



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

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

**Comments by the Government of Latvia to the conclusions and
recommendations of the Committee against Torture**

[3 November 2004]

ADDITIONAL REPORT OF THE REPUBLIC OF LATVIA

1. In this document, the Government of Latvia submits its additional report pursuant to Rule 67 (2) of the Rules of Procedure in response to the request by the Committee against Torture expressed in its concluding observations (CAT/C/CR/31/3, para. 9) following the consideration of the initial report of Latvia (CAT/C/21/Add.4) at its thirty-first session, to forward information within 12 months on the implementation of the following recommendations:

“7. The Committee recommends that the State party:

(e) Introduce legally enforceable time limits for the detention of rejected asylum-seekers who are under expulsion orders. In this respect, the State party is invited to provide statistics, disaggregated by gender, ethnicity, country of origin and age, relating to persons awaiting expulsion;

(f) Continue to take measures to address overcrowding in prisons and other places of detention;

(g) Provide in the next periodic report detailed statistical data, disaggregated by age, gender and country of origin, on complaints related to torture and other ill-treatment allegedly committed by members of the police forces, as well as related investigations, prosecutions, and penal and disciplinary sentences;

(h) Ensure that the draft code of conduct for police interrogation (“Police Ethics Code”) is speedily adopted;

(i) Take measures to ensure that in all circumstances the crime of torture is explicitly included among the crimes for which article 34 of the Criminal Law excludes the defence of superior orders.”

Recommendation 7 (e)

“Introduce legally enforceable time limits for the detention of rejected asylum-seekers who are under expulsion orders. In this respect, the State party is invited to provide statistics, disaggregated by gender, ethnicity, country of origin and age, relating to persons awaiting expulsion.”

2. On this subject, the Government would like to submit data on 14 persons detained in the Illegal Immigrants Detention centre in Olaine of the State Border Guard of the Ministry of the Interior of the Republic of Latvia during the period from 1 January to 27 September 2004.

Name/Surname	Date of birth	Date of detention	Country of origin	Gender
Aleksandrs Gaidučiks	1968	15.03.2004	Ukraine	M
Aleksandrs Romaņuks	1962	24.03.2004	Ukraine	M
Alvīds Lapets	1956	07.04.2004	Lithuania	M
Mihails Čikans	1961	18.05.2004	Ukraine	M
Janine Lipskiene	1956	11.03.2001	Lithuania	F
Jurijs Matrosenkovs	1955	21.06.2004	Russia	M
Mihails Čekets	1959	15.07.2004	Ukraine	M
Vasīlijs Kabacijs	1958	20.07.2004	Ukraine	M
Sergejs Reunovs	1970	03.08.2004	Russia	M
Aleksandrs Veselovs	1958	12.08.2004	Belarus	M
Davit Khiratrídze	1961	12.08.2004	Georgia	M
Aleksandrs Šukakídze	1975	17.08.2004	Georgia	M
Viktors Mogeļuks	1957	12.09.2004	Ukraine	M
Genādijs Imeļjanovs	1959	10.09.2004	Russia	M

3. The Government of Latvia cannot provide the Committee with statistics on the ethnic origin of the detained persons, as under the provisions of the Law on the Protection of the Data of Natural Persons, ethnicity is considered to be a sensitive data. Thus, the authorities cannot collect such data.

Recommendation 7 (f)

“Continue to take measures to address overcrowding in prisons and other places of detention.”

4. Certain improvements have been made in the conditions of the detention facilities. A number of them are regularly upgraded as part of long-term programmes to be carried out over the next years. In 2004, the Administration of Places of Imprisonment (API) has requested from the State budget LVL 26,424,634,¹ of which LVL 16,198,056 (61.3 per cent) were allocated.

5. On 15 June 2004, the Cabinet of Ministers decided to allocate additional budgetary funds to API in order to ensure the compliance of prison facilities with European Union requirements. Recently, the Saeima (Parliament) has approved amendments to the 2004 State budget and allocated additional LVL 1,319,610 to cover salaries of prison personnel and provision of uniforms; medical care of imprisoned persons; financial aid to persons released from imprisonment; repayment of debts of the prison facilities and payment for services such as heating, gas, water and sewage, coal, food, etc. Concerned with the further improvement and development of the places of detention, API has requested LVL 29,055,888 from the 2005 State budget.

