



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Conclusions and recommendations of the Committee against Torture

LATVIA

1. The Committee considered the second periodic report of Latvia (CAT/C/38/Add.4) at its 788th and 790th meetings (CAT/C/SR.788 and 790), held on 8 and 9 November 2007, and adopted, at its 805th and 806th meetings (CAT/C/SR.805 and 806), the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the submission of the second periodic report of Latvia and the information presented therein, and expresses its appreciation for the replies by the State party to the follow-up procedure of the Committee. The Committee also expresses its appreciation for the State party's thorough written responses to the list of issues (CAT/C/LVA/Q/2/Add.1), which provided additional information on the legislative, administrative, judicial and other measures taken by the State party in order to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, the Committee notes with satisfaction the constructive efforts made by the multi-sectoral State party delegation to provide additional information and explanation during the dialogue.

B. Positive aspects

3. The Committee notes with appreciation that in the period since the consideration of the last periodic report, the State party has acceded to or ratified a number of international instruments, including:

a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 22 February 2006;

b) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 19 December 2005;

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c) The Framework Convention for the Protection of National Minorities, on 6 June 2005; and

d) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 25 May 2004.

4. The Committee notes with satisfaction the ongoing efforts at the State level to reform its legislation, policies and procedures in order to ensure better protection of human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, in particular:

a) The Criminal Procedure Law which entered into force on 1 October 2005;

b) The Law on the Procedure for Holding Apprehended Persons which entered into force on 21 October 2005;

c) The Law on Procedure of Detention on Remand which entered into force on 18 July 2006;

d) The amendments to the Medical Treatment Law which entered into force on 29 March 2007, introducing a procedure of judicial review of compulsory voluntary placement of patients in the psychiatric hospitals and their subsequent treatment;

e) The establishment of the new Ombudsman institution on 1 January 2007, replacing the Latvian National Human Rights Office;

f) The establishment of the State Legal Aid Administration in 2006 and the enactment on 17 March 2005 of the Law On State-Guaranteed Free Legal Aid;

g) The Concept on the Development of Penitentiaries which was adopted by Cabinet Decision No. 280 of 2 May 2005 to provide all inmates with treatment that would comply with the necessary standards;

h) The adoption in 2004 of the State Programme on the Prevention of Trafficking in Human Beings (2004-2008); and

i) The adoption on 5 December 2003 of the Professional Ethics and Conduct Code of the State Police Personnel.

C. Principal subjects of concern and recommendations

Definition of torture

5. Notwithstanding the State party's assertion that under the Latvian Criminal Code all acts that may be described as "torture" within the meaning of article 1 of the Convention are punishable, the Committee is concerned that the State party has not incorporated into domestic law the crime of torture as defined in article 1 of the Convention (arts. 1 and 4).

The State party should incorporate into domestic law the crime of torture and adopt a definition of torture that covers all the elements contained in article 1 of the Convention. By naming and defining the offence of torture in accordance with the Convention and distinct from other crimes, the Committee considers that States parties will directly advance the Convention's overarching aim of preventing torture, inter alia, by alerting everyone, including perpetrators, victims, and the

public, to the special gravity of the crime of torture and by improving the deterrent effect of the prohibition itself.

Ombudsman institution

6. The Committee notes the establishment on 1 January 2007 of the new Ombudsman institution, replacing the former Latvian National Human Rights Office. While noting the broad mandate attributed to the Ombudsman institution and the increase in its financial and human resources in 2007, the Committee is concerned that these remain insufficient to respond to the institution's expanded mandate and increasing workload (art. 2).

The State party should take appropriate measures to ensure the effective functioning of the Ombudsman institution, including the requisite human and financial resources. Furthermore, the State party is encouraged to seek accreditation with the International Coordinating Committee of National Human Rights Institutions to ensure that it complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), annexed to General Assembly resolution 48/134, including with regard to its independence.

Fundamental safeguards

7. The Committee notes that the new Criminal Procedure Law includes a specific reference to fundamental legal safeguards for detainees, such as access to a defence counsel, but it regrets the lack of a specific reference to the right of access to a doctor. Furthermore, the Committee expresses its concern at reports that the right of effective access to a lawyer is not always realized in practice. In this respect, the Committee is concerned at reports of a shortage of State-funded defence lawyers in several districts, especially rural areas, and that the working conditions provided for lawyers in detention and remand centres are not always satisfactory (arts. 2, 13 and 16).

