



**MONITORING CLOSED INSTITUTIONS
IN LATVIA**

Report by the Latvian Centre for Human Rights and
Ethnic Studies

May 2003

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Introduction

To work towards the prevention and the eradication of all forms of torture and ill-treatment within the EU and world-wide is a strongly held policy view of all EU member states. Promotion and protection of this right is a priority of the EU's human rights policy. In its actions against torture the EU will urge third countries to allow visits by suitably qualified representatives of civil society to places where persons deprived are held.¹

During the six months of the project "Monitoring Closed Institution in Latvia" the Latvian Centre for Human Rights and Ethnic Studies (LCHRES) visited 10 closed facilities under the authority of the Ministries of Justice, Interior, Education and Science, Welfare, and Defence. These included police short-term detention cells (Preili, Ventspils), prisons (Ilģuciems, Šķirotava, Cēsis), mental hospitals (Strenči, Daugavpils), a detention camp for illegal immigrants (Olaines), an educational and correctional facility for juveniles (Alūksne District), and a military detention facility in Ādaži. LCHRES monitoring team included Anhelita Kamenska – LCHRES researcher, Ieva Leimane-Veldmeijere – LCHRES deputy director, and Ilvija Puce – LCHRES staff lawyer. Ilze Brands-Kehris, the current director of LCHRES, participated in the visit to the Olaine detention camp, while the former director of LCHRES Nils Muiznieks joined the monitoring team to the military detention facility in Ādaži. Visits to the Olaine camp for illegal immigrants were carried out in co-operation with Haisam Abu Abda of the Latvian Foreigner's Association and, on one occasion, accompanied by the representatives of the EU delegation in Latvia (A. Norel and I. Naumane). Visits to Daugavpils and Strenči mental hospitals were organised jointly with the representatives of the National Human Rights Office. Throughout the project staff lawyer Ilvija Puce provided legal consultations to detainees in closed institutions.

While conditions in prisons and police cells have drawn considerable criticism from international and domestic organisations, other closed facilities have not benefited from similar public scrutiny. LCHRES attempts to fill the existing lacunae with this report. The report was written by Anhelita Kamenska and Ieva Leimane-Veldmeijere, and edited by Anhelita Kamenska.

The report on "Monitoring Closed Institutions in Latvia" was prepared and published with funding from the European Community European Initiative for Democracy and Human Rights (EIDHR) Micro projects programme in Latvia. While we are grateful for this support, responsibility for the views expressed is solely ours. The project has been a good starting point for developing monitoring in closed institutions. We are pleased to announce that LCHRES has received funding for a three year project (2003-2006) "Monitoring Human Rights and Prevention of Torture in Closed institutions: prisons, police cells and mental health care institutions in Baltic countries" under EU program "European Initiative for Democracy and Human Rights."

¹ 2343.Council – General Affairs: Guidelines to EU policy Towards Third Countries on Torture and Other Cruel-Inhuman or Degrading Treatment or Punishment.

OLAINE DETENTION CAMP FOR ILEGAL IMMIGRANTS

Border Guard, Ministry of Interior

Background

Latvia has one detention centre for illegal immigrants – Olaine Detention Camp for Illegal Immigrants. Following a visit by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment to Latvia in 1999, it recommended in its report that persons detained in another facility – Illegal Immigrant and other Unidentified Accommodation Centre in Gaizina iela in Riga – “should be immediately transferred to another – suitable – establishment; the conditions at that Centre were totally unacceptable and amounted, in the delegation’s opinion, to inhuman and degrading treatment.”²

In its follow-up response “Supplement to Comments about the Situation in Latvia made in the 1999 Report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment”, the Latvian authorities confirmed that “since the liquidation of the Centre for Illegal Migrants and other Unidentified Persons in Riga, no person is being kept in its premises. At the time being, all persons detained for offences against the law in connection with visa regime violations, illegal entry into the country, are sent to the Illegal Immigrant Temporary Accommodation Institution in Olaine (in the District of Riga). This Institution is located within the territory of Olaine Prison.”³

LCHRES conducted 2 visits to the Olaine Detention Camp for Illegal Immigrants (November, 2002; April 2003). During the second visit LCHRES met and was taken around the facility by Lt.Jefimovs, Deputy Head of Olaine Detention Camp who had assumed his current post on February 20, 2003.

During the time of the LCHRES visits, the detention of illegal immigrants was still governed by the 1992 Law on the Entry and Residence of Aliens and Stateless Persons in the Republic of Latvia.” A new Law on Immigration came into force on May 1, 2003.

The 1992 Law provided that illegal immigrants could be detained by the police or border guard for up to 72 hours before an issue of expulsion order. The detention period could be prolonged by the police, upon notification to prosecutor, to a maximum period of 10 days. A person could either leave Latvia voluntarily within 7 days or appeal the decision to the Head of the Citizenship and Migration Board. In case a person did not leave Latvia voluntarily or decision on expulsion was upheld, decision on forced expulsion was then taken. Article 48 specified that such person “shall be taken into custody until the

² Report to the Latvian Government on the visit to Latvia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 24 January to 3 February 1999, p. 14

³ Follow-up report of the Latvian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Latvia from 24 January to 3 February 1999

execution order has been executed.” However, there was no time limit for the detention of persons with respect to whom an expulsion order was issued. There were also no possibilities to appeal the decision on detention.

In accordance with the new Law on Immigration, an illegal immigrant can be detained by the police for three hours before he/she is handed over to border guards. The border guards may detain an illegal immigrant for up to 10 days. If the person cannot be expelled within 10 days, the extension of detention can only be authorised by court decision. The court may authorise the extension of period of detention for up to 6 months. However, State Border Guard can submit an application on the extension of detention period, and the total period of detention pending expulsion may not exceed 20 months. The decision on detention can now be appealed to a higher court. The decision of forced expulsion can be appealed to the Head of Citizenship and Migration Department within seven days. If the decision on expulsion is upheld, it can be appealed in court within 1 month.

