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

from 14 to 18 June 2010

The Lithuanian Government has requested the publication of this response. The report of the CPT on its June 2010 visit to Lithuania is set out in document CPT/Inf (2011) 17.

Strasbourg, 19 May 2011

29 April 2011

REPORT
ON MEASURES TAKEN OR PLANNED TO BE TAKEN IN ORDER TO IMPLEMENT THE RECOMMENDATIONS PROVIDED IN THE REPORT ON THE EXTRAORDINARY INSPECTION IN LITHUANIA CARRIED OUT BY THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT) FROM 14 TO 18 JUNE 2010

A. POLICE ESTABLISHMENTS

Ill-treatment

- *Law enforcement officials to be reminded, at regular intervals, that all forms of ill-treatment (including verbal abuse and insulting behaviour) are not acceptable and will be punished accordingly (paragraph 11);*

The recommendation of the CPT is constantly being implemented. Subjects related to the ensuring of human rights of persons deprived of their liberty are included in both vocational training programmes and special further training course programmes for police officers.

- *Law enforcement officials to be instructed that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them (paragraph 11);*

The knowledge of human rights and legal acts regulating professional activities is a prerequisite for holding a position in police structures related to the use of possible coercion against persons. Officers who do not meet this requirement cannot perform functions of a police officer. The Law on Police Activities (Official Gazette *Valstybės žinios*, No 90-2777, 2000) provide the conditions for using the measures of coercion. Article 23 of the Law provides that coercion, which might cause bodily injuries or death, may be used to the extent which is necessary for the fulfilment of the official duty, and only after all possible measures of persuasion or other measures have been used with no effect. The type of coercion and the limits of the use thereof shall be selected by the police officer, taking into account the particular situation, nature of the violation of law and individual characteristics of the offender. This Law also discusses the liability of the police officer for the coercion used.

- *The system for investigating possible cases of ill-treatment by law enforcement officials and for prosecuting and/or disciplining the alleged perpetrators to be reviewed, in the light of the requirements identified in paragraphs 31 to 41 of the CPT's 14th General Report. In particular, measures must be taken to ensure that prosecutors conduct effective investigations whenever they receive credible information that ill-treatment may have occurred (even in the abscence of a formal complaint) and that appropriate penalties are imposed when ill-treatment has been proven (paragraph 14);*

In order to ensure that the appropriate punishment is imposed once it any improper behaviour is established, the Ministry of Justice drafted the Law on Probation and amendments to the Criminal Code and the Code of Criminal Procedure, based on which (pending their approval by the *Seimas*) the risk that the offender repeatedly commits criminal offence shall be determined, social conclusions shall be submitted to the court regarding the selection and application of the most appropriate forms of criminal responsibility (probation authorities shall be in charge of drawing conclusions and submitting them to the court). This would provide for the individualisation of the criminal responsibility and for ensuring the efficiency of the applied measures. For the purpose of

dealing with practical issues, a working group for analysing organisational and legal issues of pre-trial investigation was set up by the Prime Minister's Decree No 259 of 4 September 2006. This working group collects information on problems related to the organisation of pre-trial investigation on a continuous basis, analyses such problems, submits proposals or recommendations regarding potential solution methods not only to the Government of the Republic of Lithuania but also to authorities in charge of organising and controlling the pre-trial investigation. Thus, efforts are made to ensure a continuous monitoring of the organisation and performance of the pre-trial investigation, the timely solution of problems, the implementation of efficient and the elimination of inefficient measures, the promotion of a constructive dialogue among authorities engaged in performing and controlling the pre-trial investigation and courts. On 9 November 2009, draft Code of Criminal Procedure XIP-1378 was registered with the *Seimas*. The initial proponents were the Ministry of Justice and the Ministry of the Interior (the provisions of the draft were combined with other amendments of the Code of Criminal Procedure and approved by Law No XI-975 of 30 June 2010). The principal objective of the draft was to improve the quality of pre-trial investigation and to accelerate the performance of pre-trial investigation. With regard to the ECHR case of Iljina and Sarulienė v. Lithuania, it should be noted that in their application to the European Court of Human Rights the applicants emphasised that their complaints were investigated by a court of one instance, which passed the final decision by allegedly relying only on the evidence of police officers. True, pursuant to Article 64 of Code of Criminal Procedure No X-1236 in force until 28 June 2007, the decision of the pre-trial investigation officer was final and not subject to appeal (this also included cases when complaints were filed against the prosecutor's decision to terminate the pre-trial investigation). Following the amendments, Article 214(4) of the Code of Criminal Procedure reads as follows: "A complaint may be filed against the decision defined in paragraph 1 of this Article with a superior prosecutor. Where the superior prosecutor dismisses the complaint, his decision may be complained against with the pre-trial judge. The decision of the pre-trial judge regarding the complaint, as well as the decision of the pre-trial judge provided in paragraph 2 of this Article may be complained against following the procedure established in Part X of the Code of Criminal Procedure". The Lithuanian case law shows that in case of any ill-treatment (violation of prevention of torture) by law-enforcement officers, the courts of the Republic of Lithuania are capable of ensuring the proper implementation of the state duty to investigate such violations, pursuant to the relevant provisions of the Lithuanian laws and regulations (a notice should be given to the judgement of 21 July 2008 of the First District Court of Vilnius, which sentenced two police officers for the abuse of their power. Police officers were accused of using too much force at the time of detention of the suspects and of using violence against them at the detention facility. Having heard the witnesses' evidence and having assessed their reliability, the court established that the story of the victims was more credible. The judgement of 21 July 2000 of the First District Court of Vilnius upheld by the Supreme Court of Lithuania should also be mentioned; the judgement pronounced two police officers guilty of abusing their powers and using violence against the suspect during the questioning. The judgement relied on the victim's story of the events, which was also supported by medical examination. The testimony of the co-workers of the accused police officers on behalf of the said police officers did not cause any doubt for the court regarding the victim's statements). Admitting the problem of insufficient understanding and, in some cases, improper application of the provisions of the national law specifying the prevention of torture, and seeking, on one hand, to prevent ill-treatment by law-enforcement officers and, on the other hand, to ensure efficient investigation of such cases, more focus on the prevention of torture is expected to be given during the training of law-enforcement officers.

- *Any person alleging ill-treatment (or that persons's lawyer) to be given the right to request a forensic medical examination without prior authorisation by the police, the prosecution service or a court (paragraph 15);*

The Law on Forensic Science (Official Gazette *Valstybės žinios*, No 112-4969, 2002) establishes that one of the functions of the forensic science is to perform expert examination at the request of natural persons. This function was also established in the Regulations of the State Forensic Science Service under the Ministry of Justice of the Republic of Lithuania approved by Order No 1R-415 "On the Approval of the Regulations of the State Forensic Science Service under the Ministry of Justice of the Republic of Lithuania" of 29 December 2009 of the Minister of Justice.

- *The Lithuanian authorities are invited to establish a national system for compiling statistics on complaints, prosecutions and disciplinary and criminal penalties imposed on law enforcement officials (paragraph 14);*

In October of 2010, the Ministry of the Interior and the European Commission signed a contract on the financing of the projects for the development of the Integrated Criminal Justice Information System, or e-file for short. The said system will interlink databases of the Police Department under the Ministry of the Interior, the Informatics and Communications Department under the Ministry of the Interior, the National Courts Administration, the Prosecutor General's Office and the Prisons Department under the Ministry of Justice of the Republic of Lithuania. E-file will automatically generate the structure of criminal case files, forms of procedural documents, statistical cards by registering actions of officers of all authorities involved in the investigation as well as information related to the investigation of the criminal offence from its registration to the pronouncement of the sentence. Upon the implementation of the project, statistical data on filed and investigated criminal offences will be generated from data indicated in procedural documents; therefore, this will enable to obtain more accurate data on criminal offences that law-enforcement officers are suspected of (charged with), and on penalties imposed on them.

