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Report

to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

from 11 to 22 May 2017

The Polish Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2018) 40.

Strasbourg, 25 July 2018

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EXECUTIVE SUMMARY

The sixth periodic visit to Poland provided an opportunity to assess the extent to which the recommendations made after previous CPT visits have been implemented. Particular attention was paid to the treatment of persons in police custody, foreign nationals detained in Border Guard establishments, remand and sentenced prisoners, juvenile offenders and civil and forensic psychiatric patients.

Police establishments

The great majority of persons interviewed by the delegation, who were or recently had been in police custody, stated that they had been treated by the police in a correct manner. However, the delegation did hear a number of allegations of physical ill-treatment. Most of these allegations referred to excessive use of force at the time of apprehension in respect of persons who were reportedly already under control and who did not resist (or no longer resisted) arrest. A few allegations were also heard concerning physical ill-treatment (mainly punches and kicks) in the course of questioning. The delegation's findings during the 2017 visit clearly indicate that persons taken into police custody in Poland continue to run an appreciable risk of being ill-treated.

In the light of some of the allegations received by the CPT's delegation during the visit and media reports that have become available in the course of and after the visit, the Committee also recommends that particular attention be paid to reiterating to all police officers instructions regarding the proper conduct as concerns the use of electric discharge weapons (tasers) and to enforcing those rules.

As regards the fundamental safeguards against ill-treatment advocated by the CPT – namely the right to notify one's detention to a third party, the right of access to a lawyer and to a doctor, and the right to be informed of the above-mentioned rights – the Committee very much regrets the absence of any real progress in their application since the CPT's previous visits. The delegation heard numerous allegations of delayed or even denied notification of custody; access to a lawyer in police custody remained highly exceptional in practice.

Material conditions in the police establishments visited were generally acceptable for the periods of custody foreseen by the law.

Border Guard establishments

The delegation carried out a follow-up visit to the Guarded Centre for Foreigners in Lesznowola and a first-time visit to the Guarded Centre for Foreigners in Białystok.

The delegation received no allegations of physical ill-treatment of detained foreign nationals by custodial staff in either of the guarded centres visited. However, at Białystok Centre, the delegation gained the impression that violence between detained foreign nationals was an issue of concern and needed to be addressed.

Material conditions were generally acceptable in Białystok and mostly of a very high standard in Lesznowola; detained foreign nationals were provided with a satisfactory regime.

The Committee was concerned to note that there was still no systematic and thorough medical screening of detained foreign nationals upon admission at either of the two Guarded Centres visited. Furthermore, despite the Committee's past recommendations, medical examinations were still taking place in the presence of non-medical Border Guard officers.

As regards legal safeguards, the delegation heard a number of complaints about the lack of information provided to foreign nationals on decisions concerning their detention and/or the existing legal remedies to challenge them. Furthermore, many of the foreign nationals interviewed by the delegation stated that they lacked the financial means to hire a lawyer.

Prison establishments

The delegation carried out first-time visits to Warsaw-Służewiec Remand Prison, Białystok Remand Prison and Gliwice Remand Prison, and follow-up visits to Prison No. 2 in Strzelce Opolskie and Warsaw-Białołęka Remand Prison.

The Committee acknowledges the efforts of the Polish authorities to reduce the prison population as well as further to decrease the number of "dangerous" ("N" status) prisoners. However, the CPT regrets to note once again that, despite its repeated previous recommendations, the official minimum standard of 3 m^2 of living space per prisoner remains unchanged.

The delegation received no allegations of physical ill-treatment by staff in any of the prisons visited and only a small number of allegations of verbal abuse were heard; furthermore, inter-prisoner violence was not a frequent occurrence in the establishments visited.

Almost all the establishments visited were in need of some refurbishment, albeit to varying degrees. In this context, it is positive that renovation works were either planned or already on-going in all of the prisons visited.

Turning to regimes, the Committee acknowledges the efforts made by the Polish authorities to provide sentenced prisoners with work opportunities. Unfortunately, the regime for remand prisoners has remained extremely impoverished despite the CPT's repeated recommendations.

Regarding health-care in the establishments visited, the Committee once again noted the lack of a thorough medical examination upon admission, with delays of up to several days in some cases. Furthermore, as had been the case four years ago, the Committee regrets to note the absolute lack of improvement in the procedure of recording and reporting injuries.

As regards contact with the outside world, the Committee welcomes recent legislative amendments which have finally brought to an end the total ban of telephone calls for remand prisoners. However, the Committee regrets having to repeat its long-standing recommendation that remand prisoners should be entitled to receive visits and make telephone calls as a matter of principle, rather than these being subject to authorisation by a judicial authority.

The Committee also raises the same issues of concern as previously regarding the placement of sentenced prisoners in a disciplinary isolation cell. *Inter alia*, the Committee calls upon the Polish authorities to amend the relevant legislation so that the maximum period of such a placement is 14 days. Further, there should be a prohibition of sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period permitted by law.

Juvenile correctional establishments

The delegation carried out a first visit to the Juvenile Correctional Facility in Białystok, to assess the treatment of juvenile offenders.

The delegation received no allegations of physical ill-treatment and most juveniles spoke positively of the staff. However, the delegation gained an impression that violence between juveniles was present and created safety risks for both staff and the juveniles.

Material conditions in the establishment were adequate; rooms and other premises were generally in a satisfactory state of repair and cleanliness. The regime of activities offered to juveniles was acceptable and comprised education (approximately six hours on weekdays) and vocational training (construction and carpentry) in spacious and well-equipped workshops.

As regards health care, the Committee is concerned by the superficial nature of the medical examinations upon admission, which were furthermore delayed in some cases. The Committee also requests the Polish authorities to take measures to ensure regular visits of a general practitioner to the establishment.

Turning to the use of means of restraint, the Committee recommends that the Polish authorities put an end to the use of fixation of violent and/or agitated inmates in juvenile correctional facilities. Furthermore, steps should be taken at Juvenile Correctional Facility in Białystok (and, as appropriate, in other juvenile correctional facilities) to ensure that any placement in a security room is applied only as a means of last resort, does not last for more than a few hours and is immediately brought to the attention of a doctor. In addition, every such placement should be recorded in a central register as well as in the juvenile's individual file.

The Committee stresses that the active promotion of good contact with the outside world can be especially beneficial for juveniles deprived of their liberty. Therefore, it recommends that the Polish authorities take steps to introduce a minimum entitlement for calls at juvenile correctional facilities, without it having to be earned as a reward.

Psychiatric establishments

The delegation visited the Regional Centre for Forensic Psychiatry and the National Centre for the Prevention of Dissocial Behaviour in Gostynin, as well as Toszek Psychiatric Hospital.

The delegation received no allegations of ill-treatment by staff in the establishments visited, and many patients spoke highly of the doctors, nurses, orderlies and guards.

Living conditions were generally good in Gostynin, with both the premises of the Regional and the National Centre having been thoroughly refurbished recently. However, most of the premises in Toszek Psychiatric Hospital were old and required extensive reconstruction and refurbishment.

Patients at the Regional Centre in Gostynin as well as Toszek Psychiatric Hospital benefited from a range of therapies including pharmacotherapy, psychotherapy and occupational and art therapy.

As for the National Centre, there was no psychiatric treatment *sensu stricto* and, reportedly, approximately 75% of the patients were not interested in any therapy. There, the delegation could not escape the impression that there was a general problem with the concept of therapy and, in particular, no clear idea of what to do with patients who refuse treatment and rehabilitative activities. The Committee thus recommends that a serious reflection be undertaken into the concept and philosophy of treatment at the National Centre in Gostynin.

Staffing levels were generally satisfactory in the establishments visited. However, at Toszek Psychiatric Hospital, the staff attendance became clearly insufficient after 2 p.m. (and until 6 a.m. the following day) as well as on weekends. This had an inevitable negative impact on patients' access to activities and to outdoor exercise, and was certainly not unrelated with the observed practice of relatively long periods of mechanical restraint (belts) being applied to a small number of more challenging patients.

Although in general there was no excessive recourse to means of restraint in the establishments visited, the delegation observed relatively long periods (up to 24 hours) of mechanical restraint being applied to a small number of more challenging patients as well as a relatively frequent recourse to seclusion on the forensic adolescent ward at Toszek. In this context, the Committee also expresses its view that juveniles below 18 years of age should in principle never be subjected to means of restraint.

Concerning safeguards in the context of involuntary hospitalisation, the Committee gained the impression that the legal provisions were duly followed and patients provided with all the rights that are foreseen in the law. However, the Committee has serious concerns about several lacunae in the current legislative framework, such as the absence of a formal legal mechanism for periodic review of civil involuntary hospitalisation, lack of distinction between consent to hospitalisation and consent to treatment for civil involuntary patients, insufficient guarantees of second psychiatric expertise (independent of the receiving hospital), ineffective arrangements for legal assistance and – in the case of forensic patients – inadequate guarantees to enable them to exercise their right to attend review court hearings.

I. INTRODUCTION

A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Poland from 11 to 22 May 2017. The visit formed part of the CPT's programme of periodic visits for 2017 and was the Committee's sixth visit to Poland.[1]

2. The visit was carried out by the following members of the CPT:

- Mykola Gnatovskyy, President of the CPT (Head of delegation)
- María José Garcia-Galan San Miguel
- Marie Lukasová
- Davor Strinović
- George Tugushi.

They were supported by Borys Wódz (Head of Division), Dalia Žukauskienė and Natacha De Roeck of the CPT's Secretariat, and assisted by:

- Andres Lehtmets, Head of the Centre of Psychiatry, West Tallinn Central Hospital, Estonia (expert)
- Aleksander Jakimowicz (interpreter)
- Piotr Pastuszko (interpreter)
- Aleksandra Sobczak (interpreter)
- Przemysław Wnuk (interpreter)
- Artur Zapałowski (interpreter).

[1] The reports on previous CPT visits to Poland and related Government responses are available on the Committee's website: http://www.coe.int/en/web/cpt/poland.

3. The list of police, Border Guard, penitentiary, juvenile correctional and psychiatric establishments visited by the CPT's delegation can be found in Appendix I.

4. The report on the visit was adopted by the CPT at its 94th meeting, held from 6 to 10 November 2017, and transmitted to the Polish authorities on 27 November 2017. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. **The CPT requests the Polish authorities to provide within six months a response containing a full account of action taken by them to implement the Committee's recommendations and replies to the comments and requests for information formulated in this report.**

B. Consultations held by the delegation and co-operation encountered

5. In the course of the visit, the delegation met Łukasz Piebiak, Undersecretary of State at the Ministry of Justice, Zbigniew Król, Undersecretary of State at the Ministry of Health, as well as other senior officials from the above-mentioned Ministries, the Ministry of Internal Affairs and Administration, the Main Police Command, the Main Border Guard Command, the Prison Service and the National Prosecutor's Office.

Meetings were also held with Stanisław Trociuk, Deputy Commissioner for Human Rights (Ombudsman) and staff of the National Prevention Mechanism, as well as with non-governmental and International Organisations active in areas of concern to the CPT.

A list of the national authorities, non-governmental and international organisations with which the delegation held consultations is set out in Appendix II.

6. The CPT wishes to express its appreciation of the efficient assistance provided to its delegation before, during and after the visit, by the liaison officers appointed by the Polish authorities, Wojciech Deptuła and Paweł Kaczor from the Ministry of Justice.

7. The CPT's delegation received excellent co-operation in all the establishments visited, including those to which the visit had not been notified in advance. The delegation had rapid access to all premises it wished to visit, was able to meet in private with persons with whom it wanted to speak and was provided with access to all the information it required.

8. That said, the Committee must recall once again that the principle of co-operation between Parties to the Convention and the CPT is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the Committee's recommendations.

In this respect, the CPT is very concerned to note, after its sixth visit to Poland, that little or no action has been taken to implement several of its long-standing recommendations e.g. as regards the practical operation of fundamental legal safeguards for persons in police custody,[2] the regime for remand prisoners and restrictions on their contact with the outside world,[3] the inadequate screening for injuries on arrival to remand prisons (including the recording and reporting mechanisms),[4] and the lack of a 24-hour presence of health-care staff in prisons.[5]

Furthermore, the Committee has noted with serious concern that the Polish legal norm of living space per prisoner[6] has still not been brought into conformity with the CPT's standard (i.e. at least 4 m² of living space per prisoner in multi-occupancy cells, sanitary annexe excluded, and at least 6 m² in single-occupancy cells, sanitary annexe excluded).

9. The Committee must stress that if no progress is made to implement its recommendations, it might well be obliged to consider having recourse to Article 10, paragraph 2, of the Convention.[7] The CPT hopes that decisive action by the Polish authorities to implement the Committee's recommendations will render such action unnecessary.

C. National Preventive Mechanism

10. As already mentioned in paragraph 5 above, at the outset of the visit the CPT's delegation met the Deputy Commissioner for Human Rights (Ombudsman) and staff of the National Prevention Mechanism (NPM).[8]

It appeared from the discussion that the main issue of concern for the Ombudsman's Office and the NPM was the budget (as voted by the Parliament) which was currently insufficient to cover the operational needs of the NPM. Moreover, the budget had been diminishing in recent years[9], which had obliged the Ombudsman to reduce the NPM's activities. As a result, there had been only 85 visits to places of deprivation of liberty in 2016[10] as compared with 121 visits in 2015, and the Ombudsman had announced that the NPM would not be able to visit any privately-run institutions for the time being.

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[2] See paragraphs 23 to 30 below.
[3] See paragraphs 72 and 82 – 84 below.
[4] See paragraphs 78 and 80 below.
[5] See paragraphs 75 and 76 below.
[6] I.e. 3 m².
[7] "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."
[8] Since January 2008, the tasks of the NPM, pursuant to Poland's obligations under the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), have been assigned to the Ombudsman.
[9] E.g., the total budget for the Ombudsman's Office was of approximately 37 million PLN (some 8.7 million EUR) in 2015, and approximately 35 million PLN in 2016.
[10] Mainly thematic visits to prisons, focussing on the treatment of disabled inmates, as well as to social care institutions.

Staff-wise, the available finances were only sufficient to pay salaries to 12 NPM employees[11] and it was not possible to enlarge the pool of experts for the NPM Expert Committee set up in 2016 (the purpose of which was to provide the NPM with the professional – including medical – expertise it needed).

11. As already stressed by the CPT in the report on the 2013 visit,[12] a further increase in resources (both human and financial) would be required for the Polish NPM to perform efficiently the role of a national monitoring mechanism of places of deprivation of liberty, capable of carrying out regular and unannounced visits to all types of such places throughout the country. In the light of the information that its delegation received during the 2017 visit, **the Committee cannot but reiterate its recommendation that steps be taken to increase significantly the resources made available to the National Preventive Mechanism.**

[11] Whilst, according to an estimate of the Polish Helsinki Foundation, there were approximately 1.800 places of deprivation of liberty in Poland.

[12] See paragraph 12 of CPT/Inf (2014) 21.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

12. The legal framework governing the detention of adult criminal suspects by the police has remained basically unchanged since the CPT's previous visit. Persons apprehended by the police, unless released, must be brought before the court within 48 hours of apprehension with a request for applying "temporary arrest" (i.e. remand in custody). The apprehended person must be released if, within 24 hours from that moment, he/she has not received a copy of the court decision ordering temporary arrest. Persons remanded in custody must be transferred to a remand prison without delay.

As for the detention of juveniles suspected of a criminal offence, they must be released from police detention if, within 72 hours, a court decision on the placement in a shelter for juveniles, an appropriate protective educational facility or an appropriate treatment facility has not been issued. Further, the Act on the Procedure in Juvenile Cases (Juveniles Act)[13] allows the police to hold juveniles in a police establishment for children (PID)[14] for up to 5 days if they have absconded from a shelter or an educational or correctional facility, as well as pending their transfer to another institution after a court decision has been issued. Further, Section 40a of the Juveniles Act allows the police to hold in a PID, for up to 24 hours, a juvenile who is being transferred to a shelter or an educational or correctional facility, in case of a "justified interruption of convoy".

Pursuant to the legislation currently in force, the police may hold intoxicated persons for up to 24 hours; they should be released as soon as they can pass a breathalyser test.

Further, the Police Act[15] allows the police to hold apprehended persons in "transit rooms" (in local police stations) for the time needed to prepare a transfer to a police detention facility, a PID or a prison (but in any case for no longer than 6 hours), as well as in "temporary transit rooms" (which may be set up outside police establishments) for the time required to decide on how to proceed further with the person (but in any case, for no longer than 8 hours). The time spent in the above-mentioned rooms is included within the maximum permitted length of police custody.

13. As had been the case during the 2013 visit, the information gathered by the CPT's delegation during this visit suggests that the above-mentioned legal time-limits were respected in practice. In most cases, criminal suspects remained in police custody for periods between 24 and 48 hours, after which they were either released or transferred to a remand prison.

14. Regarding the provisions governing the holding on police premises of foreign nationals detained pursuant to aliens legislation, see paragraph 35 below.

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[13] See paragraph 92 below.
[14] "Policyjna izba dziecka".
[15] Section 15 (7) b.

2. Ill-treatment

15. The great majority of persons interviewed by the delegation, who were or had recently been in police custody, stated that they had been treated by the police in a correct manner. However, the delegation did hear a number of allegations of physical ill-treatment.

Most of these allegations referred to *excessive use of force* at the time of apprehension (consisting of slaps, punches, kicks, truncheon blows, using an electric discharge weapon and applying handcuffs too tightly) in respect of persons who were reportedly already under control and who did not resist (or no longer resisted) arrest. A few allegations were also heard concerning *physical ill-treatment* (mainly punches and kicks) *in the course of questioning*, including two allegations of ill-treatment of such a severity that they could be considered as amounting to torture i.e. asphyxiation using a plastic bag placed over a person's head and administering truncheon blows on the soles of the feet. In one of these cases (see paragraph 17 below), the alleged victim had reportedly officially complained about his treatment to the relevant authorities.

Further, several persons alleged that they had been threatened and/or verbally abused while in police custody.

