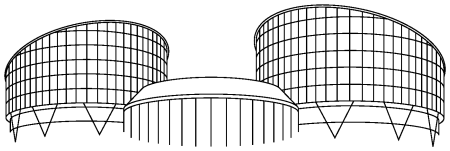

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

DECISION

Application no. 14516/10
Rolands KOČEGAROVS against Latvia
and two other applications
(see list appended)

The European Court of Human Rights (Fourth Section), sitting on 18 November 2014 as a Chamber composed of:

Päivi Hirvelä, *President*,
Ineta Ziemele,
George Nicolaou,
Nona Tsotsoria,
Paul Mahoney,
Krzysztof Wojtyczek,
Faris Vehabović, *judges*,

and Françoise Elens-Passos, *Section Registrar*,

Having regard to the above applications lodged on 3 March and 14 April 2010 and 4 August 2011, respectively,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

THE FACTS

1. The applicant in the first case, Mr Rolands Kočegarovs, is a Latvian national who was born in 1977 and is currently serving a prison sentence in Daugavpils. He was represented before the Court by Mr A. Zvejsalnieks, a lawyer practising in Riga.

2. The applicant in the second case, Mr Aldis Bernots, is a Latvian national who was born in 1965 and is currently residing in Riga. He was represented before the Court by Mr A. Stumbergs, a lawyer practising in Riga.

3. The applicant in the third case, Mr Raivo Jurševskis, is a Latvian national who was born in 1971 and is currently in detention in Riga. He was represented before the Court by Ms D. Rone, a lawyer practising in Riga.

4. The Latvian Government ("the Government") in the first case were represented by their Agent at the time, Ms I. Reine, and subsequently by Ms K. Līce, who represented the Government also in the second and third cases.

A. The circumstances of the cases

5. The relevant facts of the cases, as submitted by the parties, may be summarised as follows.

1. Application no. 14516/10, Rolands KOČEGAROVS

(a) Contraction of tuberculosis in detention

6. Between 12 July 2002 and 28 November 2005 the applicant served his prison sentence in Grīva Prison (*Grīvas cietums*). During that time he was temporarily placed in Daugavpils Prison (*Daugavpils cietums*), between 20 and 26 June 2003.

7. On 25 May 2004, the applicant was diagnosed with infiltrative tuberculosis of the left lung, for which he received treatment.

(b) Compensation claim before the administrative courts

8. On 4 December 2007 the applicant lodged a compensation claim against the Grīva Prison with the Administrative District Court (*Administratīvā rajona tiesa*) in relation to his having contracted tuberculosis between July 2002 and June 2004. He also requested exemption from the court fee owing to his financial situation.

9. On 27 December 2007 the Administrative District Court refused to consider the applicant's claim because he had failed to observe the extrajudicial procedure. Having complied with that requirement, the applicant re-lodged his compensation claim with the District Court.

10. On 7 April 2008 he submitted a request to the District Court to decide on the issue of the court fee on the grounds that he was unable to pay it. On 30 May 2008 the District Court lifted the court fee.

11. On 15 June 2009 the District Court examined the merits of the applicant's claim. It assessed the applicant's allegation, including whether he had been imprisoned with persons suffering from tuberculosis. The District Court could not, however, establish that the applicant had contracted tuberculosis because of any action by the prison administration. It dismissed the applicant's claim.

12. The applicant appealed against the aforementioned decision. On 9 July 2009 the District Court refused to proceed with his appeal. It

found that the applicant had not submitted a document on the payment of court fee for lodging an appeal, which totalled 10 Latvian lati (LVL). Nor had he applied for exemption from it.

13. It gave the applicant a deadline of 10 August 2009 to submit a document on the payment of the court fee or a request for full or partial exemption from it.

14. On 3 November 2009 the Administrative Regional Court (*Administratīvā apgabaltiesa*), on an appeal from the applicant upheld the aforementioned ruling. It set a new deadline of 21 December 2009 for the submission of a document on the payment of the court fee. No further appeal was available.

15. The applicant did not pay the court fee. On 30 December 2009 the Administrative District Court decided that his appeal should be considered as not having been lodged and be returned to him. An appeal lay against that decision. The applicant did not appeal.

(c) Complaint to the Health Inspectorate

16. On 19 August 2009 the applicant submitted a complaint to the Health Inspectorate (*Veselības Inspekcija*). He requested information on when and where he had contracted tuberculosis. He considered that he had not received adequate healthcare while in detention.

17. The Health Inspectorate instigated an inquiry. On 26 November 2009 it issued a decision finding no shortcomings in the healthcare provided to the applicant while he was in detention. It refused to commence administrative violation proceedings. That decision was subject to appeal. The applicant apparently did not appeal.

2. Application no. 26544/10, Aldis BERNOTS

(a) The applicant's detention

18. On 10 May 2008 the applicant was arrested on suspicion of having committed a robbery.

19. On 12 May 2008 he was questioned by police officers. The same day he was brought before the Investigating Judge of the Jūrmala City Court (*Jūrmalas pilsētas tiesa*), B.H., who authorised his detention on remand.

20. The applicant was held in a short-term detention facility in Jūrmala from 10 to 16 May 2008. According to the applicant, the conditions there were appalling.