- *Requests for a copy of the forensic medical report concerning the juvenile who alleged that he had been raped in one of the police detention centres visited by the delegation and, once the prie-trial investigation has been completed, a full copy of the investigation file (paragraph 18);*

The said conclusion of a forensic expert was sent to the CPT on 15 January 2010. Pre-trial investigation No 30-1-00326-10 on sexual abuse has not been completed by the District Prosecution Service of Klaipėda; therefore, we cannot provide any copy of the pre-trial investigation material.

Safeguards against ill-treatment

- *Measures to be taken to ensure that all persons deprived of their liberty by the police effectively benefit from the right to inform a close relative of their situation and the right of access to a lawyer, from the very outset of their deprivation of liberty (paragraph 19);*

Information about the detention or arrest of a person is provided to his immediate family as stated in Article 140 or 128 of the Code of Criminal Procedure (Official Gazette *Valstybės žinios*, No 37-1341, 2002; No 81-3312, 2007) (hereinafter referred to as the CCP). The CPT already has this information. Pursuant to Article 14 of the Law on Detention (Official Gazette *Valstybės žinios*, No 12-313, 1996; No 81-3172, 2008), the detainee has the right to meet with his lawyer. The number and duration of visits is not limited. Pursuant to paragraph 7.4 of the Rules on the Activities of Detention Facilities of Territorial Police Establishments, approved by Order No 5-V-356 of the Lithuanian Police Commissioner General of 29 May 2007 (Official Gazette *Valstybės žinios*, No 61-2361, 2007) (hereinafter referred to as the Rules on the Activities of Detention Facilities), persons kept in police detention facilities are entitled to meeting with their lawyer, without any outsiders present, as of the moment the lawyer is allowed by the law to get involved in the case; the number and duration of visits is not limited, except in cases provided by the CCP. A similar rule is

provided by paragraph 50 of the Working Instructions for Operational Management Units of Police Establishments, approved by Order No 5-V-553 of the Police Commissioner General of 30 June 2010.

- *Measures to be taken to ensure that a form setting out the rights of persons taken into police custody is systematically given to such persons upon their arrival at a police establishment. The form should be made available in an appropriate range of languages (paragraph 21);*

Pursuant to paragraph 18 of the Security and Supervision Instructions for Detention Facilities of Territorial Police Establishments, approved by Order No 5-V-357 of the Lithuanian Police Commissioner General of 29 May 2007 (Official Gazette *Valstybės žinios*, No 61-2362, 2007), the head of the police detention facility (or, in his absence, the police officer of the detention facility (police headquarters) on duty) introduces the persons placed in police detention facilities with internal rules for the police detention facility against signature, explains the consequences of any violation of the internal rules. Paragraph 19 of this Instruction provides that cells of the police detention facilities should have the agenda, quotations of laws and regulations on the procedure and conditions of keeping persons in police detention facilities, the rights and duties of such persons.

- *All persons deprived of their liberty to be formally guaranteed the right of access to a doctor, including the doctor of their own choice (it being understood that an examination by a doctor of the detained person's choice may be carried out ar his/her expense), as from the very outset of their deprivation of liberty (paragraph 19); Measures to be taken to ensure that in police detention centres:*
  1) medical examinations are conducted out of the hearing and – unless the doctor or nurse concerned specifically requests otherwise in a given case – out of the sight of police officers;
  2) the confidentiality of medical data is strictly respected (paragraph 20); Steps to be taken to ensure that all persons who are placed in a police detention centre following their remand in custody are medically screened, within 24 hours of their arrival, by a doctor or a nurse reporting to a doctor (paragraph 20);

Information on these issues were provided to the CPT at their time of its visit in 2008 and when submitting answers according to recommendations provided in the then report. It should be noted that pursuant to Article 45(1) of the Law on Detention of the Republic of Lithuania, detained persons must be guaranteed the same quality and level of treatment as persons at liberty. This legal provision has also been transposed into the Rules on the Activities of Detention Facilities. None of the applicable legal acts regulating the health care procedure restrict the right of persons deprived of their liberty to a doctor of their choice. It should also be noted, the Police Department have not received any complaints from any detainees regarding this issue.
We believe that it is inexpedient to perform the medical screening of all newly-arrived detainees; however, this does not imply that persons are deprived of their right to medical treatment. Pursuant to paragraph 18 of Lithuanian Medical Standard 129:2004 Medical Station (Office) at Detention Facilities of a Territorial Police Establishments, approved by Order No V-8 of the Minister of Health of 19 January 2004 (Official Gazette *Valstybės žinios*, No 15-473, 2004), a nurse employed at a police detention facility may examine and evaluate the state of health of newly-arrived remand prisoners with their consent. The state of health of such persons is examined if there are certain suspicions of a health impairment, illness, injury, etc. when placing a person in police detention facilities. It should be noted that, based on the previous recommendations of the CPT, a control mechanism obliging officers to record any visible contusions, abrasions and similar lesions before placing persons in police detention facilities has been established in legal acts regulating the activities of police detention facilities in order to prevent ill-treatment of persons deprived of their liberty. For this purpose, a medical examination form for persons placed in police detention

facilities must be filled in according to the Security and Supervision Instructions for Detention Facilities of Territorial Police Establishments, approved by Order No 5-V-357 of the Lithuanian Police Commissioner General of 29 May 2007 (Official Gazette *Valstybės žinios*, No 61-2362, 2007), recording any visible injuries, contusions, abrasions and similar lesions on the body of the person placed in police detention facilities.
Paragraph 18.11 of Lithuanian Medical Standard 239:2004 Medical Station (Office) at Detention Facilities of a Territorial Police Establishments, approved by Order No V-8 of the Minister of Health of 19 January 2004 (Official Gazette *Valstybės žinios*, No 15-473, 2004) provides an obligation for a nurse employed at a police detention facility to keep medical information confidential, except in cases when the establishment has to disclose information about the health conditions of a person following the procedure prescribed by the law or when the person gives his written consent to disclose information about his health. Pursuant paragraph 25 of the said Medical Standard, a nurse employed at a police detention facility must meet the requirements of the Medical Ethics and Nurse's Professional Ethics Code.

- *Steps to be taken to ensure that detained juveniles are not required to make any statement or sign any document without the benefit of a lawyer and ideally another trusted adult being present to assist them (paragraph 22);*

Article 186(2) of the CCP provides that a juvenile witness or a victim who are under eighteen years of age shall, as a rule, be questioned during the pre-trial investigation not more than once. Pursuant to paragraph 1 of the said Article, a juvenile witness or a victim who are under eighteen years of age shall be questioned by the pre-trial judge when this is requested to the best interests of the child by his representative, prosecutor or lawyer, or in other cases prescribed by the law. To the best interests of the minor, by the order of the pre-trial judge the suspect and other parties to the proceeding (save for the representative of the State Child Rights Protection service or a psychologist) may be banned from being present at the premises where questioning is being carried out. In such case a video and audio recording must be made during the questioning, and the suspect and other parties to the proceeding must be provided with the opportunity to observe and listen to the questioning from other premises and to ask the examined person questions through the pre-trial judge. Such questionings are performed in the so-called "rooms for questioning children", which presently can be found in all major cities of Lithuania. Vilnius has two such rooms, viz. VšĮ *Vaiko namas* (Žemaitės g. 21-203, Vilnius; http://www.children.lt); Children Support Centre (Latvių g. 19A, Vilnius; http://lt.pvc.lt); Vilnius County Police Headquarters (Birželio 23-osios g. 10, Vilnius; http://www.vilnius.policija.lt).
Rooms for questioning children are informally furnished in order to replicate home atmosphere. Many rooms for questioning children have psychologists who help officers talk to juveniles. Psychologists themselves often perform the required questioning. Lately, efforts are made for special investigators, prosecutors and judges to deal with children.
If for any reason it is not possible to question a minor in the room for questioning children, which would ensure that the child sees only the person questioning him and does not see other parties to the proceeding (e.g. the suspect), the law nevertheless provides real guarantees for causing the child the minimal trauma.
The representative of a juvenile witness or a victim has the right to be present during the questioning (the law defines the representative as parents, adoptive parents, guardians, sponsors or persons authorised by the institution that takes care of the minor). At the request of the parties to the proceeding or at the discretion of the pre-trial investigation officer, a prosecutor or a pre-trial judge, a representative of the State Child Rights Protection service or a psychologist must be called to the questioning of a juvenile witness or a victim who is under eighteen years of age. It should be noted that the prosecutor must be present and the suspect and his lawyer has the right to be present at the questioning carried out by the pre-trial judge. When the suspect or his lawyer is present at the questioning, the law lays down the obligation for the pre-trial judge to ensure that no unacceptable

influence is made to such witness or victim. In individual cases when it is decided that the suspect may have influence on the juvenile witness or the victim, the pre-trial judge rules to forbid the suspect to be present at the questioning.
During the criminal procedure, the interests of the victim are represented by a prosecutor. It is the prosecutor who should provide a lucid and simple explanation of the investigation process and the court proceedings in this specific case to the minor and his representative.