16. In some cases, the delegation gathered medical evidence which was consistent with allegations of physical ill-treatment received. For example:

- a person interviewed by the delegation at a police station in Warsaw on 14 May 2017 alleged that, upon his apprehension three days before, he had been thrown down violently to the ground by the apprehending police officers (despite reportedly offering no resistance) and, subsequently, kicked and punched while being handcuffed. Upon examination by a medical member of the CPT's delegation, the person concerned was found to display: an excoriation above the left eyebrow measuring 1,5 cm, a haematoma on the left temporal region measuring 2 cm and another haematoma, light yellowish in colour and some 4 cm in diameter; an inflammation and reddish skin, approximately 2 cm long, was also observed on the left wrist, resulting likely from excessively tight handcuffing;

- a remand prisoner interviewed by the delegation at Warsaw-Służewiec Remand Prison on 15 May 2017 alleged that, upon his apprehension by a group of seven police officers eight days before, he had been thrown on the ground and made to put his arms on his head. He was then reportedly punched on his back and on his lumbar region for about five minutes. Subsequently, he was placed in a police car and brought to a police station, where he was punched again, this time on his face. He was also allegedly made to kneel down in a bent position for about ten minutes. The police officers present reportedly told him that if he fell down they would strike him. He was brought to the hospital to be examined by the doctor, in the presence of police officers but before that he reportedly had to wash himself because he was dirty and covered with blood. He allegedly requested a forensic medical examination but this request was rejected by the police. Upon examination by a medical member of the delegation, the person concerned was found to display: a deep excoriation measuring some 3 x 4 cm on the top of his right shoulder, surrounded by some inflammation; there was a crust, yellowish-brownish in colour, which was about eight days old.

On the right side of the forehead, a red excoriation measuring some 1 cm was observed; further, there were haematomas with excoriations on both wrists, yellowish in colour, likely resulting from excessively tight handcuffing.

17. When visiting the Juvenile Correctional Facility in Białystok, the delegation interviewed Dominik B. (20 years old) who alleged that, following his apprehension on 20 March 2017, he had been brought to District Police Command in Sochaczew where he had been physically ill-treated and tortured (kicked, struck with truncheons and asphyxiated using a plastic bag placed over his head) by five police officers in the course of interrogation.

Dominik B. told the delegation that his lawyer had introduced an official complaint concerning the alleged ill-treatment/torture. **The CPT would like to be provided, in due course, with information about the follow-up to this complaint, including on any inquiry/investigation and any disciplinary and/or criminal sanction imposed as a result.**

18. At the outset of the visit, the delegation was informed by the Polish authorities of the steps taken to combat ill-treatment by the police, in the light of the recommendations made in the report on the CPT's 2013 visit.

These steps included the adoption of a new Human Rights Strategy and Action Plan for the police comprising *inter alia* the introduction of new curricula for both initial and in-service training for police officers, including specifically those performing custodial functions in police detention facilities.

The delegation's interlocutors also referred to the procedure for co-operation with the Ombudsman already described in paragraph 20 of the report on the 2013 visit[16] and to the procedure for handling complaints of police ill-treatment, which must be directly and immediately transmitted to the relevant prosecutor, in addition to the relevant police human rights plenipotentiary and the Internal Affairs Bureau of the Police. Reference was made in this context to the Instructions issued by the Prosecutor General in June 2014[17], concerning investigations into alleged torture and ill-treatment by police and other law enforcement officers.[18]

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16 Pursuant to an order issued by the Minister of Internal Affairs and Administration, the Internal Affairs Bureau of the Main Police Command and the Human Rights Plenipotentiary of the Chief Police Commander are required to systematically and immediately inform the Ombudsman of all the complaints they receive of ill-treatment by police officers. The Ombudsman is also automatically informed of any incident involving a police officer and resulting in death or serious injury, as well as cases when there is *prima facie* suspicion of an unjustified use of force and means of coercion.

17 PG VII 021/4/14.

18 The main elements of these Instructions are as follows: prosecutors must open investigations immediately after having received a complaint or any other information concerning alleged torture/ill-treatment. As a rule (save in exceptional situations, when there are extraordinary objective obstacles), the prosecutor must personally and directly interview the complainant or any other person from whom the information on alleged torture/ill-treatment originates; the person is interviewed as a witness. It is prohibited to close the proceedings after the interview: other (material) evidence is always required before a decision on closing the proceedings can be taken. The police or other law enforcement officials may only be tasked with operational conduct of the investigation in exceptional and limited (in scope) cases; the rule is that such activities should be performed personally and directly by the prosecutor. The prosecutor in charge of investigation is personally responsible for the effective and speedy investigation; any delay should be expressly motivated in a detailed and written manner. If there is the slightest doubt about impartiality of a given prosecutor (or even all prosecutors from the given prosecutor's office), the senior prosecutor must confer the investigation to the prosecutor/team of prosecutors from another region, without paying attention to the usual rules on territorial competence.

Senior officials from the Ministry of Internal Affairs and Administration were adamant that the above-mentioned steps and procedures had produced a positive impact, as illustrated by the decrease in the number of violent incidents recorded in police detention facilities (44 in 2014, 33 in 2015 and 27 in 2016) and a drop in the number of deaths in custody (from 20 in 2014 to 9 in 2016).

19. The delegation was also provided with statistical information concerning the proceedings vis-à-vis police officers following complaints of ill-treatment and other forms of misconduct.

According to this information, in the course of 2016, the Internal Affairs Bureau of the Police received 291 complaints concerning unlawful use of physical force by the police (180 of which were transferred to the prosecutor's office, one being considered as confirmed by the Internal Affairs Bureau), 354 complaints concerning the use of special means ("means of coercion") – 108 of which were transferred to the prosecutor's office and two considered as confirmed, 192 complaints of threats (51 of which transferred to the prosecutor's office, none considered confirmed) and 59 complaints of extracting confessions (21 of which transferred to the prosecutor's office, none considered confirmed).

Further, according to the data submitted by all district prosecutor offices to the National Prosecutor's Office, in the course of 2016 there had been 428 investigations pursuant to Sections 246, 247 and 231 (1) the Criminal Code (CC)[19] regarding crimes allegedly committed by police officers during or in relation to the performance of their official duties. As of 31 December 2016, 184 proceedings had been discontinued by court, prosecutors had refused to initiate pre-trial preparatory proceedings in 183 cases, an indictment had been brought to court in 4 cases, a request for conditional discontinuation of proceedings had been brought to court in one case and 56 cases were still pending.

Whenever special means ("means of coercion") have been applied, the prosecutor must investigate whether they have been used in a justified manner and whether the available documentation reflects this accurately. Whenever the alleged victim sustained injuries, a forensic medical examination must be ordered immediately. If there is a parallel disciplinary or internal inquiry, the prosecutor must acquaint him/herself with all the relevant documentation. The actions by police/law enforcement official must be assessed as to their conformity with the law, taking into account the factual circumstances and the extent of the official's official powers under the circumstances. Whenever sufficient evidence of misconduct is found, the prosecutor must inform the official's superior and require immediate steps, even before the investigation is terminated. Torture/ill-treatment cases are to be subjected to particularly severe periodic scrutiny by superior prosecutors. Whenever a prosecutor opens an investigation in such a case, he/she must inform the superior prosecutor immediately. The Preliminary Inquiry Department of the Prosecutor General's Office carries out ongoing monitoring of such cases and reports to the Prosecutor General every 6 months. Any recommendations are immediately communicated to the prosecutors concerned. The above-mentioned Instructions also apply to all homicide cases involving police/other law enforcement officials.

[19] Ill-treatment to extract a confession, ill-treatment of a person deprived of his/her liberty and exceeding official powers.

20. The CPT wishes to thank the Polish authorities for the above-mentioned statistical data. However, in order to obtain an updated picture of the situation, **the Committee would like to receive the following information, in respect of 2017:**

- **the number of complaints of ill-treatment made against police officers and the number of criminal and disciplinary proceedings which have been instituted as a result;**

- **an account of criminal and disciplinary sanctions imposed following such complaints.**

21. Whilst taking due note of the different measures referred to in paragraph 18 above, the delegation's findings during the 2017 visit clearly indicate that persons taken into police custody in Poland continue to run an appreciable risk of being ill-treated. This is a source of the CPT's serious concern and demonstrates the need for the Polish authorities to step up their efforts in this area.

In this context, it is noteworthy that, shortly before the Committee's visit, the Ombudsman issued a statement concerning the on-going resort to torture (and other forms of severe ill-treatment) by the police.[20]

In the light of the above, **the CPT calls upon the Polish authorities to pursue rigorously their efforts to combat ill-treatment by the police. Police officers throughout the country should receive a firm message that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are unlawful and will be punished accordingly.**

It should also be reiterated to the police officers that no more force than is strictly necessary is to be used when carrying out an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them. Further, **police officers must be trained in preventing and minimising violence in the context of an apprehension. In cases in which the use of force becomes necessary, they need to be able to apply professional techniques which reduce as much as possible any risk of harm to the persons whom they are seeking to apprehend.**

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[20] He stated that, in the period between 2008 and 2015 (included), 33 police officers had been sentenced in 22 criminal cases pursuant to Section 246 of the CC. In the course of 2016, 6 additional sentences concerning nine officers entered into force. The Ombudsman's statement describes concrete cases with examples of ill-treatment/torture, such as: striking with truncheons all over the body (including on the soles of the feet); applying electric shock devices (taser) to various parts of the body (including the genitals); using pepper spray on one's face; putting a plastic bag over the head; stripping the person naked and exposing him to the view of several police officers; threats (with rape, with planting drugs, with an additional criminal charge, with a service dog, with violence vis-à-vis the person's relatives, with shooting through the person's knee during a false 'escape attempt', with long-term isolation and deprivation of contact with one's parents – the latter in a case involving a juvenile); forcing the person to remain for a prolonged time in a painful position; squeezing testicles and touching genitals. The Ombudsman added that in some cases, persons subjected to such treatment were not charged with serious offences, and that there were young women and juveniles among them. In a few cases, persons had been subjected to such treatment while being handcuffed. He also added that ill-treatment/torture usually occurred at the very outset of police custody, before the first official interrogation, and happened in the offices at police stations, during initial questioning by criminal police officers; sometimes such ill-treatment also occurred upon apprehension and during transfer in a police vehicle.

22. In the light of some of the allegations received by the CPT's delegation during the visit (see paragraph 15 above) and media reports that have become available in the course of and after the visit (especially concerning the case of Mr Igor Stachowiak, who died while in the custody of police officers from Wrocław-Stare Miasto Police Station on 15 May 2016, after a taser had been applied to him repeatedly while he was handcuffed and immobilised on the floor[21]), **the Committee also recommends that particular attention be paid to reiterating to all police officers instructions regarding the proper conduct as concerns the use of electric discharge weapons (tasers) and to enforcing those rules. In this context, it should be made clear to all police staff that electric discharge weapons may only be used when there is a real and immediate threat to life or risk of serious injury. Recourse to such weapons for the sole purpose of securing compliance with an order is inadmissible.**

The CPT considers that the use of electric discharge weapons should be subject to the principles of necessity, subsidiarity, proportionality, advance warning (where feasible) and precaution.[22] Furthermore, recourse to such weapons should only be authorised when other less coercive methods (negotiation and persuasion, manual control techniques, etc.) have failed or are impracticable and where it is the only possible alternative to the use of a method presenting a greater risk of injury or death (e.g. firearms).

Further, **the CPT would like to be provided, in due course, with information on the outcome of the investigation into the death of Mr Stachowiak including information on any disciplinary and criminal sanctions imposed. The Committee requests to be provided with information about the concrete investigative steps taken and copies of all procedural decisions and forensic medical reports drawn up in the context of this case, as well as good-quality colour copies of any photographs taken and reports on the on-scene investigations.**

3. Safeguards against ill-treatment

23. As regards the fundamental safeguards against ill-treatment advocated by the CPT – namely the right to notify one's detention to a third party, the right of access to a lawyer and to a doctor, and the right to be informed of the above-mentioned rights – the Committee very much regrets the absence of any real progress in their application since the CPT's previous visits.

24. The delegation heard numerous allegations of delayed (for up to 48 hours) or even denied notification of custody, and persons detained continued to receive no feedback as to whether notification had been performed. **The CPT calls upon the Polish authorities to take effective steps to ensure that persons deprived of their liberty by the police are systematically accorded the right to inform a close relative or another third party of their situation, as from the very outset of their deprivation of liberty (that is from the moment when they are obliged to remain with the police). The exercise of this right should always be recorded in writing, with the mention of the exact time of the notification and the person who was notified**.[23]

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21 See e.g. http://www.rp.pl/Sluzby-mundurowe/170529031-Sprawa-Igora-Stachowiaka-Rozliczanie-za-smierc-w-komisariacie.html#ap-1; http://www.gazetawroclawska.pl/wiadomosci/a/szokujace-zdjecia-z-komisariatu-tak-umieral-igor-stachowiak-film,12096346.

22 See the 20th General Report on the CPT's activities, paragraph 69 (https://rm.coe.int/16806cce1c)

23 It is noteworthy that the delegation saw examples of such positive practice at some of the police establishments visited, e.g. in Zabrze.

Further, **the Committee reiterates its recommendation that steps be taken to ensure that detained persons are provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention.**

25. As on previous visits, the delegation observed that access to a lawyer in police custody was highly exceptional in practice, despite the amendments to Sections 244 and 245 of the CCP (introduced after the 2013 visit) aimed at ensuring such immediate access. **The CPT calls upon the Polish authorities to immediately take measures to ensure that the right of access to a lawyer is effectively guaranteed to all persons in police custody as from the very outset of their deprivation of liberty.**

Furthermore, there is still no provision in Polish law allowing for the appointment of an *ex officio* lawyer before the stage of court proceedings. Therefore, persons in police custody who are not in a position to pay for legal services are effectively deprived of the right of access to a lawyer.[24] **The Committee calls upon the Polish authorities to develop, without further delay and in co-operation with the Polish Bar Council – a fully-fledged and properly funded system of legal aid for persons in police custody who are not in a position to pay for a lawyer, to be applicable from the very outset of police custody.**

26. The delegation again heard a few allegations according to which, in the rare cases when lawyers had arrived at a police station, their meetings with detained persons had taken place in the presence of a police officer. This is totally unacceptable and, moreover, contrary to the CCP[25] which states that lawyer-client conversations should be confidential.

Consequently, **the CPT calls upon the Polish authorities to ensure that persons detained by the police can in all cases exercise their right to talk to a lawyer in private.**

27. As regards access to a doctor, the delegation's observations in the police establishments visited suggest that, as a rule, persons in need of medical care were provided with such care (i.e. either the police called an ambulance or took the detained person to a health-care facility). However, the confidentiality of medical examinations (and relevant medical documentation) was still not respected in practice. Further, despite the Committee's earlier recommendations, injuries observed on persons brought to police detention facilities were frequently poorly recorded (if at all).

The CPT calls upon the Polish authorities to implement its long-standing recommendation that all medical examinations be conducted out of the hearing and - unless the doctor requests otherwise in a particular case - out of the sight of police officers. The Committee also reiterates its recommendation that information concerning detained persons' health be kept in a manner which ensures respect for medical confidentiality. Police officers should only have access to such medical information strictly on a need-to-know basis, with any information provided being limited to that necessary to prevent a serious risk for the detained person or other persons.

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[24] In the aforementioned statement of 19 April 2017, the Ombudsman stressed that granting persons brought into police custody an effective access to a lawyer as from the very outset of custody would be the most efficient measure to prevent ill-treatment/torture.

[25] Section 245 (1) of the CCP. The apprehending officer may insist on being present only in exceptional cases, justified in writing by extraordinary circumstances (and the detained person may appeal against this decision).

There is no justification for giving staff having no health-care duties access to information concerning the diagnoses made or statements concerning the cause of injuries.

As regards the documenting of medical examinations and reporting of injuries, the CPT calls upon the Polish authorities to take further action to ensure that:

- **the records drawn up following the medical examinations of persons detained by the police contain: (i) an account of statements made by the person in question which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination; (iii) the health-care professional's observations in the light of i) and ii), indicating the consistency between any statements made and the objective medical findings;**
- **the records also contain the results of additional examinations performed, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed;**
- **the recording of the medical examination in cases of traumatic injuries is made on a special form provided for this purpose, with "body charts" for marking traumatic injuries that will be kept in the medical file of the detained person. If any photographs are made, they should be filed in the medical record of the person concerned. This should take place in addition to the recording of injuries in the special trauma register;**
- **the results of every examination, including the above-mentioned statements and the health-care professional's conclusions, are made available to the detained person and his/her lawyer;**
- **whenever injuries are recorded which are consistent with allegations of ill-treatment made by a detained person (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the competent prosecutor, regardless of the wishes of the person concerned.**

28. In respect of information on rights, as had been the case during the 2013 visit, many of the detained persons interviewed by the delegation alleged that they had not been informed of their rights or did not understand them. The system observed during the 2013 visit was still in use, i.e. there was an appendix with information on the detained person's rights stapled to the standard form of apprehension protocol, which the detained person was asked to sign.[26] However, in many cases a copy of the protocol was not given to the detained person but was instead kept by police officers (unless the detained person requested otherwise).[27]

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[26] If needed, the police could print out online versions of the information on rights in different languages; the delegation saw examples of such information in English, Ukrainian and Russian appended to some of the filled-in apprehension protocols it has examined in police establishments visited.

[27] On the other hand, the delegation did see information on rights – and house rules – posted inside the cells in most of the police establishments visited.

In any event, the existing procedure meant that, even if the detained person did effectively obtain information on his/her rights and understood it properly, such information was not provided at the very outset of police custody but was only given with a certain delay (usually of up to a few hours).

Consequently, **the CPT reiterates its recommendation that the Polish authorities take steps to ensure that all persons detained by the police are fully informed of their fundamental rights as from the outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by the provision of clear verbal information at the time of apprehension, to be supplemented at the earliest opportunity (that is, immediately upon the first arrival at a police establishment) by the provision of written information on detained persons' rights. Persons detained should be asked to sign a statement attesting that they have been informed of their rights and always be given a copy of the above-mentioned written form. Particular care should be taken to ensure that detained persons understand their rights; it is incumbent on police officers to ascertain that this is the case.**

29. As regards juveniles in police custody, the delegation was concerned to learn of the apparent existence of plans to amend the relevant legislation (the CCP and the Juveniles Act) so as to require systematic presence of police officers during any meetings between the juveniles placed in PIDs and their lawyers. Reportedly, the Minister of Justice had expressed the view that this was needed to protect detained juveniles from any undue influence by lawyers and to safeguard the needs of criminal procedure. If this amendment were to be indeed adopted, it would, in the CPT's view, represent a serious step backwards depriving juveniles in police custody of a fundamental safeguard against ill-treatment. **The Committee would like to receive clarification of this point from the Polish authorities.**

30. In general, custody records, both in electronic and paper form, were well kept in the police establishments visited. The delegation was able to verify, through the consultation of a variety of registers and forms, relevant information such as the time of admission/release/transfer of apprehended persons, as well as the application of safeguards. This is indeed a positive fact.

