatric) indication is not applied.

In item 83 CPT recommends urgent taking of measures in the Central prison as well as in other prisons to develop HIV prevention and treatment strategy in prisons.

The Central prison is one of the largest investigation prisons in Latvia, i.e. the major recipient of prisoners, mainly from marginalized risk population groups. According to the information provided by Prisons Administration, in the Central prison during a year 164 HIV positive prisoners have been detected. In 31 December 2007 in the Central prison there were 946 prisoners and 82 of them HIV positive, which makes 8,66 % of the number of Central prison prisoners.

We inform you that at the end of 2007 with the support of the French government and in cooperation with World Health Organization Latvia office as well as the support of Dutch government and the support of World Bank in cooperation with UNODC, involving foreign and local consultants a state program for AIDS prevention program in Latvia (2008 - 2012) was developed. In the development of the programme also participated experts of the Ministry of Justice and prisoner treatment was one of the principal issues of this document. Under this document the programme comprises measures that extend possibilities for prisoner testing and consulting, as well as other measures for AIDS prevention in prisons. However, the advancement of this programme for adoption in the Cabinet of Ministers is the competence of the Ministry of Public Health, and so far the programme has not been announced in the meeting of state secretaries. So far there has been cooperation with the Ministry of Public Health to fine-tune the programme.

In item 84 CPT indicates that requirements of Article 68 are applicable also for the Central prison.

According to the information provided by Prisons Administration, in the Central prison guards do not participate in the medical examinations. Custody of prisoners is performed in accordance with 28 February 2008 order „Order of Custody of imprisoned and convicted persons in prisons” (Nr.1/12–1/kārt.). Taking into account the requirements of the order, the Central prison guards are in posts in accordance with “Day superintendence order” confirmed by chief of the Central prison, which determines the location of guards in posts. The guard appointed to the Medical department post of the Central prison during the medical examinations is in the post of the Medical department, executes its duties and during medical examinations is not at the place of examination.

In addition Part 1 of Article 50 of the Law on Medical Treatment determines that information on patient’s treatment, diagnosis and prognoses, as well as information on private life of the patient and his/her relatives obtained during the medical treatment procedure is strictly confidential.

In item 85 CPT indicates that it wishes to obtain more information on the draft Prisoner health treatment conception elaborated by the Ministry of Justice.

On 29 September 2006 the Committee of the Cabinet of Ministers considered draft Prisoner health treatment conception submitted by the Ministry (Minutes No. 49, 35.§), consideration of which was postponed. At the same time the Ministry and the Ministry of Health were assigned a task to continue working on elaboration of prisoner health treatment organization model, as well as the Minister was assigned the task to submit in the set order the fine-tuned conception to the Cabinet of Ministers for consideration.

The conception was to determine a new division of competence between the Ministry and the Ministry of Health (including transferring the Prison hospital of Latvia to the competence of the Ministry of Health) regarding health treatment of prisoners, as the basic functions of the Ministry are not and cannot be related to organization and provision of healthcare. The conception also provided for solutions regarding subordination and status of the Prison hospital of Latvia. As the Cabinet of Ministers did not support the offered division of competences, an entirely new approach to organization of prisoner medical treatment and division of competences between the two Ministries must be elaborated.

Taking into account the task assigned by the Cabinet of Ministers to continue work on prisoner health treatment organization model and taking into account other tasks in the field of execution of criminal punishment policy assigned to the Ministry, the Ministry plans proceeding work on elaboration of a new draft conception in October, 2008. The new draft conception will foresee administrative integration of prison health treatment system in the public health care – defining concepts “prison doctor” and “prison hospital” as parts of the public healthcare. It will enable the prisoners to receive identical services as the any other person. The Ministry plans to submit the new draft conception for revision to the Cabinet of Ministers till 1 November 2009.

In item 86 CPT recommends substantial increasing of the number of employees in Jekabpils prison, and evaluating the necessity to increase the number of employees in other prisons.

Unfortunately in 23 September 2008 the Cabinet of Ministers decided (Minutes No.68, Section 43) to decrease the number of persons employed in state administration by 10% till 1 July 2009. Taking into account the above-mentioned, increase of staff number in Jekabpils prison will not be possible in nearest time.

In item 87 CPT recommends to the responsible institutions of Latvia to ensure employing of qualified personnel in the prison system. Measures must be taken to ensure that all prison officials with the special ranks receive appropriate initial and further training.

In accordance with the training process schedule confirmed by the chief of Prisons Administration, starting from 10 March 2008 the Training centre provides further education programme “Guarding of prisons” for prison officials with special ranks for acquiring the second professional qualification level (qualification “Senior prison guard”). On 29 July 2008 13 guards passed the qualification exam. On 4 August 2008 a new group started the training (14 persons).

In addition, a working group composed by the State probation service, involving representatives of the Ministry of Justice and LPA, in 2008 developed a new profession standard „Penitentiary and probation work specialist”, which is submitted for confirmation in the set order. Confirmation of such standard will enable the higher education establishments to create a special programme for special training of prison and probation employees.

In item 88 CPT referring to the complaints of Point 42 of the report, recommends paying more attention to corruption problems in Jekabpils prison.

In order to prevent corruption and to decrease the risk of corruption possibilities in prisons, in December 2007 risk areas were determined in prisons by Prisons Administration. In accordance with the effective legislation the risk areas in the prison are considered the following: keeping prisoners in prisons and progressive execution of punishment (division by prisons, punishment commutation, early release etc), execution of the Law on Public Procurement, honest discharge of duties of the personnel, etc.

When admitting to service, the prison personnel are provided with explanation of the issues referring to the requirements of the Law "On prevention of the conflict of interest in state officials' work". At the same time training for observing this Law is permanently provided to prison personnel of all levels.

In 11 June 2008 Prisons Administration confirmed plan of activities in corruption prevention and combating field. According to this plan the following activities should be permanently carried out:

- informing the public and mass media upon anti-corruption measures taken in prisons as well as upon detected corruption cases;
- introducing the new personnel with the Law "On prevention of the conflict of interest in state officials' work";
- explanation of regulation of the Criminal Law to the employees executing pre-trial investigation in order to reduce the corruption risk due to uninformed process participants;
- analysis of appeal of complaints and decisions etc.

In item 89 CPT recommends taking immediate measures to ensure that in all prisons in Latvia all prisoners, placed in solitary confinement have at least one hour walk in fresh air each day.

In item 93 CPT recommends taking immediate measures to ensure that in all prisons in Latvia all prisoners, placed in solitary confinements have access to reading material of general character.

Ministry informs that full enforcement of these recommendations will be possible after introduction of the above-mentioned Concept. These recommendations will be advanced for revision in one of the following meetings of working group for improving the Latvian Punishment Execution Code till the end of this year.

In item 91 CPT recommends improving material conditions of solitary confinement in all prisons visited.

See answers regarding recommendations 36 and 44.

In item 92 CPT recommends taking measures to prevent the practise that prisoners receive disciplinary punishment for performing self-harm.

Ministry will advance the revision of the recommendation in the Working group created for improving the Latvian Punishment Execution Code in the beginning of 2009. Additionally see answers regarding recommendation 66.

In item 93 CPT recommends taking measures to ensure that placing into solitary confinement does not mean complete prohibition of contacts with the family, Besides CPT suggests lifting the ban to contact the outside world regarding minor prisoners.

Ministry will advance the revision of the recommendation in the Working group created for improving the Latvian Punishments Execution Code in the beginning of 2009.

In item 94 CPT recommends preventing situation that the prisoner for whom the decision of disciplinary punishment has been taken, has no right to be heard out prior to taking the decision, as well as to change the fact that the prisoner does not receive a copy of the conclusion of the disciplinary punishment with appealing order and terms.

Prison administration applying a disciplinary punishment takes into account: in what circumstances the infringement is committed, prisoner's behaviour prior to infringement, the number and character of previous punishments, as well as prisoner's explanations. The applied disciplinary punishment must comply with the severity and character of the infringement. The final conclusion for applying disciplinary punishment is taken by chief of prison, after negotiations with the prisoner. Prisoners have the right to appeal the punishment within 10 days to the chief of Prisons Administration. Prison administration accepts prisoners in private issues each day.

Ministry will advance the revision of the recommendation in the Working group created for improving the Latvian Punishments Execution Code in the beginning of 2009.

In item 95 CPT recommends revising the role of the prison doctor with regard to disciplinary penalty. When doing it, conformity to the new European prison regulations must be ensured.

In accordance with the effective legislation upon applying the penalty for placing a prisoner in solitary or disciplinary confinement, there is a mandatory requirement of doctor's attestation concerning prisoner's health. Additionally see answers regarding recommendation 66.

In item 97 CPT invites the responsible institutions of the Latvia in the possibly shortest period of time to ensure that:

- **security department officials do not investigate crime committed by prisoners outside the prison and do not interrogate prisoners on such crime;**
- **investigation department officials do not investigate crime committed against prisoners. Such investigation should be carried out by investigators independent from the specific institution and preferably from the prison system.**

According to requirements of Articles 28, 386 and 387 of the Criminal Procedure Law (effective from 1 October 2005) investigation institutions in prisons does exist and investigators are authorized as independent persons, who investigate crimes committed by prisoners as well as by prison employees.

For crime not committed in the prison area (for example, throwing things over the fence, forbidden objects disclosed in parcels and packages etc.) the security department personnel together with the investigator carry out investigation. The investigator starts the criminal procedure, performing criminal procedure pre-trial investigation and after the criminal procedure sends the case to the police.

Ministry will advance revision of this recommendation in working group created for elaboration of Criminal Procedure Law in the beginning of 2009.

In item 98 CPT invites the responsible institutions of the Latvia to improve the situation with the number of permitted telephone conversations and correspondence with lawyers.