- *The CPT recommends the Lithuanian authorities to pursue their efforts to ensure that the return of remand prisoners to police establishments is sought and authorised only very exceptionally, for specific reasons and for the shortest possible period of time (paragraph 24).*

Pursuant to Article 2(2) of the Law on Detention, prior to being sent to a remand prison, persons placed under detention may be held in the detention facility of a territorial police establishment for a period not exceeding 15 days. By decision of a pre-trial investigator, a prosecutor or a court, remand prisoners may be moved to police custody from remand prison in order to carry out pre-trial investigation actions or due to court hearings of cases, but for a period not exceeding 15 days. This article also provides that such persons must be immediately released from the police detention facility when their detention is no longer necessary. The same provisions of this Law have been transposed into legal acts regulating the activities of police detention facilities.
It should be noted that the possibility to review laws and regulations regulating the temporary placement of the detained and sentenced persons in police detention facilities and the keeping of persons punished by administrative arrest in police detention facilities is currently discussed at the inter-institutional level (with the presence of the Ministry of Justice and the Ministry of the Interior, also the Police Department under the Ministry of the Interior). The necessity to consider the issue of clear definition of functions currently attributed to police detention facilities is also underlined in the 2009-2015 Programme for Optimisation of the Activities of Police Detention Facilities, approved by Order No 5-V-473 of the Lithuanian Police Commissioner General of 1 July 2009. This programme states that with regard to Article 2(1) of the Law on Detention, which provides for the detention in remand prisons subordinated to the Ministry of Justice, and with regard to the fact that the Law on Police Activities (Official Gazette *Valstybės žinios*, No 90-2777, 2000) defines the main tasks of the police to be the protection of residents and property, ensuring of public order and peace, prevention, detection and investigation of criminal acts and other violations of law, etc., due consideration is currently being given to the issue of transferring the function of carrying out the provisional measure, i.e. detention, (which is currently entrusted to police detention facilities and which can be described as being uncharacteristic to police) over to the establishments subordinated to the Prisons Department under the Ministry of Justice of the Republic of Lithuania, and police establishments will only have premises for short-term (not exceeding 5 hours) and long-term (not exceeding 48 hours) keeping of persons.

Conditions of detention

- *The CPT recommends that the projects to renovate wing 1 at Klaipėda City Police Detention Centre and to build a new police detention centre in Vilnius be given high priority (paragraph 30);*

The 2009-2015 Programme for Optimisation of the Activities of Police Detention Facilities provides for the construction of a new detention facility of Vilnius County Police Headquarters (an investment project is currently being developed) and the renovation of the first wing of Klaipėda County Police Headquarters.

- *The CPT recommends that the Lithuanian authorities take steps to ensure that, in the police centres in Klaipėda and Vilnius:*
  1) the official cell occupancy rate is complied with;
  2) all persons detained overnight are provided with a clean mattress and clean blankets;
  3) lighting (including, preferably, access to natural light) and ventilation of the cells are adequate;
  4) the cells are properly heated;
  5) the state of repair (including of the electric installations) and hygiene in the cells and the sanitary facilities are of an adequate level;
  6) detained persons have access to basic personal hygiene products (paragraph 30);

Buildings at T. Kosciuškos g. 1, Vilnius, which currently house the detention facility of Vilnius County Police Headquarters, are operated and used by the National Museum of Lithuania (the Ministry of Culture) on the basis of the right of trust, while the buildings of Vilnius County Police Headquarters are transferred for temporary operation under a loan for use contract. With due regard to the above circumstances, and considering that these buildings are listed as objects protected by the State, these building cannot be subject to reconstruction work.
Paragraph 80 of the Rules on the Activities of Detention Facilities provides that the living area per person kept in the police detention facility should be at least 5 sq. m.
Paragraph 82 of the Rules on the Activities of Detention Facilities states that persons kept in police detention facilities must be provided with fittings (mattresses, pillows, comforters) and bed linen (two sheets, pillowcases, two towels). Bed linen must be changed as needed; however, at least once a week.
Paragraphs 21 and 22 of Lithuanian Hygiene Standard HN 37:2009 Police Detention Facilities: General Health Safety Requirements, approved by Order No V-820 of the Minister of Health of 29 September 2009 (Official Gazette *Valstybės žinios*, No 120-5168, 2009) state that cells in police detention facilities must have clear glass windows, while the natural lighting coefficient must be 0.5%. Artificial lighting of the cells and the disciplinary cell in police detention facilities must be at least 200 lx. Artificial night lighting of the cells and the disciplinary cell in police detention facilities must be at least 10 lx and must not exceed 20 lx. Paragraph 23 of this legal act states that cells of the police detention facilities should be aired through the windows (air vents), except for premises with the installed mechanical ventilation or conditioning system. The table of paragraph 24 of the said Hygiene Standard provides that the air temperature in the cells must be 18-28^{0}C during the warm season and 18-26^{0}C during the cold season. Paragraph 20 of the Hygiene Standard states that the each cell of the police detention facilities must have a sanitary facility, paragraph 48 provides that all premises, installations and furniture of police detention facilities must be clean, windows and doors must be hermetic, while paragraph 52 states that persons kept in police detention facilities must constantly keep their cells in order and clean.
Paragraph 83 of the Rules on the Activities of Detention Facilities provides that persons kept in police detention facilities must be provided (upon request) with the basic personal hygiene products, viz. soap, toilet paper, sanitary pads.

- *All persons who are detained for more that 24 hours in a police detention centre should benefit from at least one hour of outdoor exercise per day (paragraph 30);*

Pursuant to Article 29 of the Law on Detention and paragraph 54 of the Rules on the Activities of Detention Facilities, the administration of police detention facilities must ensure the opportunity for persons kept in police detention facilities to walk outdoors at least one hour each day, and for minors, women and persons suffering from TB – one hour twice a day. Walking outdoors can be cancelled or shortened only due to weather conditions unfavourable to walking, with the consent or at the request of the person kept in the police detention facility, or due to extreme conditions or an

emergency. It should be noted that the implementation of this right of persons kept in police detention facilities is subject to strict control.

- *The CPT would like to receive confirmation that cells Nos. 8 to 11 at Vilnius City Police Detention Centre have been taken out of use as accommodation for detained persons and that cell No. 12 at Klaipėda City Police Detention Centre has been refurbished or, failing that, is no longer being used for detention purposes (paragraph 29);*

Vilnius County Police Headquarters and Klaipėda County Police Headquarters consider whether to renovate or abandon the cells of detention facilities mentioned in the report of the CPT.

