

Response

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

from 21 March to 1 April 2022

Since January 2024, reports on CPT visits to Poland and related Government responses are published under an automatic publication procedure.

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Minister Sprawiedliwości

DWMPC-III.853.44.2023
Warsaw, 29 April 2023

Mr Allan Mitchell
President
of European Committee for the Prevention of Torture
and Inhuman or Degrading Treatment or Punishment

Dear Mr President,

In response to the Report concluding the Committee's visit to Poland from 21 March 2022 to 1 April 2022, I respectfully submit the following remarks and information:

To begin with, I wish to thank the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment for its visit to Poland and the consequent report. Polish authorities appreciate the Committee's efforts on behalf of raising the standards for the treatment of detainees, are fully open to collaboration with the Committee on this matter and have carefully studied the Committee's report and its recommendations.

We place great importance on the appropriate treatment of detainees, respecting their dignity and eliminating all cases of torture or other ill-treatment, provided, however, the achievement of the purpose for which the deprivation of liberty in the individual cases has taken place, especially the proper enforcement of penalties imposed by court judgements, as well as protection of the legal order and safety of citizens.

This response follows the layout of the Committee's Report, referring in the respective order to matters relating to Police detention locations, Polish Border Guard's facilities, penitentiaries and pretrial detention centres, as well as the Gostynin Centre (National Centre for the Prevention of Antisocial Behaviours).

I. Topics relating to the Police

Ill-treatment

When evaluating the adequacy of the conduct of either the detainees or the intervening Police officers, every case unquestionably must be considered on an individual basis, after sourcing comprehensive materials documenting the course of the specific events. The events described in the Report constitute selected fragments of official activities transacted by Police officers, based on information obtained presumably from the detainees themselves. Without being given specific details of those events, it is impossible to verify them. Any abuse of force by Police, let alone torture and ill-treatment of detainees, is not a systemic, commonplace or notorious development in Poland. Any such situations are incidental and isolated, and any information concerning them is the subject of diligent verification and investigation.

Officers' training

In accordance with the Act of 24 May 2014 on Direct Coercive Measures and Firearms (Dz.U.2022.1416), Police officers have a duty to comply with the terms of use of direct coercive measures in such a manner as to minimize the damage done and to discontinue the application of such measures once their purpose has been achieved. Police officers also have a duty to exercise special care while employing direct coercive measures, paying regard to the such of their characteristics as may present a danger to the life or health of the authorized user or any other person. In line with the applicable provisions, while employing or relying on physical force, the authorized user shall not strike blows unless acting to repeal an assault on the life or health of the authorized user or others or property, or to prevent the target from escaping. With regard to the use of handcuffs, the aforementioned act explicitly mandates that persons shall have their hands cuffed behind their back; only in the case of preventive use or if the authorized user is of the opinion that there exists a probability of attempted escape, active resistance or conduct threatening life, health or property is low, then hands may be cuffed in the front. The regulations governing the use of direct coercive measures also apply to the use of the service baton. When applying direct coercive measures, Police officers are required to comply with the principles arising from § 4 of Order no. 805 of the Chief Commandant of the Police of 31 December 2003 concerning the 'Principles of Professional Ethics of a

Police Officer' (Dz.Urz.KGP.2004.3),¹ whereby a Police officer, in all of their actions, has a duty to respect and protect human rights and especially to respect every human person's right to life and the prohibition against initiating, using or tolerating the use of torture or inhuman or degrading treatment.

Accordingly, officers' professional training emphasizes the importance of direct coercive measures being used in such a way as to inflict the least possible suffering on the detainee while simultaneously complying with the rules intended to ensure the safety of the officer's person. Moreover, professional training, as well as central and local continued-professional-development programmes in the area of intervention tactics and techniques teach officers to emphasize the lawful and correct use of intervention techniques, demonstrating the use of restraining lock as a coercive measure, consisting in the immobilization of an individual in the prone position with the use of the weight of the officer's body (with the officer kneeling on the target). The duration of the use of such restraining lock ought to be as short as possible, and the goal of the officers executing it should be to place handcuffs on the target as soon as possible. Following the imposition of cufflinks, if there is no threat, control of the position of the detainee's body must be exercised in such a manner as to enable unrestricted breathing. The use of physical force, as well as other direct coercive measures must be adequate to the situation, the target's conduct at the location of the intervention, as well as the target's age, sex and physical characteristics.

Officers' basic training delivering the curriculum attached as a schedule to Decision no. 376 of the Chief Commandant of the Police of 21 December 2022 on the Curriculum of the Basic Professional Training (Dz.Urz.KGP.238) includes instruction in intervention tactics and techniques, including without limitation the 'use of physical force as a direct coercive measure', as well as technical skills for use in Police interventions with regard to: transportation of individuals with the use of physical force; the service baton as a direct coercive measure; co-operation of a patrol of two for the purpose of restraining individuals with the use of physical force; techniques for the imposition of handcuffs and for the monitoring of the target individual; and team techniques for the restraining of

Official Journals of the Chief Commandant of the Police are available at the Police's website at <http://bip.kgp.policja.gov.pl> (until 2011) and in the Police National Headquarters Electronic Journal at <https://edziennik.policja.gov.pl> (since 2012).

individuals with the use of technical direct coercive measures (including without limitation straitjackets and safety helmets).

In this regard, one of the aspects to which special attention is drawn are elements such as overtightening prevention for handcuffs with the use of a lock, and methods for placing handcuffed individuals in a prone or standing position. The training also covers examples of situations in which the restraining has to be discontinued immediately (with continued control), especially in situations of danger to life or health. Emphasis is placed on the fact that, for safety reasons, a straitjacketed individual requires intensified monitoring and the fastening or tying of the straitjacket must permit breathing and unrestricted blood circulation. In cases necessitating the use of force, officers must use professional techniques to minimize the risk of harm to the detainee.

