



CPT/Inf (2009) 22

**Report to the Lithuanian Government  
on the visit to Lithuania carried out by  
the European Committee for the Prevention  
of Torture and Inhuman or Degrading  
Treatment or Punishment (CPT)**

**from 21 to 30 April 2008**

The Lithuanian Government has requested the publication of this report.

Strasbourg, 25 June 2009



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**Copy of the letter transmitting the CPT's report**

Ministry of Justice  
Gedimino pr. 30/I  
2600 VILNIUS  
Lithuania

Strasbourg, 18 December 2008

Dear Madam/Sir

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I enclose herewith the report to the Lithuanian Government drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) following its visit to Lithuania from 21 to 30 April 2008. The report was adopted by the CPT at its 67<sup>th</sup> meeting, held from 3 to 7 November 2008.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Lithuanian authorities to provide **within six months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the Lithuanian authorities to provide, in the above-mentioned response, reactions to the comments formulated in this report which are summarised in Appendix I as well as replies to the requests for information made.

In respect of the request for information in paragraph 27 of the report, the CPT requests the Lithuanian authorities to provide a response **within two months**.

The CPT would ask, in the event of the response being forwarded in Lithuanian, that it be accompanied by an English or French translation. It would also be most helpful if the Lithuanian authorities could provide a copy of the response in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours faithfully

Mauro PALMA  
President of the European Committee  
for the prevention of torture and inhuman  
or degrading treatment or punishment



## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Lithuania from 21 to 30 April 2008. The visit formed part of the CPT’s programme of periodic visits for 2008. It was the third visit to Lithuania to be carried out by the Committee<sup>1</sup>.

2. The visit was carried out by the following members of the CPT:

- Andres LEHTMETS, Head of delegation
- Ömer ATALAR
- Aleš BUTALA
- Sonja KURTËN-VARTIO
- Tatiana RĂDUCANU.

They were supported by Elvin ALIYEV and Muriel ISELI of the CPT’s Secretariat, and were assisted by:

- Eric DURAND, medical doctor, former Head of medical services at Fleury-Mérogis Prison, France (expert)
- Sonja SNACKEN, Professor of Criminology, Free University of Brussels, Belgium (expert)
- Alina DAILIDËNAITË (interpreter)
- Ruta KAUNAITË (interpreter)
- Monika MATULEVIČIŪTË (interpreter)
- Vaiva MORKŪNIENË (interpreter)
- Simona PERSSON (interpreter).

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<sup>1</sup> The CPT’s first two periodic visits to Lithuania took place in 2000 and 2004. The reports on these visits as well as the respective responses by the Lithuanian authorities have been published under the following references: CPT/Inf (2001) 22 and 23 (2000 visit), CPT/Inf (2006) 9 and 10 (2004 visit).

**B. Establishments visited**

3. The CPT's delegation visited the following places:

Establishments under the Ministry of the Interior

- Jonava Regional Police Department
- Kaunas City Police Headquarters
- Panemunė Police Department, Kaunas
- Santaka Police Department, Kaunas
- Kupiškis Regional Police Department
- Panevėžys City Police Headquarters
- Rokiškis Regional Police Department
- Šiauliai City Police Headquarters
- Trakai Regional Police Department
- Police Department No. 1, Vilnius
- Police Department No. 2, Vilnius

Establishments under the Ministry of Justice

- Kaunas Juvenile Remand Prison and Correction Home
- Lukiškės Remand Prison and Prison, Vilnius
- Pravieniškės-2 Correction Home No. 3

The delegation also went to Šiauliai Remand Prison to interview newly-arrived remand prisoners, to Marijampolė Correction Home to interview prisoners who had been transferred from Pravieniškės-2 Correction Home No. 3 (see paragraph 33) and to Vilnius Prison Hospital to consult certain medical files.

Establishments under the Ministry of Health

- Rokiškis Psychiatric Hospital

Establishments under the Ministry of Social Security and Labour

- Skemai Residential Care Home.



**C. Co-operation between the CPT and the Lithuanian authorities**

4. In the course of the visit, the CPT's delegation held consultations with Petras BAGUŠKA, Minister of Justice, Eglė RADUŠYTĖ, Deputy Minister of Justice, Gediminas ČERNIAUSKAS, Deputy Minister of Health, Stanislovas LIUTKEVIČIUS, Secretary at the Ministry of the Interior, Violeta MURAUSKAITĖ, Secretary at the Ministry of Social Security and Labour, and other senior officials from the ministries concerned. In addition, it met with Romas VALENTUKEVIČIUS, Head of the Seimas Ombudsmen's Office, and with representatives of non-governmental organisations active in areas of concern to the CPT.

A list of the authorities and organisations met by the delegation is set out in Appendix II to this report.

5. The degree of co-operation received during the visit by the delegation, both from the national authorities and from the staff of the establishments visited, was good on the whole. However, the delegation had to wait around 30 minutes to gain access to Jonava Regional Police Department (Klaipėdos Street); in addition, it had to wait, similarly for almost 30 minutes, before being able to examine a vehicle from the Convoy Division parked inside Lukiškės Remand Prison and Prison (Vilnius). In both cases it was clear that the relevant information on the CPT's mandate and powers, as well as on the possibility of a visit, had not been communicated to the staff concerned. **The Committee trusts that the Lithuanian authorities will take the necessary steps to avoid any repetition of such situations.**

6. The principle of co-operation between the Parties to the Convention and the CPT is not limited solely to facilitating the task of visiting delegations. It also requires that the Parties take effective measures to implement the recommendations made by the Committee. Unfortunately, the findings made by the delegation during the visit suggest that insufficient action has been taken regarding certain issues which have previously given the CPT serious cause for concern, in particular with regard to the conditions of detention in police establishments and remand prisons. The CPT trusts that the Lithuanian authorities will take steps to improve the situation, in the light of the Committee's recommendations.

**D. Immediate observations under Article 8, paragraph 5, of the Convention**

7. At the end-of-visit talks on 30 April 2008, the CPT's delegation made an immediate observation under Article 8, paragraph 5, of the Convention, calling upon the Lithuanian authorities to improve substantially the material conditions of detention in Kaunas Juvenile Remand Prison and to offer remand prisoners a full programme of purposeful out-of-cell activities tailored to their needs (education, sport, etc.).

This immediate observation was confirmed in a letter dated 16 May 2008 from the President of the CPT, in which the Committee requested the Lithuanian authorities to submit, within three months, a concrete action plan in response to the immediate observation and, within five months, an account of the steps taken to implement the plan.

By letters of 29 July and 29 October 2008, the Lithuanian authorities informed the CPT of the action taken in response to the above-mentioned immediate observation. The information provided has been taken into account in the relevant sections of the report.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Police establishments

#### 1. Preliminary remarks

8. At the time of the 2008 visit, the basic legal provisions governing the detention of persons by the police remained as summarised in the CPT's report on the 2004 visit<sup>2</sup>. It is recalled that a person suspected of a criminal offence can remain in police custody on the authority of a police investigator or public prosecutor for up to 48 hours. Within that period, the person concerned must be brought before a judge, who may remand the person in custody for a fixed term.

Persons remanded in custody may be held in a police detention centre for a period not exceeding 15 days. In addition, by decision of the relevant judge following a request made by an investigator or prosecutor, remand and sentenced prisoners may be returned to police custody from prison (and placed in a police detention centre for up to 15 days), if this is considered necessary for an investigation (see, in this regard, paragraphs 9 and 23).

Other possible grounds for placement in a police detention centre include administrative detention (of up to 30 days) of persons found guilty of minor offences; detention (of up to three hours) during the completion of police proceedings concerning administrative offences; and detention for sobering-up purposes.

9. Already at this point, the CPT must emphasise that, as a matter of principle, remand prisoners should not be held in police detention facilities but instead in a prison establishment; this principle is enshrined in Rule 10.2 of the revised European Prison Rules<sup>3</sup>. It is widely acknowledged that the period immediately following apprehension, and prior to the first appearance before a judge, is when the risk of abuse is greatest. Continued detention on police premises, even after the person concerned has been brought before a judge, also poses the risk of intimidation and pressure. Consequently, instead of being kept in police detention centres, persons remanded in custody should be promptly transferred to prison; any further questioning by the police which may be necessary should as far as possible be carried out in prison (see paragraph 23).

**The CPT recommends that the Lithuanian authorities review the system of remand detention in police detention centres in the light of the above remarks, with a view to substantially reducing its duration.**

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<sup>2</sup> CPT/Inf (2006) 9, paragraphs 9 and 10.

<sup>3</sup> Recommendation Rec(2006)2 of the Committee of Ministers of the Council of Europe. Rule 10.2 states as follows: "In principle, persons who have been remanded in custody by a judicial authority and persons who are deprived of their liberty following conviction should only be detained in prisons, that is, in institutions reserved for detainees of these two categories."

## 2. Ill-treatment

10. During the visit, the delegation interviewed many persons who were, or had recently been, in police custody. The majority of them indicated that they had been treated by the police in a correct manner. It should also be noted that numerous persons with considerable experience of the police stated that there had been a change for the better in recent years as regards the manner in which police officers treated persons in their custody.

However, the delegation did receive a number of allegations of recent physical ill-treatment during questioning by officers of the criminal police, aimed at obtaining confessions or other information. It would appear that juveniles are particularly at risk in this respect. The ill-treatment alleged mainly consisted of kicks, punches, slaps and blows with truncheons or other hard objects (such as wooden bats or chair-legs). Some allegations were also heard of extensive beating and asphyxiation using a plastic bag or gas mask. In certain cases, the delegation gathered medical evidence which was consistent with the allegations made.

Further, some persons interviewed by the delegation alleged ill-treatment of a psychological nature, such as verbal abuse or threats to use violence. In addition, a few allegations were received concerning the excessive use of force (e.g. kicks and truncheon blows) at the time of apprehension, after the person concerned had been brought under control.

11. On examination by the delegation's doctors, some detained persons were found to display visible marks consistent with their allegations of recent ill-treatment by the police. By way of illustration, reference can be made to the following cases.

- A detainee met by the delegation at Police Department No. 2 in Vilnius alleged that he had been severely beaten by two police officers in one of the offices of that police department just a few hours before members of the delegation interviewed him. In particular, he claimed that the officers had struck him with a wooden stick and a metal tube in the abdomen area and on the back and legs.

An examination by medical members of the delegation revealed several recent injuries consistent with repeated blows with a blunt object: an oblique lesion measuring 5 x 1.5 cm under the nipples; an oblique lesion measuring 8 x 1.5 cm under the left shoulder-blade; a horizontal lesion measuring 5 x 1.5 cm on the posterior side of the right thigh; two oblique lesions, one measuring 4.5 x 5.5 cm and the other 3.5 x 9 cm, on the anterior side of the left thigh; a lesion measuring 3 x 1 cm with an oedema on the anterior side of the left ankle. All of these lesions had clearly visible edges, which were red in colour.

- A person met by the delegation at Panevėžys City Police Headquarters alleged that, on the previous day, a police officer had punched him in the face, in order to make him confess to a criminal offence. On examination by a medical member of the delegation, the person displayed a dark blue haematoma measuring 3 x 2 cm under his right eye and a blood clot (3 x 2 cm) on the inside of his lower lip.

12. As concerns the first case, the CPT was subsequently informed by the authorities that “Vilnius City Regional Prosecutor Office, 4<sup>th</sup> Division (Criminal Activity Investigation) Prosecutor [...] has been informed about [...] [the detained person’s] bodily injuries” and that “[o]fficial inspection [was] being carried out in the Vilnius City Chief Police Commissariat Internal Investigation Division due to possible illegal actions of the police officials.” **The Committee would like to be informed of the outcome of the inquiry.**

13. In the light of the remarks made in paragraphs 10 and 11, **the CPT calls upon the Lithuanian authorities to redouble their efforts to combat ill-treatment by the police. The Committee recommends that police officers be reminded, at regular intervals, that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are not acceptable and will be the subject of severe sanctions. Police officers must also be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them.**

14. As stressed in previous reports, prosecutors and judges should take appropriate action when there are indications that ill-treatment by the police may have occurred. During the visit, the delegation received a number of allegations that prosecutors and judges did not act upon claims of ill-treatment when these were brought to their attention.

In the CPT’s view, whenever criminal suspects brought before prosecutorial or judicial authorities allege ill-treatment, the allegations should be recorded in writing, a forensic medical examination (including, if appropriate, by a forensic psychiatrist) immediately ordered, and the necessary steps taken to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible injuries. Indeed, certain types of ill-treatment do not leave obvious marks. Even blows to the body may leave only slight physical marks, difficult to see and quick to fade. Consequently, when allegations of such forms of ill-treatment come to the attention of prosecutorial or judicial authorities, they should be especially careful not to attach too much importance on the absence of physical marks. Further, even in the absence of an express allegation of ill-treatment, a forensic medical examination should be requested whenever there are other grounds to believe that a person could have been the victim of ill-treatment. If necessary, guidelines should be issued to this effect by the appropriate authorities.

**The CPT recommends that appropriate steps be taken to ensure that prosecutorial and judicial authorities take resolute action when any information indicative of ill-treatment emerges. Allegations and/or other information indicative of ill-treatment should be adequately assessed, in particular by taking evidence from all persons concerned and arranging in good time for on-site inspections and/or specialist medical examinations. Further, the above-mentioned authorities should conduct proceedings in such a way that the persons concerned have a real opportunity to make a statement about the manner in which they have been treated.**

15. The CPT is concerned that, at some police detention centres (e.g. Jonava, Panevėžys, Šiauliai, Trakai), custodial officers were carrying truncheons in the full view of detainees. As was observed in the report on the 2004 visit, such a practice is not conducive to developing positive relations between staff and detainees. **The CPT reiterates its recommendation that custodial officers assigned to police detention centres do not openly carry truncheons in detention areas. If it is deemed necessary for staff to be armed with such equipment, it should be hidden from view.**

### 3. Safeguards

16. The CPT recalls that it attaches particular importance to three rights for persons deprived of their liberty by the police: the right of those concerned to inform a close relative or another person of their choice of their situation, the right of access to a lawyer and the right of access to a doctor.

These rights are fundamental safeguards against the ill-treatment of persons deprived of their liberty. They should be enjoyed by all persons deprived of their liberty (including those placed in administrative detention or held under aliens' legislation) and should apply from the very outset of the deprivation of liberty. Furthermore, persons deprived of their liberty by the police must be expressly informed, without delay and in a language they understand, of all their rights.

17. As regards the right of notification of custody, Section 140 of the Code of Criminal Procedure specifically provides that close relatives must be notified *immediately* when a person is deprived of his or her liberty.

However, the information gathered during the 2008 visit revealed that, in practice, close relatives or other persons were usually not notified at the very outset of deprivation of liberty, but only after the "protocol of apprehension" was drawn up<sup>4</sup>.

**The CPT reiterates its recommendation that appropriate action be taken to ensure that the right of notification of custody is fully effective in practice with respect to all persons deprived of their liberty by the police, as from the very outset of their deprivation of liberty.**

18. Article 31 of the Constitution and Section 50 of the Code of Criminal Procedure provide for the right of access to a lawyer "from the moment of deprivation of liberty or first interrogation".

On the basis of these provisions, access to a lawyer from the outset of deprivation of liberty was allowed in principle. However, several detained persons met during the visit indicated that they had been informed of their right of access to a lawyer only at the time when the "protocol of apprehension" was drawn up, i.e. several hours after apprehension. Further, most of the detained persons who had applied for legal aid complained that they had had no contact with the state-appointed lawyers before the first interrogation, or even before the first court hearing. In this respect, police officers confirmed that "state-appointed lawyers always arrive late".

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<sup>4</sup> The "protocol of apprehension" had to be drawn up within five hours of the person being apprehended.

In their response to the report on the 2004 visit, the Lithuanian authorities indicated that the legislation had been amended with a view to improving the system of legal aid. However, it was clear from the information gathered by the delegation during the 2008 visit that this system was still not effective as from the very outset of the deprivation of liberty. In this respect, the CPT wishes to stress that, without an effective legal aid system for persons in police custody, the right of access to a lawyer at this stage of the procedure will remain purely theoretical for indigent persons.