B. KAUNAS JUVENILE REMAND PRISON AND CORRECTION HOME

Preliminary remarks

- *The CPT recommends that the standard living space per adult prisoner in all multi-occupancy accommodation in prison facilities in Lithuania be increased as soon as possible to at least 4 m^2. The official capacities of the prisons concerned should be reviewed accordingly (paragraph 33);*

Paragraph 1.3.1 of Order No V-124 "On Setting the Maximum Number of Persons Allowed to Keep in a Remand Prison and a Detention Facility, and on the Minimum Area of a Cell of a Remand Prison or a Detention Facility per Person" of the Director of the Prisons Department under the Ministry of Justice of the Republic of Lithuania of 11 May 2010 establishes that the minimum area of a cell in a remand prison or a detention facility per person must be at least 3.6 sq. m (except for Kaunas Juvenile Remand Prison and House of Correction (hereinafter referred to as Kaunas JRP-HC)), and at least 4.1 sq. m in Kaunas JRP-HC.
Paragraph 11^1 of the internal rules for correctional establishments approved by Order No 194 of the Minister of Justice of the Republic of Lithuania of 2 July 2003 (Official Gazette *Valstybės žinios*, No 76-3498, 2003) provides that the minimum area of the residential premises per person must be at least 3.1 sq. m in dormitories of correctional establishments (except for Kaunas JRP-HC and Pravieniškės House of Medical Treatment and Correction); 3.6 sq. m in cells of correctional establishments; 4.1 sq. m in residential premises of Kaunas JRP-HC and Pravieniškės House of Medical Treatment and Correction; 5.1 sq. m in prison hospital wards.
These are temporary area standards effective until new prison establishments are built. For the purpose of the implementation of the Strategy of Modernisation of Prison Establishments and its Action Plan for 2009-2017 approved by Resolution No 1248 of the Government of the Republic of Lithuania on 30 September 2009 (Official Gazette *Valstybės žinios*, No 121-5216, 2009), and when designing new prison establishments, the standard living area will be at least 4 sq. m per person.

Ill-treatment

- *The CPT recommends that the management of the Kaunas JRP-HC regularly remind staff that all forms of ill-treatment of prisoners are unacceptable and will be punished accordingly (paragraph 34);*

Officers of Kaunas JRP-HC are regularly reminded that the use of any physical or other type of coercion is unacceptable. The following topics are included into the 2010-2011 in-service training plan of junior officers of Kaunas JRP-HC:
1. Convention of human rights. Convention on the rights of the child;
2. Psychological reasons for aggressive behaviour of teenagers;

3. European Convention for the prevention of torture and inhuman or degrading treatment or punishment. Protocols I and II thereof;
4. Recommendation No R(2006)2 of the Committee of Ministers to member states on the European Prison Rules.

- *The CPT reiterated its recommendation that the Lithuanian authorities take the necessary steps to ensure that investigations into possible ill-treatment by prison staff at the Kaunas JRP-HC are no longer conducted by members of staff from that establishment (and the same approach should be followed in relation to other prisons in Lithuania). Such investigations should preferably be conducted by a body which is entirely independent of the prison system (paragraph 35);*

Article 183 of the Penal Code (Official Gazette *Valstybės žinios*, No 73-3084, 2002) establishes the procedure of filing complaints against penal establishments, institutions and actions of officers. The claimant can file a complaint against the allegedly ill-treatment, actions and decisions of the staff with the head of the penal establishment or institution, the Director of the Prisons Department or the regional administrative court. The detainee/convict will himself choose to whom his complaint should be addressed. If the analysis of the complaint reveals any signs of criminal offence in the actions of the staff, a pre-trial investigation shall be commenced, which shall be controlled by the prosecutor in accordance with the CCP. It should be noted that 2009 revealed four cases, and 2010 revealed 2 cases of pre-trial investigations regarding allegedly ill-treatment by the staff, and all pre-trial investigations were handed over to police establishments for investigation.

- *The management of the Kaunas JRP-HC is encouraged to maintain its vigilance as regards inter-prisoner intimidation and violence (paragraph 37);*

In Kaunas JRP-HC, for the purpose of reducing any manifestation of intimidation and violence as well as convict subculture, specialists of the Psychological Group provide preventive personal psychological consulting to detainees and convicts (100 consultations were provided during 2010). If any manifestation of violence is detected, additional consulting is provided. For the purpose of prevention of any potential conflicts or disagreements, a special publication on the specific features of communication with delinquent teenagers ("Communication with an Aggressive Teenager") has been prepared for the staff. This publication has been distributed to employers who were in direct contact with detainees and convicts. During the in-service training of officers, specialists of the Psychological Group gave lectures and seminars on the impacts of the subculture and the importance of its elimination.

- *The CPT would like to receive, in respect of 2009 and 2010, the following information for all prison establishments in Lithuania (including the Kaunas JRP-HC): the number of complaints of ill-treatment lodged against prison staff; the number of resulting disciplinary and/or criminal proceedings; an account of the outcome of those proceedings (paragraph 36);*

Complaints filed by detainees (convicts) with the Director of the Prison Department concerning possible ill-treatment by the staff of prison establishments

Name of prison establishment	Year	Complaints received	Criminal proceedings initiated	Pre-trial investigations launched	Disciplinary sanctions imposed	Penal sanctions imposed
Alytus House of Correction	2009	0	0	0	0	0
	2010	1	0	0	0	0
Kybartai House of	2009	1	0	0	0	0

Correction	2010	1	0	0	0	0
Marijampolė House of Correction	2009	2	0	0	0	0
	2010	1	0	0	0	0
Panevėžys House of Correction	2009	0	0	0	0	0
	2010	2	0	0	0	0
Pravieniškės House of Correction No. 1	2009	17	0	0	0	0
	2010	5	0	0	0	0
Pravieniškės House of Correction No. 2	2009	0	0	0	0	0
	2010	0	0	0	0	0
Pravieniškės House of Correction No. 3	2009	1	0	0	0	0
	2010	0	0	0	0	0
Pravieniškės House of Medical Treatment and Correction	2009	0	0	0	0	0
	2010	0	0	0	0	0
Vilnius House of Correction No. 1	2009	0	0	0	0	0
	2010	0	0	0	0	0
Vilnius House of Correction No. 2	2009	3	0	0	0	0
	2010	0	0	0	0	0
Kaunas Juvenile Remand Prison and House of Correction	2009	0	0	0	0	0
	2010	0	0	0	0	0
Kaunas Remand Prison	2009	0	0	0	0	0
	2010	2	0	0	0	0
Lukiškės Remand Prison and Prison	2009	3	0	0	0	0
	2010	4	0	0	0	0
Šiauliai Remand Prison	2009	0	0	0	0	0
	2010	0	0	0	0	0
Prison Hospital	2009	1	0	1	0	0
	2010	0	0	0	0	0
Total:	**2009**	**28**	**0**	**1**	**0**	**0**
	2010	**16**	**0**	**0**	**0**	**0**

Complaints filed by detainees (convicts) with the directors of prison establishments concerning possible ill-treatment by the staff of these establishments

Name of prison establishment	Year	Complaints received	Criminal proceedings initiated	Pre-trial investigations launched	Disciplinary sanctions imposed	Penal sanctions imposed
Alytus House of Correction	2009	2	0	0	0	0
	2010	9	0	0	0	0
Kybartai House of Correction	2009	12	0	0	0	0
	2010	4	0	0	0	0
Marijampolė House of Correction	2009	23	1	0	1	0
	2010	14	2	0	1	0
Panevėžys House of Correction	2009	0	0	0	0	0
	2010	0	0	0	0	0
Pravieniškės House of Correction No. 1	2009	5	0	1	0	0
	2010	1	0	0	0	0
Pravieniškės House of Correction No. 2	2009	3	1	0	0	0
	2010	11	5	0	0	0

