



CPT/Inf (2008) 16

**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 5 to 12 May 2004

The Latvian Government has requested the publication of these responses. The report of the CPT on its May 2004 visit to Latvia is set out in document CPT/Inf (2008) 15.

Strasbourg, 13 March 2008

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4 March 2005

Information on the implemented measures in response to the recommendations included in the CPT Committee Report (following the visit to Latvia in May, 2004)

Part A - Police establishments

Article 11

At the time being the Latvian Criminal Process Code (adopted on 1961) is in force in Latvia, although considerable amendments have been made to it. In order to ensure the implementation of a modern criminal process in the country in the 90-ies the elaboration of a new draft Law on Criminal Process was commenced. The draft law is being prepared for the review in the Parliament on the third (last) reading.

The objective of the new Law on Criminal Process is as follows:

1. to create the possibility for the law enforcement authorities to act in compliance to the current position of the criminal justice of the European Council and European Union and to use the modern solution of the relations of the criminal process recognised worldwide.
2. to prevent the accumulation of the increasing high number of undecided cases in the pre-trial investigation authorities and courts as well as to shorten the long legal processes.
3. to reduce the basis for the claims on breaches of the human rights.

Actualities, which characterise new Law on Criminal Process:

1. Simplification and speeding up the procedure. Also in Latvia it has been proven that the public importance of the resolution is inversely proportional to the time period expired after the offence. Besides that the long prosecution of a person, moreover if it is related to maintaining the person arrested without verdict of guilty is an important breach of the human rights.
2. Determination of the priorities and the split of the resources corresponding to them. The attempts to find the cheapest and fastest way for solving the less dangerous offences to release the resources for discovering the serious crimes and reduction of the latent crime.
3. Wider implementation of the alternative solutions to the criminal process. Prison sentence is not only the most expensive but also the least efficient punishment as it has been proven by the worldwide and also Latvian experience. The highest level of recurrence can be seen among the persons who have been imprisoned. Therefore Latvia strives to apply different solutions to a wider extent, for example, relief from the criminal liability imposing certain conditions, the prosecutors' punishment order, the regret of the offence by the guilty person and the cooperation with the law enforcement authorities in the course of investigation of the crime and elimination of the consequences.

4. Proportional restriction of the human rights when it is necessary for the security of the public and in the interests of democracy. This gives the possibility to restrict the rights to the secret of the private life, inviolability of the apartment and correspondence, as well as adequate step-back from the prosecution and the principle of equality of the protection "tools" if it is required by the public and individual's interests.

5. Finding and confiscation of the criminal resources. During last decennaries the speed of turn over of the monetary resources in the bank system has increased several times. The possibility efectivly to identify and encumber the criminal resources there is when the director of the process has sufficient authority to freeze the resources in the very early process stages.

6. Continuous increase of the importance of the promotion of international cooperation in the investigation of crimes. The objective of this cooperation is to ensure equally efficient participation in both the investigation of the criminal cases of other countries, and the national cases. The cooperation of Latvia with the international courts and the courts established by international courts and tribunals is very important.

Upon the adoption of the Law on Criminal Process it will be possible to solve the identified problems. Also the training of judges, investigators, prosecutors and attorneys is planned.

Part B - PRISONS

Para No. in CPT report	Implemented measures
41	<p>In compliance to the Latvian penal Code and the Regulations of the Cabinet of Ministers No. 211 of April 29, 2003 "The regulations on the internal procedure of the investigation prisons" the living space for the male prisoners shall be at least 2.5 sq.m and for female and juvenile prisoners – at least 3sq.m.</p> <p>The issue on the increase of the standard living space for prisoners will be solved in the draft Conception of the development of Imprisonment Places (policy planning document) which provided for three options for solving the current space problems of prisons. One of them is the construction of three new small scale (up to 700 places) prisons in Latvian regions. Complete implementation of the CPT recommendations will be ensured in the new prisons. Besides that the draft Conception provides that in parallel to the construction of new prisons the reconstruction of the existing prisons shall be done including the increase of the standard space per prisoner up to the CPT recommended space.</p> <p>The draft conception was presented on December 2, 2004 in the meeting of the State Secretaries and statements from different institutions have been received. It is planned that the elaborated draft conception will be submitted for adoption to the Cabinet of Ministers until March 15, 2005. The decision of the Cabinet of Ministers will determine which of the patterns for solving the space problems in prisons will be supported and in what manner it will be funded.</p> <p>In year 2004 the Prison Administration has implemented a range of measures for the improvement of the situation in the prisons of Latvia. The State President, Prime Minister and the Commissions of Saeima of the Republic of Latvia [Parliament] were informed on the situation in the prisons. On June 15, 2004 the Report on the problems of the Prison Administration in arranging the prisons in compliance to the requirements of the international obligations of the Republic of Latvia was reviewed in the government. Based on the decision of the Cabinet of Ministers the draft Conception of the Development of Imprisonment Places and the draft Conception on the Health Care of Prisoners were developed as well as the standard base for the</p>

	<p>establishment of the Penitentiary college was prepared. The above mentioned documents have been presented in the meeting of the State Secretaries on December 2, 2004 (the first stage for adoption in accordance to the legal acts of the Republic of Latvia.</p> <p>The draft Conceptions have been developed in order to ensure the necessary preconditions for the fulfilment of the requirements of the legal acts of Latvia and the international obligations related to the arrangement of the security issues; overpopulation of the imprisonment places; improvement of the conditions of the prisoners; re-socialisation of the prisoners; increase of the number of the personnel and provision of the health care of the prisoners.</p> <p>In year 2004 the work has been done also for the utilisation of the Structural Funds of the European Union. The project has been elaborated and approved within the framework of EQUAL program. The Prison Administration will receive funds for the education of the prisoners in years 2005 – 2006. Rehabilitation programs for prisoners are being implemented in the prisons with the financial support of the foreign organisations (the Netherlands program "MATRA" (beginning on January 1, 2004, end on June 1, 2005), Norwegian program "Integration of the convicts in the public after their release from prison" (year 2004), etc.).</p>
42.	<p>In year 2004 in the Central Prison and Daugavpils Prison the measures were implemented for the optimisation of the personnel (the qualitative and quantitative composition of the personnel was reviewed), the weekly personnel training involving the review of particular cases and analysis of the possible resolutions is performed at the job places. These measures permitted to improve the operational efficiency in both prisons. In year 2004 no claims on bad treatment of the prisoners have been received from these prisons.</p> <p>In May, 2004 the Prison Administration performed the inspection of the Central Prison paying special attention to the attitude by the personnel to the prisoners. The inspection of Daugavpils Prison is planned in May, 2005.</p> <p>The work group established by the Minister of Justice in 28th December, 2004 has started the development of the draft Conception on the Enforcement of Criminal Sentences. The draft Conception will provide for the terms that the prison personnel shall comply with the prescribed international standards.</p>
45.	<p>The Prison Administration already earlier provided complete information on the prisoner who was in Škirotava Prison and was the victim of sexual abuse in the previous reply. The investigation</p>

	<p>was performed in compliance to the prescribed procedure and the initiation of the criminal case was refused. All the case materials were inspected by the Specialised Multisector Prosecutor's Office which did not identify any breaches.</p> <p>Upon the prisoner's request he was transferred to Matisa Prison in July, 2004. In this prison the administration permanently supervises him and also performs the individual work. The sentence term of this prisoner will expire on April 1, 2005.</p>
47.	<p>There is a certain procedure in the imprisonment places providing for the actions in cases when the traumas of prisoners are identified or the information on bad treatment has been received. Such procedure is provided in Prison Administration instruction "On order of surveillance of convicts and persons in pre-trial custody" (issued with order of Prison administration 29th March, 2004). In cases provided in Instruction the prison doctor performs survey. He/ she notifies the administration of the prison which notifies the Prosecutor's office and performs investigation in compliance to the procedure established by the law.</p>
47.	<p>For the purpose of preventing the violence among the prisoners as far as possible the Prison Administration developed the recommendations. Prison Administration chief on 24th July, 2003 signed Plan of measures, which must be done regarding CPT recommendations after visit 2002, and accordingly to this Plan a set of measures were implemented in all prisons in year 2004:</p> <ul style="list-style-type: none"> - the prisoners are put in the huts and transferred from one hut to another taking into account the internal security, the seriousness of the committed crime, personal characteristics and psychological harmony; - the prisoners are supervised 24 hours a day and in cases of incidents in the huts these are eliminated immediately; - special attention is paid to different categories of prisoners in prisons (prisoners inclined for run-offs, attacks, homosexualism, etc.); - individual preventive work with the prisoners is being performed thus trying to prevent the violence among the prisoners; - the prisoners are involved in different social rehabilitation programs (fighting narcomania, alcoholism, etc.) targeted at the positive influence upon the prisoners and further direction towards integration into the public following the release from prison. <p>As from January 1, 2004 the events taking place in the prison</p>

