

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

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/LVA/CO/2)

LATVIA

(...)

C. Principal subjects concerns and recommendations

(...)

Fundamental safeguards

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

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

Asylum-seekers

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

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

The Committee recommends that the State party:

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

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

(...)

Detention on remand, including pre-trial detention

(...)

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

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

- a) Ensuring that deprivation of liberty, including pre-trial detention, should be the exception, to be used only as a last resort and for the shortest time possible;**
- b) Developing and implementing alternatives to deprivation of liberty, including probation, mediation, community service or suspended sentences;**
- c) Adopting an action plan based on the Basic Policy Guidelines for the**

Enforcement of Prisons Sentences and Detention of Juveniles for 2007-2013 and ensuring the necessary resources for its effective implementation and follow-up; and

d) Taking further measures to improve the living conditions in detention facilities, elaborating more contemporary and modern programmes aimed at re-socialization, and ensuring training of prison personnel to raise their professional qualification in light of their work with juveniles.

(...)

Prompt and impartial investigations

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

The Committee recommends that the State party:

(a) Strengthen its measures to ensure prompt, impartial and effective investigations into all allegations of torture and ill-treatment committed by law enforcement officials. In particular, such investigations should not be undertaken by or under the authority of the police, but by an independent body. In connection with prima facie cases of torture and ill-treatment, the alleged suspect should as a rule be subject to suspension or reassignment during the process of investigation, especially if there is a risk that he or she might impede the investigation;

(b) Try the perpetrators and impose appropriate sentences on those convicted in order to eliminate impunity for law enforcement personnel who are responsible for violations prohibited by the Convention; and

(c) Review its rules and provisions on the statute of limitations and bring them fully in line with its obligations under the Convention, so that acts of torture as well as attempts to commit torture and acts by any person which constitute complicity or participation in torture, can be investigated, prosecuted and punished without time limitations.

(...)

28. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 7, 8, 11, 17 above.

(...)