Pravieniškės House of Correction No. 3	2009	17	10	1	0	0
	2010	13	2	0	0	0
Pravieniškės House of Medical Treatment and Correction	2009	1	0	1	0	0
	2010	0	0	0	0	0
Vilnius House of Correction No. 1	2009	0	0	0	0	0
	2010	1	0	0	0	0
Vilnius House of Correction No. 2	2009	54	0	0	0	0
	2010	63	0	0	0	0
Kaunas Juvenile Remand Prison and House of Correction	2009	3	0	0	0	0
	2010	2	0	0	0	0
Kaunas Remand Prison	2009	0	0	0	0	0
	2010	4	0	0	0	0
Lukiškės Remand Prison and Prison	2009	25	1	0	1	0
	2010	48	5	1	1	0
Šiauliai Remand Prison	2009	0	0	0	0	0
	2010	56	1	0	0	0
Prison Hospital	2009	0	0	1	0	0
	2010	4	0	0	0	0
Total:	**2009**	**145**	**13**	**3**	**2**	**0**
	2010	**230**	**15**	**2**	**2**	**0**

Conditions of detention

- *The CPT recommends that measures be taken to ensure that all persons detained at Kaunas JRP-HC have a sufficient quantity of basic personal hygiene products at their disposal, from the time of their admission (paragraph 39);*

All detainees and convicts kept in the establishment are provided with essential personal hygiene products in accordance with the standards approved by Order No. 1R-139 of the Minister of Justice of the Republic of Lithuania of 9 June 2004 (Official Gazette Valstybės Žinios, 2004, No. 93-3422; 2009, No. 34-1312). A juvenile convict (detainee) gets the following quantities of personal hygiene products per month: 200 grams of washing soap; 100 grams of toilet soap; one roll of toilet paper for men and two rolls for women; a tooth brush and 50 ml of tooth paste; up to four disposable razors (disposable razors are given to juveniles where necessary). Each convict or detainee receives 30 grams of soap each time before taking a shower.
Poor detainees (convicts) may receive grants from the social assistance fund. In addition, convicts may also receive a cash payment which they can use to buy unlimited quantities of hygiene products.

- *The CPT recommends that the design of the outdoor exercise yards at Kaunas Juvenile Remand Prison be reviewed, in the light of the above remarks. In particular they should all be made spacious enough to give young prisoners a real opportunity to exert themselves physically, e.g. to practise sports (paragraph 40);*

Following the CPT visit to the establishment, two additional basketball boards have been installed in exercise yards and detainees (convicts) have been provided with basketballs. Given favourable weather conditions, tennis tables are placed in the exercise yards. All exercise yards are provided with sports equipment.

- *The CPT reiterated its recommendation that the Lithuanian authorities pursue their efforts with a view to ensuring that all prisoners detained at Kaunas JRP-HC spend a reasonable part of the day outside their cells, participating in a variety of activities, including group association activities. The longer the period for which remand prisoners are detained, the more developed should be the programme of activities offered to them. These objectives are unlikely to be achieved if the rule prohibiting contact between remand prisoners from different cells is reviewed or more flexibly applied (paragraph 41);*

A new version of the schedule of activities of detainees and convicts in the remand prison has been prepared and the maximum duration of their out-of-cell activities has been established, with the schedule regularly adjusted.
In a letter received from the Education and Training Division of the Education and Culture Department of Kaunas City Municipality Administration on 26 August 2010, the establishment was informed that there was no possibility to increase the duration of out-of-cell education for juvenile detainees under the effective legislation.
On 10 September 2010, Kaunas Juvenile Remand Prison and House of Correction hosted a meeting attended by a deputy mayor of Kaunas City Municipality, the director of the Education and Culture Department of Kaunas City Municipality, the head of the Formal Education Subdivision, a deputy director of the establishment and the headteacher of Kaunas Aitvaras Secondary School. The meeting addressed the issue of organisation of general education of juvenile convicts and detainees in the remand prison. The following was decided at the meeting: to set up a working group (including the headteacher of the school) in the Kaunas city municipality for solving problems related to the general education of detainees; the deputy director of the establishment would cooperate with the working group set up in the Kaunas city municipality in providing information on relevant issues.
On 18 October 2010, Kaunas Aitvaras Secondary School hosted a meeting attended by employees of the Formal Education Subdivision of the Education and Training Division of Kaunas City Municipality, the headteacher of Kaunas Aitvaras Secondary School, his deputies and teachers, a deputy director of Kaunas Juvenile Remand Prison and House of Correction and the head of the Social Rehabilitation Division. The meeting addressed the issue of funding and the educational process in school. The following was decided: to approach the Ministry of Education and Science over the application of the "student basket" principle of funding at Kaunas Aitvaras Secondary School from 1 January 2011; to prepare an education plan suitable for the implementation of the educational process at Kaunas Aitvaras school and submit it to the Minister of Education and Science for approval.

- *The project to install additional classrooms at Kaunas JRP-HC to be given high priority and rapidly implemented (paragraph 43);*

An action plan for the implementation of CPT recommendations was approved by Order No. 1-17 of the Director of Kaunas Juvenile Remand Prison and House of Correction of 20 January 2011. Measure 3 of this plan provides for the preparation of a well-reasoned letter to the Prison Department under the Ministry of Justice of the Republic of Lithuania regarding additional funding required for the reconstruction of the seventh floor of the remand prison (equipment of classrooms designed for teaching detainees and convicts).

- *The Lithuanian authorities are invited to equip the cells at Kaunas JRP-HC with sufficient storage units and to replace those mattresses which are dirty and worn. Steps should also be taken to increase the frequency with which a warm shower can be taken (paragraph 38);*

The installation of additional shelves for storing personal belongings of detainees is purposeless as tables in each cell have shelves.
Measure 5 of the plan on the implementation of CPT recommendations envisages replacement of worn-out mattresses in the first quarter of 2011.
According to measure 2 of the plan on the implementation of CPT recommendations, preliminary calculations regarding the need for additional funding to supply hot water to detainees and convicts of the remand prison twice a week are scheduled to be made by 15 February 2011.

- *The practice, if it exists, of depriving all prisoners in the same cell of an activity if one of them refuses to participate in that activity should be terminated immediately (paragraph 42);*

If one of the prisoners refuses to participate in the activities, other convicts kept at the establishment will not be deprived of such a right. The practice mentioned in the CPT report might have been applied in individual cases until the middle of 2008.

- *The Lithuanian authorities are invited to renovate the first floor of Kaunas JRP-HC (paragraph 44);*

According to measure 4 of the plan on the implementation of CPT recommendations, the need for funding for repairs on the premises on the first floor of Kaunas Juvenile Remand Prison and House of Correction will have to be estimated and a reasoned letter to the Prison Department under the Ministry of Justice of the Republic of Lithuania regarding additional funding will have to be prepared in the first half of 2011.

- *The CPT would like to receive detailed information on the schooling programme and plans of the Ministry of Education for juveniles deprived of their liberty, in particular remand prisoners (paragraph 41);*

The specification of the procedure for organisation of general education of detainees and convicts serving custodial sentence was approved by Government Resolution No. 264 (Official Gazette Valstybės Žinios, 2009, No. 43-1666) of 8 April 2009. According to paragraph 15 of this specification, the school implementing primary, basic, secondary and relevant special education programmes works in accordance with general education plans and general programmes approved by the Minister of Education and Science. The respective provision is also included in Article 37 of the Law on Education (Official Gazette Valstybės Žinios, 1991, No. 23-593; 2003, No. 63-2853; 2007, No. 43-1628).
The education plan of Kaunas County Secondary School No. 1 for 2009–2011 approved by Order No. B-129 of the headteacher of Kaunas County Secondary School No. 1 of 28 August 2009 (hereinafter "the Education Plan") indicates the maximum number of students at Kaunas Juvenile Remand Prison and House of Correction. According to paragraph 14.2 of the Education Plan, the education process in each division shall be organised in view of the specific features of work of the school division. The educational process at Kaunas Juvenile Remand Prison is organised through self-training by means of group consultation. Workload for classes is distributed in accordance with self-training requirements and Kaunas Juvenile Remand Prison regime requirements. Juveniles at Kaunas Juvenile Remand Prison and House of Correction are taught moral education, Lithuanian, English, Russian, mathematics, biology, physics, chemistry, information technology, history, citizenship basics, geography, economics, arts, music, physical education, technology and human safety. When preparing the education plan, the school takes into account the education needs of students with special needs and provides for the procedure for satisfying these needs.