The State party should take effective measures to ensure that all detainees are afforded fundamental legal safeguards in practice, including the right to have access to a lawyer and a doctor. The Committee emphasizes that persons in custody should benefit from an effective right of access to a lawyer, as from the very outset of their deprivation of liberty and throughout the investigation phase, the whole of the trial and during appeals. Furthermore, the State party should ensure that the lawyers are provided with proper working conditions in the detention and remand centres equivalent to the facilities available in prisons and finance the newly established Legal Assistance Agency.

Asylum-seekers

8. While noting the amendment of the Asylum Law on 20 January 2005 with the deletion of the provision requiring the asylum application to be submitted in writing, the Committee regrets the lack of clarity on the total number of persons seeking asylum in the State party as well as the low asylum recognition rate. The Committee is also concerned at the detention policy applied to asylum-seekers and at the short time limits, in particular for the submission of an appeal under the accelerated asylum procedure. Furthermore, the Committee notes that detained foreigners, including asylum-seekers, have the right to contact the consular services of their respective

country and are entitled to receive legal aid but is concerned at information provided by the State party delegation that no asylum-seekers have requested such legal aid (arts. 2, 3, 11 and 16).

The Committee recommends that the State party:

- a) Take measures to ensure that detention of asylum-seekers is used only in exceptional circumstances or as a last resort, and then only for the shortest possible time;**
- b) Ensure that anyone detained under immigration law has effective legal means of challenging the legality of administrative decisions to detain, deport or return (refouler) him/her and extend, in practice, the right to be assisted by assigned counsel to foreigners being detained with a view to their deportation or return (refoulement);**
- c) Extend the time limits established under the accelerated asylum procedure, in particular in order to guarantee that persons whose applications for asylum have been rejected can lodge an effective appeal; and**
- d) Provide, in the next periodic report, detailed and disaggregated statistics on the number of persons seeking asylum in the State party and the number of such persons in detention.**

Furthermore, the State party is encouraged to promptly adopt the draft law on asylum in the Republic of Latvia which was formally approved during the session of the Committee of the Cabinet of Ministers on 26 March 2007 and is currently being examined in Parliament.

Training

9. The Committee notes with appreciation the detailed information provided by the State party on training for judges, including investigative and criminal judges, court staff, the personnel of the Imprisonment Facility Management Board (including medical personnel), employees of the Ministry of Health (including personnel of psychiatric hospitals), public prosecutors, employees of the Ministry of Interior and its subordinate structures (including the State Police and the State Border Guard). However, the Committee regrets the limited information on monitoring and evaluation of these training programmes and the lack of available information on the impact of the training conducted for law enforcement officials, prison staff and border guards, and how effective the training programmes have been in reducing incidents of torture and ill-treatment (art. 10).

The State party should further develop educational programmes to ensure that all law enforcement officials, prison staff and border guards are fully aware of the provisions of the Convention, that breaches will not be tolerated and will be investigated, and that offenders will be prosecuted. All personnel should receive specific training on how to identify signs of torture and ill-treatment. The Committee recommends that the Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) become an integral part of the training provided to physicians and that the Manual is translated into Latvian. Furthermore, the State party should develop and implement a methodology to assess the

effectiveness and impact of such training/educational programmes on the reduction of cases of torture, violence and ill-treatment.

Detention on remand, including pre-trial detention

10. While noting the new Criminal Procedure Law, which reduces the apprehension phase from 72 to 48 hours and introduces the system of an investigative judge who shall decide on the application of detention on remand, as well as reports that the duration of detention on remand has been reduced, the Committee remains concerned at reports of prolonged periods of detention on remand, including pre-trial detention, and the high risk of ill-treatment which it entails and regrets the lack of use of alternatives to imprisonment. While noting that the Law on the Procedure of Holding Detainees requires the procedure of holding criminal suspects in police short-term detention cells and sets standards for conditions of detention in these cells, the Committee is concerned at information that this does not apply to cells in small police stations where detainees can be held up to 12 hours (arts. 2, 11 and 16).

The State party should take appropriate measures to further reduce the duration of detention in custody and detention before charges are brought, and develop and implement alternatives to deprivation of liberty, including probation, mediation, community service or suspended sentences.

11. The Committee notes a number of initiatives taken by the State party to improve the conditions of detention for persons under the age of 18 including in juvenile correctional facilities, such as the establishment of the Ministry of Children and Family Affairs and the State Children Rights Protection Inspectorate under its auspices to monitor the regime and conditions of juvenile detention, and the adoption of the Basic Policy Guidelines for the Enforcement of Prisons Sentences and Detention of Juveniles for 2007-2013. However, the Committee expresses its concern at reports that juveniles are often held in pre-trial detention for prolonged periods and at the high percentage of juveniles remanded in custody (arts. 2, 11 and 16).