According to the effective legislation, prisoner correspondence with state and international human rights institutions, Parliament Human rights and public affairs commission, prosecutor's office, court, lawyer, process facilitator, as well as imprisoned foreign citizens with their diplomatic or consular representation, which is authorized to represent their interest, is not subject to control and is sent for investigation prison means.

We inform you that Constitutional Court of the Latvia, pronouncing the 9 May 2008 judgement in case No 2007-24-01 „On conformity of the second sentence of Article 50 Part 2 of Latvian Punishments Execution Code to Article 92 of the Constitution of the Republic of Latvia”, decided to recognize that the second sentence of Article 50 Part 2 of Latvian Punishments Execution Code, as long as it does not provide for public financing of application to contest an administrative act or actual measures, and sending requests for legal assistance the prisoners who have no sufficient resources, as non-conforming with Article 92 of the Constitution of the Republic of Latvia and not in force since 1st November 2008.

Taking into account the above-mentioned, the Ministry has developed a draft law „Amendments to the Latvian Punishments Execution Code” by supplementing the Code with a new regulation developed to prevent the non-conformity shown by the Constitutional Court, determining that prisoners correspondence with other state and local authorities is covered from prison resources, in the event the prisoner's payment card is not covered by sufficient funds and the prisoner contests an administrative issued by these establishments or their actual measures or sends an application requesting state provided legal assistance. Thus, the prisoner with no resources for sending a letter will have a possibility to exercise the rights established by the law to contest a decision or measures taken by the institution or request state provided legal assistance.

In item 99 CPT invites the responsible institutions of the Latvia in the possibly shortest period of time to ensure that all prisoners, including those with life sentence have a possibility to have at least one meeting more each month.

In accordance with the Punishment Execution Code of the Latvia, prisoners have the right for meeting relatives or other persons:

Regime range	Closed-type prisons			Partially closed-type prisons			Educational establishments for juvenile delinquents
	highest	medium	lowest	highest	medium	lowest	
Long-time meetings during a year (number and duration)	6 12-24h	4 8-16 h	3 6-12 h	8 24-48 h	6 24-36 h	4 12-24 h	12 36-48 h
Short-time meetings during a year (number and duration)	6 1-2 h	6 1-2 h	4 1-2 h	8 1,5-2 h	6 1,5-2 h	4 1,5-2 h	12 2 h

For good behaviour and honest attitude to work and training the prison administration can encourage the prisoner by additionally granting a short-time or a long-time meetings but no more than six additional meetings a year.

In accordance with requirements of „Law on Conditions of Pre - trial Detention” adults have the right to meet relatives and other persons not less than once a month, but minors once a week.

Pre – trial detainees and convicted persons have unlimited number of meeting with lawyers, they are not included in the number of long-time and short time meetings. The above-mentioned provisions are also effective for persons sentenced for life.

The Ministry confirms that the above-mentioned suggestion will be reviewed in the Working group during 2008.

In item 100 CPT repeatedly indicates on recommendation for the responsible institutions of the Latvia to revise prisoners’ application submission and consideration procedure to ensure that the applications reach their addressees.

Prisons pay attention to consideration of prisoners’ applications. Acceptance of prisoners’ applications takes place each working day. Prisoners have a possibility to place their application in a sealed box. The sealed box is delivered to the on-duty assistant to a chief of prison or to another official assigned by the chief of the prison, who from the received written applications separate:

- applications addressed to the chief of prison;
- applications addressed to the Administrative Commission of the prison;
- applications addressed to institutions and officials;
- applications addressed to representatives of prison administration;
- prisoner appeal claims, cassation claims and their appendixes.

In 25 April 2008 and 19 august 2008 the above-mentioned topic was discussed in LPA meeting with chiefs of prisons. Currently LPA has developed draft „Order of registration of applications submitted by imprisoned and detained persons and order of registration of replies in prisons”, to be sent to the Ministry of Justice for coordination in the end of October, 2008.

Information from the Ministry of Health

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CPT gala ziņojuma rekomendāciju un informācijas pieprasījuma apkopojums

No	Cited paragraphs of the report	Recommendations / Requests for information / Comments	Actions taken with regard to the recommendations / Replies to the requests for information / Reaction to the comments
SADAĻA: Prisons APAKŠSADAĻA: Health care	85. [..] the CPT noted with interest that a "conception on the health care for the imprisoned persons" had been elaborated by the Ministry of Justice and reviewed by the Cabinet of Ministers on 26 September 2006. At the request of the Cabinet of Ministers, the Ministries of Justice and Health were mandated to submit, before 1 June 2008, a project proposal to the Cabinet of Ministers, with a view to having the responsibility for the prison hospital and prison health-care services transferred to the ministry of Health. [..]	<u>REQUEST FOR INFORMATION</u> Detailed information on the plan to transfer the responsibility for the prison hospital and prison health-care services to the Ministry of Health (p.67).	<u>Reply to the request for information</u> According to the information available to the Ministry of Health, the Ministry of Justice will assign a work group to restart the development of conception project on the health care for imprisoned persons. The aim of the conception will be to eliminate the current shortcomings on the scheme of organization and financing of health care for imprisoned persons. Any further inquiries regarding the progress of development of the project should be directed to the Ministry of Justice.
SADAĻA: Psychiatric / social welfare establishments APAKŠSADAĻA: Preliminary remarks	104. The average length of hospitalization was approximately two months. Out of 120 patients who had been staying in the hospital for more than a year, some 70 no longer actually needed to be held in hospital, but had to remain there, due to a lack of adequate care/accommodation in the outside community (e.g. in social welfare homes). For persons to remain deprived of liberty as a result of the absence of appropriate external facilities is a highly questionable state of affairs. [..]	<u>COMMENT</u> The CPT urges the Latvian authorities to find a solution to the problem of patients who no longer actually need to be held in hospital having to remain at Daugavpils Neuropsychiatric Hospital, due to a lack of adequate care/accommodation in the outside community (p.70).	<u>Reaction to the comment</u> The guideline "Improvement of population's mental health in 2009-2014" (enacted by the Cabinet of Ministers on 6 August 2008) plans to open 24 community based mental health care establishments in coordination with activities of the Ministry of Welfare and local municipalities. The forecasted results are to increase the number of patients (7% annually) which have access to community mental health care establishments and to decrease the number of stationary beds by 3% each year. Above mentioned guidelines foresee to develop community based mental health service for people

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3.	<p>104. [...] the delegation was informed that the Ministry of Health had elaborated a national programme for mental health protection for the period 2008 to 2013, one of the main objectives of which being the promotion of community-based care. [...]</p>	<p><u>REQUEST FOR INFORMATION</u> Progress made in the implementation of the national programme for mental health protection (p.70).</p>	<p>who no longer actually need to be held in the hospital. In December 2006 there was established "Department for mentally ill persons long-term care" which is located in the new building and on the basis of Daugavpils Neuropsychiatric Hospital. There are 20 social beds for long-term care for patients of schizophrenia in this department. All beds are meant for patients who were waiting for placement in the social care institution.</p>
4.	<p>109. [...] Pending the forthcoming renovation, the Committee recommends that steps be taken at the hospital to keep patients' rooms in an acceptable state of cleanliness and hygiene and to provide a</p>	<p><u>REPLY TO THE REQUEST FOR INFORMATION</u> Guidelines "Improvement of population's mental health in 2009-2014" are adopted by the Cabinet of Ministers on the 6th of August 2008. Currently Latvia has 2 mental health care institutions, located in Riga, where patients can live and receive the essential care and rehabilitation with the aim to return to the outside community. In addition, rehabilitation is provided in psychiatric hospitals and social welfare houses, although the main objective of the latter is to provide accommodation without mental health care. According to the guidelines "Improvement of population mental health in 2009-2014", the Ministry of Health will elaborate the corresponding Action Plan by 1 March 2009.</p>	<p><u>Reply to the request for information</u> Guidelines "Improvement of population's mental health in 2009-2014" are adopted by the Cabinet of Ministers on the 6th of August 2008. Currently Latvia has 2 mental health care institutions, located in Riga, where patients can live and receive the essential care and rehabilitation with the aim to return to the outside community. In addition, rehabilitation is provided in psychiatric hospitals and social welfare houses, although the main objective of the latter is to provide accommodation without mental health care. According to the guidelines "Improvement of population mental health in 2009-2014", the Ministry of Health will elaborate the corresponding Action Plan by 1 March 2009.</p>
<p>SADĀLA: Psihiatriskās sociālās labklājības iestādes APAKŠSADĀLA: Mīļotības apstākļi</p>			
4.	<p>109. [...] Pending the forthcoming renovation, the Committee recommends that steps be taken at the hospital to keep patients' rooms in an acceptable state of cleanliness and hygiene and to provide a</p>	<p><u>RECOMMENDATIONS</u> Steps to be taken at Daugavpils Neuropsychiatric Hospital to keep patients' rooms in an acceptable</p>	<p><u>ACTIONS TAKEN WITH REGARD TO THE RECOMMENDATIONS</u> Each of the units No1, 2, 3, 4 and 5 are equipped with 2 showers and bathtubs. It is available for the</p>

