



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

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COMMITTEE AGAINST TORTURE

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

**Second periodic reports of States parties due in 2005**

**Addendum\***

**LATVIA**

[24 August 2005]

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\* For the initial report of Latvia, see CAT/C/21/Add.4; for its consideration, see CAT/C/CR/31/3; CAT/C/SR.579 and CAT/C/SR.582.

The annexes to the present report submitted by the Government of Latvia can be consulted at the Secretariat.

The present report has been published without editing.

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## I. INTRODUCTION

1. The Periodic Report of Latvia on the implementation of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter - the Convention), which is binding upon Latvia as of 14 July 1992, was prepared in compliance with Article 19 of the Convention. The Initial Report of Latvia to the Committee against Torture (hereinafter - the Committee) was submitted in 2002 and reviewed by the Committee during its 31st session on 10-21 November 2003. The Current Report of Latvia presents information about the reporting period till 20 April 2005. The Report has been drafted in compliance with the Guidelines for the preparation of national reports approved by the Committee in 1991.
2. Since 10 February 1998 Latvia is also a State party to the European Convention on Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Delegations from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment have visited Latvia on three occasions - on 24 January - 3 February 1999, on 25 September - 4 October 2002 and 5 May - 12 May 2004. Reports of the European Committee on its visits in 1999 and 2002 have already made public.
3. A special working group was established for drafting the present Report, including representatives from the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Defence, the Ministry of Welfare, the Ministry of Interior, the Ministry on Children's and Family Affairs, the Ministry of Education and Science and the Specialized Multisectoral Prosecutor's Office, and it was chaired by the Representative of the Cabinet of Ministers before International Human Rights Organizations in compliance with Regulations of the Cabinet of Ministers of 17 March 1998 "On Representation of the Cabinet of Ministers before International Human Rights Organizations". The consolidated report was reviewed and approved by the Cabinet of Ministers on 26 July 2005.
4. The Representative of the Cabinet of Ministers before International Human Rights Organizations and other responsible institutions that participated in drafting of the present Report encounter issues discussed herein on a daily basis, and they have familiarised themselves with Initial and Periodic Reports of the Republic of Latvia, as well as proposals and recommendations expressed by the Committee.
5. Following its approval the Periodic Report will be published in the official newspaper "Latvijas Vēstnesis" and its electronic copies will be delivered to all interested parties free of charge. In addition, the text of the Report will be published at the home page of the Office of the Representative of the Cabinet of Ministers before International Human Rights Organizations (<http://www.mkparstavis.am.gov.lv/lv/?id=154&parent=20>), as well as at the portal Politika.lv (<http://www.politika.lv/index.php?id=103111&lang=lv>).
6. The draft Report was transmitted to the Latvian National Human Rights Office, the Latvian Centre for Human Rights and Ethnic Studies, the Human Rights Institute and Association for Transparency Delna for subsequent comments.

## **II. REPLIES BY THE REPUBLIC OF LATVIA TO THE CONCERNS AND RECOMMENDATIONS EXPRESSED BY THE COMMITTEE**

7. The Government of the Republic of Latvia has carefully studied the concerns expressed by the Committee and its recommendations. After the review of the Initial Report the Committee expressed nine concerns and thirteen related recommendations. The replies of the Government are presented below.

8. **Concerns expressed by the Committee and subsequent recommendations.**

9. **The Committee expresses concern about the following:**

6. (A) "Allegations of serious ill-treatment of persons which in some cases could be considered as amounting to torture, by members of the police, especially at the time of apprehension and interrogation of suspects";

6. (B) "The lack of independence and impartiality of the Internal Security Office of the State Police, which is competent to deal with complaints on alleged violence by police officers."

10. **The subsequent recommendation of the Committee:**

7. (A) "Take all appropriate measures to prevent acts of ill-treatment by members of the police and ensure that all allegations of ill-treatment are investigated promptly and impartially."

11. **Measures undertaken for the implementation of the Committee recommendation.**

12. On 1 June 2003, as a result of the reorganisation of the State Police with the view to improve and optimise work in combating criminality, the Internal Security Office of the State Police (hereinafter - the ISO SP) was established. The main responsibility of the ISO SP is to strengthen service discipline and law-obedience in the structural units of the State Police. The Office is directly subordinated to the Head of the State Police. It consists of three divisions: the Operative Division, the Personnel Inspection and the Pre-trial Investigation Division. The Operative Division undertakes appropriate measures to prevent and detect criminal offences committed by employees of the structural units of the State Police. The Personnel Inspection conducts in-service reviews on violations of law and discipline committed by employees of the State Police, cases of the abuse of the official position and exceeding the official authority as well as other extraordinary cases; it collects and analyses the incoming information on violations of legality and discipline committed by employees of the State Police. The Pre-trial Investigation Division takes decisions in compliance with Article 109 of the Criminal Procedure Code on cases concerning employees of structural units of the State Police as well as conducts pre-trial investigation in criminal cases under the jurisdiction of the ISO SP.

13. In 2003, the Central Office of the State Police received 31 complaints about alleged violence against individuals that were subject to in-service review. As a result of the reviews, violations were detected in 2 cases and 4 persons were held administratively liable. The State Police conducts planned as well as random reviews on the conditions of detention of individuals;

it does not obstruct in any way reviews of the kind conducted by representatives of the National Human Rights Office and the Latvian Centre for Human Rights and Ethnic Studies. During the period from 1 November 2003 till 20 April 2005 representatives of the Prosecutor's Office have conducted 222 reviews, officers of the State Police have conducted 180 reviews while representatives of the National Human Rights Office have conducted 31 reviews.

14. During the period from 1 June till 31 December 2003 the ISO SP conducted 90 in-service reviews concerning violence against the individual; violations were detected in 5 cases, 5 employees were subject to administrative punishment.

15. In 2004, the Personnel Inspection of the ISO SP received 365 applications of which 193 were subject to in-service reviews and in 30 cases they alleged violence against the individual. The fact of violence was confirmed in 12 cases, 13 employees were subject to disciplinary punishment.

16. At present no record is kept of the types of disciplinary penalties imposed. The Government considers recommending the Ministry of Interior to start collecting statistics on disciplinary penalties imposed.

17. During the period from 1 June till 31 December 2003 the ISO SP took decisions on cases related to violence against the individual under the procedure prescribed by Article 109 of the Criminal Procedure Code: 82 decisions on refusing to institute criminal proceedings, 10 criminal cases were opened, 8 criminal cases were received from other institutions, 10 criminal cases were transmitted to the Prosecutor's Office to begin criminal prosecution, 8 criminal cases were terminated.

18. In 2004 the following decisions were taken under the procedure prescribed by Article 109 of the Criminal Procedure Code concerning cases related to violence against the individual: 187 decisions on refusing to institute criminal proceedings were taken, in 19 cases criminal proceedings were instituted, 8 criminal cases were received from other institutions, 14 cases were transmitted to the Prosecutor's Office to begin criminal prosecution, 3 criminal cases were terminated. In 2005, 76 decisions on refusing to institute criminal proceedings were taken, in 13 cases criminal proceedings were instituted, of which 5 cases were transmitted to the Prosecutor's Office to begin criminal prosecution, and one criminal case that was terminated has been reopened.

19. More detailed breakdown of the statistical data is not available as the Law On Procedure for the Review of Applications, Complaints and Proposals at Public and Municipal Institutions regulating the review of applications and complaints in the Republic of Latvia does not prescribe the mandatory requirement for the applicant to indicate his/her age, ethnicity or nationality.

20. All complaints and applications are examined as soon as possible and in compliance with the deadlines prescribed by the national legislation (one month). The Ministry of Interior, as well as the Prosecutor's Office that facilitates the efficiency and objectivity of the operation of the ISO SP, exercise oversight over decisions taken by the ISO SP. On 11 October 2004, the Constitutional Court in the Case No. 2004-06-01 noted that the Prosecutor's Office as an institution belonging to judicial power is an efficient and objective mean for the protection of the rights of individuals and the state.

21. **The Committee expresses concern about the following:**

6. (C) "The conditions of detention in places of deprivation of liberty, especially police stations and short-term detention isolators."

22. **The subsequent recommendation of the Committee:**

7. (B) "Improve conditions in places of deprivation of liberty, especially police stations and short-term detention isolators, and ensure that they conform to international standards."