**The CPT calls upon the Lithuanian authorities to take the necessary measures to ensure that the right of access to a lawyer is enjoyed by all persons obliged to remain with the police, as from the very outset of their deprivation of liberty.**

**Further, the CPT recommends that the Lithuanian authorities pursue their efforts to ensure the effectiveness of the legal aid system, as from the very outset of deprivation of liberty, for persons in police custody who are not in a position to pay for a lawyer. It suggests that the Bar Association be consulted in this context.**

19. As far as the CPT can ascertain, there is no specific legal provision guaranteeing access to a doctor for persons deprived of their liberty by the police in Lithuania.

Although no particular complaints were received by the delegation in this respect from detained persons during the 2008 visit, **it would be desirable that all persons deprived of their liberty by the police be expressly guaranteed the right to have access to a doctor – including a doctor of their choice – from the very outset of their deprivation of liberty.**

20. Very little progress has been achieved with regard to the recommendations made by the CPT in its report on the 2004 visit concerning health-care services in police detention centres<sup>5</sup>.

In most cases, medical consultations and examinations took place (including in establishments equipped with medical facilities) in inappropriate conditions or premises (through the cell doorways; in a room for body searches equipped with video cameras; etc.). Police officers were always present during medical consultations and examinations – and some police officers even took an active part, as it would appear from a note written by a nurse (describing an injury) stating: “[... the detained person] injured himself in the face during the interrogation; the latter sentence was added at the suggestion of the police”. The recording of injuries (when carried out) was not sufficiently detailed (see, in this regard, paragraph 62). Moreover, the confidentiality of medical data was rarely respected (being accessible to non-medical staff).

The delegation also observed that, although the police detention centres visited employed nurses (with the exception of Kupiškis Regional Police Department), newly-arrived remand prisoners were still not benefiting systematically from prompt and thorough medical screening upon admission.

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<sup>5</sup> CPT/Inf (2006) 9, paragraph 28.

The CPT reiterates its recommendations that steps be taken to ensure that, in police detention centres:

- **medical examinations are conducted out of the hearing and – unless the doctor or nurse concerned specifically requests otherwise in a given case – out of the sight of police officers;**
- **the results of every medical examination, as well as any relevant statements by the detained person and the doctor’s conclusions, are formally recorded by health-care staff and made available to the detained person and his or her lawyer;**
- **the confidentiality of medical data is strictly respected.**

Further, for as long as police detention centres continue to be used to hold remand prisoners, steps must be taken to ensure that all newly-arrived remand prisoners are medically screened, within 24 hours of their arrival at such an establishment, by a doctor or a qualified nurse reporting to a doctor.

21. The “protocol of apprehension”, which detained persons were requested to sign, contained information on rights. However, the information provided was incomplete (e.g. there was no information on access to a doctor). Furthermore, despite assurances given by the authorities in their response to the report on the 2004 visit<sup>6</sup>, the persons concerned were still not being given a form setting out their rights, in any of the police establishments visited.

**The CPT calls upon the Lithuanian authorities to ensure that a form setting out the rights of persons taken into police custody (including the right of access to a doctor) is systematically given to such persons as soon as they are brought into a police establishment. The form should be made available in an appropriate range of languages.**

22. The delegation was informed by police officers in the establishments visited that, if the criminal suspect was a juvenile, the parents had to be notified immediately – even when the juvenile did not request this. However, it appeared that in practice parents were usually notified after the “protocol of apprehension” was drawn up. Further, some juveniles alleged that they had been interrogated by the police and/or had signed their statement without a lawyer (or parent) being present.

**The CPT recommends that steps be taken to ensure that juveniles do not make any statement or sign any document relating to the offence of which they are suspected without the benefit of a lawyer and ideally a trusted adult being present to assist them.**

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<sup>6</sup> CPT/Inf (2006) 10, page 11 (“The leaflet is to be drawn up in the second half-year of 2005”).



23. The CPT has already expressed its misgivings about the practice of returning remand prisoners to police detention facilities for investigation purposes.

In this regard, the situation has regrettably not improved very much. Indeed, it was still a widespread practice throughout the country that remand prisoners were returned to police detention facilities. As indicated in paragraph 8, the maximum period for which a person could be held in a police establishment in such a case was limited to two weeks. However, the delegation's observations made during the 2008 visit suggest that a number of remand prisoners had remained in police establishments for prolonged periods – a succession of 2-week periods, interrupted by a short break (sometimes of just one day) in a prison.

The CPT must stress once again that, from the standpoint of the prevention of ill-treatment, but also in view of the conditions prevailing in police detention facilities (see paragraph 26), it is far preferable for further questioning of persons committed to a remand prison to be undertaken by police officers in prisons rather than on police premises. **The return of prisoners to police detention facilities should only be sought and authorised very exceptionally, for specific reasons and for the shortest possible period of time.**

#### 4. Conditions of detention

##### a. police detention centres

24. The CPT's delegation noted that efforts were being made to improve conditions of detention in certain police detention centres. Particular mention should be made of the recent substantial renovation of the detention facilities at Kaunas City Police Headquarters, which had been the subject of severe criticism by the CPT after the 2000 and 2004 visits. During the 2008 visit, the delegation observed very good material conditions in this establishment.

Further, the authorities informed the delegation at the outset of the visit that major renovation had also been carried out in police detention centres at Klaipeda and Panevėžys. Indeed, when visited by the delegation, the latter establishment was found to offer good conditions of detention.

The CPT welcomes these developments.

25. The delegation was informed that renovation works were planned in several other police detention centres, in the context of the "Police Development Programme for 2007-2011". **The CPT would like to receive detailed information on this point.**

26. That said, material conditions in the other police detention centres visited (i.e. at Jonava, Rokiškis, Kupiškis, Šiauliai and Trakai) displayed a number of major shortcomings and could in some cases be considered inhuman and degrading. The majority of cells seen by the delegation were in a poor state of repair and filthy; further, they often had little or no access to natural light, dim artificial lighting, and were poorly ventilated. Although mattresses and blankets were available, they were often dirty and worn out. Moreover, it appeared that basic personal hygiene items (such as toilet paper) were not systematically provided. At Jonava, a tap placed directly above the minimally partitioned and unhygienic in-cell toilets was the only source of drinking water.

It is all the more worrying that detained persons, including juveniles, were being held under such conditions for up to 30 days (see paragraph 8); moreover, given the practice of returning prisoners to police establishments for further questioning, the cumulative periods of detention could even amount to months.

Further, as was the case during previous CPT visits, most detained persons, including juveniles, held in police detention centres were locked up in their cells for the majority of the day, their only diversions consisting of conversing with their cellmates or, in some detention centres, watching TV<sup>7</sup>. Moreover, no outdoor exercise was offered at Jonava or Kupiškis.

Such a state of affairs is totally unacceptable.

27. The delegation was informed during the visit that, by the end of 2008, the detention facilities at Jonava, Kupiškis and Trakai would be taken out of service and renovation works would start at Rokiškis Regional Police Department. **The CPT would like to receive confirmation, within two months, that this has indeed taken place.**

More generally, **the CPT calls upon the Lithuanian authorities to step up their efforts to bring conditions of detention in all police detention centres to an acceptable level. In particular, measures should be taken to ensure that:**

- **all persons detained overnight are allocated a bed and provided with a clean mattress and clean bedding;**
- **access to natural light and artificial lighting, as well as ventilation, are adequate;**
- **all detained persons have ready access to drinking water in salubrious conditions and are provided with basic hygiene products;**
- **the state of repair and hygiene in the cells and the communal sanitary facilities is of an adequate level;**
- **all persons who are detained by the police for more than 24 hours are offered at least one hour of outdoor exercise every day.**

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<sup>7</sup> Only a few administrative detainees were offered work.

28. Finally, at Šiauliai City Police Headquarters, the delegation was concerned to observe that a juvenile remand prisoner had been kept in a cell together with two adults for over a week. As previously stressed by the CPT, such a situation is unacceptable.

In their response to the CPT's report on the 2004 visit, the Lithuanian authorities indicated that such a practice was in accordance with the United Nations Convention on the Rights of the Child which stipulates that "every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so"<sup>8</sup>. However, in the context of the above-mentioned case, the examination of relevant documentation brought to light the fact that the placement of the juvenile in a cell together with adult detainees was linked to a "shortage of empty cells" in the detention facility.

**The CPT reiterates its recommendation that immediate steps be taken to ensure that juveniles placed in police detention facilities are accommodated separately from adult detainees.**

b. other police detention facilities

29. At Jonava Region Police Department, the delegation saw two "waiting cells" located next to the interrogation room in the basement, each measuring a mere 0.6 m<sup>2</sup>. These cells are, by virtue of their size, unsuitable for holding anyone for any length of time and **the CPT recommends that they be taken out of service without delay.**

30. Persons held overnight in the temporary holding cells of the police establishments visited (e.g. for sobering-up purposes) were still not usually provided with a mattress and a blanket, despite assurances to the contrary given by the Lithuanian authorities in their response to the report on the 2004 visit. **The CPT recommends that the Lithuanian authorities take urgent steps to remedy this shortcoming.**

c. the Convoy Division

31. The conditions under which detained persons were transported by the Convoy Division had been criticised by the CPT in its reports on the 2000 and 2004 visits. More particularly, the Committee had recommended that the cubicles measuring 0.4 m<sup>2</sup> in the vans concerned no longer be used for the transport of prisoners.

However, during the 2008 visit, it became apparent that such cubicles were still being used for transporting prisoners. **The CPT calls upon the Lithuanian authorities to put an immediate end to this practice.**

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<sup>8</sup> Article 37(c) of the United Nations Convention on the Rights of the Child.

## **B. Prisons**

### **1. Preliminary remarks**

32. The delegation visited Pravieniškės-2 Correction Home No. 3 for the first time. It also carried out follow-up visits to Lukiškės Remand Prison and Prison in Vilnius (hereinafter Lukiškės Remand Prison) and to Kaunas Juvenile Remand Prison and Correction Home, where it paid special attention to the remand prisoners.

33. *Pravieniškės-2 Correction Home No. 3* is located in a wooded area of the region of Kaišiadorys, some 30 km to the east of Kaunas. Opened in 1968, it comprises several buildings, most of which have since been renovated or completely rebuilt. The building work included the adaptation of the prisoners' living areas, in particular the conversion of dormitories into cells (at the time of the visit, there were still a few dormitories, containing up to 15 beds). With an official capacity of 567 places (including 67 places in the arrest<sup>9</sup> section), the correction home was accommodating 250 inmates (including 37 in the arrest section) at the time of the visit. The delegation was informed that, following a decision by the Director of the Ministry of Justice Prisons Department in February 2008, the establishment was in the process of being emptied<sup>10</sup> so that, with effect from 1 July 2008, it could take in prisoners sentenced (for the first time) for serious offences, thereby reducing overcrowding in neighbouring Correction Home No. 2.

*Lukiškės Remand Prison* was described in the reports on the visits made by the CPT in 2000 and 2004<sup>11</sup>. At the time of the 2008 visit, the prison, with an official capacity of 864, was housing 1,002 prisoners, including approximately 750 remand prisoners and 81 life prisoners.

*Kaunas Juvenile Remand Prison and Correction Home* was described in the report on the visit made by the CPT in 2004<sup>12</sup>. Since then, its official capacity has been increased from 150 to 275 places: 108 for remand prisoners and 167 for sentenced prisoners (including 17 places in the arrest section). At the time of the visit, there were 74 remand prisoners, including two girls, and 116 sentenced male<sup>13</sup> prisoners (including six in the arrest section).

34. At the start of the visit, the authorities informed the delegation that the situation regarding overcrowding in prisons in Lithuania had improved somewhat since the 2004 visit. With regard to sentenced prisoners, only one establishment was overcrowded (*Pravieniškės-2 Correction Home No. 2*) and measures had already been decided (and were in the process of being implemented) to reduce the number of inmates being accommodated there (see paragraph 33). Moreover, further improvements in the situation were expected, in that a "plan for release on parole in Lithuania" had been drawn up in 2007. The CPT welcomes these developments.

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<sup>9</sup> Sentences for minor offences; the maximum length of such sentences is 90 days (Sections 50 to 61 of the Code on the Execution of Sentences).

<sup>10</sup> Since March 2008, over 200 inmates had been transferred to other establishments, in particular to Alytus, Marijampolė and Vilnius.

<sup>11</sup> CPT/Inf (2001) 22, paragraphs 53, 70 and 71, and CPT/Inf (2006) 9, paragraphs 50, 65 and 71.

<sup>12</sup> CPT/Inf (2006) 9, paragraphs 50 and 77.

<sup>13</sup> There were no sentenced female prisoners (once sentenced, girls were transferred to Panevėžys Correction Home).

However, the situation was less favourable regarding remand prisoners. At the time of the visit, all of the remand prisons in the country (except Kaunas Juvenile Remand Prison) were overcrowded.

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

35. Under the legislation in force, the capacity of prisons was calculated on the basis of living space of 3 m<sup>2</sup> per inmate in the dormitories and 5 m<sup>2</sup> per inmate in the cells.

In the CPT's view, a standard of 3 m<sup>2</sup> does not offer a satisfactory amount of living space. For as long as the dormitories remain in use<sup>14</sup>, **the CPT recommends that this standard be raised to at least 4 m<sup>2</sup> per inmate. The official capacities of the prisons concerned will have to be reviewed accordingly.**

## 2. Ill-treatment

36. At Lukiškės Remand Prison, the delegation received several allegations from prisoners concerning physical ill-treatment inflicted by staff (punches, baton blows, blows struck with books). In some cases, the ill-treatment was said to have been inflicted by drunken prison officers at weekends in Building 1. Other prisoners alleged that they had been beaten up in Building 1 in a "room resembling an office", having been taken there for "administrative purposes" (e.g. writing a statement following an incident). At Pravieniškės-2 Correction Home No. 3, some inmates complained of physical ill-treatment (punches, kicks and baton blows) and the excessive use of force by prison officers, especially in the disciplinary section. At Kaunas Juvenile Remand Prison and Correction Home, some inmates alleged that they had been hit (punches and slaps) by prison officers.

In addition, at Pravieniškės-2 Correction Home No. 3 and Kaunas Juvenile Remand Prison and Correction Home, prisoners complained that certain prison officers, and the director of Correction Home No. 3, had subjected them to verbal abuse.

37. The CPT recognises that prison staff will, on occasion, have to use force to control violent and/or recalcitrant prisoners. However, the force used should be no more than is strictly necessary and, once prisoners have been brought under control, there can be no justification for striking them. **The CPT recommends that the Lithuanian authorities draw the attention of prison officers in Pravieniškės-2 Correction Home No. 3 to these principles.**

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<sup>14</sup> In their response to the report on the 2004 visit, the Lithuanian authorities indicated that they intended to convert the dormitories into cells for 3 to 6 prisoners (CPT/Inf (2006) 10, page 20).

**The CPT also recommends that the Lithuanian authorities deliver the clear message to all prison staff (prison officers and senior management) in the three establishments visited that all forms of ill-treatment of prisoners (including verbal abuse) are unacceptable and will be dealt with severely.** The CPT wishes to underline that the attitude of senior managers and officers is vital in this respect: it is their responsibility to demonstrate to staff how to behave by treating all prisoners with respect for their dignity.

38. The information gathered during the visit indicates that, in the case of alleged ill-treatment by prison staff, prisoners with physical injuries were automatically examined by a member of the establishment's medical staff and the contents of the medical report communicated without delay to the relevant prosecutor (whether or not a formal complaint was lodged and regardless of the type of injury)<sup>15</sup>. The CPT welcomes these developments (see, however, paragraph 68).

For the rest, the procedures varied from one establishment to the next. At Lukiškės, the delegation was informed that the investigations were conducted by the police, under the supervision of the relevant prosecutor. In Pravieniškės-2 Correction Home No. 3, the investigations were usually conducted by a person (with legal training) from the establishment's "administration" section. At Kaunas Juvenile Remand Prison and Correction Home, barring a few exceptions, investigations were conducted by the establishment's internal investigations department.