The NCO training programme introduced by Decision no. 377 of 21 December 2022 (Dz.Urz.KGP.239), too, also includes topics covered by the Report. The part of said training dealing with *Difficult interventions and first aid* is dedicated to honing the technical and tactical skills relating to the use of direct coercive measures. The exercises include without limitation the refinement of the aforementioned skills, with account being taken of the various categories of persons with regard to whom interventions are undertaken, the rules governing the conduct of interventions in difficult and atypical situations, maintaining control of individuals in various situations, safe use of techniques for the immobilization of an individual with the use of the officer's own body weight, and refraining from the application of said techniques when the reasons for their application cease, as well as after handcuffing, if the individual is complying with the officer's instructions.

In the training programme for warrant officers, introduced by Decision no. 378 of 21 December 2022 (Dz.Urz.KGP.240), the part dealing with *Intervention tactics and techniques* covers, among other things, topics relating to the refinement of skills relating to intervention tactics and techniques in various places and situations, such as in vehicle, staircase, apartment or public space, with the simultaneous emphasis on the necessity for the use physical force and other direct coercive measures to be adequate.

In the training programme for commissioned officers, introduced by Decision no. 379 of 21 December 2022 (Dz.Urz.KGP.241), the *Selected topics in intervention tactics and techniques* range includes topics such as securing detainees for transport; use of

restraining techniques; handcuffing; use of a multi-functional and expandable baton as a direct coercive measure; defences against grips; use of physical force in the form of kicks and blows; defence by the use of physical force, service baton or firearms against being attacked with a dangerous object; conduct of interventions in difficult and atypical situations, where — in accordance with the guidelines — emphasis must be placed on the need that the use of physical force and other direct coercive measure be adequate with regard to the situation, the target's conduct, at the location of the intervention, as well as the target's age, sex and physical characteristics, having regard to the location where the intervention is taking place.

I wish to emphasize that in connection with the increasing number of interventions involving persons exhibiting non-standard behaviours, by Decision no. 399 of the Chief Commandant of the Police of 18 November 2021 concerning the teaching programme in the specialized course for prevention officers in the area of intervening and responding to non-standard behaviours of persons in whose respect the intervention is taking place, officers are given the opportunity to expand their knowledge and skills with regard to such interventions. The refinement of intervention tactics and techniques places emphasis on restraint combined with pursuing the safe performance of the technique and control of the position of the detainee's body so as to allow breathing. The importance of safety while bringing the detainee to the prone position and of the use of the chokehold with necessity of constant monitoring of the target's condition and consciousness. Moreover, the programme includes at least one simulated intervention requiring first aid, with emphasis on the need for officers to work together with the Medical Rescue Team.

The aforementioned topic range is also included in the curricula of specialist courses regulated by Decision no. 401 of the Chief Commandant of the Police of 30 December 2022 *concerning the curriculum of the specialist course for criminal officers performing operational and explorative activities* (Dz.Urz.KGP.2023.4) and Decision no. 400 of the Chief Commandant of the Police of 30 December 2022 *concerning the curriculum of specialist course for criminal officers performing investigative activities* (Dz.Urz.KGP.2023.3) and Decision no. 402 of the Chief Commandant of the Police *concerning the curriculum of the specialist course for officers in the area of counteracting the demoralization and criminality of minors* (Dz.Urz.KGP.2023.5). The teaching of tactics and techniques in the aforesaid courses includes the demonstration of techniques

appropriate for the specific needs of interventions involving persons with mental disabilities or individuals unable to control their own conduct for other reasons. In this regard, the recommendation is to rely on a list of principles gathered together in a theoretico-practical handbook titled *Interventions involving persons with mental disabilities or unable to control their own conduct for other reasons*.

The topics within the CPT's area of interest are also featured in the curricula for specialist courses in community policing and in service in facilities for detainees, intoxicated individuals and in Police facilities for minors (Dz.Urz.KGP.2016.1 and Dz.Urz.KGP.2022.77).

Moreover, acting in pursuance of recommendations developed by the Ministry of the Interior and Administration's *Team for the Analysis of Cases of Unlawful Conduct by Police Officers*, the National Police Headquarters' Bureau for Human Resources, Training and Legal Affairs and Prevention Bureau have developed and distributed to organizational units within the Police structure the following programmes designed for officers using direct coercive measures the most often during the performance of the duties of their service:

- *Programme of Local Continued Professional Development Activities for Officers within the Organizational Structure of the Police with regard to the Use of Physical Force as a Coercive Measure;*
- *Programme of Local Continued Professional Development Activities for Officers within the Organizational Structure of the Police with regard to the Use of the Service Baton as a Coercive Measure.*

The above programmes also emphasize the need for the officers to:

- respect human dignity and human rights;
- use direct coercive measures adequately to the individual's conduct, physical characteristics, age and sex;
- immediately cease to act (while maintaining uninterrupted control) in a situation threatening to life or health.

Moreover, having regard to the implementation of the *Activity Plan of the Chief Commandant of the Police for 2023*, and *Priorities and Priority tasks of the Chief Commandant of the Police for 2021–2023*, especially Priority IV: Ensuring Optimal Conditions of Service/Work and Task 2: Refining the Conditions and Increasing the

Potential to Maintain Suitable Levels of: Physical Fitness and Marksmanship Training of Officers Through Organizational and Logistical Activities, the National Police Headquarters annually develop and implement recommendations concerning the implementation of the assumptions, scopes and criteria of physical-fitness activities incorporated in the local CPD training. These include instruction as to the need to discuss topics relating to the principles of the professional ethics of a Police officer and respect of human rights.

