



CPT/Inf (2009) 24

**Responses 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 21 to 30 April 2008

The Lithuanian Government has requested the publication of these responses. The report of the CPT on its April 2008 visit to Lithuania was published on 25 June 2009 (CPT/Inf (2009) 22).

Strasbourg, 15 September 2009

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**INTERIM REPORT OF THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA
REGARDING THE MEASURES THAT HAVE BEEN TAKEN OR ARE TAKEN WITH A
VIEW TO IMPLEMENTING THE RECOMMENDATIONS SPECIFIED IN THE REPORT
OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND
INHUMAN AND DEGRADING TREATMENT OR PUNISHMENT (CPT) ON ITS VISIT
TO LITHUANIA ON 21-30 APRIL 2008**

Conditions of Detention

27. The European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (hereinafter referred to as the CPT) was informed during the visit that, by the end of 2008, the detention facilities at Jonava, Kupiškis and Trakai would be taken out of service and renovation works would start at Rokiškis Regional Police Department. The information about this should be submitted to the CPT within two months.

Furthermore, the CPT calls upon the Lithuanian authorities to step up their efforts to bring conditions of detention in all police detention centres to an acceptable level.

Pursuant to Order No. 5-V-520 of the General Commissioner of the Lithuanian Police of 3 August 2007, *Concerning Approval of the Measures for the Liquidation of Detention Facilities in Several Territorial Police Establishments*, from 1 March 2009, detention facilities will be taken out of service in the Trakai district police establishment of the Vilnius county chief police establishment, Akmenė district police establishment of the Šiauliai county chief police establishment and Jonava district police establishment of the Kaunas county chief police establishment. A new alarm system will be installed in a detention centre of the Rokiškis district police establishment of the Panevėžys county chief police establishment.

Admittedly, the requirements to allocate a bed, clean soft bedding (a mattress, a pillow and a duvet), clean bed linen (2 blankets, a pillowcase and 2 towels) and ensure personal hygiene measures are laid down in Lithuanian Hygiene Norm HN 37:2002 "Detention Facilities: Rules for Setting them Up and their Operation" approved by Order No. 215 of the Minister of Health of the Republic of Lithuania of 17 May 2002 (Official Gazette, 2002, No. 52-2021) as well as the Rules of Operation of Territorial Police Detention Facilities approved by Order No. 5-V-356 of the General Commissioner of the Republic of Lithuania of 29 May 2007 (Official Gazette, 2007, Nr. 61-2361). The aforementioned soft bedding is supplied to all persons detained in police detention facilities, is procured and replaced by new items on a regular basis. All the territorial police establishments are obliged, in compliance with the procedure established by law, to supply free-of-charge all the necessary hygiene measures to all the persons put into police detention centres.

Currently, several of the operating police detention facilities do not comply with the requirements set for lighting and ventilation. Courtyards for walking have not been set up in 13 (31 per cent) police detention centres. Although the legislation regulating the operation of police detention facilities provides for the right to walk for persons kept in detention facilities, however, the implementation of the right in detention facilities which have not established courtyards for walking is not possible.

The CPT recommendation with regard to the access to drinking water is being implemented. The legislation regulating the operation of police detention centres lays down that the access to drinking water shall be always provided to every person kept in a police detention centre.

Admittedly, the problems listed in the CPT report are gradually addressed by building new police detention facilities (in the nearest future, police detention facilities will be opened in Ukmergė and Elektrėnai) by reconstructing and repairing the existing police detention centres.

**FINAL REPORT OF THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA ON MEASURES
TAKEN OR PLANNED TO BE TAKEN IN ORDER TO IMPLEMENT THE
RECOMMENDATIONS PROVIDED IN THE REPORT ON THE VISIT TO LITHUANIA
CARRIED OUT BY OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE
AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
FROM 21 TO 30 APRIL 2008**

A. POLICE ESTABLISHMENTS

1. Preliminary remarks

- *The Committee recommends that the Lithuanian authorities review the system of remand detention in police detention centres with a view to reducing its duration (paragraph 9).*
- *The return of prisoners to police detention facilities should only be sought and authorised very exceptionally, for specific reasons and for the shortest possible period of time (paragraph 23).*

Pursuant to Article 2(2) of the Law on Detention of the Republic of Lithuania (Official Gazette Valstybės Žinios, 1996, No 12-313; 2008, No 81-3172), prior to being sent to a remand prison, persons placed under detention may be held in the detention centre of a territorial police establishment (hereinafter referred to as the ‘police detention centre’) 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 detention centre of the territorial police establishment when their detention is no longer necessary. The same provisions have been transposed into legal acts regulating the activities of police detention centres. It should be noted that the police follow these legal standards as regards the keeping of persons in detention facilities.

2. Ill-treatment

- *The Committee would like to be informed of the outcome of the inquiry carried out by the Vilnius County Chief Police Commissioner’s Office (hereinafter referred to as the ‘CPCO’) into suspected ill-treatment by police officers and battering of a person at Police Department No 2 of the Vilnius County CPCO (paragraph 12).*

A pre-trial investigation into criminal case No 13-1-01354-08 was launched by Police Department No 2 of the Vilnius County CPCO under Article 178(2) of the Criminal Code of the Republic of Lithuania (burglary by breaking into a building, a storage facility or a protected area) on 28 April 2008. Officers of the Public Police Patrol Force of the Vilnius County CPCO detained R.J. on suspicion of committing a criminal act in the abovementioned case and brought him to Police Department No 2 of the Vilnius County CPCO. According to official reports of the police officers that detained R.J., the person resisted detention, tried to escape it and run away, and therefore the police officers were forced to use special equipment to detain the suspect. R.J. confirmed that he had attempted to avoid detention, but did not complain about ill-treatment by the police officers or his health. The Internal Investigation Division of the Vilnius County CPCO carried out an in-house investigation into the verbal complaint R.J. had made to the Committee's representatives. The in-house investigation established that the police officers had acted adequately during the detention of R.J. and used violence against the detainee to the extent it had been necessary to perform their official duties. No violations of legal acts were established in the acts of the police officers.

- *The Committee calls on the Lithuanian authorities to redouble their efforts to combat ill-treatment by the police. The Committee recommends that police officers should be reminded, at regular intervals, that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are not acceptable and will be the subject of severe sanctions. Police officers must also be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them (paragraph 13).*

It should be noted that the Committee's recommendation 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.

- *The committee recommends custodial officers assigned to police detention centres not to openly carry truncheons in detention areas. If it is deemed necessary for staff to be armed with such equipment, it should be hidden from view (paragraph 15).*

The carrying of truncheons in police detention centres does not contravene the provisions of the Law on Police Activities of the Republic of Lithuania (Official Gazette Valstybės Žinios, 2000, No 90-2777; 2002, No 54-2116; 2003, No 42-1910; No 104-4643) regarding the use of special equipment, and such special equipment is used in police detention centres only when it is deemed necessary for a police officer to defend himself/herself or another person from an attempt made or an attempt posing a direct threat to life or health. Special equipment is part of police accoutrements, which is necessary for performing official duties properly. 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, 2007, No 61-2362), the provision of officers assigned to police detention centres with special equipment is part of their proper preparation for service. Secret carrying of truncheons is not regulated by legal acts. Preparation for service and proper performance of official duties should not have a negative effect on detention centre staff's and inter-detainee relations.

3. Safeguards

- *The Committee recommends taking appropriate action to ensure that the right of notification of custody is fully effective in practice with respect to all persons deprived of their liberty by the police, as from the very outset of their deprivation of liberty (paragraph 17).*
- *The Committee calls on the Lithuanian authorities to take the necessary measures to ensure that the right of access to a lawyer is enjoyed by all persons obliged to remain with the police, as from the very outset of their deprivation of liberty. In addition, the Committee recommends that the Lithuanian authorities pursue their efforts to ensure the effectiveness of the legal aid system, as from the very outset of deprivation of liberty, for persons in police custody who are not in a position to pay for a lawyer as well as suggests that the Lithuanian Bar Association be consulted on this issue (paragraph 18).*

- *The Committee urges the Lithuanian authorities to ensure that a form setting out the rights of persons taken into police custody (including the right of access to a doctor) is systematically given to such persons as soon as they are brought into a police establishment. The form should be made available in an appropriate range of languages (paragraph 21).*
- *The Committee recommends steps to be taken to ensure that juveniles do not make any statement or sign any document relating to the offence of which they are suspected without the benefit of a lawyer and ideally a trusted adult being present to assist them (paragraph 22).*

It should be noted that in ensuring these personal rights the police follow the provisions of the relevant laws of the Republic of Lithuania and other legal acts and seek to implement them as accurately as possible.

- *The Committee notes that it would be desirable that all persons deprived of their liberty by the police be expressly guaranteed the right to have access to a doctor – including a doctor of their choice – from the very outset of their deprivation of liberty (paragraph 19).*
- *The Committee recommends steps to be taken to ensure that, in police detention centres:*
 - *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.*
 - *The results of every medical examination, as well as any relevant statements by the detained person and the doctor's conclusions, are formally recorded by health-care staff and made available to the detained person and his or her lawyer.*
 - *The confidentiality of medical data is strictly respected.*

In addition, all newly-arrived remand prisoners are medically screened, within 24 hours of their arrival at such an establishment, by a medical specialist (paragraph 20).

In addition to the information on the recommendations provided in the report on the 2004 visit of the Committee, 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 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, 2007, No 61-2361). It should also be noted that none of the legal acts regulating the health care procedure that are currently in force in the Republic of Lithuania restrict the right of persons deprived of their liberty to a doctor of their choice. Moreover, the police have not received any complaints regarding this issue.

With respect to the provision that all newly-arrived remand prisoners should be medically screened by a medical specialist within 24 hours of their arrival, we believe that it should not apply to all remand prisoners without having evaluated such objective factors as the persons' consent and needs. Pursuant to paragraph 18 of Lithuanian Medical Standard 129:2004 Medical Station (Office) at Detention Centres of a Territorial Police Establishments, approved by Order No V-8 of the Minister of Health of 19 January 2004 (Official Gazette Valstybės Žinios, 2004, No 15-473), a nurse employed at a police detention centre 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 recommendations provided in the report on the 2004 visit of the Committee, 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, 2007, No 61-2362), recording any visible injuries, contusions, abrasions and similar lesions on the body of the person placed in police detention facilities.

The Committee's recommendation on examinations performed by medical staff and the confidentiality of medical data as well as the recording of the results of medical examinations is being implemented.