At the three establishments visited, the relevant prosecutors visited the offices of the internal investigations departments (at varying intervals) to check the files. However, in the majority of cases, their action seemed to be limited to taking note of the findings of the investigations conducted by the departments.

In its report on the 2004 visit, the CPT had already expressed serious misgivings regarding the practice whereby allegations of ill-treatment by prison staff were investigated by members of staff of the same establishment.

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

39. In order to obtain a picture of the situation at national level concerning ill-treatment by prison staff, **the CPT would like to receive, in respect of 2007 and 2008, the following information for all establishments under the authority of the Ministry of Justice (remand prisons, correction homes and prisons):**

- **the number of complaints of ill-treatment lodged against prison staff;**
- **the number of resulting disciplinary and/or criminal proceedings and an account of the disciplinary and/or criminal sanctions imposed.**

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<sup>15</sup> In accordance with Rules 267-268 of the internal rules for remand prisons and 262-263 of the internal rules for correctional establishments.

40. As during the previous two visits to Lithuania, the delegation paid particular attention to the phenomenon of inter-prisoner intimidation and violence. At Pravieniškės-2 Correction Home No. 3, many prisoners whom the delegation met said that the situation had improved in recent years and that the beating of vulnerable prisoners was no longer “routine”. However, it appears that some problems remain. Several prisoners claimed to have been threatened, harassed or struck by other prisoners. Furthermore, a number of them alleged that certain officers would seek to take advantage of the situation to obtain information about prisoners – by threatening vulnerable prisoners that they would be placed in the strict regime if they did not act as informants.

In Lukiškės and Kaunas, the delegation received a number of allegations of fighting between prisoners<sup>16</sup>.

41. In its report on the 2004 visit, the CPT called upon the Lithuanian authorities to develop strategies with a view to addressing the problem of inter-prisoner violence in prisons. In their response, the authorities listed a number of measures taken in response to the recommendation (assessment period for all prisoners upon admission to prison and assignment to accommodation on the basis of the assessment; conversion of the large dormitories into cells holding a maximum of six prisoners; automatic medical examination of any prisoners with injuries and transmission of the results to the relevant prosecutor, etc.)<sup>17</sup>. The CPT welcomes these measures.

However, the findings of the delegation during the 2008 visit clearly demonstrated that staffing levels in the three establishments were insufficient to ensure proper supervision of inmates (see paragraph 70). Moreover, many staff (at all levels) did not seem to have received suitable training to enable them to detect (potential or actual) trouble or conflict between prisoners, and take the necessary action.

The CPT recalls that, for a strategy to reduce inter-prisoner intimidation or violence to be effective, staffing levels must be sufficient (including at night-time) to enable prison officers properly to supervise the activities of prisoners and support one another effectively in the performance of their tasks. Moreover, staff members (of all grades) must receive training in managing inter-prisoner violence so that they are able to intervene appropriately when necessary.

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

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<sup>16</sup> For example, at Kaunas, 25 inter-prisoner incidents (including a number involving physical injuries) had been recorded in the first four months of 2008.

<sup>17</sup> CPT/Inf (2006) 9, paragraphs 57 and 60, and CPT/Inf (2006) 10, pages 20 and 21.

42. At Pravieniškes-2 Correction Home No. 3 (as had already been the case at Marijampolė Correction Home during the 2004 visit), prisoners in the strict regime who had been threatened or attacked by fellow inmates were placed in disciplinary cellular confinement (see paragraph 75) if they refused to reveal the names of the (potential) perpetrators, while at the same time refusing to stay in their original cell. Some prisoners had been subjected to this regime (confined to their cells for 23 out of 24 hours a day, with only one hour a day of outdoor exercise and reading as activities), for months, or even years, on end (two years and three months in one case encountered by the delegation).

In the opinion of the CPT, it is unacceptable to impose such a regime on prisoners for prolonged periods, for whatever reason (see paragraph 76). Regarding vulnerable prisoners in particular, it is also clear that subjecting them to a disciplinary regime should on no account be considered an appropriate response to their need for protection. **The CPT reiterates its recommendation that alternative arrangements be made for vulnerable prisoners seeking protection.**

### 3. Conditions of detention of the general prison population

#### a. material conditions

43. At *Pravieniškės-2 Correction Home No. 3*, over 80% of the detention areas had been renovated since the start of the year 2000. In particular, the material conditions in the arrest section, which was opened in 2003, were good: the cells, which had a maximum capacity of six places, were in a good state of repair and suitably furnished (including fully partitioned toilets), and had adequate access to natural light and appropriate ventilation and artificial lighting.

The ordinary regime and “lenient” regime sections had also been refurbished recently. However, the sanitary facilities – which were not in the cells – left much to be desired. Most of the toilets were only partially partitioned (some were not partitioned at all) and several were not functioning properly (or at all). Furthermore, the building that accommodated the prisoners who worked was not equipped with showers: as a result, these prisoners were only able to have a shower once a week (in another building)<sup>18</sup>. The delegation also found that many mattresses were in a very bad state. **The CPT recommends that these shortcomings be remedied rapidly.**

In the strict regime section, the material conditions were mediocre (dilapidated cells, sanitary equipment and facilities in a poor state, etc.). The delegation was, however, informed that this section, which was empty at the time of the visit, would be refurbished by 1 July 2008 at the latest, the date when the new occupants would arrive (see paragraph 33). **The CPT would like to receive detailed information about the refurbishment work carried out in the strict regime section.**

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<sup>18</sup> Those prisoners who were employed in the workshops had access (on working days) to showers that had been built on the industrial estate; however, several prisoners complained that there was no hot water.



44. At *Lukiškės Remand Prison*, material conditions varied considerably from one part of the prison to another. The best conditions were to be found in the recently renovated sections (in particular, wing 1 of Building 2, containing approximately 60 cells). However, the cells were still overcrowded, sometimes to an outrageous degree (for example, up to six prisoners in a cell measuring approximately 8 m<sup>2</sup>). In the sections which had not been renovated (Building 3 and most of wing 2 of Building 2), conditions – which were described as very poor in the report on the 2004 visit – had deteriorated to the extent that they could be described as deplorable (dilapidated cells and furnishings, poor ventilation, etc.). Some of the cells were dirty. Furthermore, several prisoners complained that the buildings were not sufficiently heated in winter.

In the CPT's opinion, the cumulative effect of overcrowding and poor material conditions (to which must be added the lack of a programme of out-of cell activities, see paragraph 48) could be considered to be inhuman and degrading, especially when persons are being held under such conditions for prolonged periods (i.e. up to several months).

The delegation was informed that there were plans to build a new remand prison near Vilnius and to close *Lukiškės Remand Prison* in 2011 (sentenced prisoners would be transferred to *Pravieniškės-2 Correction Home No. 1*). The CPT welcomes these plans and **recommends that the Lithuanian authorities implement them as quickly as possible**. In this regard, **the CPT would like to receive a detailed schedule concerning the construction/commissioning of the new Remand Prison in Vilnius**.

45. The CPT is aware that the construction of new buildings inevitably absorbs a significant amount of the financial resources available. However, care should be taken to ensure that this does not lead to unacceptable situations; the decision to deprive a person of his or her liberty entails a correlative duty upon the State to provide decent conditions of detention. Regardless of the timetable for the above-mentioned developments, **the CPT recommends that the necessary steps be taken to ensure that all persons detained in Lukiškės Remand Prison, including remand prisoners, have acceptable conditions of detention as regards cell equipment and furnishings, as well as heating during cold weather**. Furthermore, **all prisoners should be provided with cleaning products (in sufficient quantity) for their cells**.

46. In the *two establishments* mentioned, the delegation noted that, in spite of the legislation and regulations adopted following the CPT's 2004 visit<sup>19</sup>, many inmates did not have essential personal hygiene products (soap, toilet paper, sanitary towels, toothpaste, toothbrushes).

**The CPT reiterates its recommendation that steps be taken to ensure that all prisoners in Lithuania have adequate quantities of essential personal hygiene products.**

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<sup>19</sup> CPT/Inf (2006) 10, page 22.

b. regime

47. At *Pravieniškės-2 Correction Home No. 3*, just over 200 sentenced prisoners were being held in the ordinary and “lenient” regimes<sup>20</sup> at the time of the visit. Almost half of them (93) had work: 47 prisoners worked (for 4 to 6 hours a day) in an industrial estate adjacent to the correction home, while 46 were employed (for 2 to 8 hours a day) doing maintenance, cleaning or other work in the establishment itself. In addition, around 100 inmates were participating in vocational training (carpentry; shoe-repairing/saddlery) or taking courses (compulsory education; computing). The prisoners also had access to a “recreation centre” comprising a library, two gyms and a room for painting/sculpture, which was open from 9 a.m. to 4.30 p.m. In general, they could move around their section (in the building and surrounding area) between 7 a.m. and 11 p.m.

The relatively favourable situation in terms of the percentage of sentenced prisoners working or in training was due to the fact that the correction home was not full (see paragraph 33). However, according to management, “the lack of jobs” was one of the “problems still to be resolved”<sup>21</sup>.

In contrast, virtually no activities were provided for prisoners in the arrest section. The only regular out-of-cell activity was daily exercise for one hour, which took place separately for each cell since the prisoners in the different cells were not allowed to meet each other. They usually therefore spent 23 hours a day locked up in their cells in a state of enforced idleness.

48. At *Lukiškės*, in spite of the recommendations made by the CPT in its reports on the 2000 and 2004 visits, no progress had been made in terms of offering remand prisoners out-of-cell activities, apart from the daily outdoor exercise (1½ hours). Moreover, the legislation still banned prisoners from associating with prisoners from other cells. They therefore usually spent 22½ hours a day locked up in their cells, their only occupation being reading and listening to the radio or watching television if they could afford sets.

**49. The CPT once again calls upon the Lithuanian authorities to take the necessary steps, without further delay, to ensure that remand prisoners at Lukiškės Remand Prison (and, where appropriate, at other remand prisons in Lithuania) are provided with a programme of out-of-cell activities, including group association activities. The relevant legislation should be amended accordingly.**

**Furthermore, steps should be taken to ensure that all sentenced prisoners in Pravieniškės-2 Correction Home No. 3, including those in the arrest section, are able to spend a reasonable part of the day outside their cells engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; and recreation), including group association activities.**

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<sup>20</sup> For prisoners held under the strict regime, see paragraph 76.

<sup>21</sup> On 1 January 2007, 28% of the sentenced prisoners in Pravieniškės-2 Correction Home No. 3 had jobs.

#### 4. Conditions of detention of life-sentenced prisoners

50. At Lukiškės, the material conditions in the section for life-sentenced prisoners (described in the report on the 2004 visit<sup>22</sup>) were acceptable. It should be recalled that, in principle, the prisoners were accommodated in individual cells. However, two life-sentenced prisoners could ask to share a cell; at the time of the visit, there were 14 such prisoners in two-bed cells.

51. The CPT has taken note of the efforts made by the authorities since 2004 to expand the programme of activities for life-sentenced prisoners. In particular, at the time of the 2008 visit, 26 life prisoners (out of 81) were working outside their cells for 8 hours a day. In addition to the daily outdoor exercise (1½ hours), the prisoners could study, engage in outside sporting activities once a week (1½ hours), take part in sports competitions (in the summer) and attend religious services and, more infrequently, cultural or artistic events (e.g. concerts). The prison also had 16 television sets and 8 radios for prisoners without means of support.

However, there is still progress to be made. Life-sentenced prisoners who did not work – that is to say, the majority – usually spent 22½ hours a day locked up in their cells. Education was generally confined to teachers handing out exercises at the cell doors, sometimes at very spaced-out intervals (e.g. monthly)<sup>23</sup>. The indoor sports/recreation rooms (to which life-sentenced prisoners had been allowed access twice a month for two hours in 2004) were no longer in use.

It should be added that, although there were some exceptions in practice<sup>24</sup>, contact with other prisoners, including life-sentenced prisoners, was still prohibited by law (e.g. the inmates of each cell took their daily outdoor exercise separately from the others).

52. The CPT wishes to recall that the rule that life-sentenced prisoners must not associate with other prisoners – even life prisoners from other cells – is totally unjustified and unnecessarily restricts their regime. Life-sentenced prisoners do not necessarily pose a threat to safety and security. The approach to their management (and that of all prisoners) should therefore be based on an individual risk/needs assessment so that decisions concerning security, including contacts with other prisoners, can be taken on a case-by-case basis.

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

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<sup>22</sup> CPT/Inf (2006) 9, paragraph 71.

<sup>23</sup> Exceptions were a weekly computer class for a group of five life-sentenced prisoners and courses paid for by prisoners themselves (four were taking these courses at the time of the visit).

<sup>24</sup> For instance, prisoners were together when they were working or taking part in sports competitions.

## 5. Conditions of detention of juveniles

53. In its report on the 2004 visit, the CPT stated that it considered the material conditions in the remand prisoners' block of the Kaunas juvenile establishment to be particularly unsuitable for the detention of young persons (austere environment, dilapidated cells, etc.). The Committee also deemed it totally unsatisfactory that the juvenile remand prisoners were deprived of anything resembling a programme of activities and that they remained locked in their cells, left to their own devices, for 23 hours a day. It accordingly recommended that steps be taken as a matter of urgency to remedy this state of affairs<sup>25</sup>. In their response, the Lithuanian authorities announced a number of measures, already taken or planned, to implement these recommendations<sup>26</sup>.

However, despite the assurances given by the Lithuanian authorities, the findings of the 2008 visit showed that the conditions of detention for remand prisoners at Kaunas had scarcely improved.

The material conditions in the remand prisoners' block were appalling: the cells were in an advanced state of dilapidation and did not have adequate natural lighting, and the meagre furniture was so damaged as to be unusable in some cases, if not dangerous. Moreover, the toilets were only partly partitioned and some did not work properly.

The programme of activities was virtually non-existent. Education was restricted to handing over homework through the hatch in the cell door (teachers did not enter the cells). As for outdoor "exercise", this took place on the roof of the remand block, in small grille-covered areas (cubicles) which were too cramped to allow prisoners to exert themselves physically. Moreover, not all inmates could spend one hour in the open air every day; this was due to the fact that only a limited number of cubicles were in use at the time of the visit (four, due to renovation work on the roof), combined with the fact that only inmates from the same cell could be in a cubicle at one time (remand prisoners not being allowed to associate with prisoners from other cells). Access to recreational activities (e.g. the fitness room) was very irregular. Consequently, prisoners remained routinely locked up in their cells for 23 hours (or more) a day in a state of idleness.

To sum up, the conditions under which juveniles were being held at Kaunas Juvenile Remand Prison, in some cases for lengthy periods<sup>27</sup>, were unacceptable.

54. As stated in paragraph 7, at the end-of-visit talks, the delegation made an immediate observation, calling upon the Lithuanian authorities to substantially improve the material conditions of detention in the remand block at Kaunas and to provide juvenile remand prisoners with a full programme of purposeful out-of-cell activities tailored to their needs (education, sport, etc.).

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<sup>25</sup> CPT/Inf (2006) 9, paragraphs 77 and 78.

<sup>26</sup> The Lithuanian authorities stated that two floors in the remand block had been renovated in 2004, that further work was planned for 2005 and 2006, and that a system of group activities for prisoners would be developed and gradually introduced between 2005 and 2007 (CPT/Inf (2006) 10, page 25).

<sup>27</sup> On the date of the visit, three juveniles had been held on remand in the Kaunas Juvenile Remand Prison for some 13, 16 and 19 months respectively.

The Lithuanian authorities drew up an action plan, which they transmitted to the CPT by letter of 29 July 2008. According to that document, it was planned to renovate the accommodation area of the Kaunas Juvenile Remand Prison in 2008 and 2009. As regards the programme of activities, various measures were announced, with a view, inter alia, to enabling juvenile remand prisoners to receive schooling under similar conditions to those applying in civil society (30 hours of lessons per week, in classrooms), to take daily exercise in suitable conditions and to spend more time outside their cells involved in recreational activities (individual and group). It was also stated that additional staff would be employed.