Health-care services

- *The CPT recommends that tuberculosis screening be reintroduced immediately at the Kaunas JRP-HC; until such time as the defective X-ray machine has been replaced, the screening should be performed by other means (paragraph 47);*

The detainees kept at the establishment are regularly tested for tuberculosis. A portable X-ray machine Chirax-709 is used for the tests (since the use of fluorograph was prohibited). In 2010, the Prison Department under the Ministry of Justice of the Republic of Lithuania acquired a portable digital X-ray machine, which will also be used at Kaunas Juvenile Remand Prison and House of Correction.

- *Medical examinations have to be concluded out of the hearing of non-medical staff (paragraph 48);*

Instructions for the officers of the establishment on their conduct during medical examination of detainees (convicts) were approved by Order No. 1-59 of the Director of Kaunas Juvenile Remand Prison and House of Correction of 2 April 2009. An officer may participate in a medical examination only if there is a threat to the safety of a medical worker.

- *In all prisons in Lithuania, the role of prison doctors in relation to disciplinary matters to be reviewed (paragprah 49);*

The Disciplinary Commission must not include a doctor. If a detainee is placed in a disciplinary cell, a doctor (or a nurse if there is no doctor) must check the detainee's health and present a conclusion as to whether the detainee can serve the penalty. The procedure for health examination of a detainee or a convict placed in a disciplinary cell was approved by Order No. 1-117 of the Director of Kaunas Juvenile Remand Prison and House of Correction of 19 June 2009.

Other issues

- *On the form setting out a disciplinary decision, the information regarding the appeals procedure to be worded in simple and clear terms (specifying the authority to which appeals should be addressed and the time-limit for lodging appeals). Further, care should be taken to ensure that prisoners have fully understood this information (paragraph 52);*

The management of Kaunas Juvenile Remand Prison and House of Correction has suggested the Ministry of Justice to amend Annex 30 to the Rules of Procedure of a Remand Prison approved by Order No. 1R-172 of the Minister of Justice of the Republic of Lithuania of 1 June 2009 and include the following sentence: "A complaint about the penalty may be filed with the Director of the Prison Department under the Ministry of Justice of the Republic of Lithuania within one month."

- *The CPT recommends that steps to be taken to ensure that, at Kaunas JRP-HC, juvenile prisoners upon whom disciplinary segregation is imposed enjoy appropriate human contact throughout the duration of the measure. In addition, any restrictions on family contacts or visits as a form of punishment should be used only where the offence relates to such contacts or visits (paragraph 55);*

It would be purposeless to grant juveniles placed in a disciplinary cell the right to meetings and phone calls because detainees are placed in a disciplinary cell only in exceptional cases and for malicious breaches of discipline. This would violate the principle of progressive execution of the

penalty (juveniles committing breaches of discipline would have the same rights as the well-behaving ones).
Since juveniles at prison establishments are not often visited by relatives (an average of 19 visitors per month in the entire establishment), prohibition of meetings while serving a disciplinary penalty does not have any significant effect on the juvenile's right to be visited. After serving the penalty, the inmate is immediately granted the right to have meetings and make phone calls.

- *All disciplinary cells at the Kaunas JRP-HC to be equipped with a table and a chair (paragraph 56);*

According to measure 1 of the plan on the implementation of CPT recommendations, the disciplinary cells of the remand prison are planned to be equipped with chairs and tables in the first quarter of 2011.

- *Recommendation that the relevant legislation to be amended in order to establish the principle that remand prisoners are entitled to receive visits and make telephone calls. Any restriction on a given remand prisoner's right to receive visits or make telephone calls should comply with the criteria mentioned in paragraph 60 (i.e. be based on the requirements of the investigation or security considerations, be applied for a limited period, and be the least severe possible). Moreover, the restrictive approach to visits and phone calls taken by the prosecutorial/judicial authorities must be reviewed without waiting for the adoption of new legislation or regulations (paragraph 60);*

Pursuant to Article 22 of the Law on Detention and paragraph 7.6 of Rules on the Operation of Detention Facilities, persons kept in police detention facilities shall have the right to meet, with the permission of a pre-trial investigation officer or the court in charge of the case, with relatives or other persons at the police detention facility (in the meeting room) (the number of meetings is not limited).
Pursuant to Article 2(2) of the Law on Detention, Article 23 of this Law providing for the right of detained persons to make a phone call shall not apply to persons kept in police detention facilities.

- *The Lithuanian authorities are invited to fill the remaining vacant posts at the Kaunas JRP-HC (paragraph 50);*

There are the following vacancies at Kaunas Juvenile Remand Prison and House of Correction at present: Chief Warder at the Security and Supervision Division (one position), Warder at the Security and Supervision Division (four positions), Specialist at the Social Rehabilitation Division (one position) and Radiologist at the Health Care Service (part-time position). Selection of candidates for the warder's position is currently underway at Kaunas Juvenile Remand Prison and House of Correction. The remaining positions are planned to be filled in 2011.

- *The Lithuanian authorities and the management of the Kaunas JRP-HC are encouraged to pursue their efforts to ensure that all staff called upon to work with juveniles deprived of their liberty receive specific training in this field (paragraph 51);*

Official training plans of officers of the establishment for 2010–2011, just like every year, include training in working with juveniles. In addition, in 2011 officers of the establishment will be sent to training and seminars organised by the Prison Department under the Ministry of Justice of the Republic of Lithuania, the Training Centre and other institutions.

- *The Lithuanian authorities are encouraged to reduce further the maximum period for which disciplinary segregation may be imposed on juveniles (paragraph 54);*

There is no need to reduce the duration of disciplinary confinement of juveniles because only four out of 25 detainees brought to the Disciplinary Commission's meetings every month are placed in a disciplinary cell. This sanction is applied in exceptional cases. In addition, upon evaluating the circumstances of a breach, the director of the establishment may (and often does) impose a penalty other than the maximum penalty.

- *The management of the Kaunas JRP-HC is invited to consider the possibility of allowing indigent prisoners one free telephone call per month (paragraph 61);*

Juveniles kept in Kaunas Juvenile Remand Prison and House of Correction make an average of 19 phone calls per month. The management of Kaunas Juvenile Remand Prison and House of Correction provides an opportunity for poor juveniles granted such a right to make one free phone call per month.

- *The CPT trusts that the Kaunas JRP-HC will be the subject of visits by an independent body such as the Parliamentary Ombudsman or the Children's Ombudsman (paragraph 63);*

Taking into account the observations of the CPT that the Children's Rights Ombudsman had not visited Kaunas Juvenile Remand Prison and Correction Home (hereinafter – Kaunas JRP-HC), we hereby inform you that the Children's Rights Ombudsman visited Kaunas JRP-HC on 10 January 2011. The purposes of the visit:

1) to get knowledge of the activities of Kaunas JRP-HC;
2) to find out changes the situation related to the education of juveniles in Kaunas JRP-HC given that the Children's Rights Ombudsman whose term of office has expired had started an investigation under the complaint of teachers of the school organising the education of juveniles in Kaunas JRP-HC regarding a breach of the right of juveniles to education.

It has been identified following the aforementioned investigation that the complaint was reasoned and that the juveniles held in Kaunas JRP-HC ((1) serve the sentences of imprisonment in an ordinary group of the Correction Home; (2) serve the sentence of imprisonment in the lenient group of the Correction Home; (3) serve the sentence of imprisonment in the Unit of Social Integration into Society of the Correction Home; (4) serve the sentence of arrest; (5) are on remand detention) are not ensured an adequate possibility of exercising their right to education as a result of the gaps in the legal acts in force that regulate the arrangements of the education process of children under deprivation of liberty and restrictions applied thereto, also due to the many years' of insufficient financing available to the organising of teaching and the material environment of teaching in Kaunas JRP-HC.

