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LATVIAN
CENTRE FOR HUMAN
RIGHTS

INDEPENDENT DETENTION MONITORING IN LATVIA





European Commission

Independent Detention Monitoring in Latvia

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Anhelita Kamenska

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2006

Preface

Torture and other forms of ill-treatment are unquestionably among the most serious violations of a person's fundamental rights. They destroy dignity, body and mind of the victim and have far-reaching effects on family and community. Nevertheless, despite the absolute prohibition of torture and other forms of ill-treatment under international law, their practice sadly remains globally widespread, particularly in places out of public view. Even in countries where one expects a higher degree of human rights protection, human rights monitors continue to document acts of physical abuse and conditions of detention which fall below international minimum standards. This regrettably includes Latvia.

Many states could still do a great deal more to put an end to the practices of torture and other forms of ill-treatment in their countries and to build up public trust in their law enforcement agencies. Practical experience has shown that independent visits to places of detention are one of the most effective means to prevent torture and to improve conditions of detention. Visits not only have a deterrent effect but they also enable experts to examine first-hand the treatment of persons deprived of their liberty and their conditions of detention. Taken together with other safeguards detention monitoring can help to create a culture of prevention within places of detention.

The United Nations Special Rapporteur on Torture, Professor Manfred Nowak, has repeatedly underscored the importance of independent detention monitoring. Most recently, he welcomed the historic entry into force of the Optional Protocol to the UN Convention against Torture in June 2006 as *"the most effective and innovative method for the prevention of torture and ill-treatment worldwide"*.¹

One can therefore only welcome the timeliness of this highly authoritative, detailed analysis of detention monitoring in Latvia. The Latvian Centre for Human Rights argues convincingly in favour of the establishment of a much-needed system of independent detention monitoring throughout the country, as envisaged by the Optional Protocol to the UN Convention against Torture. One can therefore only urge the Latvian authorities to carefully consider the findings of this invaluable report and draw out the many pertinent lessons contained therein.

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¹ See Professor Manfred Nowak's report to the United Nations General Assembly 2006, UN Document A/61/259 2006.

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1. Introduction

At all times and in all places, persons deprived of their liberty are vulnerable and at risk of being mistreated and even tortured. Control mechanisms promoting human rights, helping limit the risk of ill-treatment and regulate any excessive measures taken against those deprived of their liberty,² are, therefore necessary.

While many countries have set up different human rights mechanisms, most of those have a reactive approach as they continue to respond to situations once allegations of ill-treatment have occurred. Complaints mechanisms rely on individuals being prepared to come forward and this might not always be possible where serious abuses are involved.³ For this reason, regular external and independent monitoring of places of detention has increasingly become accepted as one of the best safeguards against torture and ill-treatment of persons deprived of liberty and means of improving conditions of detention.

On an international level, the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment of Punishment (CPT), set up under the relevant Council of Europe Convention in 1987, is mandated to conduct preventive visits to Parties to the Convention in order to make recommendations for the improvement of the treatment of persons deprived of their liberty and conditions of detention.⁴

In December 2002, a new instrument - the Optional Protocol to the UN Convention against Torture (OPCAT) was adopted and came into force on 22 June 2006.⁵ The system to be established by OPCAT places the emphasis on preventing violations rather than reacting to them once they have already occurred. The preventive approach foreseen in the OPCAT is based on the regular and periodic monitoring of places of detention through visits to these facilities conducted by expert bodies in order to prevent abuses. The OPCAT establishes a dual system of prevention at both the international and national level. An international mechanism Subcommittee on Prevention will be created, which will be mandated, similar to the European CPT, to carry out regular visits to places of detention in all States Parties to the OPCAT.

On a national level, State Parties will be under an obligation to create or maintain a national body (-ies), which also have a mandate to conduct regular visits to places of detention and make recommendations to competent authorities. In order to guarantee the effective and independent functioning of these bodies and to ensure that they will be free from any undue interference, the OPCAT sets out, for the first time in an international

² Association for the Prevention of Torture, Monitoring places of detention: a practical guide, Geneva: APT, April 2004, p. 25

³ Jeremy Mc Bride, Pre-trial Detention in the OSCE Area, Organization for Security and Co-operation in Europe Review Conference, September 1999 ODIHR Background Paper 1999/2 at http://www.osce.org/documents/odihhr/1999/09/1504_en.html#p469

⁴ See European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), at www.cpt.coe.int

⁵ See Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment at <http://www.ohchr.org/english/law/cat-one.htm>

instrument, specific guarantees and safeguards which must be respected by State Parties.⁶

In early 2006 Latvia's population was 2,3 million. Latvia has over 100 places of detention (prisons, police short-term detention cells, mental hospitals, social care homes for mentally disabled, detention rooms at border posts, an illegal migrant detention facility, a centre for asylum seekers and refugees, a military disciplinary unit, etc.) which hold persons deprived of liberty. While a precise number of persons being held in various places of detention during the year is unknown, a rough estimate puts them at 50,000-55,000 people in 2005.⁷

Since Latvia gained independence in 1991, it has introduced different policy initiatives, legislative changes affecting the prison system, police, psychiatric, immigration detention facilities, etc. to bring those in line with the relevant international human rights standards. Conditions of detention have also been improved in a considerable number of facilities.

As a member to the UN and Council of Europe, Latvia has undertaken international obligations aimed at strengthening prevention of torture and ill-treatment of persons deprived of liberty in places of detention. It has reported to UN Human Rights Committee, Committee against Torture, and Committee on the Rights of the Child, and received four visits by the European Committee for the Prevention of Torture (CPT), a visit by the UN Committee on Arbitrary Detention, and various other international bodies.

However, findings by international bodies, such as the CPT, have been highly critical of Latvia's record, highlighting cases of ill-treatment by the Latvian police, absence of independent police complaints body, in some cases, evaluating conditions of detention in prisons and police cells as amounting to inhuman and degrading treatment, and have strongly urged Latvia to undertake measures to prevent ill-treatment, including the development and strengthening of independent oversight of places of detention. Thus, in 2003, the UN Committee against Torture recommended Latvia to consider the ratification of OPCAT.⁸

Among the Baltic States, only the government of Estonia has expressed commitment to ratify OPCAT by the end of 2006, having signed it in September 2004, and under proposed legislation the Estonian Chancellor of Justice (an ombudsman type institution) would be designated as the national monitoring mechanism.⁹ In Latvia, responsible Ministry of Foreign Affairs representatives have underscored the priority of the Latvian authorities to work towards the implementation of existing recommendations of human rights bodies such as CPT and to improve the present situation in its detention facilities.

⁶ Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. A Manual for Prevention. Inter-American Institute for Human Rights (IHR), Association for the Prevention of Torture (APT): 2004, p. 23-24.

⁷ See Section on Places of Detention in Latvia - Statistics, p.

⁸ Conclusions and recommendations of the Committee against Torture: Latvia. 05/02/2004. CAT/C/CR/31/3 at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.CR.31.3.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CAT.C.CR.31.3.En?OpenDocument)

⁹ See Mai Hion, Estonia – Ratifying OPCAT in 2006? in Independent Detention Monitoring in the Baltic States, April 27-28, 2006 at http://www.humanrights.org.lv/upload_file/OPCAT/MaiHionPresentationENG.doc

While not ruling out signature and ratification of OPCAT in the coming years, they have reiterated it was unlikely to occur in the near future.¹⁰

While concerns about Latvia's international obligations have prevailed, there has been little domestic discussion on the need to address the issue of capacity and impact of different external and internal domestic inspection bodies, such as the National Human Rights Office¹¹, prosecutor's office (Specialised Multi-Branch Prosecutor's Office, district prosecutor's offices) etc. charged with examining the treatment of detainees and conditions of detention in Latvia, and their subsequent role in preventing ill-treatment in places of detention. It is particularly through enhancement of the work of such domestic bodies and their effective engagement in regular monitoring of places of detention that Latvia may progressively meet relevant international standards.

Against this background, the Latvian Centre for Human Rights undertook research to examine the following:

- 1) to assess key trends in the development of prisons, police, immigration, mental health areas as related to respective places of deprivation of liberty since Latvia gained independence in 1991
- 2) to undertake mapping of places of detention under the auspices of different ministries and local government institutions in Latvia in order to gain a comprehensive picture of the number of such institutions, their capacities, and persons annually held in the systems of places of detention
- 3) to gain an overview of international organisations, their visit reports, findings and recommendations on places of detention in Latvia and the role of inspection bodies in Latvia
- 4) to undertake a preliminary assessment of the National Human Rights Office in light of recommendations by OPCAT concerning national preventive bodies
- 5) to assess the work of various other domestic supervisory bodies (prosecutors' office)
- 6) to identify shortcomings that need to be addressed by the domestic inspection bodies to strengthen the prevention of ill-treatment of persons deprived of liberty in Latvia

The appendices include a statement on methodology, places of detention visited by the CPT in Latvia, a check-list developed by the Association for the Prevention of Torture to assess national inspection mechanisms according to OPCAT criteria.

Special thanks go to LCHR colleagues Laila Grāvere and Ieva Leimane-Veldmeijere, who contributed to the report by conducting interviews with representatives of various domestic inspection bodies and by providing information. Many thanks go to Eric Svanidze, a good friend, and a Council of Europe human rights expert, who gave valuable comments, and to Ilze Brands-Kehris for support and a pair of wings. And thanks to Matthew Pringle of the Association for the Prevention of Torture for bringing the message of OPCAT to Latvia.

¹⁰ See 'Independent Detention Monitoring in the Baltic States' at <http://www.apr.ch/advocacy/baltic2.shtml>

¹¹ The National Human Rights Office will be turned into an Ombudsman's Office as of January 1, 2007

2. Definitions of key terms

Various key terms are used throughout the research paper.

Place of detention – any place where persons are deprived of liberty (police cells, remand prisons, prisons for convicted prisoners, psychiatric institutions, immigrant and asylum seeker detention facilities, detention centres for juveniles, places of administrative detention, military detention facilities, transit zones at international airports and sea ports, detention facilities at border posts, transport for the transfer of detainees (train carriages, police vans), specialised social care homes, etc.¹²

Deprivation of liberty – any form of detention or imprisonment or the placement of a person in a public or a private custodial setting from which that person is not permitted to leave at will by order of any judicial, administrative and other authority.¹³

Monitoring places of detention – regular examination, through onsite visits, of all aspects of detention. Monitoring includes the oral and written transmission of the results of the examination, as well as recommendations to the authorities concerned and to other actors involved in the protection of persons deprived of their liberty at the national and international level. It also includes follow-up regarding the implementation of recommendations conveyed to the authorities.

Inspection bodies – all monitoring bodies visiting or supervising places of detention

Independent domestic visiting bodies – different types of monitoring bodies that are institutionally and practically unrelated to deciding on and executing deprivation of liberty (national human rights institutions, ombudsman offices, special visiting bodies, national NGOs, citizens' committees and other civil society groups)

National preventive mechanism – domestic inspection bodies as understood under UN Optional Protocol to the Convention against Torture.¹⁴

¹² Association for the Prevention of Torture, Monitoring places of detention: a practical guide, Geneva: APT, April 2004, p. 16-18.

¹³ Article 4 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

¹⁴ Association for the Prevention of Torture, Monitoring places of detention: a practical guide, Geneva: APT, April 2004, p. 16-18.

LATVIA



In early 2006, Latvia's population was 2, 3 million.

Major ethnic groups: Latvians 58.5%, Russians 28.6%, Belarussians 3.8%, Ukrainians 2.6%, Poles 2.5%, others 3.7%.

Capital: Riga (population 739,232).

Area: 64, 589 sq km

Accession to European Union: 1 May, 2004

3. Background – 1991-2006

The current section provides a brief overview of the main developments concerning four key types of places of detention (prisons, immigration detention facilities, police short-term detention facilities, psychiatric institutions and social care homes for people with mental disabilities) in Latvia during the last 15 years, however, it should be borne in mind that they cannot be detached from the overall context of criminal justice reform, reform of the judiciary and law enforcement, health reform and the country's immigration policies since it regained independence in 1991. Assessment of reforms should also take count of the short-lived nature of Latvia's governments, which has undoubtedly impacted on the continuity of reforms. During fifteen years of independence, there have been 12 governments, and, as a result, there have been 13 Ministers of Justice, of those, six since the Ministry of Justice took over the prison system in 2000. There have been 12 Ministers of Interior, 8 Ministers of Welfare since 1991 and 4 Ministers of Health since the ministry was established in the end of 2002.

3.1 Prisons

In mid-2006, Latvia's prison system consisted of 15 prisons and had a prison population of 6,676. Of the 15 prisons, seven are closed, two – semi-closed, two open prisons, three remand prisons and one prison for juveniles. The prison population (incarceration) rate was 292 prisoners per 100,000 inhabitants. While the prisoner numbers and imprisonment rate has significantly decreased from a record high number of 10,316 prisoners and prison population rate of 416 prisoners in 1997, among the 25 European Union Member States Latvia occupies the second place, and in wider Europe 5th place as to imprisonment rate. While in recent years most of the EU old member states have witnessed an increase in

imprisonment rates, this still compares to an average 70-80 prisoners per 100,000 inhabitants in the Nordic countries, and an average of 120-180 prisoners in the Central and Eastern European states.¹⁵ The average length of sentence also remains high – 4, 5 years.

Prison population rate, Latvia

Year	Prison population total	Prison population rate
1985	16,867	650
1992	8,340	314
1995	9,457	374
1997	10,316	416
2001	8,831	373
2004	8,179	353
2006 (05.06)	6,676	292

Source: Annual Reports of the Latvian Prison Administration; World Prison Brief, International Centre for Prison Studies.

Around 60% of prisoners are Russian-speaking, while 40% are Latvians. The high proportion of Russian speaking prisoners has tended to be explained by the fact that Russian speakers form majorities in the largest towns in Latvia however there has been no research whether any other factors, such as the socio-economic situation, may have influenced the existing proportions. Of the prison staff, around 65 % are Russian speakers, while Latvians account for around 35% of the prison staff.¹⁶

While recent years have witnessed improvements of some of the prison infrastructure and slow liberalization of sentencing policy, upon entry into the European Union, prisons were cited as *“some of dreariest examples of where the Baltic states fall short of the EU norms, ... the legacy of prisons operated more as labor camps, or gulags, lives on in Estonia, Latvia and Lithuania.”*¹⁷

When Latvia regained independence in 1991, it inherited a prison system, which had been an integral part of the Soviet prison system, characterised by large capacity penal colonies with cheap prison labour force, dilapidated prison infrastructure often dating back as far as the tsarist times, substandard sanitary conditions, severe overcrowding in pre-trial detention facilities, a heavily militarised system closed to public scrutiny and impacted by punitive penal policies. As a result, the early 1990s were characterised by serious prison disorder, including prison escapes and hunger strikes. Thus, in 1993 there were 12 prison escapes with 31 prisoners, while 1994 saw 16 escapes with 125 inmates. The largest prison escape occurred in 1994, when 89 prison inmates escaped from the Pārlielupe prison.

¹⁵ International Centre for Prison Studies, World Prison Brief at http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world_brief.html last accessed at 30 June 2006

¹⁶ Pabriks, Artis. Etniskās proporcijas, nodarbinātība un diskriminācija Latvijā [Ethnic proportions, employment and discrimination in Latvia]. Sorosa fonds-Latvija, Nordik: 2002, p.28.

¹⁷ Decaying Baltic prisons carry Soviet legacy into expanded European Union, AP, June 13 2004.

At the same time, starting with 1994 Latvia witnessed the first serious prison reform efforts. The Sentence Enforcement Code came into force introducing a progressive system of execution of imprisonment in closed, semi-closed and open prisons.¹⁸ Prison administration was also authorised to approve transfers of prisoners from one type of prison to another. Starting with 1994, the large capacity dormitories, typical of the Soviet penal colonies, and accommodating 50-80 prisoners, began to be replaced with prison cells accommodating 2-18 prisoners. In 2001, the Director of Prison Services announced that half of prisoners were being accommodated in safe and civilised conditions.¹⁹

In 1994, Latvia entered into bi-lateral co-operation with the Nordic countries, aimed at reforming the prison systems in the Baltic States which later became known as the Nord-Balt Prison Project to be also supported by the Council of Europe and eventually deemed as the best prison reform project in Central and Eastern Europe. (See in greater detail Section on International Organisations).

Abolition of death penalty was one of the preconditions of Latvia's membership to the Council of Europe. On 24 September 1996, President G. Ulmanis announced a moratorium on death penalty. On 15 April 1999 the parliament ratified Protocol 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, thus, abolishing death penalty in times of peace. However, by mid-2006 Latvia had not ratified Protocol No 2 abolishing death penalty in all circumstances, and the current Criminal Law retains a provision for death penalty for aggravated murder in the times of war.

On April 1, 1999 the new Criminal Law entered into force. While it provided for new alternatives to custody, such as community service, more frequent levy of fines, etc. it also lowered the age of criminal responsibility to 14 for all crimes, and increased harsher prison terms for most crimes, notably serious and especially serious crimes.

Over years, long pre-trial detention periods as well as substandard conditions in pre-trial facilities remained a key human rights problem. The number of pre-trial detainees rose from 28% in 1991 to 44, 6% in early 2003. It was not uncommon that pre-trial detainees would go on hunger strike to demand a speedier review of their cases by the courts. Long pre-trial detention periods were also occasionally blamed for prisoner suicides.²⁰ While introduction of a three-tier court system²¹ and a lack of adequate number of judges was frequently cited as a key reason for lengthy pre-trial detention by the Latvian authorities, imposition of pre-trial detention frequently happened without due consideration of international human rights standards.

¹⁸ In closed and semi-closed prisons inmates begin to serve their term at the lower level of regime, and subject to good behaviour will move to medium level and then higher level with a possibility of conditional early release.

¹⁹ Zahars Vitolds, *Lai soda vieta ir demokrātijas spogulis* [Let the Place of the Execution of Punishment Be Mirror of Democracy], *Latvijas Vēstnesis*, March 23, 2003.

²⁰ Zahars Vitolds, *Lai soda vieta ir demokrātijas spogulis* [Let the Place of the Execution of Punishment Be Mirror of Democracy], *Latvijas Vēstnesis*, March 23, 2003.

²¹ In 1992, the Law on Judicial Power was adopted, and in 1993, the Constitution was fully restored, which established a three-tier court system, consisting of district courts, regional courts and the Supreme Court, collectively considered the courts of general jurisdiction.

Regular criticism by international organisations, European Court of Human Rights ruling, first against Latvia in 2002, and awareness raising efforts by various domestic actors among the judiciary apparently spearheaded changes in legislation and subsequent practises in the application of pre-trial detention.

On November 28, 2002 the European Court of Human Rights, in the case *A.Lavents vs Latvia*, ruled that Latvia had violated Lavent's right to trial within reasonable time, lawfulness of detention, fair hearing within a reasonable time by an independent and impartial tribunal established by law, presumption of innocence, and right to respect for family and private life. Lavents had spent over six-years in pre-trial detention before being convicted.²²

A new Criminal Procedure Law came into force on 1 October, 2005 and provides for stricter rules for imposing pre-trial detention, and introduces new statutory limits for pre-trial detention, depending on the gravity of crime. The maximum period of detention for adults has been reduced from three to two years, while time limits for pre-trial detention for juveniles have been fixed at half of the time for adults also depending on the gravity of the crime. The law also introduced a new post of an investigating judge, who decides on pre-trial detention and monitors the observance of human rights during criminal procedure stage. Since 1 October, 2005 the share of pre-trial detainees has decreased from 34, 8% to 26, 5% in early June 2006.²³

The dire health situation in prisons also raised serious public health concerns. During the second half of the 1990s the prison system was plagued by tuberculosis, with high incidence of multi-drug resistant TB. Through foreign assistance, successful co-operation between the State TB and Lung Disease Centre and prison authorities in introducing DOTS strategy²⁴ and treatment of MDRTB²⁵ cases in the prisons, the number of TB patients dropped from 700 (7,6% of the total prison population) in 1997 to 278 in 2004.²⁶ The first HIV patient was identified in the prison system in 1997 when mandatory HIV testing was introduced, and in early 2006 there were 410 HIV infected prisoners.²⁷ Throughout years budgetary allocations for prison health care remained low, and prison medical services were said to be receiving between 10-20% of the necessary funding.

In 2000, in line with the recommendations of the Council of Europe, the prison system was transferred from the Ministry of Interior to the Ministry of Justice. In November 2003,

²² Lavents c Lettonie, no 58442/00, Strasbourg 28/02/ 2003 at <http://www.echr.coe.int>

²³ Latvian Prison Administration, Number of Pre-trial Detainees from 1 January-1 December, 2005; International Centre for Prison Studies, *World Population Brief*, at <http://www.prisonstudies.org/> last accessed on June 30, 2006.

²⁴ DOTS – directly observed treatment, short course is internationally recommended TB control strategy. The common strain of TB can be cured at a cost of 10 US dollars for a six-month treatment course

²⁵ Multi-drug resistant TB is a form of tuberculosis resistant to at least two of the most powerful conventional antibiotics that can treat TB. It develops when public health programmes fail to deliver regular, reliable treatment to patients. MDR-TB takes two years to treat and can cost 100 times as much.

²⁶ Ieslodzījumu vietu pārvaldes 2004.gada publiskais pārskats [2004 Public Annual Report of the Latvian Prison Administration], at www.ievp.gov.lv

²⁷ Ieslodzījumu vietu pārvaldes 2005.gada publiskais pārskats [2005 Public Annual Report of the Latvian Prison Administration], at www.ievp.gov.lv

prisons ceased to be guarded by army conscripts. However, in 2006 the prison system remains significantly militarised with Soviet style military management. Governors of the 15 prisons, their deputies and heads of service are officers, as about third of staff and ranks remain the same as with the police and border guards.

In October 2003, the National Probation Service was established. The Law on Probation Service was adopted in December of the same year, which foresaw gradual establishment of local probation offices and takeover of supervision of various categories of offenders (those sentenced to non-custodial sanctions and ex-prisoners) from other institutions. By the end of 2005, probation service departments had been established throughout Latvia.

Since 2005, the Ministry of Justice has undertaken measures aimed at rationalizing the prison system at policy level by adopting documents on the development of prison estate, enforcement of imprisonment of juveniles, setting up working groups to elaborate policy documents on the development of prison health services, which foresees the transfer of prison health services under the Ministry of Health, on prison education, which aims at integrating the prison education system into a wider education system and transfer it under the Ministry of Education, concept on sentence enforcement and prison employment. However, by mid-2006 the policy efforts had not translated into significant budgetary allocations.

3.2 Asylum/Immigration Detention

Latvia's immigration policies since it regained independence have been strongly shaped by the consequences of Soviet-era migration and russification policies in the 1960s and 1970s when Latvian witnessed substantial migration from other Soviet republics resulting in the changes in the ethno-demographic structure of the country.²⁸

On October 8, 1991 the Supreme Council adopted a decision on temporary halting of registration of immigrants. In 1992, a Citizenship and Immigration Department was set up and was tasked with the registration of all residents in a Population register and controlling of immigration, which resulted in many court cases against the department as it tried to deny registration to many Russian-speaking residents.

Asylum seekers

In June 1992 Latvia adopted the Law on Entry and Residence of Aliens and Stateless Persons, however, it was not until 1997 when it adopted asylum related legislation. Therefore prior to 1997, all potential asylum seekers were treated as illegal immigrants.

The first groups of potential asylum seekers, most of whom were identified as Kurds, arrived in Latvia in the end of 1993. The majority of those who sought the status of a refugee entered Latvia illegally via Russia, Belarus or Lithuania en route to the Scandinavian countries. The largest refugee group to date was in late December 1994,

²⁸ The number of Latvians dropped from 77% in 1935 to 52% in 1989, while the number of Russians, Ukrainians and Belarussians rose from 10,3% in 1935 to 42% in 1989.

when a ship, registered in Latvia, and carrying 149 Kurdish asylum seekers from Afghanistan, Iraq and Iran (half of whom were children), ran aground in Estonia, from which they were returned to Latvia. They had entered Latvia illegally, and when returned to Latvia they were put on a “train of despair”, which for several weeks, carried them between Latvia, Lithuania and Russia as each country rejected them and argued that they were the responsibility of the other.²⁹ In early April 1995, they were moved to a former detention facility for the treatment of alcoholics in the town of Olaine, which subsequently was to become a detention facility for illegal immigrants. The asylum seekers were kept in the facility until 16 December 1996 when most were finally accepted by the Scandinavian countries.