The right to have close persons or others informed of the detention

The applicable laws and regulations ensure that the detainee is given the opportunity to inform more than one person of their detention, in lieu of or besides a close person. In accordance with Article 245(3) in conjunction with Article 261(1) of the Code of Criminal Procedure, detention shall be notified to such person close to the detainee as the detainee may specify; in lieu of or besides such person, another such person may be notified as the detainee may specify. Moreover, if so requested by the detainee, the employer, school, university, commander (for soldiers) or manager of the enterprise (for an entrepreneur) must be informed.

It should be noted that the right of information consists in informing the close person or other designated person or institution — orally, by telephone or otherwise — of the detention. The action is recorded by the officers in the ‘detention notified to’ field of the detention form in accordance with Article 245(2) of the Code of Criminal Procedure/Article 46(3) of the Code of Infraction Procedure, mentioning who was informed of the detention, how and when (the form contains fields for entries concerning the notification of the persons specified by the detainee).

The designated person is informed without delay, which means as soon as technically possible and as soon as the officers have completed such formalities and factual activities as demand immediate performance. In criminal proceedings, such activities are listed in Chapter 27 of the Code of Criminal Procedure and include:

- informing the detainee of being detained, the reasons for the detention and their rights as a detainee;
- preventing the detainee from being able to escape or hide;
- administering first aid if needed;
- recording any statements by the detainee;
- gathering the necessary data;

- notifying the public prosecutor.

Considering the foregoing, the Committee's recommendations in this regard are fully complied with.

The right to a lawyer

The Police complies with the detainee's right to contact a defence counsel, grounded in the provisions of Polish Constitution (Article 42) and Act of 6 June 1997 — *Code of Criminal Procedure*.

The provisions mandate that the detainee (suspect) must be informed immediately of the reasons for their detention and their rights, including without limitation:

- right to the assistance of a lawyer (advocate or counsellor-at-law);
- right to the assistance of an interpreter, free of charge, if not sufficiently proficient in the Polish language;
- right to make or refuse a statement;
- right to be given a copy of the detention form;
- right to receive first aid;

and rights mentioned in Articles 245², 246(1)³ and 612(2)⁴ of the Code of Criminal Procedure, as well as contents of Articles 248(1) and 248(2) concerning the maximum allowed duration of the detention.

Under statutory delegation from Article 244(5) of the Code of Criminal Procedure, the Minister of Justice has defined, by Regulation of 3 June 2015, Model Instruction on the Rights of a Detainee in Criminal Proceedings.

While giving such instruction to the detainee, the officers follow § 87(6) of Guidelines no. 3 of the Chief Commandant of the Police of 30 August 2017 *concerning the performance of certain investigative activities by Police officers*.⁵

² Article 245(1). At their own request, the detainee shall without delay be given the opportunity to contact a lawyer by such form of contact as may be available and to hold a direct conversation with such lawyer; in exceptional cases warranted by special circumstances the detaining officer may demand to be present during such conversation.

³ Article 246(1). The detainee shall have a right to complain to a court of law. The detainee's complaint may request the review of the merits, legality and propriety of the detention.

⁴ Article 612(2). In the detention of a foreign national, such detainee must, at their own request, be given the opportunity to contact, by such form of contact as may be available, the relevant consular office or diplomatic mission.

⁵ § 87(6). In the detention form, the officers shall record any statements made by the detainee after being detained and instructed on the reasons for the detention and their rights as a detainee, in the manner specified in section I. While giving the detainee the written instruction on their rights in criminal procedure,

The provisions followed by the Police for the purpose of giving effect to the detainee's (suspect's) right to contact defence counsel include without limitation the provisions issued under delegation from Article 517j of the Code of Criminal Procedure, viz. Regulation of the Minister of Justice of 23 June 2015 *concerning the manner of ensuring the assistance of a defence counsel to a detainee in expedited proceedings* (Dz.U.2015.920). In accordance with the aforesaid Regulation, there is a mechanism in place at the Police whereby the detainee (suspect) has the opportunity to find information about lawyers in the town or village whose assistance can be sought (lists of advocates and counsellors-at-law).

This is also regulated by §§ 87(2) and 87(3) of the aforesaid Guidelines of the Chief Commandant of the Police.⁶

It must also be noted that Chapter 3 of the Regulation of the Council of Ministers of 4 February 2020 *concerning the procedure for the exercise of certain powers of Police officers*⁷ contains detailed regulation of detention outside of criminal proceedings, i.e. preventive or penitentiary detention. It also provides the model forms for:

- record of detention;
- instruction for the detainee about their rights pursuant to Article 15(1)(2a) of the Act on the Police⁸ (penitentiary detention);
- instruction for the detainee about their rights pursuant to Article 15(1)(3) of the Act on the Police (preventive detention);

The Regulation of the Minister of Justice of 23 June 2015 *concerning the manner of ensuring the assistance of a defence counsel to a detainee in expedited proceedings* applies to preventive detention pursuant to Article 2(15) of the Act on the Police.¹⁵

the officers must also explain the contents to the detainee. A copy of the instruction undersigned by the detainee shall be put on the main file of the case.

⁶ § 87(2). At their own request, the detainee shall without delay be given the opportunity to contact a lawyer by such form of contact as may be available and to hold a direct conversation with such lawyer. The presence of a Police officer during such conversation shall be exceptional and justified by special circumstances.

§ 87(3). For the purpose of giving the detainee the opportunity to contact a lawyer, the path set out in the Regulation of the Minister of Justice of 23 June 2015 concerning the manner of ensuring the assistance of a defence counsel to a detainee in expedited proceedings shall apply *mutatis mutandis* (Dz.U.920).