23. **Measures undertaken for the implementation of the Committee recommendation.**

**The situation in prisons**

24. Measures have been taken within the limits of the available funding to improve conditions of inmates in prisons. Renovation of Brasa, Grīva, Matīsa and Liepāja Prisons and in the Central Prison has been made. Cells in the said prisons now have more daylight and better ventilation. Renovation works have also been done in other prisons where cells have insufficient daylight and ventilation.

25. In compliance with the Latvian Code on Execution of Criminal Sanctions and Regulation of the Cabinet of Ministers No. 211 of 29 April 2003 On In-house Rules of Remand Prisons the living space per inmate is as follows - not less than 2,5 square meters for men, not less than 3 square meters for women and minors.

26. The rate of overcrowding at closed prisons is 106,3%, which is caused by objective reasons - during the recent years serious crimes and particularly serious crimes are registered more frequently, thus the number of individuals sentenced for these criminal offences constantly grows. In compliance with legal acts that are in effect, such individuals start serving their sentences in the lower level of regime at closed prison where they are to be placed taking into account security considerations. Given the rapid increase in the number of persons sentenced for serious crimes, prisons fall short of premises to place them. The problem of the shortage of premises is addressed in a long-term basis by the Concept on the Development of Penitentiaries.

27. Until 2003 the Cabinet of Ministers had been gradually diminishing allocation of financial resources into the investment programme intended inter alia for the renovation of prisons; in 2004, no financial resources were allocated at all. This caused the suspension of the renovation at the former production unit in the Jelgava prison where it was planned to place persons serving life sentences; the suspension of the construction of the hospital for tuberculosis patients at the Olaine prison and the renovation of the Latvia Prison Hospital. Fortunately, additional financial resources in the amount of LVL 1,630,000 allocated for 2005 will allow completing the construction of the Olaine Tuberculosis Hospital. The Concept on the Development of Penitentiaries envisages attracting additional funding for equipping the Hospital in 2006. Until now no renovation has been commenced at Ilūciems, Valmiera, Pārlielupe, Jēkabpils, Šķīrotava prisons and the Cēsis Educational Facility for minors although they are in a critical condition. However, the Concept on the Development of Penitentiaries envisages a solution also for this problem.

28. In 2003, a plan for renovation of the Latvia Prison Hospital was developed. However, in 2004, no funding was allocated for this purpose within the National Investment Programme and the beginning of works was suspended. The renovation of the Hospital is the priority of the Prison Administration for 2005. At present, the Prison Administration has no possibilities of improving conditions in the Latvia Prison Hospital or transferring the sick to another place. The Concept on the Development of Penitentiaries foresees the following solution to the mentioned problem - the hospital will be transferred to the Olaine Tuberculosis Hospital (retaining the tuberculosis treatment facilities) to provide inmates with treatment that would comply with the necessary standards.

29. The Ministry of Justice has drafted the Concept on the Development of Penitentiaries, which focuses on the elimination of the most acute problems of the penitentiary system - the problems of the buildings, constructions and communications at penitentiaries - and will allow providing appropriate conditions for serving the sentences. The Cabinet of Ministers approved the Concept on 19 April 2005. According to the Concept, during the period from 2006 till 2014 the prisons buildings are to be renovated, communications reconstructed, as well as three new prisons built. The Concept includes the implementation plan, which is divided into stages. The Concept will be implemented through investment programmes. The said Concept will also provide the solution of the problem of prison hospital premises in Latvia - the Olaine Tuberculosis Hospital will be completed and transformed into the Latvia Prison Hospital, retaining also facilities for treating tuberculosis patients. The transfer of the Hospital to the new premises is planned already for the end of 2006. The present hospital premises will undergo renovation and will be transformed into cells. Moreover, the Ministry of Justice continues to work on resolving other problems related to the enforcement of prison sentences. The Ministry of Justice has drafted the Concept on the Health Care of Inmates envisaging the transfer of responsibility for health care of inmates to the Ministry of Health. The given draft Concept will be coordinated with the Ministry of Health and subsequently submitted to the Cabinet of Ministers for approval. Currently, a working group established by the Ministry of Justice is drafting a new Policy Concept on Execution of Criminal Sanctions, which will define new and update penal principles. The draft Concept will be followed by a new Law on Execution of Criminal Sanctions, which will take replace the Latvian Code on Execution of Criminal Sanctions, which is in force since 1971. In addition, a working group has been established at the Ministry of Justice, which drafts new regulation concerning the education of inmates. Protection of the rights of the child has been recognised as a national priority, therefore, the Ministry of Justice has also focused on addressing this issue. A draft Basic Policy Guidelines for the Enforcement of Prison Sentences and Detention of Juveniles for 2006-2010 has been developed within the framework of the Matra project Work with Juveniles in Detention supported by the Government of the Netherlands in 2004 and 2005. The draft Guidelines establishes different principles for the care of juveniles and the necessity of re-socialisation. The Ministry of Justice works also on the formulation of the draft Law on Detention on Remand.

30. In compliance with the Latvian Code on Execution of Criminal Sanctions, Regulations of the Cabinet of Ministers No. 73 of 19 February 2002 On In-house Rules in Penitentiaries and Regulation of the Cabinet of Ministers No. 211 of 29 April 2003 On In-house Rules of Remand Prisons, each inmate is allocated an individual bed space, bedclothes and a towel. The above normative acts also provide that inmates go to a public bath or have a shower and their bedclothes are changed not less than once every seven days. Inmates are provided possibilities of taking care of their personal hygiene, to launder their underwear and clothes.

31. Regulations of the Cabinet of Ministers No. 155 of 9 April 2002 On Provision of Nutrition and Household Items for Convicts and Regulation of the Cabinet of Ministers No. 339 of 6 August 2002 On Norms of Nutrition, Detergents and Items of Personal Hygiene of Persons in Detention on Remand, in Administrative Custody and Apprehension prescribe monthly norms for detergents and items of personally hygiene for inmates. The funding allocated by the Cabinet of Ministers allows providing nutrition for inmates, while prisons try to provide, as far as possible, inmates with detergents and items of personal hygiene.

32. Part of inmates are involved in 7 various rehabilitation programmes, which are financed by non-governmental organisations. Majority of programmes focus on the appropriate use of the leisure time by inmates, socio-psychological rehabilitation, general and vocational education as well as preparing inmates for their release from prison and integration into society. Juvenile inmates enjoy rights guaranteed by the state to compulsory elementary education, which is provided as far as possible. However, it is made more difficult by the conditions of regime, the frequent transfer to other penitentiaries etc. Possibilities of educating juvenile inmates are restricted by the shortage of funding, however, irrespective of this fact, prisons implement curricula of general education as well as vocational education of inmates. Prisons are trying to ensure access to interest education, language courses, and computer literacy courses; however, these activities are not provided at the sufficient level due to the shortage of funding. At the end of 2003 the State Probation Service started its work, almost immediately achieving very good results. At present, the main functions of the Probation Service are preparing inmates for their release, the provision of post-penitentiary assistance to former inmates, the organisation of community work, the organisation of the enforcement of a coercive measure of educational character - community work and the preparation of assessment reports. As of 1 January 2006, the Service will commence supervision of individuals sentenced to services for community.

33. Under Article 55 of the Regulation of the Cabinet of Ministers No. 211 of 29 April 2003 On In-house Rules of Remand Prisons, inmates are entitled to a daily walk that is no less than one hour. The length of the daily walk is at least an hour and a half for a pregnant woman, a woman with a child under the age of two and a sick person following doctor's indications. The walking areas are equipped, as far as possible, with sports equipment. Each prison has a sports hall, a library, a chapel and study classrooms. In order to provide longer walking periods, it is necessary to amend legal acts, which, in their turn, will need additional funding for the construction and equipment of additional walking and sports areas. Besides, various activities are organised in penitentiaries, taking in consideration the amount of funding allocated for the year. The problem of inappropriate premises for sports activities, walks etc. will be resolved through the implementation of the Concept on the Development of Penitentiaries.

34. Inmates serving life sentences are kept in custody in compliance with the requirements of the Latvian Code on Execution of Criminal Sanctions: they are placed in a separate wing of the Jelgava closed prison with enhanced security, preventing any contacts with other inmates. The Daugavpils prison has conducted repairs and has established 28 places for the persons sentenced to life, the judgements with respect to whom have not yet come into force. This division was opened on 1 October 2004. Thus, the overcrowding problem among inmates serving life sentences has been at least partly resolved. The given problem is also addressed by the Concept on the Development of Penitentiaries.



