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Latvia

Shadow Report to the UN Committee against Torture

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Places of detention

The Latvian legislation does not provide for an encompassing definition of places of detention where persons deprived of liberty are being held. The Law on Ombudsman's Office (formerly National Human Rights Office) mentions a "closed type institution" without providing a definition of the term. The Law on the Procedure of Holding Detainees provides for a definition of a short-term detention place¹.

During the monitoring visits the Latvian Centre for Human Rights conducted in 2003-2006,² the 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, small state police stations with cells for detention for up to 12 hours). Several of the municipal police³ forces have short-term detention cells, which, have, thus far escaped the attention of international and domestic organisations, such as prosecutor's offices and office of the Ombudsman (formerly National Human Rights Office). Consequently, in the case of police cells (holding detainees up to 12 hours) in small state police stations and municipal police stations there are no uniform regulations governing the standards of conditions of detention.

On 20 September 2007 the Latvian parliament adopted amendments to the Law on Police in the 1st reading. Section 13 of the Law provides for the right of police officers when fulfilling their duties⁴ **to place detainees in temporary holding places (rooms)**. Section 13 (6), inter alia, provides that the "the need to place persons in temporary holding place (rooms) shall be determined by the nature of concrete situation and individual characteristics of the person." The procedure of placing and holding persons in a temporary holding place (room), and requirements for equipping such places shall be determined by the Cabinet of Ministers."⁵ **The amendments do not specify what is being meant by temporary holding places.**

¹ 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.

² The visits to places of detention were conducted within the framework of the EU funded three-year project "Monitoring Human Rights and Prevention of Torture in Closed Institutions: prisons, police cells and mental health institutions in Baltic countries."

³ Municipal police have been set up in 17 largest towns and is funded by municipality.

⁴ in order to: 1) repel an attack on persons, police officers, other workers of institutions of the Ministry of the Interior, and persons who are performing their duties of service in guaranteeing public safety and in the fight against crime; 2) repel an attack on buildings, premises, structures and means of transport regardless of their ownership, or free facilities occupied by armed persons; 3) free hostages; 4) prevent mass disorder and group violations of public order; 5) arrest and convey persons violating the law to a police institution or other service premises, as well as restrain arrested, detained and convicted persons during conveyance and incarceration if such persons do not submit to or resist police officers, or if there is reason to believe that such persons may escape or do harm to other persons nearby or themselves; and 6) stop intentionally wrongful resistance to lawful requests made by police officers or other persons performing service duties in guaranteeing public order or in the fight against crime. (Law on Police)

⁵ Grozījumi Likumā par policiju, at http://www.saeima.lv/saeima9/mek_reg.fre

State Police

Legislative developments

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. Regretfully, **the right of access to a doctor was not explicitly included in the new law.**

Since the coming into force of the new amendments, there has been **no independent assessment about detainee access to safeguards in practise across police stations in Latvia.** While in visited police stations information on rights was available in five languages, due to restricted access to detainees LCHR was not able to verify whether the information is being systematically provided to detainees from the outset of custody. There have been reports on the **shortage of state funded defence lawyers** in several districts, which may hinder detainee access to a lawyer from the outset of custody.

In accordance with the Law on the Procedure of Holding [Police] Detainees, adopted in October 2006, the following categories of detainees may be held in the police short-term detention facilities:

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| <ol style="list-style-type: none">1) persons arrested on suspicion of having committed a criminal offence (up to 48 hours)2) administratively detained persons (for up to 12 hours – up to 3 hours for identification purposes, up to 12 hours in sobering-up cells)3) administratively arrested persons (for up to 15 days)4) pre-trial detainees – for the purposes of investigation (no term fixed by the law)5) sentenced prisoners – for the purposes of investigation (no term fixed by the law) |
|--|

The Law on the Procedure of Holding Remand Prisoners adopted in mid-2006 provides that if requested by the investigating institution a remand prisoner may be placed into specially equipped police cells (short-term detention cells) for a period necessary to conduct investigatory activities and during court hearings.⁶

The Law on the Procedure of Holding Detainees, and the Law on the Procedure of Holding Remand Prisoners, **do not fix time limits remand prisoners can be detained in police stations.** Police internal instructions provide that remand prisoners can be held in police stations for up to 10 days, however, practise shows that remand prisoners may be kept in police cells for a longer time – 1-2 months. Interests of criminal investigation and difficulties with prisoner transportation are usually cited as reasons for holding remand prisoners in police cells. During one of the monitoring visits to police stations in 2005, the local police leadership indicated that a Ministry of Interior order fixes the term for holding persons under

⁶ Section 4 (3) of the Law on the Procedure of Holding Remand Prisoners.

trial of up to 20 days, while a permission of the police chief is required to hold a pre-trial detainee in police cells for investigation purposes for a maximum period of time.