With the coming into force of the new Law on Immigration, on May 1 all Olaine detainees were brought *en masse* to the Ziemeļi District Court where the court, without a single exception, authorised the extension of detention for another 6 months. Unfortunately, the time that the detainees have spent in custody prior to the coming into force of the new law will not be included in maximum period of detention.

Number of illegal immigrants detained in Latvia from 1997-2001

Year	1997	1998	1999	2000	2001
Number of persons	347	324	303	269	271

Source: State Border Guard

Conditions and regime

At the time of the LCHRES visit, the Olaine detention camp held 34 detainees, of whom two had been hospitalised. There were 4 women, but no minors. According to the Deputy Head, official capacity of the facility is 50 beds. Illegal immigrants mainly come from the countries of the former Soviet Union, primarily, Lithuania, Russian Federation, and Georgia. 1 detainee was from Iraq. Expiration of visa or residence permit, rejection of asylum is the main reason leading to illegal status or stay. A considerable number of detainees were former USSR citizens, who have been residents of Latvia for a significant number of years, but have failed to legalise their stay. Several foreign nationals had taken up employment without a relevant permit. According to the administration, 40% of camp inmates are former prisoners who have served their sentence in prison and face a deportation order imposed by the court.

At the time of the visit, 5-6 detainees had spent in the Olaine camp more than a year. The staff recalled that a Chechen detainee had spent over 5 years in the Olaine camp. According to the administration, the length of detention varies from one-two weeks to

several years, and largely depends on contacts with relevant embassies and the time required for the arrangement of necessary travel documents.

The Olaine detention camp is a 2-storey building. Most detainees are accommodated on the second floor, which is divided into two parts: quarantine area and residential or relaxed regime area, which are separated in the middle. Upon arrival detainees spend 14 days in the quarantine area where they undergo medical examination and are familiarised with internal regulations of the detention camp. Detainees warranting special attention (infectious diseases such as TB, etc.) are placed in the quarantine room on the first floor. At the time of the visit the quarantine room was very cold, so was the adjacent isolation cell. The administration explained that this was due to dependence on hot water from the Olaine prison. The quarantine cell had three beds. During the time of the visit there was one female detainee in the quarantine cell. The isolation cell was empty.

Three female detainees were accommodated in a large room on the first floor, which had previously been used to accommodate a Chechen family with three children who spent over a year in the facility. In male section on the second floor, detainees were accommodated in rooms for 3-4 people that offered sufficient space for the given number of detainees. All rooms had chairs, a table, and lockers. However, most rooms were in a poor state of cleanliness. A small run-down kitchen is located on the second floor. It is poorly equipped and contains a gas cooker, a sink and shelves. Detainees receive 5-7 Lats per week for food.

Hygiene items (tooth-brush, tooth-paste) are distributed once a month. Female detainees also receive sanitary towels. Cleaning items, including a bar of soap and washing detergents, are also supplied by camp authorities. Due to a shortage of hot water, a number of detainees complained about difficulties in maintaining an adequate level of hygiene.

Throughout the whole period of detention inmates have no access to educational activities or employment. They spend their time watching TV in a communal room or idling away their time. There is a small library with books only in Russian. New books are occasionally provided by relatives and relevant embassies. The camp receives a copy of the Latvian national daily "Diena" and a Russian daily "Chas." Detainees are entitled to one-hour outdoor exercise per day. There is an exercise yard and some sports equipment has been made available. However, it appears that detainees have hardly any other means of recreation, such as board games and are generally left to their own devices during the whole day, and one can conclude that the regime applied to detainees, especially those for long-term stay, is unsatisfactory. Lack of activities, combined with lack of awareness about the state of procedure of their case clearly contributes to their anxiety and tension.

Rights and information on rights

Article 56 of the new Law on Immigration stipulates that, "a detainee has the right to contact the consular office of his/her country and receive legal aid. Foreign nationals are

informed about their rights from the outset of their detention. They have the right to be informed in a language they understand, and if necessary, with the assistance of interpreter.”

The UNHCR provides legal aid and the Latvian Red Cross provides social counselling to those detainees falling under the mandate of the UNHCR. At the time of the visit, there were two such detainees. Several detainees had a lawyer prior to their arrival in Olaine. However, a significant number of detainees complained that they were not in a position to afford a lawyer. In its 1999 report the CPT noted that, “unlike criminal suspects, persons detained under aliens legislation do not benefit from *ex officio* legal assistance” and recommended that the system of *ex officio* legal assistance be extended to such persons.

According to the administration, detainees can notify relatives about the fact of custody in Olaine by using a public card-phone, and if detainees do not have a phone-card, they can make a collect-call, using number 116.

Internal regulations are available in Latvian and Russian. However, there were no copies of the alien’s law in the library, as the administration feared that the only copy in their possession would disappear. The law was available only in Latvian. Nearly all inmates complained about lack of information about their legal situation, including length of detention. Many were unaware about state of procedure of their case.

Medical staff

There are four medical staff members and each shift has a medical staff member on duty. Emergency medical aid is provided free of charge. In case of infections, medical treatment in the hospital is free. The camp has also an agreement with infection specialists – TB. Many detainees complained that other medical treatment including dental services have to be paid for by the detainee. While the administration reassured the LCHRES staff that detainees visit medical institutions when accompanied by a border guard, a number of detainees complained about lack of access to outside medical institutions. There were also many complaints about lack of basic medication. Deputy Head of administration admitted having heard about a suicide attempt in 2002 before he assumed the post. According to Lt. Jefimovs as of May 1, the Olaine detention camp is to employ a psychologist.

Contacts with the outside world

Detainees are entitled to short and long-term visits, and there are no restrictions on the number of visits. Regulations do not fix the length of short visits, and they may last up to 2 hours. Short visits take place in a small room used as a library. The long visits may last up to 3 days. The facility has one room for long visits, and according to administration, detainees or visitors are not required to pay for the room. Five days before the visit a detainee submits an application requesting a long-term visit. At the time of the LCHRES visit, an Iraq citizen was receiving a visit from his wife and child.