(b) Complaints to the domestic authorities

21. On 19 December 2009 the applicant complained to the Office of the Prosecutor General (*Latvijas Republikas Prokuratūras Ģenerālprokuratūra*) regarding a police officer, D.J., in relation to the applicant's detention in May 2008. In particular, D.J. had allegedly failed to inform the applicant's

relatives of his arrest and had refused to accept the applicant's written requests concerning his conditions of detention and his medical needs. The applicant claimed that D.J. had been aware of those issues but had not followed them up.

22. This complaint was transmitted to the Internal Security Office of the State Police (*Valsts policijas Iekšējās drošības birojs)* for examination. On 15 January 2010 the Office received another similar complaint from the applicant.

23. The Internal Security Office of the State Police conducted an inquiry. On 15 February 2010 it refused to open criminal proceedings against D.J., which refusal was subject to appeal.

24. On 15 March 2010 the Office of the Prosecutor General, upon the applicant's appeal, upheld the aforementioned decision. No further appeal was available.

25. On 30 March 2012 the applicant lodged a compensation claim with the State Police in relation to the alleged inadequate conditions of his detention between 10 and 16 May 2008.

26. On 19 April 2012 the State Police considered the applicant's claim belated and refused to renew the procedural time-limit for its submission. An appeal against that decision lay with the Ministry of the Interior (*Iekšlietu ministrija*).

27. On 17 May 2012 the applicant wrote to the Ministry that he accepted the State Police's refusal to renew the procedural time-limit.

3. Application no. 49939/11, Raivo JURŠEVSKIS

(a) The applicant's arrest

28. On 14 April 2009, between 5 and 6 p.m., the applicant was arrested on suspicion of aggravated murder and taken to the Riga Regional Police Department (*Rīgas reģiona pārvaldes Rīgas pilsētas Latgales iecirknis*).

29. According to the applicant, he was questioned for several hours at the Riga Regional Police Department by three police officers, while seated handcuffed on the chair. They accused him of being involved in the murder. They were aggressive and insulting. The Police Officer, V.J., holding a gun silencer in his hands, suggested taking the applicant to the woods and shooting him. He invited the applicant to write a confession to the murder. Another police officer was holding a stick-type object.

30. At 8 p.m. the report was drawn up on the applicant's arrest. The applicant said that he had signed the report without having read it. The Government pointed out that according to the report the applicant had been under influence of alcohol.

31. Between 9.20 and 9.30 p.m. the applicant was searched.

32. He was subsequently placed in a holding cell in the Riga Regional Police Department, in order, according to the Government, to sober up.

33. The applicant submitted that the only furniture in the holding cell was a bench. He had no access to a toilet or water or food. He spent the night sitting on the bench.

(b) The applicant's confession and further statements

34. The following morning, on 15 April 2009, V.J. interrogated the applicant, during which time he wrote a confession.

35. According to the applicant, V.J. had locked the office door. The same police officers were present as on the previous day. V.J. told the applicant to confess if he wanted to avoid trouble. The applicant refused, but eventually he wrote a confession under dictation from V.J.

36. Between 3 and 3.35 p.m. the Police Inspector, B.B., questioned the applicant. The record showed that the applicant had agreed to testify without a lawyer. He described the events of the day of the incident, including his attack on the victim.

37. At 6.15 p.m. on the same day, the applicant was transferred to a short-term detention facility in Riga (*Rīgas īslaicīgās aizturēšanas vieta*), located in another building.

38. On 16 April 2009, between 10 and 10.20 a.m., the applicant testified as a suspect. The minutes showed that the applicant's lawyer, V.S., was present. The applicant maintained his earlier testimonies given on 15 April 2009. He gave certain other details regarding the attack on the victim, including the fact that he had committed it in anger.

39. On 16 April 2009 the applicant was brought for a detention hearing before the Judge of the Riga City Latgale District Court (*Rīgas pilsētas Latgales priekšpilsētas tiesa*), I.K. The applicant was represented by his lawyer, V.S. The Judge, I.K., remanded the applicant in pre-trial detention. According to her ruling, the applicant, during the hearing, explained that he had committed the crime and expressed his remorse.

40. On 23 April 2009, a visit was conducted to the crime scene from 1 to 2.20 p.m. The applicant and his lawyer, V.S., participated. The record showed that the applicant had pointed to the place where he had committed the crime and had given its other details.

41. On 19 May 2009 the applicant underwent a psychiatric examination. According to the report, during that examination the applicant's description of the incriminated conduct had tallied with his earlier testimonies.

42. On 16 June 2009 the applicant was brought for a detention hearing before the Judge, I.K. According to I.K.'s ruling, during the hearing the applicant and his lawyer, A.K., stated that the applicant had confessed to the crime and expressed his remorse. It was decided that the applicant should remain in pre-trial detention.

(c) Complaints to the domestic authorities prior to the trial

(i) Complaints to prosecutor

43. On 3 August 2009 the Prosecutor, I.F., questioned the applicant in his capacity as an accused. His lawyer, V.S., was present. The applicant denied his involvement in the alleged crime. He stated as follows:

> "... [the applicant] confessed to the crime owing to moral pressure by the Police Officer, [V.J.], who informed [the applicant] that [he] had already previously committed a murder, and therefore [he] would be convicted anyway, although an admission of guilt was a mitigating circumstance. Therefore, [the applicant] was compelled to confess..."