Several months earlier, in August 1996, a local UNHCR refugee affairs co-ordinator was posted in the representation of the UNDP to assist Latvia with the development of national asylum legislation and prepare Latvia for the accession to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol Relating to the Status of Refugees. There was considerable resistance from the Latvian authorities who argued that Latvia could not join the Convention unless it had signed readmission agreements with the neighbouring states, and that it had to solve its internal problems first.³⁰

In June 1997 Latvia joined the 1951 Convention and the 1967 Protocol, and adopted the Law on Asylum Seekers and Refugees, which came into force in July of the same year. Initially, through the pressure of the right-wing Fatherland and Freedom/LNNK party, the Convention and its Protocol were adopted with reservation that it is in force only in respect to refugees from European countries. However, several months later, after fierce debates and criticism and pressure by international organisations, such as the UNHCR, the amendments were adopted to the law stipulating that the convention and the protocol are in force in respect of refugees from all countries.

In 1998 a Refugee Affairs Centre was established under the auspices of the Citizenship and Migration Affairs Board, and an Appeals Council was created under the authority of the Ministry of Justice. Asylum requests began to be processed in February 1998. With the support of foreign donors a new reception centre for asylum seekers and refugees was opened at Mucenieki with the capacity of 200 places in February 1999 and asylum seekers, who had been previously held at the Olaine detention centre for illegal immigrants, were transferred to the new facility.

To harmonise Latvia’s legislation with the EU norms on asylum and related international standards, the parliament adopted a new Asylum law in 2002, which broadened the applicability of refugee status by introducing the concept of alternative status and temporary protection. The law also introduced an shortened asylum application review at the border, but the provision has been subject to criticism by human rights organisations for short time limits (within one working day at border procedure and two days by accelerated procedure in cases of reasonable doubt about the grounds for asylum

²⁹ Latvia and Lithuania Deal with Immigration , Migration News Vol. 3 No. 1, January 1996 http://migration.ucdavis.edu/mn/comments.php?id=853_0_4_0

³⁰ Refugees and Migrants A Heavy Burden for Baltic States, at www.ub.es/medame/baltinmi.html

claim) preventing persons whose asylum applications have been rejected to lodge an effective appeal. To align Latvian asylum legislation with various EU directives, further amendments were introduced in January 2005, detailing asylum procedures, granting additional rights to asylum seekers, providing for the right to family reunification of refugees, etc.

Since early 1998, when Latvia began reviewing asylum applications, 165 persons had applied for asylum until June 2006, and only 8 persons have been granted refugee status and 16 - alternative status. No person has been granted a refugee status on humanitarian grounds. Due to the small number of asylum seekers, only 68 persons have been accommodated in the asylum seekers camp "Mucenieki" at various times in the period from early 1999 to mid-2006.

In the end of 2005, a decision was taken to close down Refugee Affairs Appeals Council entrusting Administrative District Court to examine appeals starting with 2006.

Illegal migrants

In addition to the Olaine detention centre for illegal immigrants, another facility - a Detention Centre for Illegal Immigrants was also set up in Riga in 1997. Substandard conditions and lengthy periods of detention led to frequent hunger strikes by the detainees kept in the Riga facility. Following a visit by the European Committee for the Prevention of Torture to Latvia in 1999, and its criticism of the conditions at the Illegal Immigrant and Other Unidentified Persons Accommodation Centre in Gaizina iela in Riga as amounting to inhuman and degrading treatment and subsequent demand that that detainees be immediately transferred to another facility, the Latvian authorities closed the centre in 2001 and transferred the detainees to the Olaine detention facility.³¹

During 1997 347 persons were placed in the Olaine detention centre³², but in subsequent years the number of detainees held in Olaine detention facility at various times during the year decreased to 269 persons in 2000, 174 persons in 2003, 146 in 2004, and 155 persons in 2005, and there were around 20 detainees on any given day. Most of the detainees have been persons who have illegally crossed Latvia's border or have otherwise violated the procedure of entry or stay of foreigners in the country. This category has also included persons who had in the past entered Latvia legally, and have had long established links with the country, including a fixed residence and a family, but for various reasons have failed to settle the necessary documents. A significant number of camp detainees are former prisoners who have served their sentence and face a deportation order imposed by the court. Conditions in the Olaine camp have been criticised as they approximate those in prisons.

³¹ Responses 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 Strasbourg, 22 November 2001 at <http://www.cpt.coe.int/documents/lva/2001-28-inf-eng.htm>

³² In 1997, the camp still held former guest workers from Vietnam and Mongolia who arrived to Latvia in the Soviet time and had been working the textile industry.

In May 2003, replacing the 1992 law “On the Entry and Residence of Foreign Citizens and Stateless Persons in the Republic of Latvia”, a new Immigration Law came into force. The new law allows for the police to detain an illegal immigrant for three hours, before he/she is handed over to border guards who may detain them for another ten days. The new law requires authorisation by courts (previously prosecutor’s offices) on further detention and sets limits for maximum period of detention – 20 months - pending expulsion. The old law did not foresee a time limit for detention pending expulsion, and there were cases when people had spent several years in the Olaine camp.

3.3 Police

Since independence, establishment of the Latvian police has been connected with the reorganisation of the Soviet militia, and as police forces elsewhere in the emerging democracies in the former Soviet bloc states, it has faced the difficult transition from a repressive, politicised, and militarised police force to that of an accountable and service oriented police force.

This has taken place in circumstances when crime rates increased rapidly, contributing to the rising public fear of crime, and the police was confronted with new types of crime. Thus, reported crimes rose from 34,686 in 1990 to 61,871 in 1992, as did the number of convictions - from 7,159 in 1990 to 11,280 in 1993. Between 1993 and 1998 crime rates decreased, however, changes in the new Criminal Law in 1999 turned the trend upward again as it criminalised small scale thefts and in subsequent years reported crimes have fluctuated between 50,000-60,000 crimes.³³ As elsewhere in Eastern Europe, the 1990s saw the spread of organised crime, drug and human trafficking, increase in economic crimes, and lack of funding for equipment, low salaries, and frequent shortages of petrol for the police seriously impacted on the ability of police to fight crime. Allegations of corruption among the police contributed to decreasing public trust in the police.

The Law on Police was adopted on June 4, 1991 and determines the structure of the Latvian Police, which consists of state police, security police and municipal police. State police operate on the whole territory of Latvia, and is responsible for solving crimes and maintaining public order at state level. The number of state police has decreased from 11,000 in the early 1990s to around 9,000 in early 2006.

The foundation of municipal police in Latvia in the early 1990s was predominantly influenced by the need to create an alternative force to the Soviet militia, and to enforce the control of local council decisions and regulations on respective local council territory. One of the key functions of municipal police is crime prevention. The municipal police are funded and directly accountable to local councils, it co-operates with the State Police, while the Ministry of Interior exercises a supervisory function over the municipal police. The largest municipal force with around 800 police officers is based in the capital Riga.

While a significant number of notorious cases of ill-treatment of individuals by the police

³³ Registered Crimes 1990-2005, Central Statistical Bureau of Latvia, at <http://test.csb.gov.lv:8080/Dialog/Saveshow.asp>

hit media headlines during the 1990s, an increased media and public attention to police accountability issues began to be paid towards the end of the 1990s.

In 1998, after the controversy surrounding the police's rough dispersal of a 3 March demonstration of Russian-speaking pensioners at Riga City Council and explosions at the Riga synagogue and near the Russian Embassy, the Ministry of Interior carried out a number of staff changes affecting the police. After the changes, the new police leadership began a dialogue with non-governmental organisations, involving them in efforts to educate the police force, and strengthening co-operation with educational institutions.³⁴ In the early 2000, the National Human Rights Office began to become more actively engaged in inspecting police short-term detention facilities.

Despite domestic efforts, the issue of allegations of widespread police ill-treatment in Latvia was first significantly raised by the European Committee for the Prevention of Torture in its 1999 and 2002 visit reports (See section on International Organisations). In 2003, following CPT recommendations, an Internal Security Office was established under the aegis of Chief of State Police and was tasked with investigation of complaints about police misconduct, including allegations of ill-treatment. The State Police also began separating statistics on individual complaints on ill-treatment by the police officers.

A new Criminal Procedure Law came into force on October 1, 2005 replacing the outdated 1961 Criminal Procedure Code, which had undergone numerous amendments. The law shortens the detention period by the police from 72 to 48 hours before the suspect is to be brought before a judge. The new law also explicitly lays down the rights of detainees, e.g., access to a defence counsel, the right to receive from police a list of defence counsels and information about institutions coordinating the provision of legal aid, notification of custody to a third party from the outset of custody, provision of written information about rights and a copy of the detention protocol to the detainee. Regrettably, the right of access to a doctor was not included in the new law.

The Law on the Order of Holding Detainees was adopted on October 13, 2005 and regulates the procedure for holding criminal suspects in police short-term detention cells. The law fixes standards for conditions of detention in police cells. The standards are to be fully introduced in all police stations by December 31, 2008. Until the adoption of the law, the holding of criminal suspects was regulated by an internal regulation of the State Police, which is still classified as restricted information and is not publicly available.

In mid 2006, there were 28 State Police stations with short-term detention cells with the capacity of 841 places. In 2005, nearly 15,000 persons were placed in state police short-term detention cells.³⁵ While material conditions have improved in separate facilities following renovation, many remain dilapidated and unsuitable either for holding

³⁴ Latvian Centre for Human Rights and Ethnic Studies, *Human Rights in Latvia in 1998* (Riga: LCHRES, 1999), p. 35

³⁵ Of the 14,729 police detainees or remand prisoners, 7,708 were persons who had been sentenced to administrative arrest. In: *Valsts policijas gada pārskats 2005* [2005 Annual Report of the State Police], p.40.

detainees, or for staff to work in. According to the State Police, in 2000, conditions in only 6 of the 28 police stations with short-term detention facilities partially corresponded to international standards³⁶, while in 2005 it stated that conditions in 14 corresponded to international standards.³⁷ Conditions in some police stations (Liepāja, Ventspils, Daugavpils) were heavily criticised as *inhuman and degrading* by the CPT.³⁸

Moreover, in early April, 2006 the European Court of Human Rights ruled in the case *A.Kadiķis vs Latvia* that Latvia had violated Article 3 (prohibition of inhuman and degrading treatment) of the European Convention for Human Rights. During 15 days of detention in the Liepāja State police short-term detention cell in 2000, A.Kadiķis had been confined to a very limited space, in conditions of overcrowding with no natural light and often no fresh air, no access to exercise yard, and no opportunity to go out than to visit toilets. He had no bed and was obliged to sleep on wooden platform with the other detainees. He had not been properly fed and had not had enough to drink. The Court concluded that the treatment inflicted on the applicant constituted “degrading treatment” within the meaning of Article 3, and Latvia has been ordered to pay 7,000 euros for non-pecuniary damages.³⁹ On a positive note, earlier in December, 2005 a new building for the Liepāja State Police headquarters, including a custody facility with 18 cells (capacity 33 places), was inaugurated, and the authorities claimed that it was one of the most modern police stations in the Baltics.⁴⁰

3.4 Mental hospitals, specialised social care homes

Changes in the overall health care system in Latvia began in 1989, with the development of a new health care system protection, which envisaged the creation of the so-called “Regional Sickness Funds” and state compulsory health insurance system. Primary health care system was implemented in 1997.

Reform of the mental health care system has been slow. The reform has included changing diagnostic classifications from the International Classification of Disease (ICD-9) to ICD-10, as well as drastic reduction in the number of beds in psychiatric hospitals. Although Latvia has been successful in decreasing the number of beds, the development of community-based care has not kept pace.

³⁶ Latvijas Republikas iekšlietu ministrija, Valsts policija. Gada pārskats 2000 [Ministry of Internal Affairs. Republic of Latvia. 2000 Annual Report of the State Police] (Rīga: Valsts policija, 2001) p. 47.

³⁷ Likumprojekta “Aizturēto personu turēšanas kārtības likums” anotācija [Annotation of the draft law “On the Order of Holding Detainees”], at http://www.mk.gov.lv/doc/2005/leManot_080906.doc

³⁸ 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 from 25 September to 4 October 2002, at www.cpt.coe.int

³⁹ KADIĶIS c. Lettonie No 62393/00, May 5, 2006 at <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=Kadi%u0137is%20%7C%20Lettonie&sessionid=9759866&skin=hudoc-fr>

⁴⁰ Pujēna, Sarmīte, Būs ērti arī tiem, kas «vāra ziepes» [Comfort also for those who run into trouble], *Latvijas Avīze*, 4 February 2006; Ita Cērmāne, Liepājas policija pārceļas uz jauno mājvietu [Liepāja Police moves to a new home], *NRA*, January 18, 2006.

The mental health care system is regulated by the 1997 law "On Medical Treatment." Over the last ten years, the Latvian government has been in the process of developing a new mental health law – the Law on Psychiatric Assistance, and has been repeatedly urged by domestic and international actors⁴¹ to bring in the review procedure for detention on the grounds of mental disability in line with the human rights standards as mandated by Article 5 of the European Convention on Human Rights. The law governing involuntary commitment, as well as the law governing medical care provision, fails to provide for the right of the patient to challenge his or her involuntary detention and treatment before an independent and impartial tribunal.

Latvia has around 65,000 registered people with mental disabilities (including ~ 15,000 with intellectual disability), and each year around 6,000 patients are diagnosed mentally ill for the first time.

Mental health care in Latvia is financed from different sources, depending on the type of services provided. The Ministry of Health funds psychiatric hospitals and outpatient psychiatric care, while the Ministry of Welfare budget supports social care homes and day centres for persons with intellectual disabilities.

There are nine psychiatric hospitals, and psychiatric departments in 3 general hospitals. Of the nine hospitals, one is for children, and two are for long-term residents with mental illness. In 1991, there were 4,963 psychiatric beds or 18,6 per 10,000 inhabitants, while in 2004, the total number of psychiatric beds was 3,197 or 13.0 per 10,000 inhabitants.⁴² A further decrease by 500 beds has been planned for the period of 2005-2010. Out of nine mental hospitals, two hospitals had fewer than 100 beds, two hospitals had fewer than 200 beds, three hospitals had 200 to 500 beds, and two hospitals had 500 to 800 beds.

Long-term institutionalized care for people with disorders of mental nature is organised and funded by the Ministry of Welfare, and is provided in 31 social care homes for adults. It is planned that with the completion of municipal reform (by 31 December, 2007) the responsibility for all state social care homes will be transferred to the municipalities. In 2005, there were 4,133 persons in the social care homes for people with intellectual disabilities or mental health problems. Additionally there were 3 social care homes for children with intellectual disabilities. In 2005, approximately 850 persons were on a waiting list for a place in a social care home.

Despite various planned and adopted policy commitments (Government Strategy for Psychiatric Assistance 2000-2003, Mental Health Policy document and Action Plan 2006-2016) by the Latvian health authorities to expand community based services, innovative pilot projects have predominantly been supported by various foreign donors.

⁴¹ MDAC (Mental Disability Advocacy Centre) 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.

⁴² ed. Udrasa, S. LR Labklājības ministrija, Psihiatrijas centrs. Psihiskās veselības aprūpe, Latvija 1991-2000 [Psychiatric Health Care, Latvia 1991-2000]. Statistikas gadagrāmata, 1.izdevums. Psihiatrijas centrs. Rīga: 2001, p.39.

The Ministry of Welfare together with respective municipalities has funded some community based services for those with intellectual disabilities, including 18 day care centres and two group homes. However, it has been reluctant in providing community based services to psychiatrically disabled, because mental health problems (psychiatric disabilities) until now have been perceived as diseases that should be addressed by Ministry of Health.⁴³

A new facility for forensic patients who had committed crimes and had been sentenced to compulsory treatment, but who were previously held in the Riga Central Prison, and prior to that, in several specialised facilities, most frequently in the Chernyahovsk Hospital in Kaliningrad Region, Russia, was opened in April 1999.

Over time conditions and allegations of ill-treatment in some of the facilities have been a subject of concern. In November 1998, media reported that young mental patients in the social care centre "Ziedkalne" were being punished by being placed in a windowless warehouse bunker, which was eliminated after the investigation by the Ministry of Welfare, and the director of the facility was fired.⁴⁴ Allegations of ill-treatment against children by the staff of the Vegi social care home for children with mental disabilities were raised in 2001, leading to the firing of director, as well as media reports of mass infection of scabies affecting as many as half of the 120 children at the facility.⁴⁵ Concerns have also been voiced at some of the mental hospitals continuing to accommodate a significant number of patients in large capacity dormitories with 10-15 patients per room, and that despite renovations, patient privacy was not being given due consideration.⁴⁶

⁴³ For a more detailed overview, see Ieva Leimane-Veldmeijere, Latvia, in: Human Rights in Mental Health Care in Baltic Countries (Latvian Centre for Human Rights: 2006), p.37-47.

⁴⁴ Latvian Centre for Human Rights, Human Rights in Latvia in 1998 (Riga: LCHRES, 1999) p.38

⁴⁵ Latvian Centre for Human Rights, Human Rights in Latvia in 2001 (Riga: LCHRES, 2000) p.25

⁴⁶ Latvian Centre for Human Rights and Ethnic Studies, Monitoring Closed Institutions in Latvia, ed, Anhelita Kamenska, contributors A.Kamenska, I.Leimane-Veldmeijere (Riga: LCHRES, May 2003, p.16 at www.humanrights.org.lv).

4. Places of Detention in Latvia - Statistics

There have been no previous attempts by domestic organisations to draw a comprehensive overview of the places of detention in Latvia, their official capacities and the number of persons held in the facilities annually.

Parties to the European Convention for the Prevention of Torture are under obligation to provide the Committee with “full information on the places where persons deprived of their liberty are being held.”⁴⁷ In its 1999 visit report, CPT voiced concern that “the lists of places of detention drawn up by the different Ministries involved were far from complete (as concerns the Ministry of Interior, local police stations, the Police Sobering-up Centre in Riga and the Preventive Care Centre for Minors in the capital can be cited as examples of omission; the two Educational and Correctional Institutions of the Ministry of Education had also been omitted)”.⁴⁸ In its 2002 visit the CPT expressed regret that “the list of the places of deprivation of liberty received prior to the visit was incomplete”, mentioning as an example, that the list did not contain any detention facility of the Border Guards.⁴⁹

Latvian legislation does not provide for an encompassing definition of places of detention. The Laws on National Human Rights Office and Ombudsman’s Office mention a “closed type institution,” without providing the definition of the term. The Law on the Order of Holding Detainees provides for a definition of “a short-term detention place”⁵⁰.

During monitoring visits, LCHR came across several cases when heads of institutions did not consider their facilities to be places of detention, citing short duration of detention (detention rooms at border posts, police stations with cells (detention up to 3-12 hours), or argued that social care homes do not fall under the definition of places of detention as their clients have not been placed in the institution against their will.

The approach to placement in social care homes as well as outside frameworks of compulsory or involuntary placement in psychiatric establishments should not be based on formal criteria. The extension of monitoring over these kinds of deprivation of liberty is related to the need of verification of actual state of residents. They can be formally considered as voluntary ones, but practically deprived of their liberty. The experience of the CPT clearly demonstrates that deficiencies of the placement procedures, lack of legal

⁴⁷ Article 2 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

⁴⁸ Report to the Latvian Government on the visit to Latvia carried out by the the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 24 January to 3 February 1999, at <http://www.cpt.coe.int/documents/lva>

⁴⁹ 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 from 25 September to 4 October 2002, at <http://www.cpt.coe.int/documents/lva>

⁵⁰ Article 2. Short-term detention places are specially equipped rooms established in State Police or Security Police, where detained persons are placed and held in accordance with the procedure determined by law.

safeguards and regime applied to patients or residents lead to a de facto deprivation of liberty.⁵¹

In compiling a list of places of detention, LCHR has followed the definition as provided by Article 4.2 OPCAT.

Article 4

2. For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting from which that person is not permitted to leave at will by order of any judicial, administrative or other authority.

International organisations, such as the CPT have drawn attention of the authorities to the issue of recording detainees. In its 2002 report on Latvia CPT stated that “despite the recommendations it made already during the 1999 visit requiring immediate measures to be taken to ensure that whenever a person is detained in a police establishment, for whatever reason or length of time, the fact of his detention is recorded without delay, the detention of a person was not always accurately recorded and was sometimes not recorded at all (for instance, no record was kept of the placement of persons in the detention area of Kaplava Border Guard Unit). Further, the registers at Liepāja Police Headquarters did not contain any reference to persons present at the time of the visit who had been transferred to this establishment from prison.”⁵²

In some facilities, such as police cells and detention rooms at border posts, detention is of short duration. Detainees in police cells are generally held for a maximum period of 48 hours, while in border posts they are held for a few hours or overnight stay. These facilities also account for a larger turnover of detainees. In prisons, prisoners may spend time from a few months to serving life imprisonment. Detention places vary according to their official capacities – some may have as few as one cell or detention room, while others have official capacity of up to 1,900 places (Central Prison and prison hospital).

Several systems of places of detention, such as the prison system, do not compile statistics on the overall number of prisoners held in prisons throughout the year, but can only provide the number of detainees on any given day. There is no centralised agency collecting statistics on administrative detainees in municipal police stations with short-term detention cells. Several of the largest State police stations no longer hold intoxicated persons as the responsibility has been taken over by municipalities, which have set up special places or delegated the responsibility to the municipal police. At the same time, a significant number of State police stations continue operating sobering-up cells. This poses difficulties for collecting precise statistics.

⁵¹ See, 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 from 25 September to 4 October 2002, paragraphs 158-160, CPT/Inf (2005) 8. www.cpt.coe.int/documents/lva Report to the Bulgarian Government on the visit to Bulgaria carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 16 to 22 December 2003, paragraphs 50-52, CPT/Inf (2004) 23. www.cpt.coe.int/documents/bgr

⁵² 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 from 25 September to 4 October 2002, at www.cpt.coe.int/documents/lva/2005-08-inf-eng.htm#_Toc39911107

The table below does not provide for an exhaustive list of places of detention in Latvia.

Types of places of detention		Number of institutions	Official capacity	Total number of persons held in places of detention throughout 2005
Prisons	Ministry of Justice	15	9166	n/a (6,965 ⁵³)
State police, short-term detention cells (up to 48 hours)	Ministry of Interior	28	841	14,729 ⁵⁴
Local police stations short-term detention cells (up to 12 hours)	Ministry of Interior	Riga (7)		n/a
Preventive Care Centre for Minors in Riga (Alises iela)	Ministry of Interior	1	9	334
Municipal police, short-term detention cells ⁵⁵	Municipality	Liepāja, Jelgava Ventspils other?	6 6 5	2,606 ⁵⁶ 7
Police Sobering-up Centre	Ministry of Interior	Riga	20	3,048
Detox Unit	Daugavpils City Council/Municipal Police/City Hospital	Daugavpils	11	?
Illegal Immigrant detention Facility "Olaine"	Ministry of Interior State Border Guard	1	~ 50	155 ⁵⁷
Centre for Asylum Seekers and Refugees "Mucenieki"	Ministry of Interior State Border Guard	1	200	7

⁵³ The number of prisoners on January 1, 2006.

⁵⁴ These include detainees and remand prisoners and persons sentenced to administrative arrest, State Police Annual Report 2005, p. 40 at http://fish.vp.gov.lv/material/publ_parskats_2004.doc. The 2005 report does not include the number of intoxicated persons, which have been held in State police sobering-up cells. The State Police Annual Report 2004 provides the following statistics: 16,274 detainees, remand prisoners, persons under administrative arrest and 19,843 persons placed in sobering-up cells, p.31 at http://fish.vp.gov.lv/material/publ_parskats_2004.doc

⁵⁵ Municipal police detention cells may hold those detained on administrative grounds (for up to 3 hours), intoxicated persons (for up to 12 hours).

⁵⁶ Statistics provided by the Liepāja Municipal Police in 2004.

⁵⁷ No official capacity has been determined. Information provided to LCHR by Olaine Detention Centre for Illegal Immigrants on April 20, 2006.

Detention rooms at border posts (for short-term detention up to 3 hours or overnight stay)	Ministry of Interior State Border Guard		~50 rooms ⁵⁸	?
Disciplinary unit at the Ādaži Military Training Camp	Ministry of Defence	1	8	249
Mental hospitals/ units	Ministry of Health	9 3	3,167 80	19,037
Specialised social care facilities	Ministry of Welfare	31	4,455	4,346
Social educational correctional facilities for juveniles	Ministry of Education and Science	2 (Strautini - for boys Naukšēni - for girls)	100 30	86 23

Thus, there are over a 100 places of detention in Latvia and, although a precise number of persons deprived of liberty held in the facilities is not known, between 50,000 to 55,000 persons were held in these places at various times in 2005.