4. Conditions of detention

31. The police establishments visited offered generally acceptable material conditions for the periods of custody foreseen by the law.

Overall, cells were of a sufficient size,[28] well-lit and ventilated, adequately equipped (with beds or sleeping platforms, a table and a bench or stools, as well as a call system), clean and generally in a good state of repair. However, **the cells at Zabrze City Police Command were in need of some renovation and those at Warsaw VI District Police Command were poorly ventilated.**

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[28] E.g. a single cell measuring some 6.5 m², cells measuring 8 to 12 m² for two persons; 14 to 16 m² for three persons, 18 m² for four persons, 20 m² for five persons.

For the night, detained persons received mattresses, blankets and pillows. Food (including at least one warm meal) was as a rule offered to detained persons three times a day; that said, the delegation received some allegations from detained persons that they had not been offered anything to eat and to drink several hours after their arrival at the police establishment. **The Committee recommends that steps be taken to ensure that persons in police custody are always offered food at normal meal times and that they have unrestricted access to drinking water.**

32. In most police establishments visited, detained persons had ready access to communal toilets and washrooms which were in a good state of repair and cleanliness; one exception to this positive situation was observed at the Metropolitan Police Command in Warsaw, where the delegation heard complaints from detained persons about delays in access to a toilet (up to 30 minutes). **The CPT recommends that steps be taken to ensure that all persons detained at the above-mentioned establishment have ready access to a toilet at all times.**

A few of the establishments (e.g. in Opole) had multi-occupancy cells equipped with sanitary annexes, which were however only partially screened; **the Committee recommends that steps be taken in all police establishments equipped with in-cell toilets to ensure that such toilets in multi-occupancy cells are fully partitioned (preferably up to the ceiling).**

33. As on previous visits, none of the police establishments visited possessed an exercise yard. **The CPT calls upon the Polish authorities to implement its long-standing recommendation that all persons held for 24 hours or more in police custody be offered outdoor exercise every day**.

B. Border Guard establishments

1. Preliminary remarks

34. The CPT's delegation carried out a follow-up visit to the Guarded Centre for Foreigners in Lesznowola[29] and a first-time visit to the Guarded Centre for Foreigners in Białystok.

35. The legal framework governing the detention of foreign nationals under aliens legislation has remained basically unchanged since the 2009 visit.[30] It should be recalled that, according to Section 394 of the Aliens Act (AA),[31] the police or Border Guard may detain foreign nationals for up to 48 hours if there are circumstances justifying their deportation.[32] They can subsequently be placed in a guarded centre[33] or, if there are grounds to fear that they will not respect the guarded centre's house rules, in a "deportation arrest".[34] The placement decision is taken by a court within 24 hours from the moment the Border Guard transmitted the relevant motion (which means that, in practice, foreign nationals may spend maximum 72 hours in a police or Border Guard detention facility, other than the guarded centre or deportation arrest). The maximum period of detention in a guarded centre or deportation arrest is initially set at 90 days, but can be prolonged to up to one year if the deportation order cannot be executed "due to the foreign national's fault". Under certain circumstances,[35] asylum-seekers may also be detained in a guarded centre/deportation arrest centre for up to one year.

36. At the time of the visit, the Guarded Centre for Foreigners in Lesznowola, with a capacity of 42 places, was accommodating 40 adult male detained foreign nationals. The centre had been re-opened in 2015 after a full renovation. It was planned to renovate a currently unused building so as to enlarge the centre and reach the capacity of 100 by 2019. **The Committee would like to receive more detailed information about these plans, including on the envisaged material conditions (type and size of accommodation, equipment of the rooms, etc.), regime and staff complement of the enlarged establishment.**

The Guarded Centre for Foreigners in Białystok (capacity 122) was, at the time of the visit, accommodating 79 foreign nationals originating from 13 countries. When opened in 2008, the centre was supposed to accommodate families (men, women and children) but since 2012 it had been converted into an establishment for adult men. The Centre was located on the compound of Podlasie Region Border Guard Headquarters, in a listed former military building dating back to the 19th century surrounded by its own secure perimeter wall.

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[29] Previously visited by the Committee in 2000 and 2009, see in particular paragraphs 29 to 39 of CPT/Inf (2002) 9, and paragraphs 51 and 57 of CPT/Inf (2011) 20.

[30] Border Guard establishments were not visited in the course of the 2013 periodic visit.

[31] As well as Sections 101 and 106 of the Act on Granting Protection to Aliens on the Territory of Poland (Aliens Protection Act, APA).

[32] If a foreign national is apprehended by the police, the police must immediately inform the territorially competent organ of the Border Guard, which becomes the organ of inquiry ("organ dysponujący").

[33] There are 6 such centres with a total capacity of 510 places, located in Biała Podlaska, Białystok, Lesznowola, Kętrzyn, Krosno Odrzańskie and Przemyśl.

[34] Currently called "arrests for foreigners" (*areszt dla cudzoziemców*). At the time of the visit, there was only one such establishment with a capacity of 33 places, located in Przemyśl.

[35] See Sections 87 to 89 of the AA.

2. Ill-treatment

37. The delegation received no allegations of physical ill-treatment of detained foreign nationals by custodial staff in either of the guarded centres visited.

However, some complaints of disrespectful behaviour (including racist remarks and, in Białystok, referring to detainees using their case numbers) were heard at both guarded centres. The delegation also heard, at Lesznowola, complaints according to which one of the night shift teams opened the doors to detained foreign nationals' rooms very loudly up to four times a night. Similar complaints were received in Białystok, where foreign nationals were reportedly awakened during the night by staff checking for the presence of detainees, using a flash light, removing blankets and slamming the doors loudly. **The CPT recommends that these excessive practices be stopped immediately.**

More generally, **the Committee recommends that Border Guard officers at Lesznowola and Białystok be reminded that they should treat detained foreign nationals in a respectful manner.**

38. At the Guarded Centre for Foreigners in Białystok, the delegation has gained the impression that violence between detained foreign nationals was an issue of concern, as also acknowledged by the management and staff. **The CPT recommends that increased vigilance be exercised and all appropriate means be used to prevent and combat this phenomenon. This should include on-going monitoring of the behaviour of detained foreign nationals (including the identification of likely perpetrators and victims), proper reporting of confirmed and suspected cases of intimidation/violence between them and thorough investigation of all incidents. See also the recommendations in paragraphs 42 and 49 below**.

3. Conditions of detention

a. material conditions

39. The material conditions at the Guarded Centre for Foreigners in Lesznowola were generally of a very high standard, in terms of the state of repair, the living space (double rooms measuring some 14 m² each), the rooms' equipment and access to natural light. As already mentioned in paragraph 36 above, the centre had been re-opened in 2015 after a full renovation.

That said, detained foreign nationals complained about the lack of access to fresh air as they were not allowed to open the windows in their rooms without staff authorisation. Further, because there were no curtains, foreign nationals covered the windows in their rooms with blankets, as a means of protection against the sun and the heat. **The Committee recommends that the Polish authorities seek ways to remedy these deficiencies.**

40. Material conditions were also generally acceptable at the Guarded Centre for Foreigners in Białystok where the rooms were sufficiently spacious (rooms for three persons measuring some 20 m² and those for four persons measuring approximately 24 m²), well-lit and ventilated. That said, the Committee welcomes the announced refurbishment works, which are expected to be completed by the end of 2018, especially with the view to ensuring privacy in the sanitary facilities. Indeed, many foreign nationals interviewed by the delegation complained about the lack of privacy in the communal bathroom (including the toilets). **The CPT would like to be informed of the progress of the refurbishment work at the Guarded Centre in Białystok.**

41. In both establishments visited, particular attention was being paid to the dietary requirements of foreign nationals. Despite the above, the delegation was inundated with complaints about food at the Guarded Centre in Białystok, both as regards its quality and, even more importantly, its quantity. Indeed, the current budget for food at the aforementioned Centre was very low.[36] Some complaints about the food were also received at the Guarded Centre in Lesznowola, especially that there was only one warm meal per day (at lunch).

The Committee recommends that steps be taken to review the quality and quantity of the food provided to detained foreign nationals at the Guarded Centres visited. Further, **consideration should be given to allowing foreign nationals accommodated at the Guarded Centre in Białystok to prepare their own food, as is already the case in Lesznowola.**

b. regime

42. In both establishments, detained foreign nationals had, during the day, access to well-equipped common rooms where they could watch TV, listen to the radio, use the Internet, read books and magazines and play various games (including table tennis and billiards). Further, they could use the prayer rooms.

Both Centres also possessed indoor gyms and well-equipped spacious outdoor exercise areas,[37] access to which was in principle unrestricted during the day. That said, some of the interviewed foreign nationals appeared unaware of this free access and it would also appear that staff shortages (see paragraph 49 below) occasionally obliged the Directors to limit the time foreign nationals could spend outdoors. **The CPT would like to receive the observations of the Polish authorities on this point.**

More generally, there was clearly room for enlarging the offer of purposeful organised activities (including sports) in both establishments visited, and in particular in Lesznowola which benefited (after refurbishment) from the space and the modern infrastructure for such activities.[38] **The Committee recommends that efforts be made to enlarge the offer of activities at the Guarded Centres visited, in the light of the above remarks. This will also require additional efforts to fill all staff vacancies** (see paragraph 49 below).

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[36] 9.6 PLN per detained foreign national per day i.e. less than 2.30 EUR.

[37] With benches, some sports equipment and shelters against inclement weather.

[38] In Białystok, detained foreign nationals were offered some organised activities, in particular courses of Polish and English languages as well as arts and crafts courses.

4. Health care

43. The Guarded Centre in Lesznowola employed a full-time nurse who was also present during weekends and holidays but not during the night. In cases of medical emergency, foreign nationals were taken by ambulance to the hospital in the nearby small town of Grójec. Doctors representing different specialities visited the Centre on basis of a contract, as and when needed.

A general practitioner was present at the Guarded Centre in Białystok every working day from 7.45 a.m. to 3.45 p.m., and was on call during weekends. Further, one of the two nurses was on duty from 7.30 a.m. to 9.30 p.m. from Monday to Friday. In case of emergency (especially at night), an ambulance would be called.

The CPT recommends that steps be taken at the Guarded Centre for Foreigners in Białystok to ensure nursing cover also on weekends; further, the Committee invites the Polish authorities to verify, in both Guarded Centres visited, that a person competent to provide first aid (which should include being trained in the application of CPR and the use of a defibrillator) is present on every night shift; preferably, this person should be a qualified nurse.

44. The delegation was concerned to note that there was still no systematic and thorough medical screening of detained foreign nationals upon admission at either of the two Guarded Centres visited. The Committee wishes to emphasise yet again that carrying out medical screening of all newly-arrived foreign nationals is in the interests of both detainees and staff, in particular for identifying those at risk of self-harm, screening for transmissible diseases and the timely recording of any injuries.

The CPT recommends that a full and thorough medical examination of foreign nationals be carried out upon admission at the Guarded Centres in Lesznowola and Białystok (and, as applicable, in other guarded centres); in particular, newly-arrived detainees should be systematically screened for transmissible diseases (including tuberculosis). The screening should also aim at identifying possible victims of torture, with clear rules on the procedures to be followed whenever a medical practitioner reports on any detained person who may have been the victim of torture.

45. Furthermore, despite the Committee's recommendations made in the past, medical examinations were still taking place in the presence of non-medical Border Guard officers. **The CPT once again calls upon the Polish authorities to ensure that in all Guarded Centres for Foreigners medical confidentiality is observed in the same way as in the outside community. In particular, all medical examinations should be conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of custodial Border Guard officers. Detained persons' medical files and other medical documentation should not be accessible to non-medical staff. See also the recommendation in paragraph 27 above, which applies *mutatis mutandis*.**

46. Consultant psychologists visited the Guarded Centre in Lesznowola whenever needed and, in addition, one of the Border Guard officers working there had a degree in psychology. A part-time psychologist (attending 4 hours twice a week) was also employed at the Guarded Centre in Białystok but some detained foreign nationals complained about the lack of interpretation services during psychological consultations. **The Committee invites the Polish authorities to remedy this problem; the same concerns (as applicable) any medical examinations and consultations.**

The delegation was informed that there was a second post for a psychologist at the Guarded Centre in Białystok but that, despite efforts by the establishment's management, the post had been vacant for several months. **The CPT would like to be informed whether it has now been possible to recruit a second psychologist at the Guarded Centre for Foreigners in Białystok.**

5. Safeguards

47. As regards the legal safeguards, the delegation heard a number of complaints about the lack of information provided to foreign nationals on decisions concerning their detention and/or the existing legal remedies to challenge them. Furthermore, many of the foreign nationals interviewed by the delegation stated that they had no financial means to hire a lawyer.

In the light of the above, **the Committee can only reiterate its recommendation that steps be taken to ensure that all foreign nationals detained under aliens legislation are effectively able to benefit from legal counselling and, if necessary, legal representation. For indigent foreign nationals, these services should be provided free of charge.**

Further, it would be desirable for foreign nationals to receive a written translation in a language they understand of the conclusions of decisions regarding their detention/expulsion, as well as written and oral information on the modalities and deadlines for appealing against such decisions.

48. At the outset of the visit, the delegation was informed of planned draft amendments to the AA and the APA (announced by the Ministry of Internal Affairs and Administration) that would facilitate accelerated asylum procedures and simplify the procedure for removals of foreign nationals who applied for asylum at the State border. The draft provisions do not seem to foresee an obligation to provide interpretation, information and legal assistance. Were these draft provisions to be adopted in their current form, they would indeed represent a significant step backwards as concerns the safeguards against ill-treatment. **The Committee would like to receive clarification of these draft provisions (and the current prospects for their adoption) from the Polish authorities.**

6. Other issues

49. The Guarded Centres for Foreigners visited employed two categories of staff: Border Guards (including uniformed custodial officers) and civilian staff (educators).[39] Staff members were regularly offered training in different areas, such as working in a multi-cultural environment, mediation, conflict resolution, etc. As regards language skills, most staff had some notions of English and/or Russian and a few officers in Białystok spoke basic French and German; however, communication was a problematic issue, especially for the detainees coming from Asian and Arabic-speaking countries. **The CPT invites the Polish authorities to make further efforts to improve language skills of the staff of Guarded Centres for Foreigners.**

Both establishments (especially the Guarded Centre in Lesznowola) faced staff shortages,[40] which had an inevitable negative impact on the regime and the atmosphere in the Centres visited (see paragraphs 42 and 38 above). **The Committee recommends that steps be taken to increase staffing levels at the Guarded Centres for Foreigners in Lesznowola and Białystok; filling all the vacant posts should be the first priority.**

50. As for discipline, the disciplinary sanctions applied in the Guarded Centres visited consisted of the withdrawal of various facilities (library, sports, collective activities, shopping) for up to a week. All these sanctions were hardly ever imposed in practice,[41] mainly because foreign nationals were aware that in case of any serious violation of house rules they risked being transferred, by court decision, to the "arrest for foreigners" in Przemyśl (see paragraph 35 above), which was reputed to have a much stricter regime.

51. The special means ("means of coercion") available in both Guarded Centres included handcuffs, truncheons and pepper spray.[42] While they did not seem to be used frequently,[43] the CPT is concerned by the fact that custodial staff carried them (especially long truncheons and tasers in Białystok[44]) permanently, including inside the accommodation areas and in full view of detained foreign nationals. This is an intimidating and unjustified practice; **the Committee recommends that it cease without delay. As regards tasers in particular, reference is made to the principles enumerated in paragraphs 65 to 84 of the 20th General Report on the CPT's activities.[45]**

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39 Referred to as "return care officers" (*opiekuni powrotowi*).

40 In Lesznowola, 15 out of the 53 custodial staff posts were vacant, and in Białystok there were 9 vacant posts for custodial officers (out of the total of 84) and 10 vacant posts of escort officers (out of the total of 25).

41 E.g. only two sanctions in Białystok since the Centre's opening, and none in Lesznowola.

42 As well as, in Białystok, electrical discharge weapons (tasers).

43 And truncheons and pepper spray had not been used in recent years.

44 In Lesznowola, truncheons were locked in a storage room and were not carried routinely. As for the tasers in Białystok, at every shift there was one (trained) custodial officer carrying a taser on each of the two accommodation floors.

45 CPT/Inf (2010) 28 (https://rm.coe.int/16806cce1c).

52. Both Guarded Centres also possessed a security room ("cela izolacyjna") to hold, for up to a few hours, agitated foreign nationals.[46] Conditions in these rooms were acceptable: they measured 10 and 17 m², were well lit and ventilated, and were equipped with a platform, a sanitary annexe and CCTV monitoring.[47] The delegation was told that mechanical restraints (belts) were not used at both establishments although staff in Lesznowola stated that they would like to have them and had already expressed such a wish to their hierarchy. **The CPT would like to be informed whether it is planned to equip Guarded Centres for Foreigners with restraint belts and, were it to be the case, whether the provisions of the Act on the Means of Coercion would apply.[48]**

53. Routine strip searches were carried out upon admission of foreign nationals into both Guarded Centres visited. Although the new search procedure (in force since May 2016) foresees a two-stage approach,[49] it appeared that it was not duly followed in practice. **The CPT recommends that steps be taken at both Lesznowola and Białystok Guarded Centres to remedy this situation.**

54. As for contact with the outside world, detained foreign nationals could send and receive correspondence and had access to mobile telephones in both establishments visited.[50] Visits were also allowed (authorisations for visits were usually granted within a few days) but were rare in practice.

Unlike at the Guarded Centre for Foreigners in Białystok, new technologies such as VoIP (Voice over Internet Protocol) were not used in Lesznowola to facilitate detained foreign nationals' contacts with their families. Because of this, some detained foreign nationals complained that they quickly spent all their money on long-distance telephone calls. The situation was made worse by the limit set by Polish legislation as to the maximum amount of 500 PLN that could be spent by detained foreign nationals during their entire stay at a Guarded Centre.

The Committee invites the Polish authorities to consider the possibility of allowing foreign nationals detained at the Guarded Centre in Lesznowola to use the VoIP technologies on a free-of-charge basis to communicate with the outside world and offering indigent foreign nationals at least one free-of-charge phone call per month.

The CPT would also like to receive clarification of the precise rules concerning the 500 PLN limit on money that can be spent by detained foreign nationals while at a guarded centre.