Thus, there has been **no progress concerning the authorisation by a prosecutor or a judge** as recommended by the European Committee for the Prevention of Torture as opposed to a sole decision of police investigator **of transfer of remand prisoners to police establishments for further questioning**

Moreover, a police detention facility (Pre-Trial Investigation Centre and Short-Term detention Facility) at the State Police Headquarters at Brīvības iela 61, Riga continues to hold remand prisoners for prolonged periods of time, and 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 police prison. In its publicly available visit reports, CPT has emphasised that the objective must be to cease using the facility 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.⁷

Ill-treatment

Cases of police brutality and misconduct have remained a serious reason for concern during the period under review, in particular, cases of **deaths as a result of alleged police brutality and misconduct**.

2005

In the early hours of February 8, a 23-year old youth suspected of a mobile phone theft died in the office of a police officer at the Riga Police Station no 29. An autopsy established that the youth had died from shock and rupture of liver. On March 11, Riga City Kurzeme District Court remanded in custody 4 police officers from the Riga Police Station no 29, who were charged with inflicting intentional serious bodily injuries resulting in the death of the victim and exceeding official authority resulting in serious consequences of connected with violence. In July 2007 the Riga Regional Court sentenced one of the police officers to eight years imprisonment, who has appealed the sentence. Criminal proceedings against the other three police officers were discontinued.

2006

An attempt at a cover-up by senior police authorities came to light in July 2006. On March 22, a Balvi Criminal Police inspector, driving under the influence of alcohol, hit an 18-year-old youth who later died of injuries. Several Balvi police officers, including chief of Balvi Criminal Police, attempted to cover up the fact of alcohol intoxication by having another police officer provide the blood test instead of the perpetrator. After disciplinary investigation of six police officers, one was dismissed, while the chief of criminal police was lowered in rank and transferred to another policing district. Three police officers received warnings. Several police officers have been charged with maliciously exceeding their authority, and other crimes under the Criminal Law. Upon recommendation by the Judicial Disciplinary Board, in December the parliament dismissed Balvi District Court judge, who was in the car of his wife, the chief of Balvi Criminal Police, and knew that evidence was being falsified.

2007

⁷ 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>

Two municipal police officers from Tukums municipal police were remanded in custody in May on suspicion of having taken two homeless – a man and a woman out of the city and abandoned in the woods in **January** which resulted in the death of the homeless.

On June 18 a man died in police custody in the Sigulda police detention facility. The autopsy established that he had received injuries to his head and neck while in custody. However, only on June 27, three Sigulda police officers were detained on suspicion of having physically ill-treated the detainee. The Internal Security Office of the State Police opened criminal proceedings according to Section 317.2 of the Criminal Law for exceeding authority and also began disciplinary investigation. On July 17 Riga District court released all three police officers from custody.

On July 24 a 70 year old man died in the Jelgava hospital from head injuries he had sustained after having been brutally beaten by the patrol officers of the Jelgava municipal police on July 22. On August 1 a municipal police officer was remanded in custody, while one officer was placed under police supervision. One of the police officers has been charged under Section 125.3 of the Criminal Law for intentionally inflicting serious bodily injuries which have resulted in a person's death. Following the incident, the Jelgava City Council established a special commission which has been tasked with examining such issues as the organisation of municipal police work, police instructions and their compliance with relevant legislative acts. In September the commission submitted a report on findings to the Chairman of the Jelgava City Council. The case has been handed over to the prosecutor's office. On October 17, the Chief of the Jelgava Municipal Police stepped down from office.⁸

In a newspaper interview in **August** the Chief of the Jelgava City and District Police informed of another case of physical ill-treatment of a detainee in the Jelgava sobering-up facility (under the authority of the Jelgava municipal police) and that criminal proceedings had been opened.⁹

September, media widely reported on a highly controversial case with allegations of police torture after a E.Gulbis, a former security guard of the Parliament's and State President's Security Service, while being escorted to the police detention facility in the State Police Headquarters in Brīvības 61 on September 26 was allegedly pushed out of the car or tried to escape or attempted to commit suicide and jumped from the bridge (Salu tilts) into the river Daugava.

E.G. was earlier remanded in custody from August 23 until September 21 on suspicion of having set fire to the car of the Head of the Customs Criminal Police of the State Revenue Service, whose case, in turn, is currently being investigated by the Anti-Corruption Bureau. Following E.G. release from custody on September 21, and seeing his health condition, his girl friend took him to the Military Medical Centre who called the ambulance and E.G. was transferred to the Gailezers Hospital Toxicology – Intensive Care Department.