35. On 11 November 2004 the Saeima (Parliament) enacted amendments to the Latvian Code on Execution of Criminal Sanctions concerning the determination and enforcement of the penal regime: women sentenced for life are placed in a semi-closed prison; convicts who are placed in the penal isolator, are provided with bedclothes etc.

36. The Ministry of Justice has started work on drafting a new Policy Concept on Execution of Criminal Sanctions, as the present Latvian Code on Execution of Criminal Sanctions has been in force since 1971, and although considerable number of amendments have been made, the Code is not in full compliance with the modern understanding of penal principles. Likewise, the lack of understanding prevailing in the community about the impact of social rehabilitation, education, and employment on the law-abiding life of an individual after imprisonment should be eliminated.

### **The situation in short-term detention isolators**

37. In order to improve the situation in the police short-term detention isolators the following activities were undertaken in 2004 within the limits of the available financial resources.

38. Complete repairs have been conducted on the isolator in the Bauska District Police Board (hereinafter DPB), the Cēsis DPB, the Ludza DPB, the Talsi DPB, and the Valka DPB.

39. Periodic repairs have been conducted in the following short-term detention isolators: in the Balvi DPB, the Gulbene DPB, the Jūrmala City Police Board (hereinafter CPB), the Madona DPB, the Ogre DPB, the Preiļi DPB (repairs have been started), the Saldus DPB (repairs have been started), the Tukums DPB, the Riga Police Headquarter Board, as well as the State Police Short-term Detention Isolator.

40. Project design for renovating the Valmiera DPB is being elaborated.

41. The technical design has been completed for: the Aizkraukle DPB, the Alūksne DPB, the Krāslava DPB, the Rēzekne City District Police Board (hereinafter CDPB) (capital repairs have been started).

42. Construction works of the 1st and the 2nd round have been finished at the Jelgava CDPB.

43. It is planned to renovate short-term detention isolators in the Rēzekne CDPB and the Alūksne DPB in 2005, to finish the current repairs in the Jelgava CDPB (the 3rd round), the Preiļi DPB, the Saldus DPB, to commission a construction project for the Preiļi DPB (for the development of the renovation project for the short-term detention isolator), the Valmiera DPB.

44. At present, the stay of individuals in short-term detention isolators is regulated by the Regulations On Short-Term Detention Isolators at the State Police Institutions, while the stay of individuals in remand prisons is regulated by Regulations of the Cabinet of Ministers No. 211 of 29 April 2003 On In-house Rules of Remand Prisons. On 1 April 2005, the Saeima (Parliament) of the Republic of Latvia adopted the new Criminal Procedure Law. On 12 February 2004, the Saeima rejected the draft Law On Enforcement of Detention and Custody in the first reading, and at present a new law is being drafted. The above legal acts will regulate the procedure for keeping individuals in detention and custody, the in-house rules and regime, the range of personal belongings for individual use, as well as other legitimate

restrictions of individual rights. On 1 January 2004, the Regulation of the Cabinet of Ministers No. 339 of 6 August 2002 On Norms of Nutrition, Detergents and Items of Personal Hygiene of Persons in Detention on Remand, in Administrative Custody and Apprehension became effective concerning individuals kept in short-term detention isolators, thus improving the living conditions of these individuals; items of personal hygiene are available in all short-term detention isolators of the State Police. In its turn, on 1 April 2005, Regulations of the Cabinet of Ministers of 21 December 2004 On the Procedure of Organising and Financing Health Care became effective, guaranteeing the provision of health care services to individuals placed in short-term detention isolators. Article **15.3.3.** of the given Regulation provides that the Ministry of Interior covers the payment “for health care services that are provided on out-patient basis to individuals placed in short-term detention isolators of the State Police (except emergency medical assistance and cases provided by the Law On Epidemiological Safety when provision of health care services is covered from the Ministry of Health budget)”. The Ministry of Health is currently developing the procedure for the provision and payment for the above services.

45. The Cabinet of Ministers will determine the basic requirements concerning the equipment of detention premises, living conditions and medical support on the basis of the said legal acts. Currently, the State Police is drafting Regulation on the Organisation of the Work of Sort-term Detention Isolators at State Police Boards, which will establish the organization of work of police officers at short-term detention isolators.

46. **The Committee expresses concern about the following:**

6. (D) “The length of legal proceedings and the excessive periods of pre-trial detention, especially in short-term detention isolators.”

47. **The subsequent recommendation of the Committee:**

7. (D) “Take all appropriate steps to shorten the length of legal proceedings and the current pre-trial detention period.”

48. **Measures undertaken for the implementation of the Committee recommendation.**

49. In 2003-2004 several amendments were made to the Criminal Procedure Code allowing to practically reduce the term from the moment of committing a criminal offence until the guilty is brought to justice, thus allowing completing the investigation and adjudication of criminal cases within shorter terms.

50. As of 1 November 2002, the Criminal Procedure Code endowed the prosecutor with authority to terminate a criminal case, giving the accused person a suspended release from criminal liability, as well as to reach an agreement with the defendant that no verification of evidence would be undertaken during the proceedings before the court. As of 2 March 2004, the Criminal Procedure Code includes plea-bargaining.

51. As of 19 June 2004, the Criminal Procedure Code includes a new security measure - prohibition to engage in specific activities. Besides, it includes a provision that the suspect or the accused with regard to whom the following security measures have been imposed - a signature as to not changing the place of residence, a personal warranty, a bail,

police supervision or a house arrest - is not allowed to leave the country without the permission of the officer in charge of investigation. The above provision might be a good argument in favour of imposing more appropriate security measures that are not related to the actual deprivation of liberty - detention on remand.

52. The following forms of terminating proceedings have been introduced in the new Criminal Procedure Law - the urgency procedure, the prosecutor's prescription for sanction (better known in Europe as the prosecutor's penal order). Also such security measures have been introduced as the notification of the postal address, the restraint order, the prohibition to leave the country, the prohibition to leave the place of residence.

53. Finally it must be noted, that although in the previous years there was a constant increase in the number of detainees, in 2004 it started to decline quite considerably, largely due to the court reform started several years ago - see in more detail Annexes 1 and 2.

54. **The Committee expresses concern about the following:**

6. (E) "The fact that the new Asylum Law stipulates that neither 'alternative status' for asylum-seekers shall be granted to a person who has arrived in Latvia from a country in which he/she could have asked for and received protection. Furthermore, the Committee is concerned at the long periods that asylum-seekers may spend in detention after the rejection of their asylum request."

55. **The subsequent recommendation of the Committee:**

7. (E) "Introduce legally enforceable time limits for the detention of rejected asylum-seekers who are under expulsion orders. In this respect, the State party is invited to provide statistics, disaggregated by gender, ethnicity, country of origin and age, relating to persons awaiting expulsion."

56. **Measures undertaken for the implementation of the Committee recommendation.**

57. Information on persons awaiting expulsion as of 1 March 2005 is presented in Annex 3.

58. As concerns statistics requested by the Committee, the Government wishes to emphasise that at present it is not possible to provide information about the ethnic origin of detainees, as these are sensitive data and under the Law On the Protection of the Data of Natural Persons authorities have no right to collect such information.

59. **The Committee expresses concern about the following:**

6. (F) "The overcrowding in prisons and other places of detention, taking into account, inter alia, the potential risk of this situation for the spread of contagious diseases."

60. **The subsequent recommendation of the Committee:**

7. (F) "Continue to take measures to address overcrowding in prisons and other places of detention."

61. **Measures undertaken for the implementation of the Committee recommendation.**

62. The Government already responded to this recommendation of the Committee in its additional information transmitted to the Committee on 3 November 2004.

63. A set of improvements at penitentiaries has already been implemented, and it is planned to continue improvement activities in the coming years. In 2004, renovation of the living premises in Iļģuciems and Daugavpils prisons were conducted within the limits of the budgetary resources, eliminating overcrowding in penitentiaries where women and convicts sentenced for life are serving their sentences. Thus, as of 1 July 2004, the number of places in the Iļģuciems Prison increased by 42. An additional 28 places were established in the Daugavpils Prison; after 1 October 2004, a part of persons serving life sentences in the Jelgava Prison was transferred to the Daugavpils Prison.