⁷ Dz.U.2020.192

⁸ While performing the activities mentioned in Article 14, the officers shall have the power to:

- (2a) detain such inmates as may have left the pretrial-detention facility or prison by permission of the competent authority and failed to return within the time set;
- (3) detain such persons as may be presenting a self-evident direct threat to human life or health or property;

The provisions applicable to the matter at hand secure the detainee's access to a lawyer and establish a system of legal assistance for detainees.

Irrespective of the foregoing, I wish to advise that December 2022 has seen the preparation of a draft bill in the Senate, upon the initiative of senators, for an Act amending the Code of Criminal Procedure (Senate print no. 875), intended by the sponsors to serve as the implementation of Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 *on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty*. The proposal is to insert in Article 245 of the Code of Criminal Procedure a § 4 governing the duty to designate an advocate or counsellor-at-law if the detainee intends to exercise the right to the assistance of a lawyer and mandate in § 5 that procedural activities involving a detainee are, as a rule, to require the participation of an advocate or counsellor-at-law. According to the draft, the interrogation of a detainee without the participation of defence counsel contrary to the detainee's wishes should only be allowed in specifically defined special, exceptional situations. The draft is currently pending analysis by the relevant committees in the Senate.

The Ministry of Justice is of the opinion that the existing provisions are not incompatible with those of the Directive 2013/48/EU.

The Directive requires EU member states to ensure that suspects and detainees are given the opportunity to contact a lawyer and that the lawyer's participation in procedural activities involving the detainee are allowed at the earliest possible stage of the proceedings.

However, the Directive expressly provides in its Article 3(6) for the possibility of carrying out activities at the pretrial stage, even contrary to the detainee's requests, without the participation of a lawyer and prior to the appointment of a lawyer, where, among other situations, 'immediate action by the investigating authorities is imperative to prevent substantial jeopardy to criminal proceedings.' At the earliest stage of criminal proceedings it is usually of especial importance, in order to avoid substantial jeopardy to the criminal proceedings, to perform procedural activities swiftly and efficiently, including those involving the detainee. Such urgent activities usually must be completed within 48 hours

of the detention, because that is the maximum duration of detention before remanding the detainee to the court, and it is during that time that the decision must be made as to any preventive measures, among other things. In such situation, it may be necessary to proceed with the activities without the participation of defence counsel.

Where pretrial detention is requested, the lawyer is practically always admitted to the court hearing if willing to attend, and is informed about the contents of the motion for pretrial detention and the underlying evidence, as well as given the opportunity to converse with the detainee.

Statements by detainees concerning the intention to lodge a complaint

In accordance with Article 150 of the code of Criminal Procedure, the detention form must be signed by all participants in the activity, including the detainee. Prior to signing, the detainee is given the opportunity to read the contents. A participant in the activity (including the detainee) may submit objections as to the contents while signing. Such objections are recorded on the form together with a statement from the person performing the recorded activity. Thus, there exist legal safeguards protecting the detainee from distortions of their statements on the record, also with regard to the intention or lack of intention to lodge a complaint. The contents entered in detention forms reflect solely the contents of the detainees' statements, made completely of their own free will and without any pressure or coercion.

Detention of minors

I wish to advise that on 1 September 2022 the Act of 9 June 2022 on Assistance for and Rehabilitation of Minors (Dz.U.2022.1700) came to force.

Pursuant to Article 48(3) of the aforesaid Act, a detained minor shall immediately be informed of the reasons for the detention and instructed on their rights mentioned in Article 36(1) (right to mount a defence, including without limitation the right to the assistance of defence counsel and right to apply for a court-appointed lawyer in the case referred to in Article 38(3); the right to refuse statements or answers to individual questions; right to the assistance of an interpreter free of charge if not sufficiently proficient in the Polish language; right to the assistance of a sign-language interpreter free of charge if the detainee is a person referred to in Article 1(2)(1) of the Act of 19 August 2011 on Sign Language and Other Methods of Communication), as well as the right to make a statement for the record in the detention form, to be given a copy of the detention

form, to contact a parent or guardian or defence counsel, to receive any necessary medical assistance, as well as Article 85(1) of the Act on Assistance for and Rehabilitation of Minors, as well as grounds for the immediate release of a detained minor set out in Article 48(9) of said Act.⁹ If needed, the minor shall be instructed concerning the right referred to in Article 612(2) of the Code of Criminal Procedure.¹⁰

It must be emphasized that, in line with Article 59(3) of the Act of 9 June 2002 on Assistance for and Rehabilitation of Minors, the interrogation of a minor by a Police officer shall be in the presence of at least one parent having parental responsibility or guardian or defence counsel, and, where impossible to ensure their presence in a given case, the officers must summon, according to the minor's choice, any close person specified in Article 115(11) of the Criminal Code, a relative of the minor, representative of the minor's school, family assistant, foster-care co-ordinator or representative of a social organization, including NGO, having the objective of educational or therapeutic work with minors, prevention of demoralization of minors, or assistance with the social re-adaptation of minors. The minor's interrogation is on the record.

Moreover, as mandated by Article 60(2) of the Act of 9 June 2022 *on Assistance for and Rehabilitation of Minors*, the minor's being heard (*wysłuchanie*) and the interrogation of the minor must be recorded with a video- or audio-recording device.

It must also be noted that, in accordance with Article 37(7) of said Act, Article 517j(1) of the Code of Criminal Procedure¹¹ and provisions enacted on delegation from Article 517j(2) of the Code of Criminal Procedure apply *mutatis mutandis* for the purpose of ensuring that the minor receives the assistance of defence counsel in cases necessitating the immediate commencement of defence, including without limitation the detention of

⁹ Article 48(9). The detained minor shall be released immediately and handed over to a parent or guardian if:
 (1) the reason for the detention has ceased;
 (2) the family court has so ordered;(3) within 24 hours of the minor's detention the Police have not provided the family court with complete gathered materials justifying the suspicion that the minor has committed a criminal offence referred to in [Article 1\(2\)\(2\)\(a\)](#);

(4) within 24 hours of the handing over by the Police to the family court of the complete materials justifying the suspicion that the minor has committed the criminal offence referred to in [Article 1\(2\)\(2\)\(a\)](#) the minor has not been informed of an order imposing the pretrial measure referred to in [Article 44\(4–8\)](#).