On 26 September E.G. was again detained by the police officers of the Department Combating Organised Crime on suspicion of a large scale fraud in a criminal group, and, while being escorted to the police detention facility was pushed out of the car/tried to escape by jumping into the river. On September 27 his girl-friend submitted a complaint to the Minister of Interior where she alleged that E.G. was subjected to torture in police custody. On September 27, the lawyer filed a complaint with the Internal Security Office of the State Police. Allegations of ill-treatment by police officers from the Bureau of Combating Organised Crime include „beating with a baton while a pillow was held against the detainee, beating with a telephone book, detainee being handcuffed to a radiator while water was being poured down his throat from a tea kettle to make him choke, fed with „brown” pills, threats against his family.” The lawyer also alleged that his client had, on several occasions, been interrogated without his presence and the that client had been told by the police that the lawyer could

⁸ Jelgavas pašvaldības policijas priekšnieks atkāpjas no amata, Leta, 17.10.2007

⁹ Ervīns Cīrulis, Policijai tiesības, iedzīvotājiem – pienākumi? *Latvijas Avīze*, 21.10.2007

not be reached and that in one instance the interrogation protocol had already been drawn when the lawyer arrived. The Internal Security Office has started an investigation.

The Minister of Interior and State Police Commissioner acknowledged serious breaches by escort police officers in applying handcuffs, but have denied allegations of torture by the police.

On 28 September the Ombudsman announced that his office would undertake independent review of the case on its own initiative. He also called upon responsible institutions to conduct objective investigation and co-operate with Ombudsman in sharing the relevant documentation.¹⁰ In early October E.G. was transferred to the Olaine Prison Hospital.

No appeal hearing during four years

No appeal hearing has been held at the Riga Regional Court for more than four years in the case of the death of a Roma man. In 2002, four police officers, after privately receiving a complaint alleging rape, unlawfully entered a private home in Riga and beat up two men. An investigation was held by the Riga Police Board resulting in the dismissal of all four police officers in August 2002 for exceeding their authority when entering the house without a warrant. The case was brought to court in June 2003 with charges of intentionally causing serious bodily injuries and of exceeding their authority. According to the prosecution, the policeman had proceeded to take one of the men (a Romani man) to a place near the Rumbula train station, where they beat and kicked him, causing serious injury. The man was taken to No 23 police headquarters where it was established that he was dead. On June 5, the Riga City Latgale District Court found all officers innocent on the grounds of lack of evidence, claiming primarily that the expertise establishing that the man had died as a consequence of injuries could nevertheless not establish beyond doubt that the injuries were not caused prior to the arrival of the police to the house. The prosecutor appealed the decision.

Complaints on police brutality

Several complaints bodies are mandated to review individual complaints about police misconduct. Internal complaints review bodies operate within the largest city or district state police forces which report to the police chiefs of territorial divisions, complaints on police misconduct are investigated by the 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. The division of labour in reviewing and investigating complaints about police brutality among the various police complaints bodies remains unclear. **None of the above complaints bodies meets the criteria of an independent police complaints authority.**

In 2003 the Internal Security Office of the State Police was established and it is located in the building of the headquarters of the State Police. The Internal Security Office is the key police complaints agency tasked with collecting annual national statistics on complaints, disciplinary investigations concerning police misconduct, analysing their trends and proposing recommendations.

The overall number on complaints about police brutality is unavailable. The statistics are kept on the number of disciplinary investigation on police brutality, the number of cases when police violence was confirmed and the number of police officers who have been imposed disciplinary punishment. **No reports on the analysis of police complaints and investigations, their trends and proposed recommendations by the Internal Security Office are publicly available.** Moreover, **the annual statistics do not include the numbers**

¹⁰ Tiesībsargs veiks pārbaudi saistībā ar Gulbja lietu, *Leta*, 28.09.2007

of civilian deaths as a result of police misconduct. There are no detailed statistics provided as to the types of disciplinary punishment imposed upon police officers. Separate statistics on criminal proceedings against police officers in cases of police brutality and specific criminal sanctions imposed are not systematically collected.

Number of disciplinary investigations on police violence, 2003 - 2006

State Police structural unit	Number disciplinary investigations	Police violence confirmed in cases	Number of police officers imposed disciplinary punishment
State Police Central Board	98	6	12
Riga Central Police Board	269	2	1
Jelgava Police Board	44	2	2
Daugavpils Police Board	26	2	2
Liepāja Police Board	39	1	2
Ventspils Police Board	11	2	2
Jurmala Police Board	12	1	1
Valmiera Police Board	12	0	0
Riga Regional Police Board	19	0	0
Limbaži Police Board	15	0	0
Kuldīga Police Board	11	1	1
Other police territorial divisions and units	109	8	19
Total	665	26	45

Statistics have been compiled using annual statistics provided by the Internal Security Office

Thus, **during four years**, when statistics on disciplinary investigations about police brutality began to be collected separately, **the fact of police violence was confirmed only in 4% of 665 disciplinary investigations. In the case of the Riga Central Police Board, of the 269 disciplinary investigations, the fact of violence was confirmed in 2 cases or less than 1% of disciplinary investigations** and resulted in the disciplinary punishment of 2 police officers.