4. Conditions of detention

- *The Committee asks to provide information regarding renovation works performed and planned to be performed in police detention centres (paragraph 25).*
 - *The Committee calls on the Lithuanian authorities to step up their efforts to bring conditions of detention in all policed detention centres to an acceptable level. In particular, measures should be taken to ensure that:*
 - *all persons detained overnight are allocated a bed and provided with a clean mattress and clean bedding;*
 - *access to natural light and artificial lighting, as well as ventilation, are adequate;*
 - *all detained persons have ready access to drinking water in salubrious conditions and are provided with basic hygiene products;*
 - *the state of repair and hygiene in the cells and the communal sanitary facilities is of an adequate level;*
 - *all persons who are detained by the police for more than 24 hours are offered at least one hour of outdoor exercise every day;*
- (paragraph 27).*

A total of 39 police detention centres currently operate in the country. Of them, only 10 police detention centres are in good condition while the rest of them do not meet international legal acts and recommendations provided by international organisations as well as requirements for the equipment and operation of police detention centres established by legal acts in force in our country. Whereas the majority of police detention centres require huge financial investments in their renovation, it has been decided to reduce the number of police detention centres and give priority to the renovation of strategic police detention centres. The process of liquidation of police detention centres that do not meet the established requirements is underway. Seven police detention centres terminated their activities at the start of 2008, with three more police detention centres planned to be closed in 2010. In addition, the Police Department has drafted a Programme for Optimisation of the Activities of Police Detention Centres, which provides for the reduction of the number of police detention centres to 27 and development of a network of efficient police detention centres meeting the abovementioned requirements. The main objectives of this programme include more rational use of police forces and funds allocated for repairs, reconstruction or renovation of police detention centres, ensuring of fundamental human rights and freedoms of persons kept in police detention centres, as well as creation of safe and healthy conditions of the living environment of persons kept in police detention centres and appropriate working conditions for officers employed in these establishments. The Police Department is currently taking all necessary measures to bring conditions of detention in the present police detention centres to an acceptable level: all police detention centres are provided with beds, renovated furniture, with fittings used in detention facilities and bedding replaced and cells renovated on a regular basis.

It should also be noted that a new detention centre of Ukmergė District Police Department of Vilnius County CPCO was opened in 2009, with a new detention centre of Elektrėnai District Police Department of Vilnius County CPCO planned to be opened this year. The detention centre of Marijampolė County CPCO currently under reconstruction is also planned to be opened this year. A new police detention centre of Anykščiai District Police Department of Utena County CPCO is currently being built. Construction works on detention facilities of Vilnius County CPCO and Telšiai County CPCO are scheduled to be started this year as well.

- *The Committee recommends taking immediate steps to ensure that juveniles placed in police detention facilities are accommodated separately from adult detainees (paragraph 28).*

Pursuant to Article 12(1)(2) of the Law on Pre-Trial Detention of the Republic of Lithuania (Official Gazette Valstybės Žinios, 1996, No 12-313) that was in force until 1 April 2008, by way of exception, upon obtaining the prosecutor's sanction, adults may be kept in the cells with minors. The Law on Detention of the Republic of Lithuania, which replaced the Law on Pre-Trial Detention of the Republic of Lithuania on 1 April 2008, does not provide for such an exception. Pursuant to Article 10 of the Law on Detention of the Republic of Lithuania, minors must be kept separately from adults.

- *The Committee recommends taking 0.6 m² cells at Jonava District Police Department of Kaunas County CPCO out of service (paragraph 29).*

The detention facilities of Jonava District Police Department of Kaunas County CPCO were liquidated on 1 March 2008, with persons kept in this police establishment moved to the detention facilities of Kaunas County CPCO.

- *The Committee recommends taking urgent steps to provide a mattress and blanket to persons held overnight in the temporary holding cells of police establishments (paragraph 30).*

According to paragraphs 30.2–30.2.6 of the working instructions for police officers on duty, approved by Order No 278 of the Police Commissioner General of 25 June 2001, persons are usually kept in temporary detention facilities for up to 3 hours or up to 5 hours in exceptional cases and in isolated cases when persons under the influence of alcohol, drugs, psychotropic or toxic substances are kept in such facilities until they sober up (approximately 8 hours).

Temporary detention facilities are not suited for long-term detention of persons and therefore persons kept in these facilities are not planned to be provided with mattresses and bedding.

Whereas the sobering up of intoxicated persons is not a police function, in order to guarantee the personal rights and appropriate sobering up of detained intoxicated persons, the concept of optimisation of the activities of operational management units of police establishments in controlling police forces is aimed at organising work with intoxicated persons as follows:

- upon drawing up an administrative offence report on the spot, detained intoxicated persons would be delivered to their place of residence or a health care establishment if they need medical assistance and, in exceptional cases, to a police establishment if their place of residence is in another city (district) or a person poses a threat to other people's health or life;
- to initiate the establishment of overnight homes financed by municipal authorities in the city in view of the number of intoxicated persons brought to police establishments (overnight homes already operate in some cities).

It should be noted that in order to ensure appropriate conditions for intoxicated persons to rest and avoid accidents, the majority of territorial police establishments can take such persons to overnight homes or health care establishments.

- *The Committee calls on the Lithuanian authorities to put an immediate end to the practice of transporting prisoners in the cubicles measuring 0.4 m² in vans of the Convoy Division (paragraph 31).*

At present, all territorial police establishments and their structural units are fully provided with new special vehicles designed for conveying persons, which do not contain cubicles of the abovementioned size. The Public Security Service under the Ministry of the Interior no longer used vehicles equipped with such cubicles for conveying persons.

B. PRISONS

1. Preliminary remarks

- *The Committee recommends that the Lithuanian authorities pursue their efforts to combat overcrowding in remand prisons, drawing on the Recommendations of the Committee of Ministers of the Council of Europe to Member States, in particular Rec(2006)13 on the issue of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, and R(99)22 concerning prison overcrowding and prison population inflation (paragraph 34).*

By its Order No 288 of 26 March 2008, the Government of the Republic of Lithuania approved the Strategy for the Development of Bodies Subordinate to the Prison Department under the Ministry of Justice and the Plan of Measures for the Implementation of the Strategy for the Development of Bodies Subordinate to the Prison Department under the Ministry of Justice for 2008–2033. One of the tasks set out in the strategy is to increase the number of rooms in remand prisons and ensure that remand prisons are within the jurisdiction of each county court.

Currently draft amendments to the Plan of Measures for the Implementation of the Strategy for the Development of Bodies Subordinate to the Prison Department under the Ministry of Justice for 2008–2033 are being drafted and they are to be submitted to the Government in the immediate future. The draft envisages building a new remand prison for approximately 2000 persons on the outskirts of Vilnius by 2015, and transferring Lukiškės Remand Prison to this establishment as well as building a new remand prison for approximately 300 persons in the vicinity of Klaipėda and a new remand prison for approximately 1500 persons in Šiauliai, and transferring Šiauliai Remand Prison and Panevėžys Correctional Institution to these establishments. It should be noted that the above priority projects of the construction and renovation of the establishments of deprivation of liberty are planned to be effected partly by attracting private capital investments.

Please be also informed that while implementing Item 125 of Chapter V “Courts and Justice”, Part Four of the Programme of the Fifteenth Government of the Republic of Lithuania for 2008–2012 approved by Resolution No XI-52 of the Seimas of the Republic of Lithuania of 9 December 2008, provisions of the Code of Criminal Procedure of the Republic of Lithuania governing the imposition of detention, and the practice of the imposition of detention are being examined. In case it leads to a finding that existing legal regulation does not contain sufficient safeguards against abuse in the imposition of detention, or its unnecessary application, the Ministry of Justice together with the Ministry of the Interior is to prepare the necessary draft amendments of the Code by the end of the second quarter of 2010 to avoid unjustified imposition and (or) application of detention.

- *The Committee recommends raising the standard for living space of prisoners in dormitories from 3 m² to 4 m² per inmate (paragraph 35).*

The minimum standard for living space per inmate has been fixed at 3 m² in living rooms in dormitories of correctional establishments. In addition to living rooms, there are toilets, bathrooms, rooms for domestic purpose, clothes and shoe dryers, facilities for storing personal belongings, food storage facilities, relaxation rooms and sports facilities in each dormitory. Furthermore, convicts living in dormitories are free to go outside and spend their time within the territory of a dormitory. Therefore, we believe that the 3 m² standard for living space per inmate is satisfactory. This standard is not breached by any correctional establishment, but not all correctional establishments are capable of establishing a higher standard for living space and ensuring it.

2. Ill-treatment

- *The Committee recommends that the Lithuanian authorities draw to the attention of prison officers in Pravieniškės House of Correction No 3 that the force used to control violent and/or recalcitrant prisoners should be no more than is strictly necessary and that, once prisoners have been brought under control, there can be no justification for striking them, and to deliver a clear message to all prison staff that all forms of ill-treatment of prisoners (including verbal abuse) are unacceptable and will be dealt with severely (paragraph 37).*

Article 120 of the Penal Code of the Republic of Lithuania (hereinafter referred to as the 'Penal Code') lays down general rules for the use of force against detainees and convicts:

- Special means – handcuffs, straitjackets or restraining devices, truncheons, methods of combat wrestling, gas, water-cannons, tracker dogs, armoured personnel carriers and other machines – may be used in prison establishments on the grounds provided by law;

- Special means shall be applied taking into account the nature of the violation of law and order, the offender's personality, specific circumstance and situation. When using special means, officers must try to avoid grave consequences;

- Circumstances permitting, prior to the application of special means, a warning shall be issued to the persons against whom said means will be used;

- The use of special means must be terminated upon the disappearance of the grounds for the use thereof. Upon using special means, officers shall, if necessary, provide immediate medical aid;

- The prosecutor shall be immediately notified of an in-house investigation carried out into any case of a health impairment resulting from the use of special means.

According to Article 23 of Service Regulations of the Prison Department under the Ministry of Justice of the Republic of Lithuania, only officers that have undergone initial training and know in what situations and how special means can be used are entitled to use special means.

During briefings before their shift begins, officers in all prison establishments are reminded that they can only use force against detainees and convicts strictly according to law and must on no account degrade the dignity of detainees and convicts, as well as are reminded of liability for ill-treatment of detainees and convicts.

There has recently been a tendency for the number of cases of use of force in prison establishments to decline. For example, 15 cases of use of force against convicts were recorded in Pravieniškės House of Correction No 3 in 2008, with no cases of use of force against convicts reported in the establishment over the first three months of 2009.