	<p>during 24-hours period are being registered. Upon the receipt of applications and claims on the cases of violence among the prisoners inspections are being performed. If it is necessary to perform the disciplinary inspections the Instruction Nr. 1 – 2/10 of the Ministry of Justice of May 19, 2003 “On the procedure of performing disciplinary inspections in the Prison Administration and the institutions subordinated to it” is being followed. If the information is proven a criminal case is initiated.</p> <p>As from January 1, 2005 the procedure of registration of the prisoners’ applications is introduced in prisons and a new structural unit – investigation department – has been set up. The investigation of the cases of the mutual violence among the prisoners is among the functions of this department. Such order was created with Order Nr. 126 of Prison administration from 13th December, 2004 on “Organisational matters”</p>
50.	<p>The Security Department of the Prison Administration operates in compliance to the Law on Operative Action and they are the subjects of the criminal investigation, i.e. they can perform the investigation actions at the places of imprisonment. The functions of the Security Department include the provision of the prevention of the violations of the regime, criminal offences, their prevention and discovery as well as the identification of the persons who have committed the criminal offences and collection of proofs.</p> <p>As from January 1, 2003 in the Prison Administration (Prison Administration order Nr. 62 from 2nd January, 2003 on “Organisational matters”) and as from January 1, 2005 in the prisons (Prison Administration order Nr. 126 from 13th december, 2004 on “Organisational matters”) a new structural unit – investigation department – has been set up. The investigation of the cases of the mutual violence among the prisoners is among the functions of this department. In year 2004 3 criminal cases on the cases of violence have been initiated (Section 2 of the Article 317 of the Criminal Law – exceeding the official duties which has been committed by applying the violence or threatening – in Grīvas Prison – 2 criminal cases; Section 2 of the Article 318 of the Criminal Law – exceeding the official duties if it has caused serious consequence or has been committed with mercenary intentions – Pārlielupes Prison – 1 criminal case).</p> <p>In compliance to the Regulations of the Cabinet of Ministers No. 73 of February 19, 2002 “The regulations of internal procedure of the imprisonment facilities” and the Regulations of</p>

	<p>the Cabinet of Ministers No. 211 of April 29, 2003 "The regulations of internal procedure of the investigation prisons" the prisoners shall be placed in the huts and transferred from one hut to another taking into account the internal security, the seriousness of the committed crime, personal characteristics and psychological harmony. It is done by the distribution commission of the prison which is chaired by the Chief of the Prison and in which the employees of the prison are members. The Commission resolution shall be registered in the protocol. Thus the fellowship of taking the resolution is ensured and the Security Department is not the mayor resolution taker on the transfer of prisoners.</p>
55.	<p>In Latvia the life imprisonment is applied as from April 1, 1999 when the existing Criminal Code entered into force. At the moment in the imprisonment places there are 28 persons sentenced to life imprisonment, of them there is one female and 8 arrested. Latvia has experienced the problems related to the placement of the persons sentenced to life imprisonment and the regime of imprisonment and it also recognises the importance of solving this issue. In year 2004 the problem of the department of persons sentenced to life imprisonment of Jelgava prison related to the overpopulation was solved. In Daugavpils Prison 28 places for the persons sentenced to life imprisonment were created and the prisoners for whom the sentence has not entered into force were transferred there as from October 1, 2004.</p> <p>These persons are located in compliance to the Latvian Penal Code in a separate block of the prison with enforced security not permitting contacts with other prisoners. Due to the technical problems it has not been possible to create the facilities for implementing the rehabilitation measures for these prisoners in Jelgava Prison. Only the individual work is being performed.</p> <p>In year 2005 it is planned to set up the premises for implementing the rehabilitation measures in the department of Jelgava Prison where the persons sentenced to life imprisonment are maintained. In Daugavpils Prison the rehabilitation program intended for the persons sentenced to life imprisonment is being developed.</p> <p>In year 2004 the Prison Administration developed the methodological guidelines for the personnel for the communication work with the prisoners of this category.</p> <p>The work group established by the Minister of Justice in 28th December, 2004 for the development of the draft Conception of the policy of execution of the criminal sentences will emphasise that special attention should be paid to such categories of</p>

	<p>prisoners are juveniles, females, the persons sentenced to life imprisonment and others.</p>
56.	<p>In year 2004 the Prison Administration performed the assessment of the individual risk level of every person sentenced to life imprisonment for the purpose of applying the individual security measures. On August 12, 2004 amendments were made in the Prison Administration's Instruction Nr. 56 from 29th March, 2004 "On the procedure of supervision of the arrested and sentenced persons", stating that the handcuffs shall be applied to the persons sentenced to life imprisonment only taking into consideration the personality and the possible threat for the others.</p> <p>In years 2005 - 2006 it is planned to establish gradually the psychologist's service in the prisons of Latvia and, first of all, this will be done in Jelgava and Daugavpils prisons.</p>
58.	<p>The psychological condition of the persons sentenced to life imprisonment is very difficult and depressed. All these persons have committed especially serious crimes for several times - murders. The behaviour of the persons sentenced to life imprisonment cannot be forecasted because they are led by the principle "there is nothing more to lose for me", therefore they present the increased danger for the personnel. The work with this category of prisoners creates the psychological problems (threat) for the personnel (also the medical personnel). The Prison Administration considers that the security of the personnel is more important and therefore it is too early to cancel the above condition.</p>
59.	<p>In compliance to the legislation of Latvia (Article 13, Latvia Penal Code) every category of prisoners shall be kept separately: males and females, juveniles and adults. As in Daugavpils prison the sentenced and arrested males and also juveniles are kept and the area of the prison does not allow to place all of them in separate blocks the glass panels were installed in the windows for the purpose of insulation. Due to the lack of funding it has not been possible to use other higher quality construction materials.</p>
60.	<p>The deficit of funding of the prisons of Latvia amounts up to 30% every year and thus it is not possible to improve the conditions of the prisoners in Daugavpils Prison and Central Prison and only partially are fulfilled the requirements of the Regulations Nr. 155 from 29th 2003, of the Cabinet of Ministers on the provision of the food and personal hygiene items and normative for the convicts and Regulations Nr. 339 from 6th August, 2002 of Cabinet of Ministers on the provision of the food, washing means and personal hygiene items for persons in pre-trial</p>

	<p>custody. The prisoners have the possibility to buy these items in the prison shop. The prison administration helps the prisoners who do not have sufficient resources from the humanitarian aid funds.</p> <p>All the prisoners have the possibility to go either to shower or bath-house once a week and to change the bed linen. At the moment the population of Daugavpils Prison and Central Prison does not exceed the set limit and individual bed linen has been provided to every prisoner.</p> <p>The provision of different items to the prisoners will change after the Cabinet of Ministers supports the request of the budget as calculated by the Prison Administration in full amount.</p>
61.	<p>Daugavpils Prison and Central Prison are the investigation prisons where 80% of all the prisoners are arrested persons in pre-trial custody. The arrested persons shall be placed separately in compliance to the Regulations of the Cabinet of Ministers No. 211 of April 29, 2003 "The regulations on the internal procedure of the investigation prisons" and the directions of the investigator of criminal case. This does not permit the implementation of the group activities by the arrested persons outside the huts. Following the acceptance of the Conception of execution of criminal penalties these issues will be reviewed in compliance to the policy supported by the Parliament.</p> <p>The Prison Administration performs the permanent control to ensure that the administration of the prisons guarantees at least one hour walk per day to all the prisoners.</p> <p>Due to the lack of sufficient funding it is not possible to increase the walking area in Daugavpils Prison and Central Prison, however, this issue will be solved generally – both in relation to the length of the walks and the activities for the imprisoned persons – in the concept of the policy of execution of criminal sentences and the following set of the regulatory acts.</p>
62.	<p>In year 2003 the project for the reconstruction of the hospital of the prisons of Latvia was developed. In year 2004 the funding for this project was not allocated and it was not possible to implement the project.</p> <p>Still in year 2004 the following measures were implemented in the Hospital of the prisons of Latvia:</p> <ul style="list-style-type: none"> - window blinds have been removed from windows on one side of the hospital building; - the repair has been done in the Intense care room, the X-ray equipment has been obtained (repairing works were done by financial support of <i>Philips Latvia Ltd.</i> and X-ray equipment