Thus, effective investigation of complaints on police brutality remains a serious concern.

This is evidenced by a recent case whereby a remand prisoner turned to the Latvian Centre for Human Rights with a complaint alleging police brutality.

On 8 May 2006, a remand prisoner was escorted from Central Prison to the Riga Regional Court and placed into a holding room for detainees. At 11 the detainee asked the escort police officer to call an ambulance, which arrived and provided medical assistance. Around 1 p.m. the escort police was repeatedly asked to call the ambulance. According to the detainee the request was refused, he was told that he would be able to voice his grievances in the court hearing that was about to begin. The detainee demanded to see a senior officer on the shift. An escort police officer who entered the room and claimed he was the chief officer on the shift, kicked the detainee in the chest. The detainee fell down, and while attempting to get up, was hit on the head. He began to shout, and alleged he had

been repeatedly hit by the officer in order to silence him. The shouting was overheard by other detainees and other escort police officers (2-3) – one officer tried to silence the detainee by placing a hand on his mouth, another made him sit on the floor and kicked him on his back and body several times. The detainee screamed, and one officer told the others to stop beating the detainee, and they all left the cell. The ambulance arrived shortly and took him to the Central Prison Hospital where bodily injuries of medium severity were established: a broken lumbar vertebra and bruised left kidney.

On 2 June, 2006 the Internal Security Office of the State Police opened criminal proceedings under Section 317.2 (exceeding official authority, if resulted in serious consequences or if linked to violence or threat of violence).

On October 26, 2006 the Internal Security Office adopted a decision to close criminal proceedings due to absence of criminal offence. The decision concludes that the detainee attempted to hit a police officer who tried to stop his loud conduct, and that three police officers applied physical force in compliance with Section 13.6 of the Law on Police, which permits the use of force by police officers in cases of malicious resistance to lawful demands by police officers. The detainee appealed the decision.

On December 12, 2006 the prosecutor of the Riga City Latgale District Prosecutor's Office concluded that decision to close criminal proceedings was justified.

On January 1, 2007, Deputy Senior Prosecutor of the Riga City Latgale District Prosecutor's Office revoked the decision to close criminal proceedings against police officers and sent the case back to Internal Security Office for further investigation.

On March 26, 2007 the Internal Security Office of the State Police took a 2nd decision to terminate criminal proceedings.

On 5 May, 2007 the prosecutor of the Riga City Latgale District Prosecutor's Office repeatedly concluded that the decision to terminate criminal proceedings was justified. The detainee appealed the decision.

On 12 June, 2007 the Senior Prosecutor of the Riga City Latgale District Prosecutor's Office revoked the decision on termination of criminal proceedings and sent the case back to the Internal Security Office for further investigation.

Earlier in January, 2007 the detainee wrote a complaint to the Minister of Interior about the case requesting a repeat investigation.

Compensation case

There is hardly any information available on compensation cases concerning police brutality through civil proceedings. First case of significant compensation being paid for police mistreatment was recorded in 2006, however, in the case of police brutality against a detainee eleven years ago - in 1995. On October 9, 2006, the Civil Law Chamber of the Supreme Court ordered the State Police to pay 4,427 Lats (6,500 euros) in medical costs to an individual who was beaten up by a police officer in the Daugavpils Police station in 1995. Earlier in the year, the Riga Regional Court ordered the State Police and the Ministry of Interior to pay 94,500 Lats in compensation to the victim who had demanded 200,000 Lats, for sustained injuries (loss of eyesight, facial injuries due to loss of eyesight, medical and other expenses), but the Ministry of Interior and the State Police appealed the decision. The

police officer was sentenced to three years imprisonment, but has not served the sentence as he no longer resides in Latvia.

Administrative detainees

Due to the appallingly high rate of traffic related accidents as a result of drink-driving and subsequent high rate of traffic accident related deaths, the parliament adopted amendments to the Administrative Offences Code on 15 September, 2005. The amendments foresee harsher penalties for drink driving or driving under the influence of drugs or other substances, driving without a driver's licence, refusal to take alcohol or drug test by increasing fines (for up to 500 Lats), imposing mandatory administrative arrest from 5 to 15 days and depriving of driver's licence for up to 5 years. The amendments have led to the increase of the number of persons serving administrative arrest in police detention facilities. The Law provides for the punishment of the administrative arrest to be served immediately without an opportunity to challenge the decision in court. In early October, 2007 the Ombudsman announced he was to contest the provision in Constitutional Court.

Conditions of Police Detention Facilities

The Law on the Procedure of Holding Detainees was adopted in October 13, 2006 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 however 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, classified as restricted information and was not publicly available.