- *The Committee recommends that the Lithuanian authorities take the necessary steps to ensure that, throughout the prison system, investigations into possible ill-treatment by prison staff are no longer conducted by members of staff from the establishment concerned. Such investigations should be conducted by a body independent of the establishments concerned and, preferably, of the Prison Department (paragraph 38).*

The Law on Detention of the Republic of Lithuania (hereinafter referred to as the Law on Detention) (Article 15) and the Penal Code (Article 100) guarantee the right for detainees and convicts to freely submit their proposals, requests (applications), petitions and complaints to Lithuanian public and municipal officers and servants, non-governmental organisations and international institutions. Such proposals, requests (applications), petitions and complaints of detainees and convicts may in no circumstances be checked before being sent. Therefore, detainees and convicts are free to choose a body to complain to about possible ill-treatment by prison staff. If the body or officer approached by a detainee or convict with a complaint about possible ill-treatment by prison staff is not competent to consider such a complaint, the complaint must be forwarded to a competent body or officer. Sometimes bodies or officers not competent to consider complaints filed by detainees and convicts forward such complaints to the Prison Department.

Therefore, heads of prison establishments study complaints about possible ill-treatment by officers addressed to them by detainees and convicts themselves, the Prison Department studies complaints about possible ill-treatment by prison staff addressed to it by detainees and convicts as well as forwarded by other bodies and officers.

- *The Committee asks to provide the following information regarding all prison establishments (for 2007 and 2008):*
 - *The number of complaints of ill-treatment lodged against prison staff;*
 - *The number of resulting disciplinary and/or criminal proceedings and an account of the disciplinary and/or criminal sanctions imposed;**(paragraph 39).*

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

Name of prison establishment	Year	Compl aints receiv ed	Disciplin ary proceedi ngs initiated	Pre-trial investigati ons launched	Disciplinar y sanctions imposed	Criminal sanctions imposed
Alytus House of Correction	2007	48	0	0	0	0
	2008	40	0	0	1	0
Kybartai House of Correction	2007	10	0	0	0	0
	2008	14	0	0	0	0
Marijampolė House of Correction	2007	64	0	0	0	0
	2008	46	2	0	2	0
Panevėžys House of Correction	2007	0	0	0	0	0
	2008	0	0	0	0	0
Pravieniškės House of Correction No 1	2007	2	2	0	0	0
	2008	8	4	0	0	0
Pravieniškės House of Correction No 2	2007	8	0	0	0	0
	2008	5	0	0	0	0
Pravieniškės House of Correction No 3	2007	10	8	0	0	0
	2008	5	4	0	0	0
Pravieniškės House of Medical Treatment and Correction	2007	1	0	0	0	0
	2008	2	0	0	0	0
Vilnius House of Correction No 1	2007	10	0	0	0	0
	2008	7	0	0	0	0
Vilnius House of Correction No 2	2007	4	0	0	0	0
	2008	12	0	0	0	0
Kaunas Juvenile Remand Prison and House of Correction	2007	0	0	0	0	0
	2008	3	0	0	0	0
Kaunas Remand Prison	2007	16	0	0	0	0
	2008	18	0	0	0	0
Lukiškės Remand Prison and Prison	2007	33	0	0	0	0
	2008	18	0	0	0	0
Šiauliai Remand Prison	2007	21	1	0	1	0
	2008	17	0	0	0	0
Prison Hospital	2007	0	0	0	0	0
	2008	0	0	0	0	0
Total:	2007	227	11	0	1	0
	2008	195	10	0	3	0

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

Name of prison establishment	Year	Compl aints receiv ed	Disciplin ary proceedi ngs initiated	Pre-trial investigati ons launched	Disciplinar y sanctions imposed	Criminal sanctions imposed
Alytus House of Correction	2007	2	0	0	0	0
	2008	2	0	0	0	0
Kybartai House of Correction	2007	0	0	0	0	0
	2008	0	0	0	0	0
Marijampolė House of Correction	2007	1	0	0	0	0
	2008	4	0	0	0	0
Panevėžys House of Correction	2007	0	0	0	0	0
	2008	0	0	0	0	0
Pravieniškės House of Correction No 1	2007	0	0	0	0	0
	2008	1	0	0	0	0
Pravieniškės House of Correction No 2	2007	2	0	0	0	0
	2008	0	0	0	0	0
Pravieniškės House of Correction No 3	2007	0	0	0	0	0
	2008	0	0	0	0	0
Pravieniškės House of Medical Treatment and Correction	2007	0	0	0	0	0
	2008	0	0	0	0	0
Vilnius House of Correction No 1	2007	0	0	0	0	0
	2008	0	0	0	0	0
Vilnius House of Correction No 2	2007	0	0	0	0	0
	2008	0	0	0	0	0
Kaunas Juvenile Remand Prison and House of Correction	2007	0	0	0	0	0
	2008	0	0	0	0	0
Kaunas Remand Prison	2007	1	0	0	0	0
	2008	1	0	0	0	0
Lukiškės Remand Prison and Prison	2007	3	0	0	0	0
	2008	1	0	0	0	0
Šiauliai Remand Prison	2007	3	0	0	0	0
	2008	0	0	0	0	0
Prison Hospital	2007	0	0	0	0	0
	2008	0	0	0	0	0
Total:	2007	12	0	0	0	0
	2008	9	0	0	0	0

- *The Committee recommends that the Lithuanian authorities pursue their efforts to address the problem of inter-prisoner violence in the establishments visited (and, as appropriate, in other prisons in Lithuania). In this context, it is particularly important to ensure that all prisons have adequate levels of properly trained staff (paragraph 41).*

The following is done in order to address the problem of inter-prisoner violence:

1. As remarked by the Committee's delegation, dormitories are, as much as possible, converted into cells for an average of 6 persons. An amendment to the Penal Code of the Republic of Lithuania providing that living space in houses of correction must be locked at night has been prepared and submitted. Thus, convicts would feel safer.

2. The following preventive measures have been taken in prison establishments:

2.1. The HCR-20 violence risk assessment scheme, which is designed to predict the future occurrence of violence, was acquired and launched in 2008. All psychology specialists in prison establishment have finished special training intended for those applying the scheme.

2.2. The programme of prevention of criminal subculture manifestations in prison establishments was approved by the Director of the Prison Department under the Ministry of Justice of the Republic of Lithuania on 20 January 2009.

2.3. A cognitive behavioural correction programme entitled Just You and Me was acquired in 2008. One of programme modules is designed for therapy for manifestations of violence in behaviour. The programme is currently implemented by correctional inspectorates.

2.4. Psychology specialists of prison establishments implement target programmes orientated towards the prevention of violence, e.g. Identification and Management of Emotions, Stress and Crisis Management, Conflicts and Solutions, Development of Communication Skills, etc.

2.5. Individual psychological support is provided to convicts in correctional establishments who committed acts of violence before being taken into custody and are prone to violence.

Adapted to the needs of a specific prison establishment, a typical programme of individual work with convicts maintaining criminal subculture traditions, which is aimed at motivating convicts to break with criminal subculture traditions, was approved by Order No 1-115 of the Director of Pravieniškės House of Correction No 3 of 1 July 2008 (with other prison establishments taking over the experience).

We believe that the introduction of the abovementioned programmes and other measures in prison establishments will help to ascertain the main reasons for inter-prisoner violence and reduce the number of cases of violence.

3. Prison staff training programmes are being improved. A one-month/150-hour preparatory junior officer training programme previously conducted at the Training Centre of the Prison Department has been replaced with a two-month/312-hour programme. Ten hours of the programme are dedicated to subjects related to human rights, the Convention for the prevention of torture and inhuman or degrading treatment or punishment, international rules for the treatment of prisoners, etc. In addition, 20 hours of the preparatory training programme are dedicated to subjects related to the ensuring of human rights and prevention of torture in prison establishments (legal grounds for using special means and firearms, manifestations of convict subculture).

Seminars on subjects related to human rights, the Convention for the prevention of torture and inhuman or degrading treatment or punishment, and international rules for the treatment of prisoners were organised for employees of prison establishments and correctional inspectorates at the Training Centre of the Prison Department:

3 seminars in 2007;

7 seminars in 2008.

The 2009 plan of further training events of the Training Centre of the Prison Department for the staff of the Prison Department and bodies subordinate thereto includes 6 seminars on subjects related to human rights, the Convention for the prevention of torture and inhuman or degrading treatment or punishment, and international rules for the treatment of prisoners, such as psychological and physical violence and abuse, identification of symptoms of torture, convict subculture, reasons for its existence and means of eradicating it, international treaties banning discrimination and torture. An eight-hour training course on the judgements of the European Court of Human Rights against Lithuania in cases related to prison establishments was organised in the Prison Department.

Each prison establishment draws up a staff training plan on an annual basis. According to the Prison Department's recommendations on staff training, the duration of staff training conducted by prison establishments may not be shorter than 16 hours per year, with pass/fail examinations taken at the end of training.

- *The Committee recommends looking for alternative means of protection of vulnerable prisoners (paragraph 42).*

The Penal Code (Article 70(6)) includes a provision which allows keeping a person separately from other convicts in a correctional establishment if he/she requests so in writing and indicates important reasons for it. The director of the correctional establishment is entitled to transfer such a convict to a cell for a period of up to 6 months. It should be noted that such a transfer is not a disciplinary penalty. Convicts usually ask to transfer them to cells saying that other convicts may use violence against them.

As already mentioned in the reply to the recommendation provided in paragraph 41, prison establishments are actively implementing special programmes and other measures aimed at reducing inter-prisoner violence. One of the results of implementation of such programmes and measures is a considerable decrease in the number of convicts' requests to keep them separately from other convicts in prison establishments:

In 2003, Article 70(6) of the Penal Code was invoked against 169 convicts;

In 2007, Article 70(6) of the Penal Code was invoked against 23 convicts;

In 2008, Article 70(6) of the Penal Code was invoked against 1 convict.

As at 1 April 2009, Article 70(6) of the Penal Code was not invoked against any convict.

3. Conditions of detention of the general prison population

- *The Committee recommends renovating the sanitary facilities in Pravieniškės House of Correction No 3 which are not in the cells, equipping the building accommodating the prisoners who work with showers, building partitions in all the toilets, and replacing the mattresses that are in a very bad state. The Committee also asks to provide information on the refurbishment work carried out in the strict regime section of Pravieniškės House of Correction No 3 (paragraph 43).*

Six sections were fully refurbished in Pravieniškės House of Correction No 3 in 2005: the living rooms and sanitary facilities were renovated and showers, kitchenettes and relaxation rooms were arranged. Three sections are still in need of refurbishment.

