



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

Distr.  
GENERAL

CAT/C/LVA/CO/1/Add.1  
21 February 2008

Original: ENGLISH

---

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

**Comments by the Government of LATVIA \* \* \* \* \* on the conclusions and  
recommendations of the Committee against Torture (CAT/C/CR/31/3)**

[14 May 2007]

---

\* Previous replies to the conclusions and recommendations of the Committee are available in document CAT/C/CR/31/3/RESP/1

\*\* Annexes to the present report are available with the Secretariat of the Committee

\*\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

1. The present report has been prepared by the Government of the Republic of Latvia in response to the request made by the Rapporteur for the Follow-up on Conclusions and Recommendations of the United Nations Committee against Torture Ms. Felice Gaer. The present report contains additional information following the submission of the Second Periodic Report of Latvia on the implementation of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the Republic of Latvia during the period from November 1, 2003, till April 20, 2005 (hereafter – Latvia’s Second Periodic Report). The information concerning the adoption and implementation of several major legislative acts, among them, the Criminal Procedure Law (entered into force in October 1, 2005), the Law on Procedure Detention on Remand (entered into force in July 18, 2006), the Law on the Procedure for Holding Apprehended Persons (entered into force in October 21, 2005) has been provided as well. The most up-to-date information pertaining to the statistical data requested by the Committee will be provided to it during examination of Latvia’s Second Periodic Report at its 39<sup>th</sup> session in November 2007.

### **The initial concerns expressed by the Committee**

#### **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.**

#### **Follow-up responses made by the Committee**

2. The Committee would also welcome further data on the current status of the persons listed as asylum seekers awaiting expulsion and any new cases since that time, as there are no indications of time limits for the cases of asylum-seeking detainees to be resolved.

#### **Measures taken to address the concerns expressed by the Committee**

3. As it has been mentioned in paragraph 1 above. The most up-to-date information pertaining to the statistical data requested by the Committee will be provided to it during examination of Latvia’s Second Periodic Report at its 39<sup>th</sup> session in November 2007.

4. Meanwhile, the Government would like to inform the Committee about the most recent legislative amendments and other developments in the area of asylum pertaining to the terms of detention of persons awaiting expulsion, including applicable procedural safeguards. In accordance with the Law on Administrative Offences, a foreigner who has violated the entry residence of transit rules may be detained for the time period of up to three hours. In specific cases, where the authorities have to establish the offender’s identity or investigate specific circumstances of the offence, the detention may be applied for up to three days. However, in the latter case, the authorities within 24 hours from the moment of detention shall in writings notify the public prosecutor. In accordance with Article 54 of the Immigration Law, foreigners may be detained for a time period not exceeding 10 days. However, in practice, if foreigners have relatives in Latvia, such persons are frequently released by the Border Guard or by a judge, so that the person can stay with the relatives until all necessary documentation is arranged. Detention is subject to appeal before the

court. Detention for a time period exceeding 10 days shall be authorised by the district (city) court judge.

5. The order to expel a foreigner (the removal order) is issued by the Citizenship and Migration Board. The removal order is subject to appeal before the Head of the Citizenship and Migration Board, whose decision in turn may be appealed against to the court. The term for lodging each of the appeals is 7 days. The detained foreigner has the right to contact the consular service of his/her country and is entitled to receive legal aid. The detainee shall be informed about these rights immediately following the apprehension. The detained foreigner has a right to acquaint himself/herself with the materials related to his/her detention of expulsion in person, or with the assistance of his/her legal counsel. More information concerning practical implementation of the said provisions is available in a recent decision of 31 August 2006 by the European Court of Human Rights in the case *Sergejs Vikulovs and others against Latvia*, application No. 16870/03.<sup>1</sup>

6. The accelerated asylum procedure is governed by Article 19 of the Asylum Law. Under the said provision the Refugee Affairs Department of the Citizenship and Migration Board shall examine the applications for asylum within five working days. The refusal to grant asylum within two days may be appealed against to the District Administrative Court (the appeal is lodged with the Refugee Affairs Department to facilitate proceedings for the applicant).