64. No financial resources were allocated for the renovation of the Latvia Prison Hospital in the national budget during 2004, thus no activities have taken place in this area in 2005.

65. Under the Law On National Budget for 2004 the Administration of Penitentiaries was allocated financial resources in the amount of LVL 17,481,926, constituting 66.2% of the required amount (LVL 26,424,634).

66. In 2005, the Administration of Penitentiaries requested financial resources in the amount of LVL 32,978,260 from the national budget. LVL 19,042,994 were allocated, constituting 57.7% of the required amount.

67. On 15 June 2004 the Cabinet of Ministers reviewed and approved the report on the problems of the Administration of Penitentiaries in bringing prisons into compliance with requirements of the European Union, and a decision was taken on allocating additional budgetary resources to the Prison Administration. The Saeima (Parliament) enacted amendments to the Law On National Budget for 2004 on the allocation of additional financial resources in the amount of LVL 1,519,610 that were earmarked for the implementation of Regulations of the Cabinet of Ministers on the remuneration for the personnel and the provision of uniforms, the health care of inmates and material assistance to persons who are released from penitentiaries, for the pay-off of debts of penitentiaries and for the utility payments for heating, natural gas, water and sewerage, coal, food products etc.

68. Statistics on the population of prisons as of 1 March 2005 is available in Annex 4.

69. **The Committee expresses concern about the following:**

6. (G) "The fact that although the draft new Criminal Procedure Law has addressed many of the existing shortcomings, the Criminal Procedure Law currently in force does not include the right of a detainee to contact family members. Concern is also expressed about the information that access to a doctor of choice is subject to the approval of the authorities."

6. (H) "Allegations that in many cases, even where so provided by law, access to a lawyer is denied or delayed in practice to persons in police custody, and that defendants have to pay back the costs of legal aid if their case is lost."

70. **The subsequent recommendation of the Committee:**

7. (C) “Guarantee that detainees in police custody have the right to contact their families and have access to a medical doctor of their choice and to legal counsel from the outset of their deprivation of liberty.”

71. **Measures undertaken for the implementation of the Committee recommendation.**

72. Different legal regulation applies to the detainees in police custody and those detained in remand prisons and in the custody of the Prison Administration.

73. Under the Regulations of the Cabinet of Ministers No. 211 of 29 April 2003 On In-house Rules of Remand Prisons detainees have the right:

(a) To meet relatives and other persons with the permission of the official in-charge of investigation, as well as to maintain correspondence with them and to use the prison telephone;

(b) To submit complaints, applications and proposals to national, municipal and international institutions and officials, as well as non-governmental organisations;

(c) To contact without restriction human rights institutions, the Prosecutor’s Office and court, as well as their defence counsel;

(d) To receive money transfers in remand prisons without any restriction, to subscribe to newspapers and magazines, to use the prison library;

(e) To meet a priest;

(f) For a detained foreigner or a stateless person - to contact the diplomatic or consular representation of the country whose national the person is or where the person has his/her permanent residence.

74. Detainees, who have not violated the effective regime, are entitled to the enjoyment of all rights prescribed by legislation without restriction.

75. As concerns the possibility of meeting other people, this option is restricted purposefully - to ensure security, to prevent the planning of any further criminal offences. Unfortunately, the reality of Latvia is that various ways are sought for the detainees to be able to pass on the required information to criminals outside prison about influencing witnesses, changing testimonies, the coordination of versions and the exchange of information acquired in prison.

76. On 22 October 2002 in the case No. 2002-04-03 the Constitutional Court indicated that restrictions of personal freedom were to be prescribed by law, and not by Regulations of the Cabinet of Ministers. Accordingly, the Ministry of Justice drafted a law On Enforcement of Detention and Custody that prescribes the legal status, rights and responsibilities of detainees.

77. As concerns convicted persons - if there are no violations of the regime, then under the Latvian Code on Execution of Criminal Sanctions convicts have a right to meet their relatives and other persons once a month.

78. Under Regulations of the Cabinet of Ministers No. 211 of 29 April 2003 On In-house Rules of Remand Prisons detainees also have the possibility of meeting their relatives not more than once a month with the written permission of the official in charge of investigation, while juvenile detainees may have one meeting per week. Detainees have a possibility to correspond in writing with persons outside the remand prison; however, the official in charge of investigation has the right to impose restrictions on correspondence if it is required in the interests of protecting the rights of other persons, the democratic system of the country, public security, welfare and morality, as well as the security of the penitentiary and the investigation of the case. In any case, reasoning shall be provided for the imposition of such restrictions. It is prohibited to restrict correspondence with institutions for the protection human rights, the prosecutor's office and court, as well as the defence counsel.

79. In compliance with Regulation of the Cabinet of Ministers No. 358 of 19 October 1999 On Medical Assistance for Convicts and Detainees in Penitentiaries, all inmates are guaranteed the minimum of health care service within the range prescribed by the Regulations of the Cabinet of Ministers.

80. When formulating the Regulations, account was taken of the different status and specific needs of detainees and convicted persons during their imprisonment. In fact, the above Regulations provide that inmates receive a wide range of free health care than the rest of the population. The Regulation prescribes that the following is to be provided to inmates:

- (a) Primary, secondary and tertiary (partial) medical assistance;
- (b) Emergency dentist's assistance;
- (c) An examination of the health condition;
- (d) Preventive and counter epidemic measures;
- (e) Medication and injections prescribed by the physician of the institution;
- (f) Medical equipment.

81. Unfortunately, the Regulations have to be implemented within the resources allocated to the Prison Administration. Active cooperation in providing medical assistance has developed between the Administration of Penitentiaries and the Nordic countries.

82. Information about the distribution of detainees among remand prisons is presented in Annex 5.

83. As regards concerns expressed by the Committee in Paragraph 6 (H) it must be noted that under Article 96 of the Criminal Procedure Code of Latvia an institution performing inquiry, a prosecutor and court, while hearing the case, as well as the Council of Sworn Attorneys of Latvia, have the right to exempt the suspect, the accused, or the defendant from the payment for

legal aid in part or in full, taking into account the person's material situation (for example, if the person is poor, a minor etc). If an institution performing inquiry, a prosecutor or court has exempted the person from the payment for legal aid, attorney's fees are covered by the national budget in compliance with the procedure prescribed by the Cabinet of Ministers of the Republic of Latvia. Under the Law On Compensation of Losses Incurred as a Result of Illegal or Unjustified Actions of an Institution Performing Inquiry, a Prosecutor or Court, persons who have been acquitted or if the criminal case against these persons has been terminated due to rehabilitating conditions, are entitled to a compensation of expenses for legal aid provided by a sworn attorney.

84. Besides, on 17 March 2005 the Saeima (Parliament) enacted the Law On State - Guaranteed Free Legal Aid. The said Law provides that a person who has a right to defence under the law, may request free legal aid as long as the court judgment has not been enforced.

85. **The Committee expresses concern about the following:**

6. (I) "The number of persons who lost their legal status as citizens or 'non-citizens' and became 'illegal' after having temporarily left the country."

86. **The subsequent recommendation of the Committee:**

7. (J) "Continue to facilitate the integration and naturalization of 'non-citizens'."

87. **Measures undertaken for the implementation of the Committee recommendation.**

88. Over the last two years the rate of naturalisation has increased rapidly - at present naturalisation is the most popular way of acquiring Latvian citizenship (nationality). The rate of naturalisation experienced the most rapid growth in September 2003. In the period of 2000-2002 an average of 770 applications for naturalisation per month were received while during the last four months of 2003 the number of applications grew to reach 1,290 applications per month. In 2004, the said figure reached 1,775 applications per month, while during the first three months of 2005 it had already reached 2,109 applications per month. More detailed statistics is presented in Annex 6.

89. The analysis of the causes for the rapid growth of the naturalisation rate revealed four main factors influencing naturalisation:

(a) The possibility of studying the Latvian language free of charge after the submission of the application for naturalisation;

(b) The information campaign conducted by the Naturalisation Board;

(c) The reduction of the state fee to LVL 3, which gave possibilities for a large part of the population of Latvia to undergo naturalisation;

(d) The accession of Latvia to the European Union and the NATO.

90. However, still several factors persist that obstruct naturalisation:

(a) Insufficient Latvian language proficiency for a large part of non-citizens (approximately 200 000 out of 470 000 non-citizens), which prevents them from passing the Latvian language examination. This problem is particularly acute in Latgale (Daugavpils) as well as in Riga;

(b) Lack of motivation, in particular among the elderly;

(c) The situation that the status of a non-citizen does not cause any complications in daily life.