The State party should increase its efforts to bring its legislation and practice as regards the arrest and detention of juvenile offenders fully in line with internationally adopted principles, including by:

- a) Ensuring that deprivation of liberty, including pre-trial detention, should be the exception, to be used only as a last resort and for the shortest time possible;**
- b) Developing and implementing alternatives to deprivation of liberty, including probation, mediation, community service or suspended sentences;**
- c) Adopting an action plan based on the Basic Policy Guidelines for the Enforcement of Prisons Sentences and Detention of Juveniles for 2007-2013 and ensuring the necessary resources for its effective implementation and follow-up; and**
- d) Taking further measures to improve the living conditions in detention facilities, elaborating more contemporary and modern programmes aimed at re-socialization, and ensuring training of prison personnel to raise their professional qualification in light of their work with juveniles.**

Conditions of detention

12. The Committee is concerned that notwithstanding the measures taken by the State party to improve conditions of detention, including the adoption of the 2005 Concept on the Development of Penitentiaries and the establishment of the new Olaine Prison Hospital on 1 August 2007, there is continuing overcrowding in prisons. The Committee takes note of information provided on the improvement of conditions in some detention facilities and prisons but is concerned at the overall conditions in other prisons, remand centres and police short-term detention cells, including unsuitable infrastructures and unhygienic living conditions. The significant increase in the number of applications lodged with the Latvian National Human Rights Office (now the Ombudsman institution), including alleged violations of the right to human treatment and respect for human dignity (alternatively treatment in places of deprivation of liberty) in different kind of institutions, including closed institutions, is also a matter of concern. Additionally, the Committee is concerned at the occurrence of inter-prisoner violence and lack of statistical data that may provide breakdown by relevant indicators to facilitate determination of root causes and design of strategies to prevent and reduce such occurrences (arts. 11 and 16).

The Committee recommends that the State party should:

- a) Continue its efforts to alleviate the overcrowding of penitentiary institutions, including through the application of alternative measures to imprisonment and the increase of budgetary allocations to develop and renovate the infrastructure of prisons and other detention facilities in the context of the Concept on the Development of Penitentiaries;**
- b) Take effective measures to further improve living conditions in the detention facilities, including prisons and police short-term detention cells; and**
- c) Monitor and document incidents of inter-prisoner violence with a view to revealing root causes and designing appropriate prevention strategies and provide the Committee with such data, disaggregated by relevant indicators, in the next periodic report.**

Furthermore, the Committee encourages the Ministry of Justice to proceed with the drafting of the standards of the places of deprivation of liberty.

13. While noting the elaboration and implementation of the 2005 guidelines for prison personnel providing instructions for the treatment of persons at risk of committing suicide, the Committee is concerned at the high number of suicides and other sudden deaths in detention facilities (arts. 11 and 16).

The State party should strengthen its efforts to prevent suicide and self-harm risks in custody. The State party is encouraged to adopt a suicide prevention policy for prisons, including screening, reporting, data collection, training and education and establish social rehabilitation units for prisoners as indicated in the training seminar on "Suicide Prevention in Prisons" on 18 May 2005. The State party should also ensure that all incidents of suicide and other sudden death are promptly and effectively investigated.

Independent monitoring

14. The Committee notes information provided on State-guaranteed and NGO-based monitoring of places where personal liberty is being limited and that article 13, paragraph 3, of the Ombudsman Law provides the right “at any time and without a special permit to visit closed-type institutions, to move freely within the territory of the institutions, to visit all premises and to meet in private the persons held in closed-type institutions”. However, the Committee is concerned at the lack of systematic and effective monitoring of all places of detention and reiterates its concern noted in paragraph 6 above on the insufficient resources allocated to the Ombudsman institution. The Committee is also concerned at the lack of a comprehensive listing of all places of detention, including those of aliens (arts. 2, 11 and 16).

The State party should take the necessary measures to effectively and systematically monitor all places of detention. The Committee recommends that the State party develop a comprehensive listing of all places of detention, including places of detention of aliens, and establish a central register of inmates or, alternatively, finalize the development of a common database to be used by the Imprisonment Facility Management Board and the State Probation Service which will allow tracking down every detainee and/or convicted prisoner within the penitentiary system, as well as within the probation system.