The city of Riga has two police detention facilities – one at the Riga City Police Headquarters and another – Pre-trial Investigation Centre and Short-Term Detention Facility in Riga at the State Police Headquarters. The latter was visited by the CPT in 1999 and 2002, and the delegation met two detainees who had been held at the establishment respectively for 4 ½ and 6 years, and the CPT emphasised that “the objective must be to cease using the ISO in Rīga (as well as any other police establishment of a similar type) for prolonged periods of detention as they are totally unsuited for this purpose.”⁵⁹ This raises the question whether the above police facility is, in fact, a short-term detention facility or whether it is also being used as a prison.

There has been no information as to secret places of detention having been established in Latvia. However, in late 2005 a serious controversy erupted between S.Aboltina, Minister of Justice and D.Luks, Director of the Latvian Prison Services. The Minister accused Mr Luks of having set up an unofficial detention place on the territory of the Melnsils fish cannery by the latter and allegations of illegal employment of prisoners, which lead to the disciplinary investigation and suspension of Mr Luks from office on December 7, 2005 and eventual dismissal in early 2006.⁶⁰ Mr Luks denied allegations and accused the Ministry of not showing commitment in support of prison employment. Later in the year, the Minister of Justice G.Grīvalds accused the previous Minister of having used legal drawbacks as a pretext to dismiss Mr Luks and spoke of legitimizing the detention place.

⁵⁸ Information provided to LCHR by the State Border Guard on April 19, 2006.

⁵⁹ 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 from 25 September to 4 October 2002, at <http://www.cpt.coe.int/documents/lva/2005-08-inf-eng.htm>

⁶⁰ Ieslodzījuma vietu pārvaldes priekšnieku atbrīvo no amata [Director of Prison Services dismissed] at www.tiesas.lv January 10, 2006.

5. International Organisations on Places of Detention in Latvia

In September 1991, Latvia became a member of the United Nations, in February 1995 – member of the Council of Europe, and on May 1, 2004 – a member state of the European Union. Throughout the 1990s and in the beginning of the 21st century Latvia received several visits by international organisations inspecting places of detention. While prisons became subject to international scrutiny already in the early 1990s, police stations, mental hospitals, specialised social care homes, immigration facilities and other places of detention received first inspection visits by international organisations only towards the end of the 1990s. The same trend has also been paralleled domestically.

5.1 Council of Europe

Focus on Latvia's prison system by the Council of Europe began as early as 1994 when Council of Europe experts visited 13 prisons and carried out a detailed inventory of the Latvian prison system to assess its compliance with the European Prison Rules.⁶¹ Similar assessment reports were also drawn of the Estonian and Lithuanian prison systems, which led to the initiation of the "Nord-Balt Prison Project" in 1996, a Council of Europe regional project of co-operation between Estonia, Latvia and Lithuania on the one hand, and Denmark, Finland, Norway and Sweden on the other hand. A Steering Group, consisting of one contact person from each Baltic and Nordic State and two general rapporteurs appointed by the Council of Europe was set up, which identified specific topics of activity, such as "public and political awareness of European penal norms and standards," management and training of staff, "prison construction", "health care," "probation", etc. The bulk of activities, however, were organised bi-laterally by the Nordic States, which set up twinning arrangements between prison institutions and staff training centres in the region.⁶² Thus, of the 15 Latvian prisons, four prisons directly co-operated with Norwegian prisons, three – with Swedish prisons, two – with Finnish prisons. The project lasted until mid-2002.

A follow-up Council of Europe expert visit to reassess the progress in the Latvian prison system took place in July/August 1998 and a similar detailed report on visited prisons was prepared as in 1994.⁶³ The responsible Council of Europe official for the Nord-Balt Prison Project noted that the "assessment reports had the following objectives: first, to be used by the prison services in question as an incentive for immediate as well as long-term reform and secondly, to be used by the Steering Group." Both reports are publicly unavailable.

In 1996, a comprehensive report entitled "Prison Systems in Central and Eastern Europe" by Roy Walmsley, including a section on Latvia was published by the European Institute for

⁶¹ Lakes G. and Rostad H, Report of a Council of Europe Cooperation visit to Prisons in Latvia, 1994. Council of Europe, Strasbourg. Unpublished document, on file with the author.

⁶² Janson, Bjorn, "The Nord-Balt prison project" – A model for co-operation and reform of prison systems. p.7-9, at http://www.coe.int/T/E/Legal_affairs/legal_cooperation/Prisons_and_alternatives/Bulletin/Bull.P-2324E.pdf#search='NordBalt%20Prison%20Project'

⁶³ Lakes G. and Engesbak P., 1998. Report of an expert visit to reassess the prison system in Latvia, July-August 1998, Council of Europe, Strasbourg. Unpublished document, on file with the author.

Crime Prevention and Control, affiliated with the United Nations (HEUNI). A follow-up report "Further Developments in the Prison Systems of Central and Eastern Europe: Achievements, problems and objectives" by Roy Walmsley was published by the same organisation in 2003.⁶⁴ Both reports focus on key developments in the Latvian prison system until 2001, and relevant legislation governing enforcement of imprisonment and offer valuable comparative analysis on prison systems and respective legislation in other Council of Europe member states.

The dire situation of prisoner health in the Latvian prison system was also the focus of several thematic visits. The Council of Europe Nord-Balt project organised an expert mission in October 1997 to assess the factors influencing the health of prisoners in Latvia.⁶⁵ As part of a larger study involving ten Eastern European countries, on 20-27 July, 2003 a UK expert visited three Latvian prisons to study the provision of services for drug dependent prisoners. The report and recommendations were published in 2004.⁶⁶

European Committee for the Prevention of Torture

Ratification of the European Convention for the Prevention of Torture became one of the pre-conditions for Latvia's membership of the Council of Europe.⁶⁷ Latvia ratified the Convention after three years – on 10 February 1998, and it came into force on June 1. Prior to the first visit of the CPT in January 1999, the CPT Secretariat in co-operation with the Latvian Centre for Human Rights and Ethnic Studies organised an information seminar on CPT mandate and standards. Among Council of Europe Member States at that time, it was to be the first seminar not organised in partnership with government authorities, but with an NGO as the relevant officials of the Ministries of Justice and Interior could not agree about the responsibility of organising such a seminar. In December 2000, the first Latvian representative was elected to the CPT.

Since the ratification of the Convention, Latvia has been visited four times by the CPT. As of June 1, 2006, two of the CPT visit reports (1999, 2002) and responses of the Latvian government had been made public, and were available on the CPT website⁶⁸. However, neither the 1999, nor 2002 visit report, nor government responses were publicly available

⁶⁴ HEUNI Publication no 29, Roy Walmsley: Prison Systems in Central and Eastern Europe – Progress, problems and the international standards. Helsinki: HEUNI 1996; HEUNI Publication No 29, Roy Walmsley: Further Developments in the Prison Systems of Central and Eastern Europe, Achievements, problems and objectives. Helsinki: HEUNI 2003 at <http://www.heuni.fi/uploads/czakwhvkn8zw.pdf>

⁶⁵ Wool/Christensen. Nord-Balt Prison Project. The Health of Prisoners in Latvia. Report of an Expert Mission to Latvia, October 1997. Unpublished document, on file with the author.

⁶⁶ Morag MacDonald, "Country Report for Latvia 2004," Research project for the Central and Eastern European Network of Drug Services in Prison in co-operation with The European Institute for Crime Prevention and Control (HEUNI). Centre for Research into Quality, The University of Central England in Birmingham: 2004. 35 p. available at <http://www.uce.ac.uk/crq/publications/drugservices/latvia.pdf#search='Latvian%20Prisons'>

⁶⁷ Council of Europe Parliamentary Assembly Opinion No. 183 (1995) on the application by Latvia for membership of the Council of Europe.

⁶⁸ CPT 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 <http://www.cpt.coe.int/documents/lva/2001-27-inf-eng.htm>

in the Latvian language. At the same time, it was apparent, that some of the sections of the report had been made available to the relevant authorities in the Latvian language by way of unofficial translation.

CPT visits to Latvia

Year of the visit	Report made public
24 January-3 February 1999	November 2001
25 September – 4 October 2002	May, 2005
May 5-12 2004 (ad hoc)	n/a
22 April 2005 ⁶⁹	n/a

In early 1999, CPT carried out its *first visit*, and the visit report and government responses were made public after more than two and a half years – in November 2001. The Latvian authorities reacted sharply to the report, mainly to the section pertaining to the police, contesting the findings of the Committee. The report noted that “in some cases, the ill-treatment alleged – severe beating, asphyxiation using a plastic bag, strangulation using a guitar wire, infliction of electric shocks, in the course of questioning – could be considered as amounting to torture.”

Response of the Latvian authorities to CPT visit report, 1999

Prime Minister A.Berziņš showed concern about the report deeming it odd, and instructed the Minister of Interior M. Segliņš to provide a response within two weeks as to whether allegations were true.

Interior Minister M. Segliņš suggested to the media that the CPT “has provided information which it cannot verify.” His press secretary called the allegations “nonsense.” M.Segliņš expressed pity that the Prime Minister had spoken about issues that “he does not quite know what they are all about.”⁷⁰ M. Segliņš, however, acknowledged CPT’s criticism concerning poor conditions of detention in police facilities.

Chief of State Criminal Police V. Pumpurs called allegations of detainee torture “similar to hallucinations”, at the same time acknowledging that there have been “several criminal cases – there was a case when police officers forced, the detainee sit in an ant-hill, there was a case with asphyxiation using a plastic bag... and one must admit that scum also work in the police”, but he denied that there was any ground for saying that such cases happened on mass scale.

⁶⁹ Eiropas spīdzināšanas novēršanas komitejas locekļus informē par ieslodzījumu vietu attīstību [Members of the European Committee for the Prevention of Torture informed about the development of prisons]. Press release of 22 April, 2005 posted on the Ministry of Justice webpage at http://www.tm.gov.lv/lv/jaunumi/tm_info.html?news_id=218

⁷⁰ Segliņš EP pārmet neapstiprinātu ziņu publiskošanu par aizturēto spīdzināšanu [Segliņš reproaches CoE about making unverified information about torture of detainees public]. BNS, 5 December 2001.

Foreign Ministry State Secretary Māris Riekstiņš called the information in the CPT report “quite fantastical.”

O.Brūvers, Director of National Human Rights Office, promised to look into the matter, and said “that it is the first time I hear that police would be using electric shock. Of course, one has heard that a detainee has been punched, but not tortured. I am saying with full responsibility that I do not agree with the allegations made in the report. Latvia is not a state where people would be systematically tortured.”⁷¹

The second visit took place *in autumn 2002* and the CPT’s delegation reviewed the measures taken by the Latvian authorities following the recommendations made by the Committee after its 1999 visit. Particular attention was paid to the treatment of persons detained by the police and border guards, as well as the conditions of detention of life-sentenced prisoners and juvenile prisoners on remand. For the first time in Latvia, the delegation visited a social care home.⁷² The publication of the visit report and government responses took place shortly after the much written about visit to Riga of the US President G. W. Bush in May 2005 by the media and hardly received any publicity.

The third ad hoc visit in 2004 focused on the review of the measures taken by the Latvian authorities to implement the recommendations made by the Committee after its 2002 visit. Particular attention was paid to the treatment of persons detained by the police and conditions of detention in police establishments and prisons, and the regime and security measures applied to life-sentenced prisoners was also examined.⁷³

While the 2004 visit report has not been made public, towards the end of the visit some information about the visit and general concerns became public through a press release issued by the Ministry of Justice and interviews with Minister of Interior and Minister of Justice in the official government gazette. Initially confusion seems to have arisen as to the organisation the visiting delegation was representing, as the Ministry of Justice referred to the UN Committee against Torture, while the official government gazette referred to the European Committee for the Prevention of Torture.

Ministry of Justice anticipated that the committee report would be quite critical. Committee members had concluded that the previous government in office had not paid due attention to prisons and that there had been absence of information exchange between prison administration, responsible institutions and the government. The delegation had also expressed criticism that the Latvian side had not provided any information on the issues raised by the Committee and, in turn, V. Muižniece, Minister of Justice, had promised to furnish the Committee with the information in the future.⁷⁴

⁷¹ Policijai pārmēt spīdzināšanu [Police accused of torture], *Neatkarīgā Rīta avīze*, 24 November 2001.

⁷² Council of Europe Anti-torture Committee visits Latvia, at <http://www.cpt.coe.int/documents/lva/2002-10-10-eng.htm>

⁷³ Council of Europe Anti-torture Committee visits Latvia, at <http://www.cpt.coe.int/documents/lva/2004-05-17-eng.htm>

⁷⁴ ANO Spīdzināšanas izskaušanas komitejas ziņojums par situāciju Latvijas cietumos būs kritisks [The report of the UN Committee against Torture about the situation in Latvia’s prisons will be critical], *Leta*, 12 May 2005; Guntars Laganovskis, “Vardarbība un spīdzināšana Latvijā. Skaitļi, fakti, pieņēmumi” [“Violence and Torture in Latvia. Numbers, facts, assumptions”], *Latvijas Vēstnesis*, 21 May 2005.

It is interesting to note *the fourth one-day visit* of the Committee to Latvia *on 22 April, 2005*. The press release of the Ministry of Justice informs that S. Ābolčiņa, Minister of Justice, I. Juhansone, Deputy Secretary of Ministry of Justice had appraised the CPT delegation of the progress Latvia had achieved to improve the situation in prisons, including the adoption of concept on the Development of Prison Estate 2006-2014, adoption of Criminal Procedure Law, and the attention paid by the Ministry of Justice to address systemically problem issues in sentence enforcement policy. The press release also mentioned that the CPT delegation had met with the representatives of the Ministry of Interior and Ministry of Health.⁷⁵ However, there is no information about the one-day visit on the CPT website.

Various official sources, such as concept paper on the Development of the Latvian Prison Estate 2006-2014, annual report of the Latvian Prison Administration for 2004, though, indicate that the CPT has warned that it may initiate public statement procedures against Latvia concerning the situation in prisons, which, it has, thus far used in respect of Russian Federation concerning Chechnya and Turkey.⁷⁶ The 2002 CPT report expresses serious concern about the lack of progress in Latvia, in numerous areas, noting that “the 2002 visit clearly demonstrated that hardly any of the Committee’s recommendations concerning the police, made after the 1999 visit, had been implemented; further, the Committee has been obliged to reiterate many of its previous recommendations concerning prison issues.”⁷⁷

During the visits CPT has visited 24 different detention facilities in Riga, Liepāja, Ventspils, Daugavpils, Ogre, Jelgava, Olaine, Viķi (Limbaži District), Naukšēni (Valmiera District) and Kaplava (Krāslava District). Of those 13 detention facilities are under the authority of the Ministry of Interior (State Police/State Border Guard), 5 under the authority of the Ministry of Justice, 3 under the authority of the Ministry of Welfare, and 1 under the Ministry of Defence and Ministry of Education and Science respectively. A number of institutions have received several visits. (For a full list of visited facilities, see Appendix 1)

Government responses

There are four Latvian government responses (interim and final) to the 1999 and 2002 CPT reports publicly available. The CPT report is usually transmitted to the state six months after the visit, and the CPT asks member states to submit an interim response to a visit report within six months of receipt and a final response within twelve months.

Written responses of the Latvian authorities can be broadly generalised as poor in quality. Many issues of concern raised by the CPT remain unanswered, the authorities tend to

⁷⁵ Eiropas spīdzināšanas novēršanas komitejas locekļus informē par ieslodzījumu vietu attīstību [Members of the European Committee for the Prevention of Torture informed about the development of prisons]. Press release by the Ministry of Justice, 22 April 2005 at http://www.tm.gov.lv/lv/jaunumi/tm_info.html?news_id=218

⁷⁶ Ieslodzījumu vietu attīstības koncepcija [Development of Prison Estate]. p.5, <http://ppd.mk.gov.lv/ui/DocumentContent.aspx?ID=4218>; Ieslodzījumu vietu pārvaldes 2004.gada pārskats, p.14.at www.ievp.gov.lv/?sadala=92

⁷⁷ 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 from 25 September to 4 October 2002, at www.cpt.coe.int

provide excerpts of legislation rather than address the issues of implementation, several of the responses indicate lack of understanding on the part of authorities about the substance of the issues and the response to recommendations is frequently reduced to citing lack of funding as an obstacle to fulfilment of recommendations.

As party to the Convention, Latvia is obligated to provide Committee unrestricted access at any time to all detention facilities, persons deprived of liberty and relevant documentation.⁷⁸ The Committee is obligated to notify the state concerned of its intention to carry out a visit, but is not required to inform the state of particular places, which it plans to inspect in the course of the visit.⁷⁹

It is, therefore, surprising, to find that on October 13, 2005 the parliament adopted the Law on the Order of Holding Detainees, and Section 5 (6) requires representatives of state and international human rights institutions to notify in advance relevant police authorities about the visit to the police short-term detention facility. The provision was adopted despite an explicit reminder by the National Human Rights Office and the Latvian Centre for Human Rights and Ethnic Studies of Latvia's international obligations in their evaluation of the draft law when requested by the State Police.

Council of Europe Human Rights Commissioner

On 5-8 October, 2003 Latvia received a visit by the Council of Europe Commissioner for Human Rights Alvaro Gil-Robles, who, inter alia, visited the Riga Central Prison and Police Temporary Detention Centre in Riga. The visit report was made public on 12 February 2004. The report addresses the issues related to law enforcement, such as police misconduct, including police brutality, existing complaints procedures and police complaints bodies, conditions in remand prisons and short-term detention cells at police stations. The report calls for the closure of the Central Prison hospital for refurbishment and transfer of patients to a different facility appropriate for medical treatment. Latvia is also called upon to rapidly adopt the Law on Psychiatric Assistance.⁸⁰

5.2 United Nations

In 1992, Latvia acceded to over 51 UN Conventions, which it had signed by adopting Independence Declaration in May 1990. As a member state to many of the UN Conventions, Latvia reports to various convention oversight bodies.

⁷⁸ Para. 2.28 of Explanatory Report: Parties to the convention agree to permit visits to any place within their jurisdiction where one or more persons are deprived of their liberty by a public authority. It is immaterial whether the deprivation is based on a formal decision or not. European Convention to the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Text of the Convention and Explanatory Report. Strasbourg CPT/Inf/C/2002 (1), p. 21

⁷⁹ Ibid. Article 8 of the Convention and para.58 of the Explanatory Report.

⁸⁰ Report by Mr Alvaro Gil-Robles, Commissioner For Human Rights, On His Visit To Latvia 5 - 8 October 2003, at <https://wcd.coe.int/ViewDoc.jsp?id=112881&BackColorInternet=99B5AD&BackColorIntranet=FABF45&BackColorLogged=FFC679>

The first report by Latvia was submitted in 1995, when the UN Human Rights Committee considered Latvia's initial report on compliance with the International Covenant on Civil and Political Rights. The Committee expressed concern about allegations of mistreatment of detainees, conditions in places of detention, non-separation of accused persons from convicted persons and juveniles from adults, absence of clear mechanisms for dealing with complaints of violence by police and of conditions in detention centres and prisons. It criticised Latvia for absence of domestic legislation and procedure governing the treatment of asylum-seekers and excessive use of detention and removal of asylum-seekers from the country. It emphasised the need for greater control over the police, particularly in the context of the recent authoritarian past from which Latvian society was emerging, and called for intensive human rights training programmes for law enforcement officials and prison staff. It recommended Latvia to adopt domestic legislation governing the treatment of refugees and asylum-seekers in compliance with the Covenant and international refugee law.⁸¹

Subsequent reporting to other UN bodies took place after long delays. For example, Latvia's 2nd report on ICCPR and initial report on UN Convention against Torture were submitted with a four and nine-year delay. However, through vigorous efforts of the government representative to international human rights organisations, by 2005 Latvia had finally caught up with the reporting deadlines.

In 2001, the UN Committee on the Rights of the Child expressed concern that the juvenile justice system was not fully in compliance with the Convention, and that it was not fully efficient, in particular, that juvenile offenders were spending long periods in pre-trial detention. It expressed concern at cases of juvenile offenders being kept in adult prison facilities and lack of programmes for their rehabilitation and reintegration into society.⁸²

In the second half of 2003, Latvia reported to the UN Human Rights Committee and UN Committee against Torture. Both HRC and CAT heavily criticised the police, expressing concerns about allegations of ill-treatment by members of the police, CAT noting that in some cases they could be considered as amounting to torture. Concern was also expressed about lack of statistics on the number, details and outcome of cases of ill-treatment by police officers, however, the HRC noted that as of 2003, statistics on physical ill-treatment by police officers was being systematised.

CAT drew attention to the lack of independence of the Internal Security Office of the State Police, while HRC expressed similar concern about the absence of independent oversight mechanism for investigation complaints of criminal conduct against members of the police. Both committees called upon Latvia to take firm measures to prevent all forms of ill-treatment by the police, ensure prompt and impartial investigation of allegations of ill-treatment, prosecution of perpetrators and the provision of effective remedies to the victims.

⁸¹ Concluding Observations of the Human Rights Committee: Latvia. 03/10/95. CCPR/C/79/Add.53 at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/21ac2e3a885a28b6c12563f000518518?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/21ac2e3a885a28b6c12563f000518518?Opendocument)

⁸² Concluding Observations of the Committee on the Rights of the Child : Latvia. 21/02/2001.CRC/C/15/Add.142. at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/d4ed822966f0269ec12569ee00312694?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/d4ed822966f0269ec12569ee00312694?Opendocument)

HRC called on Latvia to establish an independent body with authority to receive and investigate all complaints of excessive force and other abuse of power by the police.

CAT criticised conditions of detention in police stations, lack of provision in the Criminal Procedure Code of the right of a detainee to contact family members and that access to a doctor of one's choice must be approved by authorities; allegations about denial and delays in access to a lawyer and the practise that defendants have to pay back legal aid in cases where their case is lost. It called upon Latvia to adopt the code of conduct of interrogations, improve conditions of closed facilities, especially police stations, to guarantee police detainees the right to contact their families, have access to a doctor of their choice and a lawyer from the outset of custody.

Both HRC and CAT expressed concern about overcrowding in prisons, length of pre-trial detention of juvenile offenders and called on Latvia to shorten the length of pre-trial detention period, and address the problem of overcrowding. HRC called for the extension of time limits for the submission of an appeal under the accelerated asylum procedure as it raises concerns regarding the availability of an effective remedy in cases of refoulement. CAT recommended Latvia to introduce legally enforceable time limits for the detention of rejected asylum-seekers who are under expulsion orders.⁸³

The United Nations Working group on Arbitrary Detention visited Latvia from 23 to 28 February 2004 at the invitation of the Latvian Government, and it was the first such visit by one of the thematic mechanisms of the UN Commission on Human Rights. The working group visited five prisons in Riga, Cēsis and Daugavpils, several police stations in Riga and Rēzekne, Riga Psychiatric Centre, Asylum Seeker and Refugee reception centre "Mucenieki" and Olaine Detention Camp for Illegal Immigrants.⁸⁴

5.3 European Union

In April 1999 a well known British criminologist Roy King visited five Latvian prisons and wrote a report on behalf of the European Commission. The report noted the high incarceration rate and high proportion of pre-trial detainees, arguing that there was considerable scope for Latvia to reduce the numbers of people in custody, without significant additional risk to the community. It recommended Latvia to give urgent consideration to controlling the size of the prison population by reducing sentence lengths for more serious crimes; by finding alternatives to custody for lesser crimes; by developing more liberal policy for prisoner earlier release and regarding custody of juveniles as a final resort. The report also recommended that all proposed changes to 1999 criminal code be accompanied by rigorous assessment of their impact – both on prison population, crime and the fear of crime. The

⁸³ Concluding observations of the Human Rights Committee: Latvia. 06/11/2003. CCPR/CO/79/LVA, at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/c9778e6288fa75bdc1256e000050cb71?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/c9778e6288fa75bdc1256e000050cb71?Opendocument); Conclusions and recommendations of the Committee against Torture: Latvia. 05/02/2004. CAT/C/CR/31/3. at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.21.Add.4.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CAT.C.21.Add.4.En?OpenDocument)

⁸⁴ Report of the Working Group on Arbitrary Detention, Visit to Latvia (23-28 February, 2004) E/CN.4/2005/6/Add.2 at <http://daccessdds.un.org/doc/UNDOC/GEN/G04/159/81/PDF/G0415981.pdf?OpenElement>

report concluded that with so many demands and so few resources Latvia could not afford a prison system of its current size.⁸⁵ The report is publicly unavailable.