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46 The rooms were used infrequently (e.g. 12 times in Białystok in the course of preceding 1.5 years) and usually for periods of 2 – 3 hours.

47 Except for the toilet area which was blurred on the CCTV monitors.

48 See also the Factsheet on Immigration Detention, document CPT/Inf (2017) 3, especially the second bullet point on page 7 (the use of means of restraint should be considered on individual grounds and based on the principle of proportionality). (https://rm.coe.int/16806fbf12)

49 The detained person should first be asked to remove upper clothes, then the search of upper body takes place, then the person may put upper clothes back on, and only after that the person is requested to take off lower clothes and is searched below the waist – the principle is that the person should never be fully naked.

50 Detained foreign nationals were provided free of charge with basic mobile telephones without cameras.

55. In both Guarded Centres visited, the delegation saw complaints boxes for in-house and external complaints. However, while in Lesznowola most detained persons expressed their satisfaction with the complaints procedure, several foreign nationals interviewed in Białystok stated that they did not dare making complaints, reportedly because they feared negative repercussions for their asylum applications. In the absence of a complaints register, the delegation was not able to verify these claims. **The Committee invites the Polish authorities to review the operation of the complaints procedure at the Guarded Centre for Foreigners in Białystok so as to make sure that detained foreign nationals are effectively enabled to send complaints in a confidential manner (and are duly informed of this possibility).**

C. Prison establishments

1. Preliminary remarks

56. The delegation carried out first-time visits to Warsaw-Służewiec Remand Prison, Białystok Remand Prison and Gliwice Remand Prison, and follow-up visits to Prison No. 2 in Strzelce Opolskie and Warsaw-Białołęka Remand Prison.[51]

57. Warsaw-Białołęka Remand Prison was visited by the CPT in 1996 and 2000.[52] Still the largest penitentiary establishment in Poland, with an official capacity of 1,548 places, it was accommodating 1,508 male prisoners at the time of the visit, including 388 remand prisoners.

Warsaw-Służewiec Remand Prison, located on the outskirts of the city and in service since 2004, is primarily a closed prison for men, though it also comprises a semi-open type block as well as a facility with two therapeutic wards for sentenced prisoners with alcohol addiction. With an official capacity of 1,152 places, at the time of the visit, the prison was accommodating 1,084 inmates, including 265 remand prisoners.

Białystok Remand Prison, built in 1912 and still in use today, is a closed prison for both men and women with a special unit for multiple offenders and a diagnostic unit for sentenced prisoners with difficulties of adaptation.[53] At the time of the visit, the prison – with an official capacity of 713 places – was accommodating 620 inmates (46 of them women), including 111 remand prisoners.

Gliwice Remand Prison, located in the centre of the city, has been in service since the end of the 19th century. With an official capacity of 412 places, at the time of the visit the prison was accommodating 323 male inmates, including 46 remand prisoners and one life-sentenced prisoner. A large majority of the inmates had been temporarily transferred to the prison from other establishments due to on-going legal proceedings in Gliwice.

Prison No. 2 in Strzelce Opolskie, a closed prison mostly for sentenced recidivists, was visited by the CPT in 1996.[54] At the time of the visit, the prison – with a capacity of 540 places[55] – was accommodating 474 male inmates, including 15 remand prisoners and 15 life-sentenced prisoners. A 64-bedded therapeutic unit for inmates with non-psychotic mental disorders and learning disability, as well as for "dangerous" ("N" status) prisoners, was accommodating 59 inmates at the time of the visit.

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[51] As found on previous visits to Poland, the fact that establishments were called "remand prisons" in no way reflected the reality that the great majority of inmates accommodated in them were sentenced.

[52] See, in particular, paragraph 72 of CPT/Inf (98) 13 and paragraph 59 of CPT/Inf (2002) 9.

[53] The unit accepts prisoners from Bialystok region and, during the average stay of one month, specialists work to define an optimal environment for a particular prisoner.

[54] See, in particular, paragraphs 64 and 99 of CPT/Inf (98) 13.

[55] The official capacity of 612 was temporarily reduced to 540 due to ongoing renovation.

58. From the outset, the Committee wishes to acknowledge the efforts of the Polish authorities to reduce prison population. At the time of the visit, the prison population stood at 73,997 for the official cell capacity of 79,362 (compared to 84,893 at the time of the 2013 visit). While welcoming the progress already achieved, **the CPT encourages the Polish authorities to make further efforts in this area.**

Moreover, the Committee notes a further decrease in the number of "dangerous" ("N" status) prisoners – 104 (including 26 on remand) as compared to 188 in 2013. This is also a positive development.

59. However, the CPT regrets to note once again that, despite its repeated previous recommendations,[56] the official minimum standard of 3 m^2 of living space per prisoner remains unchanged.

Admittedly, the above-mentioned standard seemed to be respected in the prisons visited during the 2017 visit. That said, in the Committee's opinion, the minimum standards for personal living space in prison establishments should be 6 m^2 for a single-occupancy cell and 4 m^2 per prisoner for a multiple-occupancy cell (excluding sanitary facilities).[57] Providing living space of less than 4 m^2 significantly increases the risk of a violation of Article 3 of the European Convention on Human Rights, as evidenced by the jurisprudence of the European Court of Human Rights.

The CPT reiterates its call upon the Polish authorities to raise the minimum standard of living space per prisoner to at least 4 m^2 in multi-occupancy cells (not counting the area taken up by any in-cell sanitary facility) and 6 m^2 in single-occupancy cells. The official capacities of all prisons should be reviewed accordingly.

2. Ill-treatment

60. The delegation received no allegations of physical ill-treatment by staff in any of the prisons visited and only a small number of allegations of verbal abuse were heard. Nevertheless, **the Committee invites the managers of prisons visited to remind all the staff that they should treat inmates in a respectful manner.**

61. The information gathered during the visit indicated that inter-prisoner violence was not a frequent occurrence in the establishments visited; steps were taken by staff to prevent such incidents and to address them adequately if and when they did occur. This is to be welcomed.

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[56] See *inter alia* paragraph 42 of CPT/Inf (2014) 21 and paragraph 83 of CPT/Inf (2011) 20.

[57] See document "Living space per prisoner in prison establishments: CPT standards", CPT/Inf (2015) 44.

3. Conditions of detention

a. material conditions

62. Almost all the establishments visited were in need of some refurbishment, albeit to varying degrees. In this context, the delegation has observed as a positive point that renovation works were either planned or already ongoing in all of the prisons visited.

At Warsaw-Białołęka Remand Prison, the delegation was informed that Block 4 had already been renovated and that refurbishment of Block 3 was underway. The heating system of the establishment had been modernised; modernisation of water and sewage systems was still in progress. CCTV cameras had reportedly been installed in all the corridors, followed by the setting up of 24/7 command centres on each floor.

Material conditions in the cells were overall satisfactory as regards the state of cleanliness, access to natural light, artificial lighting and ventilation. Cells were fitted with fully partitioned sanitary annexes and furnished with beds, a table, chairs/stools, lockers, shelves, a call bell and a TV set.

Association rooms on each corridor, on the other hand, were almost bare as regards furnishing (in some cases lacking even chairs and/or a TV).

63. Warsaw-Służewiec Remand Prison consisted of five separate two-storey blocks – four closed type and one semi-open type.[58] Outdoor areas between the blocks were divided into several exercise yards.

Material conditions of detention were on the whole satisfactory. The cells were well lit and ventilated, and were fitted with a fully partitioned sanitary annexe. Further, they were equipped with single or bunk beds, a table, stools and wall shelves; call bells were installed in each cell.

64. Białystok Remand Prison had four one to four-storey accommodation blocks.[59] Despite the prison being more than a hundred years old, cells in the general accommodation areas were in an acceptable state of repair and cleanliness, and benefited from an adequate access to natural light, artificial lighting and ventilation. They were also fitted with a fully partitioned sanitary annexe and suitably furnished.

By contrast, material conditions in the admission unit, located on the ground floor of the Block A, were rather poor, the cells being dilapidated, poorly lit and poorly ventilated.

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58 Remand prisoners were accommodated in Block A (dedicated for remand prisoners only) and Block B which also contained an admission unit with 52 places.

59 A four-storey Block A accommodated both remand and sentenced inmates, a two-storey Block B was designated for female inmates, a two-storey Block C accommodated sentenced working prisoners and a single-storey Block D, an accommodation unit for “N” prisoners in the past, was now used to accommodate prisoners needing protection from other inmates for various reasons.

65. Gliwice Remand Prison had two accommodation blocks (two and four stories respectively) connected in a T-shape. In addition, a former workshop of the establishment had been transformed into a smaller accommodation block (mostly for working sentenced prisoners) in 2006.

The delegation noted on-going renovation throughout the prison. The roof had already been replaced and all cells were being gradually refurbished (installing hot water, upgrading electric installations, fully partitioning sanitary annexes). Material conditions were on the whole satisfactory, even in the cells that had not yet been refurbished: all the cells were adequately equipped and were bright and airy.

66. Prison No. 2 in Strzelce Opolskie consisted of three accommodation blocks. At the time of the visit, renovation of one block had already been completed; the second one was in process and was due to be completed by October 2017. Cells in renovated blocks were provided with hot water, fully partitioned sanitary annexes, and modernised electric installations.

Material conditions were overall satisfactory – the cells were clean, suitably furnished, access to natural light was generally adequate and the artificial lighting and ventilation were sufficient.

67. In the light of the information referred to in paragraphs 62 to 66 above, **the CPT recommends that the Polish authorities take steps to:**

- **reduce occupancy rates in all penitentiary establishments visited, with a view to offering a minimum of 4 m² of living space per inmate in multiple occupancy cells (not counting the area taken up by any in-cell toilet facility); see also paragraph 59;**
- **continue on-going and planned refurbishment work in the prisons visited;**
- **refurbish the admission unit at Białystok Remand Prison as a matter of priority;**
- **furnish association rooms at Warsaw-Białołęka Remand Prison adequately.**

68. As already mentioned in paragraph 59 above, at the time of the visit the cell occupancy levels in the prisons visited were within the officially approved standard of 3 m² per prisoner.[60] However, the delegation saw a number of cells which were very narrow (1.7 – 1.8 metres between the walls). In the Committee's view, such cells are not acceptable for holding persons for lengthy periods of time. Any cell used for prisoner accommodation should measure at least 2 metres between the walls of the cell and 2.5 metres between the floor and the ceiling.[61]

The CPT recommends that all cells which fail to meet the above-mentioned criteria be either enlarged, with a view to ensuring that there are at least 2 metres between walls, or withdrawn from service.

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[60] E.g. a single cell measuring 6 m², three inmates in a cell measuring 10 m², four inmates in a cell measuring 14 m², and five in a cell measuring 16 m².

[61] See document "Living space per prisoner in prison establishments: CPT standards", CPT/Inf (2015) 44 (https://rm.coe.int/16806cc449).

69. Furthermore, in some of the prisons visited (e.g. in Białystok, Gliwice and at Warsaw-Służewiec), the delegation again saw opaque panes (referred to as “blinds”) installed on a number of cell windows. As already stated after the Committee’s 2013 visit,[62] such devices are in most cases unnecessary, prevent prisoners from having any view from their cells and restrict access to natural light and fresh air. **The CPT recommends that they be removed and, wherever really necessary, replaced with other devices that allow sufficient natural light and fresh air into the cells.**

b. regime

70. The Committee acknowledges the efforts made by the Polish authorities to provide sentenced prisoners with work opportunities. This was particularly positive at *Prison No. 2 in Strzelce Opolskie* where approximately 40% of the sentenced prisoners were provided with paid work (and, in addition, some 20% of sentenced inmates were given unpaid work opportunities, e.g. cleaning and maintenance). There were also some 480 working sentenced prisoners at *Warsaw-Białołęka Remand Prison* (out of the total of 1,120) and 177 working sentenced prisoners at *Białystok Remand Prison* (including 37 with paid jobs), out of the total of 509.

71. Further, the delegation was pleased to observe that life-sentenced prisoners were not segregated from the rest of the prison populations and were provided with an opportunity to work. Furthermore, they were not subjected to any special security arrangements. This is indeed most welcome.

72. Unfortunately, the regime for remand prisoners has remained extremely impoverished despite the CPT’s repeated recommendations on the subject.[63] The situation observed by the delegation was virtually the same as during the Committee’s visit four years ago i.e. apart from daily outdoor exercise (lasting at least one hour) and an opportunity to visit an association room for an hour up to several times per week, the vast majority of remand prisoners spent days and months on end in a state of idleness, with no meaningful activities, locked up in their cells for up to 23 hours per day.

73. The CPT has stressed in the past that it fully recognises that the provision of organised activities in remand prisons, where there is likely to be a high turnover of inmates, poses particular challenges. It will be very difficult to set up individualised programmes for such prisoners. However, the Committee must strongly reiterate its opinion that it is not acceptable to leave prisoners to their own devices for months or even years on end. The aim should be to ensure that all remand prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association). The longer the period of remand detention, the more varied the regime should be. In this connection, it is important to ensure that, in the context of the ongoing prison renovation/building programme, remand prisons are equipped with appropriate facilities for organising such activities.

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[62] See paragraph 54 of CPT/Inf (2014) 21.
[63] See e.g. paragraph 43 of CPT/Inf (2014) 21 and paragraph 84 of CPT/Inf (2011) 20.

The CPT once again calls upon the Polish authorities to take decisive steps to develop programmes of activities for remand prisoners. The aim should be to ensure that prisoners are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, education, sport, etc.).

74. The Committee also regrets having to reiterate its position regarding the design and equipment of the exercise yards.[64] As observed by the delegation in the vast majority of the establishments visited, the yards were small, surrounded by high concrete walls, equipped with only a bench, and (with the exception of prisons in Białystok and Gliwice) deprived of shelters against inclement weather. **The CPT once again recommends that steps be taken to ensure that all inmates have the possibility to take their daily outdoor exercise in conditions which enable them to physically exert themselves. Further, all exercise yards should be equipped with some protection against inclement weather and, preferably, offer a horizontal outside view.**

4. Health care services

a. staff and treatment

75. The health-care service at *Warsaw-Białołęka Remand Prison*[65] was staffed with three full-time general practitioners; another 11 clinical specialists of different specialisations, including a psychiatrist and a dentist, were contracted by the prison and visited the establishment twice per week or more frequently, whenever required. In the Committee's view, there is a need to increase the general practitioners' presence in the establishment.[66]

The doctors were assisted by 18 full-time nurses present from 8 a.m. to 7 p.m. on weekdays; however, there was no nursing coverage during the night and on weekends.

At *Warsaw-Służewiec Remand Prison,*[67] there was one full-time general practitioner and six part-time clinical specialists (a psychiatrist, an internist, an urologist, an infectologist, a radiologist and a dentist); in the CPT's view, a single general practitioner is not sufficient for an establishment of such size.[68] Further, there were seven full-time nurses and one part-time nurse (three more posts were vacant) working different shifts on weekdays (including at night) and on weekends; there was, however, no coverage during the night on weekends.

The health-care team at *Białystok Remand Prison*[69] comprised two full-time doctors (a radiologist and an internist), a part-time general practitioner and a part-time dentist visiting the prison once a week, as well as a psychiatrist on call, coming from outside. In addition, there were five full-time nurses (present from 7:30 a.m. to 6:30 p.m. on weekdays), two paramedics, and a radiology technician.

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[64] See e.g. paragraph 72 of CPT/Inf (2014) 21.
[65] Population at the time of the visit - 1,508.
[66] It is noteworthy that the delegation heard several complaints from inmates about long delays in obtaining medical consultations.
[67] Population at the time of the visit - 1,084.
[68] Also in this establishment many inmates complained about long waiting times for medical consultations.
[69] Population at the time of the visit - 620.

At *Gliwice Remand Prison,*[70] there were three part-time general practitioners, a part-time dentist, and three consulting part-time doctors (a psychiatrist, a neurologist, and an ENT specialist). There were also four full-time nurses present from 7 a.m. to 7 p.m. from Monday to Saturday.

The health-care service at *Prison No. 2 in Strzelce Opolskie*[71] comprised 11 part-time contracted doctors and six clinical specialists from civil hospitals covering different specialisations (i.e. internal medicine, neurology, ophthalmology, ENT, dentistry, psychiatry, surgery); the absence of a full-time general practitioner is, however, an issue of serious concern for the CPT. The five full-time nurses were present from 7:30 a.m. to 3:30 p.m. on weekdays and from 8 a.m. to 12 p.m. on weekends.

76. In the light of the above, **the Committee recommends that steps be taken to increase health-care staffing levels in order to ensure that:**

- **at Warsaw-Białołęka Remand Prison, there is the equivalent of five full-time general practitioners;**

- **at Warsaw-Służewiec Remand Prison, there is the equivalent of three full-time general practitioners and an increased complement of qualified nurses;**

- **at Białystok Remand Prison, there is the equivalent of two full-time general practitioners and the equivalent of ten full-time nurses;**

- **at Prison No. 2 in Strzelce Opolskie, there is the equivalent of two full-time general practitioners and an increased complement of qualified nurses.**

Further, **the CPT recommends that the Polish authorities take steps to ensure that a person competent to provide first aid (which should include being trained in the application of CPR and the use of a defibrillator) is always present in every prison establishment, including at night and on weekends; preferably, this person should be a qualified nurse.**

77. The delegation gained a positive impression of the therapeutic unit at *Prison No. 2 in Strzelce Opolskie*. The unit (with a capacity of 64) was staffed by two psychologists, an occupational therapist and an educator. One nurse from the health-care unit was assigned to work in the therapeutic unit part-time; the unit also benefited from the presence of a part-time psychiatrist.

After initial assessment period of 30 days, an individual treatment plan was drafted for each prisoner with his consent. Inmates were offered a range of occupational activities and individual therapies.

[70] Population at the time of the visit – 323.
[71] Population at the time of the visit – 474.

b. medical screening and confidentiality

78. The Committee has consistently stressed the importance of medical screening of prisoners on admission - especially at establishments which represent points of entry into the prison system. Such screening is indispensable, in particular in the interests of preventing the spread of transmissible diseases, suicide prevention and the timely recording of any injuries.

In this context, the CPT regrets to note the lack of progress as regards medical examination of newly-arrived prisoners. As during the 2013 visit, the delegation gained the impression that initial examination in the prisons visited was cursory and superficial, limited to a few general questions about the state of health and in most cases not including a full physical examination.[72] Furthermore, the delegation met a number of prisoners who, allegedly, had not been medically examined within 24 hours of their admission to prison; in some cases, the initial medical examination was reportedly only carried out several days (up to a week) later.