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5.	<p>more personalized environment. In addition, patients should be able to shower more frequently.</p> <p>110. In all wards, patients were free to move around the wards including the canteen area, which was equipped with a television set and also served as an activity room. However, although each ward had a designated exercise area, the vast majority of patients (including those held in "isolators") did not benefit from daily outdoor exercise, apparently due to the lack of availability of staff to accompany patients and/or appropriate clothing. Further, most of the exercise areas were equipped with neither means of rest and recreation nor shelter from inclement weather. [..]</p>	<p>state of cleanliness and hygiene and to provide a more personalized environment. In addition, patients should be able to shower more frequently (p.70).</p> <p><u>RECOMMENDATIONS</u> Steps to be taken at Daugavpils Neuropsychiatric Hospital to ensure that all patients whose state of health so permits are offered at least one hour of outdoor exercise per day. If necessary, they should be provided with suitable outdoor clothing. Further, the outdoor exercise areas should be equipped with means of rest and recreation and provide shelter from inclement weather (p.70).</p>	<p>patients from all mentioned units to have a shower at least once a day. There are regular cleaning and anti-epidemic actions in place that are regularly monitored. As well ventilation of patients' rooms is performed on regular basis.</p> <p><u>ACTIONS TAKEN with regard to the recommendations</u> Daily outdoor exercises are managed according to the schedule established by the Daugavpils Neuropsychiatric Hospital. All patients in the cold seasons of the year are guaranteed with personal outdoor clothes or with clothes provided by the hospital if patient does not have his / her own.</p>
6.	<p>109. During the visit, the delegation was informed of existing plans to renovate the hospital's two main buildings by 2010. [..] Provision of accommodation structures based on patients' dignity, and also key element of any policy for the psychological and social rehabilitation of patients. Structures of this type also facilitate the allocation of patients to relevant categories for therapeutic purposes. [..]</p>	<p><u>COMMENT</u> The CPT encourages the Latvian authorities to carry out the renovation of Daugavpils Neuropsychiatric Hospital as speedily as possible. In this context, the possibility of transforming the large-capacity dormitories into smaller patients' rooms should be considered (p.70).</p>	<p><u>Reaction to the comment</u> There is prepared a draft for Daugavpils Neuropsychiatric Hospital renovation which foresees to create wards for accommodation of 3 to 5 persons in each. Renovation is planned to be accomplished during the year 2009.</p>
7.	<p>111. Finally, the delegation observed that all patients in Ward 2 and a number of patients in other wards wore hospital pyjamas all day. In this connection, the CPT wishes to stress that for patients to be dressed in pyjamas at all times is not conducive to strengthening personal identity and self-esteem; individualization of clothing should form part of the therapeutic process. [..]</p>	<p><u>COMMENT</u> The Latvian authorities are invited to ensure that patients are allowed and, if necessary, encouraged to wear their own clothes during the day or are provided with appropriate non-uniform garments (p.70).</p>	<p><u>Reaction to the comment</u> Regulations of an establishment foresee, that patients can wear their own clothes of their own free will and state of health. Patients receive that information in receiving room during their admission in the hospital. If patient is hospitalized in dirty and shred clothes or without them, he / she is been</p>

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8	109. [...] Further, the CPT would like to receive a detailed plan of the different stages of renovation of the hospital and a timetable for their full implementation. [...]	<u>REQUEST FOR INFORMATION</u> A detailed plan of the different stages of renovation of Daugavpils Neuropsychiatric Hospital and a timetable for their full implementation (p.71)	<u>Reply to the request for information</u> It is planned to finish the reconstruction of the Daugavpils Neuropsychiatric Hospital in year 2010. During the 2008 – 2009 there is foreseen the renovation and reconstruction of the 1 st and the 2 nd blocks as well as the purchase of the equipment for both. During the 2009 it is foreseen: - the renovation of workroom building; - dismantling of proximal building and construction of new building; - renovation of administrative rooms; - construction of the ambulatory department building and purchase of the equipment; - development of the society based psychiatric and narcological service out of the hospital's territory. During the years 2009 and 2010 there is foreseen: - the renovation of the fence of the territory; - construction of the laundry, disinfection ward and sterilization room; - Improvement works of the territory.
9.	113. As regards medical staff, the overall number of posts for psychiatrists appeared to be adequate (39 full-time posts) (there were also posts for general medicine, radiology, stomatology and pharmacy). However, it is a	<u>RECOMMENDATIONS</u> Staff resources at Daugavpils Neuropsychiatric Hospital to be reviewed, in the light of the remarks made in paragraph 113 (p.71).	<u>ACTIONS TAKEN with regard to the recommendations</u> Latvia has the minimal requested number of psychotherapists that is needed in order to provide adequate mental health care. However there is a lack

SADALĀ: Psihiatris / social welfare establishments

APAKŠSADALĀ: Staff and treatment

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	<p><i>matter of concern that, at the time of the visit, twelve of these posts were vacant. As a result, some doctors occupied more than one full-time post, in effect working overtime on a permanent basis in return for a commensurate increase in salary [at the time of the visit, seven doctors occupied the equivalent of two full-time posts, and eight doctors the equivalent of 1,5 posts]. The hospital also employed four psychologists, but there were no staff qualified to organize physiotherapy and occupational therapy [this function was mainly performed by nurses and orderlies].</i></p> <p><i>On a more positive note, the number of nurses and orderlies were adequate on all wards [for example, one nurse per two beds in Ward 2].</i></p> <p><i>In the CPT's view, the system of individual staff occupying more than one full-time post may be detrimental to satisfactory patient care, it extends beyond short-term situations of staff shortages. Further, there is a clear need for more diversity in professional staff, in particular categories qualified to provide therapeutic activities and other forms of psychosocial care, which is conducive to the emergence of a multidisciplinary approach. [..]</i></p>		<p>of nurses, nurse assistants, social workers and ergo therapists.</p> <p>Possibility to complete vacant posts in Daugavpils Neuropsychiatric hospital depends on the overall situation concerning human resources in the country. Since there is a lack of number of specialists, it is hard to ensure optimal amount of specialists in Daugavpils Neuropsychiatric Hospital.</p> <p>In order to ensure hospitals with necessary number of staff, there is developed Policy document "Development of Health Resources in Health Care" and its implementation is planned within the years 2006 to 2015 with actions for enhancing Human resources situation in the country.</p> <p>In compliance with the above mentioned guidelines, the number of mental health specialists should be increased by 2% each year, while the number of ergo therapeutic specialists should grow 10% annually.</p> <p>According to the WHO recommendations, development of multidisciplinary teams is vital for mental health care. However, current knowledge and skills of particular specialists are insufficient. Nevertheless, Latvia has implemented a pilot project for setting up a multidisciplinary team in community based mental health care centre in Riga.</p>
10.	<p>114. Psychiatric treatment should be based on an individualized approach, which implies the drawing up of a treatment plan for each patient, indicating the goals of treatment, the therapeutic means used and the staff member responsible. The treatment plan should also contain the outcome of regular review of the patient's mental health condition and a review of the patient's medication. Further, the treatment should involve a wide range of therapeutic, rehabilitative and recreational activities, such as occupational therapy, group therapy, individual psychotherapy, art, music and sports.</p>	<p>RECOMMENDATIONS</p> <p>Steps to be taken at Daugavpils Neuropsychiatric Hospital to provide more comprehensive and individualized care with a wide range of psychosocial activities and to better prepare for the patients' return to the community, in the light of the remarks made in paragraph 114 and 115 (p.71).</p>	<p>ACTIONS TAKEN with regard to the recommendations</p> <p>Daugavpils Neuropsychiatric Hospital plans to develop "The individual treatment plan" for each patient (elaboration of such plan is foreseen during September and October, 2008), which is going to include treatment aims, its methods, responsible person (staff member) and psychotherapy, directed to prevention of repeated crimes, for compulsory treated patients.</p> <p>Action Plan for the guidelines "Improvement of Population's Mental Health 2009-2014" will include</p>

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	<p>115. At Daugavpils Neuropsychiatric Hospital, the treatment provided to patients was based mainly on pharmacotherapy. Access to psychotropic medications did not appear to be problematic. Treatment choices were based on observations carried out during the initial period of three to four days (see also paragraph 108). The psychiatrist responsible for the patient kept the case under review during regular ward rounds. However, such visits to wards involved only a brief discussion with the patient in the presence of other patients; interviews in private were infrequent. Further, although patient files were generally well kept, they contained no individual treatment plans setting out the goals and levels of treatment, the therapeutic means and the staff responsible.</p> <p>As regards other forms of treatment, the CPT acknowledges the efforts made by the management to provide rehabilitative psycho-social activities (in particular, in the hospital's rehabilitation unit where patients take part in activities such as cooking and housekeeping).</p> <p>That said, patients received individual and group psychotherapy sessions as well as autogenic training in only a few wards (such as Ward 9 and 13), and only 15 in-patients attended the hospital's workshop on a daily basis. The majority of patients (including long-term patients) spent their days in the wards' corridors with nothing to do, with their main occupation watching television. This situation was undoubtedly linked to the shortage of suitably qualified staff (see paragraph 113) and the absence of designated areas on most wards where patients could engage in therapeutic activities. As regards forensic psychiatric patients, there were no specific treatment programmes aiming at the reduction of the risk of re-offending. [...]</p>		<p>the scheme for improvements to be made to prepare the patients for their returning to the community</p>
11.	116. Although resort to electroconvulsive therapy (ECT)	RECOMMENDATIONS	ACTIONS TAKEN with regard to the recommendation