By letter of 29 October 2008, the Lithuanian authorities provided further information on the measures taken to implement the above-mentioned action plan. In particular, they stated that the material conditions of detention would be improved with the assistance of a Norwegian fund; an agreement to that effect had been signed on 27 August 2008. As regards activities, seven posts for social workers had been created; two were already filled and recruitment for the other five was underway. Under the programme adopted by the prison director in July 2008, each prisoner enjoyed four hours of out-of-cell activities every day; the number of hours would increase when all the social workers were appointed. Four classrooms, a computer room and a reading/recreation corner had been set up and equipped; classroom education (13.5 hours per week) had been introduced from 1 September 2008. Yards were to be built on the ground floor to replace the rooftop cubicles. In the meantime, these cubicles had been repaired and fitted with basketball hoops, and inmates were taken out of their cells for walks and open-air exercise twice a day, for an hour on each occasion. Two sports rooms had been created and equipped (respectively, on the 3<sup>rd</sup> and 6<sup>th</sup> floors of the remand block). Other activities (cinema, art therapy, religion) were also on offer.

55. The CPT welcomes the adoption of the action plan and the measures taken by the Lithuanian authorities to improve the programme of activities at Kaunas Juvenile Remand Prison. These are definitely first steps in the right direction. However, additional steps are required in order to render the situation satisfactory.

**The Committee recommends that the Lithuanian authorities pursue their efforts with a view to ensuring that all prisoners detained at Kaunas Juvenile Remand Prison are provided with a programme of purposeful out-of-cell activities, including group association activities, tailored to their needs (education, sport, recreation, etc.). The longer the period for which remand prisoners are detained, the more developed should be the activities which are offered to them.**

**It also recommends that the cubicles located on the roof of the remand block be replaced as quickly as possible by outdoor exercise yards which are sufficiently large to enable prisoners to exert themselves physically and adequately equipped (including shelter from inclement weather).**

**Further, the CPT would like to receive detailed information on the planned improvement of material conditions at Kaunas Juvenile Remand Prison, including a precise schedule for the carrying out of this work.**

## 6. Health-care services

### a. introduction

56. Although the Lithuanian authorities indicated in their response to the report on the CPT's 2004 visit that Vilnius Prison Hospital was to be relocated to Pravieniškės in 2006<sup>28</sup>, the relocation had still not taken place at the time of the 2008 visit.

In this respect, the delegation was informed that the closure of Vilnius Prison Hospital and the opening of the new hospital in Pravieniškės would take place in 2011. **The CPT reiterates its recommendation that the Lithuanian authorities accord high priority to implementing the relocation. Moreover, it would like to receive a detailed account of the progress made with regard to the construction of the new prison hospital in Pravieniškės.**

### b. health-care staff and facilities

57. Health-care staffing levels at *Pravieniškės-2 Correction Home No. 3* were generally satisfactory. The medical staff comprised four full-time doctors (the chief physician, a general practitioner, a dentist and a psychiatrist) and a part-time doctor (radiologist)<sup>29</sup>. There were also a full-time psychologist's post and 7½ nurses' posts, all of which were filled. A full-time pharmacy assistant, a laboratory technician and a radiology technician (both part-time) completed the teams. Nursing staff were present at nights and at weekends. The doctors were on call at weekends and visited the correction home when called out.

The task of the psychologist was to provide psychological support to inmates; she also evaluated them and could recommend a change in detention regime. **The CPT would like to receive the comments of the Lithuanian authorities on the potential conflict of interest between the psychologist's therapeutic activities and her involvement in decision-making processes (e.g. allocation of prisoners to different security regimes).**

58. At *Lukiškės Remand Prison*, the CPT is pleased to note that, further to the recommendations in its report on the 2004 visit, all the vacant medical posts had been filled and two additional psychologists appointed. There were therefore six full-time doctors (the chief physician, plus a general practitioner, a dentist, a psychiatrist, a dermato-venerologist and a radiologist) and two part-time doctors (a gynaecologist and a lung specialist). There were also a clinical psychologist (medical unit), four psychologists (reintegration, welfare service and psychology unit), 12 nurses, a laboratory assistant and a radiology assistant. These staff were present during the day. At night (from 9 p.m. to 7-9 a.m.), health-care services in Lukiškės Remand Prison were provided by staff from the Prison Hospital (both institutions being situated on the same site).

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<sup>28</sup> CPT/Inf (2006) 9, paragraph 81, and CPT/Inf (2006) 10, page 26.

<sup>29</sup> For dermatology and ophthalmology, outside consultants were employed (under contract); for other types of specialist care, prisoners were transferred to Vilnius Hospital.

59. At *Kaunas Juvenile Remand Prison and Correction Home*, there were a full-time chief physician (paediatrician), a part-time general practitioner, three specialists (a psychiatrist, a dermatologist and a radiologist) and a dentist, each of whom was present for three half-days a week. A part-time psychiatrist's post was vacant. There were also two psychologists and five nurses working full-time, a laboratory assistant, a radiology assistant, a hygienist and a nursing auxiliary working part-time. Nursing staff were present day and night, including at weekends.

**The CPT recommends that the necessary steps be taken to fill the vacant psychiatrist's post.**

60. In the three establishments visited, the health-care facilities were generally satisfactory. Exceptions, however, were the very old X-ray machines at Lukiškės Remand Prison and Pravieniškės-2 Correction Home No. 3, as well as the dentist's chair in the latter establishment. **The CPT recommends that the above-mentioned equipment (in particular, the X-ray machines) be replaced as soon as possible.**

c. medical examinations and treatment

61. In the three establishments visited, procedures for medical examinations on admission were, on the whole, satisfactory: newly-arrived prisoners were examined by one or more doctors<sup>30</sup>, usually within 24 hours of admission (see, however, paragraph 68).

62. As already indicated in paragraph 38, in the three establishments visited, all prisoners with physical injuries (on admission or during detention) were automatically examined by a member of the establishment's medical staff and the content of the medical report was communicated immediately to the relevant prosecutor (whether or not a formal complaint had been lodged and regardless of the cause or type of the injury). Moreover, all injuries were recorded in a special register and in the medical files of the prisoners concerned. The CPT welcomes this procedure.

However, in the three establishments visited, the delegation noted that there were some shortcomings in the recording of the injuries in the prisoners' medical files. In particular, the injuries were generally not described in sufficient detail. In addition, the prisoners' statements on the cause of the injuries and/or the doctors' conclusions (based on objective findings and the prisoners' statements) were often not recorded.

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<sup>30</sup> For instance, at *Kaunas Juvenile Remand Prison and Correction Home*, newly admitted prisoners were seen by the general practitioner, the dermatologist, the psychiatrist and, on request, the dentist.

The CPT once again reiterates its recommendation that, in all prison establishments in Lithuania, the record drawn up after a medical examination of a prisoner who has suffered injuries (whether the record is drawn up upon admission or during detention) contain:

- (i) a full account of statements made by the prisoner concerned which are relevant to the medical examination, including any allegations of ill-treatment;
- (ii) a full account of objective medical findings based on a thorough examination;
- (iii) the doctor's conclusions in the light of (i) and (ii). In the conclusions, the doctor should indicate the degree of consistency between allegations made and the objective medical findings.

63. In general, the delegation gained a favourable impression of the quality of health care provided in the three establishments visited (see, however, paragraph 65).

64. The CPT was pleased to note that, following its comments in the report on the 2004 visit, information leaflets on transmissible diseases were available in Lithuanian for prisoners in the three establishments visited. A leaflet in Russian had also been produced.

d. drugs and suicide prevention

65. The CPT takes note of the efforts made by the Lithuanian authorities in recent years to prevent the use of drugs and manage drug addicts in prisons. In particular, various programmes and recommendations on the matter have been drawn up at national level. Moreover, prisoners requiring treatment are sent to the Prison Hospital for several weeks; after they are transferred to a correction home, treatment is continued by the psychiatrist of the establishment concerned<sup>31</sup>.

At Lukiškės Remand Prison, the reintegration, welfare service and psychology unit had been expanded since the 2004 visit (two additional psychologists had been appointed, see paragraph 58) and offered drug-addicted prisoners programmes which seemed adequate. For instance, consultations and discussion groups (alcohol and drugs) were organised for all categories of prisoners (remand and sentenced prisoners)<sup>32</sup>. On this occasion, information, counselling and other types of support were provided<sup>33</sup>. In addition, problem cases were brought to the attention of the other units in the establishment. However, the intervention of the medical unit was mainly confined to a course of treatment lasting a few days, with the aim of treating the withdrawal symptoms of drug-addicted prisoners upon their admission to the prison. No prisoners were being treated with methadone. This treatment was available in civil society in Lithuania but was not administered in prison (provision of methadone was discontinued if the person had been receiving it before being imprisoned).

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<sup>31</sup> Response of the Lithuanian authorities to the report on the 2004 visit (CPT/Inf (2006) 10), pages 31 and 32.

<sup>32</sup> Including with outside bodies, for instance Alcoholics Anonymous.

<sup>33</sup> Information on drug addiction; advice on relevant reading material; assistance with preparation for release (addresses of accommodation and contacts); etc.



The CPT wishes to underline that appropriate and effective management of drug-addicted prisoners must be varied – combining detoxification, psychological support, socio-educational programmes and rehabilitation and substitution programmes for users addicted to opiates who are unable to stop drug-taking – and linked to a real prevention policy. It goes without saying that health-care staff must also play a key role (in drawing up, implementing and monitoring management programmes) and co-operate closely with the other (psycho-socio-educational) departments involved.

**The CPT recommends that, at Lukiškės Remand Prison (and, where appropriate, in other prison establishments in Lithuania), the approach taken to the prevention of drug abuse and the management of drug-addicted prisoners be reviewed, in the light of the above remarks.**

66. During the visit, the delegation was informed of the existence of a national suicide prevention programme. Under the programme, a multidisciplinary committee<sup>34</sup> had been set up in each of the three establishments visited; the committees met regularly (weekly) to discuss the prisoners deemed to present a risk, analyse the grounds for attempted suicide and agree the steps to be taken. In addition, at Pravieniškės-2 Correction Home No. 3, awareness-raising and information sessions were held twice a month for the prison staff. Doctors whom the delegation met underlined that the multidisciplinary approach had brought about real progress in terms of crisis prevention. The CPT welcomes these developments.

e. confidentiality

67. As regards access to a doctor, remand prisoners whom the delegation met in Kaunas claimed that when they wanted to see a member of the health-care staff, they had to make the request – giving reasons – to the prison officers. They also alleged that the latter sometimes refused the requests. Such a practice is unacceptable. Prison officers should not filter requests to see medical staff. Further, a prisoner who wishes to do so should be able to contact health-care staff directly, without going through prison officers. **The CPT recommends that, at Kaunas Juvenile Remand Prison and Correction Home (and, where appropriate, in other prison establishments in Lithuania), steps be taken to ensure compliance with these principles.**

68. On the whole, the principle of the confidentiality of medical consultations seemed to be respected at Pravieniškės-2 Correction Home No. 3. However, in spite of the CPT's recommendation in its report on the 2004 visit, such consultations were almost always conducted in the presence of prison officers at Lukiškės and Kaunas<sup>35</sup>.

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<sup>34</sup> For example, at Lukiškės, the committee comprised members of the welfare and reintegration department, the internal investigations department, the medical unit and management.

<sup>35</sup> The rule at Lukiškės was that medical consultations took place in the presence of prison officers unless the prisoner concerned explicitly requested otherwise. At Kaunas, only consultations with the psychiatrist took place out of the sight and hearing of non-medical staff.

The CPT recalls that there can be no justification for prison officers being systematically present during medical consultations. Their presence is detrimental to the establishment of a proper doctor-patient relationship and usually unnecessary from a security standpoint. Alternative solutions (for instance, the installation of a call system) which reconcile security requirements with respect for confidentiality can and should therefore be found.

**The CPT reiterates its recommendation that steps be taken to ensure that, at Lukiškės and Kaunas (and, where appropriate, in other prison establishments in Lithuania), medical consultations/examinations of prisoners are conducted out of the hearing and – unless the doctor concerned specifically requests otherwise in a particular case – out of the sight of non-medical staff.**

69. In the three establishments visited, the delegation noted that the prisoners' medical files were accessible solely to health-care staff (unlike the findings made in 2004). The CPT welcomes this fact.

## **7. Other issues**

### **a. prison staff**

70. The CPT is very concerned about the high number of vacant prison officers' posts in the three establishments visited. Approximately 25% of posts were vacant at Lukiškės Remand Prison, 20% at Pravieniškės-2 Correction Home No. 3 and 13% at Kaunas Juvenile Remand Prison and Correction Home<sup>36</sup>. In general, there were therefore only a limited number of prison officers present in the detention zones (e.g. one officer per floor in the building for remand prisoners during the day at Kaunas) and sometimes even no officers at all (e.g. at night, in the accommodation sections in Pravieniškės-2 Correction Home No. 3).

The Ministry of Justice representatives whom the delegation met indicated that the shortage of prison officers was a general problem<sup>37</sup> and that steps had been taken or were planned to deal with it. In particular, salaries had been increased from 1 January 2008 and it was intended to improve staff benefits so as to make the profession more attractive.

The CPT wishes to stress that low prison staffing levels reduce the opportunities for direct contact with prisoners and prevent the development of positive relations; in general, this results in an unsafe environment, both for staff and for prisoners (see paragraph 41). Moreover, it is obvious that such a situation is bound to have a negative impact on the quantity as well as the quality of the programmes of activities provided for prisoners.

**The CPT recommends that the Lithuanian authorities pursue their efforts to fill all the vacant prison officers' posts in prison establishments.**

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<sup>36</sup> At Lukiškės Remand Prison, 65 out of 250 prison officers' posts were vacant; at Pravieniškės-2 Correction Home No. 3, 26 out of 139; and, at Kaunas Juvenile Remand Prison and Correction Home, 13 out of 101.

<sup>37</sup> At national level, it was estimated that approximately 10% of prison officers' posts were vacant.

71. The CPT recalls that it is important that prison staff receive appropriate initial and ongoing training (in particular, in interpersonal communication skills).

From the information received during the visit, it appears that prison officers' initial training usually lasts for only one month. There was no special training for officers working in establishments for juveniles. Moreover, as in 2004, in the three establishments visited, contacts between prison staff and prisoners were kept to a strict minimum and were mostly of a formal nature.

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

72. At Kaunas Juvenile Remand Prison and Correction Home, several remand prisoners claimed that they had to face the wall when prison staff passed by. This is not conducive to the development of positive relations between staff and inmates. **The CPT reiterates its recommendation that steps be taken to put an immediate end to this practice.**

b. discipline<sup>38</sup> and security

73. With regard to disciplinary procedures, in accordance with the relevant provisions, the decision to impose a disciplinary sanction was taken by the director of the establishment following a hearing before the disciplinary board held in the presence of the prisoner concerned.

However, prisoners were not informed in writing of the offences they were said to have committed. Moreover, they did not receive copies of the decisions (which were only submitted to them for signature) and the decisions did not include any indication of the avenues for lodging an appeal. **The CPT recommends that the necessary steps be taken to remedy these shortcomings.**

74. In addition, prisoners were never assisted by lawyers during the hearings before the disciplinary board. In this connection, prison staff met by the delegation said that prisoners could not be assisted by a defence lawyer, as there were no legal provisions specifically setting out that right. **The CPT would like to receive the comments of the Lithuanian authorities on this issue.**

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<sup>38</sup> Because of the limited purpose of the visits to Lukiškės and Kaunas (follow-up visits), paragraphs 73 to 78 (discipline) only concern Pravieniškės-2 Correction Home No. 3.

75. Under Section 142 of the Code on the Execution of Sentences, disciplinary sanctions ranged from a reprimand to the imposition of solitary confinement (placement in a disciplinary cell) for a maximum of 15 days. Further, in the case of “persistent” or “serious” breaches of the regulations, a prisoner could be transferred from the ordinary to the strict regime for a period of six months to a year. Prisoners who committed disciplinary offences during their placement in the strict regime could be punished with disciplinary cellular confinement for periods of up to six months.

76. The CPT is very concerned by the fact that the recommendations it made in its report on the 2004 visit concerning the situation of prisoners in the strict regime and those held in disciplinary cellular confinement have not been acted upon.