6. Repair works were carried out in the residential premises accommodating imprisoned women and persons serving life sentences at Daugavpils and Iļģuciems prisons, increasing the capacity of the latter by 42 units. Additional space for 28 units has been provided at

¹ US\$ 1= LVL 0.5440 (exchange rate set by the Bank of Latvia, 2 November 2004).

Daugavpils prison in order to receive some of the life-sentenced prisoners to be transferred from Jelgava prison by 1 October 2004. Other repair works took place in the prisons of Brasa, Griva, Matisa, Jelgava, as well as in the Central Prison. The reconstruction of the Central Prison hospital, which started in 2003, has been temporarily suspended due to financial constraints. Nevertheless, the API has set this task among its priorities for 2005.

7. The following table shows the situation in prison on 1 October 2004:

	Number of units available	Number of persons	Density %
Persons detained on remand	3 611	2 615	72.4
Convicted persons	5 355	4 893	91.3
Persons in hospitals	200	129	64.5
Total	9 166	7 637	83.3

8. In addition, two working groups have addressed the issues of the development of the prison system and medical care for imprisoned persons. As a result, two concept papers are to be presented to the Cabinet of Ministers by 1 December 2004 - the Programme for the Development of Prisons and the Programme for Medical Care of Imprisoned Persons.

Recommendation 7 (g)

“Provide in the next periodic report detailed statistical data, disaggregated by age, gender and country of origin, on complaints related to torture and other ill-treatment allegedly committed by members of the police forces, as well as related investigations, prosecutions, and penal and disciplinary sentences.”

9. With regard to the age, sex and country of origin of persons complaining of torture or ill-treatment, the Government notes that the Law on the Protection of Data of Natural Persons, which was designed, inter alia, to protect the privacy of applicants precludes the authorities from collecting certain data. Nevertheless, the comment made by the Committee on this subject was duly considered and information available at the present time is provided. The Government will, however, continue discussion on the possibilities to improve its system of gathering statistical data.

10. Between 1 June and 31 December 2003, the Personnel Inspection of the Office of Internal Security of the State Police (OISSP) conducted 90 inspections on reported cases of violence against persons. An offence was confirmed in five cases and five employees received disciplinary sanctions. Between 1 January and 1 October 2004, 146 inspections were conducted. An offence was confirmed in 10 cases and nine employees received disciplinary sanctions. There is no separate account on the nature of these disciplinary sanctions.

11. The Pre-trial Investigation Unit of OISSP examined 92 cases between 1 June and 31 December 2003. In 82 cases, OISSP rejected to institute criminal proceedings while criminal proceedings were opened in 10 cases. Eight crime files were received from other law enforcement authorities. Ten crime files were sent to the Prosecutor’s Office but there are no data on the current status of proceedings. In eight cases, the proceedings were dismissed.

12. Between 1 January and 1 October 2004 OISSP examined 156 cases - in 17 of which criminal proceedings were instituted. One hundred and thirty nine cases were rejected. Six crime files were received from other authorities; 12 crime files have been sent to the Prosecutor's Office and there are no data on their current status and three cases were dismissed. The most frequent ground for the refusal to institute criminal proceedings, as well as dismissal, was the lack of sufficient and objective evidence.

13. No complaints on this matter have been registered with API.

Recommendation 7 (h)

“Ensure that the draft code of conduct for police interrogation (“Police Ethics Code”) is speedily adopted.”

14. The Professional Ethics and Conduct Code of the State Police Personnel was adopted on 5 December 2003 by an order of the Head of the State Police. It is reproduced in the annex to the present report.

15. Regarding the implementation of its provisions following the adoption, police personnel were acquainted with the content of the Code. The Code was published in the official gazette *Latvijas Vēstnesis* (Latvian Herald). It is also available on the Internet in both Latvian and English. In July 2004, the Code was printed and framed and made available to all structural units of the Police, where at the precincts the Code is publicly displayed and made available for both visitors and personnel.

16. Specific provisions are dedicated to the examination of complaints alleging violations of the Code. This task is entrusted to OISSP. In 2003, 149 inspections were conducted, violation of professional ethics was confirmed in 76 cases and 94 employees received disciplinary sanctions. During the first six months of 2004, 85 inspections were conducted, an offence was confirmed in 52 cases and 65 employees received disciplinary sanctions. There is no separate account on the nature of these disciplinary sanctions.