The sanitary facilities were renovated and 2-metre partitions built in the toilets in the building accommodating working prisoners in 2008.

The following refurbishment work was carried out in the strict regime section in 2008:

- the roof was renovated;
- a new sewage pipe was laid in the dormitory;

- major repairs were carried out on the sanitary facilities;
 - the ceilings of the premises were painted;
 - the walls of the living space were wallpapered.
- Fifty new mattresses were bought in 2008 to replace the unusable ones.

- *The Committee recommends that the Lithuanian authorities implement as quickly as possible the plans to construct a new remand prison near Vilnius and move Lukiškės Remand Prison there in 2011. The Committee asks to provide a detailed schedule concerning the construction/commissioning of the new Remand Prison in Vilnius (paragraph 44).*

As already indicated in the reply to the recommendation provided in paragraph 34, draft amendments to the Plan of Measures for the Implementation of the Strategy for the Development of Bodies Subordinate to the Prison Department under the Ministry of Justice for 2008–2033, which are being drafted and are to be submitted to the Government for consideration in the immediate future, envisage attracting private capital investments and building a new remand prison for approximately 2000 persons on the outskirts of Vilnius by 2015, to be followed by the transfer of Lukiškės Remand Prison to this establishment.

- *The Committee recommends taking the necessary steps to ensure that all persons detained in Lukiškės Remand Prison, including remand prisoners, have acceptable conditions as regards cell equipment and furnishings, as well as heating during cold weather. All prisoners should be provided with cleaning products (in sufficient quantity) for their cells (paragraph 45).*
- *The Committee also recommends taking steps to ensure that all prisoners in Lithuania have adequate quantities of essential personal hygiene products (paragraph 46).*

Major repairs on Lukiškės Remand Prison and Prison have been performed for several years already. As indicated by the Committee in its reports, the first block and the right wing of the second block have been renovated. LTL 900,000 was allocated for the renovation of Lukiškės Remand Prison and Prison in 2009. The money will be used for the reconstruction of 2 floors of the left wing of the second floor (36 cells). The renovation work cannot be speeded up due to lack of funds and the impossibility to empty a larger number of cells in the overcrowded establishment at the same time.

The standards for material supplies for detainees and convicts kept in prison establishments were supplemented by Order No 1R-79 of the Minister of Justice of 19 March 2009. It was additionally stipulated that once a month detainees must receive a toothbrush, toothpaste and shaving items free of charge. The provision of detainees and convicts with soap, toilet paper and cleaning products for their cells was provided for in the standards for material supplies approved back in 2004.

A legal provision stating that convicts serving sentences in prison establishments who do not have money in their personal accounts and cannot earn money may receive a monthly payment of up to LTL 39 from the funding allocated for prison establishments to buy certain necessities (including personal hygiene products) came into effect in 2006.

- *The Committee calls on the Lithuanian authorities to take the necessary steps, without further delay, to ensure that remand prisoners at Lukiškės Remand Prison and Prison (and, where appropriate, at other remand prisons in Lithuania) are provided with a programme of out-of-cell activities, including group association activities. The relevant legislation should be amended accordingly. In addition, steps should be taken to ensure that all sentenced prisoners at Pravieniškės House of Correction No 3, including those in the arrest section, are able to spend a reasonable part of the day outside their cells engaged in purposeful activities of a varied nature (work, preferably with vocational value, education, sport, and recreation), including group association activities (paragraph 49).*

It is difficult to organise detainees' activities outside their cells at Lukiškės Remand Prison and Prison, particularly group association activities. The remand prison is in the city centre, the territory is small, and the establishment is overcrowded. The following measures have been taken to use the available resources:

1. The film demonstration procedure was approved by Order No 1-81 of the Director of Lukiškės Remand Prison and Prison of 29 August 2008, with a room for demonstrating films arranged in the first living block. A total of 426 detainees had an opportunity to watch films in 2008. It has already been decided to arrange a room for film demonstration in the second living block.

2. Detainees have been provided with sports facilities in the first living block. The procedure for taking detainees and convicts to the sports hall was approved by Order No 1-80 of the Director of Lukiškės Remand Prison and Prison of 29 August 2008. A total of 597 detainees and convicts went to the sports hall in 2008. Social rehabilitation staff organise sports competitions as often as they can. Thirteen indoor sports competitions (draughts, chess, dominoes and table tennis tournaments) were organised in 2008. These events were attended by a total of 124 persons.

3. Basketball, volleyball and weight-lifting competitions are organised in the courtyard of the establishment during the warm season, but only convicts have been able to take part in them so far.

4. At the end of 2008, a chaplaincy was arranged in the first living block, where the chaplain can communicate with detainees and convicts. The chapel of the establishment was previously the only place where detainees and convicts could attend religious rites.

5. The following programmes of detainees' and convicts' activities have been approved by orders of the Director of Lukiškės Remand Prison and Prison and are being implemented: a yoga programme for female detainees, a Minnesota 12 step programme for persons addicted to psychotropic substances, an art therapy programme for detainees and convicts.

Approximately 25% of convicts in Pravieniškės House of Correction No 3 are provided with paid jobs at the branch office of Public Enterprise under Pravieniškės House of Correction No 1 and in the household services sector. The establishment is starting to employ sentenced prisoners in the arrest section – 2 convicts were employed as at 1 March 2009 (5% of all convicts in the arrest section). The employment rate among convicts is expected to improve – modern equipment is planned to be assembled and windows manufactured at one of the units of the branch of Public Enterprise under Pravieniškės House of Correction No 1 that is currently being reconstructed.

No major problems are encountered in the organisation of work of convicts serving sentences in Pravieniškės House of Correction No 3 (just like in other houses of correction): there is a comprehensive school, a branch of a vocational school, and the convicts are free to spend their time within the territory of the establishment, take exercise, use library services, etc.

More problems are encountered in the organisation of work of convicts in the arrest section as such convicts are kept in locked cells. In 2008, the organisation of employment of convicts in the arrest section was confined to measures the implementation of which did not require the convicts to leave the local territory of the arrest section: lectures, motivational conversations, dominoes, draughts, chess, crossword puzzle tournaments, and strength competitions (pull-ups, press-ups and parallel bar push-ups). The programme of leisure activities of convicts in the arrest section was approved by Order No 1-76 of the Director of Pravieniškės House of Correction No 3 of 29 April 2009. The programme provides for the taking of such convicts to a common leisure centre of the establishment and athletic fields in the living space of convicts serving sentences of imprisonment according to approved schedules.

4. Conditions of detention of life-sentenced prisoners

- *The Committee recommends that the Lithuanian authorities pursue their efforts to develop the regime applicable to life-sentenced prisoners, taking account of Recommendation Rec(2003)23 of the Committee of Ministers of the Council of Europe on the management by prison administrations of life sentence and other long-term prisoners (paragraph 52).*

As at 27 April 2009, there were 105 life-sentenced prisoners in Lithuania.

Pursuant to the Penal Code, life-sentenced prisoners shall serve the first ten years of the sentence imposed on them in prison. Later, considering their behaviour in prison and security requirements, and if proposed by the prison administration, the court may transfer convicts to a house of correction for the rest of their term of imprisonment. As at 27 April 2009, there were 20 life-sentenced prisoners in houses of correction (19% of all life-sentenced prisoners). Such persons are accommodated in dormitories, with no restrictions imposed on their group association activities. In the daytime, they are free to move around the territory of the division and take exercise.

It is more difficult to organise the employment and group association activities of life-sentenced prisoners for persons kept in prison. As at 27 April 2009, there were 83 life-sentenced prisoners in Lukiškės Prison. Approximately one-third of these persons have a permanent job (25 convicts had a job on 27 April 2009). In addition to the measures favoured by the Committee's experts, it is planned to organise groups of 4 to 5 life-sentenced prisoners in Lukiškės Prison in 2009 and try to arrange educational and social skill development classes. In addition, the establishment will continue organising basketball, volleyball and weight lifting competitions of life-sentenced prisoners in the courtyard during the warm season.

5. Conditions of detention of juveniles

- *The Committee recommends that the Lithuanian authorities pursue their efforts with a view to ensuring that all prisoners detained at Kaunas Juvenile Remand Prison are provided with a programme of purposeful out-of-cell activities, including group association activities, tailored to their needs (education, sport, recreation, etc.). The longer the period for which remand prisoners are detained, the more developed should be the activities which are offered to them. The Committee also recommends replacing the cubicles located on the roof of the remand block at Kaunas as quickly as possible with outdoor exercise yards which are sufficiently large to enable prisoners to exert themselves physically and adequately equipped (including shelter from inclement weather). In addition, the Committee would like to receive detailed information on the planned improvement of material conditions at Kaunas Juvenile Remand Prison, including a precise schedule for the carrying out of this work (paragraph 55).*

The implementation of measures specified in the plan of measures to improve the activities of juvenile prisoners, approved by Order No 1-68 of the Director of Kaunas Juvenile Remand Prison of 30 June 2008, is continued: detainees are taught in classes; although the duration of classes fixed in the teaching plan has not been increased from 13.5 hours to 30 hours per week yet, detainees go to sports facilities, the employment centre and computer class according to an approved schedule; 7 additional social workers have been hired.

A project of arrangement of athletic fields and outdoor exercise yards in the territory of the juvenile remand prison has been prepared. LTL 575,000 has been allocated from the national budget for works and a contractor has been selected. The project envisages arrangement of 2 recreation grounds with sports equipment, the total area of which will be 190 m², and 6 exercise yards with shelters from inclement weather, the total area of which will be 86 m². The average area of one yard will be 14 m². The works related to the arrangement of athletic fields and outdoor exercise yard are moving to their end and are to be completed by the 1st of September 2009.

