



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

Distr.: General
1 November 2012

Original: English

Committee against Torture

**Consideration of reports submitted by States parties under
article 19 of the Convention**

**Combined third to fifth periodic reports of States parties due in 2011,
submitted in response to the list of issues (CAT/C/LVA/Q/5)
transmitted to the State party pursuant to the optional reporting
procedure (A/62/44, paras. 23 and 24)**

Latvia * ** ***

[3 May 2012]

* The second periodic report submitted by the Government of Latvia is contained in document CAT/C/38/Add.4; it was considered by the Committee at its 788th and 790th meetings (CAT/C/SR.788 and 790), held on 8 and 9 November 2007. For the Committee's conclusions and recommendations, see CAT/C/LVA/CO/2.

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited.

*** Annexes to the present document may be consulted in the files of the Secretariat.

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Abbreviations

Additional questions	Request for additional information from the Rapporteur on Follow-Up to concluding observation on 25 May 2011 concerning the additional report submitted by Latvia in 2010
Additional Report	Additional report (CAT/C/LVA/CO/2/Add.1) submitted by Latvia in 2010
CJCI	Cēsis Juvenile Correctional Institution
CM	Cabinet of Ministers of the Republic of Latvia (http://www.mk.gov.lv)
CoE	Council of Europe (http://www.coe.int)
Committee	Committee against Torture
Convention	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CPT standards	Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
Dublin resolution	European Union Council Resolution No. 343/2003 of February 18, 2003, which established the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in a Member State by a third-country national
ECtHR	European Court of Human Rights (http://www.echr.coe.int)
EU	European Union (http://europa.eu)
Directive 2004/83/EC	European Union Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted
Government	Government of the Republic of Latvia
ISO SP	Internal Security Office of the State Police (http://www.vp.gov.lv)
NGO	Non-governmental organisation
OCMA	Office of Citizenship and Migration Affairs of the Republic of Latvia (http://www.pmlp.gov.lv)
Ombudsman	Ombudsman's Office (http://www.tiesibsargs.lv)
Replies	Replies to the list of issues (CAT/C/LVA/Q/5) transmitted to Latvia pursuant to the optional reporting procedure, which provide information about the implementation of the State party's obligations under the Convention during the reporting period from 1 January 2008 to 31 December 2010, and including the additional information requested by the Rapporteur on Follow-Up to the concluding observation on 25 May 2010.
Return directive	Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals

UN	United Nations (http://www.un.org)
USA	United State of America (http://www.usa.gov .)
UNHCR	Office of United Nations High Commissioner for Refugees (http://www.unhcr.org)
UNHCR Standards	A Thematic Compilation of Executive Committee Conclusions, 4th Edition, Office of United Nations High Commissioner for Refugees, August 2009
UNHCR Guidelines	Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, Re-edition, UNHCR, January 1992
1951 Geneva Convention	1951 Convention relating to Status of Refugees

I. Introduction

1. The 1984 United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention) has been binding upon Latvia as of May 14, 1992. On May 15, 2007, the Committee against Torture (Committee) adopted a new optional reporting procedure, which Latvia has officially agreed upon on April 21, 2010. In accordance with the new procedure, the Government of the Republic of Latvia (Government) hereby presents its replies (Replies) to the list of issues (CAT/C/LVA/Q/5) that was transmitted to it. The Replies constitute its fifth periodic report to the Committee under Article 19 of the Convention.

2. The Replies present information about the reporting period from January 1, 2008, until December 31, 2010. The Replies have been prepared in general conformity with the consolidated guidelines for State reports under the Convention, as well as taking into consideration the General Comments on the interpretation of the Convention prepared by the Committee.

3. A special working group has been established for drafting the Replies, including representatives from the Ministry of Defense, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Welfare, the Ministry of Interior, the Ministry of Health, the Ministry of Education and Science, the State Police and the Specialised Multisectoral Prosecutor's Office. In accordance with the Regulation No. 92 of the Cabinet of Ministers (CM) of March 17, 1998, "*On representation of the Cabinet of Ministers at international human rights institutions*" the Government agent chaired the abovementioned working group. The Latvian Centre for Human Rights, the Centre of Public Policy PROVIDUS, the Centre for Human Rights' Studies and Research of the University of Latvia, the Latvian Civic Alliance, the Latvian Red Cross Society, the Society "Shelter "Safe House"", the Resource Centre for Women "Marta" were invited to present their comments on the Replies. The Ombudsman's Office and the Latvian Centre for Human Rights have submitted their observations concerning the Replies therewith contributing to the drafting process. The Latvian Red Cross Society has expressed its support for the drafted Replies.

4. On May 25, 2011, the Government received a request for additional information (Additional questions) by the Rapporteur for Follow-Up on Concluding Observations of the Committee Against Torture, as concerns the Additional Report of the Government submitted in 2010 (Additional Report of 2010). Issues, which are related to the Additional questions, have been incorporated into the relevant parts of the Replies.

5. Following official approval the Replies were published in the Official Journal "Latvijas Vēstnesis" and their electronic copies will be delivered to all interested parties free of charge. In addition, the Replies were published at the web page of the Ministry of Foreign Affairs, the Office of the Representative of the Cabinet of Ministers before International Human Rights Organisations, as well as at the web pages of other public state institutions.

6. The responsible institutions that were involved in drafting of the Replies, and which on a daily basis encounter with the issues discussed herein, have been acquainted with the Replies on August 30, 2011. The Replies have been considered and adopted by the CM on October 19, 2011.¹

¹ *Translator's note:* The Replies were placed before adoption on the Government website, and are still available for consultation at <http://www.mk.gov.lv>.

II. Replies to the list of issues (CAT/C/LVA/Q/5)

7. The Government has carefully studied the list of issues drafted by the Committee. The Replies of the Government are presented below.

Articles 1 and 4

Reply to the issues raised in paragraph 1 of the list of issues

8. Since the submission of the second periodic report to the Committee and its examination in 2007, as well as after the Government's replies and the Additional Report had been introduced to the Committee in 2007 and 2010, various legislative amendments has been adopted with regard to national criminal law in order to ensure compliance with requirements of the Convention and achieve an ultimate goal of eradicating torture.

9. On December 23, 2009, amendments to the *Law on "Entering into force and implementation of the Criminal Law"* of October 15, 1998, were introduced thereby supplementing the abovementioned law with Article 24¹, which defines the crime of torture. Namely, under Article 24¹ an offense of torture means any intentional repeated or continuous act or omission, which inflicts severe pain or suffering, whether physical or mental, on a person; or any intentional single act or omission, which inflicts severe pain or suffering, whether physical or mental, on a person for the purpose of affecting person's consciousness and will.

10. Additionally, acts of torture, as a *corpus delicti*, have been incorporated in numerous crimes under the *Criminal Law*. In that respect, on December 23, 2009, the following amendments to the *Criminal Law* have been made:

- Article 272¹ (compelling to produce a false explanation, opinion or translation to a parliamentary investigation commission) provides that if such act (either bribing or other unlawful means of influence) is associated with torture, it is punished by deprivation of liberty for a term not exceeding eight years;
- Article 294 (compelling to testify) provides that the compelling to testify at an interrogation, if such committed by the official in charge of pre-trial investigation and is associated with torture, is punished by deprivation of liberty for a term not exceeding 10 years;
- Article 301 (compelling to produce a false explanation, opinion or translation) provides that if such act (either bribing or other unlawful means of influence) is associated with torture, it is punished by deprivation of liberty for a term not exceeding 10 years;
- Article 317 (exceeding official authority) provides that exceeding official authority, if it is associated with torture, if substantial damage is caused thereby to State authority, public order or person's rights and legitimate interests protected by law is punished by deprivation of liberty for a term not exceeding 10 years.

11. During the reporting period neither pre-trial nor court proceedings were initiated or terminated under Articles 272¹, 294, 301 of the *Criminal Law*. For statistical data pertaining to Article 317 of the *Criminal Law* see Annexes 2, 3.

Reply to the issues raised in paragraph 2 of the list of issues

12. In responding to the present Committee's issue and touching upon the information requested within the Additional questions, the Government would like to point out that under international criminal law torture is not clearly defined as a crime with no statutory

limitations applicable thereto. In addition to the Convention, the Republic of Latvia joined numerous international treaties related to the criminal law, which draw significant attention to elimination of torture. On July 3, 1992, the *UN 1968 Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity* entered into force in Latvia. As of September 1, 2002, Latvia is bound by the *Rome Statute of the Criminal Court*, which introduces the definition and *corpus delicti* of torture. In that respect, Article 57 of the *Criminal Law* provides that war crimes, genocide, crimes against humanity and crimes against peace are not subject statutory limitations.

13. Crimes related to torture have been incorporated into different Articles of the *Criminal Law* (for additional information see para.10). Statutory limitations applicable to each crime depend on the severity thereof. Namely,

- Five-year statutory limitation (as of the date when the crime was committed) applies for committing of regular beating associated with torture or any other kind of torture, provided these acts have not had the consequences related to serious or medium bodily injury (Article 130 of the *Criminal Law*);
- 10-year statutory limitation (as of the date when the crime was committed) applies for committing of intentional infliction of medium bodily injury associated with torture (Article 126 of the *Criminal Law*);
- 15-year statutory limitation (as of the date when the crime was committed) applies for intentional infliction of serious bodily injury associated with torture (Article 125 of the *Criminal Law*);
- 10-year statutory limitation (as of the date when the crime was committed) applies to compelling to produce a false explanation, opinion or translation to a parliamentary investigation commission, if it is associated with torture (Article 272¹ of the *Criminal Law*);
- 10-year statutory limitation (as of the date when the crime was committed) applies to compelling to testify, if it is associated with torture (Article 294 of the *Criminal Law*);
- 10-year statutory limitation (as of the date when the crime was committed) applies to compelling to produce a false explanation, opinion or translation, if it is associated with torture (Article 301 of the *Criminal Law*);
- 10-year statutory limitation (as of the date when the crime was committed) applies to exceeding official authority, if it is associated with torture (Article 317 of the *Criminal Law*);
- 10-year statutory limitation (as of the date when the crime was committed) applies to committing violence against a subordinate within the military service, if it is associated with torture (Article 338 of the *Criminal Law*);
- 10-year statutory limitation (as of the date when the crime was committed) applies for battering and torture of a military soldier (Article 340 of the *Criminal Law*).

14. In observing the Convention's requirements to combat impunity for torture-related crimes and ensure effective investigation thereof, the crimes committed by the State Police officers are investigated by the Internal Security Office of the State Police (ISO SP). The ISO SP is directly subordinated to the Chief of the State Police and is independent in its activities from any other State Police authority. The ISO SP activities are additionally supervised by the Prosecutor Office, the latter being an institution belonging to the judicial power (for details see paras. 15, 149, 150, 167, 168, 172, 290). The crimes committed by

the officers of the Prison Authority are investigated by the competent investigators of the Prison Authority (for details see paras. 15, 154, 239).

15. In accordance with Article 6.7 of the Action Plan to the Declaration of the Latvian Government² and recommendations adopted by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), on September 28, 2010, an inter-institutional working group was established. It consists of the representatives of various ministries, Prosecutor General Office, as well as the Corruption Prevention and Combating Bureau. At present, the working group is drafting proposals as regards the review of functions and activity of the ISO SP and the Prison Authority, aimed at strengthening institutional independence of both authorities.

Article 2

Reply to the issues raised in paragraph 3 of the list of issues

16. On April 6, 2006, the *Law on the Ombudsman* was adopted, which entered into force on January 1, 2007 (<http://www.tiesibsargs.lv>). The Ombudsman's Office is a national human rights institution, which operates in compliance with the *UN Principles relating to the status and functioning of national institutions for the protection and promotion of human rights (Paris principles)*. The compliance with the *Paris principles* is preserved by the provisions of the *Law on the Ombudsman*, which acknowledges that the Ombudsman is independent and governed by rule of law. The Latvian Parliament (*Saeima*) elects the Ombudsman for a five-year term. In comparison to the preceding *Law on State Human Rights Office*, now the Ombudsman is endowed with enlarged scope of duties to protect human rights and ensure implementation of the principle of good governance.

17. The main tasks of the Ombudsman's Office are to promote the observance of human rights, as well as to review that the state authorities' actions are legal, efficient and underpinned by the principle of good governance. In the performance of its functions specified by the *Law on the Ombudsman*, the Ombudsman is entitled to identify legal deficiencies and contribute to elimination thereof in *Saeima* and the CM. The Ombudsman examines claims brought by individuals, as well as provides recommendations and conclusions regarding the prevention of further human right violations; consults state authorities on promotion of rule of law, good governance and efficiency of actions; conducts studies and analyses the overall situation in the field of observance of human rights in Latvia, *etc.*

18. The Ombudsman is entitled to initiate examination proceedings based on individual claim; to lodge a constitutional complaint with the Constitutional Court; to represent an individual in Administrative Court, if such is required by public interests. Also, the Ombudsman is entitled to visit penal closed-type institutions, to move freely within the territory thereof, to visit all premises and to meet in private the individuals kept in penal closed-type institutions at any time and without holding any specific permission. The Ombudsman may listen to the opinion of a child without the presence of his/her parents, guardians, child care and educational institution's authorities, if the child so wishes, *etc.*

² Government's Action Plan to the implementation of the Declaration of the Cabinet of Ministers headed by the Prime Minister, Mr. Valdis Dombrovskis, adopted by the order No. 67 of the Cabinet of Ministers of February 23, 2011, at p. 51, http://www.mk.gov.lv/file/files/ministru_kabinets/vrp.pdf (Last visited on August 22, 2011).

19. As of December 31, 2010, the Ombudsman's Office employed 39 professionals. In 2008, the state budget granted an amount of LVL 1,303,002 (approx. EUR 1,854,004)³ for financing the activities of the Ombudsman's Office. However, due to financial hardship in 2009, an amount of LVL 904,433 (approx. EUR 1,286,899), and in 2010, - LVL 558,901 (approx. EUR 795,249) were allocated by the state budget to maintain functioning of the Ombudsman's Office.

20. *The Ombudsman's Strategy for 2011-2013* sets out accreditation with International Coordinating Committee of National Human Rights Institutions as one of the priorities for the coming period.

Reply to the issues raised in paragraph 4 of the list of issues

21. Referring to the right of an individual who is subject to criminal proceedings to notify his/her relatives, Article 63, paragraph 1, subparagraph 2, of the *Criminal Procedure Law* provides that an apprehended person has the right to request his/her relative, educational institution or employer is notified about his/her apprehension.

22. Article 247 of the *Criminal Procedure Law* foresees that if an applied compulsory measure is associated with the deprivation of liberty, a performer of inquiry shall notify the apprehended person's family members or relative, or employer immediately, but not later than within 24 hours, upon the apprehended person's request and following his/her instructions. If a juvenile is apprehended, a performer of inquiry shall immediately notify parents, or other close adult relative, or guardian. If a foreigner is apprehended, a performer of inquiry shall notify, with the assistance of the Ministry of Foreign Affairs, the consular or diplomatic mission of the foreigner's country of residence.

23. Article 637 of the *Criminal Procedure Law* provides that after the court decision enters into force, thereby imposing a deprivation of liberty or arrest, prison administration ensures that a convicted person notifies his/her relative, or a third person upon request, about the exact place of deprivation of liberty he/she is kept in.

24. As regards the right of a detainee to access to a doctor, the Government would like to refer to the information provided by the Additional Report of 2010, (see paras. 4-7 of the Additional Report) and, thereby addressing the Committee's Additional questions, provides as follows.

25. A detained person receives medical treatment in accordance with the procedure set forth by the provisions of the CM Regulation No. 800 of November 27, 2007, "*Internal Rules of Remand Prison*". According to the mentioned rules every newly-arrived detainee undergoes first medical examination of health condition upon his/her placement into remand prison, or not later that within three days upon arrival. The same procedure is applied to a convicted person upon his/her arrival to the place of deprivation of liberty.

26. When staying in prison or remand prison, a convict or detainee is entitled to visit a doctor and receive necessary medical treatment in the amount of and according to the procedure established by the CM Regulation No. 199 of March 20, 2007, "*On Medical Assistance to Convicted and Detained Persons in Remand Prisons and Places of Deprivation of Liberty*" (for details see paras. 5-6 of the Additional Report).

27. In response to the Additional question related to the elimination of healthcare services available for convicts and detainees, the Government emphasises that there had been no legislative or administrative changes during the reporting period, which would have influenced the scope of healthcare services provided for convicts and detainees.

³ *Translator's note:* Bank of Latvia's currency exchange rate: 1 EUR = 0.702804 LVL.

Further, those who seek hospital treatment in acute and pressing cases, such treatment is ensured within other medical institution outside the place of deprivation of liberty.

28. In cases when medical treatment cannot be provided in a prison, a detainee or a convict may be transported, under security control, to a medical institution outside the place of deprivation of liberty. In addition, a detainee or convict is entitled to receive medical counselling or treatment in public hospitals, by his/her request and at such person's own or third person's expense.

29. Preventive medical examination in remand prisons or prisons is carried out under initiative of the medical personnel of the respective place of deprivation of liberty. Such assessment is carried out for newly-arrived convicts or detainees on their entry and then is held annually for detecting diseases in their early stage. During routine preventive health assessment procedure particular attention is given to the detection of contagious diseases and mental disorders, as well bodily injuries and signs of violence. The preventive medical assessment includes such components as an overall examination of the individual's health condition; detection, recording and assessment of his/her health-related complaints; establishing of diagnosis, and if necessary, carrying out of additional examinations and providing necessary treatment. Newly-arrived convicts and detainees undergo fluorographic examination of lung fields, female convicts and detainees are subject to gynaecological examination, as well as HIV/AIDS testing is offered to all inmates.

30. Medical examinations carried out by medical personnel of the place of deprivation of liberty are primarily targeted at elucidating, whether individuals concerned might be suffering from any particular disease, or at treating the indicated health problems the individual has referred to. In case an individual needs medical treatment, he/she addresses the Medical Unit of the place of deprivation of liberty. Such medical assistance is provided upon request either this day, or the next working day when the necessary medical specialist is on duty. Dental treatment is provided upon the waiting list. Urgent medical assistance is provided immediately 24-hours a day. The overall quality control of medical treatment is monitored by the Chief of the Medical Unit of the respective place of deprivation of liberty.

31. Furthermore, medical examinations in prisons or remand prisons are provided depending on the time-length a convict or detainee stay outside the place of deprivation of liberty. If an individual stays outside for a couple of hours (*e.g.*, while participating in court proceedings or investigative activities), healthcare services are rendered upon his/her request. However, if an individual stays outside the place of deprivation of liberty for an extended period, or he/she was transferred between various institutions, medical examination is mandatory.

32. Emphasising the progress achieved in securing quality of medical assistances for convicts, the Government would like to mention that as of 2007, the Latvian Prison Hospital operates in new premises and is equipped with modern medical facilities. It has resolved previously existed problem of medical conditions in places of deprivation of liberty.

33. During the time period from 2007 till 2010, there was a substantive change in the number of medical personnel working in places of deprivation of liberty. Following a significant increase in the total number of medical personnel members in 2008, in 2009-2010, the number of employees has diminished due to merging and closing of some penal institutions, as well as narrowing the scope of functions attributed to the Latvian Prison Hospital. In 2009, the total number of personnel in some prisons was reconsidered, and psychiatrists and nursing personnel were recruited.

34. A delegation of the CPT carried out a visit to Latvia from December 3, 2009, till December 8, 2009.⁴ At the time of the visit the CPT delegation has attended the Daugavgrīva Prison, Jelgava Prison and Jēkabpils Prison. In view of the requirement provided in the CPT standards⁵, the CPT delegation observed some improvements regarding the provision of health care at the Jēkabpils Prison. For instance, a general practitioner and a psychiatrist had been recruited, the presence of nursing personnel was guaranteed at weekends and during the day, *etc.*

35. During the period from 2008 till 2010, no spread of contagious diseases, as well as no increase of incidence thereof was registered in places of deprivation of liberty throughout Latvia.

36. In 2010, the Ombudsman published a report concerning the availability of healthcare services in places of deprivation of liberty. Following the deficiencies identified through the research, the Ombudsman provided recommendations, *inter alia*, on drafting a concept paper for the provision of healthcare services at places of deprivation of liberty and the implementation of uniform healthcare system. Furthermore, the Ombudsman suggested granting exemption of patient fee for those who lack financial resources, as well as recommended to improve the provision of healthcare services in the Latvian Prison Hospital and other hospitals, *etc.* The Ministry of Justice has accepted the recommendations and launched the implementation thereof in close co-operation with the Prison Authority and the Ministry of Health.

37. During 2009-2010, the European Court of Human Rights (ECtHR) adopted four decisions in cases against Latvia. The applicants complained about the lack of appropriate medical assistance and/or quality thereof. The ECtHR declared these cases inadmissible as being manifestly ill-founded.⁶ For instance, on May 11, 2010, in the case “*Ruža v. Latvia*” the ECtHR decided to declare the applicant’s complaint regarding the alleged lack of medical assistance in the Daugavpils prison inadmissible, thereby confirming that “*While in detention in Daugavpils prison the applicant was regularly in contact with medical personnel who examined him. On a number of occasions various drugs were prescribed and administered to him [...] Moreover, when the applicant’s health deteriorated, he was transferred to Prison Hospital for a more detailed examination and treatment [...]. Therefore, the Court is unable to conclude that the national authorities did not ensure proper medical supervision of the applicant’s condition.*”⁷

38. As regards the Committee’s issue on ensuring effective access to a lawyer, the Government finds it necessary to refer to the information submitted in the Additional report of 2010, (see paras. 9-13 of the Additional Report of 2010) and additionally provides as follows.