Detainees are entitled to parcels. There are no restrictions on food items in parcels. The parcels are checked in the presence of a doctor. While there have been attempts to bring in alcohol, administration denied that there have been any attempts to smuggle in drugs.

Detainees are entitled to phone calls and the facility has a card phone. While there are no restrictions on the amount of money detainees can have in their individual account, it appeared that a significant number of inmates had no financial means purchase phone cards and could not call relatives, despite reassurances from the Deputy Head that they could make collect calls.

There are no restrictions on the number of letters, and the letters are not censored. A detainee submits an application that he/she needs to go to a post office, and is accompanied to the post office by staff. The costs for stamps and envelopes are borne by the detainee. According to the administration, in cases when a detainee has no financial means, the administration tries to provide paper, but at the same time admitted that there is a shortage of stamps and envelopes. At the time of the visit, the administration had run out of stamps and envelopes.

Thus, a significant number of inmates at the facility have limited possibilities to maintain satisfactory contact with the outside world and they are often not in a position to take advantage of entitlements due to lack of financial resources.

Staff

The facility has 45 staff members, including 6 auxiliary staff (cleaners, carpenter, cook, plumber, street sweeper). There are 7 staff members during the night shift, including an auxiliary nurse. At the time of the visit, there were 4 vacancies for border guard posts. All staff speak Russian and there are no communication difficulties with detainees coming from the countries of the former Soviet Union. However, there is only one staff person who speaks English. At the time of the visit, there was an Iraqi Kurd who was unable to communicate in Latvian, English or Russian and relied on the services of an interpreter from the Association of Foreigners.

Disciplinary punishment

According to the Temporary Regulations on Internal Order of the Olaine Detention Camp for Illegal Immigrants⁴ the following punishment may be applied:

- 1) a warning, 2) ban on short and long visits for up to 3 months, 3) ban on short-term leave for up to 3 months, and 4) placement into a punishment cell for up to 15 days.

The decision to place a detainee in a punishment cell may be taken by the Head of Olaine detention camp.

⁴ Temporary Regulations on Internal Order, 14 October 2002

The facility has one punishment cell, which is called “a room for violators of internal order.” Detainees can be placed into a cell for violating internal regulations, disregarding lawful demands by the staff. Detainees undergoing punishment are entitled to one-hour outdoor exercise each day. There is no association with other detainees during the duration of punishment.

According to the administration, detainees may also be isolated and placed into an isolation cell for security reasons, but Deputy Head informed LCHRES that such cases were few. Detainees may be isolated if there is valid information that they may try to escape from the Olaine camp before being deported from Latvia. Detainees are informed about the decision to place them in a punishment cell orally, and a protocol is filed. It was not clear whether the detainees could appeal the decision on disciplinary punishment to a higher body.

A register of “Persons placed in closed solitary rooms” showed that placement in isolation cell was rarely applied. Since October 28 when the register was started five detainees had been placed in isolation cell for disciplinary purposes. The register contained information on 1) the date of placement and 2) and date of release of a detainee from punishment, 3) length of disciplinary punishment and 4) charge. An entry on November 11, 2002 showed that a detainee had been placed in the isolation room, because he had declared a hunger strike. However, a date on his release from isolation room was absent and no length of stay was indicated. It was not clear whether the facility had a strategy on dealing with hunger strikes.

Enforcement of Expulsion Order

A special convoy of the Immigration Board carries out the expulsion order. The administration maintained that have been hardly any cases of physical resistance and there have not been cases when handcuffs have been applied. Informal sources have indicated that, on occasions, detainees undergo considerable psychological pressure prior to expulsion.

Visits by Inspection Bodies

According to the administration the Olaine detention camp is regularly visited by the representatives of the Central Inspection Board of the Border Guards, and a report on findings is then forwarded to the administration of Olaine Detention Camp. However, many detainees complained that visits by the inspectors were rare and that they were not duly informed about their reception hours. It did not appear that the facility was receiving regular inspection visits from relevant prosecutorial bodies.

Recommendations

- 1. A leaflet setting out rights of immigration detainees and explaining procedure applicable to them in accessible language should be provided and made available in Russian and other languages most commonly spoken among detainees.**
- 2. The authorities should make every effort to introduce purposeful activities, especially for long-term detainees. Means of recreation, e.g. board games, should be made available to the extent possible.**
- 3. The relevant Latvian authorities should extend *ex officio* legal assistance also to persons detained under the Law on Immigration.**

MILITARY DETENTION FACILITY IN ADAZI

Ministry of Defence

In 1999 the European Committee for the Prevention of Torture visited the disciplinary unit of the Riga Garrison, which was later heavily criticised in the CPT report.⁵ As a result, in 2001, the disciplinary unit was transferred to the Adazi military training camp located some 25 km from Riga. Adazi is the largest military base of land forces in the Baltics. The headquarters of the Latvian mobile infantry regiment, BALTBAT (Baltic Battalion) peacekeeping force in the Balkans, training centre and a few other units are located there.

In early October, LCHRES visited the new military detention facility in Adazi. Captain *Normunds Stafekis* who is the Head of Department of International Co-operation took LCHRES staff members around the facility. Co-operation was excellent as LCHRES staff were granted access to all facilities, could talk to the only detainee in private and were able to examine several registers.

The facility holds two categories of detainees

- 1) servicemen undergoing disciplinary cellular confinement from all over the country
- 2) servicemen serving custodial arrest (deprivation of liberty for up to 60 days) imposed by the court

The facility is also used for the detention of servicemen from Adazi for up to 12 hours, mostly for sobering up.

Servicemen who have committed criminal offences and have been remanded in custody are held in the Matisa Prison in Riga.

Physical conditions and regime

The disciplinary unit is located in one-story building and surrounded by a fence. The unit was built in 2001 for this purpose and all the facilities are in a very good state of repair. CCTVs have been installed. The unit has 3 cells with a capacity for 8 detainees. Cell 1 is for single occupancy, and cells 2 & 3 can hold 3 and 4 detainees respectively. The multiple occupancy cells were somewhat cramped. There is a shower room after cells. At the end of the corridor there is a yard for outdoor exercise. The size of the yard is adequate for the number of detainees.