Although prisoners in the strict regime could move about in their section (building and surrounding area) during the day, almost no activities were provided for them and they were left to their own devices most of the time<sup>39</sup>. Moreover, visits (except those from lawyers) were still prohibited and access to the telephone was limited to one call a month.

Further, as was the case in 2004, prisoners held in cellular confinement for disciplinary offences committed in the strict regime were locked up in their cells for 23 hours a day, with reading as their only occupation (radios and television sets were not allowed) – sometimes for prolonged periods (more than two years in one case; see paragraph 42).

Such a state of affairs is unacceptable.

The CPT wishes to stress that, although the prisoners in the strict regime or in disciplinary cellular confinement are not, in principle, subject to solitary confinement, such limited programmes of activities as those described above can have damaging effects (deterioration in physical health, mental faculties and social abilities), especially when imposed for prolonged periods. Moreover, visits by prisoners’ families should under no circumstances be discontinued for prolonged periods.

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

77. The delegation was concerned to learn that prisoners who had committed acts of self-harm were subjected to disciplinary sanctions, such acts being deemed to be breaches of the regulations (Section 142, paragraph 2, of the Code on the Execution of Sentences).

The CPT would like to emphasise that acts of self-harm often reflect psychological or mental problems and should be dealt with from a therapeutic rather than a punitive approach. **It recommends that the management of Pravieniškės-2 Correction Home No. 3 (and, where appropriate, of other prison establishments) reconsider their approach to the matter in the light of the above remarks.**

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<sup>39</sup> Prisoners held in the strict regime were not allowed to work or receive vocational training; they were able to pursue their studies, but this was confined, at most, to meeting a teacher for a few minutes once a month. A television set and some body-building equipment had been provided in their building (but access to the body-building equipment was very irregular).

78. The material conditions in the disciplinary cells (solitary confinement and disciplinary cellular confinement) at Pravieniškės-2 Correction Home No. 3 were poor. Some of the cells were very small (e.g. individual cells measuring 4 m<sup>2</sup>). Others had no ventilation. Not all the toilets were working properly, giving off nauseating smells in spite of being covered by sandbags. Cell No. 15 was dark; it was also alleged that it could be very cold there because of a hole in the wall (under the window) and inadequate heating.

**The CPT recommends that steps be taken without delay to remedy the above shortcomings. In particular, all cells should have adequate access to natural light and appropriate artificial lighting, ventilation and heating. Moreover, all individual cells measuring less than 6 m<sup>2</sup> should be taken out of service as, by virtue of their very size, they are unsuitable for use for accommodation purposes in a prison establishment.**

79. As regards security measures, the delegation was informed that, at Kaunas Juvenile Remand Prison and Correction Home, prisoners whose behaviour was deemed “disruptive” could be segregated (in unit No. 6) in accordance with Section 70 of the Code on the Execution of Sentences. On the day of the visit, four (sentenced) minors had been held in that unit for approximately one month.

The decision to transfer prisoners to unit No. 6 was made by the director of the establishment. The prisoners concerned were not given an opportunity to be heard on the matter and did not receive a copy of the decision. Transfers were ordered for unspecified periods and were not subject to automatic review.

The CPT recognises that it may be necessary to segregate juvenile prisoners for security or safety reasons (for instance, to protect highly vulnerable juveniles or deal with juveniles who pose a threat to others). However, measures of this kind should only be ordered in very exceptional circumstances and for as short a time as possible; moreover, a number of safeguards should apply in such cases. In particular, juveniles in respect of whom such a measure is envisaged should be given an opportunity to be heard on the matter. The decisions should set out the reasons for the measure and indicate the avenues for lodging an appeal. A copy of the decision should be given to the juveniles concerned and they should be requested to sign an attestation that they have received this. Further, the segregation should be subject to regular review.

**The CPT recommends that the segregation procedures at Kaunas Juvenile Remand Prison and Correction Home based on Section 70 of the Code on the Execution of Sentences be reviewed, in the light of the above remarks.**

80. The four minors who were in unit No. 6 at the time of the visit were sharing a large cell, the door of which was open from 7 a.m. to 8.30 p.m. They therefore had access throughout the day to a yard (reserved for the unit). However, the delegation was concerned to observe that they no longer attended classes (teachers brought them exercises) and that no activities were provided for them (except, since very recently, the possibility of visiting the library for an hour once a week).

The CPT wishes to stress that the existence of a satisfactory programme of activities during segregation can do much to counter the deleterious effects on the personality of prisoners, especially juveniles, of being held in the confined environment of a special unit.

**The CPT recommends that the programmes of activities at Kaunas Juvenile Remand Prison and Correction Home for prisoners held in segregation under Section 70 of the Code on the Execution of Sentences be developed, in the light of the above remarks.**

81. The CPT has serious concerns as regards recourse to means of restraint.

At Kaunas Juvenile Remand Prison, the delegation observed that, in response to the recommendation made by the CPT in the report on the 2004 visit, the “calming-down cell” was no longer being used for this purpose (it was serving as a storage facility). However, no other facility had been fitted out as a replacement for this cell. As a result, agitated and/or violent prisoners were sometimes placed in disciplinary cells and attached to a fixed object (e.g. handcuffed to the table) “to cool off”. Further, it appeared that prisoners placed in a disciplinary cell and restrained were not kept under constant supervision.

In this context, reference should also be made to a prisoner met at Pravieniškės-2 Correction Home No. 3 who alleged that, one month prior to the delegation’s visit, he had been placed for having committed an act of self-harm in a cell in the disciplinary section, where he had been kept for several hours with his hands cuffed behind his back and the cuffs attached to a bed. Such a way of restraining a prisoner is not acceptable.

82. In the exceptional cases where resort to means of mechanical restraint is required to restrain an agitated and/or violent prisoner, those means should be applied in a medical setting, and upon the order of a doctor or immediately brought to the attention of a doctor. The prisoner concerned should be kept under constant, direct and personal surveillance. Further, means of restraint should be removed at the earliest opportunity; they should never be applied, or their application prolonged, as a punishment or to compensate for shortage of staff.

**The CPT reiterates its recommendation that Kaunas Juvenile Remand Prison (and also, where appropriate, other prison establishments in Lithuania) be provided with facilities for the placement of agitated and/or violent prisoners. The facilities should be safe (i.e. free of objects which could be used to cause injury) and enjoy adequate light and heating, thereby promoting a calming effect on the prisoners. The prisoners concerned should be kept under constant custodial surveillance or medical supervision, as the case may be.**

Further, **the CPT recommends that the necessary measures be taken to ensure that the aforementioned principles are respected whenever means of mechanical restraint are applied to agitated and/or violent prisoners.**

c. contacts with the outside world

83. As regards correspondence, the situation was, on the whole, satisfactory. *Sentenced prisoners* could send and receive letters without restriction and letters from/for *remand prisoners* were usually dispatched/distributed within the regulation time limit (i.e. a maximum of three working days), even when they were inspected.

However, the decision to control remand prisoners' correspondence could be taken by the police (i.e. the person in charge of the investigation). In this connection, the delegation was informed that, under the bill on detention on remand (announced in the Lithuanian authorities' response to the report on the 2004 visit, but still under consideration in 2008), such a decision could only be taken by a judicial authority. **The CPT trusts that this provision will soon be adopted.**

84. *Sentenced prisoners* could make regular telephone calls (for 15 minutes once a day in the "lenient" regime and once a week in the ordinary regime). At Pravieniškės-2 Correction Home No. 3, however, there were only two telephones available for use by prisoners. **It would be desirable to increase the number of telephones in the establishment.**

85. The legislation in force still did not allow *remand prisoners* to have access to a telephone.

The CPT recalls that all prisoners, including remand prisoners, should have access to a telephone. This principle was included in the revised European Prison Rules in 2006<sup>40</sup>. If there is a risk of collusion, particular telephone calls can always be monitored. **The CPT recommends that access to a telephone be formally guaranteed for remand prisoners.**

86. Since the 2004 visit, the visiting rights of *sentenced prisoners* had been extended to one visit every six weeks, while juveniles were entitled to one visit per month<sup>41</sup>. In the "lenient" regime<sup>42</sup>, adult prisoners could receive one visit per month, and juveniles two per month. **The CPT recommends that all adult sentenced prisoners receive at least one visit per month. It goes without saying that the visiting rights of juveniles should be more favourable.**

87. Visits to *remand prisoners* were possible only with the authorisation of the police (i.e. the investigating officer) or the relevant judicial authority. The delegation's findings showed that the practice in this respect had remained very restrictive (in spite of the CPT's recommendation on the subject in its report on the 2004 visit) – including with regard to juveniles. Many remand prisoners said they had spent long periods (up to 15 months in Lukiškės, and 10 months in Kaunas) without being allowed to receive visits from relatives.

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<sup>40</sup> Recommendation Rec(2006)2 of the Committee of Ministers of the Council of Europe on the European Prison Rules, adopted on 11 January 2006, rules 24.1 and 99.

<sup>41</sup> At Pravieniškės-2 Correction Home No. 3, sentenced prisoners had the right in principle to one short visit (lasting a maximum of 4 hours) and one long visit (lasting 2 days), or two short visits, once every three months; and, at Kaunas, to a short visit and a long visit once every two months.

<sup>42</sup> During the visit to Pravieniškės-2 Correction Home No. 3, there were only three prisoners in this regime.

The CPT recalls that it is vital that all prisoners, including remand prisoners, are able to maintain good contact with the outside world, and in particular with their families and friends. Allowing contact (during visits, by letter or by telephone) should therefore be the norm and refusing contact the exception.

The CPT recognises that it may on occasion be necessary, in the interests of justice, to impose restrictions on visits to certain remand prisoners. However, such restrictions should be strictly limited to the requirements of the case and apply only for a clearly defined period, which should be as short as possible. They should also be decided upon by a judicial authority and the remand prisoners concerned should receive a copy of the decision informing them of the reasons for the decision and the avenues for lodging an appeal.

**The CPT reiterates its recommendation that the Lithuanian authorities review the current arrangements concerning visits for remand prisoners, in the light of the above remarks. In particular, the restrictive practice currently applied in respect of such visits can and should be changed without waiting for the introduction of new legislation or regulations.**

88. At Pravieniškės-2 Correction Home No. 3, the *material conditions* in which visits were conducted were not satisfactory. They took place in very small “cubicles” with a glass partition and a telephone; no physical contact between prisoners and visitors was possible. The delegation was informed that the glass partitions had been fitted at the beginning of 2008 to prevent drugs being handed over.

The CPT recalls that the policy of applying the same visiting restrictions indiscriminately to all prisoners is not appropriate; any restrictions must be based on an individual assessment of the risk which prisoners may present. Visits around a table should therefore be the rule and visits with partitions the exception.

**The CPT recommends that, at Pravieniškės-2 Correction Home No. 3 (and, where appropriate, in other prison establishments in Lithuania), the visiting areas be redesigned, or other premises provided, so that visits may take place in more open conditions.**



d. complaints and inspection procedures

89. Effective complaints procedures offer fundamental guarantees against ill-treatment in prison. Prisoners should therefore have avenues of complaint open to them both within and outside the prison system, including confidential access to the independent authorities responsible for receiving complaints.

In this respect, the delegation noted that, as in 2004, prisoners could submit complaints to the directors of the establishments concerned. In addition, they could submit complaints, in sealed envelopes, to the relevant prosecutors or courts and the Seimas Ombudsmen's Office.

90. The CPT has already emphasised the importance of unannounced inspections of all prison establishments by an independent body with authority to visit the premises and receive prisoners' complaints (and, if necessary, take any action needed).

From the information received by the delegation, it appears that a Seimas Ombudsman visits several prison establishments every year<sup>43</sup>. During the visits, which are made following the receipt of complaints or on a preventive basis, the Ombudsman examines the conditions of detention and meets management, staff and prisoners. The CPT welcomes these developments.

The delegation was also informed that the Children's Ombudsman had visited Kaunas Juvenile Remand Prison and Correction Home in 2007. **The CPT would like to receive a copy of the report on that visit.**

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In particular, he visited Pravieniškės (No. 1) and Kybartai Correction Homes in 2007 and Šiauliai Remand Prison, Lukiškės Remand Prison and Vilnius (No. 2) and Marijampolė Correction Homes in 2006.

## C. Psychiatric/social welfare establishments

### 1. Preliminary remarks

91. The CPT's delegation visited a forensic psychiatric hospital (Rokiškis Psychiatric Hospital) and, for the first time in Lithuania, a social welfare institution (Skemai Residential Care Home). The former is administered by the Ministry of Health and the latter by the Ministry of Social Security and Labour.

92. Rokiškis Psychiatric Hospital, which was opened in 1975, is located in a large complex of two-storey buildings near the town of Rokiškis (in the north-east of the country). It is the only psychiatric establishment in Lithuania for patients who are subject to compulsory medical treatment ordered by a criminal court. In addition, the hospital provides treatment to civil psychiatric patients (both voluntary and involuntary) and also has an occupation and rehabilitation centre serving both in- and out-patients.

With an official capacity of 350 beds, the hospital was accommodating 258 forensic patients<sup>44</sup> (including 20 women) and 86 civil patients at the time of the visit. All civil patients were formally considered to be voluntary (see, however, paragraph 123).

Forensic patients are referred to Rokiškis Psychiatric Hospital by court order either from the Utena Expert Division of the State Forensic Psychiatry Service (where all forensic assessments are performed<sup>45</sup>) or from an outpatient health centre<sup>46</sup>. All forensic patients are allocated to one of three different supervision regimes (general, enhanced and strict regime)<sup>47</sup>. The applicable supervision regime is determined by the court prior to admission on the basis of a forensic psychiatric assessment report, and is subsequently reviewed by the latter every six months, depending on the state of the patient's mental health and the risk he/she may represent to others (see paragraphs 119 and 120). At the time of the visit, 189 forensic patients were being held under general supervision, 52 under enhanced supervision and 17 under strict supervision.

Already at this stage, the CPT wishes to highlight the oppressive nature of the conditions in the enhanced and strict supervision wards: austere and impersonal surroundings; poorly furnished patients' rooms; barbed wire on the walls of the exercise yards; patients locked up in their rooms for most of the time; etc. Such an environment is not conducive to the treatment and well-being of patients.

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<sup>44</sup> The average stay of such patients was said to be four years, but some of them had spent up to 12 years in the establishment.

<sup>45</sup> See Section 141 of the Code of Criminal Procedure. A person may be referred to the examination facility by the pre-trial judge or the court and kept there until the psychiatric examination report is submitted to the prosecutor or the court.

<sup>46</sup> The Lithuanian legislation also provides for out-patient treatment for forensic patients: the person is placed under the supervision of a local mental health centre to which he/she must regularly report.

<sup>47</sup> Under Section 98 of the Criminal Code, the *general supervision* regime is applied to a "person who, in view of his mental disorder, needs supervision and treatment in a psychiatric institution". A person is placed under *enhanced supervision* "when he needs supervision and treatment in a specialised psychiatric institution, in view of his mental disorder and dangerousness of his actions". Finally, the *strict supervision* regime is envisaged for a person "who has sought to jeopardise somebody's life or health and in view of his mental disorder is particularly dangerous to others".

93. The Skemai Residential Care Home, which is situated in the village of Skemai (near Rokiškis), serves mainly as a long-term care institution for adult residents (male and female) who suffer from mental disabilities (sometimes combined with physical disabilities). With an official capacity of 400 places, it was accommodating 392 residents from all over the country at the time of the visit, of whom some 90 were receiving continuous care around the clock.

94. The legal framework governing involuntary placement in a psychiatric establishment has not changed since the 2004 visit<sup>48</sup>.

In the context of criminal proceedings, a suspect may be placed in a psychiatric establishment by court decision in order to undergo an assessment of his/her mental status. If it is established that the person concerned poses a risk to society as a result of his/her mental illness, the term of stay in the examination facility may be extended by the judge until the court decides whether to impose compulsory medical measures<sup>49</sup>. Such measures may be applied in respect of persons who have been recognised by a court as being fully or partially criminally irresponsible, as well as in respect of persons whose mental health has deteriorated after they have committed a crime or a punishment has been imposed on them and who for this reason may lack understanding of their own behaviour or cannot control their behaviour<sup>50</sup>.