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12.	<p>was apparently rare [according to the staff, only three patients had received ECT in 2007], the CPT is very concerned by the fact that this treatment was administered at Daugavpils Neuropsychiatric Hospital in its unmodified form, i.e. without anaesthetic and muscle relaxants [the treatment was carried out after an injection of a short-acting benzodiazepine]. As the CPT has repeatedly emphasized, use of this method entails a heightened risk of untoward medical consequences and can lead to situation which could justifiably be described as degrading</p> <p>The delegation noted that the hospital had no written policy guidelines regarding the administration of ECT, and no written consent was obtained from the patients concerned. Further, there was no record of checks and maintenance of the ECT equipment. [...]</p>	<p>Immediate steps to be taken to ensure that Daugavpils Neuropsychiatric Hospital (and, as appropriate, other psychiatric hospitals in Latvia in which ECT is used) is provided with the necessary staff, equipment and facilities so that this treatment can be administered in its modified form (i.e. with both anaesthetic and muscle relaxants) and in an effective manner (preferably with the aid of an electroencephalogram) (p.71)</p> <p>RECOMMENDATIONS Clear written policy guidelines on resource to ECT to be elaborated and distributed to each establishment where this treatment is applied, in order to ensure that ECT is used for the proper indications and is carried out in an appropriate manner (p.71).</p>	<p>Accordingly to the recommendations of CPT and due to the lack of appropriate device an electroconvulsive therapy is stopped.</p> <p>ACTIONS TAKEN WITH REGARD TO THE RECOMMENDATIONS According to recommendations of CPT and due to the lack of appropriate device an electroconvulsive therapy is stopped.</p>
13.		<p>RECOMMENDATIONS Steps to be taken to ensure that the written informed consent of the patient (or of the guardian, if the person concerned is declared incompetent by a court) to the use of ECT, based on full and comprehensible information, is sought and kept in the patient 's file (p.71).</p>	<p>ACTIONS TAKEN WITH REGARD TO THE RECOMMENDATIONS According to the recommendations of CPT and due to the lack of appropriate device an electroconvulsive therapy is stopped.</p> <p>Law on Mental health care will be developed by 1 October 2009. The Law will define the principles of mental health care provisions – self autonomy, avoidance of discrimination, voluntary participation, compliance, continuum, confidentiality and humanity. The Law will clarify the patients' rights and restrictions of their rights, as well as the rights and obligations of health care provider.</p>
14.	<p>117. Patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. Every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any</p>	<p>RECOMMENDATIONS Steps to be taken at Daugavpils Neuropsychiatric Hospital (as well as in all other psychiatric establishments in Latvia) to ensure that all competent patients are placed in a position to give their free and</p>	<p>ACTIONS TAKEN WITH REGARD TO THE RECOMMENDATIONS According to the order issued by the administration of the hospital, patient has to give his / her free and informed consent to the treatment after first examination by doctors. During the examination and</p>

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	<p><i>derogation from this fundamental principle should be based upon law and apply only in clearly and strictly defined exceptional circumstances.</i></p> <p><i>Of course, consent to treatment can only be qualified as free and informed if it is based on full and accurate information about the patient's condition and the treatment which is proposed. In this connection, it is essential that all patients be provided systematically with relevant information about their condition and the treatment proposed for them. Relevant information (results, etc.) should also be provided following treatment.</i></p> <p><i>The examination of various patient files at Daugavpils Neuropsychiatric Hospital brought to light that, in the case of voluntary admissions, the patient's consent to treatment was sought upon admission (at the same time as the patient gave his/her consent to the placement), before the clinical indications for a particular form of treatment were even established. No documentation could be found which indicates that the patient concerned had received detailed information on the diagnosis, the treatment proposed and the possible side effects (only a few of the patients met by the delegation appeared to be aware of the nature of the treatment and medication (including its effects and possible side effects) they were receiving).</i></p> <p><i>[...] In this connection, the Committee wishes to stress that whenever consent to treatment is given by a patient upon admission, the patient concerned should continuously be kept informed of the treatment applied to him/her and be placed in a position to withdraw his/her consent at any time.</i></p>	<p>informed consent to treatment (p. 71).</p>	<p>in the process of the treatment patient receives information of prescribed medicaments, potential side effects as well as concerning planned efficiency of the prescribed therapies.</p> <p>Law on Mental health care will define principles of mental health care provisions – self autonomy, avoidance of discrimination, voluntary participation, compliance, continuum, confidentiality and humanity.</p> <p>The Law will clarify the procedure of providing and receiving mental health care services, patients' rights and restrictions of rights, as well as rights and obligations of health care provider.</p>
15.	<p>11B. Finally, the delegation noted that deaths occurring in the hospital were usually not subject to any post-mortem examination [deaths were certified by a hospital doctor. In the majority of cases, "cardiovascular disorders" were</p>	<p>COMMENT</p> <p>There should be an independent review of all deaths occurring in a psychiatric hospital by means of a</p>	<p>Reaction to the comment</p> <p>The procedure of pathologist checking in Daugavpils Neuropsychiatric Hospital is carried out in accordance</p>

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	<p>recorded as the cause of death [e.g. 85 out of 96 deaths in 2004; 109 out of 125 deaths in 2005; 110 out of 127 deaths in 2006]. It is noteworthy that some of these deaths occurred in younger patients (e.g. eight patients under 45 years of age since 2004). In the CPT's opinion [..].</p>	<p>pathologist checking the patient's file and deciding whether an autopsy is indicated (p. 71).</p>	<p>with the law „On protection of dead human body and use of tissue and organs in medicine” which states that necessity of autopsy is decided by the head of department of medical treatment institutions if a person concerned has died in the medical treatment institution. In case of receiving written submission of the dead person's relatives, dead bodies are not pathologically examined.</p>
<p>SADĀLA: Psihiatris / social welfare establishments APAKŠSADĀLA: Means of restrain</p>			
16.	<p>121. Bearing in mind the inherent risks for the patient concerned, the following principles and minimum standards in relation to fixation should also be taken into account:</p> <ul style="list-style-type: none"> - Staff should not be assisted by other patients when applying means of restraint to a patient. - A restrained patient should not be exposed to other patients. - As regards supervision, whenever a patient is subjected to means of mechanical restraint, a trained member of staff should be present at all times to maintain the therapeutic alliance and provide assistance. Such assistance may include escorting the patient to a toilet facility or, in the exceptional case where the measure of restraint cannot be brought to an end in a matter of minutes, helping him/her to consume food. Clearly, video surveillance cannot replace such a continuous staff presence. - Patients subject to means of restraint should receive full information on the reason for the intervention. Further, the person concerned should be given the opportunity to discuss his/her experience, during and, in any event, as soon as possible after the end of a period of restraint. 	<p>RECOMMENDATIONS</p> <p>The necessary steps to be taken to ensure that the principles and minimum standards in relation to fixation set out in paragraph 121 are applied at Daugavpils Neuropsychiatric Hospital and, as appropriate, in other psychiatric establishments in Latvia (p.72).</p>	<p>ACTIONS TAKEN WITH REGARD TO THE RECOMMENDATIONS</p> <p>Law on Mental health care will enforce principles of mental health care provision – self autonomy, avoidance of discrimination, voluntary participation, compliance, continuum, confidentiality and humanity.</p> <p>CPT requirements outlined in paragraph 121 are included in the order issued by the administration of the hospital "Concerning the methodological recommendations for limitation of patients bodily movements".</p>

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17.	<p><i>This debriefing should always be carried out by a member of health-care staff or another member of staff with appropriate training</i></p> <p>120. At Daugavpils Neuropsychiatric Hospital, the only means of restraint used were five-point fixation to a bed (with cloth straps) and the administration of tranquillising medication (chemical restraint).</p> <p>In accordance with the guidelines issued by the Ministry of Health on the use of means of restraint, decisions on the resort of fixation were usually taken by a doctor. Further, restraint registers were kept on each ward for recording instances of fixation, indicating the time at which the measure was applied and removed, the indication and the name of the doctor ordering it. However, instances of chemical restraint were not recorded in the restraint register [..].</p>	<p>COMMENT</p> <p>Steps to be taken at Daugavpils Neuropsychiatric Hospital to ensure that instances of chemical restraint are recorded in the restraint register (p.72).</p>	<p>Reaction to the comment</p> <p>With an order issued by the administration of the hospital there is stated mandatory requirement to register any chemical restraint cases.</p>
18.	<p>The CPT is concerned by the fact that fixation was often applied inside patients' rooms and thus in full view of other patients, indeed, on occasion with their active involvement. Further, the supervision of patients subject to fixation appeared to be inadequate; no staff member was designated to stay with and observe the fixated person and, in practice, this function was performed by other patients.</p> <p>The death of a patient in June 2007 as a result of asphyxia caused by strangulation whilst being restrained to a bed clearly illustrates the need for constant supervision when a patient is subjected to fixation.</p> <p>By letter of 22 February 2008, the Latvian authorities informed the Committee that a criminal investigation had been initiated into the death of the above-mentioned patient, in the course of which an autopsy was performed and staff of the hospital were questioned. On the basis of this investigation, it was concluded that the patient had died of self-asphyxiation and that the death had</p>	<p>REQUEST FOR INFORMATION</p> <p>Detailed information on the concrete investigative steps taken in the light of the results of the autopsy referred to in paragraph 120, in order to establish whether the death of the patient concerned may have occurred due to criminal negligence by (a) member(s) of staff (p.72).</p>	<p>Reply to the request for information</p> <p>There was conducted an inspection in the Daugavpils Neuropsychiatric Hospital by the Health Inspectorate of Latvia. During inspection there was discovered misdemeanors carried out by psychiatrist and a nurse. But those misdemeanors were not recognized as the reasons of person's death. Health Inspectorate of Latvia ordered to the Administration of the Daugavpils Neuropsychiatric Hospital to perform a number of measures in order to avoid such misdemeanors in the future – all changes of patient's state of health should be reflected in details in his/her medical documentation; nurses are not allowed to prescribe drugs without doctor's consultation; fixation process should take place under continuous supervision of staff member etc.</p> <p>Daugavpils Neuropsychiatric Hospital has implemented all necessary measures to document all recommendations in order to avoid accidents in the future.</p>