The artificial light in cells was bright and the cells were warm. In single occupancy cell in-cell equipment consisted of a bed and a locker. Upon arrival in the cell the servicemen receive sheets, blankets and pillows. The only detainee who was held in unit at the time of the visit confirmed the fact. Each cell has in-cell sanitation and a sink, which is

⁵ Report to the Latvian Government on the visit to Latvia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment (CPT) from 24 January to 3 February, p. 85.

separated from the rest of the living area. The only detainee that was held in the unit was undergoing disciplinary confinement for 7 days, the charge being alcohol consumption. We were able to talk to him in private. He had no complaints about the staff and said they treated him correctly. He had no complaints about food.

Upon arrival in Adazi they undergo medical check-up. Servicemen under disciplinary punishment are entitled to 1,5 –2 hour of outdoor exercise in the mornings and the evenings. Daily schedule includes military training (drills) and work, which is mostly reduced to different cleaning duties. The detainees cannot engage in any educational activities, but have access to books. It was not clear whether there are any restrictions on correspondence.

Disciplinary sanction – disciplinary cellular confinement

Type of punishment	1999	2000	2001	2002 (01-09)
Disciplinary cellular confinement	672	539	502	221
Custodial arrest			5	

Source: Adazi Military Training Camp

In accordance with the Statutes on Military Discipline (adopted in July 2002)⁶ disciplinary confinement has been fixed at up to 10 days. The statutes stipulate that in case of further breaches of discipline additional disciplinary cellular confinement can only be served after a three-day period. The sanction is mostly imposed for alcohol consumption, absence without leave, and violations of army statutes. The punishment has to be served within one month, but in exceptional cases - within three months. Due to the limited capacity (3 cells, 8 beds) of the facility, servicemen occasionally have to wait in their units before they can be transferred to Adazi. The limited capacity may be one of the reasons why the number of servicemen sentenced to disciplinary cellular confinement has declined significantly. Half of detainees undergoing disciplinary punishment in this facility are from the Adazi military units.

According to the register the maximum sanction - 10 days - did not appear to be excessively applied. The average length of disciplinary confinement is 5-7 days. The register contained name/surname of the serviceman, length of detention, the charge, date of arrival/departure/signatures.

A unit/regiment/brigade commander or a disciplinary council (appointed by the Minister of Defence) can impose the sanction – disciplinary solitary confinement. The servicemen receive a written statement of the exact charge and are given a hearing before the sanction is imposed. It is essential that servicemen facing disciplinary charges have the right to appeal to a higher authority against any sanctions imposed. In accordance with the new Statutes the servicemen have the right to appeal to the Appeal Commission at the Ministry of Defence, but the appeal is to be submitted within 3 days. At the time of the

⁶ <http://www.mod.lv> Karavīru militārās disciplīnas reglaments. Ministru Kabineta noteikumi Nr.321

visit in October 2002, the appeal commission had not been set up. The appeal commission has now been set up and consists of the representatives of National Defence Forces and Ministry of Defence. However, no regulations governing the work of the appeal commission have been adopted, and as a result, there had been no case of appeal

As to the visits to the Adazi military detention facility by an inspection body, LCHRES was informed that Inspector General at the Ministry of Defence has the authority to receive servicemen's complaint and to visit the premises.

The unit has a complaints register, but complaints were difficult to find as the text written in the register were *non-complaints* (the servicemen confirming each day they have no complaints). However, the few complaints were duly registered.

Concerns were expressed by the military personnel as to the absence of regulations governing the holding of servicemen undergoing disciplinary cellular confinement and those serving custodial arrest imposed by the court. Thus far, the longest sentence has been 45 days. It was suggested that servicemen sentenced to custodial arrest should be held in a separate custodial facility.

Recommendations

The relevant authorities should be commended for the positive developments that have taken place since the transfer of the military detention facility from the Riga Garrison to the Adazi Military Training camp.

1. LCHRES recommends that regulations governing the work of the Appeal Commission be adopted.

MENTAL HOSPITALS

Ministry of Health

Background information on mental health care system in Latvia

Latvia has around 62,000 registered patients with mental disabilities, who make up 2.6% of the total population. Each year around 7,000 patients are diagnosed mentally ill for the first time. According to the 2001 data of the Centre of Psychiatry, the highest registered morbidity is with schizophrenia, schizoid-typical disturbances and delusions (17,328), organic mental disturbances (14,318) and mental retardation (13,711). Of registered adult patients 56% suffer from schizophrenia, schizoid-typical disturbances and delusions. Of the total number of patients around 36% are chronically ill and will spend most of their life either in mental hospitals or in specialised social care homes. In order to reintegrate these persons back into the community, there is a need for social rehabilitation programmes and a well-developed system of community based services.

Mental health care is provided by the Centre of Psychiatry, 9 mental hospitals – Riga, Viki (both hospitals are the units of Centre of Psychiatry), Liepaja, Jelgava, Strenci, Akniste, Vecpiebalga, Daugavpils, Ainazi, Neurosis Centre in Jurmala, psychiatric wards in 3 somatic (general) hospitals and 30 municipal psycho-neurological departments for each of Latvia's administrative districts, as well by private doctors- psychiatrists. Of nine mental hospitals (total number of beds - 3,403 (2001), two are for mentally disabled children - Viki and Ainazi hospitals, and two are for long term stay (the so-called 'chronically ill') patients – Akniste and Vecpiebalga hospitals. In 2001, the total number of hospitalised patients was 19,130. The total number of long term stay (staying in hospital over 12 months) patients was 1,069.⁷

30 social care homes for mentally disabled provide institutionalised social assistance, and at present it is the only available service for long term stay patients. In 1999, there were 4,255 persons in social care homes. The social care homes are state funded and as there are almost no other available alternatives, there are long waiting lists for placements in a social care home.