	<p>were obtained with help of Finnland's Lungs Association); - additional 3.5 personnel positions have been set up and filled.</p> <p>In the budget of the Ministry of Justice at the moment there are no necessary funds to ensure the complete renovation of the Hospital of the prisons of Latvia, and the hospital issue will be solved if the Conception of the Development of the Places of Imprisonment providing for the reconstruction of the Hospital of prisons of Latvia based on the current project will be supported in the Cabinet of Ministers.</p>
63.	<p>It is not possible to submit the schedule of the renovation of the Hospital of prisons of Latvia at the time being because the support in allocating the funding for the renovation has not been received yet. It is planned that in year 2006 funds will be allocated for the reconstruction of the Hospital of prisons of Latvia and in such a case during the reconstruction of the Hospital of prisons of Latvia the patients will be transferred to Olaine Tuberculosis hospital.</p> <p>Within the framework of the allocated resources in year 2005 the construction of Olaine tuberculosis hospital will be continued and it is planned to complete it in year 2006.</p>
64.	<p>For the purpose of improving the service level in the Psychiatric Department of the Hospital of prisons of Latvia an additional position of a psychiatrist has been set up.</p> <p>In year 2004 the nurses of the Psychiatric Department attended special training course.</p>
67.	<p>Due to the lack of the financial resources it is not possible to increase the number of nurses in Daugavpils prison and Central prison.</p> <p>The work schedule of the medical personnel has been arranged in such a way that there is a medical employee at the place of imprisonment during working days and holidays.</p> <p>In the Medical Department of Central prison there is a doctor – psychiatrist and in Daugavpils prison this position has not been filled because in Daugavpils there are problems with the doctors – psychiatrists.</p> <p>In Daugavpils prison the medical survey of new coming prisoners – interview is performed on the day of acceptance of prisoners on mandatory basis.</p> <p>In the Central prison the arrested persons who are kept in the quarantine huts, are not kept there for not more than one day except for holidays. Their walks are not possible because different activities are performed during that time (medical survey,</p>

	<p>introduction to the regulatory acts, placement in the huts, etc.). The prison administration shall direct that the walks are made also on holidays accordingly to the Regulations Nr. 211 from 29th April 2003, "The regulations on the internal procedure of the investigation prisons".</p>
68.	<p>In year 2004 the Prison Administration developed the methodological guidelines (Methodological guidelines of Prison Administration from 17th December, 2004 Nr.1/7 – 207) to the Medical Departments of prisons on the procedure of drawing up the medical documents in cases of traumas and/ or violence (the CPT recommendations of 1999 and 2000 have been taken into account). If the cases of traumas are identified and no complaints on bad treatment have been received the prison administration shall notify the Prison Administration and Prosecutor's Office and make the investigation in compliance to the procedure specified in the Criminal Procedure Law.</p>
70.	<p>In the Training Centre of the Prison Administration in year 2004 the training courses for the increase of the qualification of the personnel of all the categories for five days were arranged. The issues relating to the human rights, ethic and moral principles in treatment of the prisoners were reviewed in this course. In 2004 268 officials attended this training courses, and 105 new recruited officials attended the courses. Similar provisions will be provided also in year 2005.</p> <p>The communications training is provided also to the newly employed employees who have to attend the initial training course on mandatory basis (3 months).</p>
71.	<p>On November 11, 2004 the amendments to 36 articles of the Code of execution of sentences of Latvia enter into force. These amendments refer to setting the regime of execution of the sentences of the prisoners and its implementation (for example, the females sentenced to life imprisonment are kept in partially closed prison; the bed articles are provided to the prisoners who are in the penalty isolator, etc.). Bed articles are given to the arrested persons in the penalty isolator for the time intended for night sleep based on the Regulations of the Cabinet of Ministers No. 211 "The regulations on the internal procedure of the investigation prisons" of April 29, 2003.</p> <p>The Prison Administration is working on the issue of increasing the library fund. The agreement has been reached with the Ministry of Justice and the Agency of Courts in order to provide prisons libraries with newspapers and books.</p>
72.	<p>The disciplinary sanctions are being applied after assessing</p>

	<p>the seriousness of the violation committed by the prisoner and his/her psychological character. Prior to the application of any of the sanctions the court administration carries out individual explanatory talks with the prisoners. In the prisons of Latvia due to the lack of separate premises it is not possible to place the prisoners inclined for self-injuries separately, therefore they are placed in the penalty isolator and this is not considered a disciplinary penalty (Regulations of the Cabinet of Ministers No. 211 "The regulations on the internal procedure of the investigation prisons" of April 29, 2003)</p>
75 and 77.	<p>In compliance to the Regulations of the Cabinet of Ministers No. 211 "The regulations on the internal procedure of the investigation prisons" of April 29, 2003 the correspondence of the prisoners with human rights protection institutions, international institutions and officials, Prosecutor's Office, court, his/her attorneys is not controlled. The correspondence with other persons is being controlled.</p> <p>This is one of the issues which will be solved following the acceptance of the conception of the policy of execution of criminal sentences which will be followed by a set of new laws on the conditions and terms of the sentence execution. This issue is being solved also in the draft Law on imprisonment execution which will be completed in the nearest future.</p>
76.	<p>In Daugavpils Prison and Central Prison the waiting rooms with the area below 2 sq.m are not used any longer (such order was set out in Meeting of Prisons Chiefs in 19th May 2004, where recommendations of CPT were discuss)</p>
78.	<p>In year 2004 the employees of the National Human Rights Office have visited the places of imprisonment for 18 times. During the visits the conditions of the stay of the prisoners have been inspected and the consultations on human treatment and the respect in the places of imprisonment have been provided. The employees of the Office provided 31 oral consultations and reviewed 50 written complaints. In the result of these visits the National Human Rights Office made a proposal to the Prison Administration on the necessity to develop a unified mechanism for reviewing the prisoners' complaints. The proposal was taken into account and the procedure for registration and review of the prisoners' complaints has been developed (Order Nr. 126 of Prison administration from 13th December, 2004 on "Organisational matters")</p>

Konfidenciāli

Atb. <i>Krasovs</i>						Piel.		Nor. adr.	
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Arīetu ministrija
 Nr. 432
 Dat. 22.02.2005
 P. sk. 2 pielik.
 Mēl. Nr. 403/19
 L. Nr. _____

LATVIJAS REPUBLIKAS VESELĪBAS MINISTRIJA

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Rīgā

22.02.2005 Nr. 1-02-2/1
 15.12.2004. Nr.33/944k

Konfidenciāli

Eks. Nr. 1/2

Arīetu ministrijai

Par CPT ziņojumu

Atbildot uz Jūsu vēstuli Veselības ministrija nosūta komentārus angļu valodā par CPT ziņojumu:

Prisons in Latvia are under the supervision of Ministry of Justice. Ministry of Justice is responsible for the arrangement of health care services in these establishments as well. In order to ensure better quality and availability of health care services for prisoners following the order of Minister of Justice in July 2004 in cooperation with Ministry of Health the working group was established to develop conception of health care for detained persons. Conception is now under discussion in the Cabinet of Ministers.

Regarding the question of insufficient contents of medical records at Daugavpils Prison and Riga Central Prison it's the competence of the Inspectorate of Quality Expertise of Medical Care and Working Capability (MADEKKI) to follow the quality of medical files. The MADEKKI is the state institution being subordinated to the Ministry of Health. It reviews applications and complaints submitted by persons detained in places of detention in case they aren't satisfied with the provided health care (quality of medical records included). Patients in prisons have unlimited access to submit complaints to the MADEKKI. There were 10 complaints in 2003, but in 2004 – 34 complaints received from detained persons at Riga Central Prison regarding quality of medical services provided. There was 1 complaint in 2003 and 2 complaints in 2004 received from detained persons at Daugavpils Prison regarding quality of medical services provided. In accordance with Article 45.1 of the Administrative Offences Code the doctors liable for a violation are being administratively punished.

Konfidenciāli

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In 2003/2004 there were 4 doctors administratively punished at the places of detention. In case of insufficient quality of medical records warnings are usually imposed, but there are no separate statistics on this issue available. Depending on available human resources the MADEKKI also performs investigations by its own initiative to reveal the possible violations of law - the visits were already carried out at the Prison Hospital, the medical sections in the prisons of Jelgava, Valmiera, Jēkabpils and Grīva. At the end of February 2005 MADEKKI will visit Rīga Central prison, soon after -Daugavpils prison. The MADEKKI regularly informs the prison administration on the results and recommendations for the prevention of the violations established during the visits.