While the Law on the Procedure of Holding Detainees provides for standards for police cells in larger police detention facilities in district police stations, there are no regulations governing standards in cells in small police stations where detainees can be held up to 12 hours.

In mid 2006, there were 28 State Police stations with short-term detention cells with the capacity of 841 places. While materials conditions have improved in separate facilities following renovation, many remain dilapidated and unsuitable neither for holding detainees, nor 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 standards¹¹, while in 2005 it stated that conditions in 14 corresponded to international standards.¹²

Conditions in the police stations visited by the Latvian Centre for Human Rights in 2004-2006 ranged from terrible to good. Some of the visited police stations had been refurbished in 2004-2006 (Talsi, Ludza, Rezekne, Bauska, Valmiera), and the police leadership in Ludza, Rezekne and Bauska should be commended for their role in improving conditions of detention and treatment of police detainees. Conditions in several visited police stations (Venstpils, Liepaja, Daugavpils) were terrible and fully corresponded to the evaluation by the

¹¹ Latvijas Republikas Iekšlietu ministrija. Valsts policija. Gada pārskats 2000. Rīga, 47.lpp.

¹² 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/IeManot_080906

European Committee for the Prevention of Torture in its 2002 report as “*so appalling that they could amount to inhuman and degrading treatment.*”

On a positive note, in December 2005 a new building for the Liepaja State Police headquarters, including a custody facility with 18 cells (capacity 33 places), was inaugurated. On October 1, 2006 following the order of the State Police Commissioner J. Zaščerinskis the short-term detention facility in Ventspils Police Department was closed down. In November 2005 the Cabinet of Ministers supported the proposal by the Ministry of Interior concerning the provision of the Daugavpils Police Headquarters and custody facility with adequate premises in the Daugavpils Fortress building complex.

The physical conditions in Jekabpils Police Headquarters could be well described as appalling, however, it should be noted that despite the conditions, the cells were reasonably clean. Poor conditions were also observed in the Aizkraukle Police Headquarters. A significant number of police custody facilities are located in the basement, which impacts on the maintenance of cells in an adequate state in a longer period of time due to humidity.

In several police stations all detainees are provided with a separate sleeping place, in several police stations a separate sleeping place is generally provided to criminal suspects. However, in many police stations police detainees are obligated to sleep on a wooden platform with other detainees. This practise also remains in some of the custody facilities despite their recent renovation (Bauska, Talsi). Several custody facilities have in-cell sanitation, however a significant number of visited police custody facilities (Aizkraukle, Ventspils, Daugavpils, Jēkabpils, Valmiera) have no in-cell sanitation and the conditions are degrading as police detainees have to use buckets to comply with their needs of nature in the presence of other detainees. While in several police stations with no in-cell sanitation detainees have access to the toilet upon need, in some they have access to the toilet only twice a day – in the mornings and in the evenings. In the majority of police stations, cells have no windows and detainees have no access to natural light, while artificial light in a significant number of custody facilities remains poor and inadequate for reading. Exercise yards have been created in several police stations (Bauska, Ludza, Jurmala, Aluksne).¹³

Independent police cell inspection (see *Section on Independent Custody Visiting*)

¹³ See in detail: Latvian Centre for Human Rights, Monitoring Report on Closed Institutions in Latvia. Riga: 2006, pp. 97-129.

PRISONS

While the number of prisoners in Latvia has decreased during 2004-2007, the imprisonment rate remains very high – 292 prisoners per 100,000 inhabitants. In July 2007, it was the second highest rate among the European Union Member States and the 6th highest in wider Europe losing only to Russia, Belarus, Georgia, Ukraine, and Estonia.¹⁴

There has been serious progress in addressing the problem of high share of pre-trial detainees and lengthy pre-trial detention periods: the number of pre-trial detainees has decreased significantly – from a record high 44, 5% of all prisoners in early 2003 to 25% in the end of 2006, largely as a result of rulings of the European Court of Human Rights and the adoption of the new Criminal Procedure Law which came into force in October 2005, and which introduced stricter requirements in the imposition of pre-trial detention and statutory limits on pre-trial detention depending on the gravity of crime.

While these measures have also speeded up the review of the cases and there have been some improvements in liberalizing contacts with the outside world (phone calls, meetings with relatives, correspondence), the daily regime of pre-trial detainees has virtually remained unchanged and the majority of detainees remain 23 hours in their cells.

Despite the development of alternatives to imprisonment, such as community service which has surged in popularity, the share of offenders sentenced to imprisonment has hardly changed and remains high fluctuating between 25-27%. Thus, despite its popularity, community service has largely substituted other alternatives, such as fine and a suspended sentence.