Starting with autumn 1998, the European Commission began publishing reports on the progress of the EU candidate countries towards membership of the European Union with the aim of providing homework to these states in the framework of the enlargement process. References to issues related to places of detention can be found under political (Copenhagen) criteria for membership and requirements concerning co-operation in the field of justice and home affairs in the fields of migration and asylum.

Most of the progress reports briefly reiterate problems that are raised in detail by other international organisations, such as the length of pre-trial detention, noting that the length of pre-trial detention of juveniles was not always in conformity with international standards, overcrowding and lack of occupation of inmates. While noting improvements in prison infrastructure, reports conclude that the conditions in prisons and police detention centres remain substandard, especially as concerns health and sanitary conditions, and recognise the need for renovation of many buildings. The reports highlight Latvia's progress in aligning refugee and asylum legislation with international standards and the Community acquis and identify gaps requiring further elaboration by the Latvian authorities.⁸⁶ The 2003 Progress Report highlights the need to improve detention conditions at the Olaine Centre for illegal migrants as an area of particular concern, calling for urgent priority to be given to the implementation of the construction project for the improvement of conditions at the Olaine centre and to ensure allocation of sufficient financial resources, and review of detention procedures.⁸⁷

Summary of key issues of concern of international organisations

To summarize, the reports by international organisations draw attention to the following key problems faced by Latvia in the realm of prisons, police, immigration, mental health, which have, on occasions also received significant attention in international media.

Prisons

- high incarceration rate
- prison overcrowding
- inter-prisoner violence
- demilitarisation of the prison system
- dilapidated prison infrastructure, especially the conditions at Central Prison hospital
- high level of pre-trial detention & long pre-trial detention periods
- plight of juveniles in custody, especially in pre-trial detention
- high incidence of tuberculosis, drug addiction and HIV infection
- absence of social rehabilitation (education, employment) programmes

⁸⁵ Roy King, Report on the Latvian Prison System on Behalf of the European Commissions, April, 1999, on file with the author.

⁸⁶ See 2002 Regular Report from the Commission on Latvia's Progress Towards Accession, p. 27-29, at http://www.eiroinfo.lv/files/ESIC/PR_2002.pdf, and 2001, Regular Report from the Commission on Latvia's Progress Towards Accession, p.21 at http://www.eiroinfo.lv/files/ESIC/PR_2001.pdf

⁸⁷ Comprehensive Monitoring Report on Latvia's Preparations on Membership, p. 47, at http://www.eiroinfo.lv/files/ESIC/PR_2003.pdf

Police

- high risk of ill-treatment of individuals by police forces, even amounting to torture
- detainee safeguards (access to a lawyer, right of notification to a third party, access to a doctor) in practise
- absence of an independent police complaints mechanism
- decrepit facilities in police short-term detention cells

Mental hospitals/social care homes

- separation of juveniles from adults
- separate register and written policy for the use of restraints and ECT
- need to rapidly adopt the Law on Psychiatric Assistance
- need for involuntary placement to be reviewed by an appropriate authority at regular intervals
- the right of the patient to challenge his/her involuntary detention and treatment before an independent and impartial tribunal in accordance with Article 5 of the European Court of Human Rights.

Asylum/immigration

- avoid detaining persons with strong links with Latvia, but who according to law are non-nationals
- reduce maximum time asylum seekers can spend in detention
- introduce legally enforceable time limits for the detention of asylum seekers who are under expulsion orders
- ensure that immigration detainees have effective legal means to challenge the legality of administrative decisions to detain, deport and return them
- extend the time limits under the accelerated asylum procedure to guarantee that persons whose asylum applications have been rejected to lodge an effective appeal
- provide better range of activities to foreign nationals at Olaine detention Centre

While there appears to be a wealth of information on the developments in the Latvian prison system since Latvia gained independence in 1991, most reports are either publicly unavailable or available only in English. Of the seven listed reports concerning prisons, only two are publicly available. Only two of the CPT reports have been made public, but are not available in Latvian.

Conclusions and recommendations of various UN bodies, apparently of their relative shortness have been translated into Latvian and are, for most part available on the website of the Government Representative to International Human Rights Organisations.⁸⁸ A detailed

⁸⁸ Apvienoto Nāciju Organizācijas Augstā komisāra cilvēktiesību jautājumos birojs s Cilvēktiesību komitejas noslēguma secinājumi: Latvija[1] 2003. gada 6. novembris Ccpr/co/79/lva. At <http://www.mkparstavis.am.gov.lv/lv/?id=132>; ANO Spīdzināšanas izskaušanas komitejas 31.sesijas noslēguma secinājumi: Latvija CAT/C/CR/31/3 2004. gada 5. februāris at <http://www.mkparstavis.am.gov.lv/lv/?id=136>

explanation of recommendations by UN CAT to Latvia in line with relevant international standards (UN, Council of Europe) has also been made available by the Bureau on their website.⁸⁹

Implementation of the recommendations of international organisations by the Latvian authorities, however, is a subject meriting profound analysis.

Nevertheless, absence of publicly available reports and lack of availability of translations in the Latvian language has meant that the reports may have benefited only a limited readership and may have reduced impact on raising public awareness in protecting and promoting human rights in places of detention in Latvia.

⁸⁹ Spīdzināšanas novēršanas komitejas 2004.gada 5.februāra secinājumu un ieteikumu analīze. [Analysis of Conclusions and Recommendations of February 5, 2004 by the Committee against Torture]. Sagatavojis MK Pārstāvja starptautiskajās cilvēktiesību institūcijās birojs [Prepared by the Bureau of the Government Representative to International Human Rights Organisations]. November 17, 2004, www.mk.parstavis.am.gov.lv last accessed at February 7, 2006.

6. Complaints

While the current paper focuses on preventive visits to places of detention as understood by the OPCAT and the CPT, this section briefly highlights problems concerning investigation of complaints from places of detention by various domestic institutions, an issue meriting separate research.

The primary function of nearly all external and internal oversight bodies of places of detention in Latvia has been the investigation of complaints, which, over years, have grown in number and, undoubtedly impacted on the willingness and the ability of these bodies to conduct preventive visits. Nevertheless, there has been little research in studying the effectiveness of complaints bodies in examining complaints from places of detention and limited attempts to improve the existing complaints systems and procedures.

Prisons

Recent years have seen a massive increase in the number of prisoner complaints to all internal and external complaints bodies. The number of prisoner complaints to the Latvian Prison Administration increased by 52% in 2003 compared to 2002 when there were 2218 complaints, by 33% in 2005 compared to 2004, while complaints to Special Multi-Branch Prosecutor's Office increased by 45% in 2004 compared to 2003, and 67% in 2005 compared to 2004.

The number of complaints to the National Human Rights Office increased from around 500 complaints in 2004 to over 800 complaints in 2005.

Year	Prison Administration	Specialised Multi-Branch Prosecutor's Office	National Human Rights Office	Madekki (Health Control Authority)
2003	3373	612		80
2004	3784	893	291	180
2005	5044	1470	674	353

Sources: Annual Reports by the Latvian Prison Administration, 2002-2005, information provided by the Office of the Prosecutor General; Annual Reports of the National Human Rights Office

Different reasons have been cited for the high increase in the number of prisoner complaints. While an internal complaints system exists in the Latvian prisons, and prisoners can complain to custodial staff and prison administration orally and in a written form, contrary to the practise in many other prison systems in the world, a prisoner is not obligated to initially exhaust the internal complaints system. In parallel, prisoners can also complain to Prison Administration, National Human Rights Office, prosecutors' office, courts, including Constitutional Court, local authorities, NGOs, international organisations, etc. This often results in identical complaints being forwarded to several institutions. The complaint is either forwarded to responsible institution or several complaints bodies attempt to resolve the same issue. Experts have also drawn attention to the problem of timely and

effective review of prisoner complaints, as complaints are frequently sent from one organisation to another, and complaints bodies are often uninformed about the decisions and measures taken by other bodies.

Since December 2004, the number of complaints bodies prisoners can send requests and complaints to at the cost of the prison, has also risen. In May, 2005 a uniform registration of the prison correspondence (submissions, requests, and complaints) was introduced throughout the whole prison system.

There is lack of regular analyses of complaints within the complaints bodies, and lack of regular co-operation between various complaints bodies that would address the root causes of prisoner complaints. Many complaints arise from lack of uniform interpretation of legal provisions by prisons, absence of information on relevant national legislation and international human rights standards. While there has also been recognition among prison leadership that the majority of complaints can be resolved within the prison, it is not infrequent when prisoners lack trust in the internal prison complaints system.

A prisoner complaints reform would be urgently required to overcome the prisoner complaints crises that would address changes in the procedure of reviewing prisoner complaints, regular analysis of prisoner complaints within individual complaints bodies, and facilitate intensive co-operation between complaints bodies to address the root causes of such complaints. Prisoner complaints procedures and venues in other prison systems would merit further research.

Police

Several complaints bodies are mandated to review individual complaints about police misconduct. Complaints can be addressed to internal complaints review bodies - the head of city or district state police headquarters, internal complaints review bodies that have been established within the largest city or district state police forces, such as the capital Riga, Internal Security Office of the State Police which reports to the State Police Commissioner, and the Central Personnel Inspection Board of the Ministry of Interior which reports to the Minister of Interior. Criticism has been voiced by domestic and international organisations as to independence of these police complaints bodies. As to external complaints mechanisms complaints can be forwarded to prosecutor's office, National Human Rights Office, and NGOs.

A policy paper on police complaints bodies has been published by the Centre for Public Policy "Providus", while marginally focusing on police detention issues. The paper analyses international standards concerning police and relevant control mechanisms, models of different police oversight bodies investigating complaints about police and their strengths and weaknesses, describes and analyses different police complaints bodies in Latvia, presents findings of a survey on public attitudes towards police, awareness of venues of complaints, readiness to complain about police misconduct, etc. The paper concludes that in Latvia police complaints are perceived as isolated cases and not as indicators of systemic problems in the police, that the outcome of complaints is not followed upon, thus falling short of standards of police oversight in established democracies, etc.⁹⁰

⁹⁰ Ruķere Ilze, Sūdzību izskatīšana un policijas atbildība [Examination of Complaints and Police Accountability], Sabiedriskās politikas centrs "Providus", Riga: 2005

Statistics on complaints concerning police violence against individuals, as acknowledged by the police authorities, began to be separated only in 2003 in response to the CPT recommendations. The State Police publishes an overview on the number of submissions and complaints about the conduct of police officers from the State Police, and the number of disciplinary investigations. While the overviews do not include separate statistics on the number of submissions and complaints on police violence, they include the number of disciplinary investigations on police violence.

Number of disciplinary investigations on police violence, 2003 - 2005

State Police structural unit	Number of disciplinary investigations	Police violence confirmed in cases	Number of police officers imposed disciplinary punishment
State Police Central Board	90	6	12
Riga Central Police Board	234	2	1
Jelgava Police Board	32	2	2
Daugavpils Police Board	24	2	2
Liepāja Police Board	25	1	2
Ventspils Police Board	9	2	2
Jurmala Police Board	10	1	1
Valmiera Police Board	10	0	0
Riga Regional Police Board	17	0	0
Limbaži Police Board	11	0	0
Kuldīga Police Board	11	1	1
others			
Total	563	24	39

Source: State Police, Internal Security Office, 2003-2005

Thus, during three years, when the statistics began to be compiled about complaints alleging violence against persons by police officers, the fact of police violence was confirmed only in 4,3% of disciplinary investigations, which lead to the disciplinary punishment of 39 police officers. The statistics are even more striking in the capital Riga, where of the 234 disciplinary investigations, the fact of violence was confirmed only in 2 cases or less that 1% of disciplinary investigations and resulted in the disciplinary punishment of 2 police officers. There are no detailed statistics provided as to the types of disciplinary punishment imposed upon police officers. Moreover, the statistics collected by the Internal Security Office of the State Police do not include complaints about municipal police officers.

Additional research is required on the number of criminal proceedings which were initiated as well as specific criminal and disciplinary sanctions imposed following complaints of ill-treatment and public awareness needs to be raised on the creation of a fully-fledged independent investigation body.

7. International Standards on Independent National Institutions

The last few decades have seen the proliferation of national human rights institutions, ombudsmen, specialised bodies with multiple or single (e.g. children, anti-discrimination) mandates and the evolvement of international standards on such institutions at global and regional level. In 1993 the UN General Assembly approved “Principles Relating to the Status of National Institutions”, which are popularly known as Paris Principles. The Paris Principles list criteria concerning effective functioning of a national human rights institution, such as institutional and functional independence, broad mandate, adequate funding and different human rights protection functions.⁹¹ Reports aimed at assisting national institutions in order to improve their performance and impact by using benchmarks and indicators to assess their work have recently been published.⁹² At the same time, it has been argued that, in the past, “there has not been much direct contact between national human rights institutions and [UN] treaty committees, and that the committees hardly ever look at the structure and work of national human rights institutions when committees respond to state reports, and, conversely, national human rights institutions rarely provide information to treaty bodies, become involved in preparation of state reports or publicize or monitor these reports and the comments made by the committee.”⁹³

At the same time, there have been developments on the elaboration of regional standards related to different thematic mandates of the relevant national bodies. On regional level, European Commission against Racism and Intolerance has issued a General Policy Recommendation No 2 (No 7) on criteria for specialised bodies to combat racism, xenophobia, anti-semitism and intolerance at national level⁹⁴, while the Parliamentary Assembly of Council of Europe has issued a Recommendation 1615 (2003) on the institution of ombudsman.⁹⁵

The European Committee for the Prevention of Torture, since its establishment in 1987, has developed its own jurisprudence concerning different aspects of domestic monitoring bodies mandated to inspect places of detention, which are to be found in its substantive reports and country visit reports. These address creation of independent visiting bodies, independence, criteria for effective visits, powers and visiting methodology. While the CPT has proactively and consistently recommended the establishment of national inspection mechanisms for different types of detention and has developed some criteria for their effective function, on several issues they are not as detailed and developed as the criteria

⁹¹ Principles relating to the status and functioning of national institutions for protection and promotion of human rights. Fact sheet No 19, National Institutions for the Promotion and Protection of Human Rights, at www.unhcr.ch/html/menu6/2/fs19.htm.

⁹² Assessing the Effectiveness of National Human Rights Institutions, 2005. International Council on Human Rights Policy. Versoix, Switzerland, 45 p. At www.ichrp.org

⁹³ In: Linda C.Reif, The Ombudsman, Good Governance and the International Human Rights System, p.116, Martinus Nijhoff Publishers, 2004.

⁹⁴ General Policy Recommendation No 2 (No 7) on criteria for specialised bodies to combat racism, xenophobia, anti-semitism and intolerance at national level, at www.coe.int/t/e/human_rights/ecri/1-ecri/3-general_themes/1-policy_recommendations/recommendation_n2/Rec02en.pdf

⁹⁵ Parliamentary Assembly Recommendation 1615 (2003) The institution of ombudsman, at [http://assembly.coe.int/Documents/AdoptedText\(ta\)3/EREC1615.htm](http://assembly.coe.int/Documents/AdoptedText(ta)3/EREC1615.htm)

for national preventive mechanisms as outlined in the Optional Protocol to the UN Convention against Torture.⁹⁶

Optional Protocol to the Convention against Torture

The Optional Protocol to the UN Convention against Torture was adopted in December, 2002 and came into force in mid-June, 2006, when 20 countries had ratified OPCAT. The Protocol foresees the creation of a Sub-Committee to the Committee against Torture, which will be composed of ten independent members. The mandate and powers of the Sub-Committee are similar to those of the CPT – to visit places where persons are deprived of liberty, and access to all information, places of detention, and unrestricted access to detainees. After the visit, the Subcommittee transmits to the States Parties a confidential report containing recommendations, which the States can authorise. In case of refusal to cooperate, the Sub-Committee can propose to the UN Committee against Torture to adopt a public statement or to publish the report.

At the same time, OPCAT sets out standards and criteria for domestic inspection mechanisms which might be designated as “national preventive mechanism” to guarantee the effective and independent functioning of these bodies and to ensure that they will be free from any undue interference.

The OPCAT does not prescribe any particular form that national preventive mechanisms must take, allowing for the States Parties to have the flexibility to choose the type of body that is most appropriate to their particular context. A national preventive mechanism can be a national human rights institution, an Ombudsman, an NGO, a lay people scheme, or any specialised body set up specifically to monitor places of detention.

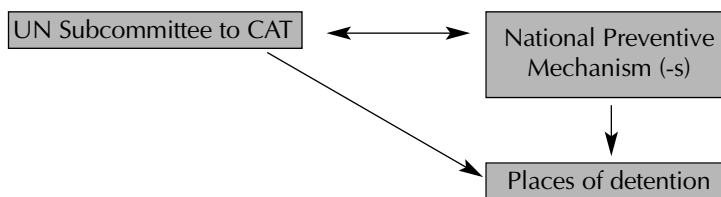
Articles 17-23 of Part IV set out State Party’s obligations concerning national preventive mechanisms. OPCAT requires the States Parties to give due consideration to the Paris Principles, which set out criteria for effective functioning of national human rights institutions, such as guarantees of functional and financial independence, founding basis, pluralistic composition, etc.

Articles	OPCAT
Article 17	<ul style="list-style-type: none"> · To maintain, designate, establish one or several independent national preventive mechanisms · Decentralized units may be designated as NPMs if they are in conformity with its provisions

⁹⁶ For more detail see “Visiting places of detention at the national level: Recommendations of the European Committee for the Prevention of Torture Considered in light of the OPCAT” at www.apt.ch.

Article 18	<ol style="list-style-type: none"> 1. functional independence; independence of the personnel 2. experts: <ul style="list-style-type: none"> · necessary knowledge and skills · gender balance · adequate representation of ethnic and minority groups in the country 3. necessary resources for the functioning of the NPMs 4. when establishing NPMs, due consideration to the Paris Principles
Article 19	<p>Minimum powers</p> <ol style="list-style-type: none"> 1. regularly examine treatment of persons deprived of liberty in places of detention 2. make recommendations to authorities 3. submit proposals and observations concerning existing and draft legislation
Article 20	<p>To fulfil mandate:</p> <ol style="list-style-type: none"> 1. to be granted access to all information – number of persons deprived of liberty in places of detention, number of places and their location 2. access to all places of detention and their facilities 3. private interviews with persons deprived of their liberty without witnesses, either personally or with a translator 4. liberty to choose places they want to visit and persons they want to interview 5. right to have contacts with Subcommittee on Prevention
Article 21	Safeguard against any sanctions or wrongdoing by an authority or official towards an individual or organisation communicating with NPM
Article 22	Competent authorities shall examine recommendations of NPMs and enter into a dialogue on possible implementation measures
Article 23	State parties undertake to publish and disseminate annual reports of NPMs

Some of the state parties will choose to set up new bodies (e.g. Switzerland), while others plan to designate an already existing mechanism, however, assessment will need to be made whether it fully complies with the obligations under OPCAT. The Sub-Committee will also be able to look at the effective functioning of the national preventive mechanism, and it can make recommendations to the State Party with a view to strengthening its capacity and mandate to prevent torture and ill-treatment. The OPCAT also requires national preventive mechanisms to have contact with the UN Sub-Committee, and the State Parties have the obligation to encourage and facilitate these contacts.



States Parties are obligated to have national preventive mechanisms in place upon ratifying OPCAT. However, they may make a declaration upon ratification under Article 24 to temporarily postpone their obligations in respect of the national mechanisms for a maximum period of five years.⁹⁷

In Latvia discussion is only emerging concerning effectiveness of independent national human rights institution and should be a subject of substantial research and analysis.

⁹⁷ For more detail see Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment: A Manual for Prevention, Inter-American Institute for Human Rights, Association for the Prevention of Torture, 2005. p.98-104.
<http://www.apt.ch/publications/library/OPCAT%20Manual%20English.pdf>

8. Inspection bodies - Latvia

Different bodies tasked with examining complaints and monitoring places of detention have been set up in Latvia. These are internal inspection bodies within the system of places of detention, within responsible ministries, and independent custody visiting bodies. Some have roots in the Soviet period, and continue to face the challenge of organisational change and reassessment of philosophies underlying their work. Most have been established since Latvia regained independence in 1991. This section of the paper does not provide for an exhaustive description and analysis of the different inspection bodies, but focuses on several independent inspection bodies, such as the National Human Rights Office, Specialised Multi-Branch Prosecutor's Office, district prosecutors' offices, several inspection bodies attached to various ministries and provides initial assessment of their compliance with OPCAT. The section also tries to identify gaps in the oversight of specific places of detention. As to civil society oversight, there is only one human rights NGO, the Latvian Centre for Human Rights (formerly Latvian Centre for Human Rights and Ethnic Studies), involved in detention monitoring on regular basis. No lower level independent inspection bodies attached to specific institutions, similar to boards of visitors in Western European countries, have been set up in Latvia.

8.1 Independent inspection bodies

8.1.1. National Human Rights Office

Any evaluation of the NHRO's contribution to prevention of ill-treatment in custodial facilities in Latvia and preliminary assessment of its compliance with criteria under OPCAT cannot be performed without providing an overall context of the NHRO development since its inception 11 years ago. To date, despite institutional transition process to an Ombudsman institution from 2007, there has been no assessment of the performance of NHRO.

The final document of the 1993 UN World Human Rights Conference called on countries to establish national programmes for the protection and promotion of human rights. On 24 January, 1995 the Latvian government approved a National Programme for the Protection and Promotion of Human Rights. The programme envisaged the establishment of an independent institution for the protection and promotion of human rights. The National Human Rights Office was established on July 18, 1995 on the basis of the Cabinet of Ministers Regulations, while the Law on the National Human Rights Office was adopted on 5 December, 1996. In this regard, mention has been made on the need to amend the Constitution to ensure the legal independence of NHRO.⁹⁸

⁹⁸ Opinion of the E.U. Network of Independent Experts in Fundamental Rights Regarding the Role of National Institutions for the Protection of Human Rights in the Member States of the European Union, March 2004, CFR-CDF.Opinion1.2004 at http://ec.europa.eu/justice_home/cfr_cdf/doc/avis/2004_1_en.pdf

NHRO is mandated to protect fundamental rights and freedoms of individuals in accordance with the Constitution and international human rights treaties. Its main functions are:

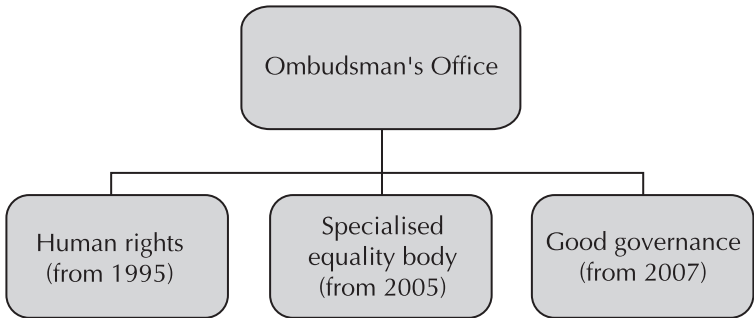
- to investigate complaints about violation of human rights and principle of equal treatment
- to investigate situation of observance of human rights in the country, especially in areas affecting vulnerable groups and principle of equal treatment
- to analyse Latvian legal norms and their compliance with Constitution and international human rights standards
- to provide balanced information to the public on human rights
- to elaborate programmes for the promotion of human rights

NHRO submits annual reports to the parliament and government on NHRO's activities and written report on current human rights issues – on quarterly basis. Annual and quarterly reports in Latvian are available on NHRO's website www.vcb.lv.

In recent years, NHRO mandate has been significantly expanded. Following the reorganisation of the State Children's Rights Protection Centre, in May 2003, NHRO set up a separate Children's Rights Protection Department. In line with the amendments of December 15, 2005 to the Law on the National Human Rights Office, NHRO also became the designated institution for implementing the principle of non-discrimination not only on the grounds of race and ethnicity as required by the European Union Directive 2000/43/EC, but for the principle of equal treatment overall, and, to this effect, established a four staff Anti-Discrimination Unit. The amendments also allow NHRO to represent victims of discrimination under civil and administrative proceedings.

On 6 April, 2006, the Law on Ombudsman Office was adopted, which will significantly expand the current NHRO Office, and in addition to the human rights and anti-discrimination mandate, it will be required to investigate individual complaints about maladministration. The law is to come into force on 1 January 2007, and staff of the Ombudsman's Office is expected to double and reach 50. The Law also envisages establishment of five regional offices.