A project of reconstruction of living space in Kaunas Juvenile Remand Prison and House of Correction has been prepared and funding has been earmarked and the contractor for the performance of the works has been selected. The works have been started and are to be performed according to the following schedule:

Reconstruction of the remand prison

- | | |
|---|------------------------|
| - construction of a gable roof on the building | – III quarter of 2009; |
| - reconstruction of the heating system | – III quarter of 2009; |
| - replacement of windows in cells | – IV quarter of 2009; |
| - replacement of pipes and sanitary facilities in cells | – IV quarter of 2009; |
| - repairs to the floor | – IV quarter of 2009; |
| - electrical system repairs | – IV quarter of 2009; |
| - reconstruction of ventilation systems | – II quarter of 2010; |
| - reconstruction of weak current circuits | – II quarter of 2010; |
| - painting of the ceiling and walls in cells | – II quarter of 2010. |

Reconstruction of the house of correction

- construction of a gable roof on the building – III quarter of 2009;
- Reconstruction of sleeping rooms on the fourth floor:
 - installation of sanitary facilities in each sleeping room – III – IV quarter of 2009;
 - electrical system reconstruction – III – IV quarter of 2009;
 - replacement of windows – IV quarter of 2009;
 - reconstruction of ventilation systems – I quarter of 2010;
 - replacement of doors – I quarter of 2010;
 - repairs to the ceiling, walls and floor – I – II quarter of 2010;
- Repairs to the first-floor premises:
 - repairs to the canteen – III quarter of 2009;
 - repairs to the kitchen – III quarter of 2009;
 - replacement of windows – III quarter of 2009;
 - repairs to the ceiling, walls and floor – III quarter of 2009;
 - reconstruction of the basement with arrangement of rooms for supervisors – I – II quarter of 2010.

6. Health care services

- *The Committee recommends that the Lithuanian authorities accord high priority to implementing the relocation of Lukiškės Prison Hospital. The Committee would like to receive a detailed account of the progress made with regard to the construction of the new prison hospital in Pravieniškės (paragraph 56).*

The therapeutic, surgery, admission and tuberculosis departments of the hospital and exercise yards have been reconstructed in Pravieniškės (general construction, heating and ventilation, water supply and sewage, power supply and weak current circuit installation works have been carried out). The psychiatric and outpatient departments are under construction and the territory is tidied up. LTL 621,000 was allocated for the construction of the hospital in Pravieniškės in 2009. LTL 18,842,000 was used by 1 January 2009. The total value of the object is LTL 31,570,000. Sixty percent of planned work has been carried out on the object.

- *The Committee would like the Lithuanian authorities to provide their comments on the potential conflict of interest between the psychologist's therapeutic activities and her involvement in decision-making processes (e.g. allocation of prisoners to different security regimes) (paragraph 57).*

It should be noted that, pursuant to legal acts of the Republic of Lithuania regulating execution of sentences, decisions on allocation of prisoners to another security regime in prison establishments shall be made by the head of the prison establishment, who shall decide on the allocation of convicts to a specific local sector, section, regime or on disciplinary liability of convicts in view of a collective proposal of a commission. Psychologists employed by the establishment are members of such commissions as well. We regard the involvement of a psychologist in the commission submitting proposals to the head of the establishment as positive, because the psychologist is not directly involved in decision-making but can express his/her professional opinion on the decision made.

- *The Committee recommends taking the necessary steps to fill the vacant psychiatrist's post at Kaunas Juvenile Remand Prison and House of Correction (paragraph 59).*

A paediatric psychiatrist works part-time at Kaunas Juvenile Remand Prison and House of Correction. In order to guarantee juvenile detainees and convicts access to mental health care services, the paediatric psychiatrist can work longer and receive additional remuneration for work. Therefore, given the current number of persons kept at Kaunas Juvenile Remand Prison and House of Correction (an average of 196 persons), the psychiatrist's services are available to all detainees and convicts requiring such services.

Juveniles in need of third-level psychiatric assistance go to public enterprise Kaunas Medical University Clinics. After consultations in this establishment, patients at Kaunas Juvenile Remand Prison and House of Correction are administered treatment, taking account of medical specialists' advice. The administration of Kaunas Juvenile Remand Prison and House of Correction are constantly looking for a paediatric psychiatrist to fill the vacant part-time position. Advertisements have earlier been placed in the press, with a notice recently placed on the website of the labour exchange.

- *The Committee recommends replacing, as soon as possible, the X-ray machine at Lukiškės Remand Prison and Prison as well as the X-ray machine and the dentist's chair at Pravieniškės House of Correction No 3 (paragraph 60).*

LTL 75,000 was allocated for Pravieniškės House of Correction No 3 in 2008, which the establishment used to acquire modern equipment for the dentist's office. It has considerably improved the quality of dentist services provided to convicts at this prison establishment.

Due to financial difficulty, the issue of replacement of X-ray machines has not been solved yet.

- *The Committee recommends that in all prison establishments in Lithuania, the record drawn up after a medical examination of a prisoner who has suffered injuries (whether the record is drawn up upon admission or during detention) should contain:*
 - *A full account of statements made by the prisoners concerned which are relevant to the medical examination, including any allegations of ill-treatment;*
 - *A full account of objective medical findings based on a thorough examination;*
 - *The doctor's conclusions in the light of (i) and (ii). In the conclusions, the doctor should indicate the degree of consistency between allegations made and the objective medical findings;**(paragraph 62).*

Medical staff of all places of deprivation of liberty in Lithuania makes records in medical files of the detained/convicted persons on the

- allegations of a detained/convicted person regarding the health impairment suffered (circumstances of an incident are recorded as described by the detained/convicted person);
- results of medical examination.

Medical staff of the places of deprivation of liberty is not entitled and competent to provide views on whether allegations of a detained/convicted person regarding the health impairment suffered correspond to the results of medical examination. According to the Rules for Ascertaining the Extent of Health Impairment approved by Order No V-298/158/A1-86 of the Minister of Health, Minister of Justice and the Minister of Social Affairs and Labour of the Republic of Lithuania of 23 May 2003 (Official Gazette Valstybės Žinios, 2003, No 52-2357), such views shall be submitted only by experts of forensic medicine.

Moreover, Item 262 of the Internal Rules of Correctional Institutions and Item 111 of the Internal Rules of Remand Prisons imperatively demand that the management of the places of deprivation of liberty should promptly inform a prosecutor at a territorial prosecutor's office, in written, about every health impairment (bodily injury) suffered by a detained/convicted person. Thereby external review of the investigation into instances of health impairment suffered by the detained/convicted persons is ensured. The review *inter alia* covers allegedly inappropriate behaviour of the employees of the places of deprivation of liberty with respect to the detained/convicted persons by means of physical violence. Where necessary, a prosecutor is entitled to initiate investigation into allegedly inappropriate behaviour of the employees of the places of deprivation of liberty on his/her own.

- *The Committee recommends reviewing the approach taken at Lukiškės Remand Prison and Prison (and, where appropriate, in other prison establishments in Lithuania) to the prevention of drug abuse and the management of drug-addicted prisoners. The Committee wishes to underline that appropriate and effective management of drug-addicted prisoners must be varied — combining detoxification, psychological support, socio-educational programmes and rehabilitation and substitution programmes for users addicted to opiates who are unable to stop drug-taking (paragraph 65).*

It should be noted that socio-psychological rehabilitation measures are applied to drug addicts kept in prison establishments. Individual work with drug addicts is organised and individual consultations are provided to them. A correctional programme entitled Behaviour-Conversation-Change (BCC) has been prepared and is being implemented for this purpose.

Persons placed in prison establishments who develop symptoms of abstinence are transferred to the Prison Hospital to receive required health care services and treatment for physical abstinence. Substitution therapy (methadone, buprenorphine or other medicines) is not currently administered. Although opioids ranked second (to the use of several narcotic substances; 44.7%) in term of use among persons using narcotic substances in 2008 (40.8% of all known cases), there has been a considerable decrease in the use of opioids. Only isolated persons who have attended substitution therapy courses are placed in prison establishments. They say nothing about their participation in substitution therapy programmes. In addition, before being placed in prison establishments, they are kept in police detention centres where they do not receive substitution therapy.

- *The Committee recommends steps to be taken at Kaunas Juvenile Remand Prison and House of Correction (and, where appropriate, in other prison establishments in Lithuania) to ensure that prisoners who wish to see medical staff are able to contact health-care staff directly, without going through prison officers (recording in a register)(paragraph 67).*

Convicts who live in dormitories and are free to move around the territory of a prison establishment go to the medical office on their own.

Detainees and convicts who are kept in cells and cannot go to the medical office on their own are registered in advance. It is done to guarantee every detainee and convict the right of free access to a medical specialist. Advance registration is not applied in cases of acute health impairment where medical assistance has to be provided without delay.

Detainees and convicts locked up in disciplinary (punitive) isolation wards are visited by medical specialists.

If preliminary registration was renounced and it was established that medical specialists must visit all detainees and convicts kept in cells, medical specialists would spend a lot of time on it and this would affect the quality of health-care services in prison establishments.

- *The Committee recommends steps to be taken to ensure that, at Lukiškės Remand Prison and Kaunas Juvenile Remand Prison and House of Correction (and, where appropriate, in other prison establishments in Lithuania), medical consultations/examinations of prisoners are conducted out of the hearing and – unless the doctor concerned specifically requests otherwise in a particular case – out of the sight of non-medical staff (paragraph 68).*

The staff of all prison establishments has been additionally informed of this recommendation of the Committee. According to the internal rules for correctional establishments and the internal rules for remand prisons, a supervisor may be present in the medical specialist's office during medical consultations/examinations of a prisoner only if requested so by the medical specialist who, under the laws of Lithuania, is responsible for the confidentiality of medical consultations/examinations. Therefore, being responsible for confidentiality, medical specialists cannot abuse the right to ask a supervisor to attend medical consultations/examinations for safety's sake. In addition, according to the abovementioned rules, at the request of a medical specialist, medical consultations/examinations of a prisoner may only be attended by a supervisor of the same sex as the patient.

7. Other issues

- *The Committee recommends that the Lithuanian authorities pursue their efforts to fill all the vacant prison officers' posts in prison establishments (paragraph 70).*

There have been positive changes in the situation in prison establishment regarding prison officers' posts: there are 122 vacant posts in prison establishments, which account for 3.5% of all approved posts in prison establishments.

- *The Committee recommends that the Lithuanian authorities accord a high priority to both the initial and ongoing training of prison staff (of all grades). In this context, steps should be taken to increase the length of initial training and enhance training (initial and in-service) relating to the acquisition and development of skills for establishing relations with prisoners. Further, staff required to work in establishments for juveniles should receive special training for dealing with persons of this age (paragraph 71).*

As already indicated in the reply to the recommendation provided in paragraph 40, prison staff training programmes are being improved. A one-month/150-hour initial junior officer training programme previously conducted at the Training Centre of the Prison Department has been replaced with a two-month/312-hour programme. The programme was launched in March 2009.