7. The Government would like to inform the Committee that the draft law On the Asylum in the Republic of Latvia was formally approved during the session of the Committee of the Cabinet of Ministers on March 26, 2007. Upon its approval in the session of the Cabinet of Ministers (the date of the session has not been scheduled yet) it will be submitted to the Parliament. The draft envisages an extended period of time for the authorities to decide on the application (ten working days) and for lodging and appeal with the judiciary – the District Administrative Court – against refusal to grant the status (three working days). The draft law is the national implementation instrument of two important EU directives in the area of asylum – the Council Directive 2004/83/EK of April 29, 2004, Concerning mandatory standards for qualifying citizens of third countries or stateless persons as refugees or persons requiring other way the international protection, the status of those persons and the content of the granted protection and the Council Directive 2005/85/EK of December 1, 2005, Concerning minimal standards regarding the procedures of Member states granting or withdrawing the refugee status. The Government will submit additional information regarding the status of the said law during examination of Latvia's Second periodic report at its 39<sup>th</sup> session in November 2007.

#### **Recommendation 7(f)**

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

#### **Follow-up responses made by the Committee**

8. The Committee welcomes the commitment Latvia has made to upgrade the conditions of detention, and allocate additional budgetary funds to the Administration of Places of Imprisonment

---

<sup>1</sup> Available at <http://www.echr.coe.int/echr>.

to ensure the compliance with European Union standards. The Committee notes that with repairs and construction, additional units have been created, yet reconstruction of the Central Prison hospital which had begun in 2003 was later suspended. The Committee would appreciate receiving status report on the implementation of the concept papers regarding the prison development and medical care for prisoners.

### **Measures taken to address the concerns expressed by the Committee**

9. The Government would like to draw the attention of the Committee to paragraphs 27-29 of Latvia's second periodic report. According to the information provided therein, the Ministry of Justice has drafted the Concept on the Development of Penitentiaries, which focuses on the elimination of the most acute problems of the penitentiary system - the problems of the buildings, constructions and communications of penitentiaries, as well as it will allow providing appropriate conditions for serving the sentences. The Concept on the Development of Penitentiaries was examined by the Cabinet of Ministers on April 19, 2005, and adopted by the Cabinet's decision No. 280 of May 2, 2005. The concept paper, inter alia, provides the solution of the problem of Central Prison Hospital premises. The Central Prison Hospital will be transferred to the Olaine tuberculosis Hospital (retaining the tuberculosis treatment facilities) to provide all inmates with treatment that would comply with the necessary standards. In 2005, additional financial resources in the amount of LVL 1,630,000 were allocated allowing to complete the construction of the Olaine Tuberculosis Hospital. The latest information pertaining to the situation in the Olaine Tuberculosis Hospital, as well as the respective funding will be provided by the Government prior to examination of Latvia's Second periodic report at its 39<sup>th</sup> session in November 2007.

10. In the following paragraphs the Government would like to inform the Committee about the recent legislative developments in the area of detention on remand. The Government is of the opinion that this information may be useful for the Committee as it falls within the ambit of the issue of overcrowding in places of temporary detention – i.e. remand prisons and short-term detention units in police stations. The new Criminal Procedure Law (entered into force on October 1, 2005) strongly emphasises that when deciding about the applicable security measure, priority shall be given to the least restrictive and most proportionate measure in the case concerned. Performer of inquiry shall evaluate the severity of the crime the person concerned is being suspected/accused of, the personality of the suspect/accused person, his/her family status, health and other circumstances. A person may be apprehended for up to 48 hours (as compared with 72 hours in the former Criminal Procedure Code). However, within this term the person shall be brought before the investigative judge, who shall decide if detention on remand should be applied. The time spent in apprehension is included in the term of detention on remand. The detention on remand shall only be applicable in cases, when the suspected person is identified by information obtained during the early stage of investigation; the respective crime is punishable with deprivation of liberty; serious concerns exist that the person may re-offend, impede the establishment of truth, abscond the investigation or adjudication.