(ii) Complaint to investigating judge

44. The applicant lodged with the Riga City Latgale District Court a motion to review his pre-trial detention. On 18 August 2009 he was brought for a hearing before the District Court Judge, S.V.

45. During that hearing the applicant informed S.V. of the pressure exerted on him by the police officers. S.V.'s ruling reflected the applicant's statement in that regard as follows:

> "... [the applicant] had admitted his guilt because of psychological pressure exerted by the police officials."

46. In relation to the two earlier hearings of 16 April and 16 June 2009 before the Judge, I.K. the applicant submitted to the Court that on both occasions the escorting officers and the investigating officer, B.B., who were present at the hearings, had been V.J.'s colleagues. The applicant had therefore been afraid to mention his ill-treatment.

(d) Trial proceedings against the applicant

(i) First instance proceedings

47. The applicant was brought before the Riga Regional Court (*Rīgas apgabaltiesa*) for the main trial on the charge of aggravated murder.

48. In the course of the trial the applicant maintained that he was innocent and that he had written the confession under psychological pressure, as follows:

> "During the conversation with [V.J.] on 14 April 2009 [the applicant] was psychologically influenced. [He] was told that [he] had to accept responsibility for the crime and there was no point in denying anything. [V.J.] ... indicated that [the applicant] had been previously convicted of a similar crime, and so [he] had better plead ... guilty ... as [he] would not get away with it in any case. In fact ... the admission of guilt would constitute a mitigating circumstance and ... [V.J.] would himself testify that [the applicant] had cooperated with the investigation... Likewise ... it was ironically said that [the applicant] was not a useful man, that [he] lived off a woman and was not capable of providing [for himself] financially. Also, the subsequent conditions of detention ... amounted to ridicule and psychological

> pressure. [The applicant] was not given food, or allowed to use a toilet or provided with a bed, since [he] spent the whole night sitting on a bench."

49. At the hearing of 19 October 2009 the Regional Court granted the applicant's request that V.J. be summoned to testify. V.J. was examined at the subsequent hearing on 16 November 2009.

50. On 16 November 2009 the trial was concluded. The applicant was found guilty of aggravated murder. The judgment, among other pieces of evidence, referred to the applicant's impugned confession. The applicant's allegation of having been pressured to write the confession was dismissed.

(ii) Appeal proceedings

51. On 23 August 2011 the Supreme Court Appeal Panel, presided over by the Judge, P.O., examined the applicant's appeal against the first-instance judgment.

52. The applicant maintained that his confession should not have been used in the trial.

53. The Appeal Panel acknowledged that between 8 p.m. on 14 April 2009 and 6.15 p.m. on 15 April 2009, the applicant had not been provided with conditions complying with section 7 of the Law on Arrested Persons Holding Procedures (*Aizturēto personu turēšanas kārtības likums*). However, it could not establish that the applicant had written the impugned confession as a result of the circumstances adduced. The Appeal Panel upheld the first instance judgment on the applicant's guilt.

(iii) Cassation proceedings

54. The applicant appealed against the aforementioned judgment to the Criminal Cases Division of the Senate of the Supreme Court (*Augstākās tiesas Senāta Krimināllietu departaments*).

55. Referring to his confession of 14 April 2009 and certain subsequent statements, the applicant submitted that his admission of guilt should have mitigated his sentence. Also, he had not intended to kill but only to injure the victim. The applicant had acted in a state of severe mental distress caused by the victim.

56. On 15 November 2011 the Senate of the Supreme Court dismissed the applicant's appeal on points of law.

(e) Further complaints to the domestic authorities

(i) Complaint to prosecutor

57. On 8 February 2010 the applicant submitted a complaint to the Office of the Prosecutor General that he had spent the night between 14 and 15 April 2009 in the Riga Regional Police Department sitting on a bench, and that owing to the layout of these premises, he had been denied access to a toilet. He had not been provided with food or access to drinking water.

The next day, moreover, the applicant had been questioned by three police officers who had "threatened and blackmailed him in an attempt to extract a confession". As a result, the applicant had written a text dictated by one of the police officers.

58. The applicant's complaint concerning conditions in the Riga Regional Police Department was transmitted for examination to its Internal Investigation Office (*Rīgas reģiona pārvaldes Iekšējās izmeklēšanas birojs*). In the part concerning testimonies given in the Riga Regional Police Department, however, the complaint was transmitted to the Riga Regional Court for consideration during the criminal trial.

59. On 19 March 2010 the Internal Investigation Office of the Riga Regional Police Department replied that the applicant had signed the record of his arrest on 14 April 2009 without indicating any grievances. Further, his allegation regarding conditions of detention contradicted material in the case file.

60. In the applicant's submission to the Court, the Office's inquiry had been exclusively formal.

(ii) Complaint to Ombudsperson

61. On 7 April 2010 the applicant lodged a complaint with the Ombudsperson (*Tiesībsargs*). His complaint was very similar to that lodged with the Office of the Prosecutor General (see paragraph 57 above).