39. The *Law on State Ensured Legal Aid*, adopted on March 17, 2005, governs the procedure of the provision of the state ensured legal aid. The mentioned law is aimed at

⁴ 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 December 3 to December 8, 2009, CPT/Inf (2011) 22. Available at <http://www.cpt.coe.int/en/states/lva.htm>.

⁵ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) standards, CPT/Inf/E (2002) 1 - Rev. 2010, available at <http://www.cpt.coe.int/en/docsstandards.htm>.

⁶ See, for example, *Lobanovs v. Latvia* (application No. 16987/02), decision of September 28, 2010 paras. 44-47; *Žarskis v. Latvia* (application No. 33695/03), decision of March 17, 2009, paras. 40-45; *Daģis v. Latvia* (application No.7843/02), decision of June 30, 2009, paras.45-52.

⁷ See *Ruža v. Latvia* (application No. 33798/05), decision of May 11, 2010, paras. 40.-42.

ensuring an access to fair trial for individuals thereby guaranteeing financial support for legal aid services.

40. The right to apply for state ensured legal aid are granted for a Latvian citizen, non-citizen, stateless person, the European Union (EU) citizen, who resides legally in Latvia, a foreigner (including refugees and persons granted the alternative status) from non-EU Member State, who legally resides in Latvia and has received a permanent residence permit, if they are:

- Disadvantaged or low-income persons; or
- Unable to protect their rights due to specific situation, *i.e.*, their property status or income level (for example, in cases of natural disasters, *force majeure* or other reasons beyond person's control); or
- They are subject to full state or municipality financial support.

Similarly, an asylum seeker, a person who is domiciled in the EU Member States, a person involved in cross-border disputes⁸ and those to whom such rights are granted in accordance with the Latvian international obligations, are also entitled for state ensured legal aid. According to the amendments made to the *Immigration Law* on June 16, 2011, which come into force on December 23, 2011, a foreigner is entitled to state ensured legal aid, if:

- He/she lacks financial resources, he/she stays in Latvia, and the enforcement of the order on voluntary departure or the decision on forced deportation, which was issued against him/her, is suspended;
- He/she is apprehended and placed in centre for placement of asylum seekers or illegal immigrants, or is accommodated in another place specifically designed for such purposes (in addition, see paras. 41, 114, 115).

41. State ensured legal aid is provided for judicial and extra-judicial activities in civil, criminal, administrative proceedings concerning granting/refusing the refugee status, and cross-border disputes in accordance with the EU Council Directive 2005/85/EC of 1 December 2005 *on minimum standards on procedures in Member States for granting and withdrawing the refugee status*. On December 23, 2011, the amendments adopted on June 16, 2011, to the *Law on State Ensured Legal Aid*, will come into force, thereby broadening the list of situations covered by state ensured legal aid; namely, such legal aid shall be granted for appeal against the decision which challenged the order on voluntary departure, or against the decision which challenged the decision on forced deportation (in addition, see paras. 40, 114, 115).

42. Extra-judicial activities covered by state ensured legal aid are as follows: legal consultations, drafting of procedural documents

- In terms of violation of the individual's rights or legitimate interests in civil matters;
- In terms of adjudication of the matter thereby drafting a claim or a friendly settlement.

43. An individual may apply for legal aid in civil and administrative matters before the date when the final judgment of the court becomes effective. In terms of both, civil and

⁸ Pursuant to Article 14.1 of the *Law on State Ensured Legal Aid*, a cross-border dispute is one in which the permanent residence or domicile of the party applying for legal aid at the time of receipt of the respective application is not in a State where the adjudication is taking place or the court judgment is to be enforced.

administrative proceedings, the state ensured legal aid is provided for legal consultations, drafting of procedural documents and individual's representation in the court.

44. In terms of cross-border issues, the state ensured legal aid is provided for legal consultations, drafting of procedural documents and individual's representation in the court. In addition, an individual is eligible to receive interpretation services, translation of case-related documents; payment of the costs to ensure an individual's presence at the court's hearing, if he/she may not be heard otherwise.

45. Furthermore, in exceptional circumstances, state ensured legal aid may be provided additionally to those situations referred to in the *Law on State Ensured Legal Aid*, if non-provision of such legal aid would significantly violate individual's fundamental rights set out in the *Constitution of Latvia (Satversme)*.

46. On January 1, 2009, the following CM regulations entered into force, namely:

- establishing new and reader-friendly application form for persons seeking State ensured legal aid;
- Determining the cases when an individual's property status or income provide legal grounds for granting state ensured legal aid;
- Establishing types and scope of state ensured legal aid, as well fixing tariffs for provision of legal services.

47. Pursuant to the requirements set forth in the *Law on State Ensured Legal Aid* the Legal Aid Administration is responsible for ensuring state legal aid. It began its work on January 1, 2006, and it examines the individuals' applications for legal aid and decides upon granting or refusing the provision thereof.

48. After the conclusion of public contracts for provision of legal services with Legal Aid Administration, the state ensured legal aid may be provided by sworn attorneys; their assistants; attorney, who is a citizen of EU Member State; foreign attorney, who is eligible to provide legal aid under respective international agreement binding upon Latvia; sworn notary; bailiff; state accredited law school, which operates not less than five years and provides a legal aid study course conducted by authority with doctoral degree; an individual in full capacity and having legal background, who masters the state language, possesses flawless reputation and is an experienced professional in legal field.

49. In response to the Committee's Additional questions concerning legal aid provided in criminal proceedings, it has to be pointed out that under the *Law on State Ensured Legal Aid* the terms and conditions for defense lawyer's participation within the criminal proceedings are set out by the *Criminal Procedure Law*. The *Criminal Procedure Law* provides a set of rules that determine the participation of the defense lawyer thereby ensuring an individual's right to legal aid in full set of criminal proceedings, and, if necessary, within separate procedural actions. The *Criminal Procedure Law* contains a general principle that the state has an obligation to provide legal defense for each individual who alleged to have committed a criminal offense, and to decide upon payment of the defense lawyer's fees, if an individual is not able to pay for the defense lawyer's services by his/her own.

50. According to the *Criminal Procedure Law* provisions, both, an apprehended person (Article 63) as of the moment of apprehension, as well as a person suspected in committing a criminal offense, as of the moment the person is notified about such procedural status (Article 66), is entitled to invite a defense lawyer and conclude an agreement on the provision of state ensured legal aid. Similarly, these rights are ensured to an accused person in pre-trial proceedings and during adjudication of the case in the court of first, appellate and cassation instances (Articles 70 and 73).

51. In criminal proceedings the following professionals can be qualified as a defense lawyer: a sworn attorney; an assistant of a sworn attorney; a citizen of a EU Member State who has acquired the qualification of an attorney in one of the EU Member States; and a foreign attorney who is eligible to provide legal aid under respective international agreement binding upon Latvia. According to the statistics provided by Latvian Bar Association currently 1,349 sworn attorneys and their assistants practice in Latvia. The largest number of sworn attorneys and assistant attorneys practice in Rīga.

52. Article 80 of the *Criminal Procedure Law* envisages that a person (or a third person in the interests thereof) concludes an agreement on provision of legal aid services, whereas the performer of inquiry provides such individual with all necessary information and allows to contact the defense lawyer. For this purpose, the individual concerned is entitled to receive a list of defense lawyers and is provided with free telephone call for inviting him/her.

53. Suspects, apprehended persons, or detainees approach directly an official in charge of criminal proceedings (a performer of inquiry, or a prosecutor, or court), requesting to provide a defense lawyer, if the mentioned person wishes the defense lawyer to participate in criminal proceedings, but the necessary agreement has not been concluded. If a person, who has a right to defense, has not concluded this agreement, but the defense lawyer's participation is mandatory (for example, matters involving juveniles, incapable persons or persons having diminished capacity, in matters of compulsory medical measures; in matters of a deceased person's rehabilitation; in matters involving a person of mental or physical incapacity, or a person is illiterate or having low education level, who is unable to exercise his/her rights), state officials shall ensure the defense lawyer's participation. If a person cannot invite the defense lawyer due to the lack of financial resources, or if the person has not wished to invite the defense lawyer, where his/her participation is mandatory, such person is entitled to exemption from the payment for legal aid; the defense lawyer's fees are covered by the national budget.

54. Upon the receipt of the request for the defense lawyer's participation, or where his/her participation is mandatory, an official in charge of criminal proceedings decides on inviting the defense lawyer and contacts the senior sworn attorney about necessity to provide legal aid; the senior sworn attorney notifies about the participation of the defense lawyer not later than within three days upon the receipt of such request.

55. In response to the Committee's Additional Questions concerning legal aid, it should be noted that in criminal proceedings legal aid is also ensured, when no agreement is concluded with the defense lawyer, or, if the defense lawyer cannot participate in certain procedural actions. In such cases, an official in charge of proceedings shall invite a defense lawyer in accordance with the schedule drawn up by the senior sworn attorney. The defense lawyer on duty ensures legal aid within certain procedural actions (*i.e.*, investigative activities; notification of the suspect about his/her status; the first interrogation of a suspect; the compulsory measures related to procedural issues brought before the investigative judge).

56. The defense lawyer has the right and practical possibilities to exercise legal aid. The defense lawyer may visit an apprehended person or a detainee in order to get prepared for the defense and discuss the results thereof; to receive case file related to criminal proceedings; to participate in procedural and investigative actions; to file applications, complaints, as well as to participate in adjudication of the criminal case. During such appointments the confidentiality requirement between lawyer and a client is observed, as well as the time and length of visits is not limited.

57. In addition, the Government would like to reiterate that all premises in places of deprivation of liberty are equipped with the necessary amenities for the effective provision of legal aid (in addition, see para. 14 of the Additional Report of 2010).

58. Addressing the Committee's concerns regarding the access to legal aid, the Republic of Latvia emphasises that, in general, the provision of legal aid is performed by numerous institutions. An official in charge of criminal proceedings decides on necessity of legal aid, the senior sworn attorney of the Latvian Bar Association provides a defense lawyer for state ensured legal aid services. The Legal Aid Administration, in its turn, covers fees and expenses related to the provision of state ensured legal aid.

59. Accordingly, domestic legislative provisions ensure prompt provision of legal aid services in criminal proceedings for those seeking state ensured legal aid. This is also confirmed by the fact that during the reporting period, for example, the Ombudsman's Office has not received any complaints about the lack of legal defense during the time while the senior sworn attorney is nominating the defense lawyer. This type of complaints were not received either during monitoring visits to the State Police short-term detention facilities and prisons carried out by the personnel of the Ombudsman's Office.

60. With regard to the accessibility of the defense lawyer, in 2010, the Ombudsman received one complaint brought by the sworn attorney, stating that on a particular day, at around 22:15hrs, he was denied access to a detained person in the Aizkraukle short-term detention facility of the State Police. The Ombudsman initiated examination proceedings, whereby it was found that the practice of applying the *Criminal Procedure Law* provisions as regards a defense lawyer's appointments made with a client differs in different Departments of the State Police throughout Latvia. For example, in some Departments of the State Police the defense lawyer's visits to a client are permitted only on working days till 17:00hrs. The case examination led to the conclusion that, in accordance with the domestic rules, each apprehended person has the right to meet with the defense lawyer without delay; the defense lawyer and a client must be given the opportunity to consult and prepare defense strategy as they deem necessary. The results of the case were announced and explained for all of the State Police authorities. In 2011, during the monitoring visits to the State Police short-term detention facilities, the Ombudsman will pay close attention to this issue.

61. For statistical data on the medical personnel positions in places of deprivation of liberty and the number of medical examinations carried out by medical personnel see Annex No.7. For statistical data on the national budget resources allocated for the Legal Aid Administration's activities, the number of providers of the state ensured legal aid, the total legal aid costs itemised by categories of cases see Annex No.8.

Reply to the issues raised in paragraph 5 of the list of issues

62. The Government would like to note that during the reporting period no amendments were adopted as concerns the length of the pre-trial detention.

63. The *Criminal Procedure Law* provides a range of alternatives for imprisonment, as well as suspended sentencing for numerous criminal offenses. Article 36 of the *Criminal Law*, in addition to deprivation of liberty, focuses on such primary sentences as fines and community service. However, Article 35 of the *Criminal Law* provides that if, in determining criminal sanction (*i.e.*, imprisonment for a term not exceeding five years, or arrest) the court, having regard the circumstances of the committed criminal offense, is left assured that the guilty person will not commit further offenses, the suspended sentence may be imposed.

64. Community service as an alternative for imprisonment is unpaid work, which is of value to the community, and which is performed by an offender within his/her residence area and on extra-curricular basis. Currently, community service may be performed throughout the country. On February 9, 2010, the CM adopted regulation, which set out the procedure of providing community service, which is followed by the State Probation Service thereby arranging, monitoring and controlling community service activities performed by the probation client.

65. The *Criminal Procedure Law* provides that a resolution of dispute arising from the criminal offense may be arranged between the victim and the offender, meaning a mediation process, which involves both parties upon their freely consent. An impartial third party, *i.e.*, a mediator trained by the State Probation Service, may participate in the mediation process; the mediator facilitates reconciliation between the victim and the offender, assists in maintaining mediation sessions, preserves confidentiality and impartiality thereof, while not providing any solution or value-judgment. This approach aims at providing the parties an opportunity to deal with the consequences brought by criminal offense in order to mitigate the adverse effects thereof.

66. By the Law “*On application of compulsory correctional measures to children*” adopted on October 31, 2002, Latvia introduced legislative framework for application of compulsory correctional measures. This law aims at developing and strengthening value orientation of a child that complies with public interests, promoting reintegration of children with social behaviour deviations into society, establishing their orientation on refraining from illegal actions. The compulsory correctional measures are applied, *inter alia*, to juvenile offenders, who have committed criminal offenses and were released from criminal liability by the court. In applying compulsory correctional measures, the seriousness of the criminal offense, child’s individual characteristics (for example, age; living conditions; behaviour at school, workplace or home; his/her complicity in crime), as well as aggravating or mitigating circumstances are taken into account (in addition, see paras. 198, 199).

67. On January 9, 2009, the CM adopted the *Concept Paper on Penal Policy*. This concept paper introduces new penal policy and envisages numerous amendments to legislative acts, which tend to pursue penal policy goals. The concept paper provides wide use of alternatives for imprisonment, especially in terms of community service and fines, as well as introduces a new criminal penalty – probation supervision. Legislative amendments for probation supervision come into force in 2011.

68. For statistical data on use of alternatives for imprisonment and application of compulsory correctional measures see Annex No.1.

Article 3 of the Convention

Reply to the issues raised in paragraph 6 of the list of issues

69. The new *Asylum Law* was adopted on June 15, 2009, and entered into force on July 14, 2009, which main aim is to ensure individual’s right for asylum in Latvia, the right to obtain the refugee or alternative status, as well as receive temporary protection. In addition to a number of procedural improvements and transposing of minimum standards of certain EU directives, the new law introduces a more detailed regulatory framework for asylum issues, which complies with the mandatory international requirements.

70. Article 3 of the *Asylum Law* determines the non-refoulement principle, which complies with Article 33 of the *UN 1951 Convention Relating to Status of Refugee (UN 1951 Geneva Convention)*, the standards prescribed by the Office of United Nations High Commissioner for Refugees Division of International Protection Services (UNHCR) in the

*Thematic Compilation of Executive Committee Conclusions*⁹ (UNHCR Standards) and the guidelines concerning non-refoulement incorporated into the UNHCR 1992 Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees¹⁰ (UNHCR Guidelines).

71. In addition, the non-refoulement principle stipulated in Article 3 of the *Asylum Law* complies with the non-refoulement principle and its implementation enshrined in the *EU Council Directive 2004/83/EC of April 29, 2004, on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (EU Directive 2004/83/EC)* and the *EU Council Directive 2005/85/EC of December 1, 2005, on minimum standards on procedures in Member States for granting and withdrawing the refugee status*.

72. Similarly, taking into consideration international obligations when implementing the non-refoulement principle, Latvia is bound by the ECtHR case-law, Article 3 of the European Convention on Human Rights, Article 7 of the UN 1966 International Covenant on Civil and Political Rights, and Article 3 of the UN 1989 Convention on the Rights of the Child.

73. The non-refoulement principle is also provided under Directive 2008/115/EC of the European Parliament and of the Council of December 16, 2008, on common standards and procedures in Member States for returning illegally staying third-country nationals (Return Directive). Assessing the Return Directive provisions, the UNHCR welcomed the references made in the preamble thereof on significant meaning of the non-refoulement principle.¹¹

74. As regards informative and educational events related to raising awareness of asylum issues in general, and the non-refoulement principle in particular, on January 2010, the Office of Citizenship and Migration Affairs of the Republic of Latvia (OCMA) with the financial assistance provided by the European Refugee Fund, has issued an extensive study named "Commentary to the Asylum Law". This study includes both, interpretation of international law on asylum procedure, as well as standards of implementation of the Asylum Law. As an outcome, this study will contribute to improving not only the quality of asylum procedure, but will also significantly facilitate daily work of asylum officers; as well, it will raise awareness of the State Border Guard Service, courts, ministries and other migration-related services concerning asylum procedure and the applications thereof. The study book is available in all libraries of Latvian universities, in the Latvian National Library and in the libraries of the largest Latvian cities.

75. A definition of a refugee provided by Article 20 of the *Asylum Law* is in compliance with the UN 1951 Geneva Convention and the EU Directive 2004/83/EC.

76. Article 21 of the *Asylum Law* provides a detailed definition of the term "persecution". This fully conforms to the EU Directive 2004/83/EC, the UNHCR Standards

⁹ A Thematic Compilation of Executive Committee Conclusions, Office of United Nations High Commissioner for Refugees Division of International Protection Services, 4th edition, August, 2009, available at <http://www.unhcr.org/refworld/docid/4a7c4b882.html>.

¹⁰ The UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, January, 1992, available at <http://www.unhcr.org/refworld/docid/3ae6b3314.html>.

¹¹ UNHCR position on the proposal for a Directive on common standards and procedures in the Member States for returning illegally staying third-country nationals, June 16, 2008, available at <http://www.unhcr.org/4d948a1f9.pdf>.

and the UNHCR Guidelines. Also, Article 22 of the *Asylum Law*, which encompasses eligible criteria for evaluation of the legal reasons for persecution, conforms to the interpretation of persecution under the UN 1951 Geneva Convention set out in the UNHCR Guidelines.

77. In accordance with Article 23 of the *Asylum Law*, a person, who cannot be granted with the refugee status due to non-compliance with the refugee status-related criteria, may be granted with the alternative status. The Latvian legal standards and its implementation as regards granting of the alternative status comply with the UN 1951 Geneva Convention. The mentioned provision also complies with the UNHCR Guidelines and the UNHCR Standards, which call for international protection for those who need protection, applying broad interpretation of the UN 1951 Geneva Convention rules. The procedure of granting the alternative status also complies with the provisions of the EU Directive 2004/83/EC, which requires guaranteeing international protection for persons in need thereof, but who do not meet the refugee-related criteria.

78. Therefore, along with the refugee status, the alternative status is a form of international protection, which allows a person to reside in Latvia, receive identification and travel documents, as well as a one-year temporary renewable residence permit; it provides grounds for legal employment in Latvia, reunion with family members, as well as ensures set of rights specified by other national legislative acts.

79. The OCMA examines applications brought by asylum seekers and decides upon granting or refusing the refugee or alternative status. Considering individual application and possible granting of the certain status, the OCMA thoroughly evaluates each case individually, putting under scrutiny a set of subjective and objective evaluation criteria as set out in the UNHCR Guidelines.

80. In case a refusal to grant the refugee or alternative status is adopted, and it has not been challenged by a person concerned, the OCMA issues the order on voluntary departure; or, if the person has not voluntarily left, or otherwise has violated rules on entering or residence in Latvia, he/she is subject to forced deportation (for details see paras. 107-117). The State Border Guard Service checks a border-crossing fact, when the person leaves the territory of Latvia. Therefore, the Latvian authorities do not have information either the deported person has continued its journey to home country or entered into other country.

81. Addressing the Committee's request for cases of extradition during the reporting period, the Government indicates that the terms and procedure of extradition is prescribed by the *Criminal Procedure Law*; *inter alia*, it envisages that extradition is prohibited, if a person may possibly face a risk of torture or ill-treatment (Article 697).

82. As regards the Committee's issue about return cases during the reporting period, it shall be noted that since 2009, significant help in returning illegal immigrants to living in their home country is provided by the Latvian branch of the International Organisation for Migration through its assisted "Voluntary return and reintegration programme". Any person who has no legal grounds for staying in Latvia and who wishes to return to home country (for example, an asylum seeker whose asylum application has been refused) may apply for participation in the "Voluntary return and reintegration programme". Overall, in 2009-2010, 40 third country nationals received help within the mentioned programme (in addition, see para. 117).

83. For statistical data on the number of deportation, extradition and readmission cases, as well as on the number of refugees and persons granted the alternative status see Annex 9.