11. The maximum term of detention on remand for different types of crimes is now strictly fixed in Article 277 of the Criminal Procedure Law – the shortest maximum terms of detention on remand is 3 months (2 months for the pre-trial investigation stage and 1 month for adjudication), the longest

maximum term provided for especially serious crimes is 24 months (15 months for investigation, 9 months for adjudication). In cases of juvenile detainees these are halved. The mentioned maximum terms of detention on remand may be prolonged for up to 3 additional months by the investigative judge during the pre-trial stage, and a judge of a higher court during the adjudication stage, but only in cases when the institutions responsible for the proceedings have not contributed to the delay in proceedings. This new approach is totally different from the provisions of the repealed Criminal Procedure Code, where the maximum term of detention on remand during the pre-trial investigation and adjudication was three years, irrespective of the severity of the charges. The Criminal Procedure Law also envisages that criminal proceedings, where person's liberty is at stake due to the applied security measures, shall have priority over other types of criminal proceedings.

12. A number of different alternative forms to terminate criminal proceedings have been introduced – the summary procedure, the prosecutor's prescription for sanction (better known in Europe as the prosecutor's penal order). A list of alternative security measures has been introduced – such as the notification of the postal address, the restraint order, the prohibition to leave the country, the prohibition to leave the place of residence.

13. The Criminal Procedure Law has also introduced a new post of investigative judge, entrusted with ensuring the observance of human rights during criminal proceedings. Only investigative judge shall have the power to apply/extend detention on remand during pre-trial investigation.

14. In practice, these steps have contributed to the speediness of the criminal trials in court. The following numbers show a constant trend, where the length for the court proceedings is gradually decreasing. In 2001, the average length of proceedings was 5,1 months in the first instance courts; 5,1 months in the courts of the appeal. In 2004, the average length of the proceedings was 4,7 months in the first instance courts; 5,4 months in the courts of the appeal. In 2005, there numbers are accordingly 4,4 months for the first instance courts and 4,2 months for the courts of appeal.

15. The Government would like to inform the Committee that since submission of Latvia's Second periodic report on August 6, 2005, the State Police has carried out an extensive work to improve the conditions in the places of temporary detention (see annex 1). The new Law on the Procedure for Holding Apprehended Persons of October 21, 2005, contains provisions regarding conditions of detention, internal regulation and health care in the police temporary detention units, and conditions of detention and nutrition in temporary detention units are constantly improving. Currently, all persons contained in temporary detention units are provided with clean blankets and mattresses. Nevertheless, it has still not yet been possible to implement all provisions of the said law in all police temporary detention units. Therefore, new solutions, such as construction of new temporary detention units in the cities of Liepaja and Daugavpils are employed. The temporary detention unit in the city of Ventspils has been closed on October 1, 2006 and all detainees have been transferred to the Liepaja and Talsi cities.

16. In the police short-term temporary detention units persons are being held only for the time period of up to 48 hours. As soon as the investigative judge has decided to apply detention on remand, these persons are sent to the remand prisons. A person may be sent back from remand prison to the temporary detention unit only in exceptional cases, where investigation activities have

to be carried out, which cannot be accomplished in the remand prisons. In order to further elaborate this practice, the State Police in May 2005, developed a circular instruction regarding the temporary transfer of detainees from remand prisons to the temporary detention units.

17. Detention from one to fifteen days for committing an administrative offence is an exceptional sentence, which may be applied only by a judge of the district/city court. Persons serve their sentence in special premises under police supervision. These persons are kept separately from other detainees; males, females and juveniles being kept separately from each other.

#### **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.**

#### **Follow-up responses made by the Committee**

18. The Committee notes that while some statistics have been provided, there has been no breakdown, although the Committee notes that Latvia will continue discussion on ways to improve its system of gathering statistical data. The Committee would welcome initiating a dialogue with Latvia on the issue of gathering, and then disaggregating, statistical data by age, gender, and country of origin, in relation to the Law on the Protection of Data of Natural Persons. While the Committee recognises the sensitive implications of gathering personal data, in the practice of other state parties with which the Committee has cooperated, the collection of such statistics has in fact led to better protections against discrimination by making authorities aware of the scope of the issue as long as measures are taken to ensure such data collection is not abused, to ensure equal treatment of everyone before the law.

#### **Measures taken to address the concerns expressed by the Committee**

19. The Government kindly accepts this Committee proposal and stands open for further discussions on this issue. The Government would like to inform the Committee that certain discussions in respect of the issue of the gathering of statistical data have already taken place. Nevertheless, the Government would welcome any other contribution by the Committee.