Mandate of the Latvian Ombudsman's Office



NHRO/Ombudsman's Office has the right to request necessary information from any state and local government institution and physical and legal persons, provide proposals and recommendations, while respective institution or official is required to respond within one month. The recommendations of NHRO are non-binding.

NHRO/Ombudsman's Office may set up a Consultative Council or working groups to draft separate projects. A Consultative Council consisting of representatives of human rights NGOs, international organisations working in Latvia and the Supreme Court was set up mid-March 1999, however it ceased its activities in 2001.

Appointment of Director

Until the adoption of the Law on Ombudsman's Office in April 2006, the Director of the NHRO was nominated by the Cabinet of Ministers and appointed by the Saeima. According to the Law on NHRO the term of office of the Director is four years, and his/her salary is equated to that of a minister. Kaija Gertnere served as Acting Director of NHRO from July 1995 until May 1997. Olafs Bruvers was appointed the director of NHRO on 29 May, 1997 and served two consecutive terms until 1 June, 2005.

Since 1 June, 2005 the National Human Rights Office has remained without a director, after the candidate chosen through competition by a commission at the Ministry of Justice and proposed by the Cabinet of Ministers failed to gain the necessary confirmation in the parliamentary vote in September 2005. As the office was about to be transformed to an Ombudsman institution, the decision was taken to wait for the new institution before calling for new candidates. In the initial process of the adoption of the Law on Ombudsman Office, the law envisaged that the Ombudsman would be nominated by the President and approved by the Parliament. However, the issue of nomination became controversial during the second reading and was changed to five members of parliament.

Concern has been voiced about the current nomination procedure as the selection process of candidates for Ombudsman's post may be subject to heavy politicization and affect its authority and independence. In accordance with the law the proposal on the dismissal of Ombudsman can also be submitted by five members of parliament⁹⁹ which may make the post vulnerable to political pressures. Throughout 2006 no serious discussion took place on the leadership and the structure of the Ombudsman's institution.

Financial independence

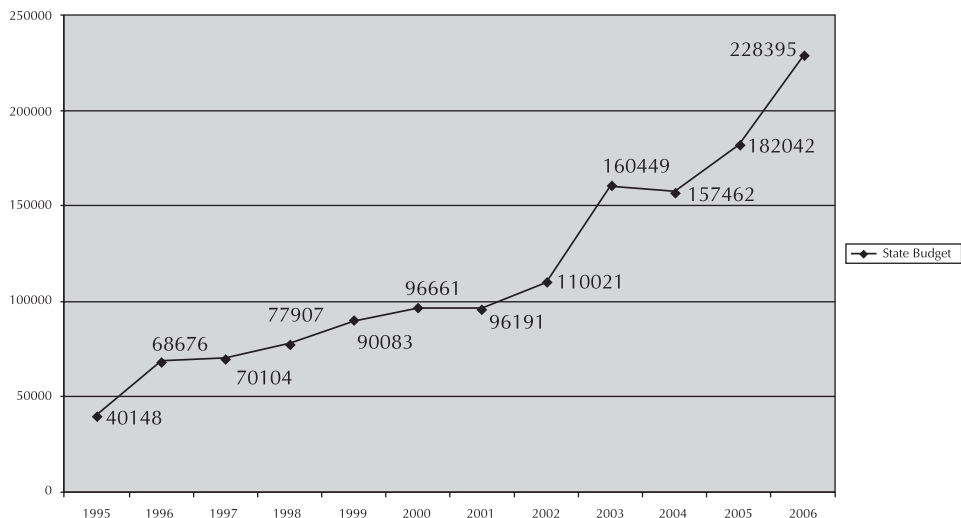
The establishment of the NHRO was strongly supported by foreign donors. In 1996, in order to assist the Latvian government to ensure successful work of NHRO, under an international

⁹⁹ Article 10 lists five reasons for the dismissal for Ombudsman: 1) leave of office upon one's own will, by submitting a written notice to the Saeima; 2) inability to perform professional duties due to one's state of health; 3) has committed a shameful act that is not compatible with the status of an Ombudsman; 4) does not fulfil his/her duties without a justifiable cause, 5) has been elected or appointed to another post.

project UNDP¹⁰⁰ and the Office of the UN High Commissioner on Human Rights¹⁰¹ granted funding to the Office in the amount of 1,7 million US Dollars over a period of four years. As to the state budget, the NHRO has struggled for its increase from the year of its establishment.¹⁰²

In subsequent years nearly each Director's introduction to the NHRO annual report drew attention to inadequate state funding and low salaries, which has prevented NHRO from engaging in analysis, research and information activities.

NHRO State Budget



In 1998 and 1999, the NHRO under the leadership of O. Bruvers suffered a management and political crises, which manifested in director's inability to co-operate effectively with United Nations bodies, departure of committed staff and conflicts of interest, decrease in funding and suspension of projects.¹⁰³ Local and international human rights experts also criticised NHRO for a reactive approach to fulfilling the office's mandate.¹⁰⁴

¹⁰⁰ UNDP contribution - \$240,000.00US, Sweden - \$400,000.00US, the Netherlands - \$350,000.00US, Finland \$150,000.00US.

¹⁰¹ Contribution by the Office of the UN High Commissioner for Human Rights - \$628,000.00US.

¹⁰² At first the budget allocated by the State for 1995 was Ls 97,300. At the end of the year the Parliament approved the changes to the budget and as a result of the reactions of the Ministry of Justice, the Office budget was reduced to Ls 14,672, which was insufficient for the Office to start work. After involvement of the Prime Minister, an additional amount of Ls 25,476 was allocated to from the Government for Unexpected Expenses, which ensured the continued existence of the Office to the end of year. In: Latvian National Human Rights Office, *1996 Annual Report*, p.4.

¹⁰³ Latvian Centre for Human Rights and Ethnic Studies, *Human Rights in Latvia in 2000*, Riga: LCESC, 2001, p.35 at http://www.humanrights.org.lv/upload_file/Cilvektiesibas%20Latvija%201999%20gada.pdf

¹⁰⁴ Latvian Centre for Human Rights and Ethnic Studies, *Human Rights in Latvia in 2001* (Riga: LCESC, 2002) . p.11.

The budgetary increase in 2003 by 46% as compared to 2002 was due to the establishment of the NHRO Children's Rights Protection Department after the reorganisation of the State Children's Rights Protection Centre. In 2005 a 25% budgetary increase was primarily due to the establishment of Anti-Discrimination Unit in the end of 2005. Thus, the largest budgetary increases to NHRO have predominantly been linked with the addition of new functions rather than allocation of additional budget to provide for the performance of all NHRO functions as required by the law.

In view of the establishment of the Ombudsman's Office in the beginning of 2007 and subsequent expansion of Office's functions, a budget of 1 million Lats has been mentioned. However, on 26 May 2005, after the meeting of the Cabinet of Ministers, which, inter alia, discussed potential budget allocation to the planned Ombudsman's Office, the out-going NHRO director O.Brüvers sent an appeal letter to the Saeima and the Cabinet of Ministers criticising the government for limited funding it was prepared to allocate to the Office despite its envisaged broad mandate. He questioned the need for the new institution if the funding was to remain at the current NHRO budget level. He cited low salaries as one of the most serious NHRO problems, as the government regulations fixed the 'top salary' for the head of unit at 250 Ls, and lawyer at – 210 Ls¹⁰⁵, and lamented that it was difficult for NHRO to perform quality work with the existing funding. He blamed low salaries as an obstacle in attracting highly qualified specialists and retaining existing staff. He praised the understanding of foreign partners who would support NHRO staff participation costs in various events, and also stressed that it was difficult for NHRO staff to explain to foreign human rights experts why the Latvian authorities did not have funding for the translation of NHRO report on human rights situation in Latvia into English, while it was spending million Lats for development of democracy and human rights in the distant Iraq.

It is important to secure the independence of the Ombudsman's institution, and financial independence is a very essential element of that. It is essential to envisage provisions in the law that determine the salaries of the staff, social guarantees and, a more direct adoption of the budget, which would not be easily subject to amendments or deductions depending on the government attitude towards the institution or political changes in the country. The fact that the government determines staff salaries and the budget, questions its independence from the executive.¹⁰⁶

In another interview in early June, in response to a question challenging NHRO's absence of prestige, former NHRO director blamed it on "the absence of prestige on the part of authorities – NHRO is not being valued as a significant institution worth to be given more funding. It is enough that NHRO exists and continues as until now."¹⁰⁷

¹⁰⁵ Until amendments to the Law on NHRO on December 15, 2005 the salaries of the NHRO staff was determined by the 2002 Cabinet of Ministers regulations Nr 214. According to the amendments, the staff salaries are fixed by the Ombudsman within the existing budget. NHRO has designed a payment scale depending on the length in office, occupied post and internal performance assessment.

¹⁰⁶ Olafs Brüvers: Atklāta vēstule Saeimai un Ministru kabinetam [Olafs Brüvers: An open letter to the Saeima and Cabinet of Ministers] at www.delfi.lv/archive/print.php?id=11302028, 26 May 2005.

¹⁰⁷ Dita Arāja, ?Ar sirdi, bez aizmugures [With a heart, without backing.] at www.politika.lv, 7 June 2005.

Composition of NHRO

NHRO staff is selected by Director through a recruitment procedure. In mid-June 2006, a substantive number (16 out of 24) of staff members, excluding administrative staff, were lawyers and the overwhelming majority were young women (22 out of 24) and Latvians. Only one staff member was an ethnic minority representative. Due to restricted budget and low salaries, the office has had a limited number of staff in relation to the wide range of functions NHRO is mandated to fulfil, and the staff increases have mostly taken place with the addition of new functions (children’s rights protection and anti-discrimination). The budgetary constraints have also led to a significant staff turnover.

Year ¹⁰⁸	Number of staff
1997	16
1998	15
1999	16
2000	16
2001	17
2002	14
2003	21
2004	22
2005	24

Source: Information provided by the NHRO.

Activities

As indicated in annual reports and interviews with NHRO staff, investigation of complaints remains key area of NHRO work since its establishment, which has influenced NHRO ability to fulfil other functions required by the law.

Places of Detention

Since the establishment of NHRO in 1995, the office has progressively focused its attention on the situation in places of detention. While visits to prisons began to be conducted soon after the establishment of NHRO, police stations began to be visited in 2000.

As in other fields, examination of complaints remains key NHRO function concerning places of detention, particularly prisons. As indicated by NHRO, until 2003, the majority of written complaints were about socio-economic issues – the right to housing and social security, while after 2003 these have been exceeded by complaints alleging violations of the right to a fair and effective trial, and the right to humane treatment and respect, – these complaints have predominantly been received from prisons.

In 2005, the NHRO received 5,589 complaints (of those – 1,878 written and 3,711 oral complaints). There are no separate statistics compiled on complaints from places of detention, but they can be found under separate categories of complaints, such as the right to humane treatment and respect, right to security, liberty and personal integrity, right to fair and effective trial, right to medical care and other categories of complaints. Complaints from

¹⁰⁸ All figures are as of December 31 of the given year.

places of detention have tended to dominate the category of complaints concerning the right to humane treatment (584 (356 – remand/228 sentenced prisoners) from prisons, 22 about police, 50 complaints from mental hospitals, 71 – from social care facilities and shelters, and 5 from illegal migrant facilities). Unfortunately, no disaggregated data by gender, language of the complainant, location, and institution are available.

As acknowledged by the staff, for a long period of time NHRO would respond to each prisoner complaint separately without addressing the issues systemically. Response to each individual response led to staff overload and ineffective use of resources. However, the visits provided NHRO staff with insight into prison management, staff attitudes towards prisoners and increasingly lead to the identification of common problems in prisons.¹⁰⁹ NHRO staff are said to be dealing with 20-30 complaints from prisons at any given time. At the same time, there is acknowledgment that regular analysis of complaints internally and with other key complaints bodies is required to address root causes of such complaints.¹¹⁰

While NHRO staff has been involved in different inter-ministerial working groups established to elaborate on different aspects concerning places of detention, there are no formal procedures in place requiring mandatory participation of NHRO in such working groups.

Mandate

From December 6, 1996 until 15 December, 2005 the Law on National Human Rights Office did not explicitly provide for a specific mandate of the NHRO to visit places of detention. Only Article 8 of the Law on Prison Administration listed Director of Human Rights Office among public officials¹¹¹ entitled to visit prisons without a special permission. The new provisions of both the Law on NHRO and the Law on Ombudsman’s Office explicitly provide for the right to visit places of detention, access to all premises and the detainees without the presence of authorities. In addition, the Law on Ombudsman allow for the visits to be conducted at any time.

Law on the National Human Rights Office (as of 15 December 2005)	Law On Ombudsman Office (adopted on 6 April 2006, in force on January 1 2007)	Law on Procedure of Holding Police Detainees (adopted on October 13 2005)
	at any time	
to visit closed facilities without receiving a special permission	to visit closed facilities without a special permission	Representatives of state and international human rights institutions shall notify in advance respective police authorities about the visit to short-term detention facility

¹⁰⁹ Pijāne, Ineta. Report on NHRO in the regional conference ‘Independent Monitoring of Places of detention in the Baltic States. April 27-28, 2006, p. 1-2, at www.humanrights.org.lv.
¹¹⁰ Interviews with Ineta Pijāne, Head of the Criminal Justice Unit, National Human Rights Office, 15 & 21 October, 2005;
¹¹¹ State President, Saeima (parliamentary) Speaker, Prime Minister, Minister of Justice, State Secretary to the Minister of Justice, Prosecutor General and prosecutors charged with prison oversight, regional senior prosecutors, whose regions include prisons.

to inspect all premises	to move freely on the territory of the facility, to visit all premises	
to meet persons held in closed facilities without the presence of the staff of the institutions	to meet in private individuals held in places of detention	

Visits to places of detention

According to NHRO visits to closed facilities are 1) planned, 2) in response to complaints, 3) following incidents or emergencies. An annual visit plan is drawn up with a specific number of visits to prisons, police cells, mental hospitals, and specialised social care homes. On average, there are 18-19 prison and police cell visits per year. Visits to specific institutions are decided upon at a later stage. Visits to a prison last for a day, when organised in response to an individual complaint – generally last for a few hours. A significant number of visits are conducted in response to an individual complaint or a specific group of complaints from one institution. Visits are only planned to large police stations with short-term detention cells, which are primarily selected according to conditions of detention.

In 2005 NHRO had planned visits to 11 prisons and 8 police detention facilities. 2005 NHRO annual report indicates that NHRO visited prisons 32 times, including 7 visits to the Riga Central Prison. However, the report does not provide a break-down of visits by types of institutions (men/women/juveniles, remand/convicted, by types of visits – in response to complaints, inspection visits, thematic visits, announced or unannounced, following emergencies). According to interviewed staff, of the 32 visits, 3 were conducted in response to emergency situations, 8 visits to closed prisons were made to assess differences in prison regimes in lowest regime and could be labelled as thematic visits, and the remaining 21 visit was conducted either in response to prisoner’s request to visit the prison to verify breaches or in response to a prisoner complaint and the NHRO staff decided to conduct a visit upon their own initiative. 3 police stations were visited in 2005. 10 visits to social care homes were planned in 2005 and 18 visits were conducted. Of all visits to places of detention, 5 were conducted to institutions accommodating children.

Nearly all visits are announced. NHRO staff may notify about the date of the visit in a letter or by telephone. Prison administration is usually notified about the visit one day prior to the visit (at times in the evening of that day). Visits to mental hospitals and social care centres are co-ordinated with the head of the institution and are notified a longer period in advance. Prior notification is explained in order to ensure the presence of the administration of the facility and relevant staff and access to documentation of individuals submitting complaints. Police detention cells may be visited without any prior notification, however, unannounced visits are generally rare.

In recent years NHRO has also undertaken visits to places of detention following incidents or emergencies. In cases when NHRO staff receives information from prisoners about allegations of ill-treatment by custodial staff an emergency visit is conducted. It is carried

out on the next day after the information has been received without prior notification to the prison administration. If breaches have been identified information is forwarded to the responsible law enforcement institution for investigation.

Emergency visit

Valmiera Prison, July 2005

- 24 July, a prisoner stabbed to death in the Valmiera Prison by other inmates
- 25 July, a massive prison search conducted by the special prison task force 'Vairogs'
- 26 July, NHRO received complaints by prisoners and their relatives alleging prisoners had been beaten with batons by the special task force resulting in bodily injuries
- 27 July, NHRO staff conducted an inspection visit to the prison and identified several prisoners with bodily injuries, and other violations of the law, such as absence of register on the use of special means by the task force
- After the inspection visit NHRO turned to the Prison Administration and the Specialised Multi-Branch Prosecutor's Office asking for investigation
- NHRO turned to the media which led to a sharp reaction by the above institutions which found the NHRO statement rash. However, similar inspection visits had been conducted in the past after prison searches in response to prisoner allegations of ill-treatment
- Neither the Prison Administration, nor Specialised Multi-Branch Prosecutor's Office identified any violations, however, they failed to provide any explanation as to the origin of prisoner injuries
- As a result, the NHRO turned to a higher prosecutorial body asking for a repeat investigation.
- NHRO acknowledged that for a comprehensive inspection there should have been a medical specialist involved, and attention that lack of funding prevented hiring of experts from other fields.

According to NHRO, the staff members generally enjoy unrestricted access to places of detention, also acknowledging that in the past, former NHRO director O.Brüvers frequently participated in the visits, and that *"he was sort of more known and there were never problems."* Two NHRO staff lawyers have been issued permits by the National Prison Administration for a period of one year. Interviewed NHRO staff drew attention to the fact that while there were no problems in accessing police detention cells in the regions, it was more difficult to carry out an announced inspection visit to police detention cells in Riga. Problems have been encountered in accessing court detention facilities at the Riga District Court which are under the authority of Convoy Police Division of the Riga Central Police Board who required prior notification and permission to access facilities was difficult to receive.¹¹²

According to NHRO, in June 2006 despite the new powers by the NHRO to visit places of detention without a special permission, the State Police leadership required a written

¹¹² Interviews with Ineta Pijāne, Head of the Criminal Justice Unit, National Human Rights Office, 15 & 21 October, 2005; Interview with Gundega Līce & Zeltīte Kurzemniece, 14 September, 2005.

notification by the NHRO to the State Police for it to visit the State Police Temporary Detention facility in Brīvības 61, Rīga, referring to the Law on the Order of Holding Detainees, and the NHRO had complied with the requirements.

Contrary to the above practise, certain authorities have questioned NHRO's attempt to co-ordinate a visit with higher authorities as they accept an unrestricted access by NHRO to a facility.

In autumn 2004, we were in the shelter at ... street. During the day we called the shelter and told them that we were planning to visit them in the evening, and that was followed by a question "Have you already co-ordinated that with the department (Riga City Council Welfare Department)" Our director then called the department and they were surprised about such an attitude and said, "What co-ordination? Do your job."¹¹³

Access to persons deprived of liberty

According to NHRO, staff members conducting visits generally enjoy unrestricted access to persons deprived of liberty and would interview inmates without staff presence.

However, there have been occasions when NHRO powers in this regard have been contested by other authorities. On August 31, 2005 NHRO made an announced visit to the Olaine detention facility for illegal migrants to meet detained Somali asylum seekers and provide information on their rights and duties, however, were prevented from doing so by the State Border Guard officials. NHRO concluded that State Border Guard officials were not informed about the status and the rights of NHRO. They were under the impression that "State Border Guard officials intentionally tried to hinder NHRO staff and representative of the Latvian Centre for Human Rights and Ethnic Studies access to asylum seekers (NHRO staff could not talk to the detainees without the presence of the representative of the State Border Guard that prevented NHRO from providing comprehensive information about the rights and duties of detainees, as the border guard official interfered with the conversation several times making different remarks)"¹¹⁴.

Inspection teams

There is no separate NHRO unit dealing exclusively with places of detention, however, among six units of the NHRO, six staff members of several units (Civil and Political Rights, Criminal Justice (3), and Social and Economic Rights) are regularly engaged in responding to complaints of persons deprived of liberty. Head of the Criminal Justice Unit has been engaged with issues concerning prisons and police for six years and for several years was the only NHRO staff member dealing with places of detention.

Four NHRO staff members conduct regular visits to places of detention. There are two inspection teams, one visiting prisons and police short-term detention cells (two staff

¹¹³ Interview with Gundega Līce & Zeltīte Kurzemniece, 14 September, 2005

¹¹⁴ Valsts Cilvēktiesību birojs, 2005.gada ziņojums, [National Human Rights Office, 2005 Annual Report], Rīga: Valsts cilvēktiesību birojs, 2005, p.11

members), and one – mental hospitals and specialised social care homes (2-3 staff members). All are lawyers, Latvians and women.

Of the Criminal Justice Unit, one staff member deals with simpler complaints, one staff member analyses more complicated complaints and the case-law of the European Court of Human Rights, while one lawyer drafts proposals and recommendations. Another staff lawyer deals with citizenship, naturalisation and immigration issues. Of the team responsible for mental hospitals and social care homes, examination of complaints and visits to these facilities are among many other issues dealt with by the two staff members.

NHRO does not have funding to hire additional specialists to enhance inspection teams however the need for inter-disciplinary team during visits has long been recognised, especially the need for specialist doctors. Cases, requiring a doctor to examine prisoners alleging ill-treatment by prison special task force during a prison search, and a psychiatrist to interview clients of a social care home alleging sexual abuse, were mentioned by the NHRO staff. The Law on Ombudsman does not provide for hiring of additional specialists to support inspection teams.

Standards and guidelines

In inspecting places of detention NHRO follows the standards of the European Committee for the Prevention of Torture, relevant UN principles, European Court of Human Rights case-law, relevant national legislation, and uses the check-list for monitoring places of detention (prisons, police cells, mental hospitals, social care homes) from the 'Handbook on Monitoring Places of detention' published by the Latvian Centre for Human Rights (formerly Latvian Centre for Human Rights and Ethnic Studies). Some staff members have devised additional check-lists for specific purposes.

Follow-up to the visits

Reports and recommendations are written after the visits. According to NHRO, reports may be on a specific institution or of a thematic nature (a common issue identified in several institutions). In case of breaches that have been identified and that can be dealt within the institution, a report/a note is sent to the management of the institution. In case the reply of the head of the institution is found unsatisfactory, NHRO reports on findings to a higher body, such as the Prison Administration. Reports on the institution and thematic reports may generally be sent to Prison Administration, Ministry of Justice and Specialised Multi-Branch Prosecutors Office. LCHR has been able to examine only a small number of recommendations submitted to several institutions after the visits. In 2005, NHRO wrote an overview on differences in the application of prison regimes in closed prisons, which was submitted to the Prison Administration and Ministry of Justice in 2006.

The interviewed NHRO staff underlined that until the NHRO director Olafs Bruvers was in office, co-operation with senior officials of Prison Administration and National Police was largely based on the personal contacts of the NHRO director, and visit follow-ups often resulted in oral reports only. This was cited as a reason why little information on places of detention appeared in the annual reports in the early years of NHRO operation.

NHRO also noted that co-operation with the Ministry of Justice was problematic for a considerable period of time due to absence of a Ministry official responsible for prison issues and ensuing lack of capacity as cases were frequent that responses to issues raised by the NHRO were written by civil servants with no understanding of the developments in the prison system. NHRO noted that constructive dialogue with the Ministry of Justice evolved only in 2005.

Interviewed NHRO staff divides the responses of the relevant authorities to NHRO requests and recommendations into the following types:

- 1) the institution eradicates the breaches or carries out repeat investigation and informs NHRO of its results
- 2) the administration of the facility is willing to eradicate the breach, but a higher authority prevents it from doing so
- 3) the institution thanks NHRO for its concern, but responds that it can operate within its current budget
- 4) ignores NHRO recommendations and requests

Although NHRO staff notes that the awareness of the staff of places of detention has grown, however, they acknowledge that cases are not infrequent when NHRO receives a formal response by the institution in question.¹¹⁵

Access to information

NHRO has the right to request necessary information from any state and local government institution and physical and legal persons, provide proposals and recommendations, while respective institution or official is required to respond within one month.

In late January 2005, the National Human Rights Office sent a letter to all police departments with short term detention cells requesting detailed information to 16 questions on condition of detention in the cells. In the letter NHRO drew attention to the fact that they had visited most police departments with short term detention cells and had concluded that conditions in many were inhuman, and cited poor sanitation, lighting, lack of possibilities to maintain personal hygiene as some of the key problems. It reminded the authorities that international human rights organisations – UN Committee against Torture and European Committee for the Prevention of Torture had also criticized inhuman conditions in police detention cells. It noted that several individuals from Latvia had submitted complaints to human rights bodies (European Court of Human Rights) claiming that Latvia was not complying with international standards. NHRO requested detailed information on the following issues:

¹¹⁵ Interviews with Ineta Piļāne, Head of the Criminal Justice Unit, National Human Rights Office, 15 & 21 October, 2005; Interview with Gundega Līce & Zeltīte Kurzemniece, 14 September, 2005.