¹⁰ In the detention of a foreign national, such detainee must, at their own request, be given the opportunity to contact, by such form of contact as may be available, the relevant consular office or diplomatic mission, and in the detention of an individual holding no nationality whatsoever, a representative of the state of such individual's permanent residence.

¹¹ For the purpose of enabling the defendant's use of the assistance of defence counsel in expedited proceedings, advocates and counsellors-at-law shall be on duty at times and locations to be specified by separate provisions.

a minor, interrogation of a minor by the Police, or imposition of a pretrial measure on a minor.

The aforesaid new Act on Assistance for and Rehabilitation of Minors has considerably expanded the list of situations entailing the mandatory participation of defence counsel in the proceedings, compared to the previous Act on Proceedings in the Cases of Minors. It also defines detailed rules for the application and implementation of custodial measures with regard to minors, whether pending the proceedings or imposed in connection with the minor's commission of a criminal offence or their demoralization. The purpose of the Act includes without limitation ensuring that the rights, freedoms and dignity of minors are respected, also in situations of deprivation of liberty in connection with the commission of a criminal offence or demoralization.

Access to medical assistance

In accordance with Article 15(5) of the Act on the Police, the detainee must, in cases of justified need, be subjected to a medical examination or given first aid.

It must be noted that, according to §§ 1(3)(1) and 1(3)(2) of the Regulation of the Minister of the Interior of 13 September 2012 *concerning the medical examination of persons detained by the Police*, a detainee shall undergo medical examination if:

- the detainee cites conditions requiring permanent or periodical treatment, the interruption of which would jeopardize their life or health, or demands medical examination or bears visible injuries on the body not indicating an urgent threat to their health;
- it appears from the information available to the Police or the circumstances of the detention that the detainee is a pregnant or breastfeeding woman or suffering from a communicable disease or from a mental disorder, or a minor having consumed alcohol or a substance causing similar effects.

In accordance with §§ 3(1)(2) and 3(1)(3) of the aforesaid Regulation, it is the examining physician who makes the decision concerning the presence or lack of medical contraindications for the person's placement in rooms intended for detainees or the necessity of referring the detainee to an appropriate health-care facility.

Prior to the detainee's medical examination by a physician, information concerning their health is gathered on the basis of their own oral statement or observations made by the detaining officer. The appropriate mentions concerning this will be made in the record of

the detention (the detention form), which is mandatory pursuant to Article 244(3) of the Code of Criminal Procedure.

As follows from the provisions governing the matter, cases in which a person detained by the Police is to be subjected to a medical examination are specified in a precise manner by the relevant legislative instrument, which does not require the Police to subject every detainee to a mandatory medical examination.

In reference to the assurance of specialized medical assistance for detainees, e.g. from a psychiatrist, it must be noted that Police officers do not have the requisite qualifications and authorizations to determine what type of medical assistance is appropriate in a given situation. It is the physician who, irrespective of whatever their specialization might be, also has the benefit of general medical knowledge and is in a position to determine the course of action during the basic examination of the detainee, without excluding the possibility of consultation with specialists.

As for the presence of Police officers at the examination of a detainee or person held for sobering, it must be noted that this matter is regulated by § 4(2) of the Regulation *concerning the medical examination of persons detained by the Police*. In line with the latter, the decision concerning the officer's presence during the medical examination of a detainee is made by the examining physician. Usually, such situations occur in cases involving the examination of persons who are aggressive or as to whom there exists a reasonable suspicion of the possibility of an assault on life or health, including their own, or attempt to escape. The purpose of the officer's presence is to ensure broadly understood safety, both of the physician conducting the examination and of the detainee.

Electronic record of interrogations

Investigative activities undertaken by the Police are subject to Article 147 of the Code of Criminal Procedure. The audio-visual recording of procedural activities, with exceptions specified in Article 147(3), is optional and in the discretion of the procedural body responsible for conducting the relevant activity. Audio-visual recording may apply to any procedural activity required to be reflected by the case record. Participants must always be forewarned of audio-visual recording. The decision whether to use audio-visual recording does not require the participant's consent. The audio-visual record is an auxiliary form of record of the procedural activity and does not waive the duty to make a written record. In accordance with Article 147(3) of the Code of Criminal Procedure, in

cases of audio-visual recording, the written record may be limited to the most important statements made by participants. The recording of procedural activities on the basis of Article 147 of the Code of Criminal Procedure must comply with the requirements specified by the Regulation of the Minister of Justice of 11 January 2017 concerning audio-visual recordings made for procedural purposes in criminal proceedings.¹² In so far as possible, so-called interrogation rooms fitted out with suitable equipment are established at Police units. The standard for newly constructed Police facilities is to include such rooms.

Detainee quarters — technical conditions

Provisions of the Regulation of the Minister of Internal Affairs of 4 June 2012 *concerning spaces intended for detainees and persons held for sobering, transitional rooms, temporary transitional rooms and Police facilities for children, the terms of stay in such spaces, rooms and facilities and the handling of video records of such spaces, rooms and facilities* (Dz.U.2012.638, as amended) govern the details of the conditions to be met by spaces intended for detainees. In accordance with § 4(1), the following are included:

- room for detainees or persons held for sobering;
- room for the preparation or heating of meals and washing of dishes;
- storage for deposited property and for bedlinen;
- sanitary room for personal hygiene, including a wash basin, shower and toilet.