91. As concerns the integration of non-citizens, at present the Latvian policy is directed towards addressing non-citizens with the help of various public or direct campaigns and language courses, inviting them to undergo naturalisation themselves and to naturalise their children.

92. **The recommendation of the Committee:**

7. (G) "Provide in the next periodic report detailed statistical data, disaggregated by age, gender and country of origin, on complaints related to torture and other ill-treatment allegedly committed by members of the police forces, as well as related investigations, prosecutions, and penal and disciplinary sentences."

93. The reply to the above recommendation is given in Paragraphs 12-16 of the present Report on the work of the ISO SP.

94. The Government once again wishes to emphasise that in compliance with the Law On Protection of Data of Natural Persons authorities are not allowed to collect sensitive data. However, the Government of the Republic of Latvia has taken into consideration the interest shown by the Committee in statistics of this kind and will continue the discussion about possibilities of improving the current system for collecting statistical data in the country which will, though, require amendments to legal acts that are effective at the moment.

95. **The recommendation of the Committee:**

7. (H) "Ensure that the draft code of conduct for police interrogation ('Police Ethics Code') is speedily adopted."

96. In response to this recommendation the Republic of Latvia submitted additional information that was transmitted to the Committee on 3 November 2004. The Police Ethics Code was approved on 5 December 2003 by the order of the Chief of the State Police. The Police Ethics Code was published in the official newspaper "Latvijas Vēstnesis" and all the police officers have been familiarised with its contents. The text in Latvian and in English is accessible also at the home page of the State Police. In July 2004, the Police Ethics Code was published in a separate publication and distributed to all regional structural units of the police.



97. The Personnel Inspection of the ISO SP oversees the implementation and enforcement of the Code. In 2003, the ISO SP conducted 149 inspections, detecting 76 violations of professional ethics and imposing disciplinary penalties on 94 employees. In the first six months of 2004, the ISO SP conducted 85 inspections, detecting 52 violations of professional ethics and imposing disciplinary penalties on 65 employees.

98. **The recommendation of the Committee:**

7. (I) "Take measures to ensure that in all circumstances the crime of torture is explicitly included among the crimes for which article 34 of the Criminal Law excludes the defence of superior orders."

99. The Government has given its response to the above recommendation in the additional information transmitted to the Committee on 3 November 2004.

100. Article 34 of the Criminal Law, effective at present, provides the following:

**"Article 34. Execution of Criminal Commands or Criminal Orders**

(1) Execution of a criminal command or a criminal order by the person who has executed it is justifiable only in those cases when the person did not know of the criminal nature of the command or the order and it was not evident. In such cases, however, criminal liability shall apply if crimes against humanity and peace, war crimes or genocide have been committed.

(2) A person who has not executed a criminal command or order shall not be held criminally liable."

101. Thus, if the person is aware of the criminal character of a command or an order, or its criminal nature is obvious, provisions of Article 34 of the Criminal Law imply criminal liability.

102. The above general definition about the criminal character of a command or an order is clear and understandable. Torture is an intentional act or omission against a person, thus it has an open and obvious character. It must be noted in this respect that, as regards torture, a person can definitely distinguish and understand that the execution of such a command or order bears a criminal nature.

103. At present no amendments are planned to Article 34 of the Criminal Law.

104. As the present disposition of Article 34 of the Criminal Law lists officials of law enforcement agencies or servicemen as potential subjects of crime, the Government would like to refer to Article 13 of the Law On Police, which clearly specifies situations when a police officer is allowed to apply force. In any other situation the application of force will be deemed impermissible and will be treated as a potential case of exceeding one's official authority.

**105. The recommendation of the Committee:**

7. (K) “Consider making the declarations under articles 21 and 22 of the Convention.”

106. So far, the Republic of Latvia has not considered the submission of a report under Articles 21 and 22 of the Convention.

**107. The recommendation of the Committee:**

7. (L) “Consider ratifying the Optional Protocol to the Convention.”

108. As concerns the ratification of the Optional Protocol, it might take place during the coming 4-5 years. The Government fully supports the purposes of the Optional Protocol, but wishes to draw Committee’s attention to the already existing co-operation with the CPT, as described in paragraph 2 of the present Report.

**109. The recommendation of the Committee:**

8. (M) “The Committee also recommends that the State party disseminate widely the Committee’s conclusions and recommendations, in all appropriate languages, through official web sites, the media and non-governmental organizations.”

110. On 24 February 2004 the Agent for the Government of the Republic of Latvia before International Human Rights Organizations presented conclusions and recommendations of the Committee to the Cabinet of Ministers. In addition, an analytical survey of the recommendations of the Committee and the current situation was prepared and transmitted to all institutions of public administration, working with these problems on a daily basis. The analytical survey together with conclusions and recommendations of the Committee is accessible at the home page of the Agent of the Government of the Republic of Latvia before International Human Rights Organizations (<http://www.mkparstavis.am.gov.lv/lv/?id=168>), as well as at the portal politika.lv (<http://www.politika.lv/index.php?id=103111&lang=lv>).

### **III. PROGRESS ACHIEVED AFTER THE SUBMISSION OF THE INITIAL REPORT**

#### **Article 1**

111. Information concerning the implementation of Article 1 of the Convention has been provided in Paragraphs 3-14 of the Initial Report of the Republic of Latvia on the Implementation of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment during the period of time until 1 January 2002 (CAT/C/21/Add.4).

#### **Article 2**

112. Information on the implementation of Article 2 of the Convention has been provided in Paragraphs 15-21 of the Initial Report (CAT/C/21/Add.4).

113. Information about persons convicted during the period from 2003 till 2004 for crimes provided by Articles of the Criminal Law listed in the present Report, is given in Annex 7.

114. As concerns inmates of penitentiaries, it is important to note that Article 23 of the Law On Administration of Penitentiaries provides cases when the employee of penitentiaries is authorised to apply physical force, special methods and special means:

**Article 23. The right of an official to apply physical force, special martial methods and special means**

(1) An official shall have the right to apply physical force, special martial methods and special means - handcuffs, straightjackets, truncheons, devices of electric shock, service dogs, substances causing tears in a penitentiary - to be able to open premises seized by offenders, to eliminate obstacles in order:

1. To prevent an attack directed at himself/herself or other persons;
2. To retaliate an attack on buildings, premises, edifices and means of transport or to free objects that have been seized in a violent manner;
3. To free hostages;
4. To prevent mass disorder;
5. To detain a person, who disobeys or resists him/her, may flee or inflict damage to oneself and other persons (if there are grounds to believe it can happen);
6. To terminate the attempt of detainees or convicts to escape.

115. Article 23 of the Law On Administration of Penitentiaries provides that the governor of the penitentiary reports to the prosecutor about all cases of the application of special means at penitentiaries without delay but not later than within 24 hours. The prosecutor has the right to start an examination of the justification and legality of the application of special means. The Specialised Multisectoral Prosecutor's Office conducted an inspection on these matters in the Valmiera Prison in 2004 and in the Liepāja Prison in 2005.

116. The Prosecutor's Office that oversees the penitentiaries, has received applications alleging infliction of bodily harm - 6 applications in 2003, 12 applications in 2004.

117. The above applications have been transmitted to the Investigation Division of the Prison Administration for review in compliance with Article 109 of the Criminal Procedure Code and Article 22 of the Law On Administration of Penitentiaries. The Prosecutor's Office exercises oversight over the legality and validity of decisions taken by officers of the Investigation Division in compliance with Article 1251 of the Criminal Procedure Code.

118. In 2003, the Prosecutor's Office revoked three decisions taken by the Investigation Division of the Administration of Penitentiaries on refusal to institute criminal proceedings and returned materials for additional review.

119. In 2004, the Prosecutor's Office revoked two decisions on refusal to begin criminal proceedings and initiated criminal proceedings under Article 317 of the Criminal Law in cases of exceeding official authority by prison employees.

120. In 2003/2004, the Administration of Penitentiaries transmitted several criminal cases of bodily harm mutually inflicted by inmates, to the Prosecutor's Office for criminal prosecution - see Annex 9.