- Whether police detainees are informed about the house rules in police detention cells
- Whether a detainee placed in a police cell is inquired about health and whether information is written in a special register
- Whether the police custody area has an exercise yard
- Whether detainees receive a mattress and a blanket for overnight stay
- Whether cells have separate sleeping platforms or beds, a table and a chair
- Whether cells have natural light
- Whether artificial lighting is adequate for an individual to be able to read
- Whether toilet in cells is separated from the rest of area with a wall (if not, how many times are the detainees allowed access to the toilet)
- Whether police short term detention cells have separate rooms for: storage of detainee belongings; showers with hot and cold water; a separate toilet area
- Whether police detention cells have central heating
- Whether police cells have a ventilation system installed and whether it is working
- Whether there is a separate room for investigation purposes
- Whether the duration of detention in police detention cells is being observed
- How requirements concerning the provision of food are being observed
- Number of cells in custody area and whether their number is sufficient¹¹⁶

However, a detailed response was received only from 3 of the 28 police departments, while other police departments responded to the NHRO informing that following a telephone instruction by an official from the Central Board of the State Police the requested information by the NHRO would be first sent to the Central Board authorities. The NHRO unsuccessfully tried to identify the responsible police official who had given the instruction. Eventually, NHRO received 25-page information from the senior police authorities summarizing the information on police short-term detention cells by way of tables. However, the information forwarded to the NHRO on conditions of detention was uniform in nature, lacked the level of detail compared to submissions made by the 3 individual police departments and gave a limited impression about conditions of detention in police cells.

Due to restrictive provisions of the new Criminal Procedure Law, NHRO has encountered the problems of accessing decisions concerning imposing, substituting or revoking pre-trial custody. Similar situation occurred when NHRO attempted to examine case materials from investigation of a complaint against a police officer and was denied access to materials on account of the same Criminal Procedure Law provision which allows only involved parties and researchers to examine the materials.¹¹⁷

NHRO visibility

As indicated earlier in the text, NHRO writes visit reports and recommendations, publishes quarterly reports and annual reports. NHRO also issues opinions or statements on topical issues through press releases, and has published several reports on various thematic issues.

¹¹⁶ Letter No 1.1-4/13 of January 26, 2005 by the National Human Rights Office to State Police departments in accordance with attached list. On file with LCHR.

¹¹⁷ Valsts cilvēktiesību birojs, 2005.gada ziņojums [National Human Rights Office, 2005 Annual Report], Rīga: Valsts cilvēktiesību birojs, p. 21.

NHRO reports are published in Latvian only, and absence of translation of annual reports into Russian and English has been explained by lack of funding. Only two NHRO reports of 1996 and 2000 have been published in English.

There are no detailed reports on monitoring visits to specific places of detention that are publicly available. There have been no thematic reports on any of the aspects of places of detention from the establishment of the NHRO office in 1995. While mention has been made of NHRO analysis of differences of same prison regime in closed prisons in 2005, the overview is not publicly available. There is only one NHRO opinion related to places of detention - on language of prisoner correspondence with public authorities in 2003. NHRO has issued press releases on different monitoring visits, briefly summarising key findings and issues of concern, however, detailed reports have not been published.

There is scanty information on NHRO findings in places of detention in NHRO annual reports in the early years of NHRO work. Thus, in 1997 annual report there is a brief mention of visits to 3 prisons, in 1998 NHRO highlights the TB epidemic in prisons by dedicating 1 page to the problem, informs that NHRO director and staff conduct regular visits to prisons, however lists only 2 prison visits, and mentions 3 visits to mental hospitals. The 1999 annual report draws attention to complaints about police, from prisons, mental hospitals, and a more detailed analysis is given to complaints from the Illegal Migrants Centre in the Gaizina Street. Starting with the 2001 annual report more mention is being made of complaints about police misconduct and visits to police short-term detention cells. The report also highlights examples of several typical complaints from prisons and other types of places of detention. The 2002 report mentions that NHRO staff has upon their own initiative conducted visits to several police detention facilities and have identified human rights violations mostly concerning conditions of detention, and that NHRO plans to draw up a questionnaire that would be filled in during each visit to the police detention facility. At the same time, the reports notes that "to objectively evaluate problems mentioned in letters addressed to the NHRO, it conducted 7 prison visits. During the visits alleged breaches were verified, and the conditions of detention of prisoners were inspected."

2003 annual report and subsequent quarterly and annual reports are marked by increasingly more detailed and analytical information on places of detention, predominantly on most widespread categories of complaints from prisons and subsequent NHRO intervention. Examples on NHRO success stories in resolving individual complaints are also provided. 2003 report notes that 'in connection with changes in legislation and many received complaints, evaluation of prison conditions was one of the NHRO areas or work, and in 2003 ten prison visits were conducted. In order to receive more objective and comprehensive information, meetings with prisoners generally took place without the presence of custodial staff.' A small section is dedicated to key findings during NHRO visit to the illegal migrants' camp "Olaine" and issued recommendations. While similar approach in briefly describing problems in places of detention, and highlighting typical categories of complaints and NHRO success stories continues in 2004 and 2005 annual reports, reports also begin to acknowledge NHRO weaknesses in terms of absence of professional expertise on medical issues, complaints about police brutality.

In 2006 quarterly report NHRO highlights the growing trend among detainees from police cells and prisons to request an NHRO assessment of conditions of detention, to apparently

submit a claim to the administrative court. Thus, NHRO carried out an assessment of disciplinary, quarantine and ordinary cells at the Brasa Prison. According to NHRO, the number of complaints about conditions of police detention cells has increased following the European Court of Human Rights judgement in the case *A.Kadiķis vs Latvia*. NHRO also highlights the issue of confidentiality of correspondence (complaints) from police detainees.¹¹⁸

Co-operation with other custody inspection bodies

NHRO co-operation with other inspection bodies is irregular and generally reduced to information exchanges or re-forwarding of complaints to other responsible bodies. Co-operation has, however, increased with relevant officials in the Ministry of Justice. NHRO team visiting mental hospitals and specialised social care homes occasionally informs Social Services Board of the Ministry of Welfare and the Latvian Centre for Human Rights about identified breaches, while there is no co-operation with other inspection bodies such as Madekki, Food and Veterinary Service and State Sanitary Inspection Board. The team occasionally performs joint visits to specialised social care homes with Social Services Board and evaluated co-operation as fruitful with both teams enhancing each other's capacities during the visits. Several joint visits have been organised to verify whether identified breaches have been eliminated.

NHRO staff conducting visits to places of detention has not had any special training on different aspects of monitoring, but acknowledged using LCHR handbook on monitoring places of detention for themselves and intern students.

Summary

While public awareness of NHRO has grown since its establishment in 1995, its activities have been influenced by budgetary constraints, a weak leadership and limited number of staff. NHRO remains an institution overwhelmed with complaints and characterised by reactive approach in addressing human rights issues. There has been no assessment of the performance of NHRO despite its planned transition to an Ombudsman institution in early 2007. Current nomination procedure for the post of Ombudsman by five members of parliament raises concern about the potential politicization of the selection process of the candidates. Concern also remains about Office's effective independence from the parliament, executive and state institutions.

While NHRO conducts many visits to places of detention, no consistent and comprehensive system of visits to places of detention has been developed, such as full inspection visits (announced - to large facilities), follow-up visits and ad hoc visits (unannounced).

While there are no general criteria on the length and regularity of full visits, given the large capacity prisons and mental hospitals that exist in Latvia, full inspection visits should last a minimum of two days and be conducted at least once in two years. Despite the new provisions of the Law on NHRO from December 2005 providing for unrestricted access to

¹¹⁸ Valsts cilvēktiesību birojs, *Aktuālie cilvēktiesību jautājumi Latvijā, 2006.gada 2.ceturkšņa ziņojums* [National Human Rights Office, *Topical Human Rights Problems in Latvia, 2nd quarterly report of 2006*], p. 4-5 at <http://www.vcb.lv/zinojumi/2006.g.2.cet.doc>

places of detention, unannounced visits are not being conducted. Police stations are visited according to conditions of detention, visits are few and announced. In view of the high risk of ill-treatment by the police and high turnover of police detainees, more frequent and unannounced visits should be undertaken, especially outside the official working hours. Similarly, more frequent unannounced visits should be undertaken to detention rooms at border posts. Visits should also be undertaken to places of detention under construction, such as the Olaine Prison Hospital.

There are no NHRO visit reports on places of detention that are publicly available. Common issues identified in places of detention should lead to thematic reports however, there are no publicly available reports on thematic visits that have been conducted, while mention has been made of assessment of prison regimes in closed prisons. Future examples could include examination of access to safeguards (lawyer, notification of custody, doctor) by police detainees across police stations and recent arrivals in remand prisons to assess how new provisions in the Criminal Procedure Law that came into force in October 2005 are being applied in practise. Effective investigation of deaths in custody, treatment of vulnerable groups in places of detention, prisoner complaints reform are among subjects meriting special focus. NHRO should also undertake the publication of visit reports from individual places of detention where different aspects of detention have been examined.

The number of NHRO staff in examining complaints from places of detention and engaged in monitoring places of detention is limited in view of the wide ranging issues that need to be addressed in places of detention.

There are no multi-disciplinary teams inspecting places of detention and in view of the expansion of Ombudsman's office consideration should be given to structural changes of the Office by creating a separate unit dealing with places of detention and recruitment of a professionally diverse staff, including medical profession, former police officers to enhance the effectiveness of Office's work with different places of detention. In view of Latvia's ethnically diverse population, efforts should be undertaken to increase minority representation among staff.

Coordination with other oversight bodies, including civil society, should be strengthened using the opportunities provided by the existing NHRO law and the Law on Ombudsman's Office, which envisage the creation of advisory councils and establishment of working groups.

8.1.2. Prosecutorial oversight

In line with the paragraph 24 of the Recommendation of the Committee of Ministers of the Council of Europe on the Role of Public Prosecution in the Criminal Justice System prosecutors should seek to protect human rights when deciding on being involved in decision-making procedures on different issues concerning deprivation of liberty as a component of criminal process and punishment. It includes the duty to ensure or at least check proper implementation of fundamental safeguards against ill-treatment.

In many legal systems this kind of different aspects of outside scrutiny on particular issues related to deprivation of liberty are logically supplemented by inspection of places of detention by prosecutors. In many countries of continental Europe they are seen as the most appropriate state officials to fulfil the function of outside legal supervision, as well as visiting or inspecting of places of deprivation of liberty on a systematic basis. However, the situation in Latvia in this regard has been affected by immediate changes that decreased immeasurable powers of Soviet type prosecution service. While it was rightly done in respect of those related to issuing of arrest warrants and so called general supervision, an abstention from playing an active role in inspecting places of detention, including police establishments, does not meet internationally approved practises.

At the same time, while prosecutor's offices are outside and, therefore, institutionally independent inspecting bodies, they cannot be seen as fully independent due to their main functions related to leading investigation of crimes and prosecution. Nevertheless, international organisations, such as the CPT have emphasised the role of prosecutor's offices in external supervision.¹¹⁹

The Office of the Prosecutor in Latvia is a single, centralised, three level-institutional system under the management of the Prosecutor General. The public prosecution system has been established to correspond to the three-level court system in Latvia.

The work of prosecutors is governed by the Law on Prosecutor's Office, which came into in force on July 1, 1994. In accordance with Section 2, the functions of the prosecutor's office include supervision of sentence enforcement and the protection of rights and lawful interests of persons and state as provided by the law.

Section 15 of the Law on Prosecutor's Office provides for:

prosecutorial oversight of enforcement of imprisonment and places of detention.

Further, Section 16 stipulates that upon receipt of information about breach of law, the prosecutor carries out a check-up as provided by the law, if rights and lawful interests of persons with limited capacity, disabled, juveniles, prisoners or other persons who have limited possibilities of protecting their rights have been violated.

¹¹⁹ Eric Svanidze, The Role of Prosecutors in Monitoring Places of Detention. Report in: Independent Detention Monitoring in the Baltic States, April 27-28, Riga, Latvia, at www.humanrights.org.lv/upload_file/OPCAT/SvanidzePresentationENG.doc

Prosecutorial oversight of different places of detention is carried out by two different divisions of prosecutors' office. A separate division of the Specialised Multi-Branch Prosecutor's Office is responsible for the oversight of Latvia's 15 prisons, the military and illegal migrant Facility "Olaine". Responsibility of oversight of state police detention facilities lies with relevant district prosecutors' offices.

While the law explicitly provides for the duty of prosecutors concerning oversight of places of detention, interpretation of the provision and subsequent practises vary across different prosecutorial bodies in Latvia. While there are no special guidelines governing the responsibilities of the prosecutors in the oversight of various places of detention, communication between the National Human Rights Office and the Office of the Prosecutor General in the spring 2004, is indicative of the stand taken by the Prosecutor's Office, namely, narrow interpretation of the role of prosecutors reduced to examination of complaints.

On 17 March 2004, the NHRO sent a letter to 20 district prosecutors' offices throughout Latvia requesting that prosecutors' offices inspect police short-term detention cells to assess the ways detainee rights are being observed (...).¹²⁰ A reply on 24 April by the Senior Prosecutor of the Department on the Protection of Rights of Persons and State of Office of the Prosecutor General indicated that an order had been given to suspend the inspection of police detention facilities explaining that such inspection visits were not part of prosecutors' functions. While the letter makes explicit reference to Section 15 of the Law on Prosecutor's Office, which provides for prosecutorial oversight of places of detention holding suspected, accused and tried persons, it reiterates that overall inspections are not part of prosecutors' functions.¹²¹

This approach is in contrast with the information provided by the Latvian government to the UN Committee against Torture in November 2003. The report highlights that the "Prosecutor's Office has compiled data on inspections conducted in [police] short-term detention cells and remand prisons from January 1, 2001 and January 1, 2002. During inspection no cases of violence and degrading treatment of detainees were identified. The inspections conducted by Talsi and Saldus district prosecutors identified breaches of conditions of detention in police cells (inadequate ventilation, poor light, presence of fleas, difficulties in maintaining personal hygiene). Prosecutors' submissions requiring necessary measures to be taken for the improvement of conditions of detention in [police] custody have been forwarded to the authorities of these facilities."¹²²

¹²⁰ Letter Nr.1.1-4/44 of 17 March, 2004 of the National Human Rights Office to the Prosecutor's Office, on file with LCHR.

¹²¹ Response of the Office of Prosecutor General Nr 5.4-297-04 of 28 April to the letter of the National Human Rights Office Nr.1.1-4/44 of 17 March, 2004, on file with LCHR.

¹²² Additional information provided by the Latvian government for the consideration of Latvia's report by the UN Committee against Torture on 13-14 November 2003. p. 13-14. Unpublished information, on file with LCHR.

Specialised Multi-Branch Prosecutor's Office

Prisons

Until 1999, there was a specialised Prosecutor's Office of Prisons however it was merged with Transport and Military Prosecutor's Offices. As of mid-April, 2006 there was 21 prosecutors in the Specialised Multi-Branch Prosecutor's Office. Of those, 10 were supervising prison prosecutors: 1 prosecutor for Brasa semi-closed and Vecumnieki open prison, 1 prosecutor for Šķīrotava semi-closed and Olaine open prison, 1 prosecutor for Ilguciems women's prison, 1 prosecutor for Liepāja remand prison, 1 prosecutor for Daugavpils and Grīva closed Prisons, 1 prosecutor for Valmiera closed Prison and Cesis Correctional Facility for Juveniles, 1 prosecutor for Parlielupe semi-closed Prison, 1 prosecutor for Jelgava closed Prison. At the time of the interview there was no supervising prosecutor for Central Remand Prison, the largest prison accommodating 1,300 prisoners.

The Specialised Multi-Branch Prosecutor's Office sees its main function concerning prison oversight in investigating prisoner complaints, which have risen dramatically over the last few years. Therefore, most of the prison visits by supervising prosecutors are carried out in response to prisoner complaints. However, no information on the total number of prison visits by relevant prosecutors on annual basis was available at the Specialised Multi-Branch Prosecutor's Office. As told by the senior prosecutor of the division, until 1999, the specialized prosecutor's division overseeing prisons conducted frequent visits to prisons and also assessed prison conditions. Currently, prisoner complaints about prison conditions are forwarded to the Ministry of Justice.¹²³ As emphasized by S.Daugaviete, senior prosecutor of the Specialised Multi-Branch Prosecutor's Office:

Visits to places of deprivation of liberty and evaluation of the conditions of detention is not the task of prosecutors, as the duty to oversee the enforcement of laws as determined by the Law on Prosecutors' Office is too broad, therefore prosecutor's division works only with complaints and visits prisons only in cases of many similar complaints and go to prisons, when someone wants to meet them.¹²⁴

In contrast to the above, in a reply to a questionnaire on "The Duties of the Public Prosecutor towards Persons Deprived of their Liberty" to the conference of prosecutors general of Europe in mid-July 2006, the reply by Latvia to question "Does the public prosecutor have authority to control and react to the conditions of deprivation of liberty?" states

¹²³ Interview with Sandra Daugaviete, Senior Prosecutor of the Specialised Multi-Branch Prosecutors Division, November 1, 2005.

¹²⁴ S.Daugaviete's intervention during an LCHR organised round-table/seminar on prisoner complaints on February 15, 2006, Riga.

7.a Yes, the Prosecutor is authorised to inspect the conditions of imprisonment and to respond to them The provisions of the Law on Prosecution Office also provide for other rights of Prosecutors to respond to violations of the rights of prisoners, including when prison conditions are found not to be in compliance with appropriate legislation.
b. When the Prosecutor concludes that the prison conditions do not comply with the appropriate legislation, he draws up a Prosecutor's submission which is subsequently handed in to the Prison Governor.¹²⁵

Illegal migrant detention Facility "Olaine"

There is a specially appointed prosecutor at the Special Multi-Branch Prosecutor's Office with direct responsibility to oversee the illegal migrant Facility "Olaine." Since 1999, the prosecutor has once visited the formerly Illegal Migrant Detention Centre at Gaizina Street in Riga, which was closed down by the authorities in 2001, and the illegal migrant Facility in "Olaine" in 2002 or 2003. (The prosecutor recalled that she was shown a shower facility after renovation and two rooms.) The responsible prosecutor has not visited camp for asylum seekers and refugees at "Mucenieki."

According to the responsible prosecutor supervision of the facility had stopped with the adoption of Immigration Law on May 1, 2003 as the court took over the responsibility on deciding about detention or prolongation of detention, therefore the court is responsible for lawfulness of detention which is no longer the responsibility of the prosecutor, therefore the he/she has no lawful grounds to visit the illegal migrant camp to inspect whether detainee rights are being observed.

Prior to the adoption of the Immigration Law, special reception hours were organised for detainees. Visits of the prosecutor were organised in response to detainee complaints, but meetings took place also with detainees who had expressed such a wish. The last complaint from immigration detention Facility "Olaine" was received several years ago. The prosecutor was not aware of the report of the European Committee for the Prevention of Torture and their findings concerning illegal migrant Facility "Olaine."¹²⁶

Police cell oversight

The practise of district prosecutor offices concerning police cell oversight varies across Latvia. As mentioned earlier in the text, in March, 2004 NHRO forwarded letters of request to 20 district prosecutors' offices to conduct inspection visits to police detention facilities. LCHR examined responses of the letters of several prosecutors' offices, who were, apparently acting on the instruction of the Office of the Prosecutor General.

¹²⁵ The Duties of the Public Prosecutor towards Persons Deprived of their Liberty. Latvia, Replies to the Questionnaire. p.56. Conference of Prosecutors General of Europe (CPGE), Strasbourg, 27 June, 2006 at <http://www.coe.int/prosecutors/>

¹²⁶ Interview with Ērika Stankeviča of the Specialised Multi-Branch Prosecutors Division, January 30, 2006.

From information by the State Police

Many buildings, accommodating police short-term detention facilities, cannot be put to further use, as they are in dire need of basic repairs e.g. **in Ventspils it is located in a building that was built in 1850 and has no central heating, detainees cannot take a shower, and toilets freeze in winter.**

Response of the Ventspils prosecutor's office to NHRO request to conduct an inspection of Ventspils District and City Police Board Short term detention facility: Ventspils city prosecutor's office **will not inspect** Ventspils police short-term detention facility as prosecutors functions do not include ... conducting of overall inspection of short-term detention cells on observance of regulations¹²⁷

The Committee for the Prevention of Torture also conducted visits to Ventspils Police Short-Term Detention facility in 2002 and 2004. In its 2002 report CPT described the conditions of detention at Ventspils Police Headquarters as "so appalling that they could be considered as inhuman and degrading."¹²⁸

Similar attitudes by prosecutorial bodies towards inspection of police short-term detention facilities were also encountered in Riga and other regions in Latvia.

Prosecutor, Riga

Prosecutor's office does not inspect police short-term detention facility as it is of the opinion that it should not be doing it, "On what basis? Is it written in the Law on Prosecutor's Office that [they] should go to the police short-term detention facility and check-it?"¹²⁹

District prosecutor, Latgale (Eastern Latvia)

If there is a complaint, one of the prosecutor's investigates. None of the prosecutor's has been going to the police detention facility and inspecting it for already two years. In the past one went, talked to the detainees, but now has not been going for several years.¹³⁰

In contrast, more pro-active approach has been undertaken by leadership of prosecutor's offices in several districts. Starting with the year 2000, increasingly the prosecutors of several district offices (e.g., Alūksne, Dobeles, Jelgava) conducted inspection visits to police short-term detention cells under their supervision, and by identifying serious breaches,

¹²⁷ Letter Nr 4/13210 of 6 May, 2004 of the Ventspils Prosecutor's office to the letter of the National Human Rights Office.

¹²⁸ 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 from 25 September to 4 October 2002, at www.cpt.coe.int

¹²⁹ Telephone communication with Meistars, Senior Prosecutor of the Riga City Centre District Prosecutor's Office on April 4, 2006.

¹³⁰ Telephone communication with Peļņa, Senior prosecutor Rezekne Prosecutor's Office on April 4, 2006.

demanded immediate response from responsible state authorities to allocate funding.¹³¹

Dobele District Prosecutor's Office

Dobele District Prosecutor's Office has a senior prosecutor and four prosecutors. The senior prosecutor has issued an instruction about division of responsibility among prosecutors, including territorial oversight responsibility of each prosecutor. Prosecutors conduct regular visits to police stations both in Dobele and in the rural areas. Senior prosecutor also determines weeks-on-duty for each prosecutor and during the week the responsible prosecutor visits Dobele District and City Police short-term detention facility. Visits may be conducted during the day, night, evenings or even holidays and without prior notification. The fact of regular prosecutorial visits was also confirmed by the police leadership of the Dobele District police in LCHR monitoring visit to the above police station. The construction of a new police short-term detention facility in 2001 is considered the greatest success which was achieved for various reasons.

Example of Good Practise

Construction of a new police detention facility in Dobele in 2001/2002

- unbearable conditions in old police detention cells, standards below security requirements
- in summer 2000 Dobele District senior prosecutor conducts an inspection visit to Dobele District and City Police Detention Facility
- September 4, 2000 prosecutor's submission to Dobele District and City Police authorities – identifies violation of national legal provisions and international human rights standards on 19 issues, and issues a deadline to eliminate breaches – 31 December, 2000.
- 16 February, 2001 senior prosecutor demands the closure of Dobele police short-term detention facility by 28 February
- Decision supported by other officials: regional senior prosecutor, Head of Dobele police
- Chairman of Parliamentary Defence and Home Affairs Commission, Centre of National Environment and Public Health involved
- Dobele senior prosecutor: "prosecutor may achieve improvement of conditions of detention of police cells, but it is difficult and almost unrealistic without the support of other public officials"
- Construction of a new police detention facility– joint success of all involved parties¹³²

Thus, two approaches in prosecutorial oversight can be identified in Latvia. Prosecutors from certain rural districts conduct visits to short-term detention facilities regularly and evaluate all aspects of detention, including conditions of detention. However, the majority of prosecutors continue to react to complaints, and many prosecutors continue to hold the

¹³¹ Annija Dāce, Īslaicīgi aiz slēgtām durvīm [Temporarily behind closed doors], at www.politika.lv 30 May, 2006.