The following may be included, in accordance with § 4(2):

- cloakroom for staff;
- room for the conduct and recording of official activities involving the participation of a detainee;
- room for the shift duty officer — if the detainee quarters include more than one ward;
- staff room.

Provisions governing the functioning of detainee quarters do not foresee the creation of walking yards in such quarters for persons held in them. No provisions of international law binding on Poland impose such a requirement. In accordance with Article 41(3) of Polish Constitution (and Article 248(2) of the Code of Criminal Procedure), detention and

¹² Dz.U.2017.93

therewith stay in detention quarters may not exceed 48 hours, and an additional 24 hours where the detainee is remanded to the court. During detention, procedural activities are undertaken involving the participation of the detainees, who are also transported and conducted to the competent authorities. Considering the duration of detention (usually shorter than the statutory 48 hours), the conditions prevailing in detainee quarters and considerations of security and safety, the lack of walking yards in the vicinity of such quarters does not constitute ill-treatment.

Use of direct coercive measures

In accordance with the Act of 24 May 2013 on Direct Coercive Measures and Firearms (Dz.U.2013.628), one of directive coercive measures is the use of a straitjacket.

On the basis of Article 16 read in conjunction with Article 11 of said Act, a straitjacket shall be used if the use of other direct coercive measures is impossible or may be futile, and only in the necessity of at least one of the following:

- counteraction of actions leading directly to an assault on the life, health or freedom of the authorized user or other person;
- counteraction of a violation of the public order or public safety;
- protection of the order or safety in areas or facilities for which the authorized user is providing security;
- apprehension of an individual, frustration of an escape attempt, or pursuit of a fleeing individual;
- detention of an individual, frustration of an escape attempt, or pursuit of a fleeing individual;
- overcoming of active resistance;
- counteraction of actions leading to self-harm.

The most frequent use a straitjacket in Police legal-custody locations is in situations involving the counteraction of actions leading to self-harm by an individual held in custody in such a location.

The use of a protective helmet as a direct coercive measure is regulated by Articles 11, 14 and 13(1) of the Act. The protective helmet may be used in order to prevent probable actions leading to aggression or self-harm or counteract such actions already being undertaken.

At the same time, pursuant to Article 17(2) of the Act, the protective helmet shall be used in order to prevent self-harm to the head, following the prior imposition of a single-piece safety belt or straitjacket or handcuffing in the back.

In accordance with Article 51, the officer must document the use of direct coercive measures with a note to be submitted to the officer's superior, wherever injury to the person or the emergence of other visible signs of threat to their life or health, or death or injury of that person or death of an animal or destruction of property has resulted. In the absence of any such results, the officer shall document the use of direct coercive measures in the service notepad.

Thus, the use of drastic coercive measures such as a straitjacket, protective helmet or restraining belt is a last resort for specially justified cases; in practice, usually to protect the life and health of detainees themselves.

Preventive checks on detainees

In accordance with Article 15 of the Act of 6 April 1990 on the Police (Dz.U.1990.179), police officers executing operational and exploratory activities, investigative activities or administrative and order-keeping activities have powers including without limitation: checking individuals' identity papers in order to ascertain their identity; searching the body; detaining individuals in cases and by procedures specified by the Code of Criminal Procedure and other statutes, as well as giving orders to individuals with regard to their conduct, within the boundaries necessary for the performance of said activities or other activities of the service such as may be undertaken within the scope and for the purpose of the statutory tasks of the Police.

It must be noted, however, that the legislation governing the functioning of Police spaces for detainees and persons held for sobering and Police facilities for children does not include the institution of body search. The scope of activities falling within the area concerned has been defined as a prevention check. These matters are regulated by Article 15(1)(9)(b) of the Act on the Police. In accordance with the latter, Police officers have the power to perform a preventive check for the purpose of protection from unlawful assaults on the life or health of persons or on property or for the purpose of protection from unlawful conduct resulting in a threat to life or health or public security or order, as well as to find and confiscate such items as, if used, might result in a threat to life or health or to the safety of activities undertaken with regard to persons:

- being conducted by the Police upon instruction or order from a competent authority or in connection with the performance of activities specified by the provisions of the law; or persons being conducted by the Police to be held for sobering at a Police unit or some other location specified by provisions of the law or designated by the competent authority on whose instruction or order the individuals are being conducted, including persons being held in the detainee quarters of Police units or held for sobering;

- being detained in cases specified in Article 15(1)(2–3) of the Act, admitted to Police quarters for detainees or individuals held for sobering, transitional rooms, interim transitional rooms or Police facilities for children, or being placed in such quarters.

In accordance with Article 15g(1) of the Act on the Police, the prevention check consists in the manual search of a person, the contents of their clothing, and objects found on their body or held in their possession; check with the use of technical means of detection of dangerous or prohibited materials or devices, including without limitation weapons, explosives, narcotic drugs, psychotropic substances and their precursors; biochemical verification or verification with the use of a service dog, to the extent necessary for the achievement of the purpose of the activities being undertaken in the relevant circumstances and in a manner the least possible invasive of the personal rights of the individual with regard to whom the activities are being undertaken. In turn, in accordance with Article 15g(3) of the Act, with regard to detainees or persons being conducted or escorted, the prevention check may also involve:

- ordering the individual to remove their clothing and footwear;
- removing the clothing and footwear from the individual if the order is not complied with;
- inspecting the body of such individuals, as well as the removed clothing and footwear;
- ordering the surrender and deposition of items specified by statute.

The prevention check must be performed in a manner allowing the individual to leave some of the clothing on their body and, after checking their removed clothing, putting it back on before removing the remaining unchecked clothing, and in circumstances ensuring that the individual's privacy is respected (Article 15d(4)).