Valsts sekretāra vietniece,
Budžeta un finanšu departamenta direktore



L.Ruškule

Norādes par slepenības
pakāpes maiņu vai deklasificēšanu

L.Ruškule

 Klasificēja:

Klasifikācijas pamatojums: MK noteikumi Nr.887
2.1.5.p.
Slepenības statusa termiņš: 5 gadi
Slepenības statusa pārskatīšanas laiks: 2009

Konfidenciāli

Answers to the Report Submitted by CPT

State Police has carefully familiarized itself with the report to the Latvian government on the visit to Latvia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), adopted on November 12, 2004 (hereinafter – report). State Police provides the following information according to its scope of responsibility.

Regarding the situation in Daugavpils, Liepāja and Ventspils Police Departments, and elsewhere

In accordance with Article 35 of Law On Police, the state is responsible for the maintenance supply of the police, but paragraph 1 of Article 34 of the same Law prescribes that the financial resources of State Police consist of a subsidy of the general income of the state budget. State Police gradually ensures short-time detention isolators of State Police with both mattresses and blankets, as well as pillows and sheets depending on the allocated financial resources.

In all of 28 short-time detention isolators there are personal hygiene products available, mattresses are available in 17 places, blankets – 14 places, sheets and pillows in 4 places. Out of the above mentioned three Police Departments, mattresses are available in Liepāja City and Region Police Department.

In short-time detention isolators of Daugavpils City and Region Department, Liepāja City and Region Department and Ventspils City and Region Department persons are taken to amenities outside cells. Free access to amenities that are in cells is available in 14 short-time detention isolators.

There is sufficient artificial lighting for reading in the cells of Daugavpils City and Region Police Department, Liepāja City and Region Police Department and Ventspils City and Region Police Department; no complaints have been received from the detained persons concerning the insufficiency of lighting.

Currently there are no promenade places in the above mentioned Police Departments. In order to solve this issue:

- in August - September of 2005 the administrative complex of Liepāja City and Region Police Department will be finished, and the short-time detention isolator there will correspond to the European Convention on Human Rights;

Ventspils City and Region Police Department is in the emergency state (conclusion of several commissions and inspections), the project of the new building is prepared, but no financial resources are allocated for the construction;

NORĀDES PAR SLEPENĪBAS PAKĀPES MAIŅU
VAJ PAR DEKLASIFICĒŠANU

KLASIFICĒJA: R. Biļūkis
KLASIFIKĀCIJAS PAMATOJUMS: MK 26.10.2004.
NOT. 887 2.7.5.P
SLEPENĪBAS STATUSA TERMIŅŠ: 10 GADI
SLEPENĪBAS STATUSA PĀRSKATĪŠANAS LAIKS: 2015.G.

SLEPENI

1 - 4

Lapa Nr. 2 no 1

SLEPENI

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- cell No.1 at Ventspils City and Region Police Department is closed;
- an agreement has been reached about the placement of Daugavpils City and Region Police Department in the fortress of Daugavpils, where the construction of a new isolator is foreseen. At present a minute planning is being worked out, and afterwards State Real Estate Agency will commence work on the planning of the new building.

Within the framework of the available financial means in year 2004, the following has been done in order to improve the situation in short-time detention isolators:

- planning work has been started at Valmiera Region Police Department;
- detail design has been elaborated for Aizkraukle Region Police Department, Alūksne Region Police Department, Krāslava Region Police Department, Rēzekne Region Police Department (capital repairs have been started);
- ordinary repair has been carried out at Balvi Region Police Department, Gulbene Region Police Department, Jūrmala City Police Department, Madona Region Police Department, Ogre Region Police Department, Preiļi Region Police Department, Saldus Region Police Department, Tukums Region Police Department, Rīga Central Police Department, and short-time detention isolators of State Police;
- in Jelgava City and Region Police Department construction of 1st and 2nd round has been accomplished, 3rd round is supposed to be finished in year 2005;
- the isolator has been fully renovated in Bauska Region Police Department, Cēsis Region Police Department, Ludza Region Police Department, Talsi Region Police Department, and Valka Region Police Department.

The short-time detention isolator of State Police:

- in year 2004 financial resources in the amount of LVL 20 000 were allocated for the purposes of repairs, and decoration, including construction of ventilation, has been carried out in the isolator;
- cell No.10 is closed and is not used for keeping of persons, instead there is a storehouse established;
- the detained persons in the isolators are not punished disciplinary;
- all persons are taken out in the fresh air at least one hour a day;
- waiting rooms are not used for keeping of persons;
- medical examinations of persons are carried out in the range of vision of police officers on request of a doctor for safety measures;
- the duration of keeping persons in the isolator depends on the request of the prosecutor's office and the court;
- spotlights are not used in the interrogation room.

As to the recommendation of CPT that the revision of complaints about bad behaviour of police officers should be entrusted to an independent institution, State Police considers that the existing system on the whole is satisfactory. Among the priorities of the tasks of the Internal Security Bureau of State Police is a careful examination and adoption of relevant decisions concerning the recorded facts of violation of human rights and concerning the indicatory information of possible violation of human rights. The performed service inspections and the number of the adopted procedural decisions prove it. It is also important to note that there exists an effective system of appeal and supervision of adopted decisions.

Currently there already exists an independent institution in the country – the Latvian National Human Rights Office (hereinafter – Office) whose task is to examine any complaints on violation of human rights. The Office has the right to demand information from any state and local government institution concerning the mentioned conditions. If some officials do not give the necessary information and explanations, then they are liable in accordance with the Code of Administrative Offences (Article 6 of Law On Latvian National Human Rights Office).

As it was already previously mentioned, on December 5, 2003, the Professional Ethics and Conduct Code for the State Police personnel has entered into force. This Code sets out general norms of police officers' conduct and basic principles of professional ethics that are to be followed by police officers while serving, as well as outside of service place and time. The Code determines both the fulfillment of police officers' responsibilities, ensuring a person's human rights, and the task of a police officer not to allow violation of human rights.

The compliance of human rights in the work of State Police is a prior issue that is being paid a special attention. A police officer of State Police accounts for the committed violation of human rights in accordance with regulations set in legislation.

Constantly training of police officers of State Police is carried out in these spheres in structural units of State Police, including Police School of State Police, as well as in the State Administration School (training course "Essence of communication, ethics"), the Police Academy of Latvia (training course "Human rights and their compliance in the work of State Police). Also henceforth State Police will actively accomplish all the necessary measures in order to eradicate the violation of human rights.

For the time being Internal Security Bureau of State Police is reconsidering a possibility to prepare an instruction through which police officers will additionally be firmly warned on the necessity to observe all requirements in the field of human rights set by CPT.

Basic principles of protection measures against ill-treatment

On request of the detained person his relatives or a third party is informed about the derived situation, namely, detention. In accordance with Article 122 of the Criminal Procedure Code, in case of detaining a juvenile, immediately (apart from his own will) his parents or persons who replace parents are informed about the detention; if there are cases when this has not been done, the concrete police officer is responsible for his own action, and service investigation is carried out.

In Article 98 of the Criminal Procedure Code are set down cases when the participation of a defender (lawyer) is obligatory, including cases on criminal offences committed by juveniles. Any person if wishes can make use of a lawyer's services. Moreover, while interrogating the suspect, he is informed about his rights, this issue is also included in the blank of Interrogating protocol of a suspect, and the person also signs for it. In accordance with Article 76 of the Criminal Procedure Code, the court can adjust a security measure – an arrest to the person for the committed criminal offence. In this case the person is always provided with a lawyer's services.

According to the requirements of Medical Treatment Law, a draft of Cabinet of Ministers' regulations "Organisation and Financing Procedure of Health Care" in the government is being elaborated. As there was no procedure foreseen in the draft of regulations for those persons who are put into short-time detention isolators of State Police, estimations of finances and additional staff units were carried out and submitted for further advance. So that State Police could ensure for the detained persons in the short-time detention isolators the standard demands of the minimum rights of detainees' regime set by EU in the field of health care, additional 39 certified staff units of doctors and total funding LVL 1 249 817 a year are necessary. In accordance with Article 77 of Criminal Procedure Code – the court prolongs terms of arrest taking into account the prosecutor's submission and the presented materials of the case.

In Saeima of the Republic of Latvia Law on Criminal Procedure is being looked through, as well as "Law On Implementation of Detention and Arrest" where the keeping procedure of the detained and arrested persons, internal order regulations and regime in detention places will be regulated, as well as the personal properties that can be kept by a person, and other limitations of rights that are prescribed in law.

According to these laws, Cabinet of Ministers will set basic demands of arrangement of detention places, insurance of a person's social life and medical care. Currently "Instructions of Work Organisation in Short-Time Detention Isolators of Departments of State Police" is being elaborated in State Police, and it will regulate the procedure of accomplishment of the service of police officers in short-time detention isolators. The mentioned project is in the harmonization phase.