Recommendation 7 (i)

“Take measures to ensure that in all circumstances the crime of torture is explicitly included among the crimes for which article 34 of the Criminal Law excludes the defence of superior orders.”

17. Article 34, paragraph 1, of the Criminal Law provides that the execution of a maleficent order or instruction by a person can only be justified providing that the person has not been aware of the maleficent nature of such an order or instruction, and providing that the maleficent nature of such an order was not clear and obvious. Currently no amendments to the Criminal Law have been drafted to include torture in the list of crimes specifically mentioned in the first paragraph of article 34 of the Criminal Law foreseeing responsibility for these crimes in all circumstances, nor is there an intention to do so. Torture itself is an intentional act or omission in relation to a person, and its maleficent nature is obvious and clear. It must also be mentioned that, as far as torture is concerned, a reasonable person should definitely recognize and understand the maleficent nature of such an order. Therefore, execution of an order to torture

will not fall under the exclusion of the criminal liability clause mentioned in the first sentence of the first paragraph of article 34 of the Criminal Code, and thus no amendments to this article are necessary.

18. Since the wording of article 34 presupposes the law enforcement or military officials as perpetrators, the Government would like to refer to article 13 of the Law on the Police, which precisely defines situations when police officers are allowed to resort to physical force. All other cases, when physical force was used against a person, shall be treated as unjustified and giving concerns for a possible abuse of power.

Individual cases

19. Taking into consideration the concerns expressed by the Committee, following the submission of a shadow report by the Latvian Human Rights Committee, the Government is providing additional information on the mentioned eight individual cases.

Sergejs Guscins

20. On 26 February 2004, Sergejs Guscins applied for the status of stateless person. On 2 March 2004, the Law on Stateless Persons came into force, which provides that a stateless person who has travelled into the Republic of Latvia and cannot prove that his/her residence is legal, may be issued with a stateless person's travelling document, in conformity to the provisions of the Convention relating to the Status of Stateless Persons. Such a person may be declared stateless in the Republic of Latvia unless any other country has according to its laws recognized this person as its citizen.

21. In view of the foregoing, on 17 March 2004, both the expulsion order of 8 October 1998 and the decision on forced expulsion of 28 May 2003 were cancelled. Sergejs Guscins was declared a stateless person and issued with travelling documents valid for two years. Under the provisions of the Law on Stateless Persons, Sergejs Guscins has to obtain a residence permit and submit certain documents. However, Sergejs Guscins has so far not submitted them.

Jevgenijs Sudakovs

22. On 19 November 2003 the Senate of the Supreme Court rejected Jevgenijs Sudakovs' cassation. Afterwards, however, new information has been received from the Embassy of the Republic of Belarus in Latvia showing that Sudakovs' family had neither a place of residence nor any relatives in Belarus. Therefore, the expulsion order and the decision on forced expulsion were both annulled on 22 January 2004, and a temporary residence permit valid until 22 January 2005 was issued to Jevgenijs Sudakovs.

Normumins Gurabojevs

23. Under the expulsion order of 20 November 1997 and the decision on forced expulsion of on 25 April 2003 the Russian citizen Normumins Gurabojevs was expelled from the Republic of Latvia to the Russian Federation. The re-entry ban was set for a time period until 13 October 2007.

24. According to available information, there is a case pending in Cēsis city court on the application for the annulment of the marriage between Normumins Gurabojevs and Irene Gurabojeva. In order to ensure participation in the trial, the court requested a visa to be issued to Normumins Gurabojevs to travel into Latvia, to which neither the Ministry of Interior, nor the Consular Department of the Ministry of Foreign Affairs have objected. Nevertheless, there is no record of Normumins Gurabojevs having travelled into the Republic of Latvia.

25. On 5 April 2004 the court delivered the judgement in the case, in the absence of the applicant and annulled the marriage. The decision came into force on 26 April 2004. There is no information on Normumins Gurabojevs entering into a new marriage, and no requests or claims from him have been received after his expulsion.

Vladimirs Novosjolovs

26. On 3 May 2002, the competent authorities annulled Vladimirs Novosjolovs' status of stateless person. Vladimirs Novosjolovs appealed against this decision to the Riga city centre district court, thus suspending its execution. The district court rejected the appeal, which was subsequently appealed to the regional court. The hearing of the case before Riga regional court was scheduled for 24 May 2004 but was postponed to 28 September 2004, since the court had no information on whether Vladimirs Novosjolovs had received the court summons. Accordingly, the decision on the expulsion has not been taken yet.