### **Article 3**

121. As of June 2004, the Criminal Procedure Code has been amended with provisions (Articles 506.1.-506.9.) in compliance with the Framework Decision of the European Union of 13 June 2002 on the European Arrest Warrant that provide a possibility of extraditing an individual to the European Union countries if a European decision on arrest has been taken to this effect. The above norms provide a simplified extradition procedure among the EU member states. The decision on extradition is taken by the Prosecutor's Office. Besides, an annex to the amendments lists categories of offences when a person is extradited to an EU member state without review, if the said offences are criminal offences under Latvian law. In 2004, Latvia extradited 4 persons applying the above norms of the Criminal Procedure Code. In its turn, a country, which is not an EU member state, submits a request on the extradition of a person. Under Article 490 Paragraph 2 of the Criminal Procedure Code, the extradition of a person is not permissible if the extradition request is related to the purpose of starting the person's criminal prosecution or punishing the person on the grounds of race, religious affiliation, ethnicity or political views or if there are sufficient grounds to believe that the person's rights may be violated due to the above reasons as well as if the person may be subject to torture in the requesting country.

122. The procedural protection prescribed by the Criminal Procedure Code provides that in the event the person whose extradition is requested does not consent to extradition, the decision of the Prosecutor General's Office can be appealed against to the Chamber of Criminal Cases of the Supreme Court within ten days from the date of the receipt of the decision. The decision to extradite is not subject to appeal if the person himself/herself has consented to extradition. The Prosecutor General's Office transmits without delay to the Ministry of Interior for enforcement the extradition decision that has become effective.

123. In 2004, negotiations started continuing in 2005 between Latvia and the USA concerning concluding bilateral agreement on extradition. The draft agreement has already been prepared, and currently it is in the stage of discussion.

124. By 1 May 2005, Latvia will have concluded agreements with 26 countries (Austria, the Baltic States, the Benelux countries, Bulgaria, Denmark, France, Greece, Croatia, Iceland, Italy, Liechtenstein, Norway, Portugal, Rumania, Slovenia, Finland, Spain, Switzerland, the Ukraine, Hungary, Uzbekistan, Germany and Sweden) on the readmission of persons who have entered and illegally sojourn in the country.

125. The new Law On Asylum that became effective as of 21 September 2002 defines the protection of asylum seekers. Under the Law On Asylum the alternative status may be granted

to persons who are under the threat of a death penalty, a corporal punishment, torture, inhuman and degrading treatment or punishment or if there are internal or international armed conflicts in the country.

126. At present, Latvia is well prepared for the admission of asylum seekers. All border checkpoints on the Eastern border of Latvia are equipped with premises for potential asylum seekers. The Centre for asylum seekers "Mucenieki" that is projected to house approximately 200 asylum seekers has been fully equipped, however, most of the time it is empty.

127. In the course of the last seven years 142 persons have asked for asylum, 8 persons have been granted the refugee status while 9 persons have been accorded alternative protection. In 2000 5 people sought asylum in Latvia, in 2001 - 14, in 2002 - 30, in 2003 - 5, in 2004 - 7, in 2005 (by 2 May 2005) - 1.

128. As of 1 May 2003, the new Law On Immigration has become effective, prescribing that in the event of an illegal immigrant being detained by the police, the detention must exceed three hours during which the immigrant must be turned over to the Border Guard. In its turn, the Border Guard may detain the illegal immigrant for a period of up to 10 days. If during the said period it is not possible to extradite the person, detention may be prolonged only by a decision of a judge. The judge may take the decision to prolong the term of detention to up to two months; however, the State Border guard may request the term of detention to be extended. The total term of detention must not exceed 20 months. The judge, following the protest by a prosecutor or a chairman of a higher instance court, may revoke the decision on detention.

129. Under Article 56 of the Law On Immigration the detainee enjoys the following rights:

- (a) To submit a complaint to the prosecutor;
- (b) To contact the consular service of his/her country and to receive legal aid. The detainee must be informed about these rights at the moment of detention;
- (c) To be introduced in person or with the assistance of a representative to materials that are related to his/her detention;
- (d) To communicate in a language that the detainee understands or, if necessary, to use interpretation services;
- (e) To appeal against decisions of officials in compliance with the procedure laid down by law;
- (f) To be transported and be settled separately from persons who are suspected of having committed a criminal offence.

130. If, upon taking the decision to refuse a foreigner entry into the Republic of Latvia, it is not possible for an official of the State Border guard to send the person immediately back to the country from which the person has arrived, the said foreigner is kept under guard until it can be done but not exceeding 48 hours. Statistics concerning the number of extradited persons is given in Annex 10.

#### **Article 4**

131. Information concerning the implementation of Article 4 of the Convention has been provided in Paragraphs 35-43 of the Initial (CAT/C/21/Add.4). Up-dated statistics on the said criminal offences is presented in Annex 7.

#### **Article 5**

132. Information concerning the implementation of Article 5 of the Convention has been provided in Paragraphs 44-48 of the Initial Report (CAT/C/21/Add.4).

#### **Article 6**

133. Information concerning the implementation of Article 6 of the Convention has been provided in Paragraphs 49-52 of the Initial Report (CAT/C/21/Add.4).

#### **Article 7**

134. Information concerning the implementation of Article 7 of the Convention has been provided in Paragraphs 53-54 of the Initial Report (CAT/C/21/Add.4).

#### **Article 8**

135. The extradition of persons from Latvia to a foreign country is performed in compliance with Chapter 41 of the Criminal Procedure Code. A person sojourning in the territory of Latvia may be extradited for criminal prosecution, trial or enforcement of the judgment if a request has been received from a foreign country to extradite the said person for an offence that is of criminal nature under the laws of Latvia and the respective foreign country.

136. As provided by Chapter 12 International cooperation in criminal matters of the Criminal Procedure Code, cooperation in criminal matters is regulated by international agreements, as well as legal norms of the EU, the Constitution of the Republic of Latvia and other laws. The new Chapter 12 incorporates two sections, i.e., Section 40 regulating the extradition of a person to Latvia and Section 41 regulating the extradition of a person to a foreign country.

137. On 27 May 2004, the Law Amendments to the Criminal Procedure Code, providing the enforcement of the European Arrest Warrant was adopted. Under Article 4881, the European Arrest Warrant is a decision taken by an institution belonging to the judicial power of a EU member state addressed to another member state and requesting to extradite a person for criminal prosecution or for the enforcement of a sentence involving deprivation of liberty.

138. As concerns the extradition of a person to Latvia, Article 480 of the Criminal Procedure Code provides that the extradition of a person can be requested if there are grounds to believe that:

(a) The accused or the defendant who has committed a criminal offence punishable under the Criminal Law and the penalty imposed involves deprivation of liberty with the maximum term of not less than one year, if an international agreement does not provide another term;

(b) The convict who has been sentenced to an imprisonment term in Latvia or to arrest for a term that is not less than four months. Article 489 of the Criminal Procedure Code prescribes grounds for the extradition of a person to another state, i.e., a person sojourning in the territory of Latvia may be extradited for criminal prosecution, trial or the enforcement of a sentence if a request has been received from another country to extradite the person for an offence which is of a criminal nature under the laws of Latvia and the foreign country and is punishable by imprisonment with the maximum term of not less than one year or a more severe penalty.

139. The European Arrest Warrant is applied among the EU member states; the said decision has at its basis a unified form that speeds up and facilitates extradition with the purpose of criminal prosecution or the enforcement of a sentence involving deprivation of liberty. Articles 488, 488<sup>1</sup>, 488<sup>2</sup>, 488<sup>3</sup> and 488<sup>4</sup> of the Criminal Procedure Code prescribe the procedure for adopting the European Arrest Warrant, its enforcement and conditions related to the taking-over of a person from an EU member state.

140. Latvia has several binding bilateral agreements regulating extradition issues. However, it is necessary to emphasize that the implementation of the European Arrest Warrant in the European Union restricts the application of provisions contained in bilateral agreements among its member states, irrespective of the fact that these countries have also entered into mutual international agreements that regulate matters of extradition.

141. Bilateral agreements on extradition have been concluded also with the Russian Federation, the Baltic States, Poland, the Republic of Moldova, the Ukraine, the Republic of Kirghizstan, the Republic of Belarus, the Republic of Uzbekistan, and Australia.

#### **Article 9**

142. Information concerning the implementation of Article 9 of the Convention was provided in Paragraphs 59-61 of the Initial Report (CAT/C/21/Add.4).