Reply to the issues raised in paragraph 7 of the list of issues

84. Since joining the EU, Latvia is bound by the EU Council Resolution No.343/2003 of February 18, 2003, which established the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (Dublin regulation) (for statistics see Annex 9). The preamble of the Dublin regulation includes an *expressis verbis* obligation imposed to the Member States to work towards establishing a Common European Asylum System, based on the full and inclusive application of the *UN 1951 Geneva Convention*, thus ensuring that nobody is sent back for persecution, whereby maintaining the principle of non-refoulement. When implementing the Dublin regulation Latvia fulfils requirements set out by well-established case-law of the ECtHR within the framework of the European Convention on Human Rights.

85. In 2008, the EU Commission proposed amendments to the Dublin regulation, thereby involving into consultation processes the UNHCR, international experts and international non-governmental organisations (NGO) working in the field of asylum and immigration. The main aim of the proposal is to ensure higher standards of protection for persons falling under the Dublin regulation procedure.

Reply to the issues raised in paragraph 8 of the list of issues

86. The *Asylum Law* of June 15, 2009, and the *Immigration Law* of October 31, 2002, contain regulation of detention and deportation procedures, as well as encompass a set of rights attributed to asylum seekers.

87. In comparison with the previous legislative provisions, the new *Asylum law* introduces changes to permissible grounds of detention of asylum seekers. Namely, the mentioned law excludes detention “if there are reasonable grounds to believe that according to the law provisions an asylum seeker will not reside legally in the Republic of Latvia”. In practice, most asylum seekers are detained in cases where a person’s identity has not been established or if an applicant seeks to abuse the asylum procedure.

88. Only foreigners, *inter alia*, asylum seekers who reached the age of 14 may be detained. The detained asylum seeker is placed together with his/her parents or legal representative for further implementation of general deportation procedure. If an unaccompanied child aged between 14 and 18 is detained, the State Border Guard Service immediately informs the Ministry of Foreign Affairs, the State Police and the Orphan’s Court, as well as places the child in the Department of the State Police or a child care institution. The deportation procedure is carried out by the State Border Guard Service in co-operation with the Ministry of Foreign Affairs, ensuring that a child is transferred to his/her family or a child care institution of the respective country. The Orphan’s Court is involved in ensuring that best child’s interests are observed at every stage of the deportation procedure. Similar placement and deportation arrangement is prescribed for an unaccompanied child who is not detained, *i.e.*, has not reached the age of 14 when entering into the country.

89. The new *Asylum Law* provides legal grounds for detention of asylum seekers for the time period not exceeding seven, not 10 days, as it was provided before. The total period of detention may not exceed the asylum procedure term, *i.e.*, term, since the asylum seeker’s application for granting the refugee or alternative status having been submitted for examination till the day when final decision comes into force. A detained asylum seeker is placed in the Regional Department of the State Border Guard Service equipped with necessary premises, and is kept separately from persons who are suspected of having committed a criminal offense (in addition see paras. 97-102).

90. Unlike the previous asylum-related regulation, the new *Asylum Law* defines the procedure of how the detention report is drawn up by the State Border Guard Service upon detention of an asylum seeker. The detention report includes the date and place, where it is drawn, the name and position of the State Border Guard Service officer in charge, information concerning a detained asylum seeker, as well as time of detention and legal grounds thereof. The detention report is signed by a detained asylum seeker and the State Border Guard Service officer. The fact of the detainee's refusal to sign is duly recorded.

91. A detained asylum seeker is brought before the court not later than 48 hours before the time period of detention or such indicated in the detention order has expired; if necessary, interpretation services are ensured. The judge immediately evaluates information provided in the case-file, listens to explanations provided by an asylum seeker or representative thereof, as well as takes into account view provided by the State Border Guard Service. A copy of the detention order is sent to an asylum seeker and the State Border Guard Service within 24 hours upon receipt of application lodged by the State Border Guard Service.

92. A detained asylum seeker has the right to challenge the lawfulness of the respective detention order. It may be challenged in the District (City) court within 48 hours upon receipt of the respective copy. An appeal lodged with the court does not suspend the enforcement of the detention order. The District (City) court examines the application immediately and adopts the decision on the merits. Afterwards, the decision of the Regional court to detain an asylum seeker may not be challenged. An asylum seeker is informed of this remedy immediately following the apprehension.

93. A detained asylum seeker has the right to contact the consular service of their respective country, to get acquainted with the case-file, provide explanations and receive decisions adopted by the OCMA (or the State Border Guard Service) and obtain explanations on appeal procedure, as well as to get other information concerning his/her rights and obligations and institutional competences in the language he/she is able to understand.

94. A detained asylum seeker has the right to receive legal aid. An asylum seeker is informed about this right immediately following the apprehension. According to the provisions of the *Asylum Law*, if an asylum seeker is detained, he/she has the right to obtain legal assistance at his/her personal expense (in addition see paras. 104-106).

95. Addressing the Committee's concern over the low asylum recognition rate and the number of detained asylum seekers, it should be pointed out that considering the respective statistics, the overall number of asylum seekers in Latvia grows annually. Following that, the total number of detained asylum seekers increases as well.

96. With regard to detention of foreigners, it should be noted that the Return Directive (in addition see para. 73) envisages to introduce alternatives to detention, such as regular reporting to the State Border Guard Service and submitting identity or travel documents thereto. According to the Return Directive's provisions the detention term is reduced from 20 months till six months; in exceptional circumstances, it is allowed to extend the time limit, which may not exceed 12 months. By amendments to the *Asylum Law* adopted on June 16, 2011, the Republic of Latvia has transposed the aforementioned Return Directive's requirements. When assessing the restrictive practice of the detention measure provided by the Return Directive's provisions, the UNHCR welcomed the EU Member States' efforts to introduce and enforce such alternatives.¹²

¹² See UNHCR and the European Union, September 2010, p.15, available at

97. In order to ensure that living condition for detained asylum seekers comply with international standards, the State Border Guard Service, while implementing the European Refugee Fund's project "Improving of household conditions in the State Border Guard Service premises for the placement of asylum seekers", during the time period from July 1, 2010, till June 30, 2011, has provided the premises in Daugavpils and Liepāja, where detained asylum seekers are placed, with household and office furniture, fitness facilities and medical equipment.

98. During the reporting period on annual basis the personnel of the Ombudsman's Office carried out monitoring visits to the Olaine Centre for Placement of the Detained Illegal Immigrants with the aim to assess living conditions provided therein. At the time of the visit, the Ombudsman inspected the Centre's dormitories and public premises and found them to be of adequate material condition. In addition, access to medical help, quality of nutrition and living conditions of those placed in the Olaine Centre were thoroughly examined. Hence, the Ombudsman concluded that the Olaine Centre's residents are allowed to meet with relatives and other persons, representatives of religious organisations and NGOs; they may also contact other people by phone or in writing. Therefore, as a result of monitoring visits, which took place in 2008-2010, no violations have been found as regards the ensuring of adequate living conditions at the Olaine Centre.¹³

99. On June 1, 2011, the Olaine Centre for Placement of the Detained Illegal Immigrants has been closed, and all detained foreigners, along with detained asylum seekers, were transferred to the Daugavpils Centre for Placement of the Detained Illegal Immigrants. Detained asylum seekers are placed separately from illegal immigrants; the asylum seeker status is retained till the day when the final decision pertaining to the asylum application comes into force. As a result of initial monitoring visit carried out by the Ombudsman, no violations have been found as to the ensuring of adequate living conditions.

100. Asylum seekers who have not been detained are placed in the Mucenieki Centre for Asylum Seekers, which is a low security immigration facility. In practice, persons placed therein are often leaving the Mucenieki Centre arbitrary with the aim to travel to another European country.

101. In order to inspect the living conditions provided for asylum seekers in the Mucenieki Centre for Asylum Seekers, the personnel of the Ombudsman's Office carried out five monitoring visits therein during 2008-2010. As a result, the Ombudsman concluded that dormitories and public premises are of adequate condition. The rooms are clean, accessible to people with special needs; education premises, parlour, playing field for children are arranged, as well as sports equipment is installed. Hence, violations as regards living conditions at the Mucenieki Centre have not been detected; those are found to comply with respective international standards.¹⁴

102. On January 2011, the official delegation from the UNHCR Regional Office in Stockholm carried out visit to the Mucenieki Centre for Asylum Seekers. The UNHCR Regional Office report on this visit is pending.

103. Responding to the question raised by the Committee concerning the time limits established under the accelerated asylum procedure, it should be pointed out that under the new *Asylum Law* the examination of the asylum application under the accelerated procedure now is extended from five working days to 10; the time limits for appellate

http://www.unhcr.org.uk/fileadmin/user_upload/docs/EUbrochure.pdf.

¹³ See, for example, the 2010 Annual Report of the Ombudsman, para. 52, available at http://www.tiesibsargs.lv/lat/publikacijas/gada_zinojumi/.

¹⁴ See footnote 11 above.

proceedings are extended from two working days till five. Therefore, an asylum seeker may now use an effective remedy to challenge the negative decision within the reasonable time limits.

104. During the appellate proceedings an asylum seeker is entitled to state ensured legal aid providing that he/she may not afford to pay these expenses himself/herself. State ensured legal aid may be requested at any time while the asylum application is pending and the final decision concerning thereof has not come into force (in addition see para. 41).

105. The OCMA informs an asylum seeker about his/her rights to receive state ensured legal aid and explains the respective procedure within every adopted decision on refusal to grant the refugee or alternative status. In order to receive legal aid an asylum seeker has to lodge an application with the OCMA. Immediately following the receipt of this application, the OCMA transfers it to the Legal Aid Administration, which is authorised to appoint the provider of state ensured legal aid. The OCMA ensures an asylum seeker with the possibility to contact a nominated legal counsel.

106. In practice, in most cases, after receiving the OCMA's refusal to grant the refugee or alternative status, an asylum seeker lodges application for the provision of state ensured legal aid. The OCMA is not aware of any case of refusal to grant legal aid for an asylum seeker.

107. As regards the deportation from the country, it should be indicated that an asylum seeker, like any other foreigner, is subject to voluntary departure or forced deportation procedure; available remedies, which may be used in the mentioned cases are determined by the *Immigration Law*. Therefore, an individual may be subject to voluntary departure based on the order on voluntary departure, or deported from the country based on the decision on forced deportation (in addition see paras. 69-76).

108. In 2008-2010, the order on voluntary departure could have been challenged within seven days upon its adoption by lodging appeal with the Chief of the OCMA, which, in its turn, could have been challenged within seven days in the Administrative Court. The decision on forced deportation, which was adopted, if the voluntary departure order had not been fulfilled, could not have been challenged at all. The decision on forced deportation, which was adopted, if a person was apprehended for violation of entry and residence requirements set out by law, could have been challenged only by lodging appeal with the Chief of the OCMA.

109. Now, amendments adopted on June 16, 2011 to the *Immigration Law*, have considerably changed the rules on effective remedies. The respective amendments provide that the order on voluntary departure or the decision on forced deportation may be challenged before the higher-level institution. In its turn, the decision adopted by this institution can be challenged in the Administrative District Court within seven days after it has been received by the person concerned. Afterwards, the Administrative District Court's decision may be subject to judicial review under cassation proceedings in the Department of Administrative Cases of the Supreme Court. During the extra-judicial and judicial proceedings translation of necessary documents is ensured in the language the concerned person understands.

110. An appeal lodged with the higher-level institution and the court suspends the enforcement of the order on voluntary departure. In such cases, the OCMA may extend the time limits prescribed for departure for up to one year. If a person is subject to voluntary departure, but she/he has already left Latvia and had not received the respective order upon his/her leave, the enforcement of such order may not be suspended; this means that the person is not allowed to return to Latvia and reside here while waiting for the final decision in appellate and/or cassation proceedings. As regards the forced deportation order, the enforcement thereof may not be generally suspended when appellate and/or cassation

proceedings are pending. However, under Article 195 of the *Administrative Procedure Law*, the person may apply to the Administrative Court with the request for application of interim measures.

111. The OCMA (or the State Border Guard Service) may quash or suspend the enforcement of the order on voluntary departure or the decision on forced deportation, if circumstances have been changed, for example, a person applied for the refugee or alternative status, or such order or decision have undergone successful review under humanitarian grounds. If a foreigner applies for asylum, the enforcement is suspended until the final decision concerning the asylum proceedings is adopted. In case other circumstances have been changed, the enforcement is suspended, and the competent authority determines the period during which a foreigner is eligible to stay in Latvia.

112. After the amendments of June 16, 2011, have been introduced to the *Immigration Law*, it now provides that the Ombudsman is timely informed about every decision on forced deportation issued against a foreigner; the Ombudsman is entitled to supervise the lawfulness of the forced deportation procedure thereby contacting and visiting a foreigner, controlling that he/she is fully informed about the deportation procedure and his/her rights, as well as participating in ongoing deportation process. The Ombudsman is entitled to involve different associations and foundations as observers into the supervision process, if such are operating in the respective domain. If observers detect any deficiency of the deportation procedure, or they become aware of any circumstances that may pose risk to life or health of the concerned person, the competent authorities are immediately informed about such circumstances. After the deportation process is completed the Ombudsman together with observers drafts a report on deficiencies and submits recommendations to the Ministry of Interior. Since the amendments of June 16, 2011, entered into force the Ombudsman has received notification about four decisions on forced deportation and has commenced its supervision by visiting detained persons who are ordered to be deported.

113. Effective remedy is ensured for those persons who are subject to voluntary departure or forced deportation ordered by another EU Member State and recognised in Latvia. In this case, a person has the right to challenge the respective order or decision in the court. However, appeal lodged with the court does not suspend the enforcement of such order or decision.

114. On December 23, 2011, the amendments adopted on June 16, 2011, to the *Immigration Law* came into force, thereby ensuring a foreigner who is subject to forced deportation the right to receive state ensured legal aid in order to appeal against the challenged order on voluntary departure or the challenged decision on forced deportation; as well, these amendments stipulate the procedure of granting such legal aid to a foreigner (in addition see paras. 40, 41, 104-106). If a foreigner who is subject to forced deportation has not been detained, he/she lodges an application for legal aid and information regarding his/her financial status to the Legal Aid Administration, which within 10 days decides on granting or refusing state ensured legal aid; such refusal may be appealed against before the court. The examination of the mentioned application suspends the respective appellate proceedings until the first legal consultation is provided or the decision of refusing such legal aid is adopted. If, however, a foreigner who is subject to deportation has been detained and he/she wishes to receive state ensured legal aid, the State Border Guard Service immediately, but no later than within the next working day after the decision on appeal is adopted, invite the provider of state ensured legal aid from a list prepared by the Legal Aid Administration; it shall be pointed out that in such case the financial status of a detained foreigner is not considered.

115. While comparing the current situation with the previous period, it should be stressed that in 2008-2010, a foreigner was able to receive legal assistance at his/her personal expenses only.

116. As regards the return to home country, amendments to the Immigration Law adopted on June 16, 2011, envisage that a foreigner who is subject to voluntary departure or forced deportation is entitled to apply for assistance arranged by international organisations and associations for voluntary return to his/her home country. If a person has applied to return programme, the OCMA (or the State Border Guard Service) may quash the previously adopted decision on forced deportation and adopt the order on voluntary departure (in addition, see para. 82).

117. For statistical data on the number of asylum seekers, information about asylum procedure and state ensured legal aid see Annex 9.

Reply to the issues raised in paragraph 9 of the list of issues

118. Article 2 of the *Criminal Law* stipulates that a person who has committed a criminal offense in the Latvian territory is held liable under the *Criminal law*. It follows from the meaning of Article 2 that nationality of a victim is irrelevant; hence, there is no distinction as to the implementation of the *Criminal Law* in cases when the criminal offense has been committed against a stateless person or a non-citizen. Thus, it is presumed that if the criminal offense is committed in the Latvian territory, all appropriate measures are taken to punish a perpetrator, identical to those which would have been taken if the victim had been a Latvian citizen.

119. In addition, due attention should be paid to the fact that Article 8 of the *Criminal Law* enshrines the principle of equality, which ensures common procedural rules for all persons involved in criminal proceedings, regardless of their origin, social and financial status, occupation, nationality, race or ethnicity, religious affiliation, gender, education, language, place of residence and other circumstances

120. The Government does not disaggregate data on nationality of the victims in criminal proceedings.

Articles 5 and 7

Reply to the issues raised in paragraph 10 of the list of issues

121. The Government would like to inform that during the reporting period no requests for extradition were received or rejected regarding an individual suspected of having committed an offense of torture.

Article 10 of the Convention

Reply to the issues raised in paragraph 11 of the list of issues

122. The Latvian Judicial Training Centre (<http://www.ltmc.lv>), which was established with the aim to provide continuing education for judges and court employees, arranges training programmes for judges, which are updated every year; training programmes include such topical themes as the protection of human rights and prohibition of torture within the meaning of the Convention. Similarly, the Convention-related issues are addressed through lectures on the current ECtHR case-law, criminal proceedings (for example, within the topics on the use of evidence; the right to liberty, security and fair trial), asylum proceedings (for example, lectures to administrative judges on adjudication of

refugee cases). Lectures concerning, *inter alia*, standards laid down in the Convention, are held annually for all groups of judges (see statistical data in Annex 6).

123. In order to improve the training process and its effectiveness, the Latvian Judicial Training Centre on a regular basis carries out a survey, aggregating recommendations on issues that should be further included in training programmes. For the evaluation of the training programme after every lecture or seminar a questionnaire is carried out for determining the overall quality of the course.

124. With the aim to improve an exchange of information between judges and court employees the Latvian Judicial Training Centre now introduces a new information system, which collects data on all seminars, visitors, speakers and evaluations, and arranges training for judges on the correct use of this system. This tool allows ensuring practical availability of information, which helps the judge in his/her daily work on the Convention-related issues and provides positive impact on the overall quality of adjudication process.

125. The Training Centre of the Prison Authority (<http://www.ievp.gov.lv>) arranges professional training for law enforcement officials, *i.e.*, continuing educational programmes for different groups of prison personnel: prison guards, medical personnel, *etc.* The Training Centre systematically arranges professional qualification improvement trainings for prison officials. Considering specific knowledge required by each group of prison personnel, education curriculum and qualification improvement programmes embrace studies on different Convention requirements. In implementing education curriculum major emphasis is put on improvement of communication skills between prison personnel and inmates, building of positive attitude and proper work-style of prison personnel, as well as on conflict resolution methods, and understanding of prisoners' rights, including the prohibition of torture and ill-treatment.

126. The Training Centre of the Prison Authority develops education curriculum, which include a study course on international legal acts related to the penitentiary sphere. The study course contains topics related to the Convention. During the reporting period the respective study course has been conducted on May, October and November 2008; on April, May, October and November, 2009; on April, May, and August, 2010.

127. After the analysis of statistical data carried out by the Prison Authority, it can be concluded that in 2010, the number of claims from prisoners alleging ill-treatment and unjustifiable penalties has been reduced. This largely reflects the positive impact of trainings provided for the prison personnel concerning the treatment of inmates. Similarly, prison administration welcomes the outcomes of daily work of prison personnel trained at the Training Centre, as visible positive changes in contact with prisoners have been noticed.

128. Similarly, current educational and professional development curricula of the State Police College (<http://www.policijas.skola.gov.lv>) comprise the Convention-related issues. Among many others, for example, the study course "Human rights in the police work" provides an in-depth understanding of human rights in work of the police, pays attention to the prohibition of torture, cruel, inhuman and degrading treatment or punishment; particular attention is paid to such study courses as "Human rights and procedural safeguards in Latvia and Europe" and "Violations of human rights and liability of the police officers". Other study courses provide knowledge on international documents concerning fundamental principles of the police work, including the *Police Code*, the *Code of Conduct of Law Enforcement Officers*, the *European Code of Police Ethics*, as well as the different conventions and the *EU Policy Guidelines on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*. During study courses such topics as excessive or illegal use of physical force, special combat applications or firearms, the prohibition of inhuman treatment of imprisoned and convoyed persons, the police ethics and fundamental principles of the police work are discussed.

129. For evaluation of education curriculum and qualification improvement programmes the State Police College regularly carries out surveys among students, assesses knowledge gained in study process, as well as evaluates the quality of the study course and lecturers.

130. With the aim to develop professional skills and increase competence, the personnel of state institutions attend different seminars and conferences, which are organised by foreign state institutions and representatives of non-governmental sector.

131. Within the framework of different trainings provided by the Training Centre of the Prison Authority and the State Police College, criminal law experts, prosecutors and other law enforcement officials were informed about the *Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)*. The text of the Istanbul Protocol is available to all participants during the study course.

Article 11 of the Convention

Reply to the issues raised in paragraph 12 of the list of issues

132. In 2008, the state probation clients' case management system "PLUS" has started to operate in test mode. Operation of the mentioned system is authorised under the CM Regulation of November 27, 2007, which establishes rules governing the scope of information, procedures for the use and systematisation of the database maintained by the State Probation Service. This database has been created with the aim to provide a single registration system of the probation service clients, as well as to ensure such information is available for scientific researches and statistics.

133. Since April 2009, the Prison Authority implements the project "Inmate Information System" co-financed by the Norwegian government; the project aims at establishing a single and all-embracing centralised information system operating within prisons and other penitentiary institutions. The information system collects the relevant data, *inter alia*, on detainees, presenting complete information about every detained person throughout the time of his/her detention. In 2010, within the framework of this project a comprehensive analysis of previously used databases was conducted, a test version of the new system was created, and is currently in use. The project has been awarded with total amount of EUR 649,997.