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19	<p>"occurred without illegal actions of other persons". Thus, the criminal investigation was terminated in accordance with Section 377, paragraph 1, of the CCP ("no offence committed"), [...]</p> <p>122. According to the hospital's registers, the duration of fixation never exceeded two hours, in strict compliance with the time-limit set in the above-mentioned guidelines of the Ministry of Health. However, from interviews with staff and patients, it became apparent that patients were on occasion subjected to fixation for several hours. [...]</p>	<p><u>REQUEST FOR INFORMATION</u></p> <p>Comment on the CPT's observation that patients at Daugavpils Neuropsychiatric Hospital were on occasion subjected to fixation beyond the time-limit set in the relevant guidelines of the Ministry of Health (p.72).</p>	<p><u>Reply to the request for information:</u></p> <p>Verification of Fixation registers in all departments showed that fixation time do not exceed 2 hour limit with the exception of one case when 2-3 fixation times were applied in every 8-10 hours in case of lasting delirium.</p>
<p>SADALA: Psychiatric / social welfare establishments APAKŠSADALA: Safeguards</p>			
20.	<p>126. As already mentioned in paragraph 103, at the time of the visit to Daugavpils Neuropsychiatric Hospital, only two civil patients [the total number of such placements in the hospital since the adoption of the March 2007 amendment had been four] had been placed there on an involuntary basis under formal legal procedures. The delegation formed the view that, in respect of these patients, the legal safeguards introduced by the March 2007 amendment were correctly applied.</p> <p>All the other civil patients were classified by the hospital management as "voluntary". On admission to the hospital, most of such patients signed on a special stamp in their patient's file thereby consenting to hospitalization and subsequent treatment. Nevertheless, many "voluntary" patients were cared for on closed wards and were not free to leave the hospital [some of them had been subject to fixation and one had had an incident recorded in his notes as an attempt escape]; in other words, they were de facto deprived of their liberty.</p> <p>Further, it became clear from the information gathered that many patients had signed the above-mentioned</p>	<p><u>RECOMMENDATIONS</u></p> <p>The legal status of patients at Daugavpils Neuropsychiatric Hospital, and, as appropriate, in other psychiatric hospitals in Latvia, to be reviewed, in the light of the remarks made in paragraphs 126 and 127 (p.72).</p>	<p><u>ACTIONS TAKEN with regard to the recommendations</u></p> <p>If patient is hospitalized voluntarily and later he / she wants to leave the hospital, but for optimal treatment results it is not preferable, after-treatment is applied in accordance with ruling of the Court as it is appointed for involuntary hospitalization.</p> <p>For patients with chronic illness inter alia those who are waiting for placement in social care institution there is adapted separate hospital regime - "partial trust" or "open door" regime and freedom of their movement is not limited.</p> <p>Law on Mental health care foresees to define principles of mental health care provisions – self autonomy, avoidance of discrimination, voluntary participation, compliance, continuum, confidentiality and humanity.</p> <p>The Law will clarify the procedure of providing and receiving mental health care services, patients' rights and restrictions of rights, as well as rights and</p>

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No	<p>stamp in such a mental state that they were unable to give a free and informed consent to their hospitalization and treatment.</p> <p>Consultations with staff and the examination of patients' files also revealed that, in practice, the consent of the patient concerned to placement (and treatment) could be substituted by approval given by any family member even if the latter was not a court-appointed guardian. Such a state of affairs is not acceptable.</p> <p>127. From discussion with staff, it became apparent that the hospital management initiated the involuntary placement procedure under Section 68 of the Law on Medical Treatment only in respect of those patients who actively resisted their hospitalization. Consequently, all "non-protesting" patients, including those with chronic conditions, were considered to be voluntary and as such were deprived of the benefit of any of the safeguards which accompany the initial involuntary placement procedure.</p> <p>In the CPT's view, all competent patients who are not able to give valid consent to their hospitalization should be the subject of an involuntary placement procedure.</p> <p>128. [...] The Committee also wishes to underline that, if it is considered that a given patient, who has been voluntarily admitted and who expressed 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.</p>		<p>obligations of health care provider.</p>
21.	<p>136. An introductory leaflet/brochure setting out the establishment's routine and patients' rights should be issued to each patient on admission, we all as to their families. Any patients unable to understand this brochure should receive appropriate assistance.</p> <p>At Daugavpils Neuropsychiatric Hospital, no such brochure was available to newly-admitted patients</p>	<p>RECOMMENDATIONS</p> <p>An Introductory leaflet/brochure to be elaborated at Daugavpils Neuropsychiatric Hospital and issued to each newly-appointed patient (as well as to his/her legal representative and close relatives), accompanied, if necessary, by appropriate verbal explanations (p. 72).</p>	<p>ACTIONS TAKEN with regard to the recommendations</p> <p>According to the order issued by the hospital, it is planned during September-October to elaborate simple and perceptible brochures on establishment's routine and patients' rights. It will be distributed to each newly arrived patient, their relatives and legal representative.</p>

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22.	<p><i>[patients only received verbal information regarding the internal rules of the hospital]. [-]</i></p> <p>137. An effective complaints procedure is another basic safeguard against ill-treatment in a psychiatric establishment. Specific arrangements should exist, which enable patients to lodge formal complaints with a clear designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment.</p> <p>According to staff, patients at Daugavpils Neuropsychiatric Hospital could submit a complaint to the director of the hospital, as well as to various outside bodies, such as the Ministry of Health and the Ombudsman. However, most patients appeared to be unaware of these possibilities. [-]</p>	<p>RECOMMENDATIONS</p> <p>Patients at Daugavpils Neuropsychiatric Hospital to be informed in the leaflet/brochure issued upon admission of their right to lodge complaints as well as of the modalities for doing so (p.72).</p>	<p>ACTIONS TAKEN with regard to the recommendations</p> <p>In the above mentioned brochures there will be included information on the rights to present complaints through secretary of Administration where they afterwards will be registered in the special register.</p> <p>Law on Mental health care foresees to define principles of mental health care provision – self autonomy, avoidance of discrimination, voluntary participation, compliance, continuum, confidentiality and humanity.</p> <p>The Law will clarify the procedure of providing and receiving mental health care services, patients' rights and restrictions of rights, as well as rights and obligations of health care provider.</p>
23.	<p>138. The CPT also attaches considerable importance to psychiatric establishments being visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the inspection of patients' care. This body should be authorized, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations.</p> <p>As far as the delegation could ascertain, Daugavpils Neuropsychiatric Hospital had, thus far, not been visited by any independent body. [-]</p>	<p>RECOMMENDATIONS</p> <p>Steps to be taken to ensure that Daugavpils Neuropsychiatric Hospital (as well as all other psychiatric establishments in Latvia) are visited, on a regular basis, by a body which is independent of the health authorities (p.72).</p>	<p>ACTIONS TAKEN with regard to the recommendations</p> <p>Children's psychiatric establishments are regularly inspected by the State Inspectorate for Protection of Children's Rights.</p> <p>On the basis of patients and other involved persons requests, monitoring of all psychiatric establishments is performed by Ombudsman.</p>
24.	<p>128. The CPT recommends that the legal status of patients at Daugavpils Neuropsychiatric Hospital, and, as appropriate, in other psychiatric hospitals in Latvia, be reviewed, in the light of the preceding remarks. [-]</p>	<p>COMMENT</p> <p>If it is considered that a given patient, who has been voluntarily admitted to a psychiatric hospital and who expressed a wish to leave the hospital, still requires</p>	<p>Reaction to the comment</p> <p>In situation when voluntary hospitalized patients want to leave hospital but still requires in-patient care, then involuntary hospitalization is performed in</p>

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		<p>in-patient care, then the involuntary civil placement procedure provided by the law should be fully applied (p.73).</p>	<p>accordance with procedure, defined in the Medical Treatment law, about psychiatric assistance without the consent of a patient.</p> <p>Law on Mental health care foresees to define principles of mental health care provision – self autonomy, avoidance of discrimination, voluntary participation, compliance, continuum, confidentiality and humanity.</p> <p>The Law will clarify the procedure of providing and receiving mental health care services, patients' rights and restrictions of rights, as well as rights and obligations of health care provider.</p>
25.	<p>129. It should be mentioned that, at Daugavpils Neuropsychiatric Hospital, the panel of psychiatrists that was called upon to provide the competent judge with a medical report concerning the necessity of involuntary hospitalization under Section 68 of the Law on Medical Treatment was composed of the hospital's own psychiatrists (including the patient's treating doctor). In this regard [...]</p>	<p><u>COMMENT</u></p> <p>It would be desirable that an expert who is independent of the psychiatric hospital in which the person concerned has been placed be involved in every placement procedure (i.e. initial placement and any renewal of a placement order) (p.73).</p>	<p><u>Reaction to the comment</u></p> <p>Presently in The Medical Treatment law is defined that only psychiatrists can be involved in doctors' council, but after that the decision about involuntary placement is made by judge who is independent of the psychiatric procedure. As well as patient is ensured with advocate.</p>
26.	<p>130. As regards discharge procedures, patients have to be released at the expiry of the term determined by the judge unless the latter issues a new decision on the extension of involuntary placement. Involuntary placement in a psychiatric hospital may also be terminated by decision of the hospital management prior to the expiry of the term determined by the judge, if the treating doctor considers that it is no longer necessary to provide psychiatric assistance to the patient concerned. However, the relevant legislation does not allow involuntary patients themselves to request review by a judicial authority during their placement.[...]</p>	<p><u>COMMENT</u></p> <p>Steps should be taken to ensure that patients themselves are able to request at reasonable intervals that the necessity for their continued placement in a psychiatric hospital be considered by a judicial authority (p.73).</p>	<p><u>Reaction to the comment</u></p> <p>The Article 607 of The Criminal procedure law prescribes, that a person, for whom compulsory measures of a medical nature have been specified or the lawful representative, spouse, or other close relative of such person may submit to a court a request to revoke or modify the specified compulsory measure of a medical nature. In such cases, the court shall request from the relevant medical treatment institutions a conclusion regarding the health condition of such person in regard to whom the request has been submitted.</p> <p>Law on Mental health care foresees to define principles of mental health care provision – self</p>