Pursuant to the relevant provisions of the Civil Code<sup>51</sup> and the Mental Health Act<sup>52</sup>, emergency placement – i.e. up to 48 hours – of a person in a psychiatric establishment without his consent may take place if he is severely mentally ill and endangers the life or health of himself or others. If a person's consent to hospitalisation and treatment is not obtained within 48 hours, he must be released, unless a court authorises the prolongation of hospitalisation and treatment<sup>53</sup> (see also paragraph 124).

As regards the legal basis for admissions to social welfare institutions, see paragraph 125.

## 2. Ill-treatment

95. The delegation received no allegations of deliberate physical ill-treatment of patients/residents by staff – and gathered no other evidence of such treatment – at Rokiškis Psychiatric Hospital and the Skemai Residential Care Home. In particular, at the latter establishment, staff appeared to be dedicated and to have a caring attitude towards residents.

However, at Rokiškis, a number of patients claimed that some orderlies, on occasion, used disrespectful or even insulting language towards them. **The CPT recommends that the management of Rokiškis Psychiatric Hospital recall to the staff that the verbal abuse of patients is not acceptable.**

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<sup>48</sup> CPT/Inf (2006) 9, paragraph 129.

<sup>49</sup> Section 141 of the Code of Criminal Procedure.

<sup>50</sup> Section 98, paragraph 1, of the Criminal Code.

<sup>51</sup> Section 2.26.

<sup>52</sup> Sections 27 and 28.

<sup>53</sup> A court may extend the involuntary admission of a person to a psychiatric establishment for an initial period of up to one month. Subsequently, the period of involuntary placement may be renewed for up to six months at a time.

### 3. Living conditions

96. In any psychiatric/social welfare establishment, the aim should be to offer living conditions which are conducive to the treatment and well-being of patients/residents – in other words, a positive therapeutic environment. Creating such an environment involves, first of all, providing sufficient living space per person as well as adequate lighting, heating and ventilation, maintaining the establishment in a satisfactory state of repair and meeting hospital hygiene requirements. Attention should also be given to the decoration of patients'/residents' rooms and recreation areas, and the provision of lockable space in which patients can keep their belongings.

#### a. Rokiškis Psychiatric Hospital

97. At Rokiškis Psychiatric Hospital, material conditions were on the whole adequate in the *forensic wards under general supervision*, located in Buildings C and D, where the patients' rooms had recently been refurbished<sup>54</sup>. All the rooms offered sufficient living space for patients, had good access to natural and artificial lighting, and were well-ventilated and adequately furnished. Patients were able to keep their personal belongings in lockers (to which they could have access on request). Further, hygienic conditions in the communal sanitary facilities were acceptable.

Significant improvements were being made through the extensive renovation of Building B, which was already at an advanced stage at the time of the visit. All the patients' rooms were spacious (for single, double and triple occupancy), with good access to natural light and an adjacent toilet. In addition, large rooms and indoor gyms were being fitted out on each floor for recreational activities.

However, the CPT's delegation observed that, in the ward intended for patients under strict supervision in Building B, the already secure metal doors of the patients' rooms were "reinforced" with an additional inner door in the form of metal bars. These bars do not serve any justified security purpose and **the CPT recommends that they be removed without delay.**

98. Material conditions were extremely poor in Building A, where *forensic patients under enhanced and strict supervision* were being temporarily accommodated together, pending the completion of the renovation of Building B. The patients' rooms were in an advanced state of dilapidation, with crumbling walls and badly worn floors. Most of the rooms were only equipped with metal beds, and the surroundings as a whole were austere and impersonal. Further, sanitary facilities were in a poor state of repair. Patients did not have ready access to the communal toilets (especially during the night) and were thus often compelled to use buckets inside their rooms.

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<sup>54</sup> Repairs were still underway on the upper floor of Building D.

99. The delegation was informed by the hospital management that, by June 2008, the above-mentioned renovation of Building B would be completed and that all patients under enhanced and strict supervision would then be transferred to Building B. Subsequently, the renovation of Building A would commence.

**The CPT would like to receive updated information on the progress made with regard to the ongoing renovation of Building A.**

100. Material conditions in the *wards for civil psychiatric patients* (which were all located in a separate two-storey building<sup>55</sup>) were on the whole satisfactory.

101. Almost all (forensic and civil) patients interviewed by the delegation complained about the poor quality and insufficient quantity of the food provided. This state of affairs was confirmed by members of staff as well as by the delegation's own observations. **The CPT recommends that immediate steps be taken to remedy this shortcoming.**

102. As already indicated in paragraph 92, all forensic patients were allocated by decision of the criminal court to one of three supervision regimes (general, enhanced or strict).

Forensic patients under general supervision benefited from an open-door regime within their respective wards (including at night). They could also use the hospital's indoor fitness room and visit the library twice a week.

However, all forensic patients under strict supervision remained locked up in their rooms for most of the day (and all night). The same regime was applied to patients under enhanced supervision, although, according to the hospital's internal rules, they should benefit from an open-door regime during the day. In practice, the only regular out-of-room activities available to patients under strict and enhanced supervision were outdoor exercise (see, however, paragraph 103) and – for about half of them – visits to an activity room and the fitness room twice a week.

In the CPT's view, there should be a move away from the current policy of keeping patients locked up in their rooms and this should be accompanied by the development of a programme of recreational, psychosocial and occupational therapeutic activities (see paragraph 106).

**The CPT recommends that steps be taken at Rokiškis Psychiatric Hospital to progressively abolish lock-up periods during the day for forensic patients under strict supervision. Further, the Committee would like to receive confirmation that patients under enhanced supervision benefit from an open-door regime during the day following their transfer to the renovated Building B.**

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<sup>55</sup> There were two closed wards (one for male and one for female patients) on the upper floor and two open wards on the ground floor.

103. Forensic patients at Rokiškis Psychiatric Hospital could – in principle – take one to two hours of outdoor exercise per day. However, a number of patients met by the delegation said that they were not allowed any outdoor exercise during the winter.

Further, the CPT is concerned by the almost total lack of regular outdoor exercise for civil psychiatric patients placed in closed wards (apparently due to the absence of a secure area). A number of patients had apparently been unable to go outside for several weeks.

**The CPT recommends that steps be taken to ensure that all patients whose state of health so permits are offered at least one hour of outdoor exercise per day. If necessary, they should be provided with suitable outdoor clothing.**

b. Skemai Residential Care Home

104. The delegation was impressed by the living conditions at Skemai Residential Care Home. All the residents' rooms (containing one to three beds) were in a good state of repair, properly furnished, well-lit and pleasantly decorated. The premises were clean.

Further, residents had ready access to adequately equipped and pleasantly decorated recreation rooms and a library. All residents whose state of health permitted it were free to move around the establishment and had access to the open air during the day; assistance was provided to residents in wheel-chairs and other residents with physical impairments so that they could benefit from the open air.

#### **4. Treatment**

105. Psychiatric treatment should be based on an individualised approach, which implies the drawing up of a treatment plan for each patient, indicating the goals of treatment, the therapeutic means used and the staff member responsible. The treatment plan should also contain the outcome of a regular review of the patient's state of mental health and a review of the patient's medication.

In a forensic psychiatric hospital, the treatment should involve a wide range of therapeutic, rehabilitative and recreational activities – including appropriate medication and medical care – and should be aimed at both controlling the symptoms of the illness and reducing the risk of re-offending. Rehabilitative psycho-social activities should prepare patients for an independent life or return to their families; occupational therapy – as an integral part of the rehabilitation programme – should aim at raising motivation, developing learning and relationship skills, supporting the acquisition of specific competences and improving self-image. It is also desirable to offer the patients education and suitable work.

106. The CPT acknowledges the efforts made at Rokiškis Psychiatric Hospital to introduce occupational and socio-rehabilitative therapy and to develop individualised treatment plans. All newly admitted patients were medically examined, and individual treatment and rehabilitation plans were drawn up by a multi-disciplinary team (including a psychiatrist, a psychologist and a social worker), indicating the medication and the psychological counselling and social intervention that was needed. The patient's situation was subsequently reviewed by the team every six months.

The hospital's recently opened occupation and rehabilitation centre offered a range of work therapies and other activities (woodwork, sewing, weaving, cooking, gardening, computer classes, etc.) to around one hundred patients per week, including some 60 forensic patients under general supervision<sup>56</sup> and a number of civil psychiatric patients. In addition, certain activities (ceramics, leather work, etc.) were regularly organised in the forensic wards.

That said, for the majority of patients (including many long-term patients), treatment still consisted mainly of pharmacotherapy. In particular, only a very limited number of forensic patients under enhanced and strict supervision benefited from psycho-social activities. These patients did not have access to the occupation and rehabilitation centre and few of them showed interest in attending activity rooms<sup>57</sup>. This situation was undoubtedly linked to the shortage of suitably qualified staff (see paragraph 109). In addition, there were no specific treatment programmes for forensic patients aimed at reducing the risk of re-offending. The delegation's overall impression of the enhanced and strict supervision wards was that the emphasis was on security and containment rather than on active therapeutic treatment.

**The CPT recommends that steps be taken at Rokiškis Psychiatric Hospital to provide more comprehensive and individualised care, including a range of psychosocial and occupational therapeutic activities, in the light of the above remarks.**

107. The delegation was informed that electroconvulsive therapy (ECT) was applied to some civil psychiatric patients. It was always administered in its modified form (i.e. with anaesthetic and muscle relaxants) and for the proper indications, in a specifically designated and well-equipped room<sup>58</sup>. Patients always had to sign a special consent form for this type of treatment. Further, every resort to ECT was recorded in a central register (as well as in the patients' files).

108. At Skemai Residential Care Home, the delegation gained a generally favourable impression of the care – including health care – provided to residents.

Efforts were being made at Skemai to involve as many residents as possible in occupational and rehabilitative activities. There were several workshops for sewing, knitting, weaving, a room with computers connected to the Internet, a music room and various sports facilities (including a swimming pool).

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<sup>56</sup> They attended the centre once a week for three hours in groups of up to ten persons.

<sup>57</sup> Where they could spend 45 minutes per day.

<sup>58</sup> The ECT equipment was modern ("Thymatron") and had an integrated electroencephalogram.

## 5. Staff

109. Health-care staffing levels at Rokiškis Psychiatric Hospital were generally adequate. The hospital employed on a full-time basis 24 doctors (including 15 psychiatrists<sup>59</sup>), 138 nurses and 164 orderlies and auxiliary staff. Four or five nurses were present on each ward<sup>60</sup> during day shifts and two at night.

As regards other staff involved in therapeutic activities, it is a matter of concern that, out of the 10.5 posts for psychologists, only six were filled at the time of the visit. Further, there was one psychotherapist and 32 social workers, of whom only six had received specialised training in psychosocial and occupational therapy. Moreover, the latter category of social workers was attached to the occupation and rehabilitation centre and there were no staff on the wards qualified to provide occupational therapeutic activities<sup>61</sup>.

In the light of the above, **the CPT recommends that the Lithuanian authorities take steps at Rokiškis Psychiatric Hospital to substantially reinforce the team of specialists qualified to provide psychosocial and occupational therapeutic activities.**

110. Security staff from a private company were contracted to ensure the general security of the hospital premises. According to the medical staff, in the case of particularly violent and/or agitated patients, security officers could be called upon to help restrain the patient concerned. However, health-care staff assured the delegation that in such cases security staff acted exclusively upon their instructions.

111. The delegation observed that, throughout the hospital, it was common practice for orderlies to be in the front line in addressing the basic care needs of patients. A number of patients told the delegation that they often had no possibility to discuss their situation with nursing staff.

**The Committee recommends that the current practice be reviewed, with a view to ensuring that the important task of keeping direct contact with patients and addressing their basic care needs are in the hands of professionally trained nurses.**

112. At Skemai Residential Care Home, staffing levels could be considered as good. The medical team consisted of a full-time doctor (specialist in internal medicine) and a half-time psychiatrist<sup>62</sup>. The home also employed a psychologist, a physiotherapist, 14 full-time nurses (with specialised psychiatric training), some 120 caretakers, and some 60 auxiliary workers.

That said, the delegation was informed that, according to new national social welfare policies, Skemai Residential Care Home (as well as other social welfare institutions of this kind) was no longer entitled to employ medical staff<sup>63</sup>. **In the CPT's opinion, the current levels of medical staff should be maintained at Skemai, in order to ensure adequate care to residents.**

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<sup>59</sup> There were also an internal medicine specialist, a neurologist, a radiologist, and an anaesthesiologist, as well as several doctors holding managerial posts.

<sup>60</sup> On average, each ward had 40 beds.

<sup>61</sup> This function was mainly performed by social workers without specialised training.

<sup>62</sup> In addition, a dentist visited the home one day a week.

<sup>63</sup> At the time of the visit, the employment of medical staff was secured thanks to the financial support of the local authorities.



## **6. Means of restraint**

113. In a psychiatric/social welfare establishment, the restraint of agitated and/or violent patients/residents may on occasion be necessary. However, this is an area of particular concern to the CPT, given the potential for abuse and ill-treatment.

It is essential that the restraint of patients/residents be the subject of a clearly-defined policy. That policy should make it clear that initial attempts to restrain agitated or violent patients/residents should, as far as possible, be non-physical (e.g. verbal instruction) and that, where physical restraint is necessary, it should in principle be limited to manual control.

Resort to mechanical restraint may only very rarely be justified and must always be either expressly ordered by a doctor or immediately brought to the attention of a doctor with a view to seeking his approval. Further, patients/residents subject to means of mechanical restraint should always have their mental and physical state continuously and directly monitored by a member of the health-care staff, in order that the therapeutic alliance be maintained and assistance be provided. In addition, a restrained patient/resident should not be exposed to other patients/residents.

Staff must be trained in the use of means of restraint. Such training should not only focus on instructing staff on how to apply means of restraint but, equally importantly, should ensure that they understand the impact the use of restraint may have on a patient/resident and that they know how to care for a restrained person.

Finally, every instance of restraint of a patient/resident (manual control, mechanical restraint, seclusion) and the forced administration of psychotropic medication (“chemical restraint”) should be recorded in a special register established for this purpose (as well as in the patient’s/resident’s file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the means and/or medication used, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients/residents or staff. This will greatly facilitate the management of such incidents and allow oversight of the frequency of their occurrence.

114. At Rokiškis Psychiatric Hospital, the only means of mechanical restraint used was fixation to a bed, accompanied by the administration of tranquillising medication (chemical restraint). There were no seclusion rooms. In accordance with the hospital’s “guidelines for the use of restraints”, the decision to resort to means of restraint was always taken by a doctor and the necessity for the restraint was regularly reviewed. Further, every instance of resort to fixation was recorded on a special form (to be included in the patient’s medical file). The form indicated the time at which the measure was applied and terminated, the name of the doctor ordering it, the reason for restraining the patient, and a description of what happened during the restraining procedure. From the examination of patients’ files, it became apparent that the duration of fixation did not usually exceed ten hours.

That said, a number of shortcomings were observed by the delegation. In particular, fixation was often applied inside patients' rooms and thus in full view of other patients. Further, patients subject to fixation were said to be checked only every 30 minutes (as required by the above-mentioned guidelines); no staff member was designated to stay with and observe the fixated patient and, in practice, this function was often performed by other patients. In addition, instances of chemical restraint were not recorded at all, and no central register had been established for recording the use of means of restraint.

115. At Skemai Residential Care Home, recourse was only very exceptionally had to a straitjacket while awaiting the arrival of an ambulance, in order to transfer a highly agitated resident to a psychiatric hospital.

However, the establishment had no written policy on the use of straitjackets, and the decision to restrain a resident could, in principle, be taken by a nurse without the involvement of a doctor.