134. The State Police do not maintain a separate database, which would cover data on persons detained in the short-term detention facilities. However, according to the State Police order of October 4, 2010, until the fifth day of each month all Regional Departments of the State Police shall transfer information concerning all detainees to the Central Police Department of Public Order of the State Police for further collecting and storing thereof. The respective information is grouped into the following categories:

- The number of apprehended persons, the number of persons whom the pre-trial detention was applied based on the *Criminal Procedure law*;
- The number of apprehended persons and the apprehension time till the security measure is altered or a person is transferred to the place of deprivation of liberty (number of persons/length of apprehension in total);
- The number of persons transferred for procedural actions/ to court/to the State Police from the place of deprivation of liberty and length of stay in the short-term detention facilities (number of persons/ days of stay in total);

- The number of persons whom administrative arrest has been applied (length of arrest), including offenders of the Road Traffic Regulations (number of persons/length of arrest);
- The number or persons placed in sobering-up facilities;
- The number of detained illegal immigrants in Latvia (number of persons/length of detention in total);
- The aforementioned data is collected on a monthly, quarterly, semester and annual basis.

135. In order to establish a single and effective migration control information system, in 2009, the OCMA in co-operation with the European Refugee Fund launched a project named "Study on optimisation of reception functions, and improvement of the Asylum Seekers Subsystem of the Single Migration Information System". Currently, the project is aimed at improving of the Asylum Seekers Subsystem, in order to collect necessary data on asylum seekers and asylum proceedings. The implementation of the project is expected to be completed by the end of 2011.

136. Every year the Prison Authority draws up a prison inspection schedule and carries out monitoring process. All monitoring results are summarised and further, establish legal grounds for adopting the Prison Authority's orders. Based on the results of the monitoring, administration of every place of deprivation of liberty draws up an individual remedial plan and fulfils the tasks included therein.

137. The State Police regularly ensure monitoring of all the short-term detention facilities, controlling the organisation issues therein.

138. During the monitoring visits the compliance of short-term detention facilities with the 2006 State Police Standard is evaluated. Namely, the State Police short-term detention facilities are inspected as follows:

- Ensuring of nutrition, detergents and items of personal hygiene for detainees as set out in the legislative acts;
- Placement in the cells; observance of the solitary confinement's requirements;
- Ensuring walks in fresh air; washing and other household facilities;
- Informing about internal rules and a list of items allowed for storage;
- Length of stay in the State Police short-term detention facility, and timely release.

In addition accuracy of documents' processing is inspected (register for apprehended persons, detainees and convicts; journal of the transfer of apprehended/detained persons within the short-term detention facility, placement in the cells, medical journal of the short-term detention facility, *etc.*).

139. Within the powers conferred by law the Ombudsman carries out visits to penal closed-type institutions, psychiatric medical institutions and centres for placement of the detained illegal immigrants. For example, in 2010, unannounced monitoring visits were carried out to all Latvian prisons, where juveniles are placed, as well as where adult convicts are kept. Overall, during the reporting period the personnel of the Ombudsman's Office held 79 visits to penal closed-type institutions (in addition see. para. 211).

140. In 2008-2010, during every visit to penal closed-type institution representatives of the Ombudsman's Office arranged meetings with the prison administration, inmates; carried out inspection of solitary confinement cells, canteen facilities, living conditions and prison shop; provided recommendations to prison personnel concerning relevant legislative

acts and international standards. Educational seminars were organised for law enforcement officers concerning human rights issues, as well as necessary consultations were provided. For example, at the end of 2008 and 2009, the Ombudsman's Office organised trainings for the State Police officers on such topic as "Respect for human rights in the State Police work". During the workshops particular attention was drawn on the most up-to-date issues relating to the prohibition of inhuman treatment and the right to liberty.

141. During the period from 2008 till 2010, the personnel of the Ombudsman's Office attended 17 short-term detention facilities. These visits demonstrated that material conditions of some of short-term detention facilities are incompatible with the CPT standards; nevertheless, these conditions continue to gradually improve. The Ombudsman's evaluation was acknowledged by the Constitutional Court in its judgment of December 20, 2010, (for details see para. 142), which resulted in considerable improvement of material conditions at short-term detention facilities. For example, windows were installed and walking areas were arranged in the Aizkraukle short-term detention facility. In general, the Ombudsman's recommendations related to organisational issues are implemented. For example, the internal procedure of issuing of hygiene items, as well as the procedure of informing the persons about their rights has been changed.

142. Taking into account the deficiencies identified during the monitoring visits to short-term detention facilities, on June 22, 2010, the Ombudsman lodged an application with the Constitutional Court thereby requesting to declare the words "by a wall with a height not exceeding 1.2 meters" (concerning privacy for toilet facilities in the cell) of the *Law on Procedure of Keeping Apprehended Persons* being incompatible with the *Satversme* and certain regulations (concerning premises in the State Police short-term detention facilities, the space in a cell and installations). By its judgment of December 20, 2010, in the case No. 2010-44-01 the Constitutional Court declared the abovementioned rules to be incompatible with the *Satversme*, at the same time ordering to arrange short-term detention facilities in accordance with the legislative requirements until January 1, 2012. Monitoring over the State Police actions in this regard is performed by the Prosecution Office. Pursuant to the Constitutional Court's judgment, a legislative act ensuring adequate privacy for toileting has been developed and submitted to the Latvian Parliament (*Saeima*).

143. The Ombudsman's recommendations and proposals for legislative amendments are considered by a permanent working group established under auspices of the Ministry of Justice for amending the *Law on the Enforcement of Sentences*. For example, in the period from 2008 till 2010, after the monitoring visits were carried out, the Ombudsman has made a number of recommendations concerning the prisoners' right to privacy. Based on the Ombudsman's findings, on June 16, 2009, amendments were made to the *Law on Enforcement of Sentences*, provided that the prisoner's correspondence maintained with the state and municipal institutions is not subject to censorship.

144. The Ombudsman's opinions, views, as well as collected statistics are available on the web site: <http://www.tiesibsargs.lv>. Information concerning monitoring visits held by the Ombudsman is included in annual reports, which can be found on the mentioned web site. Separate reports on monitoring visits to penal closed-type institutions are temporary publicly unavailable.

145. In 2003-2006, the Latvian Centre for Human Rights, a Latvian NGO, carried out a monitoring project of penal closed-type institutions in Latvia financed by the EU Commission. On September 26, 2006, this monitoring report was published. The report includes a survey of the living conditions at Latvian prisons, short-term detention facilities, psychiatric medical institutions, and centres for illegal immigrants and asylum seekers during 2003-2006. The monitoring report is available on the web site: <http://www.humanrights.org.lv>.

146. From 1999, the CPT carries out regular monitoring visits. A delegation of the CPT carried out a follow-up visits to various Latvian prisons – Daugavgrīva Prison, Jelgava Prison and Jēkabpils Prison from December 3 to 8, 2009 (in addition see para. 34). During the mentioned visits particular attention has been paid to progress revealed in implementing the CPT recommendations adopted in 2007. Overall, the delegation observed improvements regarding the attitude of the Jēkabpils Prison personnel. The CPT was also pleased to note that the living conditions of the life-sentenced prisoners at the medium regime level in the Daugavgrīva Prison were improved. However, the CPT expressed its concerns regarding the problem of inter-prisoner violence, overall living conditions in prisons, as well as material conditions of detention of life-sentenced at the lowest regime. The CPT report following the visit to Latvia in December 2009, the Latvian Government's response, as well as full information on previous visits can be traced on the web site: <http://www.cpt.coe.int/en/states/lva.htm>.

147. For additional statistics on monitoring visits carried out by the State Police, the Prison Authority, the Ombudsman's Office in penal closed-type institutions, see Annex 5.

Articles 12 and 13 of the Convention

Reply to the issues raised in paragraph 13 of the list of issues

148. The Government has developed a regulatory framework, as well as constantly takes necessary administrative steps to ensure that all allegations of torture and ill-treatment are investigated, the perpetrators are identified and sentenced, as well as preventive measures are applied.

149. Referring to the information provided by the Additional Report of 2010, the Government reiterates that in order to facilitate compliance with the Convention requirements and combat impunity, as well as to address the Committee's concerns and recommendations, the ISO SP carries out examination, pre-trial investigation and adopts decisions concerning the State Police officers' violations within the time limits prescribed by national law. The ISO SP is an independent authority, which is directly subordinated to the Chief of the State Police. Its performance additionally is supervised by the Prosecutor Office (in addition see paras. 14, 15, 150, 167, 168, 172, 290; paras. 30-32 of the Additional Report of 2010).

150. In order to ensure effective and impartial decision-making in cases where the alleged perpetrator is the State Police officer, on June 13, 2008, the Chief of the State Police adopted an order, according to which all Regional Department of the State Police shall immediately initiate criminal proceedings, appoint forensic medical examination, take urgent investigative actions and send the case-file for the examination to the ISO SP in each case, when an allegation on violence committed by the police officer is received.

151. As regards prompt, impartial and effective investigation, it should be noted that the *Criminal Procedure Law* prescribes that if a performer of inquiry fails to conduct proper investigation and permit unjustified delay, the chief prosecutor provides instructions concerning the course of investigation. If a chief prosecutor identifies disciplinary, administrative or criminal violations, he/she has the right to initiate disciplinary, administrative or criminal proceedings against the perpetrator.

152. If criminal proceedings are initiated against the official, the decision on security measures can be adopted, namely, prohibition for conducting duty or detention on remand. In this case, the official is suspended from service. If disciplinary proceedings are initiated, the official may be suspended from service during the time of investigation. The decision of suspending the official from service is adopted, taking into account individual

circumstances of the case and degree of fault of the official concerned. The procedure of suspending the official from service during the investigation is set out in the *Law on Disciplinary Responsibility of the Rank Officials of the Institutions of the Ministry of the Interior and the Prison Authority*.

153. The ISO SP takes measures to raise public awareness about the possibility to complain on violations committed by the State Police officers. On January 2008, on the State Police's web site <http://www.vp.gov.lv>, a special webpage was created under the heading "Complaints pertaining to the conduct of the police officers", which contains exhaustive information about the procedure of submission and examination of such complaints.

154. Imprisoned convicts may lodge complaints regarding alleged ill-treatment with the Prison Authority. These complaints are examined by prison's investigators according to the requirements set out in the internal investigation procedure adopted by the Prison Authority on February 9, 2010. Pursuant to the *Prison Authority Statute* prison's investigators are subordinated to the Investigation Unit of the Prison Authority. Investigators carry out pre-trial investigation of criminal offenses committed by the Prison Authority officers and employees within the prison area (in addition see. paras. 14, 15, 239).

155. According to amendments made on September 16, 2010, to the *Law on Disciplinary Responsibility of the Rank Officials of the Institutions of the Ministry of the Interior and the Prison Authority* the examination procedure of violations committed by officials have been improved providing that any official who has information about circumstances of a disciplinary case, has a duty to provide such information and co-operate with the official in charge of disciplinary investigation. Also, these amendments set out the procedure of initiating and carrying out of disciplinary proceedings, if the official concerned is subject to criminal proceedings concerning the same violations.

156. In general, imprisoned convicts have access to different legal protection mechanisms for lodging complaints about alleged violation of their rights in the place of deprivation of liberty. Most commonly used remedies are 1) a complaint lodged with the Ombudsman; 2) a complaint lodged with the Prosecutor's Office; 3) an application lodged with the administrative court; 4) a constitutional complaint lodged with the Constitutional Court.

157. If the Ombudsman's Office receives a complaint or other information about alleged torture or ill-treatment committed against the person, following the requirements set out in the *Law on the Ombudsman* and based on available case-file, addresses other competent authorities (such as the Prison Authority, the Prosecutor's Office, the State Police, the State Inspectorate for Protection of the Rights of Children, etc.) in order to decide on initiation of legal proceedings. If the competent institution refuses to initiate criminal proceedings, the Ombudsman, if necessary, addresses the higher-rank institution with the aim to examine the decision on refusal on the merits. During the reporting period the Ombudsman has mostly received complaints about living conditions in Latvian prisons.

158. In 2010, the Ombudsman has drawn particular attention to issues related to the effectiveness of investigations carried out in prisons. During monitoring visits to prisons carried out by the Ombudsman's Office personnel investigation case-files and decisions on refusal to initiate criminal proceedings were thoroughly inspected.

159. For example, during monitoring visit in 2010, the Ombudsman found deficiencies within the implementation of the procedure on examination of internal complaints concerning violence; hence, the Ombudsman made appropriate recommendations to the Cēsis Juvenile Correctional Institution (CJCI). The Ombudsman indicated the need to educate law enforcement officials about investigative techniques and urged to initiate criminal proceedings in cases, where the victim is a minor, and he/she explains bodily injuries occurred as a result of falling, however, there are sufficient grounds to believe that

violence against the minor has been committed. Having examined the implementation of previous recommendations, the Ombudsman concluded that the CJCI carried out the necessary actions to improve the effectiveness of investigations of cases of violence.

160. In order to obtain impartial and all-embracing information on living conditions, the Ombudsman's Office personnel arrange appointments with imprisoned convicts in all monitored penal closed-type institutions; thereby persons have a possibility to present their oral or written complaints. During the appointments the imprisoned persons are encouraged to control, if an act of violence occurred, that all bodily injuries are properly recorded in medical file. They are also encouraged to inform the Chief of the prison, the Chief of the Prison Authority, and the Ombudsman, about cases of violence immediately, as well raise this issue during court hearings.

161. Imprisoned convicts exercise the right to lodge their complaints on alleged violence with the Prosecutor's Office. When the violation is found, the prosecutor exercises certain procedural actions aimed at investigating the committed criminal offense.

162. Upon the imprisoned convict's initiative an individual appointment with a prosecutor may be organised; during the appointment the imprisoned convict may inform about alleged violations of his/her rights. During 2007-2010, 181 requests were lodged with the Prosecutor's Office. For example, on December 2009, an imprisoned person informed the prosecutor about real threat to life posed by other prisoners. Following the complaint, the facts of the case were examined, respective criminal proceedings were initiated and pre-trial investigation continues. During 2007-2010, no complaints concerning excessive use of authority by the employees of the detention facility have been made to prosecutors.

163. During the reporting period imprisoned persons lodged applications with the administrative court on *de facto* actions of officials. As well, persons exercised their rights to lodge constitutional complaints with the Constitutional Court pertaining to the compliance of legislative provisions on enforcement of sentences with the *Satversme* (in addition, see paras. 366-374).

164. By amendments of October 7, 2010, (entered into force on January 1, 2011) made to the *Law on Medical Treatment* certain actions of medical institutions are required if, while providing medical assistance, it is found a patient was subjected to violence. In this case, medical institution shall immediately, but not later than 12 hours, inform the State Police. Similarly, the medical institution shall report to the State Police, if, while providing medical assistance to a minor, it is found that the patient suffered from the lack of proper care and supervision or was subject to other violations of child's rights.

165. Prisoners or persons placed in psychiatric medical institutions exercise their right to submit an application to the ECtHR, complaining about alleged inhuman and degrading living conditions they are subject to in places of deprivation of liberty or medical institution, or about alleged ill-treatment committed by the State Police or the Prison Authority officials, as well as violations which fall within the scope of Article 3 of the European Convention on Human Rights.

166. For statistical data on complaints, criminal proceedings, disciplinary proceedings, adjudication of cases in national courts, as well as on cases brought to the ECtHR concerning alleged ill-treatment committed by officials, see Annexes 2, 3.

Reply to the issues raised in paragraph 14 of the list of issues

167. Based on the State Police internal procedure adopted on November 27, 2007, Departments of the State Police provide the ISO SP with a monthly report on data regarding all cases based on complaints (applications) on alleged violence committed by the police

officers; the report includes a detailed presentation on the progress made in the case and informs about the outcome thereof.

168. The Registration and Analysis Division of the ISO SP was eliminated and on April 15, 2010, the Information Analysis Group was set up. The internal registration system maintained by the Information Analysis Group of the ISO SP, regularly collects analyses and lists all data received from the ISO SP and the State Police departments concerning alleged violence committed by the police officers. Each semester and then, on an annual basis, The Information Analysis Group of the ISO SP prepares statistical reports on the received complaints (statements or communications) concerning alleged violence or ill-treatment of behalf of the police officers. In order to prevent misuse of data system, the Information Analysis Group carries out security arrangements concerning the observance of the terms of information system's use and data protection law in the State police. For ensuring data protection this information system is available only to the ISO SP officials.

169. On January 1, 2010, the information system of the Ministry of Interior under heading "Disciplinary practice" was launched, which enlists data on disciplinary practices, namely, disciplinary violations and criminal offenses committed by officials of institutions subordinated to the Ministry of Interior, including the State Police officials (including criminal offenses committed in public service). The use of this information system is determined by internal regulation of September 5, 2007, adopted by the Ministry of Interior; the information system is maintained by the Information Centre of the Ministry of Interior.

170. According to the CM Regulation about the information system on criminal proceedings, as of January 1, 2011, the operation of the information system was launched, which aggregate data on initiated criminal proceedings, including the trafficking cases, officials in charge of criminal proceedings, persons entitled with the right to defense, victims, as well as adopted decisions. This information system is designed to ensure rapid access to information for the competent institutions as regards the course of criminal proceedings, as well as to increase quality of supervision performed by the Prosecutor Office.

171. In addition, on August 27, 2009, within the *State programme for the prevention of human trafficking 2009-2013* adopted by the CM, information is regularly updated as regards the experts, who have been trained in human trafficking prevention issues within the programme funded by the Ministry of Welfare. The said information is collected and stored in a database specifically set up for these purposes.

172. Addressing the Committee's concern expressed in the Additional questions concerning statistical information provided in Annex 1 "Information pertaining to the number of complaints, statements and communications concerning alleged violence and ill-treatment on behalf of the police officers received by the State Police (2007– 2008)" to the Additional Report of 2010 (see Annex 2), it should be noted that complaints and statements concerning alleged violence and ill-treatment committed by the State Police officers were investigated by the ISO SP (for details about the ISO SP see paras. 14, 15, 149, 150, 167, 168, 290). As it is shown in the Annex 1 to the Additional Report of 2010, after examining the case-file and circumstances of the case, the ISO SP adopted various kinds of decisions, namely, 1) that violence was not confirmed; 2) on initiation of disciplinary proceedings; 3) on initiation of criminal proceedings. Also, the statistical information outline the results of proceedings, namely, 1) the number of application of disciplinary penalties; 2) the number of application of criminal penalties.

173. For statistical data on complaints, criminal proceedings, disciplinary proceedings and adjudication of case in national courts concerning alleged violence and ill-treatment on behalf of the officials, see Annex 2, 3. For statistical information regarding state

compensations for the victims of violent crimes see Annex 8. For information on domestic violence see Annex 10. Statistical data on human trafficking and social rehabilitation of the victims thereof see Annex 11. Statistical data on gender, age or ethnicity is not aggregated.

Article 14

Reply to the issues raised in paragraph 15 of the list of issues

174. Article 22 of the *Criminal Procedure Law* envisages that each person, who has suffered any damage caused by the criminal offense, taking into account pecuniary and non-pecuniary damage as well as physical suffering, has the right to claim and to receive compensation. Compensation is an element criminal justice, and it is paid by the offender to the victim either voluntary or based on court's decision. If a victim finds the amount of compensation is not sufficient, he/she is entitled to claim compensation within the civil proceedings.

175. Pursuant to Article 351 of the *Criminal Procedure Law* a victim has the right to apply for compensation at any stage of criminal proceedings before the case is submitted to adjudication in the court of first instance.

176. In addition, pursuant to the *Law on State Compensation to Victims* of May 18, 2006, a person is entitled to state compensation, being to some sort a state reaction to award the person concerned with the compensation, of he/she suffered from violent crime. The aforementioned law set out that a person is entitled to compensation, if he/she is recognised as a victim of an intentional violent crime as a result of which serious or medium bodily injuries have been caused to the victim, or resulted in the victim's death, or such crime has been directed against sexual inviolability of the person, or the victim suffers from HIV/AIDS, hepatitis B or C. The aforementioned law specifies that the victim has the right to receive state compensation also, if a perpetrator or an accomplice has not been identified, or he/she is released from criminal liability pursuant to the *Criminal Law*.

177. In accordance to the *Law on State Compensation to Victims* the amount of state compensation is calculated, taking into account the maximum amount of the respective compensation which is based on the total amount of three minimum monthly wages fixed till January 1, 2013,¹⁵ namely,

- In the amount of 100% , in case of the victim's death;
- In the amount of 70%, if serious bodily injuries have been caused to the victim, or a crime has been directed against sexual inviolability of the person, or the victim suffers from HIV/AIDS, hepatitis B or C.
- In the amount of 50%, if medium bodily injuries have been caused to the victim;
- In the amount of 50%, if a person is recognised as a victim in a crime under certain Articles of the Criminal Law.

178. The Legal Aid Administration is authorised to examine applications lodged for state compensations and within one month upon the receipt decides on granting or refusal to

¹⁵ Minimum monthly wage in 2008: LVL 160 (approx. EUR 228 or USD 333); maximum amount of state compensation: 5 minimum monthly wages;
 Minimum monthly wage in 2009: LVL 180 (approx. EUR 257 or USD 375); maximum amount of state compensation: 5 minimum monthly wages;
 Minimum monthly wage in 2010: LVL 200 (approx. EUR 285 or USD 416); maximum amount of state compensation: 3 minimum monthly wages.

grant such compensation. The decisions may be challenged in the Ministry of Justice, whose decision in turn may be appealed in Administrative Court.