The Committee reiterates its long-standing recommendation that the Polish authorities remind all prison health care staff that every newly-arrived prisoner should be properly interviewed and physically examined as soon as possible and no later than 24 hours after admission by a doctor or by a fully-qualified nurse reporting to a doctor.

79. On a positive note, the principle of medical confidentiality seemed to be respected for most prisoners – their medical examinations (upon admission and later) were carried out without custodial staff being present.

However, despite repeated calls from the CPT, the situation had remained absolutely unchanged as regards medical examinations of “N” status prisoners – they continued to be routinely handcuffed and examined in the presence of custodial staff. As stressed by the Committee many times in the past, the practice of applying means of restraint to prisoners during medical consultations infringes upon the dignity of the prisoners concerned, prevents the development of a genuine doctor-patient relationship and may even be prejudicial to the establishment of objective medical observations.

The CPT calls upon the Polish authorities to stop the practice of routine application of means of restraint to "N" status prisoners during medical examinations. Custodial officers and health care staff should be reminded that all medical examinations of prisoners must be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a particular case - out of the sight of prison officers.

80. The Committee must also reiterate its concern regarding poor recording of injuries in penitentiary establishments. The 2017 visit has, unfortunately, revealed that the issues raised by the CPT in the past had remained unsolved: none of the prisons visited kept a specific register to record injuries (information was entered in prisoners’ medical files only), the descriptions were superficial and did not contain conclusions by a doctor as to the possible origin of injury or the consistency of the injuries with the statements made by a prisoner. As in the past, there was no systematic transmission of information on injuries observed to the relevant prosecutor.

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[72] The medical admission procedure did include the screening for tuberculosis (an X-ray of the thorax). Other tests (e.g. for HIV, hepatitis B/C) could be performed on a voluntary basis.

The CPT calls upon the Polish authorities to take prompt measures (including through the issuance of instructions and the provision of training to relevant staff) to ensure that any signs of violence observed when a prisoner is medically screened upon admission or following an incident within the prison are fully recorded, and that the record contains:

i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment);

ii) a full account of objective medical findings based on a thorough examination, and

iii) the health care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.

The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations, a description of treatment given for injuries and the results of any further procedures performed.

A record of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking the location of traumatic injuries that will be kept in the medical file of the prisoner. Further, it would be desirable for photographs to be taken of the injuries, which should also be placed in the medical file. In addition, dedicated registers on traumatic injuries should be introduced at all prison establishments.

The Committee also recommends that procedures be put in place to ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by the prisoner concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the competent prosecuting authorities, regardless of the wishes of the person concerned. The results of the examination should also be made available to the prisoner concerned and his or her lawyer.

c. drug-related issues

81. As observed on previous visits, methadone programmes were available in all the establishments visited. However, despite the CPT's repeated recommendations, no harm reduction measures (e.g. information on how to sterilise material used for injecting drugs, needle-exchange programmes) or preventive measures (e.g. the supply of condoms) were introduced.

More generally, the Committee wishes to stress that the management of drug-addicted prisoners must be varied – eliminating the supply of drugs into prisons, dealing with drug abuse through identifying and engaging drug misusers, providing them with treatment options and ensuring that there is appropriate through care, developing standards, monitoring and research on drug issues, and the provision of staff training and development – and linked to a proper national prevention policy. It goes without saying that health-care staff must play a key role in drawing up, implementing and monitoring the programmes concerned and must co-operate closely with the other (psycho-socio-educational) staff involved.

The CPT calls upon the Polish authorities to develop and implement a comprehensive strategy for the provision of assistance to prisoners with drug-related problems (as part of a wider national drugs strategy), in the light of the above remarks.

5. Other issues

a. contact with the outside world

82. The Committee welcomes recent legislative amendments which have finally brought to an end the total ban of telephone calls for remand prisoners. As observed by the delegation in the prisons visited, steps had already been taken to install payphones in units accommodating remand prisoners and inmates who had the authorisation of the body of inquiry (see paragraph 84 below) were allowed to make 5-minute telephone calls daily.

83. However, in practice, the level of contact with the outside world for remand prisoners remained unsatisfactory. The majority of remand prisoners interviewed by the delegation were restricted from contact in one way or another for periods lasting up to several months – either no phone calls were allowed, or no visits, or both.

Moreover, in some cases the delegation struggled to understand the reasoning behind such restrictions (e.g. a prisoner would be allowed to call his wife and small children but the children would not be allowed to visit their father[73]) or the time it took to make a decision regarding prisoners' requests (the delegation spoke to inmates already on remand for two months who were still waiting for a prosecutor's response regarding their requests for calls, visits and correspondence).

84. The CPT notes with concern that, despite its long-standing recommendations on the matter,[74] remand prisoners are still obliged to request authorisation from a judge or a prosecutor for every single visit. In this regard, the Committee reiterates its view that remand prisoners should be entitled to receive visits (and make telephone calls) as a matter of principle, rather than these being subject to authorisation by a judicial authority. Any refusal in a given case to permit such contacts should be specifically substantiated by the needs of the investigation, require the approval of a judicial authority and be applied for a specific period of time. If it is considered that there is an on-going risk of collusion, particular visits (or telephone calls) can be monitored.

The Committee calls upon the Polish authorities to bring the relevant legislation into conformity with these principles without further delay.

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[73] Reportedly, the prosecutor was of an opinion that a prison was not a good place for children to visit.

[74] See e.g. paragraph 95 of CPT/Inf (2014) 21 and paragraph 134 of CPT/Inf (2006) 11.

85. The CPT must also reiterate its view that all inmates – both those on remand and those already sentenced[75] – should benefit from the equivalent of at least one hour of visiting time per week. **The Committee once again recommends that the Polish authorities increase the current visiting entitlement for prisoners accordingly.**

b. discipline and means of restraint

86. As during previous CPT's visits, the delegation noted that very limited use was being made of disciplinary[76] and security cells and means of restraint[77] in the establishments visited, and the documentation recording their use provided sufficient accountability.

87. However, some of the issues of concern regarding the disciplinary procedure[78] remain valid: inmates were still not systematically heard prior to the imposition of a sanction, they were generally not informed (or only informed orally) of the available avenues of appeal against the disciplinary sanction and did not receive a copy of a disciplinary decision. **The Committee calls upon the Polish authorities to eliminate these deficiencies.**

88. The CPT is also concerned by the fact that the maximum legally authorised period of placement in a disciplinary isolation cell for sentenced prisoners (28 days) has not been shortened.[79] **The Committee calls upon the Polish authorities to amend the relevant legislation so as to align the maximum period of placement of sentenced prisoners in disciplinary isolation with the provisions regarding remand prisoners i.e. 14 days.** Further, **there should be a prohibition of sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period. Any offences committed by a prisoner which it is felt call for more severe sanctions should be dealt with through the criminal justice system.**[80]

89. Furthermore, the CPT remains concerned by the role of prison doctors in the procedure of placement in a disciplinary cell.[81] As again observed by the delegation, the doctors[82] certified that an inmate was fit for punishment prior to a decision on placement in a disciplinary punishment cell.

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75 Sentenced prisoners in closed-type regime are still only entitled to two one-hour visits per month.

76 For example, at Warsaw-Białołęka Remand Prison, the disciplinary sanction of solitary confinement (from seven to 14 days) had been imposed 23 times during the first five months of 2017; in Warsaw-Służewiec Remand Prison, the disciplinary sanction of solitary confinement (up to 28 days) had been applied 22 times in the same period.

77 For example, in the course of the first five months of 2017, there had been four instances of placement in a security cell at Warsaw-Białołęka Remand Prison (with the duration ranging from 90 minutes to six hours).

78 See also paragraph 99 of CPT/Inf (2014) 21.

79 See also paragraph 98 of CPT/Inf (2014) 21.

80 See also 21st General Report of the CPT's activities (CPT/Inf (2011) 28), paragraph 56 (b). (https://rm.coe.int/16806cccc6)

81 See also paragraph 100 of CPT/Inf (2014) 21 and paragraph 142 of CPT/Inf (2011) 20.

82 And/or, in some cases, the psychologists.

The Committee has repeatedly stressed that obliging prison doctors to certify that prisoners are fit to undergo punishment is scarcely likely to promote a positive doctor-patient relationship; moreover, it is unethical. Medical personnel should never participate in any part of the decision-making process resulting in any type of solitary confinement, except where the measure is applied for medical reasons. **The Committee calls upon the Polish authorities to stop this practice immediately.**[83]

90. On the other hand, health-care staff should be very attentive to the situation of prisoners placed in disciplinary cells (or any other prisoner held under conditions of solitary confinement). Health-care staff should be informed immediately of every such placement and should visit the prisoner without delay after placement and thereafter on a regular basis, at least once per day, and provide him/her with prompt medical assistance and treatment as required. This, unfortunately, was still not systematically the case in the establishments visited: in some cases, health-care staff would only visit an inmate placed in a disciplinary cells upon the latter's request. **The CPT recommends that steps be taken to ensure that the practice in prisons visited (and, as applicable, throughout the Polish prison system) is brought into conformity with the aforementioned precepts.**

91. The Committee also regrets to note that no action has been taken to review the existing regulations and practice concerning the role of prison doctors in the context of restraint procedures including placement in a security cell and application of a body belt. As during the 2013 visit, the delegation was informed that a medical examination of the prisoner was only foreseen upon request of prison staff, in case where there was a medical indication for it (visible injury or other symptoms of threat to life or health).[84]

The CPT must reiterate that any resort to mechanical restraint should be immediately brought to the attention of a medical doctor in order to assess whether the mental state of the prisoner concerned requires hospitalisation or whether any other measure is required in the light of the prisoner's medical condition. **The Committee recommends that the Polish authorities take the necessary measures to amend the current practice accordingly. More generally, reference is made here to the recommendation in paragraph 104 of the report on the 2013 visit regarding the principles and minimum standards to be taken into consideration in the context of application of mechanical restraints in prison.**

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[83] See also the European Prison Rules (in particular, Rule 43.2) and the comments made by the CPT in its 21st General Report (paragraphs 62 and 63 of CPT/Inf (2011) 28; https://rm.coe.int/16806cccc6).

[84] Pursuant to the Act on the Means of Coercion.

D. Juvenile correctional establishments

1. Preliminary remarks

92. Poland's juvenile justice system is based on a specific law – Act of 26 October 1982 on Procedure in Juvenile Cases (hereafter – the Juveniles Act)[85] - which has elements of both civil and criminal law.[86] Measures envisaged in the Act are taken in cases where a minor shows signs of "demoralisation" or commits a criminal offense. Juvenile jurisdiction in these cases lies with family courts that function as chambers of district courts.[87]

The Juveniles Act foresees a number of educational and correctional measures that might be imposed by a court (e.g. a warning, supervision by the parent/guardian or a social organisation, placement in a youth centre or foster family, placement in a correctional facility, etc.)

93. Pursuant to the Juveniles Act, there are seven types of establishments in which juveniles can be placed by decision of family courts: a correctional facility, a juvenile shelter, a hostel, a police establishment for children, a juvenile educational centre, a psychiatric establishment (juvenile ward) or a specialised social care home.[88]

As a rule, measures imposed by a family court are for an indefinite period and they cease to be effective automatically when a juvenile becomes 18 years old (for educational measures) or 21 years old (for correctional measures such as, for example, placement in a correctional facility). A family court, however, may conditionally release a juvenile from a correctional facility if progress in his/her education allows the court to assume that after dismissal the juvenile will respect legal order and the "rules of social coexistence".[89]

94. During the 2017 visit, the delegation carried out a first-time visit to the Juvenile Correctional Facility in Białystok. The institution, located on the outskirts of the city, is the only correctional facility in Poland for males with addiction problems aged between 13 and 21. At the time of the visit, it had an official capacity of 42 places and was holding 36 boys from 14 to 20 years old (22 of them were between ages of 18 and 21).[90]

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85 Last amended on 30 August 2013.

86 In Polish law, a juvenile is a person who has not reached the age of 17 (not 18). As a rule, juveniles are not criminally responsible. That said, pursuant to Section 10 (1) of the Criminal Code (CC), a juvenile may be held criminally responsible for a series of serious crimes specifically enumerated in the CC committed between the age of 15 and 17, if the circumstances of the case and the personality of the juvenile warrant this, and especially if previously applied educational or correctional measures had had no effect. For all other cases where the placement of a juvenile is involved, the procedure applicable is the one set out in the Juveniles Act which is not part of a criminal procedure and the placement measure is not a criminal sanction.

87 Appeals are heard by civil chambers of regional courts.

88 These establishments are under the responsibility of five different Ministries (Justice, Internal Affairs and Administration, Education, Health and Labour and Social Policy).

89 Conditional release from the establishment cannot take place earlier than 6 months after the placement of a juvenile in the establishment.

90 Out of the 36 juveniles on the list, three were on a home leave, six were temporarily released based on the decision of the Director of the facility in compliance with Section 90 of the Juveniles Act, and four had not returned to the facility after a home leave.

2. Ill-treatment

95. The delegation received no allegations of physical ill-treatment and most juveniles spoke positively of the staff. However, the delegation gained an impression that violence between juveniles was present and created safety risks for both staff and the juveniles.[91]

The CPT recommends that the management and staff of Juvenile Correctional Facility in Białystok exercise increased vigilance in preventing acts of inter-juvenile violence. Consideration should also be given to improving the training of staff in conflict resolution and verbal de-escalation techniques.

3. Conditions of detention

a. material conditions

96. The residential building at Juvenile Correctional Facility in Białystok consisted of four floors. The ground floor contained a kitchen with a canteen, a single transit room for new arrivals and a security room for agitated juveniles.[92] The first floor had a school with six classrooms, a medical unit, another security room for agitated juveniles, three single transit rooms for new arrivals and four medical isolation rooms (two single, one double and one four-bedded).

Juveniles were accommodated on the second and third floors, in double or triple-occupancy rooms which measured approximately 15 m² each and were adequately equipped (beds with full bedding, a table and chair(s), as well as a wardrobe or shelves) and benefited from a good access to natural light and fresh air; artificial lighting was also sufficient. The rooms offered a personalised environment: there were plants, pictures on the walls and some boys had their own pets (hamsters or fish in tanks).[93]

Each of the accommodation floors had communal sanitary facilities, a kitchen where boys cooked the meals themselves[94], a dining room, a common room with television and games, and a gym. All rooms and other premises seen by the delegation were generally in a satisfactory state of repair and cleanliness.

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91 In particular, the delegation learned about two incidents that had occurred in the institution during the previous year. During one of these incidents, a female staff member was attacked by a juvenile; during the second one a juvenile stabbed another boy with a knife.

92 "Izba izolacyjna".

93 Except in induction and re-adaptation groups where material conditions were rather austere.

94 Boys from induction (new arrivals) and re-adaptation (returned to facility after escape or placed there after a major violation of house rules) groups were not allowed to cook themselves and ate in the canteen.

b. regime

97. The situation as regards the regime of activities offered to juveniles was satisfactory and comprised education (approximately six hours on weekdays) and vocational training (construction and carpentry) in spacious and well-equipped workshops.

Furthermore, sports activities were available for juveniles on the establishment's outdoor football and basketball pitches (the latter also served as an outdoor exercise yard, see paragraph below); different sport competitions seemed to be organised on a regular basis.

98. As regards access to outdoor exercise, the above-mentioned basketball pitch was not adequately equipped for the matter – in particular, it had no shelter against inclement weather. Moreover, the delegation was informed that juveniles had access to outdoor exercise only one hour per day; this is not sufficient. In the Committee's opinion, the minimum entitlement for outdoor exercise for juveniles should be two hours a day.

The CPT recommends that steps be taken to ensure that all juveniles in correctional facilities, irrespective of their regime, are offered the possibility of daily outdoor exercise of at least two hours. Further, **the Committee trusts that the management of Juvenile Correctional Facility in Białystok will remedy the aforementioned shortcomings of the outdoor exercise yard.**

4. Health care services

99. The health-care staff employed at Juvenile Correctional Facility in Białystok comprised one full-time nurse present from 7.30 a.m. to 3.30 p.m. on weekdays and a half-time dentist visiting the institution three times a week.

The institution did not have a general practitioner, however; a doctor would be called in case of necessity. In the Committee's view, this is not sufficient to provide adequate health-care for juveniles. **The CPT recommends that the Polish authorities ensure regular visits of a general practitioner to the establishment.**

100. Further, there was one psychologist in the facility who was seeing juveniles individually; there were also group therapy meetings organised once a week. A psychiatrist was available on call and, reportedly, visited the establishment quite often.

101. All newly arrived juveniles were examined by a nurse. However, several interviewed juveniles told the delegation that their initial examination had been superficial, limited to a few questions of a general nature, and had not included a full physical examination. Furthermore, some of the juveniles had allegedly only been seen by a nurse a few days after their admission.

The Committee recommends that the Polish authorities remind all health care staff working in juvenile correctional facilities that every newly-arrived juvenile should be properly interviewed and physically examined as soon as possible and no later than 24 hours after admission by a doctor or by a fully-qualified nurse reporting to a general practitioner.

5. Other issues

a. staff

102. As regards staffing levels, the establishment employed twelve educators working 7.5 hour shifts; in addition, nine teachers were working at the school and in the workshops. As for security, the establishment employed eleven guards. The staffing complement could thus be considered sufficient.

However, the delegation was concerned to learn about plans to reduce the number of pedagogical staff at Juvenile Correctional Facility in Białystok in the course of 2018. **The CPT would like to receive further clarification of this point from the Polish authorities.**

b. means of restraint

103. Section 95a of the Juveniles Act authorises the use of physical force against a juvenile in a number of circumstances, provided pedagogical and/or psychological measures have not been effective.[95] In case the use of physical force proves to be insufficient, and exclusively in order to prevent an act of violence by a juvenile to himself or others, or act of self-harm, other coercion measures foreseen by the law can be used – a straitjacket, a restraint belt and placement in a security room.[96] A juvenile cannot be kept isolated for longer than 48 hours (or longer than 12 hours if the juvenile is younger than 14 years old).

Material conditions in the two security rooms at Juvenile Correctional Facility in Białystok were satisfactory. The rooms (measuring approximately 8 m² and 11 m² respectively) were equipped with a metal bed (with handles for fixation), a table, a chair and a CCTV camera; sanitary facilities were available at the entryway outside the cell. Access to natural light and ventilation was satisfactory, artificial light was adequate.