62. On 16 July 2010, having conducted an assessment, the Ombudsperson concluded that the inquiry conducted by the Internal Investigation Office of the Riga Regional Police Department had not been effective, in breach of Article 13 of the Convention. The Ombudsperson advised that if the applicant had suffered damage because of the inquiry, he was entitled to apply for compensation from the Head of the State Police.

(iii) Complaint to the State Police

63. On 19 September 2010, referring to the aforementioned findings of the Ombudsperson, the applicant applied for damages from the Head of the Riga Regional Police Department.

64. On 22 October 2010 the Head of the Riga Regional Police Department replied that the earlier investigation had shown that the applicant had not been denied access to a toilet or drinking water. The applicant had not specified the damage which he had suffered as a result of the investigation by the Internal Investigation Office of the Riga Regional Police Department. The applicant's claim was dismissed.

(iv) Further complaint to prosecutor

65. On 31 January 2011 the applicant lodged a request with the Office of the Prosecutor General. He requested the commencement of criminal proceedings against the officers of the Riga Regional Police Department

who had arrested and questioned him and had "exerted psychological pressure on and threatened the applicant in order to make him testify".

66. On 7 February 2011 the Prosecutor, A.M., refused to commence criminal proceedings into the applicant's complaint on the ground that there was no suggestion that a crime had been committed. He noted that the applicant had claimed, in a general manner, that certain police officers had exerted psychological pressure on him.

67. That refusal was open to appeal before the Prosecutor General. The applicant did not appeal.

68. The applicant's complaint was also sent to the Presiding Judge of the Supreme Court Appeal Panel, P.O., who was also involved at the time in the criminal case against the applicant (see paragraph 51 above).

B. Relevant domestic law

1. The administrative proceedings

69. The Administrative Procedure Law (*Administratīvā procesa likums*) came into force on 1 February 2004. It provides, among other things, for the right to challenge administrative acts and actions of public authorities before the administrative courts (see *D.F. v. Latvia*, no. 11160/07, § 40, 29 October 2013, and *Melnītis v. Latvia*, no. 30779/05, § 24, 28 February 2012).

70. Section 124(2) of the Administrative Procedure Law provided at the material time a State fee (*valsts nodeva*) of LVL 10 for lodging appeals in proceedings before administrative courts. Section 128(3) of the Law reads as follows:

> "(3) A court or a judge, in the light of a natural person's financial situation, may fully or partly exempt the person from the payment of the State fee at the person's request."

71. Under Article 238^1(3) of the Code of Administrative Violations (Administratīvo pārkāpumu kodekss), refusal by a State institution to instigate administrative violation proceedings could be appealed to a higher institution within thirty days. Where there was no higher institution, or where the latter was the Cabinet of Ministers, the refusal could be challenged before the Administrative District Court, whose decision was final.

2. The proceedings before the Prosecution

72. Section 6(3) of the Law on the Prosecutor's Office (*Prokuratūras likums*), providing for an appeal against action taken by a prosecutor, was cited in *Leja v. Latvia* (no. 71072/01, § 34, 14 June 2011).

3. Conditions in short-term detention facilities

73. Section 7 of the Law on Arrested Persons Holding Procedures (*Aizturēto personu turēšanas kārtības likums*) provides, *inter alia*, that an arrested person must be provided with food three times a day and with drinking water at any time. It sets out the surface areas of holding cells. It also requires every arrested person to be provided with a bed, mattress and blanket. It further states that a holding cell must be equipped with a toilet, partitioned off from the cell.

COMPLAINTS

74. The applicant in the first case, with reference to Articles 1, 2, 3, 6, 13, 14 and 17 of the Convention, complained that between July 2002 and June 2004 he had contracted tuberculosis in Grīva Prison and Daugavpils Prison. This had been due to the poor conditions of detention and inappropriate treatment by the prison staff, as well as his confinement with persons suffering from tuberculosis.

75. He further complained that his appeal for compensation in the proceedings before the administrative courts in respect of the aforementioned contraction of tuberculosis had not been considered because he had not paid the court fee.

76. The applicant in the second case complained under Article 3 of his conditions of detention between 10 and 16 May 2008 in a short-term detention facility in Jūrmala. He was detained alone. He was unable to change his clothes owing to his immobilised arm. He had no showering or shaving facilities or any daily exercise. He needed a special diet and medical attention.

77. The applicant in the third case complained under Article 3 of his conditions of detention and the ill-treatment inflicted on him in the Riga Regional Police Department between 14 and 15 April 2009 by police officers in an attempt to extract a confession to the murder.

78. He also complained that the investigation into his complaints in that regard had been ineffective and, referring to Article 6 § 1, he criticised its length.

79. Lastly, the applicant complained under Article 6 § 1 that the confession which he had made in the Riga Regional Police Department had been used in his criminal trial.

THE LAW

A. Joinder

80. Pursuant to Rule 42 § 1 of the Rules of the Court, the Court decides to join the applications.

B. Complaints under Articles 3 and 6 § 1 of the Convention

81. The applicants complained about their conditions of detention, that is to say, in the first case, between July 2002 and June 2004 in Grīva Prison and Daugavpils Prison; in the second case, between 10 and 16 May 2008 in a short-term detention facility in Jūrmala; and in the third case, between 14 and 15 April 2009 in the Riga Regional Police Department. In the third case the applicant also complained of ill-treatment by police officers during his detention and the lack of effective investigation thereof by the State authorities.