179. Pursuant to the principles of rendering social services stipulated in the *Law on Social Services and Social Assistance*, social rehabilitation services are provided on the grounds of individual needs and evaluation of available financial resources, as well as taking into account an applicant's written consent to receive them. Therefore, the development of social services system is based on satisfying the current public needs.

180. Given the fact that cases of torture and ill-treatment in Latvia are of limited number, current need in specific rehabilitation services has not been established. Consequently, the development of separate rehabilitation programme targeted at victims of torture and ill-treatment has not been economically justified so far. However, the rehabilitation services for victims, suffered from illegal acts associated with torture or ill-treatment, are included in other state financed programmes, such as social rehabilitation services for children – victims of violence, and for persons suffered from human trafficking.

181. The State ensures the provision of social rehabilitation services for children, who became victims of violence, *i.e.*, crime, exploitation, sexual abuse or subjected to inhuman, degrading treatment.

182. Pursuant to the CM regulation of December 22, 2009, which envisages procedure for addressing necessary assistance to children as victims of violence, such rehabilitation services are provided either in the child's place of residence, prison, social correction educational institution or child care institution (rehabilitation course provides 10 consultations of 45 minutes each) or in social rehabilitation institution (30-60 day-long rehabilitation course). As of January 1, 2010, the social rehabilitation services to children are provided by the foundation "Latvian Children's Fund".

183. In order to receive social rehabilitation services, one of the child's parents, guardians, or chief of respective institutions (child-care institution, social correction educational institution or the place of deprivation of liberty), a foster family or the Orphan's Court has to require for a psychologist's or social worker's opinion as regards to the child. Expert opinion provides information on the type of rehabilitation the child is required, as well as indicates the place where such services ought to be provided. The provision of social rehabilitation services is co-ordinated the municipal social service.

184. Social rehabilitation for victims of trafficking in persons is provided since 2006. In order to receive social rehabilitation services a commission of experts assess the applicant's conformity with the rules on victim's status. The commission must include a social worker, a psychologist, a lawyer, a medical practitioner, the State Police officer and other experts, if needed. In 2006 and 2007, the NGO Resource Centre for Women "Marta" received state financing for the provision of social rehabilitation services for the victims of human trafficking (<http://www.marta.lv>). During 2008– 2010, such services were provided by the society "Shelter "Safe House"" (<http://www.patverums-dm.lv>).

185. Within the social rehabilitation services a person's repatriation and transfer to home is ensured. The person receives supportive assistance from a social worker, psychologist, lawyer and medical practitioner. Also, rehabilitation services are provided through individually tailored rehabilitation and reintegration programme, participation in trainings or educational curriculum, assistance in receiving identity documents, as well necessary support during criminal proceedings.

186. For statistical data on amount of state compensations for victims of violent crimes, the number of persons receiving thereof see Annex 8. For information on social rehabilitation for children see Annex 10. For statistical data on social rehabilitation for victims of human trafficking see Annex 11.

Article 16

Reply to the issues raised in paragraph 16 of the list of issues

187. Addressing the Committee's concerns the Government refers to the information provided in the Additional Report of 2010 (see paras. 20-29 of the Additional Report of 2010) and submits as follows.

188. The *Criminal Procedure Law* envisages application of the pre-trial detention in respect of juveniles, providing that this security measure is used only as a last resort and for the short period of time. Requirements concerning the apprehension and the pre-trial detention of asylum seekers and foreigners are described in paras. 86-102 of the present Replies.

189. In the light of amendments made on March 12, 2009, to Article 273 of the *Criminal Procedure Law* provides that a juvenile, if being suspect or accused in having committed a criminal offense on the basis of negligence, or criminal violation, is not being detained, except if such actions, while being committed under drug (or alcohol) influence, caused another person's death.

190. Therefore, Article 273 of the *Criminal Procedure Law* prescribes particular grounds for the detention of juveniles, which shall be taken into account additionally to those attributed to adults. Namely, pursuant to the mentioned law a juvenile may be detained, if:

- He/she is suspected or accused in having committed a crime on the basis of negligence (or criminal violation) under circumstances that such actions, while being committed under drug (or alcohol) influence, caused another person's death;
- He/she is suspected or accused in having committed intentional less serious crime under circumstances that the juvenile has violated another security measure or compulsory correctional measure – placement in social correctional education facility;
- He/she is suspected or accused in having committed intentional less serious crime under circumstances that such actions are committed while being suspected or accused in having committed another serious or especially serious crime.

191. If a juvenile a juvenile is suspected or accused in having committed serious or especially serious crime, he/she is detained on remand according to the rules applied to adult offenders. Namely, the *Criminal Procedure Law* stipulates that the detention of remand may be applied only if circumstances of the case identified during the criminal proceedings provide sufficient grounds to believe that a person has committed a crime, for which deprivation of liberty is imposed, and application of another compulsory measure may not ensure that the person concerned would not commit another crime or escape from pre-trial investigation, adjudication of enforcement of the judgment.

192. At the same time, the *Criminal Procedure Law* envisages that a person suspected or accused in having committed an especially serious crime, may be also detained on remand, if:

- A person committed a crime, which has been directed against another person's life or minor, or a person, who is financially or in another way dependent on the perpetrator, or a person, who is unable to protect himself/herself due to age, health condition or other reasons;
- A person is a member of organised crime group;

- A person refuses to provide information on his/her identity, and it cannot be established otherwise; or a person is lack of domicile and employment; or a person has no domicile in Latvia.

193. Time limits for juveniles who are detained on remand are set out in the *Criminal Procedure Law*. Pursuant to Article 278 of the *Criminal Procedure Law* the time limits for the detention on remand for juveniles may not exceed a half of maximum possible detention term applicable to adults. Namely, time limits of the detention on remand of a juvenile suspected or accused in having committed a criminal violation, may not exceed 1,5 month, giving that the detention pending trial may not exceed one month; in case of a less serious crime - time limits of the detention on remand may not exceed 4,5 months, giving that the detention pending trial may not exceed two months; in case of serious crime - time limits of the detention on remand may not exceed six months, giving that the detention pending trial may not exceed three months; in case of an especially serious crime - time limits of the detention on remand may not exceed 12 months, giving that detention pending trial may not exceed 7,5 months.

194. The time limits for the detention on remand for a juvenile, who is suspected or accused in having committed serious crime, may not be extended. If a juvenile is suspected or accused in having committed an especially serious crime, the time limits of the detention on remand may be extended only based on the decision adopted by higher level court, and it may not exceed three months; in addition, for extension of the time limits to be applied, such crime should have caused another person's death or have been committed with the use of firearms or explosives.

195. Article 14 of the *Criminal Procedure Law* stipulates a principle, according to which a preferential treatment shall be given with regard to the reasonable length of criminal proceedings taken against the child, comparing to those held against the adult.

196. Following amendments made to the *Criminal Law* on June 16, 2009, time of deprivation of liberty has been reduced with regard to the person, who has committed a criminal offense, but has not reached the age of 18. Furthermore, if a person under the age of 18 has committed a criminal offense, which is punishable by imprisonment, the court may impose a sentence more lenient than the minimum sentence prescribed by law, even in cases, where it is recognised that the criminal offense was committed under aggravating circumstances.

197. Article 65 of the *Criminal Law* provides that the fine applies only to juveniles who have their own income. The amount of fine applicable to juvenile offenders may vary from one to 50 minimum monthly wages (on the minimum monthly wage in Latvia see para. 177).

198. According to the *Law "On application of compulsory correctional measures to children"* (in addition see para. 66) the following compulsory correctional measures may be adopted:

- To issue a warning;
- To impose a duty to apologise to a victim, if the victim freely consents to meet with the guilty party;
- To place a child in the custody of parents or guardians, as well as other persons, authorities or organisations for the time limit not exceeding one year, but not later than the child reaches the age of 18;
- To impose a duty to discharge by labour the consequences of the damage caused, if a child has reached the age of 15, and if such work is not harmful to the child's safety, health, morals and development,

- To impose a duty to compensate the damage caused, if a child has reached the age of 15 and has his/her own income;
- To impose restrictions on activities for 30 days up to one year;
- To impose a duty to perform community services, meaning a child's involvement into work of value to the community, and which is performed by a child within his/her residence area and on extra-curricular basis from 10 till 40 hours in total;
- To place a child in an social correction educational facility from one year up to three years, but not later than the child reaches the age of 18; if the child has reached the age of 18, then not later than he/she reaches age of 19;
- In addition, a child may be obliged to undergo treatment for alcohol, drugs or psychotropic addition.

199. In 2010, new CM regulations were adopted addressing the organisational issues concerning the enforcement of community service as a compulsory correctional measure or a criminal sentence held by the State Probation Service. By regulations adopted on August 3, 2010, and February 9, 2010, it was prescribed that while assigning community service, the official chooses an employer, considering the child's age, educational background, previous criminal records, skills and health condition. Thus, through performance of community service, children improve their previously obtained skills, as well acquire new experience and are not assigned to a community service at the workplace, where alleged risk of committing a new criminal offense is present.

200. Analysis of statistical data demonstrates that, for example, in 2008-2010, the alternatives for deprivation of liberty have been applied to juvenile offenders more frequently (for statistics see Annex1).

201. For fulfilling the *Recommendation No. R (99) 19 of the Committee of Ministers of the Council of Europe to Member States concerning mediation in penal matters*, which provides that national legal acts shall facilitate mediation process in criminal proceedings, as well as specifies procedural aspects and practical implementation issues. All the mentioned matters are covered by the *Law "On application of compulsory correctional measures to children"* and the CM regulation of December 4, 2007, which sets forth organisational issues of the mediation process.

202. When using the mediation as an alternative to criminal punishment, the *Law "On application of compulsory correctional measures to children"* provides that, if a juvenile, who has committed a criminal offense or criminal violation, has entered into a settlement agreement and complied with the conditions specified therein, compulsory correctional measures are not applied to him/her. An impartial third party, *i.e.*, a mediator trained by the State Probation Service, may participate in mediation sessions held between a juvenile offender and a victim.

203. In order to facilitate the mediation process in criminal proceedings, where a juvenile offender is involved, a new approach of restorative justice has been introduced in 2009, *i.e.*, a dispute resolution meeting. Child's parents, supporters and experts dealing with juvenile delinquency matters usually participate therein. Mediators are involved in dispute resolution on a voluntary basis and receive specific trainings before taken up mediation duties.

204. On March 2, 2010, *the Basic Policy Guidelines for the Enforcement of Prisons Sentences and Detention of Juveniles for 2007-2013*, were adopted. Several projects, each co-funded by the Norwegian Government, are implemented, namely, the project "Prison building standards", with the total amount of allocations in LVL 899,941 (approx. EUR

1,280,500), and the project “Renovation of cell block in the Cēsis Educational Facility for Juveniles”, with the total amount of allocations in LVL 674, 112 (approx. EUR 959,175).

205. Within the *Basic Policy Guidelines for the Enforcement of Prisons Sentences and Detention of Juveniles for 2007-2013*, during the reporting period the following tasks have been implemented, as well as several of them are still being implemented:

the remand detention block has been constructed in the CJCI, addressing the needs of juveniles and in compliance with specific character of the facility. This task has been completed in accordance with the rights of the child provided by the *Children’s Rights Protection Law*, and the CPT recommendations.

- The new remand detention block of the CJCI has been fully refurbished and modernised;
- The CJCI dormitories have been renovated and refurbished, addressing the needs of juveniles and in compliance with specific character of the facility;
- The administrative area as a part of the CJCI cell blocks has been renovated;
- The programme “School of life” for female juvenile convicts in the Iļģuciems Prison was launched. This programme usually takes place one time per year. In 2008, three juvenile females, in 2009 - eight and in 2010 – five juvenile females participated in the mentioned programme;
- Activities aiming at the reinforcement of security arrangements are currently taken place in the CJCI dormitories.

206. Providing the implementation of the tasks referred to in the *Basic Policy Guidelines for the Enforcement of Prisons Sentences and Detention of Juveniles for 2007-2013*, i.e., whereby bringing national laws and regulations into line with the current legal provisions, which stipulate children’s rights, promote improvement of the living conditions of juvenile convicts and material conditions of the facility, juvenile rights to adequate living conditions are ensured. Furthermore, the prison infrastructure, when arranged in compliance with the regulatory requirements, will facilitate the resocialisation process and enhance the effectiveness thereof.

207. For additional statistical data on the number of juvenile convicts in 2008 – 2010, cases of deprivation of liberty, alternatives thereof, as well as for detailed information about the conflict resolution process in criminal proceedings and application of compulsory correctional measures for juveniles, see Annex 1.

Reply to the issues raised in paragraph 17 of the list of issues

208. The living conditions at places of deprivation of liberty, where juvenile convicts and detainees are placed, were examined by the CPT delegation during its visit in 2007, and by the Ombudsman during annual monitoring visits.

209. In the CPT Report drawn up after the visit carried out in Latvia from November 27, 2007, till December 7, 2007, the living conditions at places of deprivation of liberty were examined. The CPT delegation commended the Latvian authorities for the excellent conditions of detention offered to female juvenile convicts at Iļģuciems Prison. At the CJCI, the CPT delegation gained a generally favourable impression of the regime activities offered to juveniles, including to those being held on remand. The CPT has also stressed the necessity to renovate the CJCI buildings. This recommendation has been generally fulfilled (see para. 205).

210. Already in 2007, the Ombudsman positively referred to the fact that certain improvements have been established in regard to the CJCI living conditions; for example,

construction works were completed in the premises built for juveniles' meetings with relatives and the quarantine area; as well, the problem of overcrowding has been eliminated and prison guard vacant positions have been completed.

211. In 2010, the personnel of the Ombudsman's Office attended all places of deprivation of liberty where juvenile convicts are kept (the CJCI, Iļģuciems Prison, Daugavpils Prison, Liepāja Prison, Rīga Central Prison, the Social Correction Educational Institution "Naukšēni"). Except for the latter and partially Iļģuciems Prison, numerous deficiencies have been identified in regard to the household conditions, social activities (free time activities), rights to education and medical assistance. Nonetheless, after massive construction works were completed, the Ombudsman recognised that positive changes have occurred as regards the overall situation with the CJCI living conditions (in addition, see para. 205, Annexes 1,7).

212. In 2010, the Ombudsman came to the conclusion that the CJCI living conditions provided to juvenile convicts, including those detained on remand, comply with the international standards. The Ombudsman welcomed the fact that after the completion of construction works all juvenile convicts and detainees will be held in the CJCI, as recommended previously by the Ombudsman, namely, the facility now corresponds to sanitary rules, education is provided, and juveniles are strictly separated from adult convicts.

213. In addition, the Government notifies that on January 9, 2009, the *Concept on Resocialisation of Convicted Persons Sentenced to Deprivation of Liberty* was adopted providing that the policy concerning the enforcement of sentences and application of detention on remand to juveniles shall be elaborated, considering the principle of resocialisation. This principle provides that each juvenile shall be subject to adequate social rehabilitation, which shall be based on risk prevention measures (resocialisation measures shall be proportional to the risk of crime) and juvenile's individual needs.

214. Overall, as a result of the implementation of the resocialisation measures provided in the *Concept on Resocialisation of Convicted Persons Sentenced to Deprivation of Liberty*, imprisoned convicts are ensured with employment and education; behaviour correction programmes, social rehabilitation, as well as Christian education programmes are implemented.

215. One of the main tasks of the *Basic Policy Guidelines for the Enforcement of Prisons Sentences and Detention of Juveniles for 2007-2013* is to implement resocialisation programmes to juvenile convicts. In performing the mentioned task, an effective resocialisation system, which addresses the needs of juveniles, will be launched; the involvement of juveniles in resocialisation process will be promoted, thereby reducing the risk of recidivism. Similarly, the rights of juvenile convicts will be respected, as well as international agreements and recommendations relating to juvenile convicts will be duly and timely applied in practice.

216. The social rehabilitation programme "School of life" for juvenile convicts in the Iļģuciems Prison and the CJCI is deemed to be implemented within the framework of the *Basic Policy Guidelines for the Enforcement of Prisons Sentences and Detention of Juveniles for 2007-2013*. In 2010, five juvenile convicts were participated in the mentioned programme (see also para. 205).

217. During the reporting period from 2008 till 2010, numerous programmes, including behaviour correction programmes, social rehabilitation programmes and Christian education programmes took place in facilities, where juvenile convicts are kept. In 2010, seven new programmes were launched, namely, "Motivation for change" (the CJCI), "Take care of yourself and others" (the CJCI), "Communication for adolescents through arts" (the

Iļģuciems Prison); “Yoga for mothers”, where children up to the age of 4 are participating together with their mothers, as well as juvenile convicts; “The Minnesota 12-step program” (the CJCI), “Awareness as a limit to the spread of HIV infection” (the Iļģuciems Prison), “A healthy spirit in a healthy body” (the Iļģuciems Prison). Statistical data show that during the reporting period juvenile convicts have been simultaneously involved in various resocialisation programmes.

218. Noting the effectiveness of the resocialisation programmes, it should be pointed out that, for example, the programme “Motivation for Change” aims at promoting motivation of convicts, exploration of personal goals and possibilities. Overall, in 2010, 11 juvenile females were involved in the program, and successfully completed the course. After this, all participants expressed their wish to enter the Rīga Style and Fashion Vocational School in order to become a tailor, a cook’s assistant or a hairdresser. Consequently, it is reasonable to conclude that the mentioned programme was effective.

219. The social rehabilitation programme for juvenile convicts, which aims at reducing the risk of recidivism, within the international EQUIP project, was taken over from the Netherlands. The EQUIP programme was developed in the United States (U.S.); it is currently being implemented in different European countries, and adjusted to the Latvian penitentiary system’s needs. Accordingly, given the fact that the resocialisation programmes are taken over from the countries, which have a long experience in the field of social resocialisation of convicts, it is possible to assess such programmes as being successful and effective. In general, it is foreseen that the convicts’ participation in the resocialisation programmes will contribute to the overall reduction of recidivism.

220. In 2010, in co-operation with the municipalities, informal curriculum for juvenile convicts was implemented. Hence, juvenile convicts were involved in such activities as:

- The programmes “Social knowledge”, “Visual Arts”, which are designed by the Department of Education of Liepāja city, and the Latvian language courses held in the Liepāja Prison;
- The English language courses, the art therapy programme, the dance classes for those overcoming addictions organised by the society “Iļģuciems’ women”, and the floristic classes in the Iļģuciems Prison;
- The social worker-led guitar club “Three chords” established in the Daugavgrīva Prison;
- The programmes implemented by the Vocational Training Centre of the CJCI.

In general, throughout the year 2010, 111 juvenile convicts have participated in nine informal curriculum programmes.

221. In order to improve qualification of personnel at prisons, especially when working with minors, the Training Centre of the Prison Authority implements vocational training program “Prison Guard”. In 2009, within the project “Capacity building for personnel at the Latvian probation and prison facilities” the State Probation Service has developed an educational programme “In-service training for inspectors”. One of the most important components of the mentioned programmes is training on working with juvenile prisoners, juvenile prisoners’ rights and obligations during the detention period and imprisonment.

222. In addition, with an aim to develop professional skills, prison personnel regularly participate in trainings on working with juveniles. For example, in 2010, the *Action Plan to the Programme on protecting juveniles from criminal offenses directed against morality and sexual inviolability 2010-2013*, 106 employees of the Prison Authority and prisons (the Rīga Central Prison, Iļģuciems Prison, Daugavgrīva Prison, Jēkabpils Prison) were trained to recognise signs of violence (including physical psychological and sexual one).

223. For statistics on resocialisation programmes, education provided for juvenile offenders, the number of probation clients, see Annex 6.

Reply to the issues raised in paragraph 18 of the list of issues

224. On May 2, 2005, the *Concept on the Development of Penitentiaries* was adopted, which focuses on providing a solution to the problem of the enforcement of criminal sanction and security measure – the imprisonment and the detention on remand – pursuant to the Latvian and international legal provisions. This concept covers a period from 2006 till 2014, and aims at ensuring appropriate material conditions at places of deprivation of liberty.

225. In 2008, the number of prisons in Latvia was reduced from 15 to 12. Namely, four prisons were merged (the Matīsa Prison, the Central Prison, the Daugavpils Prison, and the Grīva Prison), and replaced by two - the Rīga Central Prison and the Daugavgrīva Prison. On December 15, 2008, the Pārlielupe Prison was closed due to inappropriate living conditions, which had not complied with the national legal requirements.

226. While analysing the statistical information about the number of places available in prisons, it can be concluded that during the reporting period prisons were not overcrowded. The total prisons' official capacity is 7,970 places (for statistics see Annex 1).

227. The Government informs that during the reporting period numerous renovation and construction works were held in prisons, which aims at improving the overall living conditions of prisoners.

228. In total, in 2008, in a number of prisons a canteen block was renovated, a station for iron removing from water was built, premises for long-terms visits were renovated, new medical equipment was installed; as well, several arrangements were made for improving the operation of prison facilities in winter time.

229. Also, in order to improve the operation of prison facilities, urgent repair works were carried out in 2009, based on budgetary allocations. Being co-financed by the Norwegian government, school facilities were built in the Jelgava Prison. Premises, which were previously designed for other needs, were now adjusted for school classes. For creating educational environment at the Jelgava Prison Vocational School and the Jelgava Artisan School, school classes for theoretical and practical trainings were established, special equipment necessary for the implementation of vocational training programmes, working instruments, technical equipment, furniture, and books was procured; as well, a computer class was established.