Ten hours of the programme are dedicated to subjects directly related to human rights, the Convention for the prevention of torture and inhuman or degrading treatment or punishment, and international rules for the treatment of prisoners. In addition, 20 hours of the initial training programme are dedicated to subjects related to the ensuring of human rights and prevention of torture (e.g. legal grounds for using special means and firearms, manifestations of convict subculture).

Seminars on subjects related to human rights, the Convention for the prevention of torture and inhuman or degrading treatment or punishment, and international rules for the treatment of prisoners were organised for employees of prison establishments and correctional inspectorates at the Training Centre of the Prison Department:

3 seminars in 2007;

7 seminars in 2008.

The 2009 plan of further training events of the Training Centre of the Prison Department for the staff of the Prison Department and bodies subordinate thereto includes 6 seminars on subjects related to human rights, the Convention for the prevention of torture and inhuman or degrading treatment or punishment, and international rules for the treatment of prisoners, such as psychological and physical violence and abuse, identification of symptoms of torture, convict subculture, reasons for its existence and means of eradicating it, international treaties banning discrimination and torture.

On the 30th of January 2009 a seminar on the subject of “Application of the methodologies SARA and B-SAFER for the assessment of risk of domestic violence against women” was held in the Training Centre of the Prison Department. The duration of the seminar was 6 academic hours, the number of participants amounted to 26.

On the 21st of April 2009 an eight-hour training course on the judgements of the European Court of Human Rights against Lithuania in cases related to prison establishments was organised in the Prison Department. The duration of the seminar was 4 hours, the number of participants amounted to 47.

On the 25th of June 2009 a seminar on the subject of “Psychological and physical violence and abuse, recognition of the symptoms of torture” targeted at employees of health care services at prison establishments was held in the Training Centre of the Prison Department. The duration of the seminar was 8 academic hours, the number of participants amounted to 28.

Each prison establishment draws up a staff training plan on an annual basis. According to the Prison Department's recommendations on staff training, the duration of staff training conducted by prison establishments may not be shorter than 16 hours per year, with pass/fail examinations taken at the end of training.

The Juvenile Justice Programme for 2004–2008 was approved by Resolution No 600 of the Government of the Republic of Lithuania of 19 May 2004. The measures for the implementation of this programme provide for training of prison officers working with juveniles and funding required for this purpose. In 2008, the Training Centre of the Prison Department organised two seminars for officers working with juveniles on the following subjects:

- Experience of foreign countries in organising and performing the supervision of juveniles who have committed criminal acts. The specifics of effective communication with delinquent juveniles (16 academic hours);
- Application of educational measures for juveniles. Implementation of preventive measures against recidivist crimes committed by juveniles (6 academic hours).

On 20–23 October 2008, two officers participated in an international conference entitled Juvenile Justice Systems in Europe, which took place in Valencia (Spain).

A seminar for officers working with juveniles on the specifics of implementation and control of educational measures indented for juveniles was held at the Training Centre of the Prison Department on the 23rd of June 2009.

- *The Committee recommends steps to be taken at Kaunas Juvenile Remand Prison and House of Correction to put an immediate end to the practice of obliging prisoners to face the wall when staff pass by (paragraph 72).*

None of the effective legal acts regulating the activities of prison establishment sets forth such a requirement. It may be a practice pursued earlier in case of a face-to-face meeting of two groups of escorted detainees. In such cases, in order to prevent prohibited conversations or even violence, one of the groups is ordered to face the wall when the other group passes by. Prisoners may also be ordered to face the wall during a search of a detainee (convict). The administration of Kaunas Remand Prison and House of Correction has been instructed not to issue orders for detainees (convicts) to face the wall.

- *The Committee recommends informing prisoners in writing of the offences they were said to have committed and, upon imposing a disciplinary sanction on them, submitting a copy of the decision (paragraph 73).*

Under the laws of the Republic of Lithuania as well as other legal acts regulating the activities of prison establishments (internal rules for correctional establishments and internal rules for remand prisons), at a prisoner's request, the administration of a prison establishment must make a copy of any document contained in the prisoner's personal file.

- *The Committee would like to receive the comments of the Lithuanian authorities on prisoners' access to a lawyer during hearings before the disciplinary board (paragraph 74).*

Legal acts do not prohibit prisoners' access to a lawyer during hearings before the disciplinary board. However, in such a case, prisoners would have to pay the lawyer themselves as state-guaranteed legal aid is provided during court proceedings only.

- *The Committee recommends that the Lithuanian authorities review the strict regime. In particular, all prisoners subject to that regime (including those held in disciplinary cellular confinement) should be allowed to receive visits on a regular basis. Moreover, additional out-of-cell activities should be organised (paragraph 76).*

The Penal Code that came into effect on 1 May 2003 (Article 142(2)) provides for the division of convicts into three groups in terms of their behaviour during the serving of sentences, namely ordinary, “lenient” and disciplinary regime. The conditions of detention differ in different groups: the right to receive visits; the right to make a phone call; prisoners from the disciplinary group are locked up in cells at night time. It helps to implement the principle of fair and progressive serving of sentences: good behaviour – more liberties, bad behaviour – more restrictions. The provision that convicts kept in houses of correction who systematically or deliberately violate the established regime may be transferred to the disciplinary group indefinitely was in force until 1 June 2005. In 2005, the Penal Code was amended, stipulating that convicts systematically or deliberately violating the established regime may be transferred from the ordinary to the disciplinary group for a period of 6 months to one year. Convicts kept in prisons may be transferred to the disciplinary group for a period of 2 to 6 months. Convicts of the disciplinary group kept in houses of correction are free to leave their living space and move around the territory of the disciplinary unit, take exercise and communicate within their groups in the daytime.

If a convict of the disciplinary group kept in a house of correction systematically or deliberately violates the established regime, the convict may be punished, i.e. transferred to a cell for a period of up to 6 months. Such convicts are kept in locked cells.

The Penal Code (Article 142(1)(4), (5)) also provides for the placement of convicts in a punitive isolation ward (or in a punishment cell in prisons) for up to 15 days and the placement of juvenile convicts in a disciplinary isolation ward for up to 10 days.

The abovementioned punishments are the most severe punishments imposed on convicts under the law and are applied only in exceptional cases. It is confirmed by statistical data: 297 persons were kept in the disciplinary group on 27 April 2009 (they accounted for 3.6% of all persons kept in prison establishments), including 137 locked up in cells (1.7% of all persons kept in prison establishments). A total of 167 persons were kept in punitive isolation wards (2.0% of all persons kept in prison establishments).

- *The Committee recommends that the management of Pravieniškės House of Correction No 3 (and, where appropriate, of other prison establishments) reconsider their approach to self-harm by convicts and do not subject convicts to disciplinary sanctions for committing acts of self-harm (paragraph 77).*

Under the laws of the Republic of Lithuania, prisoners may not be, and are not, subjected to disciplinary sanctions for committing acts of self-harm.

Sometimes prisoners harm themselves in protest against being caught in the act of breaching the established regime. Such prisoners are provided with medical and, where necessary, psychological assistance, with an investigation launched into the disciplinary offence committed before the act of self-harm. Prisoners sometimes describe such cases as imposition of disciplinary sanctions for self-harm.

- *The Committee recommends steps to be taken without delay to remedy the shortcomings observed in disciplinary cells at Pravieniškės House of Correction No 3. In particular, all cells should have adequate access to natural light and appropriate artificial lighting, ventilation and heating. Moreover, all individual cells measuring less than 6 m² should be taken out of service as, by virtue of their very size, they are unsuitable for use for accommodation purposes in a prison establishment (paragraph 78).*

We would like to inform you that the smallest cells (No 12, No 13 and No 14) are not used. Cell No 15 has been renovated, with sanitary facilities repaired.

Exhaust ventilation is functioning in disciplinary cells.

- *The Committee recommends reviewing the segregation procedures at Kaunas Juvenile Remand Prison based on Article 70 of the Penal Code and applying them only in exceptional cases (paragraph 79).*
- *The Committee recommends developing the programmes of activities at Kaunas Juvenile Remand Prison for prisoners held in segregation (paragraph 80).*

Article 70(4) of the Penal Code provides for the right of the administration of a correctional establishment to hold convicts breaching the established regime in segregation. The duration of segregation has not been fixed. According to the procedure for transferring convicts from the ordinary group to section No 6, approved by Order No 1-16 of the Director of Kaunas Juvenile Remand Prison and House of Correction of 21 January 2009, convicts may be transferred to this section by decision of the director of the establishment for a period of up to 6 months, convicts must be explained the procedure for appealing against the decision and given a copy of the decision. Kaunas Juvenile House of Correction puts this provision into practice only in exceptional cases when convicts refusing to obey the established regime make a negative influence on other juvenile convicts and there is a risk that offenders may use violence against other convicts. The management of the Prison Department and Kaunas Juvenile House of Correction have discussed the possibilities for putting an end to the practice of segregation of rebellious juveniles on a number of occasions, but so far has only managed to reduce the number of convicts held in segregation: 3 convicts were held in segregation at Kaunas Juvenile House of Correction in April 2009.

Representatives of the administration of Kaunas House of Correction work with segregated convicts individually, such convicts participate in group association programmes according to approved schedules as well as in cultural events organised by the establishment.

- *The Committee recommends providing Kaunas Juvenile Remand Prison (and, where appropriate, other prison establishments) with facilities for the placement of agitated and/or violent prisoners. The facilities should be safe (i.e. free of objects which could be used to cause injury) and enjoy adequate light and heating. The prisoners concerned should be kept under constant custodial surveillance (paragraph 82).*

During initial training of prison staff, it is emphasised that temporary restrictions must be imposed on prisoners strictly according to the requirements set forth in the Law on Detention and the Penal Code. Every year, this issue is included in the programme of seminars organised by the Training Centre of the Prison Department.

Kaunas Juvenile Remand Prison is provided with facilities for the placement of agitated or violent prisoners. These facilities are near medical facilities. The prisoners concerned are kept under constant custodial surveillance.

- *The Committee recommends adopting the provision stipulating that the decision to control remand prisoners' correspondence must be taken by a judicial authority (paragraph 83).*

On 1 July 2008, the Parliament of the Republic of Lithuania passed the Law on Detention, which came into effect on 1 April 2009. Pursuant to Article 16(2) of the Law, in order to prevent criminal acts or other infringement of legal acts or to protect other persons' right and liberties, letters received and sent by detainees may be checked by decision of a pre-trial judge or court. The decision must indicate the grounds, duration and method of checking letters, the persons whose letters will be checked, and other circumstances making it necessary to check the letters.