Offenders (%) by type of punishment, 2000-2006

Type of punishment	2000	2001	2002	2003	2004	2005	2006
	%						
Imprisonment	26,1	25,9	28,3	26,9	25,5	23,4	27,0
Suspended Sentence	56,6	54,9	53,3	53,8	53,5	53,6	45,4
Fine	10,0	8,1	5,8	6,6	6,4	6,4	7,3
Community Service	4,7	8,1	9,7	9,9	11,7	15,4	19,5
Custodial arrest	0,02	0,04	0,1	0,04	0,03	0,1	0,1
Released punishment	2,6	3,1	2,8	2,7	3,0	1,2	0,7
TOTAL							

Source: Court Statistics Department of the Court Work Organisation Department of the Court Administration

Moreover, recently proposed amendments to the Criminal Law by the Ministry of Justice which have been approved by the government and forwarded to the parliament will limit the

¹⁴ Europe – Prison Population Rates per 100,000 of the National Population. World Prison Brief. International Centre for Prison Studies, at <http://www.prisonstudies.org/> last accessed on July 2, 2007

powers of the judiciary to impose a suspended sentence (suspended imprisonment) in cases when the person has committed an intentional crime (punishable by a prison sentence exceeding 5 years), if he/she has previously served a prison sentence and if his/her criminal record has not been erased. The current Criminal Law provides for a suspended sentence for all types of crime.

The decision was taken in response to several cases whereby courts sentenced several individuals charged with large scale corruption and drug related crimes to suspended imprisonment. In 2005, 984 offenders who had in the past served a prison sentence received a suspended sentence, in 2006, the corresponding number was 601. By very modest Ministry of Justice estimates, if the amendments are adopted this would lead to the increase the number of prisoners by 200 in 2008.¹⁵ **No comprehensive research was undertaken to substantiate the need for legislative changes.**

While the government authorities have acknowledged the need for the improvement of dilapidated prison infrastructure, the short-lived governments and, consequently, frequent change of Ministers of Justice (three Ministers of Justice in 2006), have resulted in **confusing and contradictory signals being sent by different Ministers about priorities concerning the improvement of prison infrastructure.** In October 2004, the Minister of Justice V. Muižniece proposed the construction of a new prison for 3000 inmates.

In April 2005 without any public debate the Government approved the Concept of Prison Development, providing for a gradual improvement of prison infrastructure. The concept for the first time admitted overcrowding at Latvian prisons, in reaction to CPT recommendations to increase living space per prisoner from an average 2, 5 sq.m.to 4 sq.m.; however the only solution offered was to enlarge three existing prisons, including the only two open prisons of the Latvian prison system with capacity of 80-100 places to 700 places..

However, no funding was allocated for the purpose in subsequent years. In 2007 the new Minister of Justice G. Bērziņš called for the building of a new prison and spoke about the potential closure of several prisons with poor prison infrastructure, such as the Brasa closed prison for adult males and the only-women's prison at Ilguciems. It was announced that an audit company KPMG Baltics was commissioned by the Ministry of Justice to conduct assessment as to which prisons could be renovated, which should be closed down and where the potential new prison site could be.¹⁶ In early October another announcement was made about plans to merge two prisons - Matisa and Central Prison in order to economize on the resources and allow for more flexible personnel policy due to shortages of custodial staff.

After almost a decade of criticism by international and domestic organisations about the dire state of **the Central Prison Hospital, it was finally closed down in on 31 July, 2007 and the new Olaine Prison Hospital with 289 places was opened on 1 August, 2007.**

Although the actual number of prisoners in nearly all prisons has decreased, **Latvian prisons are still characterised by a very large official capacity:** 10 prisons have an official capacity of more than 500 places. Four prisons have an official capacity of more than 800 places. Living space per adult prisoner has been increased from 2,5 sq.m. to 3 sq.m., however criteria for determining the official number of places is not completely clear.

¹⁵ http://www.saeima.lv/saeima9/mek_reg_fre

¹⁶ Viesturs Radovics, Plano slegt Brasas un Ilguciema cietumus. *Neatkarīga Rita Avīze Latvijai*, 29.03.2007; Tieslietu ministrs: Cietumu skaitu Latvijā nav nepieciešams palielināt.

No.	Prison	Official capacity	Number of prisoners 16 July, 2007
1	Central prison and prison hospital	1922	959
2	Brasa prison	680	348
3	Matīsa prison	816	469
4	Liepāja prison	427	199
5	Valmiera prison	850	693
6	Daugavpils prison	543	438
7	Jelgava prison	578	586
8	Iļģuciems prison	400	314
9	Grīva prison	875	789
10	Jēkabpils prison	660	614
11	Pārlielupe prison	530	460
12	Šķirotava prison	565	432
13	Vecumnieki prison (open)	80	109
14	Olaine prison (open)	100	124
15	Cēsis juvenile prison	140	108
	Total	9166	6559

Source: Order of Ministry of Justice No 1-1/390 of 30.11.2004

In mid-June, 2006 the official capacity of the prison system stood at 9,209, while the number of prisoners fluctuated between 6,500-6,600 prisoners on any given day. Capacities have been changed with the opening of the Olaine Prison hospital on 1 August, 2007, the official capacity of the Prison Hospital is 298, while the official capacity of Olaine Prison is 41 places. An open prison section has also been opened at Jēkabpils Prison.