¹³² Interview with Dobele District Senior prosecutor Aigars Grišāns, 17 February 2006.

view that oversight of individual's rights and interests do not fall into their competence, although it is provided for in the Law on Prosecutor's Office. In this respect, NHRO has called for more active engagement of prosecutor's offices in inspecting police short-term detention cells and carrying out assessment of their compliance with relevant standards and their further use, emphasising the importance for such assessments in view of the legally binding nature of the prosecutor's decisions as opposed to NHRO assessments, which are recommending in nature.¹³³

REACTIVE	PROACTIVE
mostly react to complaints during visits to places of detention, visit only the complainant or examine complainant's file	visit places of detention regularly
narrowly assess aspects of detention	evaluate all aspects of detention, including conditions of detention

International experts have also emphasised that Article 15 (1) of the Law on Prosecutor's Office directly states that according to its legal analysis and the scope of prosecutorial supervision is and should include places for holding arrested, apprehended or detained persons. On that basis and in the light of recommendations given to the authorities (CPT) further elaboration of respective legal provision is required.¹³⁴

Prosecutorial oversight and NHRO work has also received the attention of European Committee for the Prevention of Torture, which in its 1999, 2002 visit reports to Latvia highlighted the role of effective complaints and inspection procedures in preventing ill-treatment in different places of detention.

Police detention facilities

The CPT considers that systems for the inspection of police detention facilities by an independent authority are capable of making an important contribution towards the prevention of ill-treatment held by the police and, more generally, of ensuring satisfactory conditions of detention. To be fully effective, the visits by such an authority should be both regular and unannounced, and the authority concerned should be empowered to discuss in private with detained persons. Further, it should examine all issues related to the treatment of persons in custody; the recording of detention; information provided to detained persons on their rights and the actual exercise of those rights (the right to inform a close relative or another third party of their choice of their situation, the right of access to a lawyer, and the right of access to a doctor); compliance with rules governing the questioning of criminal suspects; and material conditions of detention.

¹³³ Annija Dāce. Īslaicīgi aiz slēgtām durvīm [Temporarily Behind Closed Doors]. 30 May, 2006. www.politika.lv

¹³⁴ Eric Svanidze, The Role of Prosecutors in Monitoring Places of Detention. Report in: Independent Detention Monitoring in the Baltic States, April 27-28, Riga, Latvia, p.4 at <http://www.humanrights.org.lv>

1999, 2002 reports

The relevant prosecuting/judicial authorities in Latvia are no doubt empowered to visit places where persons are detained by the police. However, the information gathered by the delegation indicated that **such visits were not a common occurrence**. The representative of the Latvian National Human Rights Office (which has inter-alia an Ombudsman type function) informed the delegation that the Office also had the right to visit police detention facilities, but that limited resources prevented it from making regular use of its powers in this area.

The **CPT recommends** that the **relevant prosecuting/judicial authorities** throughout the country be encouraged to carry out regular **and unannounced visits to places where persons are detained by the police**. The Committee would also stress the desirability of prosecutors/judges being **accompanied** in the course of such visits **by a forensic doctor**.

In its 2002 report CPT expressly requested comprehensive information on the frequency of visits of prosecuting/judicial authorities, Police inspectorate, National Human Rights Office to police detention facilities in 2002, and action taken following the visits. However, no such information is provided in government responses.¹³⁵

Prisons

The CPT attaches particular importance to regular visits to all prison establishments by an independent body (for example, a visiting committee or a judge/prosecutor with responsibility for carrying out inspections) with authority to receive – and, if necessary, take action on – prisoners' complaints and to visit the premises. During such visits, the persons concerned should make themselves 'visible to' both the prison authorities and staff and the prisoners. They should not limit their activities to seeing prisoners who have expressly requested to meet them, but should take the initiative by visiting the establishments' detention areas and entering into contact with inmates.

1999 report

According to the information gathered by the delegation, prisons are inspected on a regular basis by prosecutors, who are entitled to visit the detention areas (in order to inspect conditions of detention) and to control compliance with legislation and regulations (including disciplinary measures). However, members of staff in both prisons visited informed the delegation that the relevant prosecutors would normally limit their inspections to examining the legal and administrative document of prisoners.

The CPT **recommends** that the Latvian authorities take steps to ensure that **prosecutors** in charge of inspecting prison establishments **regularly visit detention areas and enter into direct contact with prisoners**.

¹³⁵ 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 from 25 September to 4 October 2002, at http://www.cpt.coe.int/documents/lva/2005-08-inf-eng.htm#_Toc39911098

In 2002 report CPT reiterated the same recommendation to prosecutors concerning the importance of regular visits to all prison establishments. It also noted that the National Human Rights Office also carried out visits to Latvian prisons and that visit reports and recommendations were submitted directly to the Ministry of Justice. The CPT requested detailed information (e.g. frequency of visits, conclusion, etc.) on the visits carried out by the National Human Rights Office to Latvian prisons in 2002, and on the action taken by the Latvian authorities.¹³⁶ However, there is no information provided on the NHRO visits in the government responses.

¹³⁶ 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 from 25 September to 4 October 2002, at http://www.cpt.coe.int/documents/lva/2005-08-inf-eng.htm#_Toc39911098

8.1.3. Civil society oversight

Civil society in Latvia has progressively engaged in work with places of detention by beginning with humanitarian assistance to prisons, mental hospitals, etc. and gradually building its capacities in organising different training programmes to both persons deprived of liberty and staff of the facilities, providing legal consultations, conducting research, raising public awareness on relevant international standards and eventually monitoring human rights in detention facilities. Donor organisations have played a major role in promoting civil society engagement and capacity building in places of detention.

Despite greater civil society involvement in places of detention, there remains only one NGO – the Latvian Centre for Human Rights (formerly Latvian Centre for Human Rights and Ethnic Studies) - in Latvia that has been involved in monitoring places of detention since mid 1990s. The first visits to prisons and mental hospitals by LCHR staff were conducted in 1995, and findings of some of the visits were included in the LCHR newsletters. In 1998 LCHR launched its first annual human rights report which includes sections on 'Torture, Ill-Treatment and Misconduct by Law Enforcement Officials,' 'Conditions in Prisons and Detention Facilities,' 'The Mentally Ill', 'Asylum Seekers and Illegal Immigrants' and include findings from monitoring visits. The reports have followed the format of the annual human rights report of the International Helsinki Federation for Human Rights, of which LCHR is a member since 1998, and have been published in Latvian and English. Some of the reports have also been published in Russian. In the end of the 1990s, LCHR staff also began visiting state police stations, visits were arranged directly with heads of relevant police departments. In December 2000 LCHR staff member was elected to the European Committee for the Prevention of Torture for a term of four years. Since 2001, LCHR has been administering the Mental Disabilities Advocacy program, delegated to LCHR by the Soros Foundation-Latvia.¹³⁷

Monitoring of places of detention in Latvia has largely been conducted by LCHR on project basis. From September 2002 – March 2003 within the project "Monitoring Closed Institution in Latvia"¹³⁸ the Latvian Centre for Human Rights and Ethnic Studies visited 10 places of detention under the authority of the Ministries of Justice, Interior, Education and Science, Welfare, and Defence, and findings and recommendations were published in a report¹³⁹. In 2003 LCHR carried out a monitoring project¹⁴⁰ in 23 social care homes for mentally disabled, however, no report was published on the findings. From April 2003 until mid-2006 LCHR was a lead organisation in the project "Monitoring Human Rights and Prevention of Torture in Closed institutions: prisons, police cells and mental health care institutions in Baltic countries"¹⁴¹, implemented in partnership with the Centre for Public

¹³⁷ The aims of the program are to promote deinstitutionalization and to support the development of community based services for mentally disabled and to develop advocacy for mentally disabled

¹³⁸ The project was funded by the European Community European Initiative for Democracy and Human Rights Micro projects programme in Latvia.

¹³⁹ Monitoring Closed Institutions in Latvia, Report by the Latvian Centre for Human Rights and Ethnic Studies, 2003, at http://www.humanrights.org.lv/upload_file/EUmazaisMonitorClosed.pdf

¹⁴⁰ The project was funded by the Danish Embassy in Latvia.

¹⁴¹ Project Funded by the European Commission, EuropeAid Co-operation Office – European Initiative for Democracy and Human Rights.

Policy PROVIDUS (Latvia), Geneva Initiative on Psychiatry (the Netherlands) regional office in Lithuania, and the Mental Disability Advocacy Centre in Hungary. The main activities of the project were monitoring visits to places of detention; legal aid and litigation; training for the staff of institutions; and drafting policy recommendations for the governments.

Monitoring visits to mental hospitals, social care homes for mentally disabled were conducted in all the three Baltic States, while, in Latvia monitoring visits were also conducted to prisons, police cells, and immigration detention facilities. The total number of visits conducted in Latvia was 102 visits. The project led to the publication of a handbook in Latvian for those monitoring places of detention, various brochures on the rights of immigration detainees (in six languages), residents of mental hospitals and social care homes (in Latvian and Russian), and complaints bodies and procedures for prisoners (Latvian and Russian), a policy paper on Human Rights in Mental Health Care in Baltic Countries (in four languages), several thematic papers on prison issues, such as prison employment and conditional release, and translation of the CPT standards in Latvian¹⁴². A team of monitors representing different professions was trained nevertheless the number of civil society representatives engaged in monitoring remained limited throughout the project. LCHR has no legal mandate in monitoring places of detention and permissions to conduct visits were sought on case-by-case basis, thus, all the visits were announced. Despite LCHR long-time engagement in work with places of detention, a significant number of visits were initial visits and a smaller number of visits were follow-up visits. While internal reports were prepared after each visit, the findings, conclusions and recommendations were published in a final report. At the same time, findings from visit reports were also incorporated in other publications produced during the project. Findings were also shared with various international organisations, such as the CPT, UN Working Group on Arbitrary Detention and several domestic visiting bodies, such as the National Human Rights Office and will be used to submit a shadow report to the UN Committee against Torture when it reviews Latvia's periodic report.

There have been other instances of NGO engagement in monitoring places where persons deprived of liberty were held. The Latvian Save the Children conducted visits to different social care facilities holding children, which resulted in several highly publicised cases alleging ill-treatment by staff in children's institutions, resulting both in dismissal of some of the staff, but at the same time concern was also expressed about professionalism of the monitoring team. The Association of Foreigners conducted visits to illegal migrant camp to provide legal assistance to asylum seekers held in the camp, however, the involvement of other NGOs in monitoring of places of detention has been of a relatively short nature and has been based on foreign donor funded projects.

8.2 Internal Inspection Bodies

There is a significant number of inspection bodies set up within different ministries, with different subordination and varying levels of autonomy, that are mandated with the task of oversight of different places of detention. Some mechanisms focus on specific target groups

¹⁴² Information on most of the activities is available on the LCHR website www.humanrights.org.lv

(e.g. children), some focus on thematic areas (e.g. medical care, food safety, state of sanitary hygiene in different facilities, etc.). The section of the report provides a brief overview of such inspection bodies, highlighting in detail several examples of such oversight mechanisms. In view of the LCHR focus on independent detention monitoring bodies LCHR is not in a position to evaluate the effectiveness of the work of these mechanisms.

Type of places of detention	Internal with different degrees of autonomy	ministry/other level
Military disciplinary detention facility		Inspector General of the Ministry of Defence
Municipal police detention cells	–	relevant municipality*
State Police Detention Cells	Internal Security Office of the State Police	Central Personnel Inspection Board of the Ministry of Interior
Social care homes for mentally disabled	–	Social Services Board of the Ministry of Welfare
Immigration detention facilities	Inspection of the Central Board of the Border Guards	Central Personnel Inspection Board of the Ministry of Interior
Mental hospitals	–	–
Prisons**	Inspection of the Latvian Prison Administration	–
Detention facilities accommodating children (prisons, mental hospitals, etc.)	–	Children’s Rights Inspection Board of the Ministry of Child and Family Affairs

* While municipalities are mandated with the oversight of municipal police, LCHR has not been able to verify whether inspection visits by representatives of municipality have been conducted to municipal police detention cells, where such have been established

** A General Inspectorate of Prisons under the aegis of the Ministry of Justice staffed by two persons operated from 2000 until 2004. At present, there is no prison inspectorate at the Ministry of Justice level.

Several of the inspection bodies focus on thematic issues in a range of places of detention.

inspection body	places of detention¹⁴³	issue
Health Authority Inspection Board (Madekki)	prisons, state police detention facilities, mental hospitals, social care homes,	quality of medical care
Food and Veterinary Inspection Board	all places of detention with food catering facilities	food quality

¹⁴³ Information provided to LCHR by representatives of inspection bodies.

8.2.1. Health Care Quality Control Inspection (MADEKKI)

Madekki is an inspection body, which was set up in 1991, and operates under the auspices of the Ministry of Welfare. MADEKKI controls quality of medical care (professional and workability expertise) in medical institutions, investigates complaints on these issues, forwards cases to law enforcement institutions and may impose administrative penalties. In accordance with the government regulations Madekki has the right to conduct planned and ad hoc health care and workability expertise quality inspections in health care institutions¹⁴⁴, including places of detention. As with other complaints bodies, the number of individual complaints to Madekki has substantially increased, including complaints about the quality of medical care in prisons. Madekki inspection board has 25 expert doctors and each expert investigates around 20 complaints at any given time.

According to the Madekki senior authorities, MADEKKI conducts visits to prisons, police short-term detention facilities, mental hospitals, social care homes, medical unit of the National Armed Forces. Guidelines on specific illnesses issued by professional medical associations are used as the basis for inspections and the guidelines are non-binding. In an interview a doctor, deputy head of MADEKKI pointed out that “no national standards exist in the country and there never will be” and indicated that “there were no international guidelines”.

MADEKKI tries to conduct at least one planned visit to closed facilities in 3-4 years, however, inspections are also conducted in response to complaints and, in this respect regular visits are made to the Riga Central Prison hospital. Visits are to be notified in advance, however, on occasions, visits to prisons and mental hospitals are unannounced. MADEKKI representative could not give a precise number of visits to places of detention, as in recent years they are not being singled out among other inspection visits. However, visits to medical institutions have increased in recent years, in 2000 there were 28 visits to medical institutions, in 2004 – 180, and the number of visits to places of detention has also increased. MADEKKI authorities indicated that lately no problems have been encountered in accessing closed facilities; however, they recalled difficulties in accessing police short-term detention facilities some time ago.

MADEKKI staff includes 25 expert doctors, and an inspection team usually consists of 6-7 experts if a visit is made to the whole medical institution and 2-3 experts if a visit is made to an institution’s medical unit. Only doctors participate in inspection teams. During visits MADEKKI has unrestricted access to information and medical documentation, and detainees without the presence of staff of the facilities.

Follow-up to the visits

In accordance with relevant legislation, the complainant receives MADEKKI evaluation, decision and an accompanying letter. Evaluation and decision is also forwarded to head of

¹⁴⁴ Ministru kabineta noteikumi nr. 218 “Medicīniskās aprūpes un darbības ekspertīzes kvalitātes kontroles inspekcijas nolikums” [Regulation of Health Care and Workability Expertise Control Inspection Board] 5.3, adopted on March 29, 2005, in force from April 4, 2005.

the institution and a higher institution, for instance, to the Prison Administration. Although MADEKKI publishes bi-annual and annual reports, the only information on places of detention is the number of prisoner complaints. MADEKKI authorities evaluate the response of places of detention to recommendations as generally satisfactory, and institutions usually submit a list of measures that have been taken, however, sometimes recommendations do not get acted upon, as, has been the case with the Central Prison Hospital. In cases recommendations are not fulfilled, MADEKKI may issue a warning about suspending the operation of the facility.

Central Prison Hospital

January 1999, 1st visit by the CPT

The material conditions offered to patients in the hospital were directly harmful to their health and wholly unacceptable for those suffering from serious diseases. Patients suffering from tuberculosis were also subject to these unacceptable material conditions.

The CPT recommended the Latvian authorities to elaborate and implement without delay a plan of extensive renovation and refurbishment of all the hospital premises, with particular attention being paid to the patients' accommodation.

October 2002, 2nd visit by the CPT

The material conditions offered to patients have, if anything deteriorated since the 1999 visit. During the 2002 visit, the delegation was informed that plans were now afoot to commence an extensive renovation of the entire hospital in June 2003.

The CPT called upon the Latvian authorities to implement without any further delay the above-mentioned renovation programme; asking that particular attention be paid to the refurbishment of patients' accommodation. The Committee requested to be informed of the precise time schedule for the completion of the programme.

5-8 October, 2003. Visit by Council of Europe Commissioner for Human Rights Alvaro Gil-Robles

The Commissioner for Human Rights concluded that conditions were terrible and liable to undo any effects of any medical treatment. The Commissioner urged to close down the Riga Central Prison Hospital and transfer its activities to a site better suited to the treatment of the ill, pending the hospital's total refurbishment

9 March, 2005. Inspection visit to the Central Prison hospital by MADEKKI. On April 7, Madekki conducted an evaluation and issued a warning to the Prison Administration demanding to eliminate different breaches within three months and refurbishment of the facility and purchase of new medical equipment within 10 months, otherwise the Central Prison Hospital would be closed down on 1 February, 2006.¹⁴⁵

¹⁴⁵ Warning of the Latvian Health Authority Inspection Nr 7-28/53-11/1624/1625 of 7 April, 2005 to the Director of Latvian Prison Services, Head of Medical Department of the Latvian Prison Services and Governor of the Central Prison; on file with LCHR.

19 April, 2005. Concept on the Development of Prison Estate is adopted by the Cabinet of Ministers, which envisages the expansion of Olaine Prison during 2006-2008; completion of the construction of the Olaine Hospital, and the transfer of prisoners from the Central Prison Hospital to the Olaine Prison Hospital.

March 2006. MADEKKI adopts a decision to close down the Central Prison Hospital on 7 April, 2007 if adequate premises are not provided for the prison hospital.

Since the establishment of MADEKKI 15 years ago, the senior leadership considers that the fact that only certified doctors and mid-level medical personnel now work in closed facilities, and cases when non-certified medical personnel work in medical units are exception, that prisoners have access to MADEKKI, that expiration date of medication is being observed, ensurance of duty medical staff, access to a dentist, as the key achievements in closed facilities. At the same time, the chief doctor expert underlined that “achievements are senseless”.

There is no separate budget line earmarked for inspections in the MADEKKI annual budget.

MADEKKI senior authorities were neither aware of the reports of international organisations (CPT, CAT, etc.) on places of detention, nor European Court of Human Rights case law on issues related to medical treatment in places of detention.

CPT 2002 Report on visit to Latvia

CPT noted that inspection of prison health services were carried out by the Health Care Quality Control Authority, which is affiliated to the Ministry of Welfare. The delegation received a copy of their latest report on the inspection of the Prison Hospital and noted the quality of the work carried out by this body.

The delegation was informed that, whenever the Health Care Quality Control Authority received a complaint from prisoners, a medical expert was appointed to look at the individual complaint and, in doing so, to meet with the complainant personally. However, it appeared that in such cases the Health Care Quality Control Authority had to negotiate on a case by case basis access to the prisoner concerned and that neither the Governor, nor the responsible doctor, had to accept the recommendations of the Authority in respect of prisoners' complaints. The CPT would like to receive the Latvian authorities' comments on these points.

Co-operation with other inspection bodies is rare; however, the interviewed authorities mentioned several joints visits with the NHRO to mental hospitals and prisons in response to complaints by inmates of these institutions.¹⁴⁶

¹⁴⁶ Interview with Aija Mežsarga, Head of Madekki and Valentina Berga, Deputy Head of Madekki on October 12, 2005.

8.2.2. Other Inspection Bodies

State Sanitary Inspection Board

State Sanitary Inspection Board (SIB) is subordinated to the Ministry of Health and is tasked with ensuring compliance of relevant institutions with relevant standards of epidemiological safety, environmental hygiene, drinking water quality, ventilation, space per person (inmate), etc. as provided for in different national legislative acts.¹⁴⁷

According with the relevant government regulations SIB inspectors have the right to, without prior notification, special permission, cost and other restrictions to visit and control any object on the territory of Latvia, with the exception of special regime institutions and territories, where visits are to be co-ordinated with relevant head of institution or administration of the territory.¹⁴⁸

According to SIB, it does not conduct regular inspection visits to prisons, police short-term detention cells, illegal migrant camp or camp for asylum seekers blaming absence of relevant standards for these places of detention fixed in law. Prisons and police short-term detention cells are visited only in response to a complaint or report by another institution. According to SIB director, in the past a special Interior Ministry department was tasked with oversight of places of detention under ministry's jurisdiction as to their compliance with sanitary hygiene standards. However, it was dissolved, and its functions were passed over to SIB without provision of adequate funding.

However, in relation to psychiatric institutions and social care homes, SIB conducts at least one regular visit a year, while SIB territorial unit may conduct two or more regular visits to these institutions during the year. For example, as of January 1, 2005 provisions concerning living space per person in social care homes came into force and the SIB controls how an institution complies with the requirement.

SIB visits last for a day, and the visit has to be notified in advance. There are no statistics compiled on the visits to places of detention. Two persons conduct a regular visit, while one person conducts a follow-up visit to verify how recommendations are being fulfilled. All SIB personnel are doctors. Reports are written about specific institution, and recommendations are issued to eliminate breaches. There is little co-operation with other inspection bodies, however, information on identified breaches in other fields, is forwarded to the relevant institution.¹⁴⁹

¹⁴⁷ E.g. Law on Epidemiological Safety, Council of Ministers 1999 regulations nr 203 'On the procedure of disinfection, desinfection and deratization measures.'

¹⁴⁸ Ministru kabineta noteikumi nr. 277 "Valsts sanitārās inspekcijas nolikums" [Council of Ministers Regulations nr. 277 "Regulation on State Sanitary Inspection Board", adopted on April 29, 2003, in force from May 7, 2003.

¹⁴⁹ Interview with Egils Harasimjuks, Director of State Sanitary Inspection Service and Ilona Liskova. Deputy Director of on October 7, 2005.

Social Services Board

Social Services Board (former Social Assistance Fund, operating since 1996) directly reports to Minister of Welfare and is tasked with examining complaints and conducting visits to state social care homes for people with mental disabilities, assessing conditions of detention, etc. It is also responsible for inspecting local government homes for the elderly, etc. It may levy sanctions on social services providers by issuing a warning or imposing a financial penalty, however it may not impose disciplinary sanctions on heads of institutions. Social Services Board (SSB) may submit proposals to Ministry of Welfare on drafting and elaborating legislation concerning social services and social assistance.

According to SSB, visits to social welfare centres for persons with mental disability are regular and planned, and take place once in two years. Visits are also conducted in response to complaints or information about emergency incidents. The visits last for one day, and, on occasions, two days if wider range of issues is to be addressed. SSB follows national standards, such as the Law on Social Service and Assistance and relevant government regulations. Inspection visits are notified in advance, although announced visits may also be conducted. Inspections are conducted by 1-2 persons, and all staff members of Quality Control Department have a degree in social work. SSB has unrestricted access to information and documents, residents and premises of the facility.

In 2005, SSB had conducted 80 visits, and, of those, around 60 had been conducted by Quality Control Department, including 19 inspection visits to specialised social care homes for mentally disabled.

Following a visit, a protocol is drawn up and forwarded to the relevant institution. The protocol includes findings, a concluding section and recommendations. If the protocol concerns a client safety, immediate changes are demanded, if recommendations concern improvements in infrastructure, the financial possibilities of a given institution are taken into account. Reports on state institutions are also forwarded to the Social Service and Social Assistance Department of the Ministry of Welfare, while reports on local government institutions are forwarded to the head of municipality. SSB also publishes annual report and it reports to the Ministry of Welfare twice a year, in cases of thematic or unplanned visits, an internal report is produced, such as the state of cleanliness of the facility.

The heads of institutions are generally in agreement with recommendations, while problems are encountered in cases requiring long-term investment, such as old buildings lacking elevators.

SSB noted positive changes in the attitude by staff of social care homes towards residents and improvement of conditions adapted to the needs of residents during the last 3-5 years.

There is no separate budget for quality control inspections. There were seven persons in the Quality Control Department and five additional staff posts were planned for 2006. SSB has proposed the establishment of five regional units with two staff members in each unit; however no funding has been earmarked for the purpose.