**116. The CPT recommends that steps be taken at Rokiškis Psychiatric Hospital and the Skemai Residential Care Home (and, as appropriate, in other psychiatric/social welfare establishments in Lithuania) to ensure that means of restraint are applied in strict compliance with the requirements set out in paragraph 113 (in particular as regards the supervision of patients under restraint).**

## **7. Safeguards**

117. On account of their vulnerability, the mentally ill and mentally disabled warrant much attention in order to prevent any form of conduct – or avoid any omission – contrary to their well-being. It follows that involuntary placement of such persons in a psychiatric or social welfare establishment should always be surrounded by appropriate safeguards. As regards more particularly the placement procedure, it should offer guarantees of independence and impartiality, as well as of objective medical expertise. Further, involuntary placement should cease as soon as it is no longer required by the patient's mental state. Consequently, the need for such a placement must be regularly reviewed.

a. initial placement and discharge procedures in a psychiatric establishment

118. During the visit, the delegation examined in detail the legal procedures and safeguards related to involuntary hospitalisation of forensic patients for the purpose of compulsory medical treatment under Section 98 of the Criminal Code. In this context, the delegation interviewed staff and patients and consulted patients' files at Rokiškis Psychiatric Hospital. It also met with a judge of Rokiškis District Court who dealt with cases of involuntary placement of forensic patients.

119. The procedures for the involuntary *placement* in a psychiatric establishment of persons who have been declared criminally irresponsible under Section 98 of the Criminal Code are regulated by Sections 392 to 406 of the Code of Criminal Procedure. The relevant provisions provide for appropriate safeguards in the context of the above-mentioned procedures, which appear to have been fully implemented in practice; thus, no particular comments are required.

120. As regards *discharge* procedures, the law provides that involuntary hospitalisation orders are of an indefinite duration<sup>64</sup>. However, every six months at least, the need for involuntary placement shall be reviewed by the court, who shall decide whether to extend or terminate the placement decision<sup>65</sup>. For this purpose, the court shall base its decision on the conclusion of the report prepared by the psychiatric institution<sup>66</sup>.

The examination of a number of patients' files at Rokiškis Psychiatric Hospital showed that the six-month review period was respected in practice. Such court reviews were performed on the basis of an opinion issued by the hospital's medical commission (composed of five doctors including the patient's treating doctor), which usually heard the patient concerned and subsequently submitted a report to the competent court. During all court hearings, the patient's lawyer was present, as was a representative of the hospital. Further, the court's decision, which contained information on the modalities to lodge an appeal<sup>67</sup>, was usually also delivered to the patient.

However, the CPT is concerned by the fact that patients were usually not seen by the judge in the context of review procedures. In this regard, the judge from Rokiškis court observed that she was not under a legal obligation to hear the patient in person<sup>68</sup> and in practice she would always follow the opinion of the psychiatric hospital that "the disease prevents the person from attending the hearing"<sup>69</sup>.

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<sup>64</sup> "[...] until the person fully recovers or until his/her mental health improves and he/she ceases to be dangerous" (Section 98, paragraph 6, of the Criminal Code).

<sup>65</sup> In this context, it is possible to modify the applicable supervision regime or transform the compulsory treatment from an in-patient to an out-patient setting.

<sup>66</sup> Section 98, paragraph 6, of the Criminal Code and Section 405 of the Code of Criminal Procedure.

<sup>67</sup> Appeals against court decisions on review can be lodged within seven days by the patient, his/her lawyer or legal representative.

<sup>68</sup> Section 405, paragraph 4, of the Code of Criminal Procedure stipulates that during the review of compulsory treatment "the judge may request to bring the person undergoing compulsory treatment to the hearing, unless, according to the findings of the consilium of doctors, the disease prevents the person from attending the hearing."

<sup>69</sup> According to the chairman of the medical commission at Rokiškis Psychiatric Hospital, it was only when the commission recommended a change from in-patient compulsory treatment to out-patient care that they suggested that the patient concerned be present at the hearing.

**The CPT recommends that the Lithuanian authorities take steps to ensure that forensic patients are heard in person by the judge in the context of judicial review procedures. For this purpose, consideration may be given to the holding of hearings at psychiatric institutions.**

121. In the report on the 2004 visit, the CPT made several recommendations concerning safeguards surrounding the involuntary placement of a civil nature in a psychiatric establishment<sup>70</sup>. The information gathered by the delegation during the 2008 visit suggests that some of those recommendations have not yet been implemented by the Lithuanian authorities. In particular, patients were apparently still not heard in person by the court in the context of civil involuntary placement procedures. **The CPT would like to receive the Lithuanian authorities' comments on this matter.**

122. From the Lithuanian authorities' response to the CPT's report on the 2004 visit as well as from the delegation's consultations on the spot, it remained unclear to what extent courts now seek an opinion from a psychiatrist outside the hospital concerned during civil involuntary placement procedures. **The Committee wishes to receive further clarification from the Lithuanian authorities in this respect.**

123. The CPT must express its concern about the legal situation of certain civil patients at Rokiškis. Despite the fact that they had signed a special form upon arrival consenting to hospitalisation, these patients were being accommodated on closed wards and were not free to leave<sup>71</sup>; in other words, they were *de facto* involuntary patients, being deprived of the benefit of any of the safeguards which accompany the initial involuntary placement procedure.

In this regard, the Committee wishes to underline that, if it is considered that a given patient, who has been voluntarily admitted and who subsequently expresses a wish to leave the hospital, still requires inpatient care, then the involuntary civil placement procedure provided by the law should be fully applied.

**The CPT recommends that the legal status of civil patients kept on closed wards at Rokiškis Psychiatric Hospital be reviewed, in the light of the preceding remarks.**

124. Finally, as indicated in paragraph 94, the Lithuanian legislation concerning involuntary placement of a civil nature deals with the emergency admission of patients to a psychiatric institution. A procedure for non-emergency situations, whereby a patient could be hospitalised against his/her will after a court decision has been taken, is apparently not provided for. **The CPT would like to know whether it is intended to make provision for such a procedure in the Lithuanian legislation.**

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<sup>70</sup> CPT/Inf (2006) 9, paragraph 133.

<sup>71</sup> Some of them told the delegation that they did not wish to stay at the hospital any longer, but that staff prevented them from leaving.

- b. initial placement and discharge procedures in a social welfare establishment

125. Lithuanian legislation does not provide for an involuntary placement procedure in social welfare establishments. At Skemai Residential Care Home, residents were admitted on their own application or that of their guardian through the competent district authority (Panevėžys County Administration). The decision on the placement was taken by the social affairs unit of Panevėžys County Administration on the basis of a report drawn up by a social worker and a medical certificate issued by a psychiatrist stating that the applicant's mental health permitted his/her placement in a social welfare institution of this type. An agreement was then signed between the applicant and the authorised representative of the local government for an indefinite period. The cases of those unable to give valid consent to their placement were apparently notified to the competent court with a view to having a guardian appointed, following consultation with a psychiatrist.

That said, it appeared that even legally competent residents admitted on the basis of their own application were not always allowed to leave the home when they so wished<sup>72</sup>. The delegation was informed that their discharge could only take place by decision of the social affairs unit of the Panevėžys County Administration. This was apparently due to the need to ascertain that discharged residents had a place and means for them to live in the community; nevertheless, this meant that such residents were *de facto* deprived of their liberty (on occasion for a prolonged period). **The Committee wishes to receive the Lithuanian authorities' comments on this matter.**

126. Specific reference should be made to the situation of residents deprived of their legal capacity. Such persons could be admitted to the Skemai Home solely on the basis of the application of their guardian. However, they were considered to be voluntary residents, even when they opposed such a placement. In the CPT's view, placing incapacitated persons in a social welfare establishment which they cannot leave at will, based solely on the consent of the guardian, entails a risk that such persons will be deprived of essential safeguards. **The Committee would like to receive the Lithuanian authorities' comments on this point.**

127. It is also a matter of concern that all 69 residents who were deprived of their legal capacity were placed under the guardianship of the home. In this connection, the delegation was astonished to learn that in the majority of these cases, the existing guardianship arrangements had been terminated by a court decision upon admission to the establishment and guardianship of the person concerned entrusted to the home.

It should be stressed here that one aspect of the role of a guardian is to defend the rights of incapacitated persons vis-à-vis the hosting social welfare institution. Obviously, granting guardianship to the very same institution may easily lead to a conflict of interest and compromise the independence and impartiality of the guardian. **The CPT reiterates its recommendation that the Lithuanian authorities strive to find alternative solutions which would better guarantee the independence and impartiality of guardians.**

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<sup>72</sup> Besides, when leaving the establishment temporarily, they had to return by 10 p.m. If a resident did not show up by that time, the home would ask the police to find and bring him/her back by force.

c. safeguards during placement

128. An introductory leaflet/brochure setting out the establishment's routine and patients'/ residents' rights should be issued to each patient/resident on admission, as well as to their families. Any patients/residents unable to understand this brochure should receive appropriate assistance.

At Rokiškis Psychiatric Hospital and Skemai Residential Care Home, newly admitted patients/residents received information verbally on the internal rules of the establishment, but no information in writing was provided on admission.

**The CPT recommends that an introductory leaflet/brochure be drawn up and issued to each newly admitted patient/resident (as well as to his/her legal representative and close relatives), accompanied if necessary by appropriate verbal explanations, at Rokiškis Psychiatric Hospital and Skemai Residential Care Home (and, as appropriate, in other psychiatric/social welfare establishments in Lithuania).**

129. Patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis – *be it in the context of civil or criminal proceedings* – should not be construed as authorising treatment without his/her consent. It follows that every competent patient, whether voluntary or involuntary, should be fully informed about the treatment which it is intended to prescribe and given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

The CPT noted that the Lithuanian legislation does not provide for a distinction between involuntary admission to a psychiatric institution and treatment without consent<sup>73</sup>. Further, at Rokiškis, no documentation could be found which indicated that involuntary patients received detailed information on the diagnosis, the treatment proposed and the possible side effects.

**The CPT recommends that the Lithuanian authorities take steps – including of a legislative nature – to distinguish clearly between the procedure for involuntary placement in a psychiatric institution and the procedure for involuntary psychiatric treatment, in the light of the above remarks. Further, all patients (and, if they are deprived of their legal capacity, their legal representatives) should be provided systematically with information about their condition and the treatment prescribed for them, and doctors should always seek the patient's consent to treatment prior to its commencement. Relevant information should also be provided to patients (and their legal representatives) during and after treatment.**

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<sup>73</sup> See Section 16 of the Mental Health Act.

130. At Rokiškis and Skemai, patients/residents could in principle submit a complaint to the director, as well as to the Ministry and various other outside bodies, such as courts and the Seimas Ombudsmen. However, a number of patients/residents appeared to be unaware of the existing possibilities to lodge a complaint. **The CPT recommends that patients/residents be informed in the leaflet/brochure issued upon admission of their right to lodge complaints as well as of the modalities for doing so.**

131. The CPT attaches great importance to psychiatric/social welfare establishments being visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the inspection of patients'/residents' care. This body should be authorised, in particular, to talk privately with patients/residents, receive directly any complaints which they might have and make any necessary recommendations.

According to staff, Rokiškis Psychiatric Hospital received regular visits from the Medical Audit Inspection of the Ministry of Health in order to examine the patients' living conditions. As regards Skemai Residential Care Home, it received planned annual visits from the Panevėžys County Administration. It was apparent that, at least in recent years, none of the establishments had been visited by an independent body.

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

132. At both of the establishments visited, the existing arrangements for contact with the outside world were generally satisfactory. Patients/residents were able to send and receive correspondence, have access to a telephone, and receive visits.





## **APPENDIX I**

### **LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION**

#### **Co-operation between the CPT and the Lithuanian authorities**

##### comments

- the CPT trusts that the Lithuanian authorities will take the necessary steps to avoid any repetition of situations of the kind described in paragraph 5 (paragraph 5).

##### Police establishments

#### **Preliminary remarks**

##### recommendations

- the Lithuanian authorities to review the system of remand detention in police detention centres in the light of the remarks made in paragraph 9, with a view to substantially reducing its duration (paragraph 9).

#### **III-treatment**

##### recommendations

- the Lithuanian authorities to redouble their efforts to combat ill-treatment by the police; police officers to be reminded, at regular intervals, that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are not acceptable and will be the subject of severe sanctions. Police officers must also be reminded that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them (paragraph 13);
- appropriate steps to be taken to ensure that prosecutorial and judicial authorities take resolute action when any information indicative of ill-treatment emerges. Allegations and/or other information indicative of ill-treatment should be adequately assessed, in particular by taking evidence from all persons concerned and arranging in good time for on-site inspections and/or specialist medical examinations. Further, the above-mentioned authorities should conduct proceedings in such a way that the persons concerned have a real opportunity to make a statement about the manner in which they have been treated (paragraph 14);

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

#### requests for information

- the outcome of the inquiry into the first case referred to in paragraph 11 (paragraph 12).

### **Safeguards**

#### recommendations

- appropriate action to be taken to ensure that the right of notification of custody is fully effective in practice with respect to all persons deprived of their liberty by the police, as from the very outset of their deprivation of liberty (paragraph 17);
- the Lithuanian authorities to take the necessary measures to ensure that the right of access to a lawyer is enjoyed by all persons obliged to remain with the police, as from the very outset of their deprivation of liberty (paragraph 18);
- the Lithuanian authorities to pursue their efforts to ensure the effectiveness of the legal aid system, as from the very outset of deprivation of liberty, for persons in police custody who are not in a position to pay for a lawyer (paragraph 18);
- steps to be taken to ensure that, in police detention centres:
  - medical examinations are conducted out of the hearing and – unless the doctor or nurse concerned specifically requests otherwise in a given case – out of the sight of police officers;
  - the results of every medical examination, as well as any relevant statements by the detained person and the doctor’s conclusions, are formally recorded by health-care staff and made available to the detained person and his or her lawyer;
  - the confidentiality of medical data is strictly respected (paragraph 20);
- for as long as police detention centres continue to be used to hold remand prisoners, steps to be taken to ensure that all newly-arrived remand prisoners are medically screened, within 24 hours of their arrival at such an establishment, by a doctor or a qualified nurse reporting to a doctor (paragraph 20);
- the Lithuanian authorities to ensure that a form setting out the rights of persons taken into police custody (including the right of access to a doctor) is systematically given to such persons as soon as they are brought into a police establishment. The form should be made available in an appropriate range of languages (paragraph 21);

- steps to be taken to ensure that juveniles do not make any statement or sign any document relating to the offence of which they are suspected without the benefit of a lawyer and ideally a trusted adult being present to assist them (paragraph 22).

#### comments

- the CPT suggests that the Bar Association be consulted in the context of steps taken to ensure the effectiveness of the legal aid system (paragraph 18);
- it would be desirable that all persons deprived of their liberty by the police be expressly guaranteed the right to have access to a doctor – including a doctor of their choice – from the very outset of their deprivation of liberty (paragraph 19);
- the return of prisoners to police detention facilities should only be sought and authorised very exceptionally, for specific reasons and for the shortest possible period of time (paragraph 23).

#### **Conditions of detention**

#### recommendations

- the Lithuanian authorities to step up their efforts to bring conditions of detention in all police detention centres to an acceptable level. In particular, measures should be taken to ensure that:
  - all persons detained overnight are allocated a bed and provided with a clean mattress and clean bedding;
  - access to natural light and artificial lighting, as well as ventilation, are adequate;
  - all detained persons have ready access to drinking water in salubrious conditions and are provided with basic hygiene products;
  - the state of repair and hygiene in the cells and the communal sanitary facilities is of an adequate level;
  - all persons who are detained by the police for more than 24 hours are offered at least one hour of outdoor exercise every day (paragraph 27);
- immediate steps to be taken to ensure that juveniles placed in police detention facilities are accommodated separately from adult detainees (paragraph 28);
- the two “waiting cells” at Jonava Region Police Department to be taken out of service without delay (paragraph 29);

- the Lithuanian authorities to take urgent steps to provide a mattress and blanket to persons held overnight in the temporary holding cells of police establishments (paragraph 30);
- an immediate end to be put to the practice of transporting prisoners in the cubicles measuring 0.4 m<sup>2</sup> in vans of the Convoy Division (paragraph 31).

#### requests for information

- detailed information regarding renovation works planned in several police detention centres, in the context of the “Police Development Programme for 2007-2011” (paragraph 25);
- confirmation that the detention facilities at Jonava, Kupiškis and Trakai have been taken out of service and that renovation works have started at Rokiškis Regional Police Department (paragraph 27).