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[95] The Juveniles Act gives a reference to Section 11 of the Act on the Means of Coercion. Physical force can be used *inter alia* in the following circumstances: (i) to prevent acts of violence or injury of juveniles to themselves or others, (ii) to prevent escapes, (iii) to prevent damage to the property and (iv) to counter active or passive resistance to instructions.

[96] Section 27 of the Act on the Means of Coercion. It should be added that, as from July 2016, the sanction of disciplinary isolation was removed from the Juveniles Act and thus no longer applied at Juvenile Correctional Facility in Białystok (the only disciplinary sanctions were reprimand, notification of the court, notifications of parents/guardians, temporary reduction of pocket money, temporary ban on leaves and on using a computer and/or the Internet).

104. The delegation noted that coercive measures had been used 32 times in 2016 (29 placements in the security room and three cases of using restraint belts) and three times during the first five months of 2017 (three placements in the security room). Restraint by a straitjacket was reportedly not applied in practice.

The delegation was, however, unable to fully assess the use of restraint measures because there was no central register recording such cases and records in the juveniles' personal files provided only information on the time when the application of the measure had begun without specifying when it had ended.

105. The Committee wishes to stress that, in its opinion, fixating violent and/or agitated juveniles to a bed in a security room until they have calmed down is a disproportionate use of force and a measure which is incompatible with the philosophy of the education and social re-integration of the juveniles, and it should be stopped. Instead, alternative methods of managing violent incidents and of restraint, such as verbal de-escalation techniques and manual control, should be employed; this will require staff to be properly trained and certified in their use. Further, individual alternative measures to prevent agitation and to calm down juveniles should be developed. It is axiomatic that any force used to bring juveniles under control should be kept to the minimum required by the circumstances and should in no way be an occasion for deliberately inflicting pain.

In the event of a juvenile acting in a highly agitated or violent manner, the person concerned should be kept under close supervision in an appropriate setting (e.g. a time-out room). In the case of agitation brought about by the state of health of a juvenile, staff should request medical assistance and follow the instructions of the health-care professional (including, e.g., to transfer the juvenile concerned to an appropriate health-care setting). It is totally unacceptable to use mechanical means of restraint as a punishment or even as a threat of punishment.

The CPT recommends that the Polish authorities put an end to the use of fixation of violent and/or agitated juveniles in juvenile correctional facilities; relevant legislation should be amended accordingly. Further, the Committee recommends that metal beds with handles for fixation be removed from security rooms and alternative methods of managing violent incidents and of restraint, including individual alternative measures to prevent agitation and to calm down juveniles, be introduced, taking into consideration the above remarks.

Regarding straitjackets, the CPT considers that they should never be used in a place of detention, *inter alia* because of their humiliating and stigmatising impact on all parties. **Straitjackets should be removed from the catalogue of "means of coercion" enumerated in Section 12 of the Act on the Means of Coercion.**

106. Furthermore, the Committee wishes to stress that any form of isolation of juveniles, including the placement of a violent and/or agitated juvenile in a calming-down room, is a measure that can compromise their physical and/or mental well-being and should therefore be applied only as a means of last resort. Any such measure should not last for more than a few hours and should never be used as an informal punishment. Every placement of a juvenile in a calming-down room should be immediately brought to the attention of a doctor in order to allow him/her to look after the health-care needs of the juvenile concerned. In addition, every such placement should be recorded in a central register as well as in the juvenile's individual file.

The CPT recommends that steps be taken at Juvenile Correctional Facility in Białystok (and, as appropriate, in other juvenile correctional facilities) to ensure that placement in a security room is applied in strict compliance with the requirements set out in this paragraph; the relevant legislation should be amended accordingly.

107. The Committee also has concerns about the use of medical isolation rooms at Juvenile Correctional Facility in Białystok *de facto* for security reasons. The delegation gained an impression that these rooms were sometimes used to place violent and/or agitated juveniles for non-medical reasons. **The CPT would like to receive the observations of the Polish authorities on this subject.**

c. contact with the outside world

108. The Committee wishes to stress that the active promotion of good contact with the outside world can be especially beneficial for juveniles deprived of their liberty, many of whom may have behavioural problems related to emotional deprivation or a lack of social skills.

In this respect, the delegation was informed by staff of Juvenile Correctional Facility in Białystok that the official day for visits was Sunday from 11 a.m. till 1 p.m. but that in practice visits were allowed every day. Furthermore, there was a guest room where family members could stay all weekend.

109. As regards telephone calls, juveniles were allowed to receive them every day. However, the delegation was concerned to learn that juveniles were not entitled to call out themselves (free of charge) unless they earned such a right as a reward (e.g. for cleaning the floors).[97] Indeed, the right to call at the expense of the correctional facility is foreseen as a reward by the Juveniles Act.

In the CPT's view, all juveniles deprived of their liberty should have frequent access to a telephone and there should be a minimum entitlement to be able to call one's family without having to earn it as a reward. **The Committee recommends that the Polish authorities take steps to introduce a minimum entitlement for calls at juvenile correctional facilities, taking into consideration the above remarks.**

[97] Earning such a reward was allegedly not always possible. For example, the delegation interviewed a juvenile who said he had no spare time for cleaning since he had to do court assigned work first.

E. Psychiatric establishments

1. Preliminary remarks

110. The CPT's delegation visited the Regional Centre for Forensic Psychiatry and the National Centre for the Prevention of Dissocial Behaviour in Gostynin, as well as Toszek Psychiatric Hospital.

The Regional Centre for Forensic Psychiatry and the National Centre for the Prevention of Dissocial Behaviour are, legally speaking, two separate institutions albeit located on the same premises[98] (in a forest a few kilometres from the small town of Gostynin, adjoining to a general psychiatric hospital) and sharing the same Director. The Regional Centre for Forensic Psychiatry (hereafter the Regional Centre) was opened in 1999 and the National Centre for the Prevention of Dissocial Behaviour (hereafter the National Centre) in 2015. The Regional Centre (capacity 32, eight patients at the time of the visit) is a maximum-security forensic psychiatric establishment for assessment (up to 30 days) and treatment of adult patients pursuant to the Criminal Code (CC)[99] while the National Centre (capacity 44, population at the time of the visit: 43 including one woman) has as its function to carry out therapeutic activities vis-à-vis "persons representing a threat" as defined by the Dangerous Persons' Act (see paragraph 113 below). The delegation paid only a brief visit to the Regional Centre and focussed its attention on the National Centre.

Toszek Psychiatric Hospital is a large establishment spread over a green 70 hectare area and comprising several buildings of different ages (the oldest dating back to the end of the 19th century, other to the 1960s and 70s, the newest to the end of the 1990s). Built from 1892 to 1898 as an establishment for learning disabled, it had later served as a military hospital, a German POW camp and (after the end of WW2) an NKVD prison, before finally becoming a psychiatric facility in 1958. With an official capacity of 621, the hospital was accommodating 520 patients at the time of the visit, including 61 civil involuntary patients (23 of them women)[100] and 108 forensic patients[101] (including 23 juveniles). Patient accommodation was provided on 17 wards.[102] The main diagnoses were schizophrenia, major depression, personality disorders, organic disorders, alcohol and drug addiction.[103]

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98 The Regional Centre is located on the ground floor and the National Centre on the first floor of the same building, surrounded by a secure perimeter wall.

99 See paragraph 112 below.

100 Two of the civil involuntary patients were on Ward XII (detoxification).

101 65 of them (on reinforced security regime) were accommodated on forensic wards, the rest (on basic security regime) lived together with civil patients on general wards.

102 Ward I (admission/acute, male adult, capacity 40, 38 patients), Ward II (admission/acute, male adult, capacity 45, 42 patients), Ward III (admission/acute, male adult, capacity 45, 40 patients), Ward IV (admission/acute, male adult, capacity 45, 38 patients), Ward V (male adult forensic, capacity 30, 25 patients), Ward VI (male adult forensic, capacity 30, 24 patients), Ward VII (male adult forensic, capacity 30, 16 patients), Ward VIII (internal diseases/somatic, mixed-gender, capacity 28, 20 patients, serving also the needs of the town's population), Ward IX (admission/acute, female adult, capacity 45, 38 patients), Ward X (admission/acute, female adult, capacity 45, 41 patients), Ward XI (chronic male adult, capacity 45, 41 patients), Ward XII (detoxification, mixed-gender adult, capacity 40, 34 patients), Ward XIII (alcohol addiction, mixed-gender adult, capacity 26, 15 patients), Ward XIV (chronic adult female, capacity 30, 26 patients), Ward XV (chronic adult female, capacity 32, 26 patients), Ward XVI (rehabilitation, mixed-gender adult, capacity 40, 33 patients, located off-site in a former hunting lodge in the forest), Ward XVII (forensic juvenile ward for boys and girls aged 13 – 18, capacity 25, 23 patients including seven girls).

103 On the forensic adolescent ward, the main diagnoses were bipolar disorder, behavioural-emotional disorders, Asperger syndrome and ADHD. There were a few patients diagnosed with a learning disability and one with schizophrenia.

Mean stay was 15 days on admission/acute wards, from several weeks to several years on chronic and adult forensic wards and one year on the forensic adolescent ward.

111. Civil involuntary procedure is set out in the Mental Health Act (MHA) adopted in 1994 and amended subsequently on numerous occasions.

The grounds for involuntary hospitalisation are set out in Section 21 (1) of the MHA: a person's behavior must suggest that, due to a mental disorder, he/she may directly endanger his/her own life or health or other persons' lives and health, or is unable to satisfy basic needs of life.[104] In such cases, patients are taken to hospital by ambulance (if needed, accompanied by police) based on a decision by a medical doctor (preferably a psychiatrist)[105] and submitted to immediate initial evaluation by the doctor (psychiatrist) on duty (in admission unit/ward) who must assess whether there are *prima facie* indications justifying involuntary admission. The doctor must explain to the patient the reasons for his/her decision and inform the patient of his/her rights.

The next stage is a 48 hour observation in the course of which a second medical opinion should be sought (but it need not be an independent doctor, in practice it usually is a psychiatrist working on a different ward in the same hospital, see also paragraph 138 below). Before the expiry of the 48 hours, the Director of the hospital must either release the patient, admit him/her voluntarily (if the patient changes his/her mind, which must be confirmed in writing) or notify the competent judge (from the local family/guardianship court) within 72 hours from the moment the patient was brought to the hospital. The judge must come to the hospital within 48 hours following the reception of the application for involuntary placement and personally hear the patient before deciding on the measure (Section 45 of the MHA).

If placement is based on Section 23 (1) of the MHA (i.e. if the existence of a mental disorder has already been established[106]), admission is for treatment at once. If admission is based on Section 24 (1) of the MHA (i.e. the admitting doctor is not sure whether the person is actually mentally ill), admission is for observation for up to 10 days and after this period the placement must be definitively confirmed by court (Section 25 of the MHA). The patient, his/her legal representatives and relatives can demand to be released no earlier than 30 days after the court's decision and, if the hospital refuses release, they may appeal against this refusal to the guardianship court within 7 days from the moment of refusal (Section 36 of the MHA).

There is also a possibility to admit a patient considered unable to give consent due to his/her health condition (Section 22 (2) of the MHA); this must be approved by court, preferably before the placement but in urgent cases as soon as possible afterwards. In such a case, the admitting doctor must seek a written opinion of a second doctor (if possible, a psychiatrist).

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[104] If the person is a minor or is fully incapacitated, admission pursuant to this Section may also happen without consent of parents, tutors or guardians. Consent is sought subsequently and if it is not granted, the hospital informs the court and requests confirmation of hospitalisation measure.

[105] Section 21 (3) of the MHA.

[106] To be more precise, if the person's known up-till-now history of illness indicates that he/she represents a direct threat to one's life or health or to the life or health of others.

Further, involuntary admission is also possible in respect of a person whose behaviour record suggest that the absence of hospitalisation would lead to a significant worsening of his/her health condition or who is unable to satisfy independently his/her basic life needs and there are grounds to believe that admission to a hospital would improve his/her health; in such cases, admission takes place based on a decision of guardianship court following a motion by a spouse, another close relative, a legal representative, a guardian/tutor or a social care authority and based on a detailed written opinion by a psychiatrist.[107]

112. The legal provisions concerning forensic psychiatric patients are set out in the Criminal Code (CC).

If a person has committed a prohibited act of significant harm to the community when mentally ill, as stipulated in Section 31 (1) of the CC[108], and there is a high probability that he/she might commit such an act again, the court may commit him/her to an appropriate psychiatric institution.[109] Placement is also possible if the person is learning disabled or suffers from drug or alcohol addiction; before ruling on such detention, the court hears the opinion of two psychiatrists and a psychologist.

A forensic psychiatric measure can be either outpatient or inpatient, the latter with 3 security levels (basic, reinforced, maximum). The allocation to the security level is not decided by court but by a special expert commission attached to the Ministry of Health.[110] Patients may appeal both the court's and the commission's decision.

113. Involuntary commitment may also take place based on the Act on Procedure vis-à-vis Persons with Mental Disorders who represent a Danger to Life, Health or Sexual Freedom of Other Persons (hereafter referred to as Dangerous Persons' Act, DPA), adopted by Parliament in November 2013 and in force as from January 2014.[111]

Pursuant to this law, persons who fulfil all the conditions mentioned below can be placed for an unlimited time in a closed establishment: serving a prison sentence in a "therapeutic unit";[112] suffering from a mental disorder (i.e. learning disability, personality disorder or "disorders of sexual preference" – especially paedophilia); the disorder is of the type or intensity that a repeat violent prohibited act (against life, health or sexual freedom) is at least highly likely, and the punishment for such crime would be at least 10 years of imprisonment.

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107 Sections 29 and 30 of the MHA.

108 I.e. while being incapable of recognising the act's significance or controlling his/her conduct because of a mental disease, learning disability or other mental disorder.

109 Section 94 of the CC.

110 Called the Psychiatric Commission for Preventive Measures at the Ministry of Health.

111 In November 2016, the DPA was declared conform with the Constitution by the Constitutional Court (after referrals by the President and the previous Ombudsperson); in the main, the Constitutional Court assessed the DPA to be a protective and therapeutic measure unrelated with criminal punishment, thus not violating the *ne bis in idem* and *lex retro non agit* principles. The Constitutional Court also concluded that the DPA did not violate the principles of judicial control over deprivation of liberty and the right to a court.

112 There are approximately 3,000 prisoners in Poland serving their sentence under the so-called "therapeutic system" (or programme), in over 20 "therapeutic units". This includes inmates (90% of them men) with "disorders of sexual preference", other non-psychotic mental disorders and learning disability. There are also dedicated "therapeutic units" for drug and alcohol addicts. The placement in such units is by decision of each prison's penitentiary commission.

Such persons are called “persons representing a threat”. They can either be subjected to “preventive supervision” (in the outside community) or placed in the “National Centre for Prevention of Anti-social Behaviour” (the National Centre, see paragraph 110 above). It is important to stress that “mentally ill” persons (as defined in the MHA i.e. mainly those with a psychosis) should not be placed in the National Centre.[113]

The placement is by court decision (according to civil procedure) upon motion of a prison Director (introduced obligatorily before the end of the person’s sentence), to which the prison Director must enclose opinions by a psychiatrist and a psychologist and information on the results of therapy and re-socialisation so far.

The court must appoint two expert psychiatrists and, in addition, an expert psychologist (for persons with a personality disorder) or an expert sexologist (or, possibly, expert psychologist specialised in disorders of sexual preference). The court must be composed of three professional judges (no lay judges) and parties to the proceedings are the prosecutor and the person’s *ex officio* lawyer (who must obligatorily be appointed, unless the person has his/her own lawyer).

The court may order compulsory in-patient forensic psychiatric assessment for up to four weeks. The court, when deciding on the final measure, must consider possibilities of therapy in the community. The final decision may be: unlimited “preventive supervision”[114] (in case of “high degree of probability”) or unlimited placement in the National Centre, when there is a “very high degree of probability” of a violent prohibited act. The court decision may be appealed by the person.

114. At the outset of the visit, the delegation was informed by senior officials from the Ministry of Health about ongoing efforts to reform and modernise the psychiatry sector. In particular, in February 2017 the Polish Government adopted the National Programme on Mental Health Care for the years 2017 – 2022. This includes planned measures to significantly (by 10,000) reduce the number of beds in large hospitals (de-institutionalisation)[115] and set up new psychiatric units in general hospitals, closer to patients’ residing places, provide more outpatient beds and establish intermediate forms of psychiatric treatment such as day time units, home treatment and hostels (community care). It is also planned to train and recruit more medical staff, including psychiatrists, also for children and young persons, clinical psychologists, social workers, nurses and occupational therapists. The implementation of the National Programme is to begin with a pilot project in 20 to 30 establishments, in order to assess the impact of the planned measures and adjust the Programme as required. The delegation was informed that implementation of this Programme would require amending the MHA and several other laws and regulations, as well as significant financial and human resources.[116]

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113 See, however, paragraph 122 below.

114 “Preventive supervision” is carried out by the police, at the person’s home. The person must regularly report to the police and inform about any travel plans.

115 Large psychiatric hospitals should each reduce their accommodation capacities to 350 beds maximum.

116 The latter being a particular challenge considering the shortage of psychiatrists in Poland and the departure or many trained health-care staff to other EU Member States in recent years.

In the light of the information the delegation received at Toszek Psychiatric Hospital[117], **the Committee can only encourage the Polish authorities to pursue these efforts, also in the context of the country's obligations stemming from the UN Convention on the Rights of Persons with Disabilities.[118]**

2. Ill-treatment

115. The delegation received no allegations of ill-treatment by staff in the establishments visited, and many patients spoke highly of the doctors, nurses, orderlies and guards (on the forensic wards in Toszek and at the National Centre in Gostynin).

That said, some allegations were heard at the latter establishment of occasionally disrespectful behaviour by some guards. In this connection, **the CPT invites the Polish authorities to remind all custodial staff at the National Centre in Gostynin that they should treat patients in a respectful manner.**

116. As for inter-patient violence, the delegation observed signs of tension between patients at the National Centre, likely related with the relatively cramped conditions in which they lived (see paragraph 117 below). Inter-patient violence did occur at Toszek Psychiatric Hospital too, although it was not a major issue.