Conditions in psychiatric institutions and hospitals

15. The Committee notes the recent amendments to the Medical Treatment Law, introducing the procedure of judicial review of compulsory involuntary placement of patients in the psychiatric hospitals and their subsequent treatment, and the establishment of a new modern ambulatory mental assistance centre in Riga. However, the Committee remains concerned at conditions in psychiatric institutions and hospitals, including the use of physical restraints and isolation (arts. 11 and 16).

The State party should review the use of physical restraints, consider establishing guidelines on the use of such restraints and limit the use of solitary confinement as a measure of last resort, for as short a time as possible under strict supervision and with a possibility of judicial review. The State party is encouraged to promptly adopt the draft programme on improvement of the mental health of the population for 2008-2013.

Use of force and ill-treatment

16. The Committee expresses its concern at the high number of allegations of use of force and ill-treatment by law enforcement officials, especially in the course of or in relation to apprehension, and the low number of convictions in such cases. The Committee is also concerned that officials accused of torture and ill-treatment seem to be given disciplinary sanctions or warnings and it regrets the lack of a separate account of such disciplinary sanctions (arts. 12 and 16).

The State party should take effective measures to send a clear and unambiguous message to all levels of the police force hierarchy that torture, use of force and ill-treatment are unacceptable, including through the enforcement of the 2003 Professional Ethics and Conduct Code of the State Police Personnel, and ensure that law enforcement officials only use force when strictly necessary and to the extent required for the performance of their duty. Referring to article 4, paragraph 2, of

the Convention, the Committee underlines that the State party should apply sanctions that are proportional with the offences, and the State party is encouraged to initiate the collection of statistics on disciplinary penalties imposed.

Prompt and impartial investigations

17. While noting that several complaints bodies are mandated to review individual complaints about police misconduct, the Committee is concerned at the number of complaints of physical use of force and ill-treatment by law enforcement officials, the limited number of investigations carried out by the State party in such cases, and the very limited number of convictions in those cases which are investigated. The Committee also notes with concern that the offence of torture, which as such does not exist in the Latvian Criminal Code but rather is punishable under other provisions of the Criminal Code, might in some cases be subject to a statute of limitations. The Committee is of the view that acts of torture cannot be subject to any statute of limitations (arts. 1, 4, 12 and 16).

The Committee recommends that the State party:

- (a) Strengthen its measures to ensure prompt, impartial and effective investigations into all allegations of torture and ill-treatment committed by law enforcement officials. In particular, such investigations should not be undertaken by or under the authority of the police, but by an independent body. In connection with prima facie cases of torture and ill-treatment, the alleged suspect should as a rule be subject to suspension or reassignment during the process of investigation, especially if there is a risk that he or she might impede the investigation;**
- (b) Try the perpetrators and impose appropriate sentences on those convicted in order to eliminate impunity for law enforcement personnel who are responsible for violations prohibited by the Convention; and**
- (c) Review its rules and provisions on the statute of limitations and bring them fully in line with its obligations under the Convention, so that acts of torture as well as attempts to commit torture and acts by any person which constitute complicity or participation in torture, can be investigated, prosecuted and punished without time limitations.**

Compensation and rehabilitation

18. While noting information on treatment and social rehabilitation services provided to, inter alia, detainees and children victims of violence, the Committee regrets the lack of a specific programme to safeguard the rights of victims of torture and ill-treatment. The Committee also regrets the lack of available information regarding the number of victims of torture and ill-treatment who may have received compensation and the amounts awarded in such cases, as well as the lack of information about other forms of assistance, including medical or psycho-social rehabilitation, provided to these victims (art. 14).

The State party should strengthen its efforts in respect of compensation, redress and rehabilitation in order to provide victims with redress and fair and adequate compensation, including the means for as full rehabilitation as possible. The State party should develop a specific programme of assistance in respect of victims of torture and ill-treatment. Furthermore, the State party should provide in its next

periodic report information about any reparation programmes, including treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, as well as the allocation of adequate resources to ensure the effective functioning of such programmes.

Rights of vulnerable groups and discrimination

19. While noting a number of measures adopted by the State party, including the recent amendment to article 48 of the Criminal Law to include racial motivation as an aggravating factor for criminal liability, the Committee expresses its concern at report of acts of violence against and discrimination of vulnerable groups, including Roma and the lesbian, gay, bisexual and transgender (LGBT) community. The Committee is concerned at reports that the number of allegedly racially motivated crimes has recently increased and that the number of reported hate crimes is underestimated due to the lack of an effective hate crime recording and monitoring system. Furthermore, while the Committee takes note of the efforts made by the State party in recent years in the process of naturalization, it remains concerned at the continued existence of the status of non-citizens and stateless persons, affecting a large group in Latvian society (art. 16).