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27.	<p>123. The procedure by which involuntary placement in a psychiatric/social welfare establishment is decided should offer guarantees of independence and impartiality as well as of external psychiatric expertise. Further, such placement should cease as soon as it is no longer required by the patient's/resident's mental state. Consequently, the need for placement should be reviewed by an appropriate authority at regular intervals. In addition, the patient/resident himself/herself should be able to request at reasonable intervals that the necessity for placement be reviewed by a judicial authority.</p>	<p><u>COMMENT</u> Patients placed in a psychiatric establishment for compulsory treatment should have the effective right to be heard in person by the judge during judicial review procedures (p.73).</p>	<p>autonomy, avoidance of discrimination, voluntary participation, compliance, continuum, confidentiality and humanity.</p> <p>The Law will clarify the procedure of providing and receiving mental health care services, patients' rights and restrictions of rights, as well as rights and obligations of health care provider.</p> <p><u>Reaction to the comment</u> During the court hearing, patient has opportunity to be heard by the court, tell his / her opinion and answer to judges' questions if his / her state of health allows taking part in the court hearing</p> <p>Law on Mental health care foresees to define principles of mental health care provision – self autonomy, avoidance of discrimination, voluntary participation, compliance, continuum, confidentiality and humanity.</p> <p>The Law will clarify the procedure of providing and receiving mental health care services, patients' rights and restrictions of rights, as well as rights and obligations of health care provider.</p>
28.	<p>134. Specific reference should be made to the situation of patients/residents deprived of their legal capacity. Such persons could be admitted to a psychiatric/social welfare institution solely with the written consent of the guardian. However, they were considered to be voluntary patients/residents, even when they opposed such a placement, and their placement was therefore carried out without any judicial intervention. [...]</p>	<p><u>COMMENT</u> The placement of incapacitated persons in a psychiatric/social welfare establishment which they cannot leave at will, based solely on the consent of the guardian, entails a risk that such persons will be deprived of essential safeguards (p.73).</p>	<p><u>Reaction to the comment</u> There is no possibility to hospitalize person solely on consent of legal guardian. Every involuntary hospitalization has to be realized in accordance with procedure set in Article 68 of The Medical Treatment law.</p> <p>Law on Mental health care foresees to define principles of mental health care provision – self autonomy, avoidance of discrimination, voluntary participation, compliance, continuum, confidentiality and humanity.</p>

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29	<p>131. As already indicated, the hospital was also accommodating forensic patients. At the time of the visit, there were 26 such patients who had all been declared criminally irresponsible and placed in the hospital by court order, under Section 68 of the Penal Code [the hospital also admitted patients for the purpose of forensic psychiatric assessment, but there were no such patients at the time of the visit].</p> <p>The placement of forensic patients in a psychiatric establishment for compulsory treatment is ordered for an indefinite period of time [until "...] the person concerned has recovered or the nature of the illness has changed to such a degree that it is not necessary to provide such treatment;" (Section 69, paragraph 4, of the Penal Code)]. However, according to the new CCP, the patient concerned, his/her legal representative or close relative may request, every three months, a judicial review of the compulsory treatment [Section 607, paragraph 2, and Section 608, paragraph 6, of the CCP]. In absence of such a request, the court shall review the placement on its own initiative once a year [Section 607, paragraph 4, <i>ibid</i>].</p> <p>That said, it is a matter of concern that the above-mentioned provisions of the CCP were not being applied in respect of forensic patients at Daugavpils Neuropsychiatric Hospital. In practice, the need for compulsory psychiatric treatment was examined every six months by the hospital's consilium (which did not include any outside psychiatrists). Following a brief interview with the patient, the consilium prepared a report, which was not communicated to the court unless it contained a recommendation to terminate the compulsory treatment.</p>	<p><u>REQUEST FOR INFORMATION</u></p> <p>Comments on the fact that the involuntary placement of forensic patients at Daugavpils Neuropsychiatric Hospital was not reviewed by the court at least once a year, despite the legal requirement under the Code of Criminal Procedure (p. 73).</p>	<p>The Law will clarify the procedure of providing and receiving mental health care services, patients' rights and restrictions of rights, as well as rights and obligations of health care provider.</p> <p><u>Reply to the request for information</u></p> <p>Till now Daugavpils Neuropsychiatric hospital has not received requests from courts about compulsory treated patients, who are in hospital longer than 1 year and hospital continues to execute the requirements of the Criminal Procedure Law.</p>

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30.	<p><i>This effectively meant that forensic patients could stay in hospital for several years without having their placement reviewed by an outside body. [...]</i></p> <p>132. <i>The CPT noted that, in the context of the above-mentioned judicial review proceeding, the law does not explicitly guarantee patients a right to be heard in person by a judge pursuant to Section 608, paragraph 2, of the CCP, “[a] representative of the relevant medical treatment institution, the person who proposed the adjudication of the matter, and, if necessary, also the person for whom the compulsory measure of a medical nature has been specified shall be summoned to the court session.” In the CPT’s opinion, patients placed in a psychiatric establishment for compulsory treatment should have the effective right to be heard in person by the judge during judicial review procedures. [...]</i></p>	<p>REQUEST FOR INFORMATION</p> <p>Whether forensic patients who are not in a position to pay for a lawyer themselves are entitled to free legal aid during judicial review procedures (p. 73)</p>	<p>Reply to the request for information</p> <p>Criminal Law defines that if no one has turned with a claim or if there is conclusions from hospital, Court after one year, reevaluate validity of the compulsory treatment for the forensic patients.</p> <p>It is mandatory for attorney to participate in this process and in the case, if forensic patients are not in a position to pay for an attorney themselves, then state pays for the above mentioned services.</p>

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Information from the Ministry of Welfare

1. Comments by the Committee on general conditions in institutions in Latvia

Domestic conditions

In Latvia, the principles of provision and receipt of social services and social assistance is regulated by the *Law on Social Services and Social Assistance* (in force from 1 January 2003).

By "social care services" is meant that group of services, which is directed to satisfying those persons' basic needs who have objective difficulties in caring for themselves due to age or functional disorders, and include services at a person's place of residence (including home care) and in long-term social care and social rehabilitation institutions. The aim of providing social care is to ensure that the quality of life is not reduced for a person who, due to age or functional disorder, is unable to secure it by his or her own efforts.

Long-term social care and social rehabilitation institutions provide a dwelling place, social care and social rehabilitation to persons with disorders of a mental nature that can be either mental health problems or developmental disabilities. Most often these persons have particular difficulties in coping with day-to-day activities, including the ability to take care of their basic needs.

The right to receive state-funded services in long-term social care and social rehabilitation institutions is extended to:

1. orphans and children left without parental support up to the age of two years, and children with disorders of mental and physical development up to the age of four years;
2. physically disabled children with severe developmental disabilities between the ages of four and 18 years;
3. adult persons with severe disorders of a mental nature (Groups 1 and 2 invalids), who do not need to be confined to a specialised treatment facility, and whose state of health is not a threat others;
4. disabled persons with visual impairment.

According to the Law on Social Services and Social Assistance a client is a person with functional disorders caused by illness or age, who is under care in a long-term social care and social rehabilitation institution, who is resident there, and who is provided with support to take care of basic needs (food preparation, purchase of clothing, cleaning, grooming, health care) and social rehabilitation. In accordance with an individual evaluation, the client is assisted to restore or improve the ability to function socially, to ensure his inclusion in society, which also includes each person's capacity to be employed.

In accordance with the provisions of the *Law on Social Services and Social Assistance*, Cabinet Regulation No. 291 "Requirements for Providers of Social Services" was adopted on 3 June 2003, and stipulates general requirements which must be observed when providing social services to clients in institutions of long-term social care and social rehabilitation.

Section 29 of the *Law on Social Services and Social Assistance* stipulates the rights of persons living in a long-term social care and social rehabilitation institution, also including the right to independently take decisions and to implement them to the extent that they do not restrict another person's rights and freedoms or endanger another person's health or life.

However Section 4, Paragraph 6 of the *Law on Social Services and Social Assistance* stipulates that the work of a long-term social care and social rehabilitation institution shall be organised so as to approximate the environment of the institution towards a familial environment.

It is within the competence of the head of every institution to take decisions on the development or optimisation and relevant changes to the work of their institution, in order to provide service to the client most appropriate to his or her needs. This also includes decisions on the decor of clients' rooms and recreation zone, individualised clothing, and the right to keep personal items and property, or the provision, placement and use of a lockable storage facility which would increase the client's sense of security and autonomy.

It must be borne in mind that in Latvia the functions of long-term social care and social rehabilitation institutions are funded by state, local government, non-governmental organisations, or private persons. Therefore the provision of premises, the availability of area and personnel is dependent upon the amount of funding available to institutions; however, minimal requirements are mandatory in all long-term social care and social rehabilitation institutions, regardless of the source of funding.

Cabinet Regulation No. 291 of 3 June 2003 "Requirements for Providers of Social Services" stipulates general requirements for long-term social care and social rehabilitation institutions for adults and children in relation to 24-hour care, social rehabilitation and permanent place of residence. For example, Part 5 of the said Regulation, "Requirements for Adult Long-Term Social Care and Social Rehabilitation Institutions" provides that:

"1. In an adult care institution social workers, social carers, registered medical nurses and carers shall work with clients. The head of an adult care institution has the right to involve other specialists to provide social care and social rehabilitation services.

2. A client in an adult care institution shall be provided with support for the resolution of his problems.

3. In an adult care institution there shall be the required conditions to allow the client to usefully occupy his time:

- there shall be rooms and equipment appropriate for recreation and activities;
- the area shall be suitable for recreation;
- clients shall be provided the opportunity of attending cultural and sporting activities and events, and of becoming involved in social activities outside the adult care institutions;
- to meet with friends, family members and relatives.