In the light of the circumstances indentified during the investigation, the Children's Rights Ombudsman accepts the observations of the CPT regarding inadequate activities available to juveniles in the Remand Prison.

The above-mentioned investigation carried out by the Children's Rights Ombudsman Institution, *inter alia*, noted that the children serving the sentence of arrest do not and cannot receive any schooling during the time of their sentence, because Article 57(4) of the Code of Punishment Enforcement stipulates that general and vocational education of the persons serving the sentence of arrest shall not be organised.

The children who are under remand detention get 20-minutes consultations. The children sentenced to imprisonment and held in the Unit of Social Integration into Society of the Correction Home get only consultations as well.

The legal acts regulating the arrangements of the education process of children do not take into consideration the regime and restrictions applicable to juveniles held in Kaunas JRP-HC as well as other objective circumstances that make the educational process in this institution specific; they disregard limited opportunities to apply the requirements applicable to traditional schools of general education (regarding the composition, merging of classes, etc.) to these settings.
It should be noted that the Children's Rights Ombudsman is planning to visit the institutions where juveniles serve the sentences of arrest or imprisonment or are held in remand detention regularly, inquire into the situation of juveniles in such institutions and communicate with juveniles directly in order to ensure them an opportunity to report violations of their rights or other problems.
We are also hereby informing you that over the period of existence of the Children's Rights Ombudsman Institution 5 complaints have been received from Kaunas JRP-HC; since 2003, no complaints from Kaunas JRP-HC have been received in the Children's Rights Ombudsman Institution.
We would also like to inform that in 2009 Kaunas JRP-HC was visited by the Seimas' Ombudsperson Albina Radzevičiūtė and her advisers.
Taking into account the fact that the number of detainees is not decreasing and the fact that Lithuania ranks second by the highest number of detained and convicted person in the European Union (data of the research carried out by the International Centre for Prison Studies (King's College London); there are 1196 detainees in Lithuania according to the data of 1 January 2011) and seeking to ensure the least violations and restrictions of the rights of such persons in closed institutions of restriction of liberty, this year the Seimas Ombudsmen's Office is planning to carry out the *monitoring of the institutions of remand detention*, including Kaunas JRP-HC. It is planned to co-operate with the Children's Rights Ombudsman Institution of the Republic of Lithuania during visits in Kaunas JRP-HC.

- *The CPT requests a copy of the protocol and/or instructions concerning the handling of agitated and/or violent prisoners as well as a copy of the policy on restraint in operation at the Kaunas JRP-HC (57 pastraipa);*

A room for keeping aggressive or violent detainees has been reconstructed at Kaunas Juvenile Remand Prison and House of Correction, but it will not be used until means of restraint are acquired. Instructions for restraining aggressive or violent detainees will be prepared after completing the room. Nursing Procedure. Aggressive (Restless) Patient Care. approved by Order No. 01/07-136 of the Director of Kaunas Juvenile Remand Prison and House of Correction of 23 August 2004 had been applied until the reconstruction of the room. Instructions on officers' treatment of juvenile convicts or detainees have been prepared. The purpose of these instructions is to strengthen officers' sense of responsibility for their actions and behaviour and to draw attention to the detrimental effect of verbal or physical abuse. The instructions specify the basic principles of response in the event of a crisis or a conflict. They briefly describe signals reducing tension. They provide rules to facilitate communication with adolescents. These instructions must be learnt by officers who work directly with prisoners.

- *The CPT asks whether decisions to restrict freedom of correspondence of remand prisoners can be challenged and, in the affirmative, under what procedure (paragraph 62);*

Article 16 of the Law on Detention governs detainees' right of correspondence. Pursuant to this article, detainees have to the right to send their relatives and other persons, and receive from them, an unlimited number of letters. Pursuant to Article 16(2), by the decision of a pre-trial judge or a court order, letters received and sent by detainees may be checked to prevent criminal acts or other offences or to protect other persons' rights and freedoms. The reasons, duration and method of checking the letters, the senders or recipients whose letters will be checked and other circumstances

determining the need for checking the letters must be indicated in the decision of a pre-trial judge or the court order. Article 65 of the Criminal Code (Official Gazette Valstybės Žinios, 2000, No. 89-2741) (hereinafter "the CC") governs the procedure for filing complaints about the procedural actions and orders of the pre-trial judge and resolution of complaints. Paragraph 1 of this article stipulates that the prosecutor, trial participants and persons subjected to procedural coercive measures may appeal against the procedural actions and orders of the pre-trial judge, except for the orders which, under Article 64 of this Code, are not subject to appeal, in accordance with the procedure laid down in Chapter X of this Code.
Article 99 of the Penal Code governs detainees' right of correspondence. Pursuant to paragraph 1 of this article, convicts shall be allowed to send and receive an unlimited number of letters. Pursuant to paragraph 5 of this article, by the decision of the director of a correctional institution or a court (judge's) order, letters received and sent by convicts may be checked to prevent criminal acts or other offences or to protect other persons' rights and freedoms. The reasons, duration and method of checking letters, the senders or recipients whose letters will be checked and other circumstances determining the need for checking the letters must be indicated in the decision of the director of the correctional institution or the court (judge's) order. Pursuant to Article 183 of the Penal Code, complaints about the actions and decisions of the heads of institutions and bodies executing fixed-term imprisonment and life imprisonment sentences can be filed with the Director of the Prison Department within one month. The latter shall study complaints within 20 working days of the date of receipt thereof or, in the event of an investigation into a complaint, within 20 working days of the date of completion of the investigation. Paragraph 3 of the aforementioned article provides for the possibility to file a complaint about the actions and decisions of the Director of the Prison Department with a regional administrative court within 20 days of delivery thereof.

C. ALLEGED EXISTENCE OF SECRET DETENTION FACILITIES IN LITHUANIA

- *The CPT trusts that the fullest possible information will be made public about both the methodology and the findings of the prie-trial investigation launched by the Prosecutor General's Office regarding the allegations of secret detention facilities in Lithuania. Any restrictions on access to information on grounds of state or service secrecy should be kept to the absolute minimum (paragraph 73);*

Most data received during a pre-trial investigation are subject to classified information protection, as such data constitute a state or official secret bearing relevant classification markings. Whereas pre-trial investigation material contains information that constitutes a state and official secret, upon terminating a pre-trial investigation all pre-trial investigation material shall be transferred to the Information Security and Operational Control Division of the Prosecutor General's Office of the Republic of Lithuania for storage.

- *The CPT requests the findings of the prie-trial investigation launched by the Prosecutor General's Office regarding the allegations of secret detention facilities in Lithuania, as soon as they become available (paragraph 73);*

(1) The arrival and departure of aircraft of the Central Intelligence Agency of the United States (hereinafter "the U.S. CIA") to/from the Republic of Lithuania, U.S. officers' access to the aircraft and aircraft cargo and passenger inspections.
The arrival and departure of U.S. CIA-related aircraft to/from the Republic of Lithuania was established during the pre-trial investigation. However, the procedure set forth in the Law on Intelligence (Official Gazette Valstybės Žinios, 2000, No. 64-1931) was observed in all cases. The competent officers of the airport and the State Border Guard Service (hereinafter "the SBGS") were informed in writing (or orally) in advance about aircraft and cargo checks planned by the State

Security Department (hereinafter "the SSD"). This is confirmed by case documents presented by the SSD and questioned witnesses, namely airport employees, SBGS and SSD officers. No data on illegal transportation of any persons by the aforementioned aircraft was received during the pre-trial investigation. On the contrary, the persons questioned during the investigation either categorically denied such circumstances or said they had no information about it. Therefore, in terms of criminal law, the allegation that persons detained by the CIA were transported by U.S. CIA-related aircraft or brought to/from the Republic of Lithuania is just an assumption not supported by factual data, which is equivalent to an assumption about transportation of any other persons or items in the civil circulation or prohibited items. In the absence of factual data to substantiate this assumption, prosecution cannot be initiated or criminal proceedings cannot be continued at this point. Therefore, it should be stated that by seeking unhindered access to landed aircraft in airport areas and carrying out related actions, SSD officers acted lawfully, did not abuse their official position and did not exceed their powers, and therefore did not commit the criminal act provided for in Article 228 of the CC.