The State party should intensify its efforts to combat discrimination against and ill-treatment of vulnerable groups, in particular Roma and the LGBT community, including through the strict application of relevant legislation and regulations providing for sanctions. The State party should ensure prompt, impartial and thorough investigations into all such motivated acts and prosecute and punish perpetrators with appropriate penalties which take into account the grave nature of their acts, and ensure adequate training and instructions for law enforcement bodies and sensitization of the judiciary. The State party is encouraged to adopt the draft national programme to facilitate tolerance and to provide detailed information in its next periodic report on the effective measures adopted to prevent and combat such acts. The State party should simplify and facilitate the naturalization process and integration of non-citizens and stateless persons.

Domestic violence

20. The Committee, while noting various measures undertaken by the State party, including the Action Plan for 2004-2013 of the State Family Policy Document, expresses its concern about the persistence of violence against women and children, including domestic violence. It is also concerned that domestic violence is not defined in national legislation and that marital rape is not recognized as a specific crime. The Committee further regrets the lack of State-wide statistics on domestic violence and that statistical data on complaints, prosecutions and sentences in matters of domestic violence were not provided. While noting the existence of some assistance programmes, including in the areas of rehabilitation and legal assistance, these are mostly run by non-governmental organizations and supported by outside donors, and the Committee regrets the lack of direct State involvement in such programmes (arts. 1, 2, 12 and 16).

The State party should increase its efforts to prevent, combat and punish violence against women and children, including domestic violence. The State party should, inter alia, include a definition of domestic violence in its Criminal Code and recognize marital rape as a specific crime. The State party is encouraged to participate directly in rehabilitation and legal assistance programmes and to

conduct broader awareness campaigns for officials (law-enforcement agencies, judges, law officers and welfare workers) who are in direct contact with the victims. The State party is also encouraged to adopt the draft programme on gender equality for 2007-2010 as announced by the Ministry of Welfare on 26 April 2007 and to elaborate an action plan to prevent sexual and gender-related criminal offences.

Trafficking

21. While recognizing the existence of legislative and other measures to address sexual exploitation and trafficking in women and children, including the State Programme for Elimination of Trafficking in Human Beings(2004-2008), the Committee is concerned about persistent reports of cross-border trafficking in women for sexual and other exploitative purposes. The Committee notes the information provided on social rehabilitation for victims of trafficking, including the provision of State-financed social rehabilitation, but regrets the lack of information on training of law enforcement personnel and other relevant groups (arts. 2, 10 and 16).

The State party should continue to take effective measures to prosecute and punish trafficking in persons, including through the strict application of relevant legislation. The State party should conduct nationwide awareness-raising campaigns, provide adequate programmes of assistance, recovery and reintegration for victims of trafficking and conduct training for law enforcement officials, migration officials and border police on the causes, consequences and incidence of trafficking and other forms of exploitation.

Data collection

22. While noting that some statistics have been provided, the Committee regrets the lack of comprehensive and disaggregated data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement officials, as well as on trafficking and domestic and sexual violence. The Committee also regrets the lack of statistics in respect of asylum-seekers and non-citizens as well as inter-prisoner violence. However, the Committee takes note of the establishment in August 2007 of the Statistics and Analysis Unit of the Internal Security Bureau of State Police by an order of the State Police, tasked, inter alia, to analyse statistics on the offences committed by police officers (arts. 12 and 13).

The State party should establish an effective system to gather all statistical data relevant to the monitoring of the implementation of the Convention at the national level, including complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, trafficking and domestic and sexual violence, as well as on compensation and rehabilitation provided to the victims. The Committee recognizes the sensitive implications of gathering personal data and emphasizes that appropriate measures should be taken to ensure that such data collection is not abused.

23. The Committee encourages the State party to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

24. The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet a party.

25. The Committee recommends that the State party consider making the declarations under articles 21 and 22 of the Convention.
26. The Committee invites the State party to submit its core document in accordance with the requirements of the Common Core Document in the Harmonized Guidelines on Reporting, as approved by the international human rights treaty bodies and contained in document HRI/GEN/2/Rev.4.
27. The State party is encouraged to disseminate widely the reports submitted by Latvia to the Committee and the conclusions and recommendations, in appropriate languages, through official websites, the media and non-governmental organizations.
28. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 7, 8, 11, 17 above.
29. The State party is invited to submit its next periodic report, which will be considered as the fifth periodic report, by 30 December 2011.