Ansis Igars

27. Since 24 October 2002, Ansis Igars is serving his sentence in Grīvas Prison. The doctor of the imprisonment facility is examining him on a regular basis. In addition, there have been three psychiatric consultations, the most recent of which took place on 16 August 2004, and the doctors have noted that Ansis Igars is emotionally unstable. Currently, no special psychiatric treatment is required.

28. No complaints from Ansis Igars have been received by the Ministry of Justice. Nevertheless, a number of complaints have been received from his mother Laimdota Sēle, addressed to the Minister of Justice and API. All complaints were examined and subsequent replies were made.

29. The Chancery of the President has received several applications from Ansis Igars and Laimdota Sēle, in which they complain of unlawful actions by police officials, prosecutors and the court, as well as of a request for a bribe by the judges of the Supreme Court. All applications were referred to the Prosecutor-General's Office.

30. Between 8 July 2002 and 17 June 2004 the Prosecutor-General's Office received 11 complaints and applications from Ansis Igars and Laimdota Sēle pertaining to the matters of pre-trial investigation and trial of his criminal case. The complaints concerned illegal actions by the police officials (abuse of physical force); the alleged adherence of the police, the the Prosecutor's Office and judges to criminal structures; the alleged request for a bribe by the judges of the Supreme Court and renewal of proceedings due to newly established circumstances. All complaints have been reviewed, and replies have been given to the applicants.

31. The Prosecutor's Office of Kurzeme court region examined the application for the renewal of proceedings based on newly established circumstances and rejected it on 26 December 2002. The validity and substantiation of this decision were examined by the Criminal Law Department Section of the Prosecutor-General's Office and found to be satisfactory.

32. On 20 August 2002, the Office for Combating Organized Crime and Corruption of the Central Criminal Police Department of the State Police carried out an inspection of the alleged criminal activities of the police, the Prosecutor's Office and court officials and their relation to criminal structures. It was decided not to institute criminal proceedings. Ansis Igars did not appeal against this decision.

33. On 29 March 2004, OISSP received and examined applications by Ansis Igars, Laimdota Sēle and other persons involved in the case concerning the actions of the officials of the Ventspils regional police department. On 28 May 2004 OISSP, on the basis of materials of the inspection, decided not to institute criminal proceedings due to the lack of sufficient evidence. The applicants appealed against this decision and on 28 June 2004 the Pre-trial Investigation Supervisory Section of the Criminal Law Department of the Prosecutor-General's Office, having examined the validity and substantiation of this decision, referred the materials back for an additional investigation, which is still pending.

Andrejs Lisivnenko

34. No complaints from Andrejs Lisivnenko have been registered by the Ministry of Justice and Ministry of Interior. Between 10 July 2000 and 16 August 2004, the Prosecutor-General's Office has received 23 applications and complaints from Andrejs Lisivnenko and his mother, Svetlana Lisivnenko, concerning unlawful actions by police officials. All the complaints have been reviewed and replies were given to the applicants. The Prosecutor's Office of Riga court region examined applications concerning the course of pre-trial investigation, obtaining and assessment of evidence, and refused to institute criminal action.

35. OISSP carried out an investigation of alleged actions by the police officials. No evidence was found proving that force or psychological pressure was used against Andrejs Lisivnenko and on 29 September 2003, the institution of criminal action was refused. This decision was challenged before the Prosecutor's Office of the Riga court region, which repealed it and referred the case materials back for further investigation. Further investigation did not establish any evidence of criminal offence; therefore, on 5 December 2003, it was decided to reject instituting criminal action. The decision was challenged and the Pre-trial Investigation Supervisory Section of the Criminal Law Department of the Prosecutor-General's Office examined the materials and referred the case back for additional investigation. The latter, however, did not establish any evidence of crime and no criminal action was instituted. When examining the validity and substantiation of the decision, the Prosecutor-General's Office confirmed that the investigation was complete and versatile, all the facts established were objectively assessed, and there were no grounds to repeal the decision. The decision of the Prosecutor-General's Office has not been appealed against.

36. The Chancery of the President had received a number of complaints from Andrejs Lisivnenko and Svetlana Lisivnenko concerning biased pre-trial investigation, breaches of law committed by police officials and concerning unlawful unsubstantiated court ruling which led to his conviction. All complaints were replied to or referred to the Prosecutor-General's Office.