#### **Other follow-up responses made by the Committee**

20. In the responses of the Government to 7(g) on page 4, paragraph 10, the Government notes that in 2003 and 2004, the Personnel Inspection of the Office of Internal Security of the State Police conducted 90 investigations of allegation of torture and a total of 14 employees received “disciplinary sanctions” although no separate account of these sanctions was available. Without such further information, however, the Committee cannot assess the seriousness of the cases or whether such employees were returned to their duties.

21. On page 4, paragraphs 10 and 11, the report also cites in total 22 cases sent to the Prosecutor office in 2003 and 2004, apparently involving criminal charges against personnel, although the

nature of the offences is not indicated. The report also notes that no data was available on the cases under prosecution, so it is difficult to assess the effort in ensuring the implementation of the Convention.

22. The Government would like to draw the attention of the Committee to paragraph 16 of Latvia's second periodic report, informing that currently no record is being kept of the types of disciplinary penalties imposed. As it has been mentioned in paragraph 1 above, the most up-to-date information pertaining to the statistical data requested by the Committee will be provided to it during examination of Latvia's Second periodic report at its 39<sup>th</sup> session in November 2007.

#### **Other follow-up responses made by the Committee**

23. The Committee takes note of Latvia's response to 7(i), that currently no amendments have been made or are planned to be incorporated to the Criminal Law to include torture, execution of an order to torture will not fall under the exclusion of criminal liability envisioned in Article 34, paragraph 1 of the Criminal Law, concerning the following of unlawful orders or instructions. The Committee also acknowledges the relevance to the Convention of Article 13 of Latvia's Law on the Police, which precisely defines situations permitting police officers to resort to physical force, indicating that all cases of use of force not indicated will be treated as unjustified and "giving concerns for possible abuse of power". The Committee looks forward to further dialogue with Latvia regarding the importance of incorporating precise definitions and remedies to prevent and prosecute torture as a means to improve practices in this field.

24. The Government fully understands concerns expressed by the Committee and is looking forward discussion on this issue during examination of Latvia's Second periodic report at its 39<sup>th</sup> session in November 2007.

#### **Other follow-up responses made by the Committee**

25. The Committee also welcomes the through attention given by Latvia to the shadow report prepared by the Latvian Human Rights Committee, and in some instances, upon review of the cases, cancellation of decision to make forced expulsions. As the burden of proof for the effective review and remedy of these cases was placed on the individuals themselves (i.e. they must present relevant claims and documentation), the Committee would appreciate follow-up by Latvia to assess the status of these cases. In particular, on page 7, paragraphs 27-30, regarding the case of Ansis Igars, where allegations of the use of force were made, the nature of replies and remedies have not been indicated.

26. The Government recalls that in paragraph 33 of the Additional Report of the Government of Latvia, the Government informed the Committee that on June 28, 2004, the Criminal Law Department of the Prosecutor General Office examined the validity and substantiation of the decision by the Internal Security Bureau of the State Police (the ISBSP) not to initiate criminal proceedings against Ventspils State Police due to the lack of sufficient evidences. Upon the examination of the said decision the Prosecutor General Officer referred the case materials back for additional investigation.

27. On October 5, 2004, following the results of additional examination, the ISBSP decided to refuse to initiate criminal proceedings due to the lack of sufficient evidences. On October 20, 2004, the applicant's mother Laimdota Sele addressed the Prosecutor's General Office and requested re-opening of the criminal proceedings due to newly discovered circumstances. On December 9, 2004, the Prosecutor General Office examined the ISBSP decision of October 5, 2004, and refused to re-open the criminal proceedings. On January 2, 2006, in response to Ansis Igars' and his mother's petitions the Durzemes Regional Prosecutor Office repetitively examined the materials of the criminal proceedings. Nevertheless, the Kurzemes Regional Prosecutor Office did not establish any newly discovered circumstances and both petitions were rejected. The decision of the Kurzemes Regional Prosecutor Office was appealed against to the Prosecutor General Office. On February 21, 2006, the Prosecutor General Office rejected the appeal. The Government finds it important to inform the Committee that currently the application "Igars v. Latvia" is pending before the European Court of Human Rights.

-----