Legislative and policy framework

In 2000 the government approved the Strategy on Psychiatric Assistance for the period of 2000 – 2003. The strategy was also included in the National Programme for the Integration in the European Union, as the European Commission had indicated shortcomings in mental health care in the 1999 Progress Report. The Strategy aims to reform the existing mental health care system; to introduce community based services system and to reduce the number of psychiatric beds in hospitals. However, no implementation plan and no funding were foreseen for the reform. Hospitals are reducing the number of beds each year, but there is no serious development of community-based

⁷ *Psihiskās veselības aprūpe Latvijā 2001, Statistikas gadagrāmata, 2. izdevums*, LR Labklājības ministrija, Psihiatrijas centrs, Rīga: 2002.

services. Until present, international donors have funded nearly all initiatives, with some exceptions, such as the Ziepniekkalns outpatient clinic in Riga. In mid-2003, in order to develop a new strategy and implementation plan for reforming mental health care system, the Ministry of Health is to establish an interdisciplinary working group.

Thus far, Latvia has failed to adopt a law with a detailed catalogue of the rights of mentally ill, including appeal procedures for compulsory admission and treatment. Currently, the field of psychiatry and patients rights are regulated by the Law on Medical Treatment of 1997. The law includes also a chapter on “Mental Diseases”, regulating the psychiatric assistance in the country. Although the Section 65 of the Law contains a non-discrimination principle and states that persons with mental disorders or mental diseases have all the civil, political, economic and social rights, there is a lack of effective rights enforcement mechanism in order to realise these principles and rights in real life.⁸

In 2002, the government approved a new draft Law on Psychiatric Assistance. However, as the previous parliament did not manage to adopt the law before the general elections, the Ministry of Health will resubmit the draft law to the government and parliament. The draft law still contains several provisions, which are not in compliance with relevant international human rights standards, including the European Convention on Human Rights. In March 2003 the Latvian Centre for Human Rights and Ethnic Studies (LCHRES) and the Mental Disability Advocacy Centre (Budapest) submitted the recommendations to amend the draft law to Ministry of Health. The recommendations state that, “the review procedure for detention on grounds of mental disability fails to meet human rights standards – the draft does not meet conditions mandated by Article 5 of the European Convention on Human Rights; the criteria for compulsory admission into psychiatric institutions are too broad and the provisions on consent to treatment does not meet international principles”.⁹ The Ministry of Health intends to submit revised version of the draft law to the Parliament by the end of 2003.

In 2002, a new Law on Social Care and Social Assistance was adopted. The law also concerns the social care and assistance for mentally disabled and mentally retarded in long-term social care institutions. The law defines for Latvia new forms of community-based services as alternatives to institutional care, such as a group home for mentally retarded.

Findings from monitoring visits to mental hospitals

Two visits to Daugavpils and Strenci mental hospitals were conducted during the project. The visits were carried out together with the National Human Rights Office (NHRO). Prior to the project, LCHRES conducted visits to Riga, Jelgava and Liepaja mental

⁸ Ieva Leimane, Needs Assessment for the Mental Disability Advocacy Program of Soros Foundation-Latvia, July 2000, www.policy.lv

⁹ MDAC and LCHRES Call for Stronger Human Rights Protection in Latvian Mental Health Law, A Press Release of MDAC, March 25, 2003; Quarterly bulletin of MDAC, No.1, March 2003, pp. 9-10. For full copy of comments submitted to the Ministry of Health, please contact Ieva Leimane-Veldmeijere, for MDAC comments visit MDAC’s web site, <http://www.mdac.info>.

hospitals. Therefore, some of the findings will also be based on the visits carried out before the project.

Daugavpils Mental Hospital (October 2002)

Daugavpils Mental Hospital is located in Daugavpils, the second largest city in Latvia, around 300 km from Riga. At the time of the visit the hospital was accommodating 685 patients. The hospital has 13 wards, including one ward as a day hospital. The hospital has acute wards, sub-acute wards, geriatric wards, 2 semi-open wards (patients can freely walk out), one neuroses ward, and one ward for children. The hospital also has a training workshop, a day care centre, and a social welfare/legal aid desk. The hospital also provides outpatient treatment.

Strenci Mental Hospital (February 2003)

Strenci Mental Hospital is located in Valka district, around 150 km from Riga. The hospital provides services to the region of Vidzeme and its eight administrative districts. The official capacity of the hospital is 450 beds. At the time of the visit it was accommodating 441 patients. The hospital has 9 wards. Strenci is the only hospital in Latvia treating mentally ill with TB. There are 2 wards for TB patients with 70 beds. For 73 patients Strenci mental hospital is the only place of residence. The hospital has acute, sub-acute and geriatric wards. In January 2003, with the financial support of SFL/LCHRES the hospital opened a rehabilitation centre.

Living conditions

In both hospitals, a significant number of patients continue to be accommodated in large dormitory type rooms with 10-15 patients per room. Renovation is underway in both hospitals and some of the dormitories have already been turned into small rooms accommodating 3-4 patients. Patients in both hospitals have access to rooms during the day and can freely move between rooms and communal areas.

Sanitary facilities should allow patients some privacy. Although Daugavpils Mental Hospital has made excellent renovation of bathrooms and toilets, privacy of patients is still not given due consideration.

CPT guidelines and recommendations of the 1999 report emphasize that the practice of continuously dressing patients in pyjamas/nightgowns is not conducive to strengthening personal identity and self-esteem, and that the individualisation of clothing should form part of the therapeutic process. LCHRES was pleased to observe that in both hospitals patients were wearing personal clothing.

In Strenci hospital, LCHRES was informed of the Regulations No 8 “On public order and sanitary standards in Strenci town”, adopted by the Strenci municipality in November 2002. Article 9 of the regulations states that the hospital administration is to pay a 10 Lat fine, if the patient, dressed in hospital clothing and not accompanied by staff, is found

outside hospital's territory.¹⁰ The hospital administration claimed the provision to be discriminatory and demanded the municipality to revoke it. The municipality denied that the provision was discriminatory and claimed it was not restricting the right of movement of hospital patients, but insisted that walking in pyjamas outside hospitals' territory is inadmissible. However, in practise, hospital patients now wear their own clothing.