It must be noted the practical experience of service in detainee quarters indicates cases of detainees receiving and concealing, in the detainee quarters, dangerous items capable of threatening the health or even life of themselves, as well as others. Such articles are concealed both in the clothing and on the body, including private parts and natural

cavities of the body. Checking a person with a manual metal detector does not always yield the expected result because small elements, often made of alloys combining multiple metals, are not detected by such devices.

In early 2017, the Prevention Bureau of the National Headquarters of the Police prepared *Information concerning articles capable of presenting a threat to life or health discovered during checks of persons being escorted or conducted and placed in Police legal-custody locations*. Examples discussed therein include: paper knife concealed in the anus; razor concealed in the vagina; pen cartridge concealed in the penis; pocket knife concealed between the buttocks.

Considering the foregoing, the adopted method of checking the clothing and body of individuals admitted to detainee quarters, consisting in the inspection at each time of the body of the person being admitted to or staying in detainee quarters, including private body parts covered by underwear, is necessary in justified cases.

II. Guarded facilities for foreigners and other facilities operated by the Border Guard

Special situation on Polish-Belarusian border

In the face of the unprecedented mass-scale migration through the eastern border of the Republic of Poland, controlled by Belarusian special services, the only possible counter-measure was to take extraordinary steps preventing continued escalation and establishing a proportionate tool permitting the effective limitation of illegal immigration on the external border of the European Union. The migration wave artificially generated and sustained by Belarusian authorities is an act of direct hybrid aggression by Belarus on the Republic of Poland and indirectly the entire European Union, with the goal of weakening the security, public order and socio-political stability of Poland and, to some degree, other member states of the EU.

This exceptional, even extreme situation not only called for extraordinary steps but also continues to impose significant difficulties on compliance with the standards accepted by Poland for the treatment of foreigners. Despite the difficulties, Polish authorities have managed to ensure respect for human and other rights with regard to foreigners, even those unlawfully in Poland.

With 26 October 2021 the *Act amending the Act on Foreigners and certain other acts* (Dz.U.2021.1918) came into force, introducing the possibility of extraditing a foreigner detained immediately upon unlawfully crossing the external border of the EU, ordering such individual to leave Polish territory and, on that basis, escorting the foreigner to the border line. The purpose of this amendment is to ensure the effectiveness of proceedings underway and does not restrict the rights of individuals seeking international protection, who are protected by Polish Constitution (Article 56).¹³ A foreigner seeking international protection in Poland has a right at any time to apply for such protection, and the application will be received. Border Guard officers evaluate each case on an individual basis and are required to comply with the principle of *non-refoulement*.

Procedures governing the proceedings for international protection are regulated by the *Act on Granting Protection to Foreigners in the Territory of the Republic of Poland* (Dz.U.2003.1176). A foreigner may apply for protection at the border crossing or in Polish territory, whether lawfully in or unlawfully. Applying halts any activities aimed at returning the foreigner, pending the resolution of the case (Article 305(1) of the Act on Foreigners).

The Border Guard's tasks consisting in the protection of the state border and prevention and counteraction of illegal migration are performed with due diligence. The procedures used for the immediate leaving of Polish territory by foreigners unlawfully crossing the border are of exceptional nature and apply to persons not seeking international protection in Poland. It must be emphasized that, in accordance with Article 303b(1) of the Act of 12 December 2013 on Foreigners (Dz.U.2013.1650) as amended, the foreigner may lodge a complaint against an order obliging them to leave. All procedures followed by Polish border authorities with regard to foreigners take account of the need to protect the foreigners' life and health. Regardless of the location and manner of their crossing of the border, foreigners are provided with medical assistance and other necessary support if needed. Coercive measures are used only in situations and in a manner specified by

¹³ Article 56 of Polish Constitution

(1) Foreigners shall have a right of asylum in the Republic of Poland in accordance with principles specified by statute.

(2) Foreigners who, in the Republic of Poland, seek protection from persecution, may be granted the status of a refugee in accordance with international agreements to which the Republic of Poland is a party.

applicable laws and regulations intended to minimize the dangers to the life and health of persons.

Capacity of detention facilities for foreigners

The year 2022 saw a decline in the scale of illegal migration to Poland; for this reason, the Wędrzyn facility, as well as the Czerwony Bór and Biała Podlaska facilities of the Office for Foreigners, placed in the use of the Border Guard, have been withdrawn from use. This means that the number of guarded facilities in use is once again at six. As at 31 December 2022, the Border Guard had at its disposal 852 spots (with the option for additional 300, upon inclusion of 100 containers and 200 spots in the new guarded block at Lesznowola facility, which is not yet fully operational), of which 654 occupied.

Decommissioning of Wędrzyn facility

The facility in Wędrzyn, loaned to the Border Guard, was withdrawn from operation with 19 August 2022. By that day, all foreigners staying at the facility had been transported to other facilities, especially the guarded facility in Lesznowola.

Minimum residential space

While fully understanding the CPT's concern as to the reduction of the minimal residential space in the Border Guard's detention facilities, I wish to offer assurances that the provision enabling this reduction is applied only on an exceptional basis. Nevertheless, its inclusion in the statute allows the temporary increase of reception capacity for the purposes of administrative detention in specific cases. This, in turn, makes it possible to avoid the application of the solution allowed by Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 *on common standards and procedures in Member States for returning illegally staying third-country nationals* in its Article 16(1), which provides that migrants may be placed in prisons (in locations separated from those holding ordinary inmates) if the detention system cannot hold them.

The utilization of spots available in guarded facilities is constantly monitored from the level of the National Headquarters of the Border Guard through monthly assessments of risks to the holding capacity of the administrative-detention system.