230. In 2010, several renovations works were completed, namely, a reconstruction of boiler houses, sanitary facilities, administrative buildings; as well, heating equipment and educational equipment was procured.

231. To improve the living conditions in the short-term detention facilities of the State Police, in 2010, budgetary allocations in the amount of LVL 7,789 (approx. EUR 11,217) were granted. This amount was allocated for renovation of heating system in the Kuldīga Precinct of the Kuldīga Regional Department of the State Police, walking area was arranged in the Aizkraukle Precinct of the Zemgale Regional Department of the State Police, as well as the premises of the Valmiera Precinct of the Vidzeme Regional Department of the State Police were renovated.

232. In addition, it should be indicated, that addressing the concerns expressed by the CPT during the visit held on December 7, 2009, extremely small size of six single-occupancy disciplinary cells in the Jelgava Prison, certain repairs were carried out. As a result, some cells were merged, thus enhancing the overall detention space, as well as other disciplinary cells have undergone renovation.

233. With regard to improving the detention conditions for life-sentenced persons, it should be mentioned that during the reporting period major repairs were carried out in the Jelgava Prison, in particular, in the cells, where life-sentenced prisoners are placed. Also, repairs are continued to be carried out in the unit for life-sentenced prisoners of the Daugavgrīva Prison. In 2008, this unit has been enlarged by adding a new gym, walking areas, computer rooms and canteen. As well, a working area was established for organising workplaces for convicts employed by commercial companies. In 2010, the chapel construction works have started in the unit for life-sentenced prisoners of the Daugavgrīva Prison; these works are scheduled to be completed in 2011.

234. As regards the living conditions in the centres of placement of foreigners and asylum seekers (in addition see paras. 97-99), it should be noted that during the reporting period numerous CM regulations were adopted to address ensuring of adequate living conditions, namely:

- On July 20, 2008, the CM regulations was adopted, providing norms of nutrition, detergents and items of personal hygiene, and scope of medical assistance ensured for a detained foreigner.
- On June 17, 2008, the CM regulation was adopted, which stipulates furnishing and equipment requirements in the respective centres.
- On March 23, 2010, the CM regulation was adopted, which prescribes requirements for placement of asylum seekers in the State Border Guard Service premises.
- On January 16, 2010, the CM regulation was adopted, which envisages norms of nutrition, detergents and items of personal hygiene, and other items of urgent supply for detained asylum seeker, who is placed in the State Border Guard Service premises.

Reply to the issues raised in paragraph 19 of the list of issues

235. To reduce the number and prevent risk factors related to inter-prisoner violence, prisons address the issue by observing the internal rules and maintaining order at the prison facilities. In order to aggregate statistical information the Monitoring Unit of the Central Department of the Prison Authority accumulates data sent by the Monitoring Units of the prisons, namely, survey on “The Monitoring Service in prison”, which contain records on cases of inter-prisoner violence.

236. Convicted persons are placed in a particular prison pursuant to the medical, security and crime prevention criteria. In accordance with the CM regulation of May 30, 2006, on internal rules of places of deprivation on liberty, by an order issued by the Chief of the prison, a special committee on placement of convicts is set up; the respective commission determines, which prison section, unit and cell a convict shall be placed in (taking into account free cells, psychological compatibility of prisoners, level of their education and health condition).

237. When the officials of the prison’s Security Unit receives an application lodged by the prisoner, asking to remove him/her from to another prison, if current situation poses risks to life or health, the officials examines the case, evaluates the level of risk and provides a proposal for the Chief of the prison to transfer the respective prisoner promptly to another place of deprivation of liberty.

238. Any prison officer or official, who identifies that a prisoner has certain signs of violence, is required to report to personnel of the prison’s Medical Unit. If a prisoner is injured or has been subject to poisoning, and there are grounds to believe a criminal offense committed, the personnel of the Medical Unit performs a medical examination and report

on the results thereof to the prison administration. After receiving the report, the Chief of the prison appoints an official to carry out an examination of the case.

239. Pursuant to the *Prison Authority Statute* adopted on September 12, 2008, prison investigators are subordinated to the Investigation Unit of the Central Department of the Prison Authority; prison investigators carry out the pre-trial investigation of criminal offenses committed by the Prison Authority officials and employees within the prison area (in addition see paras. 14, 15, 154). When a criminal offense is committed outside the prison territory (for example, throwing over prison fences, parcels or deliveries containing prohibited items, *etc.*), the prison investigator initiates criminal proceedings, carries out the pre-trial investigation, and then bring the criminal case to the State Police upon jurisdiction.

240. In order to control and prevent cases of inter-prisoner violence, appropriate prevention measures are developed. Discussions with prisoners are systematically carried out regarding the mentioned issue. Prison personnel, when organising events in prisons, seek to create a favourable psychological atmosphere and prevent violence amongst prisoners. Resocialisation events are being held both, in a form of individual and group work.

241. For additional statistical information regarding cases of inter-prisoner violence see Annex 4. For data concerning transfers of prisoners among different places of deprivation of liberty, psychological consultations provided to prisoners see Annex 7.

Reply to the issues raised in paragraph 20 of the list of issues

242. The *Law on Procedure of Detention on Remand* of June 22, 2006, set forth the procedure of the enforcement of the security measure – detention on remand – in remand prisons. This law aims at ensuring human rights and procedural safeguards in criminal proceedings, when the detention on remand is applied. The mentioned law provides legal grounds for the detention on remand (decision adopted by the investigative judge or court's decision on application of detention on remand), procedure of release or transfer to the place of deprivation of liberty.

243. All remand prisons, as well as remand prison units established in other places of deprivation of liberty, are subject to unified norms, which comply with the requirements provided by national law.

244. Pursuant to the *Law on Procedure of Detention on Remand*, while detention on remand, a detainee receives three mealtimes (one of which is a hot meal), which ensures normal organism functioning, as well as has an access to drinking water at any time. Juvenile detainee receives nutrition, which ensures his/her sound physical development. The area in a solitary cell of the remand prison shall be not less than three square meters. Cells, where detainees are placed, are ensured with natural lighting, but during the night-time artificial is provided; the temperature for the cell is maintained on not less than +18 C; ventilation is also ensured. The cells are equipped with a table, bench and bed, space for keeping personal belongings and toilet facilities, which are separated from living area. Each detainee receives a bed, bedding and towels. Not less than once a week a detainee is provided with shower bathhouse facilities, and clean bedding. A detainee is also ensured with a possibility to observe ordinary requirements of personal hygiene and use laundry facilities.

245. The norms related to nutrition, items of personal hygiene, clothes, shoes and bedding are provided by the CM regulation of December 19, 2006. The nutrition standards are different to adult and juvenile convicts, and those are thoroughly considered, taking into account health condition of each detainee.

246. The detainees, who are placed in the short-term detention facilities of the State police, are kept therein in conformity with the requirements of the *Law on Procedure of Keeping Apprehended Persons* of October 13, 2005, which determines the status of the short-term detention facility, the procedure on keeping the apprehended persons, as well as persons' rights and duties during the apprehension period, household conditions of the apprehension and the provision of medical assistance.

247. The *Law on Procedure of Keeping Apprehended Persons* specifies the procedure, according to which the State Police officers place and release a person from specially equipped premises – the short-term detention facilities. This law provides that in the short-term detention facility, if needed, persons, whom administrative apprehension or arrest is applied to, as well as detainees and convicts for performing of procedural actions, may be kept.

248. The *Law on Procedure of Keeping Apprehended Persons* provides that the short-term detention facility is equipped by: 1) closed premises where apprehended persons are kept (*i.e.*, a cell); 2) premises for performing of procedural actions; 3) washing facilities; 4) toilet facilities; 5) yard for outside walks; 6) bedding stock; 7) a room for medical examination; 8) a room for household needs; 9) premises for persons exercising overnight security guard of the short-term detention facility.

249. The standards provided by the *Law on Procedure of Keeping Apprehended Persons* provide that an apprehended person receives three mealtimes (one of which is a hot meal), and has an access to drinking water at any time. Each apprehended individual is ensured with a bed and bedding (a quilt and a mattress). The State Police short-term detention cell's space is not less than: 1) four square meters for a solitary cell; 2) seven square meters for a cell used for double-occupancy; 3) ten square meters for a cell used for triple-occupancy; 4) 12 square meters for a cell used for four-persons occupancy; 5) 15 square meters for a cell used for five-persons occupancy. Furthermore, each cell is equipped with a bench attached to the floor, a shelf attached to the wall, a call-button for calling a police officer. A cell is also equipped with the toilet facilities connected to water supply system (in addition see para.142). Each cell is also provided with natural lighting, but during the night-time artificial lighting is provided; the temperature for a cell is maintained on not less than +18 C and ventilation is ensured.

250. In accordance with the *Law on Procedure of Keeping Apprehended Persons*, if an apprehended person stays in the short-term detention facility longer than 24 hrs, he/she has the right to minimum of 30 minutes of exercise in the open air; if a juvenile is apprehended, a one hour outdoor walk is ensured.

251. National law does not provide time limit measured in days or hours, pursuant to which a detainee may be kept in the short-term detention facility. However, legislative acts limit the time of keeping a detainee in the short-term detention facility by the target date, *i.e.*, the time necessary for exercising procedural actions (interrogation, confrontation, examination of evidences *in situ*, *etc.*) and adjudication. Once this goal is achieved or there is no need in keeping a detainee in the short-term detention facility further, the detainee is transferred to remand prison without any delay. The Chief Prosecutor and the investigative judge exercise an oversight over the investigation process and its lawfulness pursuant to the procedure set out in the *Criminal Procedure Law*.

Reply to the issues raised in paragraph 21 of the list of issues

252. In order to prevent attempted suicide, the prison's Security Unit identifies and the Monitoring Unit exercises oversight over prisoners who face the risk of suicide. These prisoners, from the moment of their placement into prison, are subject to particular attention 24 hours a day. Necessary information concerning a prisoner, his/her attempted suicide cases and other mental health problems is collected; a psychologist and a chaplain are

involved in order to establish close contact with such person. A special list is drawn up, which contains information on prisoners with suicidal behaviour. This list is being checked not less than twice a week and updated, if necessary. Prison guards on duty are notified about persons with suicidal tendencies in order to perform enhanced monitoring of such prisoners. In addition, medical personnel perform preventive prisoner's examination and collect information in medical records.

253. Measures directed at preventing and eliminating auto-aggression and suicide cases at places of deprivation of liberty are applied, by involving prisoners in psychological consultations and resocialisation programmes. Given the fact that one of the reasons for the suicidal behaviour is the difficulty of adaptation to imprisonment, in 2009, within the Norwegian Government's project "Resocialisation programme for the long-term and life-sentenced prisoners" the "Stress reduction programme" has been developed, wherein prisoners were able to participate on a voluntary basis. In 2010, 16 inmates were involved in this programme. In addition, regular individual trainings are conducted for prisoners, which address specific problems encountered by the participants.

254. In 2010, psychological care measures, including psychological counselling, are available for 11 of the 12 Latvian prisons. In general, 16 personnel members who perform psychologist's duties, provide psychological counselling for prisoners.

255. Within the project "Capacity building for personnel at the Latvian probation and prison facilities" launched by the State Probation Service, in 2010, 27 prison personnel members were trained to work with people suffering from mental health problems, including those inclined to commit suicide. Furthermore, training programmes "Prison Guard" and "In-service education programme for inspectors" launched by the Training Centre of the Prison Authority, includes issues concerning characteristics of suicidal behaviour of prisoners, causes for such behaviour and forms of its expression. Similarly, those issues are regularly updated during the meetings held amongst Chiefs of prisons, as well as seminars conducted for psychologists, who are employed by places of deprivation of liberty.

256. Actions, which have to be taken in case of suicide and self-harm or attempts thereof, are governed by the *Recommendations developed to the prison personnel for working with prisoners who inclined to commit suicide* adopted by the Prison Authority; the recommendations provide detailed instructions on the prison personnel's actions, when addressing the issue.

257. A prison guard, when establishing an attempted auto-aggression or suicide, report to the assistant of the Chief of the prison on duty and provides oversight over a prisoner concerned. The assistant on duty gets acquainted with the report, and upon assessment of the facts, decides on the prisoner's solitary confinement and necessity of medical assistance; he/she informs the psychologist, or, by using the first aid scheme, provides emergency medical assistance to the person. Further, the Medical Unit of the prison renders medical help, while the Social Rehabilitation Unit assesses the situation within three days after an attempted suicide, determines the level of suicidal risk and adopts recommendations, whether the person requires enhanced surveillance. A psychologist (or a psychiatrist) provides the person with immediate psychological support, develops and further continues to implement, upon the prisoner's consent, an action plan by involving the person in consultations, and draws up conclusions concerning the person's emotional state.

258. Upon each suicide case criminal proceedings are immediately initiated, during which the forensic medical examination is appointed for determining a cause of death, and actions and liability of responsible officials while exercising an oversight over a suicidal prisoner, is evaluated. Due attention is paid to such cases and they are strictly controlled control by the investigators of the Prison Authority. The Chief Prosecutor controls the pre-

trial investigation. Upon completion of the pre-trial investigation, lawfulness and justification for the adopted procedural decision is verified by the Chief Prosecutor.

259. In cases of sudden death the criminal proceedings are immediately initiated in the place of deprivation of liberty (outside the Latvian Prison Hospital); during the criminal proceedings court medical experts, practising outside the prison, perform an autopsy at the hospital specialised Departments of Anatomical Pathology. After the completion of the autopsy, the results thereof are provided to the performer of inquiry of the initiated criminal proceedings.

260. As regards data collection about suicide and sudden death cases, it should be noted that the Monitoring Unit of the Prison Authority on a daily basis electronically receives and collects information from the prison officers on duty about cases of sudden death in prisons, including, *inter alia*, bodily injuries gained by prisoners, auto-aggression/suicide cases or attempted auto-aggression/suicide cases, as well as cases of prisoners' death.

261. For statistical information about the number of suicides and sudden deaths in places of deprivation of liberty see Annex 4. For statistical information on psychological assistance see Annex 7.

Reply to the issues raised in paragraph 22 of the list of issues

262. In Latvia psychiatric assistance is provided on an outpatient treatment basis and by rendering medical services in inpatient psychiatric institutions.

263. Outpatient psychiatric services are now provided as an alternative to in-patient treatment. For the provision of outpatient treatment, mental health care institutions were established and now continue to develop. The outpatient mental health care institutions are being set up, based on the principle of the closest location to the patient's place of residence. Mental health care services are provided by means of the multidisciplinary team working model; as well, mental health care services promote an operation and development of a day-care hospital (in addition see. para. 284).

264. There are several reasons, which constitute grounds for a person's placement to psychiatric institution, being a measure of last resort when providing treatment for mental health illnesses. Namely, a patient can be placed in psychiatric institution, if:

- It is not possible to provide a person with outpatient care or place him/her in a day-care hospital (for example, difficulties to establish contact between a patient and medical practitioners; no support from relatives; financial difficulties in purchasing medicines), but the treatment is absolutely necessary;
- The person has expressed written consent for his/her hospitalisation, based on the diagnosed mental illness and psychiatric decision upon the need for hospitalisation.

265. Article 68 of the *Law on Medical Treatment* provides an exhaustive list of cases and specifies procedure, when a patient's hospitalisation is permitted without his/her consent. On March 1, 2007, amendments to this law were adopted, thereby stipulating the procedure of compulsory involuntary psychiatric treatment. Thus, psychiatric treatment without the patient's consent is provided if: 1) the patient has committing or threatening to commit acts of violence in respect to himself/herself or others, and a medical practitioner has stated that the person is suffering from mental disorder, which may threaten himself/herself or others; or 2) if the patient has demonstrated or is demonstrating his/her inability to take care of himself/herself or one's dependents, and a medical practitioner has stated that the person is suffering from mental disorder, which may lead to unavoidable and serious deterioration of the patient's mental health.

266. In providing compulsory involuntary psychiatric treatment, if possible, the need of such treatment is being explained to a patient. A patient has the right to receive information

regarding his/her rights and duties. A patient, who is placed in psychiatric medical institution under Article 68 of the *Law on Medical Treatment*, has all other rights and safeguards provided by national law, except for those, which are limited due to psychiatric treatment, which is undergone by the patient. A patient is informed about the rights immediately after he/she is placed in psychiatric medical institution.

267. As well, the *Law on Medical Treatment* provides strict criteria for the council of experts-psychiatrists to decide upon the hospitalisation and notify the court thereof, as well as the courts procedural time limits for decision upon the provision of involuntary psychiatric treatment. The council of experts-psychiatrists examines the person within 72 hours upon the person's involuntary hospitalisation and adopts the respective decision, and within 24 hours informs the court thereabout. Within the next 72 hours a judge reviews the submitted case-file, hear an expert-psychiatrist, a prosecutor and the patient himself or herself (if possible) and decide thereupon. A patient has the right to challenge the court's decision within ten days upon the notification of the decision.

268. The amendments to the *Law on Medical Treatment* of November 8, 2007, have terminated the practice of a patient's delivery to a judge performed by a medical institution. As of the year 2008, the case-file related to the psychiatric medical treatment is reviewed by the court at a closed session, which is held in the medical institution the concerned person is placed to.

269. In order to ensure representation of legitimate interests of a patient, who is placed under psychiatric treatment without his/her consent, the *Law on Medical Treatment* provides the patient's rights to defense. Having established that the patient, whom involuntary psychiatric treatment is provided, has no representative, a judge immediately requests the Latvian Bar Associations to appoint a legal counsel. Overall, disadvantaged or low-income patients are informed about the possibility to apply to the Legal Aid Administration, which provides information on state ensured legal aid and possibility to receive thereof.

270. Exceptions to the use of physical restraints applied to patients of psychiatric medical institutions and the procedure of application is set out in the „*Methodological recommendations on physical restraints applied to patients and persons under examination and regular review of mental state of patients, who are placed in wards under enhanced monitoring*” adopted by the state-owned limited liability company “Rīga Centre of Psychiatry and Addiction Disorders” on April 28, 2008.

271. Pursuant to the aforementioned recommendations the use of physical restraints is permitted only under exceptional circumstances, when a patient's behaviour is aggressive and dangerous, its poses risk to him/her, as well as to health and life of others. Seclusion of a patient is not applied. Physical fixation of a patient is carried out only in cases, when preliminary medical measures have not led to necessary result, thereby ensuring that the use of any physical restraint is used as a measure of last resort.

272. Physical restraints are applied with maximum care to a patient. Physical restraints should never be applied to substitute supervision of a patient or provision of care, or to correct patient's behaviour.

273. Immediately after the restraints are applied a patient receives explanations that the physical fixation is used for his/her own and other people's safety; that he/she will be carefully watched and cared for; that such fixation will be removed at the earliest opportunity as soon as he/she is calmed. If adequate contact with a patient is not possible, these explanations are made as soon as the patient is able to understand them. If an underage person or a person, who is considered incapable under the court's decision, is

restrained, a guardian or a custodian is informed about the fact of physical fixation in the nearest possible time; such notification is being recorded in the patient's medical file.

274. Physical fixation is applied if directly ordered by a medical practitioner. In exceptional cases, a responsible medical nurse may adopt a decision on the use of physical restraint and, after that, immediately brought to the attention of a medical practitioner, Chief of the Department or the medical practitioner on duty with a view to seeking the approval; medical practitioners as soon as possible examine and uphold the need for such fixation or terminate the use.

275. A patient, whom physical fixation is applied, shall not be left without supervision. A medical practitioner or a medical nurse appoints a member of medical personnel to exercise close supervision over the patient's condition and physiological needs. The responsible nurse every 15 minutes monitors the patient's health condition, checks whether the patient's needs are ensured, fills out the patient's medical file.

276. Time limit for physical fixation shall be as short as possible, and it terminates immediately after a patient is calmed. A patient may rest in steadily fixed position not longer than for two hours. If a patient's condition has not been improved, after two hours he/she shall be removed from restraint, and examined under enhanced control of numerous medical personnel members. Repetitive fixation is permitted only, if it is justified, and not earlier than after 10-15 min.

277. A medical nurse records all the cases of physical fixation by filling out the protocol on patient's physical restraints, which is signed by a medical practitioner, and is supplemented to the patient's medical file. Records on fixation and the patient's condition throughout the fixation session are made to a register for cases of physical fixation. In general, according to the CPT standards, in the event, physical restraint was used, an entry should be made to a register, with an indication of the times at which the measure began and ended, as well as of the circumstances of the case and the reasons for resorting to such means, name of the medical practitioner, who ordered such restraint and all bodily injuries inflicted upon the patient of medical personnel.

278. In order to protect the legitimate interests, each patient has the right to lodge a complaint with the Health Inspectorate, which examines complaints regarding the lawfulness of medical treatment procedure, whose decision, in turn, can be challenged in the Administrative Court. Patients are also using their rights to lodge a complaint with the Ombudsman.

279. To ensure that a mentally-ill person's rights and living conditions in medical treatment institutions comply with national law requirements, the Ombudsman carries out independent and regular monitoring of psychiatric medical treatment institutions. In 2008 - 2010, while attending psychiatric medical treatment institutions and getting aware of procedure on patient's placement therein, the Ombudsman provided recommendations to the administration of the respective institutions to keep records in a way that a patient's consent is requested both, in hospitalising him/her and when determining the treatment process. The Ombudsman also indicated that it is necessary to develop methodological guidelines in order to regulate the situation, when a person who voluntarily was placed to the hospital, but lately would like to leave it, could withdraw its initial consent to hospitalisation.