The policy of receiving pensions for long-term patients is different in each hospital. The LCHRES has received several complaints alleging that in some cases patients do not receive the amount of money that they have signed for. The LCHRES recommends that a clear written policy on payment of pensions and staff's responsibilities be developed.

Safeguards

Compulsory admission and treatment

In Latvia, there is no legal system in place to determine lawfulness of detention. There is no independent hearing available after one has been involuntarily placed in a hospital against his or her will. Currently a person who has been involuntarily placed and treated in a mental hospital can submit a complaint to the Inspectorate of Quality Control of Medical Care and Workability Expertise. The decision of Inspectorate can be appealed in court. However there is no direct access to the court.

According to Article 5 of the European Convention on Human Rights "a patient who wishes to challenge a detention, must be able to do so before an independent and impartial tribunal. That means that the hearing must be convened by someone with powers similar to a judge, not directly involved in the case. Persons on the staff of the institution would not be appropriate for this role. While the doctor admitting the patient will of course give evidence to the tribunal, and explain the reasons for the proposed confinement, the doctor may not be the one of the decision-makers on the tribunal. The patient has the right to legal assistance at these hearings, and a right to call evidence. There is a right to a review of detention at periodic intervals, with a right to a fresh hearing following such reviews."¹¹

According to Section 68, part 2 of the Law on Medical Treatment, currently regulating psychiatric assistance, "if a patient is hospitalised against his or her will, a council of psychiatrists shall within a 72-hour period examine the patient and take a decision on further medical treatment. The council shall without delay inform of its decision the patient, his or her family members, but if such do not exist, the closest relatives or lawful representatives (trustees, guardians). If this cannot be done without delay by meeting any

¹⁰ Strenču pilsētas saistošie noteikumi Nr.8 "Par sabiedrisko kārtību un sanitāro tīrību Strenču pilsētā", pieņemti 2002. gada 13. novembrī, protokols Nr.15, 9. punkts – „Psihiatriskās slimnīcas slimnieku atrašanās slimnīcas apgērbā ārpus slimnīcas bez personāla pavadības sodāma ar naudas sodu slimnīcas administrācijai LVL 10.”

¹¹ Peter Bartlett, Unpublished article Reforming Mental Health Treatment: Moral and Legal Obligations, September 2002.

of these people, they shall be sent a notice in writing, making an entry regarding such notice in the registration card of the patient. ”¹²

All the visited hospitals explained that they inform a patient about the council’s decision orally and make a written entry in a medical record. In line with the 1999 CPT recommendations Riga mental hospital began to distinguish between involuntary placed patients and voluntary patients. The record on compulsory admission appears in Admissions register in a form of a special stamp. The Strenči hospital administration explained to LCHRES that the patient is informed about the decision of the Council orally and that usually doctor tries to cooperate with patient’s family members to convince the patient about the need to stay and to receive the treatment in a hospital.

Nevertheless, LCHRES would recommend the hospitals to introduce a written form (separate from a medical record) stating the reasons and forecasted length of compulsory detention and treatment, which a patient or patient’s representative can receive upon a request. This would be necessary in case a patient wants to appeal a decision of the council, as according to the current practice patients do not have access to their medical record. At the same time, such arrangement would not allow solve the current problem as there is no automatic access to court in order to challenge a detention.

Complaints procedures

A patient can complain and submit applications to the head of ward, chief doctor, and hospital administration. For instance, the Daugavpils mental hospital registers each complaint, reviews and answers it, sometimes also in written form. Each complaint is attached to individual medical record. Patients can complain to the Centre of Psychiatry. In case a patient is dissatisfied with quality of care written complaints can be submitted to the Inspectorate of Quality Control of Medical Care and Workability Expertise. Complaints can also be addressed to the National Human Rights Office and human rights NGOs, such as the LCHRES and the Patients’ Rights Protection Office. There are few cases when patients have used the court system (case on a right to medical record and case on applying wrong disability group). This may be due to limited information available to patients on complaints’ procedures.

Discharge

Most of the visited hospitals have a certain number of patients staying in hospital long-term (more than 12 months). Jelgava Mental Hospital has around 140 chronically ill patients, while the Strenči hospital had around 30 people on a waiting list for a place in social care home. Most of these patients no longer require treatment in a mental hospital, but due to lack of services in the community or shortage of places in a social care institution, they remain deprived of their liberty in mental hospitals, which are meant for a short-term stay and treatment.

¹² The Law On Medical Treatment, adopted in 1997, translated by the Translation and Terminology Centre, www.ttc.lv, No EO233

Means of Restraint

Following the CPT visit to the Riga Mental Hospital in 1999, the CPT recommended to the Latvian authorities “to establish a clear written policy at the Riga mental hospital (and, as appropriate, at other psychiatric establishments in Latvia) as regards the use of means of restraint.”¹³ Following the recommendations the Riga Mental Hospital introduced a special register on means of physical restraint (called “Fixation register”). Such registers have also been introduced in both visited hospitals.

Strenci Mental Hospital has a fixation register in each ward. The administration informed the LCHRES and NHRO that the resort to instruments of physical restraint is almost unnecessary due to the availability of modern neuroleptics. In cases when patient gets aggressive, compulsory injection can be made and the decision is taken by a doctor. Daugavpils Mental Hospital has a fixation register in each ward. The record on the use of restraints is also included in patient’s medical record. The decision on resort to physical restraints is taken by the attending physician or the doctor on duty. The fixation can take place no longer than 2 hours and the condition of patient is checked every 15 minutes.