82. The Court considers that these complaints fall to be examined under Article 3 of the Convention, which reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

83. Furthermore, in the first case the applicant complained that because he had not paid the court fee the administrative courts had refused to examine his appeal in the proceedings for compensation in relation to his detention. While in the third case, the applicant complained that his confession obtained by means of the aforementioned ill-treatment had been used in his trial.

84. The Court deems that these complaints should be examined under Article 6 § 1 of the Convention, which reads as follows:

> "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

1. Submissions of the parties

(a) Application no. 14516/10, Rolands KOČEGAROVS

85. The Government submitted that the applicant's complaint regarding his contraction of tuberculosis had been lodged more than six months after he had learnt, on 25 May 2004, that he had been infected with it. Moreover, the applicant had failed to pursue his complaint on this matter before the administrative courts by not requesting exemption from the court fee in the appeal proceedings. Nor had he paid that fee. The applicant had also failed to challenge the Health Inspectorate's decision of 26 November 2009.

86. The Government also used the same argument in relation to the applicant's complaint concerning access to appeal proceedings before the administrative courts. In addition, they pointed out that the applicant had not appealed against the decision of 30 December 2009 discontinuing the court proceedings. Furthermore, the applicant could have challenged the provisions of the Administrative Procedure Law concerning the court fee before the Constitutional Court.

87. The applicant stressed that he had applied to the Court within six months from the final decision in the process of exhaustion of domestic remedies, namely, the 30 December 2009 decision of the Administrative District Court.

88. He added that he had been exempted from the court fee in the first instance proceedings. His financial situation had not improved. He had therefore expected also to be exempted from the court fee in the appeal proceedings.

(b) Application no. 26544/10, Aldis BERNOTS

89. The Government argued that more than six months had passed from the date, namely 16 May 2008, on which the applicant had been removed from the short-term detention facility in Jūrmala.

90. Furthermore, the applicant had waited more than eighteen months from that date before applying to the domestic authorities for the first time on 19 December 2009. Besides, that complaint by the applicant had pursued a different aim, as it had involved a request for the examination of D.J.'s conduct. These proceedings could therefore not be considered for the purposes of the six-month rule.

91. The Government then insisted that the applicant had not exhausted the domestic remedies.

92. In that regard, the Government pointed out that in his aforementioned complaint of 19 December 2009, the applicant had put forward allegations as to D.J.'s conduct and had not directly challenged the conditions of detention.

93. Moreover, the applicant had not lodged a complaint with the administrative courts. The Government referred in that connection to several examples from domestic case-law.

94. In particular, they observed that under a final decision of the Administrative Regional Court of 12 June 2012 (in case no. A42974609), a person had been awarded LVL 500 for inadequate conditions and lack of open-air exercise in a short-term detention facility between 25 and 28 November 2008 and between 24 and 30 April 2009. Those administrative proceedings had lasted three years.

95. By a final decision of 20 July 2010, the Administrative Regional Court (in case no. A420527910) had declared unlawful the failure by a short-term detention facility to provide a person with personal hygiene

items between 11 and 15 May 2009. It had ordered that a written apology should be issued to the person concerned, given the brevity of the period of detention and the fact that the items had generally been provided but that the person had left them at his place of detention. Those administrative proceedings had lasted for around a year.

96. The Government relied on another decision of the Administrative Regional Court of 11 July 2012 (in case no. A42583206). In that case a person had been awarded LVL 8,000 in relation to conditions of detention and limitations on correspondence and phone communication in detention between 2005 and 2006.

97. They referred to other examples of domestic proceedings concerning conditions of detention (in cases nos. A420527810 and A42764009). Those proceedings had not yet been completed at the time of the Government's additional observations.

98. With regard to the costs of proceedings before the administrative courts, the Government observed that a person could be exempted from the relevant court fees.

99. As regards the six-month rule, the applicant averred that he had lodged his 19 December 2009 complaint within the procedural deadline prescribed by the domestic law and had applied to the Court less than six months after the last decision in those proceedings.

100. Furthermore, the applicant submitted that he had informed a judge of the Jūrmala City Court on 12 May 2008 of his state of health and conditions of detention. He accordingly relied on the judge's decision of 12 May 2008. The applicant said that he would submit a copy of that decision to the Court, but he never did.

101. With respect to the Government's argument of non-exhaustion, the applicant disputed the effectiveness of a complaint to the administrative courts. He argued that the administrative proceedings referred to by the Government, had been lengthy, having lasted between five and seven years. Nor had they been completed. Also, the litigation was expensive and humiliating and the compensation awarded was insufficient.

102. The applicant noted that certain proceedings concerning his stay in a short-term detention facility in 2011 before the administrative courts had been dismissed. He also referred to a certain decision which he never produced before the Court.

103. The applicant submitted that the investigation conducted by the Internal Security Office had not been independent. The decision of the Internal Security Office did not indicate that an appeal lay against it. The applicant was not aware of such a possibility.