#### **Article 10**

143. The Latvia Judicial Training Centre (LJTC) was founded in 1995. At present the LJTC offers possibilities of professional theoretical and practical training, the improvement of professional knowledge and the ethical level to judges, court officers, court bailiffs and other representatives of legal professions in Latvia.

144. During the period of January - April 2004 the LJTC trained assistants to administrative judges, secretaries of administrative court hearings, started a new curriculum for candidates to judicial offices, as well as prepared and provided workshops for employees of the State Social Insurance Agency and officers of the Riga Municipal Police concerning the new Law On Administrative Procedure. Several seminars were organized within the framework of the UNDP project Support to the Judicial System for the new extended curricula working group, where discussions were held about the significance of further education in the professional career of judges, possibilities of improving the system of evaluating seminars and the distribution of work,

as well as coordination among curricula managers of the LJTC, members of the curricula working group and lecturers with the purpose of preparing and providing the high quality curricula to various groups of judges.

145. The LJTC has provided training to judges of district (city) courts, regional courts and several judges of the Supreme Court on children's rights in the context of criminal law and civil law. Training on civil rights of children has been provided within the framework of the regular courses that are attended by all judges of district (city) and regional courts on a mandatory basis, as well as at several thematic workshops where attendance is voluntary.

146. In 2005, it is planned to start training for judges of district (city) courts, regional courts, administrative courts, investigation judges, judges of Land Register offices, candidates to judicial offices and court officers.

147. The Training Centre of the Administration of Penitentiaries provides training in pedagogic of penitentiaries, psychology, criminology, the criminal procedure, post-penitentiary assistance, and European prison rules. In 2003, the Training Centre of the Administration of Penitentiaries, together with the Probation Service of Sweden, organised two seminars for the prison staff on issues of labour protection in the case of drugs, drug addiction and HIV/AIDS. The Administration of Penitentiaries is actively cooperating with the Prison and Probation Administration of Norway in the area of staff training.

#### **Article 11**

148. Information concerning the implementation of Article 11 of the Convention was provided in Paragraphs 68-74 of the Initial Report of (CAT/C/21/Add.4). Information about activities undertaken by the ISO SP and the oversight exercised by the Prosecutor's Office is provided in Paragraphs 11-18 and 111-119 of the present Report.

#### **Article 12**

149. Under Article 6 of the new Criminal Procedure Law "any official authorised to carry out criminal proceedings shall be duty-bound in all cases where reasons and grounds for initiating criminal proceedings have become known, to initiate criminal proceeding and to carry through these proceedings until fair settlement of criminal legal relations as provided for in the Criminal Law".

150. The purpose of the new Criminal Procedure Law is to establish a criminal procedure for investigating criminal offences, criminal prosecution and the adjudication of criminal cases that ensures an effective application of norms of the Criminal Law and a fair regulation of criminal legal relations without any unjustified interference in the person's life.

151. The basis for beginning criminal proceedings is the submission of information to an investigating agency, the Prosecutor's Office or court that indicate a possible commission of a criminal offence, or receipt of such information about the progress of criminal proceedings at the responsible institution. The new Criminal Procedure Law includes an article - a right to the completion of criminal proceedings within a reasonable time, which provides that everyone



enjoys the right to the completion of criminal proceedings within a reasonable time, prohibiting unjustified interference in the person's life and unjustified expenditures. Complying with a reasonable time requirement in criminal proceedings in cases where the security measure imposed is related to deprivation of liberty, is a priority in comparison with other criminal proceedings.

152. In addition, it must be noted that under Article 50 of the Latvian Code on Execution of Criminal Sanctions and Article 28 of the Regulations of the Cabinet of Ministers No. 211 On In-house Rules of Remand Prisons, detainees and convicted persons are provided the right to meet the prosecutor, which they also use. In 2003, 99 convicts used this option, in 2004 - 140 convicts used it.

### **Article 13**

153. In Latvia, the issue concerning the necessity to provide special procedural protection in the cases of complaints about actions of police officers has not been a priority.

154. On 21 October 2004, the Saeima adopted the Law On Special Protection of Persons in the second reading. It is planned that the above law will take effect together with the new Criminal Procedure Law. Besides, Chapter IV regulating the application of special procedural protection has been incorporated in the new Criminal Procedure Law.

155. In 2003, the Prosecutor's Office received 721 complaints from inmates, 346 inspections were conducted, 375 complaints were transmitted to the appropriate jurisdiction. In 2004, the Prosecutor's Office received 134 complaints from inmates, 596 inspections were conducted, 558 complaints were transmitted to the appropriate jurisdiction.

156. In 2003, various violations were detected in 6 cases; 3 prosecutor's protests and 3 applications were submitted. In 2004, 5 prosecutor's protests and 7 applications were submitted; in one case a request was expressed to impose a disciplinary penalty on a prison employee.

157. Regulations of the Cabinet of Ministers No. 211 prescribe that inmates send their complaints and applications at the expense of the prison.

158. It is important to note that as of 25 November 2004 amendments to Article 50 of the Latvian Code on Execution of Criminal Sanctions entered into force providing the following: "the correspondence of convicts with the UN institutions, the Commission on Human Rights and Public Affairs of the Saeima (Parliament), the National Human Rights Office, the Prosecutor's Office, court, the defence counsel, as well as the correspondence of a convicted foreign national with the diplomatic or consular representation of his/her country or of the country that has been authorised to represent his/her interests, shall not be subject to control. The expenses incurred by the correspondence of convicts with the UN institutions, the Commission on Human Rights and Public Affairs of the Saeima, the National Human Rights Office, the Prosecutor's Office, court, the defence counsel, as well as the correspondence of a convicted foreign national with the diplomatic or consular representation of his/her country or of the country that has been authorised to represent his/her interests, shall be covered from the budget of the penitentiary".

#### **Article 14**

159. On 17 March 2005, the Saeima enacted the Law On State-Guaranteed Free Legal Aid that will enable all categories of victims to receive assistance. A division is being established at the Ministry of Justice that will deal with these issues.

#### **Article 15**

160. Article 13 of the new Criminal Procedure Law provides that during criminal proceedings it is not allowed to humiliate, blackmail, torture a person or threaten a person with torture or violence, or use violence against a person. In its turn, under Article 130.2.1 information obtained by using violence, threat, blackmail, fraud or coercion is considered inadmissible or unusable as evidence.

#### **Article 16**

161. In 2004, ten regional state inspectors on the protection of children's rights of the Ministry of Children's and Family Affairs started work in the following places: Riga (the Riga Region); Jelgava (Zemgale); Rēzekne (Latgale); Kuldīga (Kurzeme); Valmiera (Vidzeme).

162. In compliance with Article 651 Paragraph 1 of the Law On Protection of Children's Rights state inspectors on the protection of children's rights have the right, on their own initiative or following a complaint, to inspect the work of any public or municipal institution, non-governmental organisation, other legal or natural person on issues of the protection of the rights of the child, to request information or explanations from them.

163. The inspector issues recommendations for the prevention of violations on the basis of the results of the inspection, and, if necessary, proposes that the guilty officials be held liable under the law.

164. According to the competence of the Ministry of Children's and Family Affairs, in 2004, state inspectors on the protection of children's rights conducted 131 inspections to verify compliance with children's rights at care institutions on their own initiative or following complaints: 69 out-of-family child care institutions (children's homes, childcare centres for orphans, crisis centres), 40 educational institutions (schools, boarding schools, pre-school educational institutions), 18 recreational and sports camps for children, 2 medical institutions. Various methods were applied during inspections, including discussions with children and the staff, questionnaires, observations, as well as services of psychologists. A total of 2,615 children participated in completing the questionnaire.

165. The analysis of the received complaints has revealed that the most topical issue is the right of the child to personal inviolability (emotional, physical violence against the child from peers, teachers, representatives of the administration of an institution) - see for more detail Annex 11.

166. In some cases, on the basis of results of inspections in out-of-family childcare institutions, the employer has been requested to take a decision concerning the suitability of an employee to the position s/he holds, as well as in one case the State Police and in another case

the Prosecutor General's Office of Latvia have been requested under Article 174 of the Criminal Law to take a decision concerning the behaviour of an employee and to assess if constituent elements of a criminal offence can be detected in the person's behaviour towards children.