For the time being the Criminal Procedure Law is being looked through in the subcommission of Legal Commission of Saeima and is being prepared for the 3rd reading for the Legal Commission.

15 June 2005

**ADDITIONAL COMMENTS TO THE RESPONSE ON CPT'S
REPORT AFTER THE VISIT TO LATVIA ON THE MAY 2004
WITHIN THE AUTHORITY OF THE MINISTRY OF JUSTICE**

General information

By Order No. 1 - 1/437 of the Minister of Justice dated December 28, 2004, a working group was established to draft a concept on policy of execution of criminal punishment, which will be submitted to the Cabinet of Ministers for adoption by the end of 2005. The draft concept will establish new and contemporary criminal punishment policy complying with international standards binding Latvia; it will provide new attitude to especially sensitive groups of prisoners. The working group has come to a conclusion that the policy of execution of criminal punishment must provide specific regulation with respect to of juveniles, women, those serving life sentences and persons with special needs.

The Ministry of Justice has also addressed other issues related prisons. The Ministry continues to work on the draft concept on prisoners' health care which includes a scheme for health care organization.

In addition, by Order of the Minister of Justice No. 1 - 1/112 dated April 4, 2005, a working group was established to draft policy planning documents in respect to organization of general and professional education at prisons. The deadline for submitting the draft concept to the Cabinet of Ministers is November 1, 2005.

The Ministry of Justice is also taking part in the implementation of the project "Working with Juvenile Offenders" supported by the Dutch pre-accession assistance programme "Matra". One of the goals of this project is to draft recommendations for amendments to legal acts to improve conditions of juveniles in prisons. As a part of this project, the Ministry of Justice has ordered a study "The status of juvenile prisoners and drafting of recommendations to improving the status to reach international standards".

The results of this study will also be used in drafting the policy planning document "The basic guidelines for policy of execution of prison sentences and arrests of juveniles, 2006 - 2010", which is currently being drafted by a working group established by Order of the Minister of Justice No. 1-1/291 of August 19, 2004 as a part of project mentioned above.

Thus, the Ministry of Justice is already working on solving the issues within its competency. After approval of the policy planning documents by the Cabinet of Ministers, the work will be continued to amend normative acts according to approved policy.

Paragraph 41

On April 19, 2005 the Cabinet of Ministers adopted the Concept on the Development of Imprisonment Places. The Concept defines the activities for the period 2005 – 2014 in order to improve the conditions of all the persons staying in prisons. The Concept provides a step-by-step approach for reconstruction of all the prisons as well as enlargement of three prisons. Implementation of the Concept will solve the following problem issues pointed out by the Committee:

- Every prisoner will have on average 5.7 sq.m per convict;
- The system of cameras will be established, as a result there will be no more than 2 – 4 persons per camera;
- The long-term problems of life – term convicts will be solved (at the moment the rooms for placement of these prisoners will be enough for another 3 - 5 years);
- Appropriate walking areas, premises for sport activities, libraries, training rooms, and appropriate sanitary conditions will be provided for the prisoners;
- The issue related to the Hospital of Latvian prisons will be solved – the hospital will be transferred to Olaine tuberculosis hospital which is currently under construction and will be transformed into general Prison's Hospital.

Paragraph 42

In order to prevent overcrowding of prisons and to place the prisoners as far as possible in compliance to the legislation the Prison Administration as from January 1, 2005 weekly performs analysis on the actual number of prisoners in every prison, thus ensuring proportional placement of prisoners in compliance with the necessary type of the prison and the regime level.

Brasa prison has been transformed from the investigation prison to the closed prison (Order of the Ministry of Justice No. 1-1/390 of November 30, 2004), thus the number of places in closed prisons has been increased.

Currently in according to standards in force there are 9166 places in prisons and there are 7515 prisoners placed there (statistics as of May 1, 2005).

To improve situation in future Ministry of Justice has given a task to the Prison Administration to prepare draft of regulations of Cabinet of Ministers regarding distribution of prisoners in existing prisons, thus distribution of prisoners among prisons will be guaranteed by the rules on governmental level.

Paragraph 45

Placement of juveniles in cameras is carried out taking into account their personal characteristics and psychological compatibility. When distributing juveniles in cameras the statement of the psychologist is taken into account. A rehabilitation employee has been appointed to work with juveniles. All the juveniles are involved in general education and sporting activities.

The Prison Administration together with the Ministry of Justice and other institutions participates in the implementation of the project supported by the Netherlands pre-accession assistance program "Matra" "Work with juvenile in detention". Within the framework of the project "Basic guidelines for the policy of arrest and imprisonment of juveniles 2006 – 2010" are developed, several pilot researches on the establishment of new practice in relation to the health care of the juveniles, cooperation among institutions and training plans for juveniles in prison are performed. In addition training for prison staff in "EQUIP" program takes place.

Paragraph 50

The Prison Administration has split the functions of the Security Department. Based upon the Order No. 176 of December 13, 2004 the Investigation Division has been established in prisons and this is directly subordinated to the Chief of a prison. Currently the investigation functions including the investigation of the cases of mutual violence of prisoners are performed by the Investigation Division. The functions of the Security Division comprise the prevention and elimination of the breaches of the regime and crimes. This question was discussed also during the meeting of Chiefs of prisons on February 23, 2005 when results of the work of the Prison Administration in the year 2004 and priorities for year 2005 were discussed.

On April 27 – 29, 2005 in the Training Centre of the Prison Administration the training of the personnel of the Investigation Division took place.

Paragraph 55

The plan of the measures of punishment execution has been developed for every life – term convict taking into account the severity of the committed crime, personal characteristics and psychological compatibility. Employees from different units of prisons are involved in the implementation of the plan. The maintenance of family relations of a prisoner has the priority role. The Prison Administration continues the development of a draft program on the work with life – time convicts.

The psychologist of the Social Rehabilitation Department of the Prison Administration visits of the life – time convicts of Jelgava prison once a month. By the end of the year it is planned to employ a psychologist in the Jelgava prison.

In Ilguciems prison the only female lifer is kept together with the other female prisoners.

The Ministry of Justice has established a working group (based on the Order No. 1-1/112 of April 4, 2005), whose task is to develop a new legislative base for the organisation of the general and professional education in prisons. The project will contain special regulation applying to the long – term prisoners.

Paragraph 56

The Prison Administration the Commission on Assessing the Individual Risk of Life – term convicts has established (Order of the Prison Administration No. 48 of April 14, 2005). The Commission's task is to assess twice a year the individual risk degree of every lifer and the need to use means of security (handcuff, etc.) when conveying the person and during other events. When assessing these persons the Commission has to take into account the evaluation by the psychologist regarding the psychological condition of the person, etc.

Paragraph 58

The lifers are examined by medical employees in the rooms equipped with the alarm button. Before the examination by the doctor the prisoners are searched for security reasons. The supervisor stays outside the doors during the examination and outside the area of examination.

Paragraph 58

The life – term convicts are located behind the metal bars during the consultations by the psychologist and psychiatrist for security reasons. The commissions on assessing individual risk of life – term convicts have been established in Daugavpils and Jelgava prisons (in compliance to the Order of the Prison Administration No. 48 of April 14, 2005). The Commission establishes the risk level of every prisoner and the necessity to apply security measures. This will provide the possibility to talk to the prisoners of this category without the metal bars.

Paragraph 59

By the end of year it is planned to partially replace in Daugavpils prison the glass blocks by glass packets in the section where the life – term convicts stay taking into account limits of the allocated financial resources.

Paragraph 60

In accordance with the Concept on the Development of Places of Imprisonment adopted on April 19, 2005 the reconstruction of the Central Prison will take place from the year 2006 to 2008 and the reconstruction of Daugavpils prison will take place from the year 2011 to 2014. Currently the Central prison and the Daugavpils prison are not overcrowded and the cameras in bad condition are not used. As on May 1, 2005 there were 1624 persons in the Central prison (maximum number of prisoners is 1922) and 391 persons in Daugavpils prison (maximum number of prisoners is 543).

The window blinds have been taken off the windows in cameras No. 501, 502 and 503 in the Central prison, ventilation has been set up and the refurbishment repairs performed. Repairs have been made in some cameras in Daugavpils prison.

Individual beds are provided for all the prisoners. A clean mattress is given to every prisoner when arriving to a prison. The bed linen is changed once every seven

days (this year the Prison Administration concluded the contract with the company "3BP" on the centralised washing of the bed linen of prisons).