### **Prisons**

#### **Preliminary remarks**

#### recommendations

- the Lithuanian authorities to pursue their efforts to combat overcrowding in remand prisons, drawing on the Recommendations of the Committee of Ministers of the Council of Europe to member States, in particular Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, and R (99) 22 concerning prison overcrowding and prison population inflation (paragraph 34);
- the standard for living space of prisoners in dormitories to be raised to at least 4 m<sup>2</sup> per inmate, and the official capacities of the prisons concerned to be reviewed accordingly (paragraph 35).

### **Ill-treatment**

#### recommendations

- the Lithuanian authorities to draw to the attention of prison officers in Pravieniškės-2 Correction Home No. 3 that the force used to control violent and/or recalcitrant prisoners should be no more than is strictly necessary and that, once prisoners have been brought under control, there can be no justification for striking them (paragraph 37);
- the Lithuanian authorities to deliver the clear message to all prison staff (prison officers and senior management) at Lukiškės Remand Prison, Pravieniškės-2 Correction Home No. 3 and Kaunas Juvenile Remand Prison and Correction Home that all forms of ill-treatment of prisoners (including verbal abuse) are unacceptable and will be dealt with severely (paragraph 37);
- the Lithuanian authorities to take the necessary steps to ensure that, throughout the prison system, investigations into possible ill-treatment by prison staff are no longer conducted by members of staff from the establishment concerned. Such investigations should be conducted by a body independent of the establishments concerned and, preferably, of the prison authorities (paragraph 38);
- the Lithuanian authorities to pursue their efforts to address the problem of inter-prisoner violence in the establishments visited (and, as appropriate, in other prisons in Lithuania). In this context, it is particularly important to ensure that all prisons have adequate levels of properly trained staff (paragraph 41);
- arrangements to be made at Pravieniškės-2 to ensure that vulnerable prisoners seeking protection are no longer subjected to a disciplinary regime (paragraph 42).

#### requests for information

- for 2007 and 2008, the following information regarding all establishments under the authority of the Ministry of Justice (remand prisons, correction homes and prisons):
  - the number of complaints of ill-treatment lodged against prison staff;
  - the number of resulting disciplinary and/or criminal proceedings and an account of the disciplinary and/or criminal sanctions imposed (paragraph 39).

## **Conditions of detention of the general prison population**

### recommendations

- the shortcomings regarding material conditions of detention at Pravieniškės-2 Correction Home No. 3 described in paragraph 43 to be remedied rapidly (paragraph 43);
- the Lithuanian authorities to implement as quickly as possible the plans to construct a new remand prison near Vilnius and to close Lukiškės Remand Prison (paragraph 44);
- the necessary steps to be taken to ensure that all persons detained in Lukiškės Remand Prison, including remand prisoners, have acceptable conditions of detention as regards cell equipment and furnishings, as well as heating during cold weather. All prisoners should be provided with cleaning products (in sufficient quantity) for their cells (paragraph 45);
- steps to be taken to ensure that all prisoners in Lithuania have adequate quantities of essential personal hygiene products (paragraph 46);
- the Lithuanian authorities to take the necessary steps, without further delay, to ensure that remand prisoners at Lukiškės Remand Prison (and, where appropriate, at other remand prisons in Lithuania) are provided with a programme of out-of-cell activities, including group association activities. The relevant legislation should be amended accordingly (paragraph 49);
- steps to be taken to ensure that all sentenced prisoners in Pravieniškės-2 Correction Home No. 3, including those in the arrest section, are able to spend a reasonable part of the day outside their cells engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; and recreation), including group association activities (paragraph 49).

### requests for information

- detailed information about the refurbishment work carried out in the strict regime section of Pravieniškės-2 Correction Home No. 3 (paragraph 43);
- a detailed schedule concerning the construction/commissioning of the new Remand Prison in Vilnius (paragraph 44).

## **Conditions of detention of life-sentenced prisoners**

### recommendations

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

## **Conditions of detention of juveniles**

### recommendations

- the Lithuanian authorities to pursue their efforts with a view to ensuring that all prisoners detained at Kaunas Juvenile Remand Prison are provided with a programme of purposeful out-of-cell activities, including group association activities, tailored to their needs (education, sport, recreation, etc.). The longer the period for which remand prisoners are detained, the more developed should be the activities which are offered to them (paragraph 55);
- the cubicles located on the roof of the remand block at Kaunas to be replaced as quickly as possible by outdoor exercise yards which are sufficiently large to enable prisoners to exert themselves physically and adequately equipped (including shelter from inclement weather) (paragraph 55).

### requests for information

- detailed information on the planned improvement of material conditions at Kaunas Juvenile Remand Prison, including a precise schedule for the carrying out of this work (paragraph 55).

## **Health-care services**

### recommendations

- the Lithuanian authorities to accord high priority to implementing the relocation of the Prison Hospital to Pravieniškės (paragraph 56);
- the necessary steps to be taken to fill the vacant psychiatrist's post at Kaunas Juvenile Remand Prison and Correction Home (paragraph 59);
- the equipment (in particular, the X-ray machines) referred to in paragraph 60 to be replaced as soon as possible at Lukiškės Remand Prison and Pravieniškės-2 Correction Home No. 3 (paragraph 60);

- in all prison establishments in Lithuania, the record drawn up after a medical examination of a prisoner who has suffered injuries (whether the record is drawn up upon admission or during detention) to contain:
  - (i) a full account of statements made by the prisoner concerned which are relevant to the medical examination, including any allegations of ill-treatment;
  - (ii) a full account of objective medical findings based on a thorough examination;
  - (iii) the doctor's conclusions in the light of (i) and (ii). In the conclusions, the doctor should indicate the degree of consistency between allegations made and the objective medical findings.(paragraph 62);
- at Lukiškės Remand Prison (and, where appropriate, in other prison establishments in Lithuania), the approach taken to the prevention of drug abuse and the management of drug-addicted prisoners to be reviewed, in the light of the remarks made in paragraph 65 (paragraph 65);
- at Kaunas Juvenile Remand Prison and Correction Home (and, where appropriate, in other prison establishments in Lithuania), steps to be taken to ensure that prison officers do not filter prisoners' requests to see medical staff and that prisoners who wish to do so are able to contact health-care staff directly, without going through prison officers (paragraph 67);
- steps be taken to ensure that, at Lukiškės and Kaunas (and, where appropriate, in other prison establishments in Lithuania), medical consultations/examinations of prisoners are conducted out of the hearing and – unless the doctor concerned specifically requests otherwise in a particular case – out of the sight of non-medical staff (paragraph 68).

requests for information

- a detailed account of the progress made with regard to the construction of the new prison hospital in Pravieniškės (paragraph 56);
- as regards Pravieniškės-2 Correction Home No. 3, comments on the potential conflict of interest between the psychologist's therapeutic activities and her involvement in decision-making processes (e.g. allocation of prisoners to different security regimes) (paragraph 57).



## **Other issues**

### recommendations

- the Lithuanian authorities to pursue their efforts to fill all the vacant prison officers' posts in prison establishments (paragraph 70);
- the Lithuanian authorities to accord a high priority to both the initial and ongoing training of prison staff (of all grades). In this context, steps should be taken to increase the length of initial training and enhance training (initial and in-service) relating to the acquisition and development of skills for establishing relations with prisoners. Further, staff required to work in establishments for juveniles should receive special training for dealing with persons of this age (paragraph 71);
- steps to be taken at Kaunas Juvenile Remand Prison and Correction Home to put an immediate end to the practice of obliging prisoners to face the wall when staff pass by (paragraph 72);
- in the context of disciplinary procedures, the shortcomings highlighted in paragraph 73 to be remedied (paragraph 73);
- the Lithuanian authorities to review the strict regime in the light of the remarks in paragraph 76. In particular, all prisoners subject to that regime (including those held in disciplinary cellular confinement) should be allowed to receive visits on a regular basis. Moreover, additional out-of-cell activities should be organised (paragraph 76);
- the management of Pravieniškės-2 Correction Home No. 3 (and, where appropriate, of other prison establishments) to reconsider their approach to self-harm, in the light of the remarks in paragraph 77 (paragraph 77);
- steps to be taken without delay to remedy the shortcomings observed in the disciplinary cells at Pravieniškės-2 Correction Home No. 3. In particular, all cells should have adequate access to natural light and appropriate artificial lighting, ventilation and heating. Moreover, all individual cells measuring less than 6 m<sup>2</sup> should be taken out of service as, by virtue of their very size, they are unsuitable for use for accommodation purposes in a prison establishment (paragraph 78);
- the segregation procedures at Kaunas Juvenile Remand Prison and Correction Home based on Section 70 of the Code on the Execution of Sentences to be reviewed, in the light of the remarks in paragraph 79 (paragraph 79);
- the programmes of activities at Kaunas Juvenile Remand Prison and Correction Home for prisoners held in segregation under Section 70 of the Code on the Execution of Sentences to be developed, in the light of the remarks in paragraph 80 (paragraph 80);

- Kaunas Juvenile Remand Prison (and also, where appropriate, other prison establishments in Lithuania) to be provided with facilities for the placement of agitated and/or violent prisoners. The facilities should be safe (i.e. free of objects which could be used to cause injury) and enjoy adequate light and heating, thereby promoting a calming effect on the prisoners. The prisoners concerned should be kept under constant custodial surveillance or medical supervision, as the case may be (paragraph 82);
- the necessary measures to be taken to ensure that the principles set out in the first subparagraph of paragraph 82 are respected whenever means of mechanical restraint are applied to agitated and/or violent prisoners (paragraph 82);
- access to a telephone to be formally guaranteed for remand prisoners (paragraph 85);
- all adult sentenced prisoners to receive at least one visit per month (the visiting rights of juveniles should be more favourable) (paragraph 86);
- the Lithuanian authorities to review the current arrangements concerning visits for remand prisoners, in the light of the remarks in paragraph 87. In particular, the restrictive practice currently applied in respect of such visits can and should be changed without waiting for the introduction of new legislation or regulations (paragraph 87);
- at Pravieniškės-2 Correction Home No. 3 (and, where appropriate, in other prison establishments in Lithuania), the visiting areas to be redesigned, or other premises provided, so that visits may take place in more open conditions (paragraph 88).

#### comments

- the CPT trusts that the provision stipulating that the decision to control remand prisoners' correspondence must be taken by a judicial authority will soon be adopted (paragraph 83);
- it would be desirable to increase the number of telephones at Pravieniškės-2 Correction Home No. 3 (paragraph 84).

#### requests for information

- comments on the point raised in paragraph 74 concerning prisoners' access to a lawyer during hearings before the disciplinary board (paragraph 74);
- a copy of the report on the visit of the Children's Ombudsman to Kaunas Juvenile Remand Prison and Correction Home in 2007 (paragraph 90).

## **Psychiatric/social welfare establishments**

### **III-treatment**

#### recommendations

- the management of Rokiškis Psychiatric Hospital to recall to the staff that the verbal abuse of patients is not acceptable (paragraph 95).

### **Living conditions**

#### recommendations

- the additional inner door (in the form of metal bars) of the patients' rooms, in the ward for patients under strict supervision in Building B of Rokiškis Psychiatric Hospital, to be removed without delay (paragraph 97);
- immediate steps to be taken to improve the quality and quantity of the food provided at Rokiškis (paragraph 101);
- steps to be taken at Rokiškis to progressively abolish lock-up periods during the day for forensic patients under strict supervision (paragraph 102);
- steps to be taken at Rokiškis to ensure that all patients whose state of health so permits are offered at least one hour of outdoor exercise per day. If necessary, they should be provided with suitable outdoor clothing (paragraph 103).

#### requests for information

- the progress made with regard to the ongoing renovation of Building A of Rokiškis Psychiatric Hospital (paragraph 99);
- confirmation that patients at Rokiškis under enhanced supervision benefit from an open-door regime during the day following their transfer to the renovated Building B (paragraph 102).

### **Treatment**

#### recommendations

- steps to be taken at Rokiškis Psychiatric Hospital to provide more comprehensive and individualised care, including a range of psychosocial and occupational therapeutic activities, in the light of the remarks in paragraph 106 (paragraph 106).

## **Staff**

### recommendations

- the Lithuanian authorities to take steps at Rokiškis Psychiatric Hospital to substantially reinforce the team of specialists qualified to provide psychosocial and occupational therapeutic activities (paragraph 109);
- current practice at Rokiškis to be reviewed, with a view to ensuring that the important task of keeping direct contact with patients and addressing their basic care needs are in the hands of professionally trained nurses (paragraph 111).

### comments

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

## **Means of restraint**

### recommendations

- steps to be taken at Rokiškis Psychiatric Hospital and the Skemai Residential Care Home (and, as appropriate, in other psychiatric/social welfare establishments in Lithuania) to ensure that means of restraint are applied in strict compliance with the requirements set out in paragraph 113 (in particular as regards the supervision of patients under restraint) (paragraph 116).

## **Safeguards**

### recommendations

- the Lithuanian authorities to take steps to ensure that forensic patients are heard in person by the judge in the context of judicial review procedures. For this purpose, consideration may be given to the holding of hearings at psychiatric institutions (paragraph 120);
- the legal status of civil patients kept on closed wards at Rokiškis Psychiatric Hospital to be reviewed, in the light of the remarks in paragraph 123 (paragraph 123);
- the Lithuanian authorities to strive to find alternative solutions which would better guarantee the independence and impartiality of guardians (paragraph 127);

- an introductory leaflet/brochure to be drawn up and issued to each newly admitted patient/resident (as well as to his/her legal representative and close relatives), accompanied if necessary by appropriate verbal explanations, at Rokiškis Psychiatric Hospital and Skemai Residential Care Home (and, as appropriate, in other psychiatric/social welfare establishments in Lithuania) (paragraph 128);
- the Lithuanian authorities to take steps – including of a legislative nature – to distinguish clearly between the procedure for involuntary placement in a psychiatric institution and the procedure for involuntary psychiatric treatment, in the light of the remarks in paragraph 129. All patients (and, if they are deprived of their legal capacity, their legal representatives) should be provided systematically with information about their condition and the treatment prescribed for them, and doctors should always seek the patient's consent to treatment prior to its commencement. Relevant information should also be provided to patients (and their legal representatives) during and after treatment (paragraph 129);
- patients/residents at Rokiškis and Skemai to be informed in the leaflet/brochure issued upon admission of their right to lodge complaints as well as of the modalities for doing so (paragraph 130);
- steps to be taken to ensure that Rokiškis Psychiatric Hospital and Skemai Residential Care Home (and, as appropriate, other psychiatric/social welfare establishments in Lithuania) are visited, on a regular basis, by a body which is independent of the health/social affairs authorities (paragraph 131).

#### requests for information

- comments on the issue that patients are apparently still not heard in person by the court in the context of civil involuntary placement procedures (paragraph 121);
- further clarification as to what extent courts now seek an opinion from a psychiatrist outside the hospital concerned during civil involuntary placement procedures (paragraph 122);
- whether it is intended to make provision in Lithuanian legislation for a procedure for non-emergency admissions to a psychiatric institution (paragraph 124);
- comments on the fact that legally competent residents admitted to Skemai Residential Care Home on the basis of their own application were not always allowed to leave the home when they so wished and were thus *de facto* deprived of their liberty (paragraph 125);
- comments on the fact that incapacitated residents admitted to Skemai Residential Care Home solely on the application of their guardian were considered to be voluntary residents even when they opposed such a placement (paragraph 126).



**APPENDIX II**

**LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

**A. Ministerial authorities**

**Ministry of Justice**

Petras BAGUŠKA Minister

Eglė RADUŠYTĖ Deputy Minister of Justice

**Ministry of Interior**

Stanislovas LIUTKEVIČIUS Secretary of the Ministry of the Interior

**Ministry of Health**

Gediminas ČERNIAUSKAS Deputy Minister of Health

**Ministry of Social Security and Labour**

Violeta MURAUSKAITĖ Secretary of the Ministry of Social Security and Labour

**B. Office of the Lithuanian Ombudsmen**

Romas VALENTUKEVIČIUS Head of the Seimas Ombudsmen's Office

Albina RADZEVIČIŪTĖ Seimas Ombudsman

**C. Non-governmental organisations**

GIP Global Vilnius