Whereas there are no data on illegal transportation of persons by U.S. CIA-related aircraft, it should be stated that there is no reason to address the issue of criminal liability under Article 291 of the CC (Illegal crossing of the state border) and Article 292 (Unlawful transportation of persons across the state border).

(2) Implementation of Projects No. 1 and No. 2.

It was established during the pre-trial investigation that the SSD and the U.S. CIA implemented Project No. 1 in 2002 and Project No. 2 in 2004. The implementation of both projects is related to building reconstruction and equipment. Discussing the arguments for the termination of the pre-trial investigation in the section regarding the implementation of Project No. 1, it is necessary to draw attention to the term of validity of criminal laws and the statute of limitations as regards criminal liability. Pursuant to Article 3 of the CC, the criminality of an act and punishability of a person shall be determined by a criminal law in force at the time of the commission of that act. The time of the commission of a criminal act is the time of an act (or omission) or the time of occurrence of the consequences provided for by the criminal law, where the occurrence of those consequences was desired at a different time. Pursuant to Article 4(2) and Article 13(1) of Law No. IX-1162 of the Republic of Lithuania of 29 October 2002 on the Entry into Force and Procedure for Implementation of the Criminal Code, the Code of Criminal Procedure and the Penal Code, possible abuse must be classified under Article 285 of the CC and the statute of limitations as regards criminal liability in this criminal case regarding abuse must be calculated in accordance with the rules laid down in Article 49 of the old version of the CC. This period must be calculated from the start of 2003 when the building equipment work was actually completed. The end of the statute of limitations for criminal liability is a circumstance which renders the criminal process impossible. However, despite this procedural obstacle to the pre-trial investigation, it should be stated that no unambiguous data showing that during the implementation of Project No. 1 the premises had been prepared for keeping the person detained were received during the pre-trial investigation. The received factual data on the specific features of equipment of the premises (which allow to make an assumption about the possibility of keeping the detainee therein) assessed in connection with the data justifying another purpose of the premises, taking into account the fact that there are no data on any actual transportation to and keeping of detained persons on these premises, do not provide a sufficient reason for formulating a notification of a suspicion of abuse to a person and thus initiating prosecution of the person.

Regarding Project No. 2, no data on a connection between it and the keeping of detainees were received during the pre-trial investigation. On the contrary, the factual data received during the pre-trial investigation and all related witnesses who have been questioned justify another purpose and use of the building. The real purpose of the premises cannot be disclosed as it constitutes a state secret.

It must be stated that the criminal act provided for in Article 228 of the CC was not committed during the implementation of Projects No. 1 and No. 2 by the SSD and the U.S. CIA.

It should be noted that there is no reason to address the issue of criminal liability under Article 100 of the CC (Treatment of persons prohibited under international law) and Article 146 of the CC (Unlawful deprivation of liberty) because, as already mentioned before, no data on illegal transportation of persons, their detention or another illegal restriction or deprivation of liberty were received during the pre-trial investigation. Discussing the assumption about the possibility of keeping the person detained on the premises of Project No. 1, as regards the impossibility of classifying the act under Article 100 of the CC, it must be pointed out that in the absence of persons detained, arrested or otherwise deprived of liberty on the aforementioned premises, a legally significant feature necessary for the classification of the act under Article 100 of the CC – "denial" of deprivation of liberty – cannot be stated either.

(3) Provision of information on the objectives and content of ongoing Projects No. 1 and No. 2 by SSD management to top state leaders.

The legal framework of international cooperation of the SSD is set forth in the Law on Intelligence. Legal acts do not directly require to "approve" the directions (tasks) of international cooperation of the SSD at any political level. They have been determined by the general need for international cooperation and direct SSD contacts with the special services of other countries. During the implementation of Projects No. 1 and No. 2 on SSD cooperation with the U.S. CIA, the then SSD leadership failed to inform any top official of the country about the objectives and content of these projects. Upon stating that laws do not establish an obligation to provide such information, and taking into account the fact that, in view of its scope, the provision of such information can and must be performed according to the "need-to-know" principle, it must be stated that there are no signs of a criminal act – abuse – at this point either.

Pursuant to Article 166 of the CCP, a pre-trial investigation shall be started (1) upon receiving a complaint, statement or report on an offence; (2) if the prosecutor or the pre-trial investigation officer discovers signs of a criminal act. In the case in question, the decision to start a pre-trial investigation into abuse under Article 228(1) of the CC was taken by the chief prosecutor of the Organised Crime and Corruption Investigation Department of the Prosecutor General's Office who drew up an official report. There was the only ground for the pre-trial investigation, namely the circumstances indicated in the findings of a parliamentary investigation carried out by the National Security and Defence Committee of the Parliament of the Republic of Lithuania into possible transportation and keeping of persons detained by the U.S. CIA in the territory of the Republic of Lithuania.

Summarising the data collected during the pre-trial investigation, it must be stated that although all necessary and sufficient measures were used to collect factual data on suspected criminal acts, no objective data confirming the fact of abuse (or another criminal act) were collected during the pre-trial investigation, and the total factual data collected do not suffice for stating that the criminal acts had been committed. Therefore, it is not possible to state the commission of the criminal acts at the moment. On the contrary, such assumption-based information, which served as a ground for launching the pre-trial investigation under Article 228(1) of the CC, did not prove to be true and was denied. Pursuant to Article 3(1)(1) of the CCP, the criminal process shall not be initiated or, if initiated, shall be discontinued if no act having the signs of a crime or a criminal offence has been committed. Therefore, the pre-trial investigation was terminated as no act having the signs of a crime or a criminal offence had been committed.

It has already been stated that the factual data on cooperation between the SSD and the U.S. CIA in intelligence activities contained in the pre-trial investigation material showed that no criminal act had been committed when providing information on these activities to top state leaders during the implementation of Projects No. 1 and No. 2. But these data are fully sufficient to state that there were potential signs of a disciplinary offence in the actions of SSD leaders M.L., A.P. and D.D. who coordinated cooperation between the SSD and the U.S. CIA and participated in it, SSD leaders who were responsible for building reconstruction (Projects No. 1 and No. 2), initiated and performed this reconstruction, and other officers. However, the aforementioned SSD leaders do not work for the SSD any more, and disciplinary proceedings cannot be initiated against them. In

addition, under Article 34(2) of the SSD Statute, no disciplinary punishment can he imposed one year from the date of commission of the offence. Therefore, even if there were data on a possible disciplinary offence, the decision provided for in Article 214(6) of the CCP to hand over material when terminating a pre-trial investigation for addressing the issue of disciplinary liability cannot be taken.

- *The CPT requests information on the action taken by the Prosecutor General's Office in the light of the letter sent to the Prosecutor General of Lithuania by the UK-based non-governmental organisation REPRIEVE on 20 September 2010 (paragraph 74).*

The aforementioned statement alleged that U.S. CIA officers transported H* to the Republic of Lithuania, kept him in the territory of the Republic of Lithuania and transported him from the Republic of Lithuania in the period from the spring of 2004 to September 2006. It was stated in the decision to terminate the pre-trial investigation that REPRIEVE had not provided any facts proving this, had not indicated and disclosed the source of information, and, as already mentioned before, no data on illegal transportation of any persons, including H, by the U.S. CIA to/from the Republic of Lithuania were received during the pre-trial investigation.

* The name of the person concerned has been deleted in accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.