Once every seven days the prisoners take either hot shower or bath in bath-house. The prisoners can buy individual hygiene items in the prison shop. Prisons administration provides help from the funds of human aid to persons who do not have money.

The supervisor controls that everybody has soap and a towel when going to shower or bath-house.

Once a week a doctor and an employee of the Logistics Unit of a prison perform a sanitary-hygienic inspection of cameras and at the same time also the existence of the washing set.

The Prison Administration has submitted to the Ministry of Justice proposals on the amendments to the Law "On State Budget for the year 2005" where the allocation of the state budget in the amount of Ls 1 827 064 is required additionally for ensuring functioning of prisons until the end of this year. Ls 415 452 of that amount are necessary for the maintenance of prisons and daily needs of prisoners.

Paragraph 61

In order to satisfy the physical needs of prisoners the walking areas in prisons are equipped with sport inventory. The extension of the area of walking grounds will be possible only following the completion of the reconstruction of prisons as planned by the Concept on the Development of the Places of Imprisonment.

Paragraph 62

As to the Hospital of Latvian prisons the Ministry of Justice has proposed a new solution to the Government and this solution has been supported by adoption of the Concept on the Development of the Places of Imprisonment. The Hospital of the Latvian prisons will be transferred to Olaine prison tuberculosis hospital which is under construction now, thus obtaining the modern hospital complying with all the requirements for the prisoners.

In year 2004 the resources amounting to Ls 630 000 were allocated for construction of the Olaine prison tuberculosis hospital. In the Law "On the State Budget for the year 2005" provide the funding in the amount of Ls 1 000 000 for the construction of Olaine prison tuberculosis hospital. It is planned to complete the construction of the hospital by the year 2006.

Paragraph 64

The Hospital of Latvian prisons has employed 3 full time medical nurses. Measures are taken to employ of 3 doctors (the announcement for recruitment has been published).

Paragraph 67

A draft Concept on the health care of prisoners is under preparation and it proposes to solve existing health care problems by giving it over to Ministry of Health. This would ensure that the medical care system of prisoners is integrated in the general state health-care system and as a result adequate care is provided. The implementation of this Concept will provide also the increase of the medical staff in all the prisons, including Daugavpils prison and Central prison.

The work schedule of the medical personnel has been re – arranged in Daugavpils prison and now there is medical personnel in prison during holidays. In case when medical aid is necessary at night time the assistant to the Chief of prison on duty calls the emergency medical aid.

In Daugavpils prison and Central prison there are positions of a psychologist and psychiatrist in the staff list. However, in Daugavpils prison the full time position of psychiatrist has not been filled yet, the doctor works only part time (the announcement for recruitment has been published for the full time position of the psychiatrist).

In year 2006 it is planned to introduce the positions of psychologist in both prisons.

Paragraph 70

In the Training Centre during the training of all the categories of the prison staff the Prison Administration Board focused attention to prevention of such cases because none of the regulatory documents provides for it. In the seminars and meetings of the Prison Administration Board with all the categories of the prison personnel the attention is focused on this issue always.

Paragraph 71

The bed items are given to the prisoners who are put in a punishment isolator for the time of night sleep. Currently at least one hour of walk every day is ensured for juvenile prisoners and for the prisoners suffering from tuberculosis.

When the Concept on the Development of the Places of Imprisonment providing the improvement of the physical standards of prisons and extension of the walking areas will be implemented there will be the possibility to provide walks for all categories of prisoners kept in punishment isolators.

Paragraph 71

The four rooms of the punishment isolator of the Section 1 of the Central prison are locked and sealed. The repairs have been made in the other 18 cameras, the lighting has been improved and the ventilation has been set up.

The punishment isolators located in the Section 1 will be repaired during years 2006 to 2008 as provided by the adopted Concept on the Development of the Places of Imprisonment).

Paragraph 71

If a prisoner who is kept in a punishment isolator wishes to receive book other than the literature with religious content the Prison Administration provides them from the prison library.

Paragraph 72

The disciplinary sanctions are enforced taking account the severity of the violation committed by the prisoner and his psychological character. Prior to enforcement of any of the sanctions the Prison Administration carry out an individual explanatory interview. Due to insufficient amount of separate rooms in the Latvian prisons it is not possible to place the prisoners with the tendency to self-mutilation in separated rooms and therefore they are placed in the punishment isolators, however, this is not considered as disciplinary punishment. The prisoners can appeal the decision to punish applied to a superior official (to the Chief of the Prison Administration, Prosecutor, court, etc.). The Administration does not restrict to use of this possibility. During the first quarter of this year the Prison Administration performed the inspection of the complaints received from the Pārlielupe and the Šķirotava prisons and the disciplinary punishments ordered by Chiefs of prisons were annulled in case of 23 prisoners.

Paragraph 75

In addition to the correspondence and meetings with attorneys the prisoners also have other contacts with persons outside the prison.

With the permission of the process leader it is permitted for the arrested persons in pre – trial detention to meet with relatives and other persons:

- adult men and women – once a month;
- juvenile boys and girls – once a week.

These persons can have phone conversations without any restrictions. The convicts have the rights meet with close relatives and other persons and to make phone calls:

- *In a closed prison –*

Highest degree – 12 meetings and 36 phone calls per year;

Medium degree – 10 meeting and 24 phone calls per year;

Lowest degree – 7 meetings and 12 phone calls per year.

- *In a partially closed prison –*

Highest degree – 16 meetings and 48 phone calls per year;

Medium degree – 12 meeting and 48 phone calls per year;

Lowest degree – 8 meetings and 12 phone calls per year.

- *In a open prison – meetings and phone calls without any restriction.*

Paragraph 77

Article 50 of the Latvian Code on Execution of Punishments (Amendments adopted on November 11, 2004) defines the rules for correspondence of the convicts with UN agencies, Latvian Parliament Human Rights and Public Affairs Commission, State Human Rights Office, Prosecutor's Office, a court, attorney, as well as the rules for the correspondence of foreign citizens with the diplomatic or consular office of his/ her state authorised to represent his/her interests. This correspondence is not subject to inspection.

**ADDITIONAL COMMENTS TO THE RESPONSE ON CPT'S
REPORT AFTER THE VISIT TO LATVIA ON THE MAY 2004
WITHIN THE AUTHORITY OF THE MINISTRY OF INTERIOR**

2. Torture and other forms of inhuman treatment in isolation cells.

Paragraph 11

The Saeima adopted the new "Criminal Procedure Law" on April 21, 2005 which will come into force on October 1, 2005.

Paragraph 14

At the meeting held on January 28, 2005 to review results of the work of the State Police (SP), the Minister of Interior clearly indicated to the Chief of the SP to order Police officers to observe all ethical norms, otherwise any violations against those arrested will be severely punished.

The Ministry of the Interior and the minister of the interior regularly actualizes the issue on the poor condition in the short term detention facilities in the highest level – Parliamentary and Governmentally. The aim of these activities is to urgently solve the problem on the sufficient funds from the state budget. The facilities of the short term detention places and the obligations of the police officer are discussed with the Managing Board of the State Police in its personnel. The minister of the interior has visited several problematic police units (Ventspils, Daugavpils) and as result the public discussion in the society and the interest of the mass media started immediately.

In 2004 The Ministry of Interior supported the action of the Non- Governmental Organisation "Providus" "- Never fear to report on Police violence", which took place in the frame work of the project of the European Commission in different cities of Baltic States with the aim to detect the situation in human rights in closed institutions (prisons, police units, isolators, the camps of illegal immigrants, psychiatric hospitals). The results of this action were used to improve the work of police in the short term detention facilities.

On February 24, 2004 the Chief of the SP signed a circular letter ordering senior officers to tighten control of the actions of the men serving under them, so as not to permit disciplinary violations, such as use of unjustified physical force. In addition, once a quarter every year meetings take place to review results of the work of the State Police, where the Chief of the SP talks of issues of service discipline.

As mentioned earlier, on December 5, 2003 the “Code of Professional Ethics and Behaviour of State Police Officers” came into force, which provides the general norms of behaviour for Police officers and the basic principles of professional ethics, which must be observed by Police officers when carrying out their duties as well as during off-duty time and place. The Code stipulates performance of the duties of Police officers, while ensuring human rights, and it stipulates the duty of a Police officer not to permit violations of human rights. Every Police officer has become acquainted with this Code (as witnessed by his/her signature).

After the CPT’s experts visit in Latvia in the 2004, the State Police has prepared the draft of regulations “On the Professional ethics and behaviour of the officer of the State Police” which has been harmonised with the Ministry of the Interior of the Republic of Latvia. These regulations came into force on May 31, 2005 (Annex 1).