4. A client at an adult care institution shall be provided with the opportunity to acquire, subject to his functional condition, the following domestic and personal care skills:

- planning of personal finances;
- shopping and other domestic skills;
- upkeep of living rooms and area;
- washing and ironing clothes and care of footwear;
- food preparation.

5. The client should be provided with emergency medical assistance at any time of the day or night, and shall be registered with a family medical practitioner and receive health-care appropriate to his needs.

6. A client at an adult care institution shall be provided with the necessary technical equipment appropriate to his needs, as provided by regulatory enactments

7. A client at an adult health care institution shall be provided with footwear, clothing, bedding and accessories appropriate to gender and the season, as well as towels and personal hygiene items.

8. The adult care institution shall provide the client with clothing and footwear for individual use, as well as its return to the user, if the clothing and footwear is washed or maintained at a centralised location.

9. A client shall be provided with meals appropriate to his age and standard of health not less than three times per day.

10. Appropriate rooms shall be provided at an adult care institution for client residence:

- the number of persons resident in a single room shall be in accordance with the hygiene requirements for social care institutions as stipulated in regulatory enactments;

- the room's equipment and layout shall be appropriate to the client's age and functional situation.

11. A client at an adult care institution shall be provided with the opportunity to use sanitary facilities. The sanitary facilities shall be located as close as possible to the client's living room and shall be equipped to a standard appropriate to the client's functional condition."

Individual treatment

In Latvia, the client's right to receive individual treatment and social rehabilitation is stipulated in several regulatory enactments, encompassing a wide spectrum of rehabilitation and therapeutic activities, such as vocational therapy, art therapy, group therapy, music, sport and similar. In addition it must be pointed out that, in accordance with the provisions of international human rights documents, a client capable of making decisions is given the right of refusal of treatment and social rehabilitation. (*Law on Medical Treatment, Law on Social Services and Social Assistance, Cabinet Regulation No. 291 of 3 June 2003 "Requirements for Providers of Social Services" and others*)

Information

A provider of social services is obliged to provide each client with access to information about the aims, tasks, functions, and organisational structure of a provider of social services. Such information is not always provided in booklet form. It may be exhibited in an institution at a location visible and accessible to all on information stands, in simple language and in pictogram form, provided that the relevant training has been given to clients.

Similarly, every client of a long-term social care and social rehabilitation institution or his lawful representative shall be provided with the opportunity of filing complaints or verbal or written proposals for improvements in the work of the provider of social services. All proposals and complaints submitted shall be reviewed and assessed by the administration of the institution. In long-term social care and social rehabilitation institutions a procedure shall be developed for the filing and review of complaints and proposals.

Proposals and complaints shall be registered in a logbook, and progress on their resolution shall be made known.

In addition it must be pointed out that any client of a long-term social care and social rehabilitation institution may also send their complaint to other State administration institutions having the competence to review such complaints, such as the Social Service Board, the Ministry of Welfare, the Ombudsman of the Republic of Latvia and others.

However, prior to receiving social services and at the time of receiving social services as well, municipal authorities and state administration institutions shall provide free legal aid to clients (for example: Ministry of Justice Legal Aid Department, municipal social service departments).

Similarly, clients should be provided with support in the resolution of their problems, the opportunity of meeting with family members and friends, to have use of a telephone, and to receive and send personal correspondence.

Information on the progress in the client's social events and social rehabilitation shall be reflected in the client's personal file, which shall only be accessible to persons whose official duties are related to the utilisation of the information in the file for official purposes.

Internal Security

In accordance with Paragraph 38 of the provisions of Cabinet Regulation No. 291 of 3 June 2003 "Requirements for Providers of Social Services", a procedure shall be determined at the adult care institution whereby a client can be isolated, if necessary, and monitored for a period of not more than 24 hours.

The procedure provides that in long-term social care or social rehabilitation institutions the isolation of clients shall take place in such cases where the client's behaviour becomes dangerous to the client himself, to other clients or other persons nearby. Its aim is to guarantee safety for clients, staff members, and guests while in long-term social care and social rehabilitation institutions, and shall provide for uniformity of action by staff members and a procedure for the decision-making process.

Behaviour regarded as dangerous to clients and other persons shall be such where the client endangers his own health or life or that of other persons: the client is aggressive and a threat to himself and those nearby, he may have attacked another person, becomes self-destructive (hitting, biting or scratching himself and similar, or is attacking other clients and/or staff members (throwing objects, kicking, shoving, expressing threats, acting in a rude manner and destructively).

We wish to emphasise that clients in social care institutions are not isolated in order to restrict their right to freely move about outside the confines of long-term social care and social rehabilitation institutions, but rather to protect themselves from self-destructive actions and to protect the health and lives of nearby persons.

Personnel

In accordance with the provisions of Cabinet Regulation No. 291 of 3 June 2003 "Requirements for Providers of Social Services", institutions providing social services must provide an appropriate number of staff with an appropriate education as stipulated in the *Law on Social Services and Social Assistance*. The number of staff required is determined by the head of the institution providing the social services, or by a higher institution at the request of the head of the institution providing the social service. It shall be the responsibility of the head of the institution to ensure the even and rational distribution of workload between staff members, and the regular upgrading of qualifications each year for staff members who work with clients.

At an adult care institution those working with clients shall be social workers, social carers, registered medical nurses and carers. The head of a long-term social care and social rehabilitation institution has the right to involve other specialists also to provide social care and social rehabilitation services, this being done according to client needs and the funding available to the long-term social care and social rehabilitation institution. It must be pointed out that in long-term social care and social rehabilitation institutions specialists such as, for example, psychologists, speech therapists, defectologists, ergo therapists and others are typically employed.

External supervision

In accordance with the provisions of the *Law on Social Services and Social Assistance*, the Social Service Board of the Ministry of Welfare supervises the implementation of the requirements of the said law, controls the observance of the provisions of legislation regulating the provision of social services, as well as the quality of social services, and the compliance by social services providers with the requirements of regulatory enactments, and administratively penalises providers of social services for breaches committed.

In accordance with Paragraph 2 of Cabinet Regulation No 785 of 20 November 2007 "Social Service Board Bylaw" the Social Service Board ensures the performance of the functions stipulated in the *Law on Social Services and Social Assistance* and ensures methodological support to providers of social services and municipal governments in the field of social services and social assistance. Similarly, the Social Service Board monitors and assesses the degree to which providers of social services comply with the requirements stipulated for providers of social services in regulatory enactments, as well as the quality of social care and social rehabilitation services; develops new methodological materials on the organisation and provision of social services and social assistance; provides consultative support to state social care centres, information and consultations to physical and legal persons in issues relating to social services and social assistance, and informs interested persons on state funded social services and social assistance issues, reviews complaints, submissions, and proposals submitted by physical and legal persons on the quality of social services and social assistance provided, and on client rights.

The Social Service Board has the right to require and to receive, free of charge, from State administration institutions as well as from other legal and physical persons in cases as stipulated in regulatory enactments, such information and documents as may be required to perform the work of the Social Service Board, and at its own initiative or while reviewing complaints, to examine the premises at which social services are provided, and to request from the providers of social services, information as to the execution of stipulated requirements, and to conduct a survey among clients on the quality of social services received and to require providers of social services to rectify deficiencies as identified in checks by the Social Service Board.

As the institution responsible for monitoring social care provided to clients, the Social Service Board performs the social services quality-control function entrusted to it. Each year regular, planned, unplanned, and complaint based social services quality-control checks are undertaken as to the satisfaction of requirements stipulated in Cabinet Regulation No. 291 of 3 June 2003 "Requirements for Providers of Social Services".

However, in accordance with Sub-paragraph 2.2 of Cabinet Regulation No. 785 of 20 November 2007 "Social Service Board Bylaw", and the Ministry of Welfare Procedure No. 32 of 12 December 2007 "Procedure by which the Social Service Board Implements Compliance at State Social Care Centres", the Social Service Board provides methodological support in the development of internal regulatory enactments in long-term social care and social rehabilitation institutions by organising seminars, developing recommendations on methodologies and meeting with managements.

2. Social care centre "Krastini"

a) Admission to and discharge from social care institutions

In accordance with Cabinet Regulation No. 288 of 21 April 2008 "Procedure for Receiving Social Services and Social Assistance", a person who wishes to receive social services at a long-term social care centre shall apply for such assistance at the relevant municipal social service branch corresponding to their place of residence, by lodging an application and other essential documents. The municipal social service shall assess the person's eligibility for receiving the assistance and take a decision on the necessity of providing such a service. A provider of social services shall begin to offer such social services to the client on receipt of the relevant documents from the municipality or from the Social Service Board and after entering into an agreement with the client. The agreement shall determine the extent of necessary services and the procedure for meeting the cost of providing such services.

In accordance with Section 28 of the *Law on Social Services and Social Assistance*, the provision of social services to an adult person resident at a long-term social care or social rehabilitation institution may be suspended, if the services at the institution are no longer required as the result of rehabilitation and can be replaced by services at the client's place of residence (home care, services at a day-care centre, at a serviced apartment, shared housing (apartment) etc).

It must be pointed out that Paragraph 21 of Cabinet Regulation No. 288 of 21 April 2008 "Procedure for Receiving Social Services and Social Assistance" stipulates that services to a person resident in a long-term social care or social rehabilitation institution can be replaced by services provided at his place of residence, if the services at a long-term social care or social rehabilitation institution are no longer essential and the person wishes to reside in shared housing (apartment). In such a case the person shall make an application to the head of the institution who shall forward the relevant documents to the municipal social service department (which made the decision for the person's admission to the institution). The social service department is obliged to assess the submitted

documents within 30 days and to provide a report on the client's suitability for living in shared housing (apartment) and shall decide whether to approve or refuse such a service.