Having said that, the delegation gained the impression that violent episodes between patients were responded to swiftly and appropriately in the establishments visited. The Committee welcomes this; however, **it recommends that staff at the aforementioned establishments employ all means at their disposal to prevent inter-patient violence. In order to tackle this problem, staff should be alert to signs of trouble and both determined and properly trained to intervene when necessary**.

3. Living conditions

a. Regional Centre and National Centre in Gostynin

117. Living conditions were generally good in Gostynin, with both the premises of the Regional and the National Centre having been thoroughly refurbished recently.

All rooms were bright and airy, adequately furnished (beds with full bedding, lockers, a table, chairs, a wardrobe), pleasantly decorated and clean. Most of the rooms were equipped with fully-screened sanitary annexes comprising also a shower.[119] Conditions in the communal sanitary facilities (toilets and showers) – to which access was not restricted in any way – were also very good.

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[117] Where there were many chronic patients who had remained in the hospital for years (e.g. approximately half of all the patients on Ward XI), with nowhere else to go because of the lack of places in social care homes.

[118] Ratified by Poland on 25 September 2012.

[119] A few of the larger rooms at the National Centre had no sanitary annexes but a washbasin.

The living space was entirely satisfactory at the Regional Centre (e.g. four patients sharing a room measuring some 30 m²) but patients at the National Centre (which was accommodating many more patients than planned initially)[120] lived under relatively cramped conditions;[121] some of the rooms had had to be fitted with bunk beds, which was not conducive to creating a therapeutic environment and contributed to tensions between patients and between patients and staff.[122]

On the positive side, rooms at both the Regional and the National Centre were always unlocked[123] and patients could associate during the day and had access to pleasant common rooms equipped with sofas, tables, TV, radio and games, books and newspapers.

It is also noteworthy that all interviewed patients praised the food, which was said to be varied and sufficient in quantity.

118. The delegation was informed of the planned extension of the National Centre, by means of constructing a new accommodation building with additional 60 places.[124] Considering the already limited living space available on the existing premises, the CPT can understand the rationale for this decision. **The Committee would like to receive more details of the planned extension of the National Centre in Gostynin, including the manner in which the capacity of the new building will be calculated (how many meters square per patient), the size and capacity of the patients' rooms, the rooms' equipment and furniture, and the envisaged date of completion and entry into service. The CPT trusts that efforts will be made, in the context of the aforementioned extension of the National Centre, to offer more living space to all patients.**

b. Toszek Psychiatric Hospital

119. Most of the hospital premises were old and required extensive reconstruction and refurbishment. In this context, the delegation noted the ongoing refurbishment work in different parts of the establishment (including the replacement of heating system, lifts, windows, etc.). **The CPT welcomes these efforts and encourages the Polish authorities to pursue them.**

Large patient rooms (mostly for six, eight or even ten patients[125]) lacked privacy and personalisation (especially on forensic wards) and there was no lockable space for patients in the rooms.[126] It is noteworthy that the ongoing and planned renovation works included gradually dividing the larger rooms into smaller living units; **the Committee would like to receive updated information about the progress of this reconstruction**.

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120 The initial accommodation concept was based on single-occupancy rooms.

121 E.g. two patients sharing a room measuring some 17 m² (including sanitary annexe), eight patients accommodated in a room (without annexe) measuring some 30 m² i.e. some 3,75 m² of living space per patient.

122 As stated by some of the interviewed patients and acknowledged by staff.

123 At the Regional Centre, patients were given keys to their rooms.

124 It is noteworthy that, according to staff, there were more than a hundred pending motions to send persons to the National Centre, most of these motions already at various stages of consideration by courts.

125 E.g. a room for ten patients seen on Ward X measured approximately 80 m² and a room for eight patients measured 56 m². On Wards XII and XIV, the delegation saw rooms for six patients measuring approximately 30 m². There were some smaller rooms on Wards I to IV (e.g. double rooms measuring 8 m²) and on forensic wards (e.g. a room for five patients measuring some 27 m²).

126 Instead, there were centralised lockers on each ward, and patients had to ask health-care staff to get access to their personal possessions.

More generally, **the CPT recommends that efforts be made to offer a more congenial and personalised surroundings for patients.**

On the positive side, all rooms (equipped with beds with full bedding and bedside tables) were bright, airy and clean, and patients had access, during the day, to common TV and dining rooms which offered acceptable conditions. Food was said to be generally adequate in quantity and quality. Communal toilets and showers (to which access was not restricted) were also clean and in a working order.

120. The forensic adolescent ward, located in a building dating back to the end of the 1990s but thoroughly refurbished in 2010, was a more modern facility with comparably better living conditions. Standard double rooms measured some 18 m² and were equipped with fully screened sanitary annexes. However, the rooms had an austere and very carceral feel and juveniles had to keep their personal items in cardboard boxes or in central lockers.[127] It should be added, however, that the ward was equipped with high-standard premises for education, activities, sports (including a large indoor gym and an outdoor football/volleyball pitch) and association, and juveniles practically only spent the night in their rooms. Having said that, **the Committee invites the Polish authorities to consider reconstructing the forensic juvenile ward of Toszek Psychiatric Hospital so as to make it possible to divide it into smaller accommodation areas, which would be easier for staff to control; this would allow providing a less carceral and more therapeutic environment, especially in the juveniles' rooms.**

4. Treatment

121. As far as the delegation could ascertain, patients at the Regional Centre in Gostynin (all of whom were being treated against their will pursuant to court order) benefited from a range of therapies including pharmacotherapy, psychotherapy and occupational and art therapy.[128]

As for the National Centre, there was no psychiatric treatment *sensu stricto* (only a few patients were on psycho-active medication with their consent, including two on anti-androgen therapy (Androcur) that had been started prior to admission), but instead assistance (exclusively on a voluntary basis) was offered to persons with personality disorders, learning disabilities and "disorders of sexual preference", by means of individually tailored programmes comprising individual and group psychotherapy, work with sexologists and addictologists, occupational and art therapy. However, the delegation was told by staff that approximately 75% of the patients were not interested in any therapy and remained uncritical towards their deeds and conditions, some of them being persuaded that they had been placed at the National Centre by error or for political motives.

Furthermore, patients had access to means of diversion such as table tennis, table football and billiard for 2-3 hours per day and to the gym four times a week.

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[127] The explanation given by staff was that this was to prevent the juveniles from hiding any sharp objects with which they might harm themselves or others.

[128] As already mentioned in paragraph 110 above, the focus of the delegation's visit to Gostynin was the National Centre.

While welcoming genuine efforts made by the staff of the National Centre to involve as many patients as possible in therapeutic activities, the CPT cannot escape the impression that there is a general problem with the concept of therapy at the establishment[129] and, in particular, no clear idea of what to do with patients who refuse treatment and rehabilitative activities.

Many patients interviewed by the delegation failed to understand the reason for their placement and were unable to say how long they would have to remain at the National Centre (a few of them thought they would spend the rest of their days there). Predictably, this had a negative impact on their mood, their attitude and motivation to co-operate with the staff.

The Committee recommends that a serious reflection be undertaken into the concept and philosophy of treatment at the National Centre in Gostynin, in the light of the above remarks. In addition, **more should be done to provide therapeutic and rehabilitative activities such as anger management, life skills training, recreation and sports.** This would help defuse ambient tension in the establishment (see paragraph 116 above).

122. The delegation was concerned by the situation of the sole female patient at the National Centre. Staff expressed the view that she should not have been admitted there: although formally not diagnosed with a psychosis,[130] health-care staff thought she was at least likely to suffer from paranoid schizophrenia and was on voluntary anti-psychotic medication.

It was explained to the delegation that the actual reason the female patient concerned had been sent to the National Centre was that she was very challenging and aggressive, and there was reportedly no maximum security forensic psychiatric ward for women in Poland. However, the result was that she remained most of the time in *de facto* seclusion (both for her own protection from male patients and for the sake of others)[131]; further, she was often mechanically restrained (see also paragraph 132 below). When she was in a better condition she was allowed to associate with other patients albeit under strict supervision. The management had reportedly asked to transfer her to a hospital (contesting the initial expert assessment prior to her placement at the National Centre, which had concluded that she did not suffer from a psychosis), and staff were now awaiting the outcome of a second independent psychiatric expertise commissioned by court. **The Committee would like to be informed of the outcome of this procedure.**

123. Patients at Toszek Psychiatric Hospital received adequate pharmacotherapy and there was a range of other therapeutic activities (psychotherapy, occupational therapy,[132] art therapy, life skills, etc.) available.

Detoxification was proposed to alcohol and drug addicts but addiction therapy was only offered to patients with alcohol addiction.[133] There were also special therapeutic activities for forensic patients which notably included anger management training.

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129 Most likely the result of a much broader issue of the National Centre's *ratio existendi* and overall philosophy, which goes beyond the Committee's mandate and will thus not be further commented upon in this report.

130 The diagnoses recorded in her medical file were learning disability, personality disorder and temporal epilepsy.

131 To protect her privacy, staff had stuck over the window in the door to her room with paper.

132 There were occupational therapy rooms on each ward and a separate occupation and rehabilitation centre.

133 Drug therapy was reportedly offered in an outpatient centre located some 10 km away.

Juveniles attended school classes (with teachers and educators employed by the Ministry of Education) in addition to numerous other activities and treatments.

However, most, if not all, therapeutic activities stopped at 2 p.m. because of the staff attendance pattern (see paragraph 127 below) and for the rest of the day patients were staying on the wards with little to occupy themselves apart from some recreation.[134]

The CPT recommends that steps be taken to ensure patients' access to therapeutic and recreational activities also in the afternoons. More generally, **further efforts should be made to involve patients, especially the long-term ones, in activities preparing them for independent life or return to their families, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improvement of self-image. As far as possible, this should happen in coordination with the existing community care structures.**

124. Both in Gostynin and Toszek, the delegation saw detailed written individual treatment plans (reviewed at regular intervals)[135] in patients' files, and there was evidence of multi-disciplinary team work.[136] This is to be welcomed. That said, the delegation noted that, as a rule, patients were not asked to sign 'therapeutic contracts' under the treatment plans; **the Committee is of the view that introducing such a practice would help increase patients' motivation to engage in therapeutic activities.**

Regarding somatic (including dental) care, patients in Gostynin received visits from somatic specialists from prison health-care service (as required by the DPA)[137] save in emergencies where a 'civil' ambulance would be called. These arrangements did not seem to pose any particular problems in practice. As for Toszek Psychiatric Hospital, for somatic care reliance was had on the staff, equipment and premises of Ward VIII (see paragraph 110 above).[138]

Medical files and other documentation (some of which in electronic form, especially in Toszek) seen in the establishments visited were detailed and well kept.

125. As concerns access to outdoor exercise, patients in the Regional Centre in Gostynin could go to the exercise yard for up to 2 hours per day (longer in the summer) but those in the National Centre had only one hour of outdoor exercise per day (1.5 hour on weekends). A secure outdoor exercise area, adjoining to the accommodation building, was spacious and well equipped (including some sports equipment, benches and tables) but there were no shelters against inclement weather; **the Committee recommends that such shelters be installed**.

134 Watching TV, listening to the radio, playing board games and occasionally computer games, table tennis, table football and billiard, and reading books and newspapers.

135 At the National Centre, these were called "individual programmes of activities". Patients were involved in the drafting and review of these plans.

136 E.g. at the National Centre, there were daily meetings of all therapeutic staff and additionally a daily meeting of all nurses.

137 Doctors came from Łódź Prison Hospital.

138 Confidential HIV and hepatitis screening was also offered on arrival and performed only with patients' written consent.

As for Toszek Psychiatric Hospital, while patients from the 'civil' wards could go out to the park (with or without staff),[139] those in forensic wards only had access to (well-equipped) secure exercise yards[140] for one hour per day (two hours in the warmer months). Furthermore, patients undergoing initial observation/assessment (up to four weeks in Gostynin, up to 10 days in Toszek) had no access to outdoor exercise at all; this in unacceptable.

The delegation was also struck by the fact that juveniles on the forensic ward in Toszek placed (by doctor's decision) in the so-called 'observational reverse' (usually for 2 – 3 weeks but on one occasion reportedly for up to 3 months) would not be allowed to go outdoors unescorted, and it was not always easy for the staff to find the time to accompany the juveniles concerned to the exercise yard.

The CPT recommends that all patients in the establishments visited benefit in fact from unrestricted access to outdoor exercise during the day unless treatment activities require them to be present on the ward.

5. Staff

126. Staff at Gostynin appeared sufficient in numbers,[141] well trained and motivated; however, given the very challenging nature of their job, **more outside support and supervision would be welcome as a means to prevent burnout.**[142]

Further, the delegation noted that no duty doctor was physically present on the premises after 3 p.m. (although a doctor would always be on call).

The CPT invites the Polish authorities to consider increasing the time of presence of a duty doctor at the Regional and National Centre in Gostynin.

The Committee would also like to be informed whether it is planned to increase staff complement at the latter institution after the envisaged (significant) increase in capacity takes place (see paragraph 118 above)**.**

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139 E.g. on male chronic Ward XI, ten patients were allowed to go unescorted to the park from 9 a.m. to 6 p.m., 20 other patients took their exercise accompanied by relatives or escorted by staff, and two more could go out but only if accompanied by staff in a 1:1 proportion. In total, 32 of the 41 patients were able to go outdoors, the others considered by the doctors as being too ill to be allowed to leave the ward.

140 With basketball, volleyball and workout equipment.

141 At the National Centre, there were two psychiatrists occupying 1.1 posts (including the Director who was also involved in some therapeutic work) and the following full-time staff: two sexologists, four clinical psychologists, three re-socialisation specialists, an addictologist, two social workers, five occupational therapists, 17 nurses, 25 orderlies and five kitchen aids. At night, there were three nurses and 7 – 8 orderlies on duty. The Regional Centre had less staff (including a doctor, ten nurses (minimum 3 per shift), 16 orderlies, a psychologist and a social worker) but this was amply sufficient for the current population (eight patients).

142 It is noteworthy that staff (including senior nurses) at the National Centre told the delegation that they would certainly benefit from more specific training in addressing the particular needs of patients in the establishment.

127. Staffing levels were also generally satisfactory at Toszek Psychiatric Hospital,[143] but the staff attendance became clearly insufficient after 2 p.m. (and until 6 a.m. the following day)[144] as well as on weekends. This had an inevitable negative impact on patients' access to activities (see paragraph 123 above) and to outdoor exercise, and was certainly not unrelated with the observed practice of relatively long periods of mechanical restraint (belts) being applied to a small number of more challenging patients (see paragraph 132 below). **The Committee recommends that steps be taken at Toszek Psychiatric Hospital to increase health-care staff presence after 2 p.m. on weekdays (and on weekends), in the light of the above remarks. See also the recommendation in paragraph 123 above.**

128. Both the Regional and the National Centre in Gostynin employed security guards (they were employees of the respective institutions). There were also some guards at Toszek Psychiatric Hospital (two per shift at the reception unit, two per shift on adolescent forensic ward and three-four on each adult forensic ward), both employees of the hospital and of a private security company.

The guards acted exclusively under instructions of doctors, and had to report to them. Those at the Regional Centre[145] could assist health-care staff in searches of premises, upon the latter's request (normally guards did not enter the accommodation areas, their tasks being limited to perimeter security and entrance/exit control). They could also intervene (again, upon request by health-care staff) inside the accommodation areas in case of assault, damaging property and attempted escape. They had no special means and the only means of coercion they were allowed to use were manual techniques (holding and locks). The same was true of the guards at Toszek.

By contrast, guards at the National Centre[146] had more powers (they were e.g. in charge of convoys to outside medical and other institutions) and carried special means (long truncheons, handcuffs and pepper spray) at all times, including inside the accommodation areas and in full view of patients.[147] This is an intimidating and unjustified practice; **the CPT recommends that it cease without delay.**

Further, **guards at the National Centre would benefit from more training on how to deal with the kind of patients accommodated at the establishment, so as to be able to defuse conflict situations without resorting to special means.[148]**

129. At Toszek Psychiatric Hospital, the delegation was told that guards would occasionally be asked by health-care staff (especially after 2 p.m.) to assist them in restraining patients. **The Committee wishes to reiterate its view that, as a matter of principle, means of restraint should only be applied by adequately trained health-care staff** (see also paragraph 131 below).

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[143] 30 doctors (with 5 vacant posts), 187 nurses (some of them specialised in psychiatry), 24 orderlies, 33 clinical psychologists, 27 occupational therapists, four addictologists and 12 educators (on the adolescent ward).

[144] After 2 p.m. there were only three duty doctors (including one in the reception unit and one on adolescent ward) and no other staff qualified to provide therapeutic and rehabilitative activities. Also the presence of nurses was hardly sufficient e.g. at Ward VI (which was, at the time of the visit, accommodating 24 adult forensic patients), there was only a nurse and a guard present after 2 p.m. On Ward XI (41 male chronic patients), there were two nurses and an orderly after 2 p.m.

[145] Five to nine guards per shift at day, three to four at night.

[146] 28 in total, at least five – six per shift.

[147] According to the statements by staff and the relevant documentation, since the National Centre had opened, only handcuffs had been used a few times (only for escorts outside) and no other means.

[148] As far as the delegation could ascertain, no such specific training was available at the time of the visit.

6. Means of restraint

130. Pursuant to Section 4 of the Order of the Minister of Health of 23 August 2012 on the use of means of restraint ("means of direct coercion"), issued based on Section 18 of the MHA,[149] authorised means of restraint in psychiatric establishments include manual restraint (holding), coerced administration of medication (chemical restraint), mechanical restraint (immobilisation with a restraint belt) or seclusion, which cannot last longer than 4 hours at a time. The decision to use means of restraint rests with a doctor, who defines the type of restraint measure and personally supervises its execution. When it is impossible to obtain an immediate decision of a doctor, the use of means of restraint is decided upon by a nurse, who is under an obligation to notify a doctor without delay. The doctor confirms the application of the measure or orders it to be stopped.

In case of need, a doctor, upon a personal examination of the patient, may prolong the mechanical restraint or seclusion for further two 6-hour periods. Any further extension (for additional 6 hour periods) requires each time an examination of the patient by another psychiatrist. Every instance of restraint must be recorded in the patient's medical file;[150] further, instances of mechanical restraint and seclusion also have to be recorded in a special restraint form[151] and reported to the Director of the establishment (who keeps all such reports in a separate file).

The condition of a mechanically restrained or secluded patient must be checked at least every 15 minutes by the duty nurse, who is required to note down his/her observations on the above-mentioned restraint form. Seclusion rooms must be equipped with CCTV.