Paragraph 14

With respect to the CPT recommendation to entrust the investigation of complaints concerning the behaviour of Police officers to an institution totally independent of the Police, the SP believes that as a whole, the present system is satisfactory. The list of priorities of the Office of Internal Security - a structural unit of the SP - includes careful investigation of violations of human rights found by the SP and information indicating to possible violations of human rights, and the number of corresponding procedural decisions made. It should also be noted that there is an actual system of appeal and supervision of decisions made in Latvia (the Prosecutor’s Office).

At present there already is an independent institution in Latvia, the National Human Rights Office, whose duties include the review of any complaint concerning violations of human rights. The Office may demand information from any State or local government institution on the circumstances mentioned in the complaint. Any official failing to provide such information and explanations is liable in accordance with the Latvian Code of Administrative Violations (Art. 6 of the Law “On the National Human Rights Office”).

As mentioned earlier, the “Code of General Behaviour of State Police Officers” came into force on December 5, 2003. This Code provides the norms of general behaviour of Police officers and basic principles of professional ethics that must be observed by SP officers while on duty and during off-duty time and place. The Code provides for performance of duties of a Police officer while ensuring a person’s human rights and it stipulates the duty of a Police officer not to permit violations of human rights. The inclusion of the issue of human rights in the work of the State Police is a matter of priority and is given extra attention. A State Police officer is liable for any violations committed as provided by law and normative acts. Also, Police officers are constantly trained in these matters by SP structural units, including the SP Police School, as well as the School of Public Administration (course “communication culture and ethics”, as well as the Latvian Police Academy (course

“human rights and their observance in Police work”). In the future, too, the SP will take all necessary steps to prevent violation of human rights.

Currently the SP Office of Internal Security (hereafter - OIS) is assessing possibilities to elaborate a circular letter that would additionally warn of the obligation to observe strictly all the requirements relating to human rights as laid down by the CPT.

In addition to the aforesaid, it should be noted that the OIS is under the direct supervision of the Chief of SP. In every case when a complaint is received concerning the use of physical force, the OIS investigates it and passes a decision pursuant to Article 109 of the Latvian Criminal Procedure Code (hereafter - LCPC):

- to initiate a criminal case;
- to refuse to initiate a criminal case.

The interested person is advised of the decision, who is then entitled to appeal it as provided by law (LCPC - Art. 112 Clause 3, *In case of refusal to initiate a criminal case, in cases mentioned in Clauses 1 and 2 of this Article, a decision shall be passed and a copy forwarded to the claimant and other interested persons, and the rights of these persons explained to appeal the decision of the investigator to the relevant prosecutor, the decision of the investigating office or prosecutor (senior prosecutor) - to the senior prosecutor of a higher prosecutor's office, the decision of a prosecutor of the Prosecutor General's Office - to the Prosecutor General, and the decision of a Judge or a Court - to a Court of higher instance*).

In 2004 the OIS Inspection of the Personnel received 365 complaints, from them in 160 cases the disciplinary inspections were carried out, from them the 30 cases were connected to the torture or inhuman treatment. In accordance with the results of disciplinary inspections 2 cases were confirmed and 4 officers were called to the disciplinary liability.

In the first quarter of the 2005 OIS Inspection of the Personnel received 743 complaints, from them in 479 cases the disciplinary inspections were carried out, from them the 69 cases were connected to the torture or inhuman treatment. In accordance with the results of disciplinary inspections 2 cases were confirmed and 1 officer was called to the disciplinary liability.

The Chief Inspectorate of the Ministry of Interior is a structural unit performing the Ministry's supervision in the area of disciplinary responsibility in institutions within the Ministry's system. The Chief Inspectorate of the Ministry of Interior is directly accountable to the State Secretary and its functions include official investigation of violations of duty and work discipline of employees of institutions within the Ministry's system holding a special service rank. Within its authority, the Chief Inspectorate of the Ministry of Interior also reviews applications and complaints by natural persons about employees of institutions of the Interior (including the Police).

Paragraph 16

Every complaint (also verbal) of the condition of health of a suspect is registered in the “Journal of Medical Examination” and the person is ensured of medical assistance.

The Prosecutor’s office or a Court, when receiving complaints of unjustified actions of the Police, ensures a doctor’s examination of the person and the material is forwarded to the OIS for review and decision.

Paragraph 17

Pursuant to Order No. 1549 of the Chief of SP of December 23, 2004, regular checks are carried out of on-duty sections of structural units of the SP, including checks on short term detention isolation cells.

Checks of short term detention isolation cells are carried out by both leadership of SP and leadership of the Ministry of Interior (state secretary, under-secretary of state). Also, representatives of non-governmental organizations and the National Human Rights Office are entitled to check - and do check - the conditions in short term detention isolation cells, and meet with suspects without Police presence.

In the period from May 1, 2004 till May 1, 2005 the 267 inspections on the situation in the short term detention isolation cells took place all over the country (carried out by the different institutions) - 131 inspection was carried out by the officers of Prosecutors Office – 2 inspections were carried out by the representatives of Custody Courts – 2 inspections were carried out personally by the Minister of the Interior.

Officers of Prosecutors Office carrying out the regular inspections of the short term detention isolation cells pay a lot of attention to the terms of custody and rights of usage of isolation requirements. There is only one notice from the officers of Prosecutors Office during one year which applies to the competence of the SP - person from the short term detention isolation cell of Valmiera District Police Board presented the claim on the health care problems. The officers of the Valmiera District Police Board reacted properly and resolved this situation immediately.

Usually the notices from the Human Rights Institutions of the Republic of Latvia are in the written form addressed to the Chief of the State Police. They do not have praxis to make any statements while they are visiting the short term detention isolation cells.

All the complains and pretensions of the officers of the SP are solved by responsible structural units of the SP, but the leadership of the SP in the meetings of the annual reports constantly the heads of territorial units of the SP on the issues of detected incompleteness in the work of short term detention isolation cells - the formation of the documentation and the material/technical situation. This informational work has good results, because after the visit of CPT’s experts in the year 2004, there are no detected violations of terms of custody for the arrested person and rights of usage of isolation requirements. Also, at the all available places of the short term detention isolation cells there are information boards with the regulations

of the establishment of work of short term detention isolation cell in at least two languages.

According to the emergency case in Rēzekne City/District Police Board (the escape of the person from short term detention isolation cell), the disciplinary inspection was carried out, and three were 2 police officers called to the disciplinary liability on the fact of neglect attitude to their duties what caused the escape of the arrested person.

Paragraph 18

In cases mentioned in LCPC (Articles 163 and 185), the process officer (a Police officer or a prosecutor), after reading the charges, may transfer the arrested person from the investigation jail to the Police isolation cell for the performance of specific procedural activities (on-site check of evidence, confrontation). The arrested person is taken from the investigation jail to a rural Police isolation cell upon Court demand during a criminal trial. After completion of the procedural activities, the arrested person is taken back to the investigation jail.

According to the CPT's experts recommendations of 2004, the Chief of the State Police on May 20, 2005 has issued the Circular which states:

- In any particular case the necessity and term of the custody of person in the short term detention isolation cells should be considered;
- To move persons from the detention places in the investigation prisons to the short term detention isolation cells only in cases when there is other possibility to avoid from that;
- If the arrest of person takes place at the Court (in accordance with the deprivation of the liberty), he/she must be convoyed to the investigation prison immediately without moving to the short term detention isolation cells, if the City where the particular Police Board is located has that kind of institutions.
- In the cities where are investigation prisons located, the person should be convoyed from the investigation prisons to the court without staying in short term detention isolation cells. It also applies if there are intermissions between the legal procedures at court.

3. Conditions in isolation cells

Paragraph 22

Liepāja -

In the autumn of 2005 the construction of the administrative complex of Liepāja City/District Police Board will be finished and its short term detention isolation cells will comply with the standards of European Convention on Human Rights.

Ventspils –

As it was sated before, the building of the Ventspils City/ District Police Board is in emergency situation (the conclusions of several inspections). The project for the new building is ready, but the lack of budgetary funds has stopped the start of its construction.

Short term detention isolation cell No. 1 is closed and is not used for custody for short term detained persons. However, in emergency situations it is used for detention of administrative penalized persons but not more than for three hours

At the meeting of Cabinet of Ministers of the Republic of Latvia in May 17, 2005, the issue on the establishing of appropriate building for the Ventspils City/District Police Board once more was raised. The Cabinet of Ministers assigned the Ministry of Economics together with the Ministry of the Interior in accordance with the national legislation, to solve the question on the enchaining of the private funds for this project realising the private partnership. *

Daugavpils –

There is an agreement on the Daugavpils City/District Police Board removal to the Daugavpils Fortress, and it is planned to establish new short term detention isolation cells there. The detail design is being worked out, after what the Agency of Real Estate will start the procedures for the project of the new building.