SSB had studied the 2002 CPT report on the visit to social care home 'Ezerkrasti.' Upon joint initiative, SSB has conducted joint inspections visits with the National Human Rights Office, and exchanges views on separate issues. SSB co-operates with Madekki in cases of complaints by dividing spheres of competence. SSB co-operates with Children's Rights Inspection Board, which was established in January 2006, by exchanging information, and both institutions have formulated a common approach on the issue of living space per person in social care homes. If necessary, SSB may hire additional experts to investigate specific complaints, such as a psychologist for children's institutions. While there is funding for hiring additional experts in SSB's budget, this is practised rarely.

In 2005, SSB had received 206 complaints, however, only 31 or 15% of complaints were from social care centres for mentally disabled. SSB claimed it was paying much attention to resident access to complaints, and has demanded that complaints boxes be installed in all facilities and clients informed of the venues of complaints.¹⁵⁰

Inspection of the Prison Administration

The Prison Administration of the Ministry of Justice conducts comprehensive inspections of prisons and follow-up inspections in case serious breaches have been identified. The procedure and thematic issues of inspections is regulated by an unpublished order of the Prison Administration "On performing comprehensive inspections in prisons". National legislation is taken as the basis for comprehensive inspections.

The order prescribes that comprehensive inspections are lead by Deputy Directors of Prison Administration, and are carried out by Heads of Departments of Prison Administration. The duration of inspections is no fewer than 3 days. The order lists issues to be examined during inspection, which are divided into sub-sections: 1) service of organisational and analytical work (service management system, work planning, control, complaints by prisoners, their relatives); 2) personnel section (personnel numbers and recruitment, vacancies, personnel by education, citizenship, Latvian language skills, personnel training, etc.) 3) control/supervision unit (characteristics of offenders, punishment cells, searches, disciplinary punishment, prevention of escapes, hunger strikes, etc.) 4) guard unit, 5) social rehabilitation unit, 6) medical unit (inspection of medical staff functional duties, medical staff professional training, inspection of work concerning health education, medical care and treatment in accordance with the requirements of the Ministry of Welfare, preventive and epidemiological activities, periodic inspection of sanitary installations, supervision of catering arrangements, medical documentation, purchase, storage and use of medical supplies, registration of injuries, alcohol and drug testing; 7) employment unit, 8) statistics unit, 9) documentation unit, 10) supplies unit, 11) inspection.

Inspection to each prison is conducted at least once in two years. The Prison Administrations draws up an annual visit plan, issues an order on each prison inspection, indicates the dates of inspection, inspection team, and the deadline of reports on findings by each inspection member. The only publicly available information on such reports is the

¹⁵⁰ Interview with Kaspars Jasinkevics, Head of Quality Control Unit of Social Services Board, Dzintra Mihailova, Deputy Director of Social Services Board, January 25, 2006.

annual reports of the Latvian Prison Administration listing prisons which have been inspected. Thus, the 2004 annual report mentions that comprehensive inspection visits were conducted in Ilguciems, Jelgava, Liepaja, Matisa, Olaine, Pārlielupe, Vecumnieki prisons and follow-up inspections in Central, Jekabpils prisons and Cesis Correctional Facility for Boys. Following a comprehensive inspection to Matisa Prison a follow-up inspection was conducted to verify the fulfillment of recommendations.

Prison	Year when last inspection took place	Inspection planned in 2005
Matisa Prison	14.-16.09.2004	January
Valmiera Prison	23.-24.09. 2002	March
Šķīrotava Prison	31.03-04.04.2003	April
Daugavpils Prison	9.-10.05.2002	May
Brasa Prison	02.-03.07.2003	September
Grīva Prison	20.-21.05.2003	October

Avots: Unpublished information by the Prison Administration of the Ministry of Justice

Reports and recommendations of the internal inspections conducted by the Latvian Prison Administration are publicly unavailable. LCHR has not had the opportunity to examine detailed comprehensive visit report. However, the findings of a summarised version of reports to Grīva and Matisa Prison were general in nature. It is unknown whether the reports and recommendations of the inspections are forwarded to the Ministry of Justice.

Illegal immigrant facilities

In its 2002 visit the CPT delegation was informed that inmates at Olaine Detention Centre could address their complaints to the Head of the Institution, as well as to outside bodies such as the courts, prosecutors and the Human Rights Office. It was informed that the institution was regularly inspected by the competent prosecutor, and by the inspection of the Central Board of Border Guards. The CPT requested detailed information on the visits carried out in 2002 by the Inspection of the Central Board of the Border Guards and on the action taken by the relevant authorities. The response of the Latvian authorities contains the number of visits by the Inspection of the Central Board of the Border Guards, however, no other detailed information is provided on the issues raised by the inspection and action taken by the relevant authorities.

Psychiatric/social welfare establishments

The CPT also attaches considerable importance to psychiatric/social welfare establishments being visited on a regular basis by an independent outside body (e.g. a judge or a 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.

Viki Psychiatric Centre Children's Section was visited on a three-monthly basis by a representative of Riga Neuropsychiatric Hospital (to which the Centre was administratively attached). However, no inspections had been carried out by an independent outside body (such as the Health Care Quality Control Authority).

At the Ezerkrasti Social Welfare Centre, annual inspections were carried out by the Social Welfare Fund (Unit for Children) and the Riga Council Welfare Department (Unit for Elderly Persons).

The CPT recommends that steps be taken to ensure that the Viki Psychiatric Centre Children's Section (as well as other establishments of this type) are visited on a regular basis by an independent outside body.¹⁵¹

¹⁵¹ 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 from 25 September to 4 October 2002, at http://www.cpt.coe.int/documents/lva/2005-08-inf-eng.htm#_Toc39911098

9. Conclusions and Recommendations

Since regaining independence in 1991, Latvia has made significant progress in democratizing and humanizing its places of detention (prisons, police cells, mental hospitals, etc.). Efforts have been undertaken to bring about changes in the organisational culture in systems operating places of detention and promote their accountability. New legislation governing places of detention has also been adopted to bring it line with the relevant international human rights standards. Policy and legislative initiatives have also lead to significant decrease in the number of persons deprived of liberty, notably in prisons and mental hospitals. Latvia has also seen considerable financial investment in improving the infrastructure of a significant number of places of detention. Thus, in 2001, the Director of Prison Services announced that half of prisoners were being accommodated in safe and civilised conditions, while in 2005 the State Police rated conditions in 14 out of 28 police short-term detention cells as corresponding to international standards. Places of detention have also become more open to public scrutiny.

International organisations have played an important role in evaluating the existing legislation and assessing subsequent practises in places of detention and their compliance with the relevant UN and Council of Europe standards. Starting with 1994 Latvia has received a significant number of inspection visits by various international organisations (various Council of Europe bodies, UN Committee on Arbitrary Detention, etc.) to its places of detention. Initially the visits have largely focused on the situation in prisons, and Latvia's prison system significantly benefited from co-operation and assistance from the Nordic countries. With the ratification of the European Convention for the Prevention of Torture by Latvia in 1998, treatment of persons deprived of liberty and conditions of detention in other places, such as police cells, mental hospitals, illegal migrant camp, social care home for persons with mental disabilities, military detention facility, young offender institutions, etc. have been scrutinised in visits by the European Committee for the Prevention of Torture. While evidence exists of the impact of international organisations on reforms concerning places of detention, in-depth research would be necessary to study the actual effect of recommendations of international organisations.

Since the establishment of the National Human Rights Office in 1995, persons deprived of liberty and places of detention have also become one of the key targets of NHRO work. New inspection bodies with varying subordination and degree of autonomy have been set up at different ministries and tasked with inspection of places of detention. Civil society has increasingly become engaged in promoting reforms in places of detention.

Despite undeniable progress, serious problems remain in many places of detention requiring systemic and long-term approach. While the number of prisoners has been on the decrease, the prison rate remains one of the highest in Europe, the reduction of psychiatric beds in mental hospitals has not been accompanied by the development of community based services.

A significant number of places of detention both in their treatment of detainees and conditions of detention continue to be affected by attitudes and practises reminiscent of the Soviet period characterised by culture of impunity and lack of accountability.

International organisations, such as the European Committee for the Prevention of Torture and various UN bodies (Human Rights Committee and Committee against Torture) have been very critical of Latvia's record concerning places of detention and treatment of detainees, especially in police cells and prisons, and have made numerous recommendations aimed at strengthening safeguards against ill-treatment. Several of the most comprehensive reports, such as the 1999 and 2002 CPT reports remain unavailable in Latvia and have not been widely disseminated among various target groups, including prosecutors.

While several independent inspection bodies exist in Latvia, oversight of places of detention is dominated by a reactive approach, namely, examination of complaints, and visits to places of detention are predominantly conducted in response to complaints by persons deprived of liberty. Preventive and announced visits remain a rare occurrence. There is little or limited co-operation among various domestic inspection bodies. Cases are not infrequent when same complaints, notably those emanating from prisons, are being examined by several institutions at the same time, resulting in inefficient use of human and financial resources. There has been little effort by the complaints bodies to address the issue of complaints systemically.

There is only one NGO – Latvian Centre for Human Rights conducting detention monitoring on regular basis. No lower level independent inspection bodies attached to specific institutions, similar to boards of visitors in Western European countries, have been set up in Latvia.

There are few publicly available reports by state inspection bodies on different places of detention in Latvia, with the exception of quarterly and annual reports of the National Human Rights Office, which predominantly focus on the description of typical complaints from places of detention. NGOs, with foreign donor support, have largely tried to fill the information gap in conducting research and reporting on places of detention.

Despite, explicit provision in the Law on Prosecutor's Office on prosecutorial duty concerning oversight of places of detention, the Office of the Prosecutor General has maintained that this does not include examination of all aspects of detention, including conditions of detention. Nevertheless, district prosecutor's offices across Latvia vary in their approach in their interpretation of prosecutorial responsibility of oversight of places of detention, with some conducting regular, preventive visits, including conditions of detention, which have lead to notable results, such as the closure of a police short-term detention facility unsuitable for holding detainees. At the same time, a significant number of facilities (police stations, immigration detention facility) remain without regular prosecutorial oversight, except in the event of a complaint.

Activities of the National Human Rights Office in places of detention have largely been influenced by the overall context of the NHRO development, and have been significantly impacted by budgetary restraints, limited number of staff and a weak NHRO leadership. This has been exacerbated by the lack of commitment by the legislature to allocate adequate funding to ensure both financial independence and fulfilment of the NHRO functions as prescribed by the law.

Transition to the Ombudsman's institution has not been preceded by a thorough assessment of the NHRO's independence, and concerns remain of the Office's independence from the parliament, the executive and state institutions. There has been no serious discussion about the leadership and the structure of the institution in view of its planned expanded mandate. Office's weak leadership in the past has led to an overly cautious approach in dealing with state authorities.

While over years public awareness in the NHRO has grown, it remains an institution overwhelmed by complaints, which has among other reasons prevented NHRO to address many human rights issues, including those concerning places of detention, more strategically and systemically. Concerns remain about the effective fulfilment of the Office's functions in view of its expanded mandate in the future.

While NHRO conducts many visits to places of detention, predominantly prisons, the majority of those are in response to complaints of inmates of these facilities. While visits in response to complaints contribute to prevention of ill-treatment and often provide for opportunities to identify other human rights violations, they are no substitute to preventive and proactive visits aimed at examining all aspects of detention. Visits to police stations are primarily selected according to conditions of detention, and not according to other criteria, such as incidence of cases of ill-treatment, detainee safeguards, etc.

Since NHRO's engagement in visiting places of detention, unannounced visits have been rare and most visits have also taken place during the official working hours of the detention facilities.

While NHRO annual and quarterly reports give a fair account of the most widespread categories of complaints from places of detention, including NHRO intervention and success stories, no visit reports, except for brief press releases are publicly available. There have been no thematic reports on places of detention, except for an overview of assessment of regimes in closed prisons in 2005, which is not publicly available.

Nearly all NHRO staff are lawyers, Latvian and women, and the need for wide ranging professional expertise has long been recognised.

The small number of staff (6) charged with examining numerous complaints and inspecting places of detention, and frequently tasked with additional functions, has limited NHRO ability to engage in monitoring human rights issues in places of detention pro-actively and systemically.

Recommendations

To the state authorities

- To ratify the Optional Protocol to the UN Convention against Torture
- To undertake an assessment of domestic inspection bodies and their compliance with OPCAT requirements

- To translate into Latvian and widely disseminate findings, conclusions and recommendations of international organisations, such as the CPT, to relevant authorities
- To authorise the publication of the 2004 report of the European Committee for the Prevention of Torture
- To strengthen the NHRO/Ombudsman Office's legal independence through amendments to the Constitution
- To strengthen the financial independence of the NHRO/Ombudsman's Office through allocation of adequate resources
- To repeal a provision in the Law on the Order of Holding Detainees requiring representatives of state and international human rights institutions to notify in advance respective police authorities about the visit to police detention facility
- To require human rights proofing in all legislation concerning places of detention
- To consider the establishment of an autonomous prison inspectorate at the Ministry of Justice level
- To foster civil society involvement in decision-making on prison, law enforcement, mental health, etc. reforms through establishment of Advisory Councils at the Ministry of Justice, Ministry of Health, Ministry of Interior, etc.

To the National Human Rights Office/Ombudsman's Office

- To undertake a thorough assessment of Office's independence with the view of strengthening Office's effective independence from the parliament, executive and state institutions
- To carry out a review of the National Human Rights Office/Ombudsman's Office as to whether it meets minimal standards under the OPCAT to become a designated national preventive mechanism
- Within the context of creating a new Ombudsman Office's structure, to consider establishing a separate unit and increasing the number of staff in the NHRO/Ombudsman's Office mandated to deal with places of detention (prisons, police cells, mental hospitals, specialised social cares homes, illegal migrant facility, etc.)
- To strive for pluralistic representation of the NHRO/Ombudsman's Office to ensure professional representation (medical doctors, psychologists, consideration should also be given to possible involvement of former police officer or custodial staff) and gender balance
- To especially encourage application by ethnic minority representatives
- To establish a permanent working group/sub-groups with the participation of state and non-state actors to regularly address different aspects of places of detention
- To consider revision of categories of visits, such as introduction of full inspection visits (announced) to facilities at least once in 2 years, follow-up visits and ad-hoc visits (unannounced)
- In line with the NHRO/Ombudsman's Office mandate to conduct unannounced visits to places of detention
- To target police short-term detention cells and border posts for unannounced visits, especially outside official working hours
- To encourage thematic visits to places of detention and publication of thematic reports (e.g. new Criminal Code provisions on police detainee safeguards and their implementation in practise, custody deaths, reform of prisoner complaints system, etc.)

- To publish detailed statistics about NHRO visits to places of detention, by categories of visits (announced/unannounced, full inspection/thematic inspection/in response to a complaint) and visited places of detention
- To publish full inspection visits reports on the NHRO/Ombudsman's Office website with due respect of personal data protection
- To publish other NHRO inspection visit reports if authorities fail to co-operate and implement recommendations
- To increase co-operation with other complaints and inspection bodies (e.g. prosecutor's offices, Madekki, etc.)
- To collect disaggregated data on complaints by gender, language, location, institution, etc.

Prosecutor's office

- To disseminate findings of international organisations (CPT, UN Human Rights Committee, UN Committee against Torture) to prosecutors in charge of oversight of places of detention
- To organise training for supervising prosecutors on international human rights standards on issues related to places of detention
- In line with the 1999, 2002 CPT visit report recommendations to carry out regular and unannounced visits throughout the country to places where persons are detained by the police
- In line with the CPT visit report recommendations to take steps to ensure that prosecutors in charge of inspecting prison establishments regularly visit detention areas and enter into direct contact with prisoners
- To undertake regular visits to the Olaine detention camp for illegal immigrants
- To issue guidelines on inspection visits to places of detention (Office of the Prosecutor General)
- To include statistics on complaints from places of detention (prisons, police cells, other) and visits to places of detention in the annual report of the Office of the Prosecutor General
- To encourage regular co-operation with other inspection bodies

To Civil Society

- to actively engage in raising awareness on the UN Optional Protocol to Committee against Torture and lobby for its ratification by Latvia
- to foster public debate about the designation of the national preventive mechanism under OPCAT
- to raise awareness about local community oversight schemes, such as Boards of Visitors, in monitoring specific places of detention and encourage authorities to establish such schemes on pilot basis (e.g. a place of detention accommodation children)
- to encourage more active engagement of NGOs in monitoring places of detention through raising NGO capacities and fostering networking on regional and national level
- to continue monitoring human rights situation in places of detention

10. Research methodology

A questionnaire for inspection bodies was designed for the purposes of the project. The researchers also used a check-list on criteria of national preventive mechanisms under the UN Optional Protocol to the Convention against Torture designed by the Association for the Prevention of Torture.

The researchers carried out semi-structured interviews with representatives of various bodies inspecting places of detention in Latvia, such as the National Human Rights Office, Specialised Multi-Branch Division of the Prosecutor's Office in charge of prison and illegal migrant camp oversight, district prosecutors responsible for police short-term detention cell oversight, MADEKKI (Health Care Quality Control Authority), State Sanitation Inspection Board, State Food and Veterinary Service, Social Services Board Social Services and Quality Control Unit, selected representatives of administration of places of detention (Latvian Prison Administration) and prison staff, as well as NGO representatives. Interviews were conducted by the LCHR staff Anhelita Kamenska, Laila Grāvere and Ieva Leimane-Veldmeijere.

Publicly available documentation, international standards (UN, Council of Europe), reports by international organisations on places of detention in Latvia, legislation governing places of detention in Latvia, unpublished internal regulations of places of detention, annual reports by domestic statutory bodies, different foreign inspection bodies, thematic reports, articles from mass media were analysed and used for the purposes of the research paper. Information obtained during the study visit on places of detention and relevant oversight bodies in the Netherlands and Northern Ireland was studied for the purposes of the research paper. To gain a comprehensive picture about problems concerning prisoner complaints, a round-table/seminar was organised for key prisoner complaints bodies on February 15, 2006 by the Latvian Centre for Human Rights. To raise awareness and discuss the possibilities of ratification of OPCAT and to evaluate the state of independent custody monitoring in the Baltic States, an international conference was organised by the Latvian Centre for Human Rights in co-operation with the Association for the Prevention of Torture on 27-28 April, 2006. A presentation on the preliminary findings of research on independent custody monitoring in Latvia was made during the conference.

Unpublished information (correspondence between an oversight body and a place of detention, correspondence between different oversight bodies, samples of internal reports, instructions, conclusions, and other documentation) have also been obtained during interviews. However, LCHR has not had an opportunity to carry out an in-depth study of internal documentation (internal reports on visits to places of detention, etc.) of the various inspection bodies.

During the research, LCHR also participated as observers in inspection visits conducted by several oversight bodies, as well as conducted joint visits.

Appendix 1: Places of detention visited by the European Committee for the Prevention of Torture in 1999, 2002 and 2004

Establishments under the authority of the Ministry of the Interior:

- Gogola Street Police Station, Riga (1999)
- Matisa Street Police Station, Riga (1999)
- General Police Board Detention Facility, Aspazijas Street, Riga (1999)
- Police Sobering-up Centre, Pupolu Street, Riga (1999)
- Illegal Immigrant and other Unidentified Persons Accommodation Centre, Gaizina Street, Riga (1999)
- Preventive Care Centre for Minors, Alises Street, Riga (1999)
- Pre-Trial Investigation Centre and Short-Term Detention Isolator, Brivibas Street, Riga (1999, 2002)
- Daugavpils Police Headquarters (2002, 2004)
- Liepāja Police Headquarters (2002, 2004)
- Ogre Police Station (2002)
- Ventspils Police Headquarters (2002, 2004)
- Detention facilities at Riga International Airport (2002)
- Kaplava Border Guard Unit (2002)
- Olaine Detention Centre for Illegal Immigrants (2002, 2004)

Establishments under the authority of the Ministry of Justice (prisons remained under the authority of the Ministry of Interior until 31 December, 1999)

- Central Prison (including the Prison Hospital) 1999, 2002, 2004
- Ilguciema Prison (1999)
- Daugavpils Prison (2002, 2004)
- Jelgava Prison (2002, 2004)
- Liepāja Prison (2002)

Establishments under the authority of the Ministry of Defence:

- Riga Garrison Detention Facility (1999)

Establishments under the authority of the Ministry of Welfare:

- Riga Neuropsychiatric Hospital (1999)
- Mental Hospital for Children, Viķi (2002)
- Ezerkrasti Social Care Centre, Rīga (2002)

Establishments under the authority of the Ministry of Education:

- Naukseni Educational and Correctional Institution for girls (1999)

Appendix No 2: Short Check-list for Helping to Assess Potential national Preventive Mechanisms under the Optional Protocol to the UN Convention against Torture (OPCAT)

**SHORT CHECK LIST
FOR HELPING TO ASSESS POTENTIAL NATIONAL PREVENTIVE MECHANISMS UNDER
THE OPTIONAL PROTOCOL TO THE UN CONVENTION AGAINST TORTURE (OPCAT)**

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), adopted by the United Nations in 2002, will establish a system of regular visits to all places of detention in order to prevent torture and ill-treatment. Visits will be carried out by an international Sub-Committee to be established by the UN and by one or several National Preventive Mechanisms that States Parties have to set up, designate or maintain. If the Protocol contains a series of guarantees and powers for the National Preventive Mechanism, it leaves a large margin of appreciation regarding its form.

The present checklist is a short version of more thorough assessment tool developed by the APT. It is intended for national and international actors involved in designating or creating National Preventive Mechanisms under the OPCAT. It is a practical tool which should help them in this process by identifying a number of concrete issues to

It consists of a list of 15 criteria for guiding the assessment of existing or planned National Preventive Mechanisms based on OPCAT standards and best practices in monitoring places of detention.

The application of this list of criteria, to a certain mechanism in a country, **will be most effective if it is conducted as a joint exercise involving all relevant stakeholders.**

PART I BACKGROUND INFORMATION

About the Mechanism

Name of the mechanism:
.....
Date of creation: Annual budget:
Mandate:
.....
Legal basis
Number of members (male/female):
Number of staff (male/female)
Are there other bodies carrying out visits to places of detention in the country?
.....
.....

About the national context

Size of the country:
Population:
Prison population:
Number of prisons Number of pre-trial detention centres
Number of psychiatric institutions Number of homes for juveniles
Number of detention facilities for migrants: Number of military barracks

PART II: LIST OF CRITERIA

MANDATE AND VISITS	
1. Is the mechanism specifically mandated to conduct preventive visits? Are these visits regular? Unannounced?	
2. Does the mechanism have access to all places of deprivation of liberty, as defined by the OPCAT? (Art. 20c of the OPCAT) For example: police stations, prisons, pre-trial detention centres, psychiatric institutions, migrants holding facilities, centres for juveniles, military barracks...	
3. Does the mechanism have access to all facilities and installations within these places? (Art. 20c of the OPCAT)	
4. What is the total number of visits conducted in a year by categories of places of detention? Are remote places also visited? What is the average frequency of the visits?	
5. Is the mechanism allowed to conduct interviews in private with any detainee they want in any location they want? (Art.20 d and e of the OPCAT)	
6. How do visitors chose the detainees with whom to conduct private interviews? Where do these interviews take place (is it out of hearing an out of sight of the guards)?	

¹ "For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority". Art. 4.2 of the OPCAT.

FUNCTIONAL INDEPENDENCE AND COMPOSITION

<p>7. Are the human and financial resources sufficient to allow the mechanism to conduct effective monitoring? (Art. 18.3 of the OPCAT) (what part of the annual budget is devoted to monitoring? What would be an ideal budget?)</p>	
<p>8. Does the mechanism have financial autonomy and control over its own budget? Does the mechanism hire its own staff and is it located in premises other than those occupied by the executive or judicial branch?</p>	
<p>9. Do any members of the mechanism have links with the executive branch? Does this jeopardize their independence? Who appoints and dismisses the members and is the procedure open and transparent?</p>	
<p>10. What is the professional background of the members? Do they have the necessary capabilities and knowledge for monitoring? Are the visiting team also composed of professionals from different disciplines (in particular: medical and human rights)?</p>	
<p>11. Is the mechanism gender balanced? Does it have adequate representation of ethnic, linguistic and other minority groups? Are these also respected in the visiting teams?</p>	

FOLLOW-UP TO VISITS

<p>12. What type of reporting takes place following visits? Do reports include specific and detailed recommendations? Are the reports made public? Sent to media?</p>	
<p>13. Does the mechanism conduct follow-up visits during which the implementation of recommendations is verified?</p>	
<p>14. Do the authorities have to take position, comment or reply to the reports and recommendations? Are they doing it in practice?</p>	
<p>15. Are there any examples of improvements following implementation of recommendations? At what level? (For specific detainees? in the places visited: material conditions, activities?)</p>	

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