Thus, if merging of 2 prisons (Central and Matīsa Prison) was to occur, the official capacity of the super prison would exceed 2,500 places.

A considerable number of convicted prisoners continue to be accommodated in Soviet-type dormitories on average 20-25, but in some prisons even up to 80 prisoners per room (Brasa, Pārlielupe Prison).

The conditions in the pre-trial section (8 cells) of the Cesis Correctional Facility for Juveniles remain appalling and can only be characterized as inhuman and degrading.





A cell for juveniles in the pre-trial section of Cesis Correctional Facility for Juveniles.

While the prison system was transferred from the Ministry of Interior to the Ministry of Justice in 2000, in 2007 **the prison system remains significantly militarised with soviet style military management**. Moreover, since 2006 the Prison Service ceased to be part of civil service. Directors of the 15 prisons, deputies and heads of service are officers, as about third of staff and ranks remain the same as with the police and border guards.

Inter-prisoner violence

Inter-prisoner violence remained a serious concern. In early March, 2005 a juvenile prisoner was killed by two fellow prisoners at the Cēsis Correctional Facility for Boys, where sentenced juveniles are accommodated in dormitories with 20-22 inmates. On 28 July, the Vidzeme District Court sentenced both juveniles to 11 years and 1 month imprisonment. Following internal investigation, the chief prison officer on duty responsible for order maintenance was dismissed, while several other prisoner officers and the prison governor were reprimanded, and the prison governor was asked to undertake measures to prevent similar incidents in the future.

On 25 December, 2005 upon his return from a Central Prison hospital, a 16-year-old youth was killed in his cell by two other cell-mates in Matīsa prison.

Special prison task force

On 24 July, 2005 a prisoner was killed in the Valmiera prison after having been stabbed with a knife by inmates in a cell of nine prisoners. When the prison guards attempted to enter the

cell to carry out the body of the deceased, the prisoners barricaded the cell door. Prison guards forced themselves into cell applying physical force in restraining prisoners. One prisoner has been charged with murder. Following the homicide, a massive prison search was conducted in the prison on 25 July by special prison task force “Vairogs”, resulting in complaints by a group of prisoners with the National Human Rights Office alleging ill-treatment, such as beating with batons, kicking, being forced to lie on tarmac for hours without moving. During NHRO inspection on 27 July, prisoners alleged they had not received immediate medical treatment for injuries sustained, while NHRO concluded that there had been no register on the use of special means by the task force. The Prison Service denied the allegations and blamed the prisoners for having inflicted injuries upon themselves and for conspiring against prison authorities. In August, the Ministry of Justice, Prison Services, Prosecutor’s Office and the NHRO reached an agreement on the need to regulate in detail the conduct of special task force during searches and emergencies, including the need for the presence of supervising authorities during such situations. In 2007, there was no publicly available information on the regulations governing the conduct of special task force.

In 2006 Prison Administration received 193 prisoner complaints about violence.¹⁷ The information on the outcome of the complaints is not publicly available.

Social rehabilitation

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 2007 the policy efforts had not translated into significant budgetary allocations.

In spring 2006, the Ministry Justice established a working group on prison employment which was tasked with elaborating a concept paper aimed at fostering employment in Latvia’s prisons, examining prison employment models in other European countries and proposing a prison employment scheme suitable for the Latvian circumstances and suggesting recommendations for the improvement of legislative framework and creation of favourable environment for employers to engage in prisoner employment. In autumn 2007, the concept was still being elaborated.

While the number of prisoners engaged in education, employment and other purposeful activities has slowly increased during the period under review, **prisons continue to play a marginal role in the social rehabilitation of prisoners due to shortage of funding, trained specialists, and lack of adequate prison infrastructure.** In 2006 the Prison Services in co-operation with eight schools embarked on a project aimed at designing, piloting and implementing prisoner educational correctional programmes in eight prisoners with the financial support of the European Social Fund. The project is targeted at 18-25 year old prisoners, however, concerns about sustainability of such projects once the funding is over remains.

¹⁷ Annual Report of Prison Administration 2006.