Recommendations

1. LCHRES recommends the Ministry of Health to hasten the revision of draft law and include all the necessary amendments to harmonize the new law with the relevant international human rights standards, particularly, the European Convention on Human Rights.
2. LCHRES recommends the Ministry of Health to start serious planning and development of community based services system for mentally ill in order to avoid patients’ institutionalisation and seclusion. The need for the introduction of community based services has been highlighted as a priority by the World Health Organization in its 2001 report “Mental Health: New Understanding, New Hope” and in consultations among WHO specialists and Latvian government authorities.

¹³ CPT Report Latvia: Visit 24/01/1999 – 03/02/1999, <http://www.cpt.coe.int/en/reports/inf2001-272n.htm>, p. 65

EDUCATIONAL AND CORRECTIONAL FACILITIES FOR YOUNG OFFENDERS Ministry of Education and Science

In accordance with the Law on Educational and Correctional Measures and Criminal Code, young offenders found guilty of a crime may be placed in an educational and correctional facility following a court decision and the decision of the Ministry of Education and Science. Such placement may be for a period from 1-3 years. There are three such facilities in Latvia and all fall under the authority of the Ministry of Education. Educational and correctional facilities operate in accordance with the regulations approved by the Ministry of Education.

In 1994 an Educational and Correctional Facility “Strautini” was opened in the Alsviki parish of the Aluksne District. It is a closed institution for boys, aged 11-15. In 1998, a similar facility for girl offenders, aged 11-16, entered into service in Naukseni, Valmiera District. The third facility for boys, aged 15-18, was opened in 1999 in the Pilocene parish of the Rezekne District.

As of January 1, 2004 a new Law on Educational and Correctional Measures will come into force and the facilities will be renamed into “social-correctional and educational facilities.” New regulations are currently being drafted.

Educational and Correctional Facility for Boys “Strautini” Aluksne District

Year	1997	1998	1999	2000	2001	2002
Number of students	94	98	76	76	64	46

Source: Educational and Correctional Facility for Boys “Strautini”

The official capacity of the closed institution is 100 places. However, since 1997 the number of offenders in the facility has decreased by half - from 94 to 46 in 2002. At the time of the visit, the facility was accommodating 44 boys, aged 11-16. Boys are divided in groups of 6-10 people according to education. The majority of young offenders are from Riga, Riga District, and Jurmala. Most have either dropped out from school or have not been attending school for a considerable period of time. The school offers the so-called socio-correctional programmes. The facility offers primary education, vocational training and extracurricular activities. The vocational training courses were varied: courses range from to locksmith to pottery, gardening etc. The languages of instruction are Latvian and Russian. 47% of institution’s residents are Latvians, 35% - Russians, and 14% - other nationalities.¹⁴

¹⁴ Nikrence Rita, Ubele Liene, Lobanovska Nina. Skolas vecuma bernu socialas korekcijas sistema. Parmainas izglitiba sistema: izacinajums sistemas vadibai. Parskats par izglitibu Latvija 2001./2002.gada. Sorosa fonds-Latvija/Sabiedriskas politikas centrs “Providus”. Riga, 2003, p. 58

After spending half of the term an inmate may qualify for an early release. Since the opening of the facility, out of 224 young offenders only 26 have been released before the expiration of their prison sentence.

While young offenders serve their sentence, no support is provided to offender families. The administration mentioned that only one youth probation service (Tukums) works with the family while the young offender remains in the facility.

Staff

The facility has 76 staff members, of whom 24 are teachers and educators. A medical unit has two doctors and 3 nurses. The facility has a psychiatrist, a half-time psychologist and a dentist.

Intimidation and violence among residents of the facility

The facility staff responsibility to minors in their charge also includes the responsibility to protect them from other minors who might wish to cause them harm. The LCHRES has received credible information from several sources that an informal resident power structure clearly exists in the facility. It appears that the control of facility staff in order to guarantee safe environment for all residents is insufficient.

Conditions and regime

The facility is located on the territory of former Soviet army base. Material conditions in the facility are good. The residential area is in a separate house, and boys are accommodated in rooms for 3-4. All rooms are suitably furnished (beds, a wardrobe, chairs, a desk and lockers). The rooms were in a good state of repair and cleanliness. The facility has a large gym and a separate fitness facility. The administration had embarked upon an ambitious plan to set up a half-way house in a separate building.

Upon arrival young offenders are explained internal rules. A medical, social, educational and psychological profile is drawn and an individual social rehabilitation plan worked out in the case of each boy. From discussion with administration and educational staff behaviour and progress appeared to be monitored on continuous basis. Boys are also taught household chores and there was an opportunity to attend a cookery class where they were learning to prepare meals. Minors are also involved in the maintenance and upkeep of premises together with the staff, a positive practice, which allows them to establish an attachment to their living space and a sense of responsibility for its appearance.

Group trips outside the institution are organised from time to time. The number of activity programmes appeared to be satisfactory.

Contacts with the outside world

Residents of the facility are entitled to visits from family members. There are no restrictions on meetings with parents, unless it is considered that a parent (s) poses a risk to the child or presents a harmful influence. Parents can stay in a hostel, which is located on the territory of the facility. The costs of stay per night ranges from 0.50-1.20 Lats. The head of the facility has the right to grant a weeklong holiday home to those boys who have excelled in studies, work and for good behaviour. However, the remote location of the facility creates serious difficulties for visitors to come to the establishment and for boys to leave.

Boys are entitled to an unlimited number of parcels, which are opened in their presence. According to internal rules of order, they can receive a money transfer and there are no restrictions on the amount of money their parents can send. However, around 80% of the residents have no money as they come from families with limited financial means.

According to the administration, there are no restrictions on the number of letters minors can send, and letters are not censored. Relatives usually send envelopes with stamps. Young offenders, who are orphans, are provided with free envelopes and stamps twice a month. The regulations do not specify the number of phone calls minors are entitled to. A public card-phone has not been installed in the facility and, although, boys can make phone calls from the administration's office, the administration admitted it was an additional financial burden on the facility.