(c) Application no. 49939/11, Raivo JURŠEVSKIS

104. First of all, the Government asserted that the applicant could no longer claim to be a victim of a violation of Article 3 or Article 6 § 1. In the

criminal proceedings before the Criminal Cases Division of the Senate of the Supreme Court, the applicant had referred to his confession as being indicative of his remorse. He had further argued that it should have been seen as a mitigating circumstance. The Government opined that these submissions by the applicant proved that he had not been subjected to the alleged pressure.

105. Secondly, because the applicant had not informed the Court of his aforementioned submissions before the Criminal Cases Division of the Senate of the Supreme Court and its decision of 15 November 2011, his complaints before the Court should be declared inadmissible on the grounds of abuse of the right of application.

106. Moreover, in the Government's view, the complaint concerning conditions in the holding cell of the Riga Regional Police Department was barred by the six-month rule. The applicant had applied to the Court more than six months after the last decision, on 22 October 2010, by the Head of the Riga Regional Police Department, I.K. Furthermore, the applicant had failed to pursue his complaint before the administrative courts, and, therefore, it was inadmissible for non-exhaustion of domestic remedies. In support of their argument, the Government referred to several examples from domestic case-law, including in cases nos. A42974609, A420527910, and A42583206 (see paragraphs 94-96 above).

107. The Government also adduced non-exhaustion of domestic remedies with regard to the applicant's complaint of ill-treatment by police officers between 14 and 15 April 2009. In their submission, the applicant had failed to lodge a direct complaint with the State Police. While he had applied to the Office of the Prosecutor General, he had not appealed against the decision of 7 February 2011 refusing criminal proceedings. In that context the Government referred to the Court's findings in *Leja* (cited above). Further, the applicant had not maintained his complaint throughout his trial, by failing to raise the allegation before the highest authority in the court proceedings, namely the Criminal Cases Division of the Senate of the Supreme Court.

108. The applicant, on the other hand, maintained that he had exhausted all available domestic remedies and even these had not been effective. Furthermore, he had not been informed of the procedure for appealing against the responses of various authorities. With regard to his criminal trial, the applicant had omitted to submit to the Criminal Cases Division of the Senate of the Supreme Court that his confession had been obtained through ill-treatment as part of his defence strategy geared to having his sentence lowered. That, however, had had nothing to do with the conditions of detention issue. Moreover, the applicant had complied with the six-month time-limit for the lodging of his application before the Court because he had raised his grievances in the course of the criminal trial for consideration by the domestic courts.

109. Concerning the proceedings before the Court, the applicant repeated that he had had no intention of concealing any relevant information.

2. The Court's assessment

(a) Complaints under Article 3 of the Convention concerning the conditions of detention

110. As more recently affirmed by the Court in *Jegorovs v. Latvia* ((dec.), no. 53281/08, 1 July 2014), in order to comply with the requirement of exhaustion of domestic remedies under Article 35 § 1 of the Convention, it is incumbent on an applicant who is complaining about conditions of detention to pursue that complaint before the administrative courts (§ 119).

111. The Court noted examples from domestic case-law scrutinising the conditions of detention between 27 July 2005 and 4 August 2006 (ibid., § 111).

(i) Application no. 14516/10, Rolands KOČEGAROVS

112. The first case before the Court, unlike the second or third case, concerns an earlier period of time, between July 2002 and June 2004, whereas the Administrative Procedure Law did not come into force until 1 February 2004. Furthermore, in *Melnītis* the Court held that it was very unclear whether the administrative courts examined detainees' complaints of their conditions of detention, at least until 15 June 2006 (see § 52; see also *Katajevs v. Latvia* (dec.), no. 1710/06, § 19, 11 September 2012).

113. In the first case, however, the applicant lodged his complaint with the administrative courts after 2006 (see paragraphs 8 and 9 above). Furthermore, the administrative courts examined the applicant's complaint on the merits at first instance (see paragraph 11 above). They dismissed his appeal because he had failed to pay the court fee and not because they refused to examine his complaint in principle (see paragraphs 13-15 above).

114. Under those circumstances the Court has no reason to doubt the effectiveness of a complaint to the administrative courts in the applicant's case.

115. Even if the applicant claimed not to be able to afford the court fee for the lodging of appeal, the administrative courts specifically informed him of a possibility for requesting exemption from it. The applicant did not utilise that possibility (see paragraphs 12 and 13 above). It was, therefore, incumbent on the applicant in the first case to request an exemption from the court fee for the lodging of an appeal in pursuing further proceedings before the administrative courts (see paragraph 137 below). Furthermore, the applicant failed to appeal against the District Court's decision of 30 December 2009 discontinuing the proceedings.

116. The Court also notes that the applicant did not appeal against the Health Inspectorate's decision of 26 November 2009 refusing the administrative violation proceedings (see paragraph 17 above).

(ii) Application no. 26544/10, Aldis BERNOTS

117. The Court is not persuaded by the applicant's argument in the second case that the amounts of compensation awarded by the administrative courts were so low to render a complaint before them an ineffective remedy.