131. As far as the delegation could ascertain in the establishments visited, means of restraint were applied in accordance with the above-mentioned Order[152] and resort to mechanical restraint and seclusion was duly recorded in the relevant documentation and reported to the respective Directors.

That said, the CPT wishes to point out two important (and persisting) flaws of the present rules. Firstly, the requirement to record the use of means of restraint on the special form (and to report this use to the Director) does not apply to chemical restraint.[153] Secondly, the Order still does not provide for a continuous, direct and personal supervision of an immobilised patient by a nearby member of health-care staff.

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149 The rules applicable at the National Centre, albeit based on a different Order issued pursuant to the DPA, were analogous.

150 An order to use or prolong the use of means of restraint is recorded by the doctor, with a description of the reasons and circumstances of the use of means of restraint, its kind and duration. If the order to use means of restraint in the form of mechanical restraint or seclusion was initially made by a nurse, she/he records the reasons for its use in the patient's file, about which she/he notifies the doctor, which also should be recorded as an appropriate entry in the file. The nurse is furthermore obliged to record information on the use of means of restraint in a nurse's report.

151 Providing the reasons for the use of means of restraint, its kind and the duration of mechanical restraint or seclusion; the form is enclosed with the patient's medical file and a copy transmitted to the Director.

152 Conditions in dedicated seclusion rooms (which were spacious, well-lit and ventilated, clean and equipped with beds fixed to the floor (with mattresses), attachments for 4-point belts, CCTV and intercom) were adequate and do not call for any particular comment. It is noteworthy however that at Toszek Psychiatric Hospital, a dedicated seclusion room only existed on the forensic adolescent ward.

153 For example, at the National Centre the delegation saw that the use of chemical restraint (25 mg tizercin) in respect of the female patient had been recorded in her file (e.g. on four occasions in April 2017) but not on the restraint form.

The Committee must reiterate its view that every immobilised patient should, at all times, have his/her mental and physical state continuously and directly monitored by an identified and qualified member of the health-care staff, who can offer immediate human contact to the patient concerned, reduce his/her anxiety, communicate with the patient and rapidly respond, including to his/her personal needs.[154] Such individualised staff supervision should be performed from within the room or very near the door (within hearing so that personal contact can be established immediately). Contact is to be maintained in an appropriate way aiming at de-escalating the situation and discontinuing the measure. Video surveillance cannot replace such a continuous staff presence. **The CPT calls upon the Polish authorities to amend the Order of the Minister of Health on these two points**.

132. Further, although in general there was no excessive recourse to means of restraint in the establishments visited,[155] the delegation observed relatively long periods (up to 24 hours) of mechanical restraint (belts) being applied to a small number of more challenging patients.[156] As already mentioned in paragraph 127 above, at Toszek Psychiatric Hospital the delegation gained the impression that this was at least to some extent related with the staff attendance pattern.[157] In one case, a forensic patient on Ward VI had been restrained almost without interruption for the period from 20 April to 8 May 2017.[158]

The CPT must reiterate its view that the duration of any mechanical restraint (immobilisation) of a patient should be for the shortest possible time (usually minutes or a few hours); to apply mechanical restraint for periods of days at a time cannot have any justification and could well be considered as amounting to ill-treatment.

The Committee recommends that efforts be made in the establishments visited to reduce the duration of use of mechanical restraint and seclusion, in the light of the above remarks. These efforts should include more training for health-care staff in de-escalation techniques and more intense oversight of the use of means of restraint, both internal (by the establishments' Directors) and external.

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[154] This may include escorting the patient to a toilet facility or helping him/her to drink/consume food.

[155] E.g. at the National Centre, mechanical restraint (belts) had been applied 99 times between 1 January and 1 May 2017 (for maximum 4 hours at a time). Seclusion and chemical restraint were much less frequent, holding being resorted to most frequently (sometimes prior to immobilisation). At Toszek Psychiatric Hospital, there had been 1,439 instances of resort to means of restraint (all types) in 2016 (*nota bene*, the hospital had admitted 3,892 patients in the course of that year).

[156] For example, at the National Centre, out of the aforementioned 99 immobilisation measures recorded between 1 January and 1 May in 2017, 42 concerned one and the same patient, the sole female (see paragraph 122 above).

[157] Rendering the staff complement clearly insufficient after 2 p.m.

[158] He had first been immobilised in his room, then secluded in another available empty room. It should be stressed that his immobilisation (and later seclusion) was systematically interrupted during meal times and for visits to the toilet and shower.

133. At Toszek Psychiatric Hospital, the delegation was concerned to observe that patients could be mechanically restrained in their rooms (as there were no dedicated rooms for this purpose)[159]. Staff did attempt to provide some privacy to restrained patients (e.g. whenever possible, a room would be made available in which the patient concerned would be placed on his/her own or, otherwise, staff would place a movable screen between the restrained patient's bed and the rest of the room) but it was clear that other patients were often able to watch and hear the immobilised patients. **The Committee recommends that the above-mentioned practice be stopped. Restrained patients should not be exposed to other patients, unless they explicitly express a wish to remain in the company of certain fellow patients.**

134. The delegation was surprised by the relatively frequent recourse to seclusion on the forensic adolescent ward at Toszek[160] and the duration of some of the restraint episodes on that ward.[161] In this context, **the CPT recommends that steps be taken on the forensic adolescent ward to replace seclusion with other measures. Dividing the ward into smaller units would facilitate staff control and reduce the need for means of restraint** (see also paragraph 120)**.**

Regarding the use of mechanical restraint (belts) on the forensic adolescent ward, the Committee is of the view that juveniles should in principle never be subjected to means of restraint. The risks and consequences are indeed more serious taking into account the young persons' vulnerability. In extreme cases where it is deemed necessary to intervene physically to avoid harm to self or others, the only acceptable intervention is the use of manual restraint, that is, staff holding the juvenile until he/she calms down. **The Committee invites the Polish authorities to review the practice of applying mechanical restraints (belts) on the forensic adolescent ward in Toszek, in the light of the above remarks.**

135. Many interviewed patients, who had recently been subjected to means of restraint, clearly perceived restraint episodes as punitive.[162] Although the delegation was told that doctors and/or clinical psychologists would usually speak with the patients after the end of the restraint measure, **the CPT recommends that steps be taken at the Regional and National Centres in Gostynin and at Toszek Psychiatric Hospital to ensure that a proper debriefing with the patient always takes place at the end of the application of any means of restraint.** The debriefing should provide an opportunity for the doctor to explain the need for the measure and thus help relieve uncertainty about its rationale as well as discuss the strategies to avoid using means of restraints in the future. For the patient, such debriefing should provide an occasion to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour.

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159 Except on the forensic adolescent ward (see paragraph 131) where, nevertheless, some patients told the delegation that they had been immobilised in their own rooms.

160 277 instances in the course of 2016.

161 E.g. one instance of 28 hours and another of 2 days.

162 Especially at the National Centre, where some patients expressed the view that means of restraint were imposed for the slightest 'misbehaviour'.

136. Some of the patients interviewed at the National Centre referred to what would appear to be informal disciplinary sanctions e.g. confiscation of mobile phones, restricting access to the shop, etc. Further, on the forensic adolescent ward in Toszek there was a system (referred to as 'reset') under which privileges (such as additional time spent in association with other patients, additional items in the room such as TV, computer, MP3 player, participation in recreational activities, etc.) could be temporarily withdrawn as a form of sanction for disobedience and violating the house rules.

The Committee has misgivings about this practice, which would appear to have no place in a therapeutic establishment. **The CPT wishes to receive observations of the Polish authorities on this subject.**

7. Safeguards in the context of involuntary hospitalisation

137. In the establishments visited, the applicable legal framework appeared to be duly followed, patients were aware of the rules[163] and of the review mechanism (whenever such existed, see paragraph 138 below), and were offered adequate possibilities to receive visits[164] and make telephone calls,[165] as well as to make complaints[166] inside and outside the institution, including to the Ombudsman and to patient ombudsmen.[167] That said, the post of patient ombudsman at Toszek Psychiatric Hospital had been vacant for almost a year and patients had to call the national Ombudsman for Patient Rights in Warsaw instead. **The Committee recommends that the vacant post of patient ombudsman at Toszek Psychiatric Hospital be filled as soon as possible.**

138. More generally, the CPT has serious concerns about several *lacunae* of the current legislative framework, such as:

- the absence of a legal and formal mechanism of periodic external review of civil involuntary hospitalisation (unlike for forensic patients and patients placed in the National Centre, where there is an automatic 6-monthly court review based on opinions by two psychiatrists and a clinical psychologist, as well as in some cases – at the National Centre – a sexologist);[168]

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163 They received copies of court decisions and were informed of procedures and deadlines for appeal.

164 There were no restrictions on visits, which took place in pleasant open-type dedicated facilities (albeit under supervision, in the case of patients at the National Centre and some forensic patients).

165 Patients at the National Centre and 'civil' patients in Toszek could have their own mobile phones, and the same system was about to be introduced for forensic patients. Meanwhile, patients had access to payphones on their wards.

166 Information about the bodies to which complaints could be sent (including addresses and telephone numbers) was posted on the walls inside the wards. Patients were also given a copy of the house rules (which they confirmed with their signature).

167 Pursuant to Section 10 of the MHA, patient ombudsmen work in psychiatric establishments (including the Regional and National Centre in Gostynin) and are employees of the Bureau of the Ombudsman for Patient Rights, referred to in the Act of 6 November 2008 on Patient Rights and the Ombudsman for Patient Rights. Their tasks include, in particular: providing assistance in asserting rights (including help in writing and sending complaints) in cases connected with the admission, treatment, conditions of stay at, and discharge from, a psychiatric establishment; investigating or assisting the investigation of patients' oral and written complaints; co-operating with patients' families, statutory representatives, legal or *de facto* guardians; initiating and conducting education and information activities in respect of patients' rights.

168 For civil involuntary patients, there is only an internal review carried out once a month by the hospital (by two psychiatrists from other wards) and the decision to release the patient rests with the hospital's Director (who must immediately inform the relevant guardianship court, see Section 35 of the MHA).

- no distinction is made between consent to hospitalisation and consent to treatment for civil involuntary patients;[169]

- insufficient guarantees of second psychiatric expertise (independent of the receiving hospital);[170]

- ineffective arrangements for legal assistance (there is no obligatory legal representation in the context of civil involuntary procedure),[171] and

- in the case of forensic patients, the lack of sufficient guarantee for the patients to exercise their right to attend review court hearings.[172]

The delegation's attention was also drawn to a grey area in the MHA as regards the situation of patients who have initially been admitted voluntarily but subsequently wished to leave the hospital (while doctors thought that they should remain to continue inpatient treatment). The only general provision in Section 28 of the MHA was considered to be too vague by the doctors with whom the delegation spoke. This resulted in the practice (as observed in Toszek) of *de facto* involuntary patients being held in the hospital without the legal safeguards normally offered to civil involuntary patients.

The CPT recommends that the Polish mental health legislation be amended so as to eliminate all the above-mentioned *lacunae*.

139. Concerning the monitoring, see paragraph 10 above. Apart from the NPM (and NGOs), psychiatric establishments are also visited, at least once a year, by guardianship judges (as regards civil patients) and penitentiary judges (as regards forensic patients and patients placed at the National Centre).

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169 According to Section 33 of the MHA, a civil involuntary patient may be treated against his/her will, although the doctor must inform the patient about the planned course of treatment. This rule does not apply to ECT for which a separate prior written consent is always required. In the CPT's view, psychiatric patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as authorising treatment without his consent. Every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances. That said, in practice the delegation saw at Toszek Psychiatric Hospital that doctors sought consent to treatment even from involuntary patients; this was a positive practice which was, nevertheless, not based on the current law. At the National Centre, patients' consent was always sought and any refusal to consent recorded in the patient's file.

170 As already mentioned in paragraph 111 above, in practice the second psychiatric opinion, whenever sought, was not really independent as it was provided by another doctor working in the same establishment.

171 And, in practice, usually civil involuntary patients did not have a lawyer. As for forensic patients and those in the National Centre, they did have *ex officio* lawyers who rarely met patients at the establishments, and their participation in court hearings appeared to be a mere formality in most cases.

172 Such attendance is not obligatory and was exceptional in practice, especially given that (unlike in the civil procedure), court hearings did not take place at the hospital.

140. At the outset of the visit, the delegation was informed by officials from the Ministry of Health that amendments to the MHA were being prepared in order to increase safeguards for incapacitated patients placed in psychiatric hospitals, *inter alia* by introducing an obligatory court hearing before admission of such patients and the right for the persons concerned to apply for release at any time.[173]

The Committee would like to receive updated information about these amendments and prospects for their adoption.

173 It is noteworthy that, in February 2017, the Polish Helsinki Foundation introduced a cassation appeal to the Supreme Court in a case concerning the existing guardianship legislation and the courts' practice in this respect. It was pointed out that the Polish legislation was too inflexible and that courts tended to abuse the institution of full incapacity, with approximately 90% of proceedings ending with a full incapacitation decision. Courts reportedly tended to apply the measure in a quasi-automatic manner, e.g. upon request by relatives, without any real examination as to whether the measure was really necessary to protect the person's interests. It was also pointed out that the current legislation and (especially) judicial practice were not in conformity with the UN Convention on the Rights of Persons with Disabilities.

APPENDIX I

List of the establishments visited by the CPT's delegation

Police establishments

- City Police Command, Białystok
- Police establishment for children, Białystok
- City Police Command, Bytom
- City Police Command, Gliwice
- City Police Command, Grójec
- District Police Command, Gostynin
- City Police Command, Opole
- District Police Command, Strzelce Opolskie
- Metropolitan Police Command, Warsaw
- District Police Command, Warsaw IV, Warsaw
- District Police Command, Warsaw V, Warsaw
- District Police Command, Warsaw VI, Warsaw
- District Police Command, Warsaw VII, Warsaw
- City Police Command, Zabrze

Border Guard establishments

- Guarded Centre for Foreigners in Białystok
- Guarded Centre for Foreigners in Lesznowola

Prison establishments

- Białystok Remand Prison
- Gliwice Remand Prison
- Prison No. 2 in Strzelce Opolskie
- Warsaw-Białołęka Remand Prison
- Warsaw-Służewiec Remand Prison

Juvenile correctional establishments

- Juvenile Correctional Facility in Białystok

Psychiatric establishments

- Regional Centre for Forensic Psychiatry, Gostynin
- National Centre for Prevention of Dissocial Behaviour, Gostynin
- Toszek Psychiatric Hospital

APPENDIX II

List of the authorities and organisations with which the CPT's delegation held consultations

A. National authorities

Ministry of Justice

Łukasz Piebiak	Undersecretary of State
Krzysztof Masło	Director, Department of International Cooperation and Human Rights
Dariusz Cieślik	Deputy Director, Department of Family and Juvenile Affairs
Luiza Sałapa	Deputy Director, Department of Family and Juvenile Affairs
Paweł Jaros	Head of Unit, Department of International Cooperation and Human Rights
Wojciech Deptuła	Liaison officer, Chief Specialist, Department of International Cooperation and Human Rights
Maciej Delijewski	Specialist, Department of International Cooperation and Human Rights
Maciej Lis	Specialist, Department of International Cooperation and Human Rights

Prison Service

Gen. Jacek Kitliński	General Director of the Prison Service
Col. Jerzy Kopeć	Deputy General Director of the Prison Service
Michał Zoń	Director, Legal Bureau
Gen. Paweł Nasiłowski	Director, Economics Bureau
Col. Roman Wiśniewski	Director, Bureau of Statistics and Information
Col. Bogusław Witecki	Director, Quartermaster and Investments Bureau
Lt. Col. Dr Alicja Kozłowska	Director, Medical Services Bureau
Lt. Col. Roman Kloc	Director, Internal Affairs Bureau
Lt. Col. Zbigniew Gospodarowicz	Director, Security and Defence Affairs Bureau
Maj. Grzegorz Bajda	Director, Personnel and Training Bureau
Lt. Col. Piotr Gomułka	Senior Specialist, Penitentiary Bureau
Lt. Col. Teresa Kujawa	General Director’s Plenipotentiary for Human Rights and Equal Treatment
Maj. Anna Świtek-Bąk	Specialist, General Director’s Bureau

State Prosecutor’s Office

Małgorzata Kozłowska	Prosecutor
Zbigniew Wierzbowski	Prosecutor

Ministry of Internal Affairs and Administration

Mariusz Cichomski	Deputy Director, Department of Public Order
Renata Leoniak	Head of Unit, Department of Public Order
Aneta Suda	Chief Specialist, Department of Public Order
Adam Knych	Deputy Director, Department of Analysis and Migratory Policy
Joanna Sosnowska	Head of Unit, Department of Analysis and Migratory Policy
Wirginia Prejs-Idczak	Minister’s Counsel, Department of Analysis and Migratory Policy
Radosław Kardaś	Expert, Department of Analysis and Migratory Policy
Piotr Zuzankiewicz	Director, Department of Border Policy and International Funds
Krzysztof Brzeziński	Minister’s Counsel, Department of Border Policy and International Funds

Main Police Command

Insp. Dariusz Minkiewicz	Director, Prevention Bureau
Sr. Com. Michał Białęcki	Head of Unit, Criminal Bureau
Marta Krasuska	Specialist, Police Commander’s Office

Main Border Guard Command

Gen. Jacek Bajger	Deputy Commander of the Border Guard
Col. Tomasz Lipski	Bureau of Control, Commander’s Plenipotentiary for Human Rights
Col. Andrzej Jakubaszek	Director, Foreigners Department
Maj. Iwona Przybyłowicz	Counsel, Foreigners Department

Ministry of Health

Zbigniew Król	Undersecretary of State
Dariusz Poznański	Deputy Director, Department of Public Health
Marek Stańczuk	Specialist, Department of Public Health
Inga Markiewicz	Legal Assistant, Institute of Psychiatry and Neurology

Office of the Commissioner for Human Rights (Ombudsman)

Stanisław Trociuk	Deputy Commissioner
Ewa Dawidziuk	Director, Penalty Execution Team
Justyna Lewandowska	Director, National Prevention Mechanism
Przemysław Kazimirski	Deputy Director, National Prevention Mechanism
Marcin Kusy	Senior Specialist, National Prevention Mechanism
Sulimir Szumielewicz	Counsellor, National Prevention Mechanism

B. International organisations

National Office of the United Nations High Commissioner for Refugees (UNHCR)

C. Non-governmental organisations

Helsinki Foundation for Human Rights