37. The information obtained from the Supreme Court shows that the statement made by Andrejs Lisivnenko in his complaints concerning the fact that he had been sentenced for the murder of his sister and his niece solely on the grounds of his confession does not correspond to the truth. It follows from the judgement that the court found Andrejs Lisivnenko guilty of murder after assessing witness' testimonies and other evidence. A hearing of the cassation in the case is scheduled for October 2004.

Jurijs Dmitrijevs

38. The convicted Jurijs Dmitrijevs is currently serving his sentence in Brasa Prison and undergoes medical examinations on a regular basis. According to the conclusion of the prison physician, his condition is satisfactory.

Didzis Spuldzenieks

39. The Government would like to note that the information presented by the Latvian Human Rights Committee is not correct. Didzis Spuldzinieks was detained on 22 March 2002. He died in the prison hospital on 25 July 2002. The forensic examination conducted on 26 July 2002 by the prison anatomist, found that the cause of the death was *Ruptura aneurismae A.cerebri communicans anterior*. On 8 August 2002, his mother requested an additional forensic examination, which was carried out on 26 August 2002 and confirmed the initial diagnosis. On 1 October 2002 it was decided not to institute criminal proceedings. The Prosecutor's Office examined the validity of the decision and found it valid and legitimate.

Annex

**PROFESSIONAL ETHICS AND CONDUCT CODE OF
THE STATE POLICE PERSONNEL**

This Code shall define the general rules of conduct and the basic principles of the professional ethics, to be observed by the State Police personnel performing their official duties, as well as beyond the place and time of service. A Police officer following the requirements of the Code shall have the rights of recognition on the part of the public and governance and moral support.

1. A Police officer performing his/her duties shall keep to the requirements of law, acting objectively and in a fair way, favouring with his/her conduct and action to call confidence to Police on the part of the public.
2. A Police officer executing orders and prescriptions received from the higher-rank officials shall be held personally liable for his/her actions. If an order or prescription is illegal, the Police officer shall inform the higher-rank official of it. If a Police officer refuses to perform an illegal order or prescription, he/she shall not be subject to the disciplinary proceedings.
3. A Police officer performing his/her duties ensures observation of human rights of every individual, irrespective of his/her nationality, race, sex, language, religion, political or any other opinion, age, education, social status.
4. A Police officer, in his/her interaction with inhabitants of respecting and defending dignity of a human being shall be decent and tolerant.
5. A Police officer shall not support, admit and encourage any acts of torture or cruel, brutal, inhuman or humiliating actions taken against any person.
6. A Police officer shall use force, special facilities or weapons only in the cases stipulated by due course of law and to attain a legal aim. The spontaneous or ill-intentioned use of force, special facilities or weapons shall not be justified.
7. A Police officer shall also render aid beyond the place and time of service on his/her own initiative to a person in danger or in a helpless condition, and shall take measures to prevent the stated violation of law.
8. Personal conduct of a Police officer shall be irreproachable in performing his/her official duties and in his/her personal life, without prejudice to the service and his/her own reputation.
9. A Police officer shall not disclose any official information known to him/her, except in cases provided for by law.
10. A Police officer, in relationship with the colleagues, a chief or subordinate persons, shall adhere to the hierarchical order and, display due probity and dignity in his/her professional relations.

11. A Police officer, in his/her attitude to a person, may not create grounds for suspicion in unfair action or affecting the situation.
12. A Police officer shall not receive material goods or services from persons who in any way might influence him/her in the performance of his/her official duties and decision-making.
13. A Police officer shall not use his/her official standing or the State property, as well as information that has become known to him/her in the course of his/her official duties, to derive a personal or property benefit for himself/herself or his/her relatives.
14. A Police officer shall combat any signs of corruption in the Police and keep informed the higher-rank official or any other authoritative body regarding any case of corruption in the Police.
15. A Police officer shall keep informed the higher-rank official if a conflict of interests has arisen.
16. A Police officer shall continuously improve his/her professional skills.
17. Top management of the Police shall support and protect a Police officer who suffered harm when performing his/her official duties.
18. Any natural or legal person may apply with a complaint to the direct chief or to the higher-rank official of a Police officer if he/she infringes the basic principles of the general rules of conduct and the professional ethics defined in the Code.
19. A Police officer shall be held liable in the order duly established by law and legislative acts for violation of the basic principles of the general rules of conduct and the professional ethics defined in the Code.