- *The Committee notes that it would be desirable to increase the number of telephones at Pravieniškės House of Correction No 3 to guarantee convicts the right to make phone calls (paragraph 84).*

There are 4 telephones at Pravieniškės House of Correction No 3 which can be used by convicts. Such a number of telephones is sufficient for the convicts kept at the establishment. Convicts have not complained about inconveniences related to the right to make phone calls.

If the number of convicts at the establishment is on the rise and there is a need for installing more telephones, the number of telephones will be increased.

- *The Committee recommends that access to a telephone should be formally guaranteed for remand prisoners (paragraph 85).*

As already indicated in the reply to the recommendation provided in paragraph 83, the Law on Detention came into effect on 1 April 2009. Article 23 of the Law provides for the right of detainees to make phone calls.

- *The Committee recommends that all adult sentenced prisoners should receive at least one visit per month. The visiting rights of juveniles should be more favourable (paragraph 86).*

Adult sentenced prisoners subject to the “lenient” regime have the right to receive one visit per month. Juvenile convicts subject to the “lenient” regime have the right to receive two visits per month.

Adult sentenced prisoners subject to the ordinary regime have the right to receive one visit per every six weeks. Juveniles subject to the ordinary regime have the right to receive one visit per month.

Moreover, pursuant to Article 94(7) of the Penal Code, the director or a person substituting for the director is entitled to allow additional visits for convicts subject to the ordinary or “lenient” regime to maintain social relations.

In practice, additional visits are granted quite often and therefore convicts whose relatives wish to see them more frequently are guaranteed a number of visits similar to that recommended by the Committee.

- *The Committee again recommends that the Lithuanian authorities review the current arrangements concerning visits for remand prisoners. In particular, the restrictive practice currently applied in respect of such visits can and should be changed (paragraph 87).*

Article 22 of the Law on Detention that came into effect on 1 April 2009 provides for the right of detainees to receive visits. The number of detainees' meetings with their relatives and other persons is not limited, but a visit is allowed only with consent of the prosecutor supervising or conducting the pre-trial investigation or of court.

Compared to the previous provision of the Law on Custody on visits for detainees, the provision of the Law on Detention is improved, as the prosecutor or court may give or refuse permission to receive a visit (the previous provision stipulated that a pre-trial investigation officer could either give or refuse permission to receive a visit). Moreover, the section of the Law on Detention regulating the right of detainees to receive a visit has been supplemented with the provision that if the prosecutor or court refuses permission for a detainee to receive a visit, they must provide the detainee and the administration of the remand prison with a motivated decision.

- *The Committee recommends redesigning the visiting areas at Pravieniškės House of Correction No 3 (and, where appropriate, in other prison establishments), or providing other premises, so that visits may take place in more open conditions (paragraph 88).*

Convicts kept in prison establishments in Lithuania have the right to two types of visits: brief visits that last up to 4 hours and long visits that last up to 2 days.

Convicts are allowed to have brief meetings with not only their spouses (cohabitants), close relatives but also with other persons. Therefore, in order to avoid the transfer of prohibited items (narcotic, psychotropic and other substances and items) to convicts, no physical contact is allowed during brief meetings.

Convicts have the right to long visits by their spouses (cohabitants) and close relatives, during which their visitors can stay with convicts.

Brief visits received by juveniles take place in open conditions — they sit at a table and interact directly.

- *The Committee would like to receive a copy of the report on the visit of the Children's Ombudsman to Kaunas Juvenile Remand Prison and House of Correction in 2007 (paragraph 90).*

In 2007, the Children's Rights Ombudsman Institution implemented a project entitled Assistance in the Development of the Children's Rights Protection System in Georgia, during which representatives of the Georgian Public Defender, Ministry of Education and UNICEF Georgia paid a visit to Lithuania. One of the objectives of the project was to acquaint the Georgian representatives with the Juvenile Justice Programme implemented in Lithuania, the activities of Kaunas Juvenile Remand Prison and House of Correction as well as changes in the activities of this establishment. It was the purpose of the visit of representatives of the Children's Rights Ombudsman Institution and the abovementioned Georgian institutions to Kaunas Juvenile Remand Prison and House of Correction in October 2007.

C. PSYCHIATRIC/SOCIAL WELFARE ESTABLISHMENTS

1. Living conditions

- *The Committee recommends removing the metal door and the additional inner door (in the form of metal bars) in the ward for patients under strict supervision in Rokiškis Psychiatric Hospital without delay (paragraph 97).*

The double doors were installed according to the security requirements prepared and approved by an interdepartmental working group set up by order of the Minister of Health. The working group prepared the requirements according to security system requirements for prisons, which were approved by Order No 45 of the head doctor of Rokiškis Psychiatric Hospital of 14 June 2004 after being coordinated with the Police Department under the Ministry of the Interior. In the near future, the Ministry of Health intends to approach the administration of Rokiškis Psychiatric Hospital about amendment of the order.

- *The Committee would like to receive the latest information on the progress made with regard to the ongoing renovation of Rokiškis Psychiatric Hospital (paragraph 99).*

At the time of inspection, renovation works were performed on two hospital departments and patients were treated in the departments at the same time. Therefore, treatment conditions were evaluated as bad. The situation has changed considerably – the renovation of one of the two departments has been completed and patients from both departments have been transferred to renovated premises. The renovation of the other department has not been completed yet, but patients are not kept there.

LTL 200,000 was allocated from the investment programme of the Ministry of Health for the renovation of this department this year. However, this amount will not suffice for completing the renovation.

- *The Committee recommends taking immediate steps to improve the quality and quantity of the food provided at Rokiškis Psychiatric Hospital (paragraph 101).*

Patients often complain about food (usually about the quantity rather than quality of food). The quality of food provided to patients (calorific value, menu and assortment) has been checked by various commissions on a number of occasions. All of them established that the calorific value of the daily allowance of food met the established standard (at least 2,000 kcal per day), the quality of food was good, and the menu included a sufficient assortment of products providing a required amount of all essential nutrients.

2. Staff

- *The Committee recommends reviewing current practice with a view to ensuring that the important task of keeping direct contact with patients and addressing their basic care needs are in the hands of professionally trained nurses (paragraph 111).*

All nurses employed at the hospital have psychiatric nursing licences. Nurses must receive 60-hour training. The Ministry of Health covers the costs of 36 hours of training, which accounts for 60% of the basic price of total mandatory training. The costs of remaining training must be covered by the employer or employees themselves. Training is regulated by Order No 132 of the Minister of Health of 18 March 2002 on the procedure for the development of professional skills of health care and pharmaceutical specialists and funding thereof (Official Gazette Valstybės Žinios, 2002, No 31-1180). In addition, the hospital has signed a multiannual cooperation agreement with a similar psychiatric hospital of the Kingdom of the Netherlands. Scheduled training for nurses and social workers designed to prepare for work with patients under strict and enhanced supervision regime is organised within the framework of this agreement on a regular basis. All social workers and all nurses have completed at least one series of such training courses.

Set up by Order V-214 of the Minister of Health of 27 March 2009 on the formation of an interdepartmental working group, the interdepartmental working group was charged with drafting a description of the procedure for forced hospitalisation by 30 September.

Seeking to implement Article 45 of the Law Amending the Law on Custody of the Republic of Lithuania (the law on Detention of the Republic of Lithuania since 1 April 2009), an interdepartmental working group for drafting a description of the structure and working procedures of health care facilities at remand prisons was set up by Order No V-871 of the Minister of Health of 15 September 2008.

The Minister of Health and the Minister of Justice signed Order No V-171/1R-67 of 5 March 2009 on the establishment of the procedure for the provision of emergency medical care to persons kept in prison establishments at public or municipal health care facilities (Official Gazette Valstybės Žinios, 2009, No 29-1155) and Order No V-195/1R-76 of 18 March 2009 approving the description of the structure, posts and working procedures of health care facilities at prison establishments (Official Gazette Valstybės Žinios, 2009, No 34-1323).

- *The Committee believes that the current levels of medical staff at Skemai Residential Care Home should be maintained in order to ensure adequate care to residents (paragraph 112).*

Pursuant to Article 8(5) of the Law on Social Services, social welfare is a combination of all services aimed at providing complex assistance to a person requiring constant specialist supervision. According to paragraph 17.3 of the Directory of Social Services approved by Order No A1-93 of the Minister of Social Security and Labour of 5 April 2006, long-term social welfare also includes organisation of health care services (nursing). It leads to the conclusion that social welfare establishments are obliged to guarantee social welfare beneficiaries access to medical services. It is not important whether a social welfare establishment provides health care services itself or organises them through the current health care system. What is important is that these services are accessible to people living in social welfare establishments and timely. In addition, according to legal acts regulating health care, a person shall have the right to choose a health care establishment and doctor.

Pursuant to Article 5(1) of the Law on Health Care Establishments, establishments may provide health care services only upon obtaining a licence and having been registered with the National Register of Health Care Establishments. Therefore, seeking to use funds available to them in a rational way, social welfare establishments may conclude agreements with licensed health care establishments. It should be noted that, pursuant to the Law on Mental Health Care, persons may only be hospitalised in accredited health care establishments, including accredited psychoneurological care homes (social welfare homes). Persons must not and are not hospitalised in social welfare homes that are not health care establishments. Services provided by health care establishments are used in case of a worsening of a person's state of health.

3. Means of restraint

- *The Committee recommends steps to be taken at Rokiškis Psychiatric Hospital and the Skemai Residential Care Home (and, as appropriate, in other psychiatric/social welfare establishments) to ensure that means of restraint are applied in strict compliance with the requirements set out by the Committee (paragraph 116).*

It is to be noted that social welfare homes provide living environment as close to the home environment as possible (Social Welfare Standards approved by Order No A1-46 of the Minister of Social Security and Labour of 20 February 2007). Considering the above information we believe that it is not expedient to organise training for staff at all social welfare establishments in how to use means of restraint at social welfare establishments.

Employees of social welfare establishments particularly require professional knowledge of human rights and special training in individual work with mentally disabled persons. The requirement to have such knowledge is set out in legal acts regulating social welfare (Social Welfare Standards approved by Order No A1-46 of the Minister of Social Security and Labour of 20 February 2007). It is worth mentioning that staff skill development courses in Lithuania are organised by educational establishments according to programmes approved by legal acts and registered in the database of the Lithuanian Labour Market Training Authority under the Ministry of Social Security and Labour. Staff providing social welfare and their managers have an opportunity to develop their professional skills using funding provided by the European Social Fund.