The limited contacts with the outside world while the boys remain in the facility are, to a certain extent, compensated by school holidays, that provide opportunities to spend time with their families. However, **the authorities should be reminded, that active promotion of good contact with the outside world can be especially beneficial for juveniles deprived of their liberty, many of whom may have behavioural problems related to emotional deprivation or a lack of social skills. A juvenile's contact with the outside world should never be restricted or denied as a disciplinary measure.**¹⁵

Disciplinary punishment

The facility has developed its own system of incentives and privileges to encourage and reward good behaviour, as well as punishments. In accordance with Rules of Behaviour, there are three types of ranks. Rank 1 equals 33 points, rank 2 – 66 points, and rank 3 – 100 points. Upon arrival in the facility a young offender is awarded rank 1. Boys can be awarded no more than 5 points a week. Those awarded rank I are entitled to received letters, parcels, meet parents, and participate in the activities of the facility with the exception of some communal activities, such as discos. Those awarded rank 2 are allowed to participate in all activities of the facility, and visit Aluksne with their parents for the period of 3-5 hours. Those with rank 3, in addition to above, are entitled to home visits during holidays, submit requests to the administration of the facility to shorten their

¹⁵ <http://www.coe.int> CPT 9th General Report, Substantive Section. Juveniles Deprived of their Liberty. Detention Centre for Juveniles.

length of stay in the facility, provided they have had rank 3 for at least half a year, and with the permission of the educator move freely around the facility. Boys below rank 1 are not entitled to letters and parcels, and cannot leave the facility without the permission of the educator.

Points and ranks can be cancelled for thefts, smoking, breaking into rooms, intentional damage to equipment, fighting, infliction of bodily injuries, toxic substance and drug abuse, swearing, spitting, violating the rules of the facility, and provoking behaviour. Leaving the facility without permission may lead to the cancellation of all points and ranks.

The following types of punishment can be applied in cases of violation of rules of behaviour: an oral warning, an oral remark, a written warning, a ban on food parcels for up to 1 month, a ban on participation in collective activities. Punishments are imposed by the institution's director. According to the administration, the boy concerned had an opportunity to state their point of view and was informed, orally, of the measure and reasons. However, there seems to be no other avenue of appeal to a higher body against the disciplinary measure imposed. At the time of the visit LCHRES could not verify whether information on complaints procedures is provided to minors and their family members in an understandable manner.

The internal regulations do not enumerate isolation as a form of punishment. However, LCHRES has received credible information from several independent sources that "confinement to rooms for disciplinary purposes" exists as unofficial disciplinary sanction. Several sources have indicated that such "isolation" may last for several days, during which mattresses and blankets are taken away from the room and the boys are obliged to sleep on barren beds.

In 1999 CPT gathered information on the existence of a range of informal disciplinary measures, including confinement in rooms, in Preventive Care Centre for Minors (Alises iela, Riga) and concluded that such absence of written disciplinary punishment opens the door to abuse.¹⁶

The new Law on Educational and Correctional Measures for Juveniles introduces a new type of disciplinary sanction – a minor, if he poses a threat to his own or other people's life or health may be isolated for up to 48 hours (Article 35).¹⁷ The decision on isolation is to be taken by an institution's director after a motivated proposal by a staff member responsible for minor's education and care. A minor is to be explained about the reasons of his/her isolation. The institution's director is to be responsible about the procedure, conditions and length of isolation. There is no reference in the law to certain fundamental safeguards for minors who are subject to disciplinary proceedings, such as a formal right

¹⁶ Report to the Latvian Government on the visit to Latvia carried out by the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment and Punishment (CPT) from 24 January to 3 February 1999, p. 33-34.

¹⁷ <http://www.sodi.lv>

to be heard on the subject of the offence it is alleged they have committed and entitled to appeal to a higher body against any disciplinary sanctions imposed on them.

Thus, LCHRES recommends that residents concerned should be informed, in writing, of the disciplinary measures imposed and of its reasons, as well as possibility to appeal against the measure to a higher authority. Every disciplinary measure should be duly recorded in a special register.

Complaints and inspection procedures

Residents of the facility have the right to complain, orally and in writing, to their educator or to the institution's director. Residents can write to Education Inspection Board of the Ministry of Education. It was not clear whether they could write to children's rights advocacy organisations (former National Children's Rights Office) or children's rights inspectors on confidential basis. The facility receives regular inspections from the Education Inspection Board of the Ministry of Education, and it appears that the inspectors receive and take action on juvenile's complaints and also inspect the accommodation and facilities. Regretfully, the only inspection from the National Children's Rights Office, an ombudsman type body, took place in 2000.

LCHRES recommends that residents of the facility should have avenues of complaint open to outside bodies, especially children's advocacy organisations, and be able to have confidential access to an appropriate authority.

Health issues

The number of TB patients among young offenders remains high. In 1999 it was 26%, while in 2001 it was 17%. In 2001, 49% of the young offenders were suffering from neurosis. The numbers of young offenders with toxic substance dependence remains high – reaching 32% in 2000, while dropping to 15% in 2001. The number of young offenders with drug problems was 3% in 1999, while in 2001 the numbers had increased to 8,3%.¹⁸ At the time of the visit, the institution had received information from the Ministry of Education that an HIV positive boy was to arrive in the facility. Both medical and non-medical staff was aware of the fact and expressed serious concern about his placement in the facility. It was apparent that the staff had not benefited from any educational programmes about HIV, methods of transmission, means of protection and adequate preventive measures.

In line with relevant international human rights standards and national legislation medical confidentiality should be ensured to protect children living with HIV and AIDS. In order to dispel misconceptions about HIV infection, the Ministry of Education in co-operation with other relevant authorities should ensure there is an education programme about transmissible diseases for minors and staff.

¹⁸ Nikrence Rita, Ubele Liene, Lobanovska Nina. Skolas vecuma bernu socialas korekcijas sistema. Parmainas izglitibas sistema: izacinajums sistemas vadibai. Parskats par izglitibu Latvija 2001./2002.gada. Sorosa fonds-Latvija/Sabiedriskas politikas centrs "Providus". Riga, 2003, p. 58