280. As regards the living conditions in psychiatric hospitals, the Ombudsman has positively evaluated renovations, which were carried out in numerous psychiatric hospitals; namely, well-furnished and comfortable divisions were established for long-term patients, as well as the physiotherapy division and the modern division for children treatment was renovated. For instance, after the Ombudsman's recommendations had been implemented, numerous adjustments were introduced at the premises of the public limited liability

company “Rīga Centre of Psychiatry and Addiction Disorders”; namely, video surveillance in toilet facilities has been discontinued. The Ombudsman has indicated several problems, for example, overcrowding of hospitals, necessity to improve living conditions in wards accommodating long-term patients, as well as a situation that patients accommodated in psychoneurological medical institutions are allowed to leave, however, they do not have living-space, work and means of subsistence. In 2011, the Ombudsman’s Office representatives will attend psychiatric medical treatment institutions in order to follow the progress achieved in resolving the abovementioned issues and implementing the Ombudsman’s recommendations.

281. During the monitoring visits the Ombudsman has drawn particular attention to the procedure applied for the use of physical restraints. Upon examination it was found that records on physical fixation cases in psychiatric hospitals are duly registered, and it is made in compliance with the methodological recommendations concerning the use of physical restraints (in addition see para. 270). Conducting the monitoring visits during the reporting period, representatives of the Ombudsman’s Office have not identified any cases, where a patient was subject to belt-fixation to bed or placed in seclusion.

282. Although written complaints about fixation cases in psychiatric hospitals have not been received during the reporting period, patients have indicated on alleged violations. The Ombudsman provided recommendations to develop more detailed rules, which govern the use of physical restraints to patients, to determine acceptable and non-acceptable means of physical restraints describe the methods of non-physical control before restraints are used, clarify the patient’s supervision procedure during physical fixation. The Ombudsman also pointed out that subsequent use of fixation with cloth wraps shall be terminated. In 2011, representatives of the Ombudsman’s Office will visit psychiatric hospitals in order to evaluate the progress achieved as to the implementation of the Ombudsman’s recommendations.

283. On August 6, 2008, the *Basic Guidelines on the improvement of the mental health of the population for 2009-2014* were adopted. The aims thereof are as follows: 1) to develop a society-based mental health service; 2) to promote inter-institutional co-operation in resolving the mental health issues; 3) to raise public awareness in terms of mental health issues.

284. In order to develop a society-based mental health services and provide outpatient care (see para.263), in 2009, institutional reforms were carried out, which contributed to the increase in the number of outpatient visits and promoted the overall access of psychiatrists to general public. Thus, the inpatient facilities, both the psychiatric assistance and addiction service’s help desk with a single receiving-room, were set up under one roof, which ensured co-operation and integrity of both services. An outpatient psychiatric help desk was established as a part of the five medical practitioners’ consulting rooms outside an inpatient facility, which has become more accessible to the majority of Rīga population.

285. By the CM order adopted on December 22, 2010, on “Ensuring the long-term provision of social care and social rehabilitation services at the state-owned limited liability company “Rīga Centre of Psychiatry and Addiction Disorders”, the state-owned limited liability company “Daugavpils Neuropsychiatric Hospital”, the state-owned limited liability company “Ģintermuiža” Hospital” and the public limited liability company “Strenču Neuropsychiatric Hospital” it was envisaged, that long-term social care facilities for patients with severe mental disorders are established in the mentioned institutions. Thus, 273 persons were provided with social care and social rehabilitation services.

286. By implementing other aims determined by the *Basic Guidelines on the improvement of the mental health of the population for 2009-2014*, during the reporting period the co-operation among the Latvian Parliament (*Saeima*) and other public authorities

has improved, which contributed to the raise of interest and overall understanding of mental health issues. The mass media have been showing a deeper and more comprehensive understanding of mental diseases and patients' needs. Within the public discussions on the mental health issues and people with mental disorders, a considerable raise of tolerance and understanding, as well as the reduction of social stigma towards mental health issues has been observed.

287. For statistical data concerning involuntary psychiatric assistance, cases of physical fixation, complaints and adjudication thereof; the number of visits to the state-owned limited liability company "Rīga Centre of Psychiatry and Addiction Disorders" in 2008-2010 see Annex 7. Information regarding the state ensured legal aid see Annex 8.

Reply to the issues raised in paragraph 23 of the list of issues

288. To ensure that all the level of the State Police force hierarchy are aware that torture and ill-treatment are unacceptable, during the reporting period such issues were expressly included in the respective institutions' internal rules and are regularly updated in a number of educational events.

289. *The Professional Ethics and Conduct Code of the State Police* adopted on May 31, 2005, is currently in force; its content has been presented to all the State Police officers. The code is available in each police precinct, on the official web site of the State Police, as well as trainings thereof are included in the State Police training and educational curriculum.

290. In 2009 and 2010, the ISO SP officers carried out trainings for the personnel of the regional Departments of the State Police, focusing on the disciplinary liability of police officers, as well as emphasising the prohibition of violence and investigation thereof.

291. Issues concerning the prohibition of torture and ill-treatment were discussed within the current educational and professional development curricula of the State Police College (see paras. 128-131). During the reporting period the Ombudsman's Office organised the informational event for the State Police officers (see para. 140). Similarly, updated information concerning the mentioned issues is included in vocational and professional development trainings held for judges, prosecutors, the Prison Authority officers (in addition see. paras. 125-127).

292. Article 13 of the *Law "On Police"* provides an exhaustive list of cases when the police officer, by exercising professional duties, is allowed to use physical force, for example, to prevent an attack (directed against persons, facilities, *etc.*), to release hostages, to prevent mass riots, to apprehend and transfer an offender to the police department, or to restrain an offender, who resists or tries to escape, or harm himself/herself or others. The use of physical force must not cause unnecessary suffering or degrade the person concerned. Emergency aid shall be provided to a victim, if necessary.

293. Addressing the Committee's concern expressed in the Additional questions regarding paras. 24 to 28 of the Additional Report of 2010, the Government would like to draw the Committee's attention to the fact that within the professional development trainings organised for law enforcement officers an emphasis was put on lawfulness and justification of the use of force. In this respect, Article 13 of the *Law "On Police"* prohibits the use of special measures (other than handcuffs and ligature tools), special combat applications and vehicles, as well as use of service dogs and horses against women, persons with visible signs of disability and juveniles, except for mass riot or violation of public order, as well as in the case of armed assault or when armed resistance is showed, or the life and health of other persons is threatened.

294. By amendments adopted on June 12, 2008, Article 13 of the *Law "On Police"* was supplemented with an indication that if the use of force, special combat applications,

measures or vehicles, or service dogs or horses, caused a person any bodily injury, or resulted in person's death, the police officer immediately reports about the case not only to the higher-rank official, but notifies also the Prosecutor's Office.

295. The aforementioned amendments to Article 13 of the *Law "On Police"* also provide that before a person is placed in the short-term detention facility, such person is subject to a bodily search carried out by the police officer of the same gender, visually screening the person and checking his/her belongings, in order to remove items, which may be used to assault the police officer or to inflict bodily injuries to himself/herself or others.

296. Cases of violence committed by law enforcement officials are timely and effectively investigated, perpetrators are punished by imposing criminal or disciplinary penalty (in addition see paras. 149-152, 154, 155). The effectiveness of investigations, including the imposition of penalties proportional to criminal offenses or disciplinary violations, is supervised by higher-rank institutions, national courts, international monitoring bodies, the ECtHR and the Ombudsman.

297. For additional statistics concerning criminal proceedings against the State Police and other law enforcement officers, imposed penalties and disciplinary practice see Annex 2.

Reply to the issues raised in paragraph 24 of the list of issues

298. International law obliges states to provide within the national criminal justice system effective criminal sanctions for violence against women, children and domestic violence in general. In Latvian criminal justice system, liability of perpetrators is achieved through a complex of measures, *i.e.*, taking into account the criminal offense itself and applying aggravating circumstances thereto.

299. On October 21, 2010, amendments to the *Criminal Law* were adopted, which supplemented Article 48 (aggravating circumstances) with a new paragraph. This paragraph provides that an aggravating circumstance is violence or threat of violence, which was committed against a person with whom the offender is at first or second degree of kinship, or the spouse or former spouse, or against a person, who is or has been under unregistered spouse relationship, or against a person, whom a joint household is kept with. By stipulating this aggravating circumstance, the criminal liability for domestic violence is reinforced in all cases of violent crimes (bodily injury, rape, human trafficking, *etc.*) and thus, it is applicable in the broadest sense.

300. In practice, in cases of domestic violence perpetrators are held criminally liable for a variety of crimes defined by the *Criminal Law*, considering the type of a criminal offense, damage caused, as well as other features. Generally, criminal proceedings are initiated based on the fact of different (serious, medium and light) intentional bodily injuries. It must be noted that as of January 1, 2011, private prosecution was excluded from the *Criminal Procedure Law*. By excluding private prosecution, it is established that in the event a victim lodges an application regarding infliction of light bodily injuries, only public prosecution criminal proceedings apply.

301. In connection to domestic violence, criminal proceedings on rape are initiated. The *Criminal Law* does not recognise a marital rape as a separate criminal offense; rape is subject to Article 159 and Article 160 of the *Criminal Law*, which recognises sexual assault. In addition, an aggravating circumstance may be introduced.

302. Also, with regard to domestic violence criminal proceedings are initiated based on threats to commit a murder or inflict serious bodily injury, unlawful deprivation of liberty, hooliganism and other criminal offenses.

303. Article 174 of the *Criminal Law* recognises criminal liability for cruel and violent treatment of a juvenile or minor, if physical or mental suffering has been inflicted upon

him/her and if such has been inflicted by persons upon whom the victim is financially or otherwise dependent.

304. In addition, in 2008 and 2009, numerous amendments have been introduced to the Section “*Criminal offenses against morals and person’s sexual inviolability*” of the *Criminal Law*, providing as follows:

- A victim of rape may be not only female, but also a male;
- For such crimes as sexual intercourse, pederasty and lesbianism with a person under 16 years of age, and molesting of juvenile, in parallel with imprisonment, a perpetrator may be punished by alternative sanctions, such as arrest, or community service;
- The *Criminal Law* was supplemented with a new article on the establishment, maintenance, management and financing of the brothel, which is punished with up to five years of imprisonment or community service, or fine.
- The *Criminal Law* was also supplemented by a new article on inducement to engage in sexual activity a person under 16 years of age, or inducement to meet in order to engage in sexual activity or sexual intercourse, if such criminal offense is committed by an adult, and is punished by up to two years of imprisonment, or arrest, or community service. If the same criminal offense is directed against minor, it is punished with up to five years of imprisonment.

305. Furthermore, amendments to the *Latvian Code on Administrative Offenses* were adopted on November 17, 2010, and came in force on January 1, 2011, which stated that the minor bodily injury, which caused temporary damage, but not provoked health damage or general loss of work ability, if committed against a person with whom the offender is at first or second degree of kinship, or the spouse or former spouse, or against a person, who is or has been under unregistered spouse relationship, or against a person, whom a joint household is kept with, a fine is imposed in the amount of LVL 300 (approx. EUR 428) to LVL 500 (approximately EUR 714).

306. *The Programme for Implementation of Gender Equality 2007-2010* is a state programme adopted by the CM on October 17, 2007, which aims at improving equal opportunities and rights for women and men, as well as the providing equal access to all resources. The main fields programme’s implementation, which experience gradual improvement, are as follows: raising awareness of general public on gender equality; educational events concerning gender equality issues held for public officials and others; implementation of gender equality policy and the improvement of monitoring thereof; putting domestic violence issues on gender equality agenda, etc.

307. Within the framework of the *State Family Policy Concept 2004 – 2013* special measures were taken to support children, who have been affected by crimes. On December 22, 2009, the CM regulation was adopted, providing procedure for allocation of budgetary funds for the provision of necessary assistance to a child as a victim of a criminal offense, exploitation, sexual abuse, violence or other illegal act, to make it possible for them to regain physical and mental health and to become integrated into society.

308. During the reporting period, annual state budgetary allocations are provided for social rehabilitation services for an average of 2,000 children-victims of criminal offenses. During the reporting period, professionals (social workers, education professionals, police officers, judges, etc.) were trained to detect signs of domestic violence. Information campaigns were carried out to promote public awareness of the problem of domestic violence.

309. On June 9, 2010, the basic policy guidelines *Latvia Fit for Children 2010-2012* were adopted by the CM, which aims at providing measures for the protection of children's rights during the period from 2010 to 2012, related to the protection against violence, the improvement of children's health and the access to education. Overall, by implementing the guidelines, public information and education campaigns on violence against children (physical, psychological, emotional, sexual abuse, child neglect) were carried out. Different measures to enhance the quality and scope of social rehabilitation services available to children-victims of violence are being gradually implemented, providing maximum rehabilitation time required in each individual case. Both, with regulatory and educational measures inter-institutional co-operation is promoted, as well as effective control over cases of violence towards children is ensured; the main functions concerning the monitoring of the protection of children's rights are fulfilled by the State Inspectorate for Protection of the Rights of Children.

310. During the reporting period the Ministry of Welfare (till July 1, 2009, - the Ministry of Children and Family Affairs) continued to implement and coordinate the fulfilment of the *Programme on Elimination of Domestic Violence 2008-2011*. The main programme's goal is to promote the reduction of domestic violence and to prevent violence against children. Within this programme, annual trainings for parents and education professionals were carried out, public information campaigns were launched concerning violence against children, psychological and mediation support was provided for families in crisis, as well as social rehabilitation services were ensured for children-victims of violence.

311. Latvian NGOs play significant role in implementing activities envisaged under the *Programme on Elimination of Domestic Violence 2008-2011* such as, for example, the foundation "Centre "Dardedze"", the Latvian Association for Family Planning and Sexual Health "Papardes zieds", the foundation "Latvian Children's Fund", the Resource Centre for Women "Marta", etc. NGOs provide victims of violence with psychological, psychotherapical counselling, social support and legal counselling.

312. During the reporting period and pursuant to the CM regulation on education necessity concerning children's rights and their content requirements, trainings on the child's rights protection issues were continued to be held targeting the State police officers. In 2010, trainings were held to provide the State Police officers with knowledge and develop practical skills in working with children and families, learning how to recognise signs of domestic violence or attempts thereof (including physical, emotional and sexual abuse), as well as elaborating on specific methods of work with juvenile victims, abused children and their parents.

313. For statistical data on adjudication and criminal offenses involving domestic violence see Annex 10.

Reply to the issues raised in paragraph 25 of the list of issues

314. In 2008, the *Criminal Law* was supplemented by a new type of criminal offense, penalising inducement to engage in sexual activity a person under 16 years of age, or inducement to meet in order to engage in sexual activity or sexual intercourse (in addition see para. 304).

315. On June 29, 2008, amendments were introduced to the *Law on the Protection of Children's Rights* and on May 5, 2009, the relevant CM regulation was adopted, which set out limits to children's involvement into events related to demonstration of outer appearance (modelling agencies, demonstration of clothing collections, advertising campaigns, etc.); such events could be associated with an increased risk to child safety and well-being.

316. On September 23, 2009, amendments to the *Latvian Code on Administrative Offenses* were adopted, thereby introducing a new article concerning child's illegal involvement into events of any kind. The new provision stipulates that, if a child is involved in beauty pageant or other event, where her/his outer appearance only is evaluated, organisers thereof may be fined with LVL 250 (approx. EUR 357) to LVL 500 (approx. EUR 714) for natural persons, and LVL 500 (approx. EUR 714) to LVL 1 500 (approx. EUR 2142) for legal entities.

317. The *Law on Pornography Restrictions* of May 3, 2007, provides that in circulation of the pornographic material child pornography is prohibited. It is also prohibited to involve a child in the circulation of the pornographic material, and make such material accessible to a child. The *Criminal Law* recognises criminal liability for involvement of a juvenile or minor in dissemination and advertisement of pornographic or erotic publications.

318. On January 22, 2008, the CM regulation concerning the prostitution's restrictions provides the prohibition of engaging a juvenile in prostitution. Accordingly, an underage person is protected from devastating effects provoked by the prostitution with respect to violence, violation of human dignity, psychological traumas, possible involvement in organised prostitution and human trafficking.

319. On July 29, 2009, amendments to the *Electronic Communications Law* entered into force, stating that the provider of electronic communication services is obliged to inform the user about the possibility of installing a content filter to limit the availability of the material, which propagates cruel behaviour, violence, erotic, pornography, and that poses a threat to child's sound mental development, as well as to provide free content filter settings at the customer's request.

320. On August 25, 2009, the *Action Plan to the Programme on protecting juveniles from criminal offenses directed against morality and sexual inviolability 2010-2013* was adopted, which indicates the following main development directions: preventive measures, public awareness and involvement in reducing criminal offenses committed against morality and sexual inviolability; the elaboration of penal policy concerning criminal offenses related to sexual abuse; supervision, medical treatment and resocialisation of persons who have committed criminal offenses against morality and sexual inviolability; the improvement of inter-institutional co-operation regarding these issues.

321. During the reporting period a number of measures were taken addressing the aforementioned action plan:

- 40 officers of the Prison Authority attended trainings on the topic "Working with victims of sexual abuse";
- In 2010, the State Probation Service implemented a risk and needs assessment, as well as a risk of recidivism assessment procedures for persons, who have committed criminal offenses against morals and sexual inviolability;
- 62 officers of the State Probation Service attended trainings in risk and needs assessment with regard to persons, who have committed criminal offenses against morals and sexual inviolability;
- A mandatory recidivism risk assessment is introduced for persons being released on parole, who have been committed criminal offenses related to morals and sexual inviolability, in order to subject them to supervision and determine specific measures applicable to such persons after the release;
- In 2010, premises in the Daugavgrīva Prison, the Valmiera Prison, the Jēkabpils Prison and the CJCI were arranged for the implementation of resocialisation programmes for individuals who committed sexual abuse;

- Regular consultative council's meetings for the personnel of the Regional Departments of the State Probation Service are organised in Cēsis, Kuldīga, Rīga and Sigulda, in order to improve co-operation in supervision of persons who have committed criminal offenses against morals and sexual inviolability.

322. The State Police are actively taking actions against persons controlling prostitution for gain, in order to prevent involvement of juveniles in prostitution or coercion of adults to engage in prostitution. The State Police pay particular attention to information about alleged sexual exploitation of juveniles in Latvia, each case being thoroughly investigated. With the help of mass media the State Police regularly inform general public about such problems, provide with recommendations on how not to become a victim, as well as how to act in such situations. For instance, on the web site designed for the purposes of safety issues and maintained by the State Police, children and adolescents can receive information on human trafficking – “Young people as victims of human trafficking”, “Types of recruiters”, “Work abroad” and “Help”.

323. A possibility is ensured to report online through the web site <http://www.drossinternets.lv> about violations in the Internet, including, the accessibility of pornographic material without any warning, child pornography, as well as material, which advocate violence, racism, etc.

324. With regard to the national case-law, it should be noted that Article 160 of the *Criminal Law* recognises that paedophilia against juveniles is penalised with three to 12 years of imprisonment. In 2010, the Rīga Regional Court sentenced the British national with eight years of imprisonment for sexual abuse of Latvian juvenile. In 2010, upon the Latvian request on extradition submitted to the United States of America (USA) the US national has been extradited to Latvia for initiation of criminal proceedings based on the committed sexual exploitation of a juvenile.

325. Due to prompt actions taken by law enforcement institutions the number of criminal offenses related to engaging juveniles or minors in prostitution has considerably diminished. Relatively high number of criminal offenses related to the involvement or the use of juvenile or minor in production or distribution of pornographic or erotic materials (for statistics see Annex 10).

326. During the reporting period there were no cases of sex tourism. Also, there were no cases of persons moved from Latvia to foreign country for the purpose of the exploitation of juveniles.

Reply to the issues raised in paragraph 26 of the list of issues

327. Amendments to the *Criminal Law* were adopted on June 21, 2007, and entered into force on July 19, 2007, which supplemented Article 78 and Article 150 thereof. Article 78 of the *Criminal Law* envisages criminal liability for intentional acts directed towards inciting to national, ethnic or racial hatred or enmity. Paragraph 2 of this Article stipulates more severe sentence (up to ten years of imprisonment), if such acts are associated, *inter alia*, with violence. Article 150 of the *Criminal Law* provides criminal liability to be imposed for violation of religious sensibilities and inciting religious hatred due to the person's attitude towards religion or atheism. More severe sentence (up to four years of imprisonment) is provided, if such acts are associated with violence. Pursuant to Article 48 of the *Criminal Law* racist motive is identified as an aggravating circumstance.

328. The Government indicates that during the trainings targeting national law enforcement institutions, judicial and other public authorities, the participation of professionals from different fields is ensured, which does not depend on race and is not subjected to any other forms of discrimination.

329. On March 19, 2008, Doudou Diene, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, presented a report on Latvia at the 7th session of the UN Human Right Council.¹⁶ In his report Doudou Diene welcomed the fact that Latvia has adopted the necessary legislative acts and established a number of institutions with the purpose of tackling racial discrimination. The Special Rapporteur also positively referred to how the Constitutional Court and the Ombudsman has contributed to fighting racial discrimination. The Special Rapporteur noted the Government's achievement in solving the issues that the Roma community faces in Latvia through the implementation of the State programme “*Gypsies (Roma people) in Latvia 2007-2009*”.