167. Results of inspections have served as a basis for the recommendations issued to the administration of the institution to eliminate mutual conflicts among students, paying more attention to addressing communication problems; to undertake appropriate measures for strengthening the mutual understanding and tolerance of children and teachers; for the strengthening of interethnic understanding and tolerance, as well as to prevent the use of alcoholic beverages at school, to carefully consider the organisation of events at school to prevent in future students' exposure to physical and emotional humiliation during events and activities.

168. In order to reduce violence against children, it is important for the community to understand the negative impact of violence. Thus, it is necessary to inform the community about types of violence, about the possible assistance to the child-victim of violence. An information campaign was organised within the framework of the National Programme for the Improvement of the Situation of the Child and the Family in 2004 - it included the development and demonstration of clips, posters informing the community about types of violence and its negative consequences for the child's health and life. At the same time, specialists (social workers, employees of Orphans Courts (Civil Parish Courts), teachers, policemen and judges) have undergone training on methods used during work with children-victims of violence; methodological material has been developed for specialists about violence against children.

169. On 22 December 2004, amendments to the Code of Administrative Violations of Latvia were adopted (Article 1722. Physical and emotional violence against a child), prescribing administrative liability for physical and emotional violence against a child, issuing a warning or a fine.

170. In 2005, the Ministry on Children's and Family Affairs plans to conduct inspections on compliance with children's rights at penitentiaries where juveniles have been placed (the Daugavpils Prison, the Matīsa Prison, the Ilģuciems Prison, a repeated review at the Cēsis Educational Facility), as well as the educational and correctional institution "Naukšēni" and the educational institution of social correction "Strautiņi".

171. In order to improve the system of social care and social rehabilitation, which is in the competence of the Ministry of Welfare, under the Law On Social Services and Social Assistance and Regulation of the Cabinet of Ministers No. 278 of 27 May 2003 On Procedure for Receiving Social Services and Social Assistance, clients stay at these institutions on a voluntary basis, as in Latvia persons are not placed in long-term social care and social rehabilitation institutions in a coercive manner.

172. Social services at an institution are provided to orphans and children deprived of parental care only if it is not possible to provide the child care and upbringing in a foster family or with a guardian, while Social services at an institution are provided to children with severe mental disorders and people of the retirement age, the disabled with impaired eyesight or physical disabilities, if the scope of the required service exceeds the scope established for home care or day care and social rehabilitation institution.

173. Social service at an institution is provided to adults with severe mental disorders if it is not necessary for the person to stay at a specialised medical institution and if the person's condition does pose any danger to other people, if the scope of the required service exceeds the scope established for home care or day care and social rehabilitation institution.

174. Adults with mental disorders, severe disability and the blind, orphaned children under the age of two, children with physical and psychic disabilities under the age of four, as well as disabled children with psychic disorders from the age of 4 to 18 are provided with social care at state-financed long-term social care and social rehabilitation centres.

175. Care for the elderly and persons with physical disabilities, for orphaned children from the age of 2 to 18 is provided by social care institutions of local governments.

176. State-financed social care services in the country are provided by 33 institutions of which 8 are long-term social and social rehabilitation institutions for children and 25 long-term social and social rehabilitation institutions for adults. Clients enter institutions on the basis of an application submitted by the client himself/herself or by the legitimate guardian, i.e., on a voluntary basis, in compliance with the procedure for receiving the service. Under legal acts, clients may discontinue the receipt of the service on the basis of an application submitted by the client himself/herself or by the legitimate guardian if as a result of rehabilitation the person does not need the services of the institution any more and they can be changed for services provided at the place of residence. Likewise the provision of services can be discontinued if the person endangers the life or health of other people. In 2004, three complaints submitted by clients concerning the refusal of the institution to continue providing the service after the clients violated the internal rules of order were reviewed. In one case, conciliation was reached and the service is continued. In other cases, the discharge from the social care institution was not filed in compliance with requirements contained in legal acts and the unjustified decisions were revoked.

177. Article 29 of the Law On Social Services and Social Assistance prescribes rights of persons residing in long-term social care and social rehabilitation institutions.

178. The Social Services Board that is subordinate to the Ministry of Welfare (hereinafter - the Board) participates in the implementation of national policy in the area of social services and social assistance. Article 3.8. of the Regulations of the Cabinet of Ministers No. 863 of 19 October 2004 On the Social Services Board, provides that the Board reviews complaints, applications and proposals of natural and legal persons concerning the quality of social services and social assistance, rights of the clients, and gives respective replies. The Board is authorised to undertake reviews also at institutions - social service providers that do not provide state - financed services.

179. In compliance with requirements contained in legal acts, the Board controls the quality of social services; the compliance of the service with legal acts and reviews complaints on failure to respect rights of clients. Reviews on the quality of the service at state-financed institutions are undertaken once in two years at each institution, which ensures compliance with legal acts and that the specific detected failings are eliminated within the indicated timeframe. During the

review of clients' complaints in 2004, violations of clients' rights detected during one of the reviews were transmitted to the Prosecutor's Office for an assessment, following which the Prosecutor's Office initiated criminal proceedings in the case.

180. In compliance with the Law On Social Services and Social Assistance, the manager of the social care and social rehabilitation institution establishes a Social Care Board that includes persons residing at the institution, their relatives, employees of the institution and representatives of the local government. One of the tasks of the Board is to examine conflicts between clients and the staff of the institution as well as to participate in the assessment of the quality of services provided by the institution. The Board formulates proposals concerning the procedure for the submission of complaints and the review of disputes at the institution. Social Care Boards have been established at 21 institutions and their competence covers the coordination of internal rules of order of the institution, the submission of proposals for the improvement of the operation of the institution, the examination of conflicts between clients and the administration, participation in the assessment of the quality of services.

181. In compliance with Article 31 of the Law On Social Services and Social Assistance, in order not to allow leaving persons without supervision and to protect rights and freedoms of other persons, the manager of the institution or his/her authorised representative may take a decision to restrict a person's right to free movement.

182. If a person's behaviour poses danger to the life or health of himself/herself or other persons, that person may be isolated for a period of up to 24 hours, making an entry about the time of isolation in the person's case file. The person must be placed in a room specifically equipped for this purpose where s/he is provided with the required care and constant supervision. In compliance with legal acts, in order to protect the rights and freedoms of persons, the manager of the institution or his/her authorised representative may take a decision to restrict a person's right to free movement. In order to prevent situation when due to their health condition clients endanger themselves or other clients and the staff, legal acts prescribe the isolation of clients for a period that does not exceed 24 hours, ensuring constant supervision. Special isolation units for the purpose of isolating persons with behavioural disorders have not been established at institutions. In some institutions, if required, clients are placed in separate rooms, where constant observation and supervision is provided. Institutions were delegated with the responsibility of formulating the procedure of action in critical situation when the client endangers other people and should be isolated. During the period from 1 November 2003 till 1 April 2005, isolation was applied only in two of the institutions under inspection. During inspection, no violations indicating that the procedure of isolation might have been violated were detected; neither have any complaints been submitted by clients about unjustified isolation. The majority of institutions hold the opinion that it is not necessary to establish such units, as in cases of necessity medical ambulance is summoned and the client is delivered to a psycho-neurological hospital.

183. If it is necessary to isolate a child, the isolation shall be performed in compliance with norms prescribed by the Law On Protection of Children's Rights and Regulations of the Cabinet of Ministers No. 162 of May 4 1999 On Procedure for Isolating a Child in a General Care and Educational Institution for Orphans and Children Deprived of Parental Care. In such cases,

the duration of isolation must not exceed 24 hours and the isolation of the children from others may be continued only in specific cases. The total duration of isolation must not exceed 48 hours. Supervision must be ensured during the isolation period.

184. In compliance with the Regulations of the Cabinet of Ministers No. 291 of 3 June 2003 On Requirements for Social Service Providers, the institution must have a specific procedure under which the client or the child, if required, is isolated and supervised in compliance with legal acts.

185. During the inspections conducted in 2004, particular attention was paid to the review of clients' complaints and applications. Clients' complaints and applications are reviewed at all institutions. Some of the institutions fail to comply with the procedure for the registration of applications and complaints prescribed by legal acts. No institutions have been detected where clients are denied the possibility of expressing their complaints and problems mentioned in applications submitted by clients are not examined.

186. In 2004, the Social Service Board reviewed 82 clients' applications, giving replies to 51 complaints.

187. In the given period of time the Board has organised 8 workshops for the staff of institutions about issues of clients' rights and quality of the service, involving human rights specialists and lawyers.

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