118. The Court, in particular, recalls that only consistent refusals by the domestic courts to take into account the nature of the complaint and to afford adequate compensation can be deemed a valid ground for releasing the applicant from the obligation to exhaust domestic remedies before applying to the Court on such matters (see *Lienhardt v. France* (dec.), no. 12139/10, 13 September 2011). In that light, the Court observes that, while in one case the administrative courts ordered a written apology (see paragraph 95 above), in other cases they awarded monetary compensation, namely, totals of LVL 500 (see paragraph 94 above) and LVL 8,000 (see paragraph 96 above). The latter sum was also finally awarded on conclusion of the proceedings on 13 December 2012, as noted by the Court in *Ignats v. Latvia* ((dec.), no. 38494/05, § 110, 24 September 2013).

119. Nor can the Court accept the applicant's argument regarding the ineffectiveness of a complaint to the administrative courts owing to their lengthy proceedings, lasting between five and seven years.

120. It does not emerge from the examples of the domestic case-law referred to by the Government that this was a consistent practice. Indeed, as they pointed out, the examples also included cases where the proceedings had lasted for three years (see paragraph 94 above) and for about a year (see paragraph 95 above). Even if in some other cases the proceedings may have lasted longer, contrary to usual practice, the applicant would have to further explain why possible longer proceedings attributable to the administrative courts would render a complaint before them an ineffective remedy in the applicant's specific circumstances. In particular, the Court notes that the applicant's complaint did not concern any ongoing detention, in which case the duration of proceedings can raise an issue (compare and contrast *Aden Ahmed v. Malta*, no. 55352/12, §§ 5, 57, 59, 61, 62, 67 and 73, 23 July 2013).

121. The Court reiterates that once the Government's claim of non-exhaustion has satisfied the Court regarding the effectiveness of a remedy, it falls to the applicant to establish that the remedy advanced by the Government was for some reason ineffective in the particular circumstances of the case or that there existed special circumstances absolving him from the requirement (see *Melnītis*, cited above, § 46).

122. With that in mind, the Court is also unable to discern why the applicant could not have requested exemption from the court fee for the lodging of a complaint before the administrative courts (see paragraph 101 above), as, for example, the applicant in the first case had successfully done in the proceedings before the Administrative District Court (see paragraph 10 above). Also, it is unclear why the applicant considered a complaint to the administrative courts as humiliating.

123. The Court therefore rejects the argument advanced by the applicant in the second case that a complaint to the administrative courts did not constitute an effective remedy. While the applicant complained to the Prosecution about the non-compliance by the police officer, D.J., with his professional duties (see paragraphs 21-24), the applicant did not pursue the complaint of detention conditions before the administrative courts. Besides, the applicant accepted that his compensation claim with the State Police regarding the alleged inadequate conditions of detention was belated (see paragraph 27 above).

(iii) Application no. 49939/11, Raivo JURŠEVSKIS

124. The applicant in the third case failed to pursue his complaint before the administrative courts.

125. With regard to the remedies which he had used, the applicant argued before the Court that they were not effective (see paragraph 108 above). Even if the applicant had only realised it when the Internal Investigation Office of the Riga Regional Police Department issued its last decision on 19 March 2010 (see paragraph 59 above), or the Riga Regional Police Department dismissed the applicant's compensation claim on 22 October 2010 (see paragraph 64 above), the applicant lodged his complaint before the Court on 4 August 2011, which was more than six months after those decisions.

126. Even if the Court were to take into consideration the fact that the applicant raised the conditions of detention issue in his trial (see paragraph 48 above) he failed to submit his allegation in the course of his trial right up to the final instance (see paragraph 55 above). His further complaint to the Office of the Prosecutor General concerned the conduct of police officers (see paragraph 65 above and paragraph 134 below).

127. In view of the above, the applicant's complaint is in any case inadmissible owing to non-exhaustion of domestic remedies.

(iv) The Court's conclusion

128. The Court therefore finds that the applicants' complaints under Article 3 of the Convention with regard to conditions of their detention should be dismissed, pursuant to Article 35 §§ 1 and 4 of the Convention, for non-exhaustion of domestic remedies.

129. The Court therefore does not need to examine the parties' further arguments.

(b) Complaint under Article 3 of the Convention concerning ill-treatment by police officers and investigation thereof

(i) Application no. 49939/11, Raivo JURŠEVSKIS

130. As the Court has previously held, where an individual raises an arguable claim (see *El Masri v. "the former Yugoslav Republic of Macedonia"* [GC], no. 39630/09, § 182, ECHR 2012, and *Assenov and Others v. Bulgaria*, 28 October 1998, § 102, Reports of Judgments and Decisions 1998-VIII) or makes a credible assertion (see *Labita v. Italy* [GC], no. 26772/95, § 131, ECHR 2000-IV), that he has suffered treatment infringing Article 3 at the hands of the police or other similar agents of the State, that provision, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within their jurisdiction the rights and freedoms defined in ... [the] Convention", requires by implication that there should be an effective official investigation.

131. The Court has considered treatment to be "inhuman" because inter alia it was premeditated, was applied for hours at a stretch and caused either actual bodily injury or intense physical and mental suffering (see *Labita*, cited above, § 120, and *Ramirez Sanchez v. France* [GC], no. 59450/00, § 118, ECHR 2006-IX). Treatment has been held to be "degrading" when it was such as to arouse in its victims feelings of fear, anguish and inferiority capable of humiliating and debasing them and possibly breaking their physical or moral resistance, or when it was such as to drive the victim to act against his will or conscience (see *Keenan v. the United Kingdom*, no. 27229/95, § 110, ECHR 2001-III, and *Jalloh v. Germany* [GC], no. 54810/00, § 68, ECHR 2006-IX).