330. In order to promote the integration of the gypsies (Roma people) in society, by ensuring elimination of discrimination and effective implementation of equal opportunities for the Roma community in the areas of education, employment and human right, in 2006, the State Programme “*Gypsies (Roma people) in Latvia 2007-2009*” was adopted by the CM. Within this State Programme, a programme for professional training of Roma teacher’s assistant was implemented, and the Roma assistants in the pre-school educational institutions were promoted. Till 2009, 20 Roma teacher’s assistants were educated. The total budgetary allocations in 2007-2009, for the implementation of the State Programme are LVL 124,251 (approx. EUR 176,795). In 2010, for the fulfilment of tasks related to the integration of gypsies (Roma people) additional allocations were made in the total amount of LVL 10,265 (approx. EUR 14,664).

331. On August 24, 2004, the CM adopted the *National Programme to Promote Tolerance 2005-2009*. The aim thereof is to develop a tolerant society in Latvia, to eliminate intolerance, and to develop Latvia’s multicultural society in the circumstances of European integration and globalisation. Within the framework of this programme the following activities were implemented: Internet activities (<http://www.dialogi.lv>, <http://www.politika.lv>), conducting studies, information campaigns for general public, publication of booklets, organisation of discussions, exhibitions, etc. In 2008, the state budgetary allocations for the tolerance promoting activities were LVL 291,810 (approx. Eur 416,871), in 2009 – LVL 404,611 (approx. Eur 578,015).

332. In order to raise awareness of general public on the issues related to elimination of intolerance, within the aforementioned national programme the state budget subsidies were granted to various projects carried out by NGOs. Latvia has also implemented projects financed by the European Commission, such as, for example, “*Latvia – Equal in Diversity*”, which was launched for the activities of public authorities and NGOs aimed at reducing discrimination, promoting tolerance and informing general public about the priorities of the anti-discrimination policy. Total financial resources allocated for the implementation of the project “*Latvia – Equal in Diversity*” during 2005-2009, are EUR 719,894.

333. In order to eliminate discrimination against sexual minorities and encourage understanding of their needs, within the support provided by public authorities the informational seminars were carried out for mass media and trade unions. For example, in 2006, a complex of educational seminars under the title “Eliminating discrimination against sexual minorities” co-financed by the EU funding, was organised by the LGBT NGO “Mosaic”.

¹⁶ Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mission to Latvia in 2007 (A/HRC/7/19/Add.3), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/116/23/PDF/G0811623.pdf?OpenElement>.

334. In its concluding observations to the second report of Latvia on July 23, 2002,¹⁷ the CoE European Commission against racism and discrimination welcomed the fact that the Latvian authorities usually publicly condemn incidents of intolerance, and mass media promote active public discussion on this issue.

335. Furthermore, it shall be pointed out that all prisons have a single system of criminal offenses' records, which is maintained by the Investigation Unit of the Prison Authority; therefore, records are kept on initiated criminal proceedings, criminal offenses, and procedural decisions adopted in the respective case. During the reporting period, there were no criminal offenses related to racial hatred in prisons; as well, no examinations or disciplinary proceedings were initiated on alleged violations related to discrimination on the grounds of gender, race, age, disability, religion, political or other opinion, ethnic or social origin, property or family status, sexual orientation or other status.

336. For statistical data on cases related to racial hatred adjudicated in national courts during the reporting period, criminal proceedings initiated and terminated by the Security Police see Annex 12.

Reply to the issues raised in paragraph 27 of the list of issues

337. According to the Committee's mandate stipulated by the Convention, it shall examine the State parties' reports on measures taken to implement the commitments provided by the Convention. Based on that, the Replies provide information on the implementation of obligations under the Convention. The Republic of Latvia indicates that the naturalisation and integration issues as such fall outside the scope of the Convention. Therefore, the Replies provide only general information regarding the mentioned issues.

338. Latvia has reached considerable progress in promoting naturalisation process, by reducing the number of non-citizens from 29% (730,000) in 1995, till 14.7% (329,493) in October, 2010. Almost 83% (1,855,896) of population are citizens of the Republic of Latvia.

339. The current Latvian policy is directed, by means of public campaigns, direct links and legislative initiatives, to facilitate the naturalisation process, to encourage non-citizens to obtain Latvian citizenship and to appeal for granting the citizenship to their children.

340. The intensity of naturalisation process is subject to numerous internal and external factors; the internal factors are as follows: socio-economic situation, political discussion, position of mass media in reflecting the citizenship and social integration issues; the external factors are as follows: a decree of the president of Russian Federation of June 17, 2008, on abolishing visa regime for non-citizens residing in Latvia, as well as a visa-free regime to the EU countries, granted to non-citizens in 2007.

Reply to the issues raised in paragraph 28 of the list of issues

341. On March 3, 2004, the CM adopted the *State programme for the prevention of the human trafficking 2004-2008*, but on August 27, 2009, the follow-up for 2009-2013 was adopted. The state programme's aim is to reduce the risk of human trafficking thereby implementing preventive measures, to ensure effective actions taken by law enforcement institutions addressing the issue, as well as to provide adequate social rehabilitation services

¹⁷ European Commission against racism and intolerance, Second report on Latvia, adopted on 14 December 2001, CRI (2002) 21, available at http://hudoc.ecri.coe.int/XMLEcri/ENGLISH/Cycle_02/02_CbC_eng/02-cbc-latvia-eng.pdf.

for those affected by human trafficking. It shall be emphasised that in cases of human trafficking involving children, the protection of their interests is a priority.

342. By implementation of the mentioned programme Latvia is ranked among the countries that have complied with all international requirements, joining key international documents and achieving the compliance national law to international standards. National legislative acts define all the major anti-trafficking-related issues.

343. To improve the efficiency of elimination of human trafficking, which is a cross-border issue, Latvia has entered into co-operation agreements with several countries.¹⁸ Within the concluded agreements, the state parties promote the exchange of information and data, implementation of mutual activities, sharing of experience, including trainings for personnel, as well as consultations in respect to legislative drafting.

344. Pursuant to the *Law on State Compensations to Victims* of June 16, 2006, a victim of human trafficking, as a victim of intentional violent crime, has the right to state granted compensation, if, as a result of which, pecuniary and non-pecuniary damage as well as physical suffering was caused to the person, resulted in infliction of serious or medium bodily injuries or in the victim's death, or such crime has been directed against sexual inviolability of the person, or the victim suffers from HIV/AIDS, hepatitis B or C (in addition see paras. 174-178).

345. Any person, who has allegedly become a victim of human trafficking, is informed about the right to social rehabilitation. Before or during any procedural actions, which are taken by the State Police, victims of human trafficking are provided with the state ensured social rehabilitation services pursuant to the *Law on Social Services and Social Assistance* and the CM regulation of October 31, 2006. As of January 1, 2008, the society "Shelter "Safe House"" provided social rehabilitation services for victims of human trafficking (in addition see para. 184).

346. The State Police officers, social service workers, consular personnel regularly participate in various seminars, trainings, conferences, which take place in Latvia and abroad, thereby increasing their theoretical and practical knowledge of human trafficking issues; legal, psychological aspects of working with victims of human trafficking; the provision of assistance, as well as human trafficking victims' needs and problems.

347. During the reporting period the competent authorities took steps to raise public awareness about human trafficking. The Ministry of the Interior sets up and maintains an online resource that provides essential and up-to-date information in Latvian, Russian and English about the activities that are focused on combating human trafficking - <http://www.cilvektirdznieciba.lv>. The web page provides advices on how to avoid becoming a victim of trafficking in persons and how *to escape from a trafficker*; the web page allows using online services for contacts with the State Police or a social worker to ask for help.

348. In recent years, Latvia has faced a concern of marriages of convenience arranged abroad, which in some cases could be resulting in human trafficking or labour exploitation. Such forms of exploitation tend to evolve, therefore various measures are taken to identify victims of human trafficking, promote public discussions on criminalising marriages of convenience, as well as information campaigns are launched to warn people about potential risks.

¹⁸ Uzbekistan, Moldova, Azerbaijan, Belarus, Armenia, Kazakhstan, Georgia, Israel, Croatia, the United States of America, Czech Republic, Cyprus, Lithuania, Slovakia, Slovenia, Finland, Spain, Turkey, Hungary, Germany.

349. Overall, in 2010, the number of criminal proceedings initiated in respect to sending persons to sexual exploitation has significantly increased. This tendency is evolving due to intensified work performed by the State Police in combating such crimes, as well as due to increased public support in reporting crimes on their preparation stage.

350. For statistical data about criminal proceedings, adjudication in the cases related to human trafficking, as well as information concerning social rehabilitation of victims of human trafficking see Annex 11.

Other issues

Reply to the issues raised in paragraph 29 of the list of issues

351. The Republic of Latvia has acceded to numerous international and regional instruments, which govern issues related to torture and inhuman and degrading treatment or punishment. As of June 1, 1998, the CoE Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, its First and Second Protocols are binding to Latvia. According to the mentioned convention, in 1987, the CPT was established, which monitors the compliance of the Convention in the Member States, and whose activities form an integral part of the CoE human rights' system, which operates alongside to its judicial mechanism - the ECtHR. The Government actively co-operates with the CPT, evaluates and considers its recommendations (in addition to see. paras. 15, 34, 146, 205, 208, 209, 232).

352. Hence, taking into account the effective operation of both, regional extra-judicial and judicial mechanisms, as well as well-established co-operation in promoting general progress in issues relating to the elimination of torture, inhuman and degrading treatment or punishment, currently the Republic of Latvia does not intend to ratify the Optional Protocol to the Convention.

Reply to the issues raised in paragraph 30 of the list of issues

353. Currently the Republic of Latvia does not intend to declare the recognition of the Committee's competence pursuant to Articles 21 and 22 of the Convention.

Reply to the issues raised in paragraph 32 of the list of issues

354. During the reporting period the Government has continued its activities aimed at improving the national counter-terrorism system, including the development of legislation acts concerning the issues on terrorism prevention and response thereto, as well as conducting trainings for personnel of the concerned institutions focusing on counter-terrorism prevention activities.

355. During the reporting period no criminal cases were adjudicated in national courts concerning terrorism or threats to commit terrorism (Articles 88, 88¹, 88², 88³ of the *Criminal Law*). Previous counter-terrorism activities performed by law enforcement institutions (legislative drafting, trainings for personnel) did not provide grounds for adopting legislative acts or amendments thereto, which in any way could have affected human rights safeguards.

III. Other information on the human rights situation relating to the implementation of the Convention

Reply to the issues raised in paragraphs 33-35 of the list of issues

356. The Government informs about the implementation of the Convention at the national level within the context of new legislative and policy planning initiatives, as well as institutional and administrative activities. Despite the measures taken for optimising the state budgetary allocations due to global economic hardship, the Government takes all necessary measures to preserve, develop and improve the regulatory framework and effective operation of human rights mechanisms.

357. The Government's overview of the key legislative acts and regulations, as well as new legislative initiatives is provided within the abovementioned Replies, addressing the respective Committee's concerns.

358. In addition, it should be noted that on August 8, 2011, amendments were introduced to the *Law on Enforcement of Sentences*, which provides that within two months after a convict is placed in prison for serving his/her sentence, the Chief of the prison ensures the assessment of the convict's risks and needs. As of January 1, 2012, places of deprivation of liberty shall at least once in a year provide a repetitive assessment of inmate's risks and needs. By implementing such assessment instrument, resocialisation needs, as well as a risk of anti-social behaviour of each convict is thoroughly examined. Based on the results of the assessment, every convict will be provided with the most appropriate resocialisation programmes and measures. Consequently, it will lead to the involvement of a convict into the resocialisation programme, which is tailored to his/her needs, which, in turn, will provide a positive impact on the resocialisation process as such.

359. On December 17, 2009, the *Law on Patients' Rights* was adopted, which entered into force on March 1, 2010. This law aims at promoting beneficial relations between patients and health care providers, as well ensuring a patient with the possibility to exercise his/her rights and legitimate interests. The *Law on Patients' Rights* draws particular attention to the protection of juvenile patient's rights. This law also provides the patient's right to claim compensation for damage caused to his/her life or health, including for non-pecuniary damage, caused by the medical practitioner during medical treatment.

360. The Government's overview of the key policy planning initiatives and their implementation is provided within the abovementioned Replies, addressing the respective Committee's concerns.

361. In addition, it should be mentioned that in recent years, particular attention is paid to penal policy planning in the Republic of Latvia, both, by developing of policy planning documents and introducing amendments to national law. The main penal policy planning documents, among others, are as follows: the *Concept Paper on Resocialisation of Convicted Persons Sentenced to Imprisonment*, the *Concept Paper on the Employment of Convicted Persons Sentenced to Imprisonment*; the *Basic Policy Guidelines on Education for Imprisoned Persons 2006-2010*.

362. On July 29, 2010, the *Concept Paper on the Employment of Convicted Persons Sentenced to Imprisonment* was adopted, which aims at solving the employment issues of prisoners, creating a modern, complex and coherent regulatory framework, whereby the employment of imprisoned convicts is arranged; that contributes to convicts' successful integration into society. The solution to employment-related issues tends to define a legal status of an imprisoned convict during the time of employment, address specific issues of such employment, determine remuneration system, as well as provide support for the employer who works with imprisoned convicts at prison's premises.

363. On June 15, 2006, the *Basic Policy Guidelines on Education for Imprisoned Persons 2006-2010* were adopted. These guidelines were developed to ensure imprisoned persons' educational integration into the national education system, to promote the prisoners' right to education and to encourage those persons to integrate into society after serving their sentence. On August 12, 2009, the CM adopted the *Basic Policy Guidelines on Education for Imprisoned Persons 2006-2012* (in addition see Annex 6).

364. On September 3, 2009, the *Programme on the Prevention of Juvenile Crimes and the Protection of Children against Criminal Offenses 2009-2011* was adopted. This is a policy planning document, which determines measures for preventing juvenile delinquency and children's safety issues. The aim of the mentioned programme is to reduce juvenile crimes, eliminate factors contributing to criminal behaviour, as well as to improve children's safety, protecting them from any kind of health and life risks.

365. *The Basic Policy Guidelines on Court System Development 2009-2015* envisages reduction and balancing of the courts' workload. To achieve this objective, it is planned to gradually introduce mediation models (pure mediation, court derived mediation, court based mediation and integrated mediation), thereby facilitating out-of-court dispute resolution. The first step has been taken – the pure mediation model is successfully implemented. The next step is to draft the *Law on Mediation* and develop certification system for mediators to ensure unified principles and fundamental requirements of the mediation process. It is necessary to streamline the legal regulation of administrative proceedings, civil proceedings and criminal proceedings to render court proceedings more efficient. Presently, the project "Modernisation of Courts in Latvia" is underway, whereby it is planned to introduce and utilise audio and video conferencing in court proceedings, improve the administration of court expenses, improve the efficiency of court procedures, and improve accessibility to information and services.

366. During the reporting period the Constitutional Court adopted numerous important judgments, which are related to the implementation of the Convention.

367. On May 9, 2008, the Constitutional Court delivered a judgment in the case No. 2007-24-01, where it held that the challenged provision of the *Law on Enforcement of Sentences*, which provided that costs related to a convict's correspondence, which is maintained with the UN institutions, the *Saeima* Committee on Human Rights and Public Affairs, the Ombudsman, prosecutors, courts, as well as such maintained by a convicted foreigner with diplomatic or consular mission authorised to represent his/her legitimate interests, are borne by the respective prison, was declared as being incompatible with the *Satversme* and invalid. Accordingly, the *LSIK* rules were supplemented and presently it states that the prison administration covers financial costs related to convict's correspondence, which is maintained also with other public institutions, given that the person has no financial means, and he/she appeals against an administrative act issued by these public institutions or *de facto* action of their officials, or lodges an application on granting legal aid.

368. By its judgment in the case No. 2008-42-01, delivered on April 23, 2009, the Constitutional Court recognised that the provision of the *Law on Procedure of Detention on Remand*, which stipulates that detainees are entitled to one-hour long meeting at least once in a month with relatives or other persons in the presence of remand prison officer, is incompatible with the *Satversme*, as regards the words "one-hour long" and "the presence of the remand prison officer". The Constitutional Court indicated that it is possible to stipulate that a detainee is entitled to at least one-hour long meeting, thereby providing minimal safeguards and ensuring that a longer meeting is equally possible. Similarly, the presence of the remand prison officer during every meeting is to be assessed under individual circumstances, taking into account safety reasons, instead of applying this

procedure as a general rule. As a result, the *Law on Procedure of Detention on Remand* was amended and now provides that detainees are entitled to at least one-hour long meeting with relatives or other persons, which is held not less than once in a month. A part of challenged provision concerning the presence of the remand prison officer has been repealed.

369. By its judgment in the case No. 2008-48-01 of September 29, 2009, the Constitutional Court held that the challenged provision of the *Law on Enforcement of Sentences*, which stipulated that outside walks are prohibited for convicts who are placed in a solitary confinement, is incompatible with the *Satversme*. The *Law on Enforcement of Sentences* was amended providing that convicts who are placed in solitary confinement are entitled to a daily one-hour outside walk.

370. On October 7, 2009, the Constitutional Court delivered a judgment in the case No. 2009-05-01, thereby recognising the provision of the *Law on Enforcement of Sentences*, which states that convicts, who are serving sentence in the closed-type prison at the medium regime level, has the right to use two phone calls in a month, as compatible with the *Satversme*. The Constitutional Court concluded that in addition to phone calls, convicts are allowed to contact persons outside prison by using other communication means, and the European countries do not recognise the right of convict to unlimited phone calls either.

371. On December 2, 2009, the Constitutional Court delivered a judgment in the case No. 2009-07-0103, thereby recognising that the provision of the *Law on Enforcement of Sentences*, and the CM Regulation *On internal Rules of places of deprivation of liberty* prohibits a convict, who is placed in a solitary confinement, to send correspondence to individuals, as compatible with the *Satversme*. The Constitutional Court found that this prohibition is applied temporary, and within that period a convict is ensured with minimum possibilities of communication, namely, phone calls and telegraph transmissions can be used.

372. By its judgment in the case No. 2009-10-01 of December 18, 2009, the Constitutional Court held that the provision of the *Law on Enforcement of Sentences*, which provided that the mutual correspondence among convicts in places of deprivation of liberty, if they are neither relatives, nor spouses, was prohibited, is incompatible with the *Satversme*. Based on this judgment, amendments were introduced to the *Law on Enforcement of Sentences*, thereby repealing the challenged provision.

373. On March 10, 2010, the Constitutional Court delivered a judgment in the case No. 2009-69-03, thereby recognising the CM Regulation on daily standard norm of nutrition for convicts as incompatible with the *Satversme*. The Constitutional Court held that it is necessary to ensure convicts with sufficient daily nutrition for maintenance of healthy condition; otherwise, the lack of certain minerals and vitamins under unbalanced diet can lead to deterioration of health condition of imprisoned convicts. Based on this judgment, the CM Regulation was respectively amended.

374. On June 8, 2010, the Constitutional Court delivered a judgment in the case No. 2009-115-01, thereby terminating adjudication thereof, and finding no legal grounds to examine the compatibility of the provisions of the *Law on Enforcement of Sentences* with the *Satversme*, at the same time providing authoritative interpretation of the challenged provision. Namely, the provision of the *Law on Enforcement of Sentences* states that if a convict, at the time of serving his/her sentence, suffers from severe or incurable, or mental illness, the law enforcement authority may propose to release the person from serving the sentence. The Constitutional Court concluded that this provision is to be interpreted as one that applies to persons who are ill while in prison, as well as to those who have contracted

illness before being placed in prison. It is planned to define the wording of the challenged provisions more accurately in the nearest future.¹⁹

375. During the reporting period the institutional reform was carried out in Latvia, as well as other administrative steps were taken to address the issue of the protection of children's rights.

376. With the aim of optimising state budget financial resources and functions performed by the public authorities, the Ministry of Children and Family Affairs was reorganised on May 29, 2009; since then, the respective competences were divided among different ministries, such as the Ministry of Welfare, the Ministry of Justice, and the Ministry of Education.

377. The Government has implemented several administrative measures for the operation of children's rights protection's system, preserving children's safety and protecting them from violence or threats thereof. The hotline for children and adolescents was established, which is aimed at rendering psychological support for those suffered from alleged violence or other illegal actions.

378. At the end of 2009, the establishment of the information system for juvenile support was launched. The system's aim is to ensure effective processing of information concerning the risks faced by juveniles (for example, juvenile offenders, street children, children from disadvantaged families, *etc.*), thereby facilitating rapid information exchange and co-operation among the relevant law enforcement institutions, social, educational facilities and early preventing of juvenile delinquency and victimisation.

379. Translations of international human rights conventions binding upon Latvia are available in the Official Journal "Latvijas Vēstnesis", on its electronic version, as well as on web sites of competent state institutions (for example, <http://www.mkparstavis.am.gov.lv>, <http://www.vvc.gov.lv>), and NGOs (for example, <http://www.humanrights.org.lv>). A wide range of translations of international treaties are also available on the web site of the Ombudsman's Office (<http://www.tiesibsargs.lv>). The competent public authorities (for example, <http://www.tm.gov.lv>), when preparing a draft law on ratification of international human rights instrument, present to mass media wide information concerning such draft and content thereof.

¹⁹ In addition, see *Farbtuhs v. Latvia* (application No. 4672/02), judgment of December 2, 2004.