4. Safeguards

- *The Committee would like to receive comments of the Lithuanian authorities on the fact that legally competent residents admitted to Skemai Residential Care Home on the basis of their own application were not always allowed to leave the home when they so wished and were thus de facto deprived of their liberty (paragraph 125).*

According to the social welfare standards, a person may temporarily or permanently leave a social welfare home in the best of his/her interests. Social welfare homes must make sure that adequate care will be taken of the person leaving the home. The essence of this rule is primarily not to choose between permitting and prohibiting but to ensure that the permit to leave is given upon making sure that the person is going to be in adequate conditions in the environment other than social welfare home. If a person who is asking for a permit to leave received a negative reply, he/she would be entitled to appeal against such decision having recourse to safeguards available in Lithuanian legal system against arbitrary and unreasonable infringement and restriction of his/her rights. With a view to the prevention of infringements of personal rights and freedoms and ensuring to the recipients of social welfare the environment close to home environment, everyday activities of a person in a social welfare home are organised in a manner which would support, encourage and motivate the person to be as independent as possible. A person is guaranteed possibilities of participation in the life of the community, and integration of persons into the community is encouraged. A person may use rest and recreation facilities both within the territory of social welfare home and outside it.

According to the social welfare standards, a legally capable person may permanently leave a social welfare home of his/her own free will after the administration of the social welfare home makes sure that the person will be provided with adequate living conditions and services in a community and that he/she will be able to live on his/her own. As mentioned above, short-term everyday leave of persons is not restricted.

- *The Committee would like to receive the Lithuanian authorities' comments regarding persons deprived of their legal capacity (paragraph 126).*

Pursuant to Article 3.242(1) of the Civil Code of the Republic of Lithuania (hereinafter referred to as 'CC'), upon recognising a person as legally incapable, the court shall immediately appoint a guardian or curator for the person, who shall implement, protect and defend the rights and interests of the legally incapable person. Under Article 3.242(2) CC, functions of guardianship or curatorship in respect of persons declared incapable or of limited active capacity by a court and placed in the medical, educational or guardianship (curatorship) institution are performed by the medical, educational or guardianship (curatorship) institution until a permanent guardian or curator has been appointed. When resolving the issue of the appointment of a permanent guardian or curator the court appoints him/her according to the procedure set out by laws as of the moment when such person leaves the medical, educational or guardianship (curatorship) institution in which he/she is placed. Until that moment the functions of a guardian (curator) are performed by the medical, educational or guardianship (curatorship) institution. Legally incapable person residing in a welfare home is not allowed to leave the welfare home without notifying the guardian. If a legally incapable person or person of a limited active capacity intends to leave the welfare home, the administration of the social welfare home concludes a contract with a person to whom the incapable person or person of limited active capacity is going under which this person assumes an obligation to provide adequate care to the ward.

Legally incapable person or person of limited active capacity may permanently leave only for a guardian/curator appointed by a court. This rule is aimed at ensuring the protection of the wards.

The description of social welfare homes approved by Order No A1-46 of the Minister of Social Security and Labour of 20 February 2007 sets forth the requirement (Annex 4 Standards for long-term (short-term) social welfare of elderly persons and disabled adult persons applicable to social welfare homes) for employees to heed the opinion of a legally incapable person and assess it to the best of his/her interests. Every person must have "his/her own" social welfare worker to take care of and talk to him/her as well as to share his/her problems with, etc.

If the person's state of health improves or other circumstances that may have influence on the person's legal incapacity occur, social welfare home employees must initiate a request for the relevant establishments to review the person's legal incapacity. The person's right to request must not be limited. Therefore, providing social welfare to legally incapable persons, establishments must take account of these persons' opinions and provide social welfare meeting these persons' interests to avoid conflicts of interest between the guardian and the person under guardianship.

Currently amendments of civil and civil procedural laws are being worked out and enacted in order to decrease the number of legally incapable persons by treating some of such persons (e.g. mentally disabled) as persons of limited active capacity having regard *inter alia* to opinions of social workers to be presented to the court when resolving the issue of legal capacity of a person. The status of persons of limited active capacity is going to provide such persons with wider possibilities to realise their rights independently as compared to legally incapable persons.

- *The Committee recommends that the Lithuanian authorities strive to find alternative solutions which would better guarantee the independence and impartiality of guardians (paragraph 127).*

It should be noted that, pursuant to Article 3.242(3) of CC, only a natural person may be appointed as a guardian, but this article does not apply when the care/welfare establishment accommodating a legally incapable person is appointed as his/her guardian. Whereas natural persons often refuse to be guardians of legally incapable persons, by court decision, social welfare homes often become guardians of legally incapable social service recipients in order to ensure the protection of legally incapable persons' rights and their representation. However, if a social welfare home is appointed a guardian of a legally incapable person, the administration of this home must ensure comprehensive representation of the interests of that legally incapable person and the performance of the guardianship functions. In order to ensure the supervision of the guardianship functions the Guardianship Council works in every welfare home. It is composed of *inter alia* representatives of residents of social welfare homes and the administration of the welfare home takes its well-grounded proposals into account in its own organisational work.

Seeking to avoid situations when social welfare establishments are appointed as guardians, the Ministry of Social Security and Labour strongly encourages municipalities to redouble their efforts in looking for natural persons who could become guardians of legally incapable persons, consider the possibility of appointing social workers as guardians and develop non-stationary social services in the community.

The number of day centres providing social services to legally incapable persons is on the rise. The number of such establishments increased from 70 in 2003 to over 150 in 2007 (including community centres). A total of 17,500 adults and 900 children received such services in 2003, as compared with 39,000 adults and 2,700 children in 2007. Although the number of non-stationary social services is growing, there is still lack of such services. Therefore, development of these services remains the main objective of development of the social services system of Lithuania. National budget funds and EU Cohesion Fund support is used for infrastructure development. Priority is given to the establishment of independent residential homes or day centres for the disabled.

It should be noted that social welfare homes are not only persons' guardians appointed by court but also social welfare providers. Certain requirements are established for the provision of social welfare. Pursuant to the Law on Social Services, social welfare establishments must meet the social welfare standards and in future will have to obtain social welfare licences. The description of social welfare homes approved by Order No A1-46 of the Minister of Social Security and Labour of 20 February 2007 sets forth the requirement (Annex 4 Standards for long-term (short-term) social welfare of elderly persons and disabled adult persons applicable to social welfare homes) for social welfare homes to ensure and protect personal rights irrespective of personal capacity and the state of health. The quality of social welfare provided by social welfare homes is checked by the Department of Supervision of Social Services under the Ministry of Social Security and Labour. This ensures that every recipient of social welfare regardless of his/her capacity receives social welfare of adequate quality.

The control of civil guardianship is performed by guardianship/curatorship institutions of municipalities and counties. Usually within municipality and county administrations these functions are assigned to Health or Social Assistance units. It is noteworthy that these institutions supervise all the guardians within their respective territories including social welfare homes appointed as guardians.

- *The Committee recommends drawing up an introductory leaflet providing information on the services provided and human rights and issuing it to each newly admitted patient (as well as to his/her guardian and relatives) at Rokiškis Psychiatric Hospital and Skemai Residential Care Home (and, as appropriate, in other establishments), accompanied, if necessary, by appropriate verbal explanations (paragraph 128).*

The abovementioned social welfare standards set out the requirement to enable persons, guardians, family members and other close relatives to familiarise themselves with social welfare homes; access to information on social welfare homes, services provided, staff, etc. — all this can be included in leaflets or other means of publicity. Establishments must ensure fulfilment of the requirements set out in the social welfare standards in providing social welfare.

- *The Committee notes that all patients (and, if they are deprived of their legal capacity, their legal representatives) should be provided systematically with information about their condition and the treatment prescribed for them, and doctors should always seek the patient's consent to treatment prior to its commencement. Relevant information should also be provided to patients (and their legal representatives) during and after treatment (paragraph 129).*

Both the Law on Mental Health Care and the social welfare standards set out the requirement to provide the patient with all required information on the medicines and treatment he/she receives. Pursuant to the Law on Mental Health Care, psychiatrists must inform patients of methods and effects of treatment, prognoses, etc. It leads to the conclusion that Lithuanian legal acts establish requirements that guarantee the patient access to information related to both the patient's health and treatment.

- *The Committee recommends steps to be taken to ensure that Rokiškis Psychiatric Hospital and Skemai Residential Care Home (and, as appropriate, other psychiatric/social welfare establishments in Lithuania) are visited, on a regular basis, by a body which is independent of the health/social affairs authorities (paragraph 131).*

Pursuant to the Law on Social Services, the Department of Supervision of Social Services under the Ministry of Social Security and Labour periodically checks the compliance of social welfare provided by establishments with the social welfare standards and controls the quality of social welfare. In case of establishing any discrepancies, establishments are provided with methodical assistance and the founders thereof are asked to eliminate the discrepancies. Amendment to the Law on Social Services are currently being prepared to provide for administrative penalties for violating legal acts regulating the provision of social welfare, preventing officers of the Department of Supervision of Social Services or persons authorised by them from performing their official duties, as well as for failing to execute decisions of officers of the Department of Supervision of Social Services.

It is noteworthy that the Law on Social Services guarantees the right of every person, his/her guardian/curator as well as other interested persons to lodge complaints with a director of a municipality administration or with the Department of Supervision of Social Services regarding inadequate provision of social services. The aforementioned Social Welfare Standards contain a requirement that a social welfare establishment ensure the personal freedom to lodge applications without any infringements.

As mentioned above at comments on paragraph 127, the control of civil guardianship is performed by guardianship/curatorship institutions of municipalities and counties.

It should be noted that, based on the principle of participation set forth in the Law on Social Services, according to which all social services management, allocation and provision issues are handled with not only social service recipients and their representatives but also with organisations defending the rights and interests of social groups, these organisations actively participate in defending the rights of legally incapable persons, are enabled to visit social welfare establishments, ascertain whether human rights are respected there, provide proposals on the improvement of legal acts, etc. In addition, certain legal acts are currently being amended at these organisations' initiative to provide for recognition of limited active capacity of mentally disabled persons, social workers' participation in providing the court with opinions on legal incapacity of persons, etc.