132. Turning to the case at hand, the Court does not overlook the applicant's assertion that the police officers subjected him to psychological pressure – a type of treatment which, for obvious reasons, does not leave any visible traces. However, the applicant's description of that psychological pressure in his first two complaints to the domestic authorities, namely, on 3 August 2009 to the Prosecutor (see paragraph 43 above) and on 18 August 2009 to the Judge (see paragraph 45 above) was rather general. Besides, the applicant had given his further statements, admitting to the incident, in the presence of a lawyer (see paragraphs 38 *et seq*.).

133. Even if it could be said that his subsequent complaints, on 8 February 2010 to the Office of the Prosecutor General (see paragraph 57 above) and on 19 September 2010 to the Riga Regional Police Department (see paragraph 63 above), revealed a higher degree of pressure inflicted on him, the Court can only note that the applicant lodged the complaint with

the Court on 4 August 2011 – more than six months after the last decisions in response to those complaints had been adopted, on 19 March 2010 (see paragraph 59 above) and 22 October 2010 (see paragraph 64 above), respectively.

134. While the Court could, for the purposes of the six-month rule, consider the fact that the applicant raised the allegation of ill-treatment in the course of his trial (see, *mutatis mutandis*, *Bērziņš v. Latvia*, no. 25147/07, § 73, 25 February 2014), he did, however, appear to alter the allegation before the Senate of the Supreme Court (see paragraph 55 above). Again, when his allegation was examined in the wake of his complaint of 31 January 2011 to the Office of the Prosecutor General (see paragraph 65 above), the applicant did not appeal against the refusal to commence criminal proceedings in response to his complaint (see paragraphs 66 and 67 above) (contrast, ibid., §§ 55-57 and 73, and see, *mutatis mutandis*, *Leja*, cited above, §§ 68 and 69; but see *Holodenko v. Latvia*, no. 17215/07, §§ 81 and 82, 2 July 2013; *Sorokins and Sorokina v. Latvia*, no. 45476/04, §§ 81 and 105, 28 May 2013; and *Timofejevi v. Latvia*, no. 45393/04, §§ 103 and 105, 11 December 2012, concerning ineffective investigation into allegation of ill-treatment, where the Court did not hold against an applicant not having appealed within the Prosecution and found a violation of Article 3).

(ii) The Court's conclusion

135. The Court therefore finds that the complaint of the applicant in the third case under Article 3 of the Convention with regard to his ill-treatment and the lack of an effective investigation into that treatment should in the specific circumstances of the case be dismissed, pursuant to Article 35 §§ 1 and 4 of the Convention, for non-exhaustion of domestic remedies.

136. The Court does not need to examine the parties' further arguments.

(c) Complaints under Article 6 § 1 of the Convention

(i) Application no. 14516/10, Rolands KOČEGAROVS

137. While the applicant in the first case complained that his appeal had not been examined because he could not afford the court fee for lodging the appeal, the Court observes that the applicant had not applied for exemption from it (see paragraphs 12 and 13 above) (contrast, *mutatis mutandis*, *Gaile v. Latvia* (dec.), no. 48590/07, § 6, 26 November 2013, and *Marina v. Latvia* (dec.), no. 46040/07, § 17, 26 October 2010). The Court notes that the text of section 128(3) of the Administrative Procedure Law made its application subject to the requirement of a formal request by the party concerned.

(ii) Application no. 49939/11, Raivo JURŠEVSKIS

138. In relation to the complaint of the applicant in the third case, the Court reiterates that the admission of statements obtained as a result of torture or of other ill-treatment in breach of Article 3 of the Convention as evidence to establish the relevant facts in criminal proceedings renders the proceedings as a whole unfair. This applies irrespective of the probative value of the statements and irrespective of whether their use is decisive in securing the defendant's conviction (see *Cēsnieks v. Latvia*, no. 9278/06, §§ 65 and 66, 11 February 2014).

139. However, unlike in the case of *Cēsnieks*, the applicant in the present case did not maintain his complaint right up to the highest court level, namely the Senate of the Supreme Court (see paragraph 55 above) (contrast, ibid., § 43).

(iii) The Court's conclusion

140. The Court therefore finds that the complaints of the applicants in the first and third cases under Article 6 § 1 of the Convention should be dismissed, pursuant to Article 35 §§ 1 and 4 of the Convention, for non-exhaustion of domestic remedies.

141. The Court does not need to examine the parties' further arguments.

C. Other complaints

142. The applicant in the first case raised a further complaint in substance under Article 6 § 1 of the Convention and also complained under Article 2. The applicant in the second case raised a further complaint in substance under Article 3 and complained also under Article 8. These complaints were not communicated to the Government.

143. Having regard to all the material in its possession, and in so far as these complaints fall within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention. It follows that these parts of the applications must also be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Françoise Elens-Passos	Päivi Hirvelä
Registrar	President

APPENDIX

1.	Application no. 14516/10	KOČEGAROVS v. Latvia
2.	Application no. 26544/10	BERNOTS v. Latvia
3.	Application no. 49939/11	JURŠEVSKIS v. Latvia