While the official figures of prison employment stand at 30% of sentenced prisoners, the numbers are questionable as many prisoners are not engaged in regular employment, but are employed part-time and irregularly. There is no official number on the available workplaces in prisons. In September 2006 the parliament adopted amendments to the Sentence Enforcement Code which provided that convicted prisoners would receive 50% of the minimum wage. The decision was opposed by employers and prison authorities who feared the decrease in the number of prisoners willing to work due to meagre pay. The provision was contested by a prisoner in the Constitutional Court and in mid June 2007 the Court found the provision discriminatory and not in compliance with the Constitution.

Independent custody monitoring

There has been no serious consideration by the Latvian authorities to ratify the UN Optional Protocol to the Convention against Torture. While the responsible representatives of the Ministry of Foreign Affairs have highlighted 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. While not ruling out signature and ratification of OPCAT in coming years, they have reiterated it was unlikely to occur in the near future.¹⁸ **The serious need for the strengthening of the capacity of independent domestic inspection bodies in carrying out regular and preventive custody monitoring has remained unaddressed.**

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 unannounced 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.

Ombudsman's Office (formerly National Human Rights Office)

Activities of the National Human Rights Office (Ombudsman's Office from 1 January 2007) in places of detention in the past 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.

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 equality as required by the European Union Racial Equality 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 1 June the Law on Ombudsman Office came into force foreseeing the expansion of the NHRO to an Ombudsman's Office, and in addition to the human rights and anti-discrimination mandate, it will be required to investigate individual complaints about maladministration. **While the number of staff and the budget have doubled in 2007, concerns remain about the effective fulfilment of the Office's functions in view of its expanded mandate in the future.**

From its establishment in 1995 until December 2005, there were no explicit provisions in the Law on the Human Rights Office concerning unrestricted access to places of detention by the

¹⁸ See "Independent Detention Monitoring in the Baltic States" at <http://www.apt.ch/advocacy/baltic2.shtml>.

NHRO staff. On December 15, 2005 the Law on NHRO was amended to provide NHRO staff unrestricted access to places of detention, detainees and for the right to inspect premises of the facility.

However, earlier on October 13, 2005 the parliament adopted the Law on the Order of Holding Detainees, and Section 5 (6) required 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 NHRO and the Latvian Centre for Human Rights of Latvia's international obligations in their evaluation of the draft law when requested by the State Police.

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

The relevant provision was finally amended in the end of April 2007. Anecdotal evidence suggests that the changes did not happen without a significant resistance from the State Police authorities.

Law on the National Human Rights Office (15 December 2005)	Law On Ombudsman (adopted on 6 April 2006, in force on January 1 2007)	Law on the Procedure of Holding Detainees (adopted on 13 October, 2005)	Amendments to the Law on the Procedure of Holding Detainees (26 April, 2007)
	at any time		
to visit closed facilities without receiving a permission	to visit closed facilities without a special permission	Representatives of <u>state and international human rights institutions</u> shall notify in advance respective police authorities about the visit to short-term detention facility	Representatives of state and international human rights institutions, with the exception Ombudsman and a person, representing the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment and Punishment, shall notify respective police authorities about the visit to short-term detention facility
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 person individuals held in places of detention		

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. Visits to police stations have primarily been 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 past 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.

Nearly all NHRO/Ombudsman's office staff are lawyers 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 in the past.

It remains to be seen whether the new amendments providing for unrestricted access to places of detention by the Ombudsman's Office will facilitate a more pro-active approach by the Office in inspecting different custodial facilities.

Prosecutorial oversight¹⁹

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.

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 since 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

¹⁹ See in detail Anhelita Kamenska, Latvian Centre for Human Rights, Independent Detention Monitoring in Latvia, Riga: LHRC, 2006, pp.61-69.

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.

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 camp "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.²⁰ 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.²¹

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."²²

Specialised Multi-Branch Prosecutor's Office

²⁰ 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.

²¹ 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.

²² 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.

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.

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.²³ As emphasized by the 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.'²⁴

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 early 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 "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."²⁵

Illegal migrant detention camp "Olaine"

There is a specially appointed prosecutor at the Special Multi-Branch Prosecutor's Office with direct responsibility to oversee the illegal migrant camp "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 camp in

²³ Interview with Sandra Daugaviete, Senior Prosecutor of the Specialised Multi-Branch Prosecutors Division, November 1, 2005.

²⁴ S.Daugaviete's intervention during an LCHR organised round-table/seminar on prisoner complaints on February 15, 2006, Riga.

²⁵ 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/>

“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 camp “Olaine” was received several years ago.²⁶

Police cell oversight

The practise of district prosecutor offices concerning police cell oversight varies across Latvia.

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 only.

International experts have also emphasised that Article 15 (1) of the Law on Prosecutor’s Office directly states that according to it 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 by the European Committee for the Prevention of Torture further elaboration of respective legal provision is required.²⁷

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²⁶ Interview with Ērika Stankeviča of the Specialised Multi-Branch Prosecutors Division, January 30, 2006.

²⁷ 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>