It must be mentioned that in cases where a person resident in a state funded long-term social care and social rehabilitation institution requires the services of a halfway house, the Social Service Board shall take a decision on whether to provide such service, admitting the client to a waiting list or rejecting the application, based on submissions from the head of the institution and the client, and shall inform the head of the institution and the client at the institution.

All long-term social care and social rehabilitation institutions must act in accordance with regulatory enactments and Cabinet Regulations regarding the substitution of social services. However, the procedure by which social services are to be provided by municipal authorities shall be determined by the relevant municipal regulations.

b) Guardianship

The Committee in its report draws attention to the fact that the admission of incapacitated clients to psychiatric/social care institutions (which these persons cannot leave of their own volition) based on an agreement with the guardian, presents the risk that the appropriate security will be denied to the said person. The Committee recommends that Latvia's institutions of power should endeavour to find such alternative solutions as would guarantee independence, objectivity and fairness in the institution of guardianship.

We wish to explain that, in Latvia, in cases when an incapacitated person must be admitted to a social care institution, a guardian acts in the person's name, including the request for admission to the social care institution or to give their agreement for the person to be admitted there, thereby satisfying the requirements of Section 216 of the *Latvian Civil Law*, namely that persons who require protection shall be placed under the care of a guardian or trustee who must represent the said persons and their property.

It must be pointed out that the action of the guardian in admitting an incapacitated person to a social care institution is directed toward the person's security and protection, rather than on their restriction. In accordance with Section 358 of the *Latvian Civil Law*, a court may declare a person to be incapacitated if the person lacks all or most of their mental faculties. However, on the basis of Section 360 of the *Latvian Civil Law*, an Orphans' Court shall appoint a guardian for a mentally ill person, entrusting the management of his property and special care of his person, but not conferring any obligation upon the guardian to care for the mentally ill person themselves. If the guardian is

unable to undertake or to provide care of the incapacitated person at his place of residence due to their state of health or other objective circumstances, he must utilise other lawful means of ensuring care. One means of doing this is that the person subject to guardianship to be admitted to a social care institution.

It is pointed out in the Committee's report that the staff of the "Krastini" social care centre have, in several cases, acted as the court-appointed guardian in several instances when a client has become incapacitated, which could bring about a conflict of interest and could compromise the independence and objectivity of the guardian. Hence the Committee recommends that Latvia's institutions of power find such alternative solutions as would guarantee the independence and objectivity of the guardianship institution.

Guardianship and trusteeship affairs in Latvia are supervised by the Orphans' Courts (Latvian *Civil Law* Section 218). Orphans' Courts are institutions forming part of the judicial system, which in their operation are independent guardianship and trusteeship institutions formed within the relevant municipal authorities. The competence and operating principles of the Orphans' Courts are determined by the *Orphans' Courts Law* (in force from 1 January 2007), which, *inter alia*, ensures the independent appointments of guardians and trustees, and assessment of their work.

In accordance with Section 41 Paragraph one of the *Orphans' Courts Law*, the Orphans' Court supervises the actions of a guardian in performing his duties. Paragraph four of the Section stipulates that each year the Orphans' Court, as well as when dismissing or suspending a guardian, shall receive and examine a report submitted by the guardian on the management of the guardianship. The Orphans' Court can at any time impose the obligation on a guardian to submit a report on the management of the guardianship. In addition, in accordance with Section 42 of the *Orphans' Court Law*, if infringements in the actions of the guardian are identified or an action of the guardian is found to be contrary to the interests of the management of the guardianship, the Orphans' Court is obliged to give appropriate directions to the guardian, to decide whether to dismiss or suspend the guardian, or to appoint a different guardian. If the guardian's action has caused losses for which the guardian is responsible, the Orphans' Court may lodge a relevant claim in court. If the Orphans' Court identifies the malicious exercise of a guardian's rights to the extent that they may be punished administratively or criminally, the Orphans' Court shall inform the law enforcement agencies of this fact.

It must be pointed out that the appointment of guardians from among social care staff members is not in contravention of the provisions of Latvian legislation. Section 355 of the Latvian *Civil Law* does, however, stipulate that guardians shall be appointed for adult persons by order of the relevant Orphans' Court, who must in the first instance appoint as a guardian the spouse or close relative of the person subject to guardianship, after first verifying that the selected person has the necessary abilities and characteristics to undertake the obligations as guardian. Not infrequently there have been cases where an incapacitated person has neither a spouse nor a relative who could assume the obligations of a guardian, or, such persons exist, but do not wish or are unable to do so.

Frequently, strangers do not wish to be appointed as guardians of incapacitated persons. Therefore, the appointment of care institution staff members as guardians is one means of ensuring that an incapacitated person can have a guardian appointed to protect his lawful interests. There are certain advantages for the appointment of a guardian to an incapacitated person from among the care staff. The ward has the opportunity of meeting with his guardian as often as he wants and as required; the guardian is quite familiar with the ward's personal characteristics; he is sensitive to changes in the health and personality of his ward, and knows his needs and requirements, which would otherwise be difficult for a guardian to provide who did not have frequent daily contact with his ward.

It must nevertheless be acknowledged that the appointment of guardians to incapacitated persons from among staff of long-term social care and social rehabilitation institutions may precipitate the risks as mentioned by the Committee. As a result, the Ministry of Welfare is planning to raise this matter in the near future and to discuss it with the heads of all long-term social care and social rehabilitation institutions.

3. Committee's recommendations, comments, and requirements for information

Internal Security

1. Committee's recommendation:

Latvia's executive institutions to endeavour to find such alternative solutions as would guarantee the independence, objectivity, and fairness of the guardianship institution, thereby avoiding situations such as at the social care centre "Krastini", where the staff act as the court-appointed guardian to a client of the institution.

2. Committee's recommendation:

Placing incapacitated persons in a psychiatric/social welfare establishment which they cannot leave at will, based solely on the consent of the guardian, entails a risk that such persons will be deprived of essential safeguards.

Responding to the Committee's recommendations on internal security at institutions, the Ministry of Welfare wishes to explain as follows:

In order to carry out the recommendations as suggested by the Committee, it would be necessary in Latvia to expand and develop such methods of social care which would not involve the placement of a person in a long-term social care and social rehabilitation institution, and were to be as close as possible to the person's place of residence and familial environment.

To avoid situations where clients of long-term social care and social rehabilitation institutions have staff members of the said institutions appointed as guardians, it would be necessary to draw up and implement specific programs to attract public interest in participating in the development of the institution of guardianship and becoming guardians for persons for whom guardianship is necessary.

If, however, it is not possible to appoint some person other than a staff member of a long-term social care and social rehabilitation institution as the guardian of an incapacitated person, an effective control mechanism in respect of the guardian's actions must be ensured, which would eliminate the possibility of a conflict of interest arising, and would also ensure the independence of guardians in fulfilling their obligations.

However, to avoid situations where an incapacitated person is placed at a long-term social care and social rehabilitation institution solely on the basis of an agreement with the guardian, the criteria for determining a person's incapacity must be re-evaluated and, in the very near future, the opportunity must be provided for identifying persons having only partial incapacity, bearing in mind their mental capacity and the extent to which they are in control of their actions and are aware of the consequences.

On requests for information

In response to the Committee's request for information, to comment on the fact that adult and capacitated persons are admitted to the social care centre "Krastini" at their own submission, but are not permitted to leave the institution whenever they wish, thereby *de facto* denying them their freedom for an indeterminate time, the Ministry of Welfare wishes to explain as follows:

The operations of the social care centre "Krastini" are regulated by several external and internal regulatory enactments such as the *Law On Social Services and Social Assistance*, Cabinet Regulation No. 291 "Requirements for Providers of Social Services" of 3 June 2003", Cabinet Regulation No. 671 3 August 2004 "Social Care Centre "Krastini" Bylaw", as well as several internal regulatory enactments for the social care centre "Krastini".

In the assessment of the situation regarding a client's opportunity to freely leave the social care centre "Krastini" of their own volition, the following circumstances must be taken into account: whether the client no longer wishes to live in the social care centre "Krastini" and wishes to leave it outright (decline assistance from social services), or whether the client wishes to leave the institution for a short time (from several hours up to one month), for example to visit relatives, friends, to go shopping, or to attend a cultural or sporting event and similar.

Information provided by the social care centre "Krastini" indicates that a client who wishes to leave the institution outright (decline assistance from social services) submits a written application to this effect to the management of the institution. The said principle is laid down in Section 23 Paragraph one of the law *On Social Security*, which provides that a person may withdraw from social services by submitting a written application to the provider of social services, which can at any time be withdrawn. However, in accordance with Paragraph two of Section 23 of the said law, withdrawal of social services is not in force if such renunciation creates difficulties for other persons or for the social service provider, or if there is a breach of the law.

On the basis of the provisions of Paragraph three of Section 28 of the *Law On Social Services and Social Assistance* the Director of a long-term social care and social rehabilitation institution may take a decision to suspend the provision of social services if the municipality which funds the service from its budget or in whose administrative territory the person has lived prior to admission to the institution has confirmed in writing that the relevant person will be provided with accommodation within the administrative territory of this municipality. In such a case the Director of a long-term social care or social rehabilitation institution does not have any lawful basis to suspend the provision of social services to the client until receipt of written confirmation from the municipality.

However, clients may be absent for short periods from the social care centre "Krastini", in accordance with the regulatory enactments stipulated and approved by the Director of the long-term social care and social rehabilitation institution: "Internal Procedural Regulations for Clients" and "Procedure by which Clients may be Absent from a Social Care Centre". We wish to emphasise that the principles stipulated in the said internal regulatory enactments are directed towards ensuring the security of clients, and conform to the provisions of national external regulatory enactments.