In accordance with the regulations of the Cabinet of the Ministers of June 8, 2002 No. 339 (Annex- 2) all of the places of the short term detention have appropriate amount of hygienic means. All necessary blankets and mattresses have been purchased. The issue on the household conditions of the short term detention isolation cells is raised to the very high level of the management of the Ministry of the Interior, which recently forwarded the request for additional funds from the state budget for the improvement and renovation of the short term detention isolation cells.

4. Guarantees against inhuman treatment

Paragraph 23

Upon the request of a suspect, his/her next-of-kin or a third person is advised of his/her arrest. Pursuant to Article 122 of the LCPC in the case of arrest of a juvenile, his/her parents or persons in lieu of them, are advised immediately regardless whether he/she so wishes or not. If there occurs a case when it is not done, the Police officer in question is liable for his actions and an official investigation takes place.

Pursuant to Clause 2 of Article 121 of the LCPC, a suspect is entitled to invite counsel, appeal an investigator's or prosecutor's actions, provide explanations and submit applications, as well as demand security guarantees as provided by law. The right to a doctor's services is not specifically provided by the LCPC, however, any complaint by a suspect as to his/her health condition is registered in the "Journal of Medical Assistance" and medical assistance is provided.

Paragraph 24

Upon the request of a suspect, his/her next-of-kin or a third person is advised of his/her arrest. Pursuant to Article 122 of the LCPC in the case of arrest of a juvenile, his/her parents or persons in lieu of them, are advised immediately regardless whether he/she so wishes or not. If there occurs a case when it is not done, the Police officer in question is liable for his actions and an official investigation takes place.

Paragraph 26

Article 98 of the LCPC stipulates cases when the presence of counsel (lawyer) is obligatory, including cases of crimes committed by juveniles. Any person, if he/she so wishes, may engage counsel. When questioning a suspect, he/she is explained his/her rights. This matter is also included in the form of "Record of questioning of a suspect", and is signed by the suspect. Pursuant to Article 76 of the LCPC, concerning the specific crime, the Court may impose a security measure - jail - on the person. In this case, the person is always provided with a counsel's services.

Paragraph 27

On April 1, 2005, Regulations No. 1036 of the Cabinet of Ministers dated December 21, 2004, "Procedure for Organizing and Financing Health Care" came into force. These Regulations guarantee provision of health care to persons held in SP short term detention isolation cells. Clause 15.3.3 of these Regulations provides that the Ministry of Interior pays for "out-patient health care services provided to persons held in SP short term detention isolation cells (except emergency medical services and in cases mentioned in the Law on Epidemiological Safety, when health care measures are covered from funds of the national budget allocated for health care to the Ministry of Health). When drafting the law on procedures for holding prisoners, the right to medical assistance guaranteed by law will be stipulated.

At present medical assistance is provided to a suspect by emergency medical service.

The law does not prohibit for detained person to call doctor of his choice (at case – family doctor).

“Medical examination journal”, where health complaints made by the arrested persons during the daily visit are registered.

The medical treatment of the detained person is carried out by the doctor in the non- audibility distance of police officer, unless there is a request from doctor due to his personal security. The confidentiality of medical data is guaranteed in all of police units.

Paragraph 28

Upon arrest, every suspect is informed of his/her rights, as provided in Part 2 of Article 121 of the LCPC. Similarly, a suspect is informed of his/her rights prior to interrogation (Clauses 2 and 16 of Article 121 of the LCPC), which is recorded in the interrogation record.

The persons who are detained in the short term detention isolation cell of the Riga City Police Board are introduced with their rights in the written forms, where the signature of the arrested person approves this process (Annex – 3). It is carried out in accordance with the Criminal Procedure Code and Administrative Procedure Code. After the signing procedure the list of the rights must be attached to the personal case of the arrested person. Written forms “On rights of person suspected for the criminal offence” and “On the rights of person suspected for administrative offence” are available in 3 languages – Latvian, English and Russian.

In every short term detention isolation facility of the SP there are information boards with the regulations of the establishment of work of short term detention isolation cell in at least two languages (Annex - 4) which states:

- the regime for the detained persons in short term detention isolation facility;
- the obligations for the detained persons in short term detention isolation facility;
- the restrictions for the detained persons in short term detention isolation facility;
- the rights for the detained persons in short term detention isolation facility;

The new adopted Criminal Procedure Law (Article 63 and 64) which will come into force on October 1, 2005, states that special written form on the rights of persons must be submitted to the arrested person.

5. Pre-trial investigation centre and short term detention isolation cell in Riga

Paragraph 29

At present, in the SP Central Administrative Department's short term detention isolation cells suspects are provided with products of hygiene and all arrested persons have the opportunity to take a shower at least once a week.

Paragraph 30

The issue on the contacting of the detained persons with the world outside in short term detention isolation facility is under the competence of initiator of the process taking into account the current situation in any specific criminal case. The new adopted Criminal Procedure Law states that in the future only the judge will decide on those persons with whom arrested person will be allowed to meet.

Paragraph 31

Cell No.10 is locked and is not used to hold persons; it serves as a storage space. Persons held in isolation cells are not disciplinary punished and all persons are taken outside in fresh air at least for an hour a day.

Paragraph 32

Projectors (spotlights) from the Riga short term detention facility were removed already after the visit of CPT's experts in 2004. In other Police structures the projectors (spotlights) have never been used.

Paragraph 33

Waiting booths are not used to hold persons.

Paragraph 34

The SP short term detention isolation cell section on duty holds a "Register of calls for emergency medical assistance" where the doctor of the team of the called-out emergency medical service, enters:

- 1) name and surname of the arrested person;
- 2) if necessary, indicates recommended treatment.

This record does not contain a diagnosis or other information of protected personal data. Therefore, the presence of this record in a Police officer's keeping may not be considered failure to observe medical confidentiality, but rather a necessity to check whether the Police officer has called for a doctor for the arrested person.

The doctor of the isolation cells has:

- "Out-patient medical card", listing complaints of the arrested person, harmful habits, operations etc. Upon the wish of next-of-kin and lawyers, excerpts from the arrested person's medical history are accepted in order to ensure necessary continuation or completion of treatment.

- "Medical examination journal", where health complaints made by the arrested

persons during the daily visit are registered.

These documents are at the disposal of the doctor only and are kept under key.

The medical treatment of the detained person is carried out by the doctor in the non-audibility distance of police officer, unless there is a request from doctor due to his personal security. The confidentiality of medical data is guaranteed in all of police units.

Paragraph 35

The length of time a person may be held in the isolation cell depends on the prosecutor and the Court.

According to the CPT's experts recommendations of 2004, the Chief of the State Police on May 20, 2005 has emitted the Circular (Annex – No.5) which states:

- In any particular case the necessity and term of the custody of person in the short term detention isolation cells should be considered;
- To move persons from the detention places in the investigation prisons to the short term detention isolation cells only in cases when there is other possibility to avoid from that;
- If the arrest of person takes place at the Court (in accordance with the deprivation of the liberty), he must be convoyed to the investigation prison immediately without moving to the short term detention isolation cells, if the City where the particular Police Board is located has that kind of institutions.
- In the cities where are investigation prisons located, the person should be convoyed from the investigation prisons to the court without staying in short term detention isolation cells. It also applies if there are intermissions between the legal procedures at court.

In order to secure the invention of the recommendations of the CPT the Chief of the State Police on May 20, 2005 has forwarded the letter (annex- No.6) to the Board of the Detention Places of the Ministry of Justice with the request to convoy the judged persons from prisons to courts without moving them to the short term detention cells (in the cases of proceeding of court on the issues of relieving of person before the term and other).

In accordance with law on Criminal Procedure (Article 77) the terms of detention can be extended only with the decision of court after the application form prosecutor's office is received. The law on Criminal Procedure and the Law on Realization of Arrest and Detention state the procedure of holding, the amount of their necessary belongings in the short term detention facilities of arrested persons.

Taking into account afore mentioned laws the Cabinet of Minister will decide on the basic requirements of the household conditions and the medical treatment conditions in the short term detention facilities.

Paragraph 36

Pursuant to the Law “On the System of State Administration”, instructions have been drafted “On organization of work at Police short term detention cells” (Annex - 7).

The new adopted Criminal Procedure Law states, that holding of arrested and detained persons should be stipulated by special laws, which must be worked out until October 1, 2005.

The aforementioned draft instruction will be a basis for the new legislative acts.