Organization of activities for foreigners in guarded facilities

Having regard especially to the stay of minors in guarded facilities, the Border Guard has since April 2022 established a partnership with Caritas Polska. One of the elements of this collaboration are integration and other activities in family facilities. The offering is

adapted to the needs of the children's age groups. The activities are managed by professional staff employed by Caritas Polska. The meetings are held in consultation and co-operation with Border Guard employees responsible for providing psychological and education assistance to detainees. As an additional advantage, Caritas Polska has outfitted recreational and educational spaces with elements contributing to the diversification of the activities, such as sensory mats, ball pools, portable magnetic dry-erase boards, and animation pillows.

Large emphasis is placed on preschool education, translating into children's eventual preparation for school. Educational and formative sections in facilities in which families with children may be staying are required to introduce additional activities for preschool children.

Granted, during the Committee's visitation of guarded facilities, temporary difficulties may have been the case at some locations due to the sudden rise in the scale of illegal immigration. However, once the situation has stabilized, the offering of activities at each of the facilities has been enriched to meet the required standards. Nevertheless, in keeping with the Committee's recommendations, the Border Guard National Headquarters has requested all head managers of guarded facilities for foreigners to analyse and, as appropriate, modify the schedules of proposed activities and events so as to raise the standards in this regard.

Duration of detention of foreigners

To bring the duration of detention to a minimum is a priority for Polish authorities responsible for activities involving foreigners in guarded centres and especially families with children.

In the majority of cases, proceedings for international protection are pending with regard to this category of individuals; due to the complexity of the relevant procedures, the detention is sometimes prolonged. For this reason, in 2022 emphasis was placed on the effectiveness of the refugee proceedings pending with regard to foreigners staying in guarded facilities.

Since 3 January 2022, the National Headquarters of the Border Guard has a liaison officer in place for contacts with the Office for Foreigners for the purposes of everyday collaboration with the Office and with the Refugee Council, so as to expedite specific proceedings.

The Office for Foreigners has also responded to the needs arising in this regard, by establishing a Detention Team within the structure of its Department for Refugee Proceedings, on 21 November 2022. The purpose of these changes is to achieve factual improvement of solutions currently in place and to prevent procedural delays by identifying and fast-tracking international-protection proceedings involving foreigners staying in guarded facilities.

Moreover, as part of the constant internal supervision within the Border Guard, the attention of the territorial units was drawn to the necessity of immediate forwarding of materials gathered during the detention to the Head of the Office for Foreigners, including the foreigner's statements, for the purposes of the pending refugee proceedings, so as to improve the effectiveness and punctuality of the Head's proceedings, with effect on detention durations.

First aid, medical care and medical examinations for foreigners

Concerning access for the Committee to the medical documentation of foreigners staying in the detention facilities operated by the Border Guard, be advised that the documentation is covered by doctor-patient privilege. Anyone providing access to it without the patient's consent would be incurring criminal liability. In accordance with Article 8(2)(D) of the European Convention for the Prevention of Torture, the Committee shall have guaranteed access to any and all information necessary for the performance of its tasks. 'In seeking such information, the Committee shall have regard to applicable rules of national law and professional ethics.' Thus, for the Committee to inspect medical documentation, in compliance with domestic law, is possible only with the individual patients' consent. It must be noted that in accordance with paragraph 64 of the *Explanatory Report to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, rules governing the doctor-patient privilege in force in the visited states should be respected during the visitations.

The principle followed by the head managers of the guarded facilities is for every shift to include a person trained to provide first aid (cardio-pulmonary resuscitation and the use of an automated external defibrillator).

In principle, specialized medical care — including psychiatric care — is sourced from external providers; hence the need to transport the foreigner to a hospital or clinic. The Border Guard cannot control the consultation dates set by health-care providers,

including without limitation the availability of psychiatrists. Nonetheless, it must be emphasized that the wait periods are not longer than those available to citizens, and in many cases they are shorter.

At present, upon a foreigner's admission to a guarded facility a medical examination is held along with interview concerning the patient's health history. Upon discovery of potential traces of violence or torture on the foreigner's body, the physician has a duty to mention them in the documentation. Similarly, if such traces are discovered by facility staff, a note should be made and subsequently forwarded to the physician. The matter is to be further analysed during a more in-depth interview by a social worker ('social guardian').

At that stage, an assessment is made with regard to the foreigner's potential eligibility for special treatment. In such cases, the foreigner is referred to further consultation with an in-house psychologist. Additional elements of assessment and monitoring of the foreigner's condition are introduced, including so-called monitoring sheets (*arkusze obserwacyjne*) or, if requested by the foreigner, consultation with an external psychologist.

Nonetheless, in line with the Committee's recommendations, the Border Guard National Headquarters has reminded all the head managers of guarded facilities for foreigners of the necessity of keeping systemic records of all traces of injury on a foreigner's body, together with the foreigner's statement as to the circumstances of their origin (including, if possible, a so-called body map).

Concerning training for medical staff providing care for foreigners in guarded facilities, I must explain that those are not employees of such facilities and are thus not subordinated to the Border Guard's training system.

They fall under the training system supervised by the health authorities.

In principle, the services of a professional interpret during the medical examination of foreigners is ensured for specialist consultations. The management of guarded facilities spare no effort to eliminate situations in which interpreting is provided by another foreigner staying at the same facility. Such practices occur only in exceptional situations. Medical staff providing care for foreigners residing in guarded facilities can communicate in English and Russian, which is usually sufficient for communicating during basic

examinations. Moreover, some of the officers take language courses, including instruction in Eastern languages, which also facilitates communication.

Procedural aspects of the detention of foreigners: instruction

It must be noted that a foreigner is informed of the reasons for detention and of their rights as soon as the detention takes place; this includes information about the right to bring a complaint to the district court concerning the merits, legality and propriety of the detention. This is recorded on the detention form, which is translated for the foreigner into a language they can understand. The complaint is heard by an independent court of law. The merits of the foreigner's continued stay in a guarded facility is verified on a constant basis not only by the court hearing the case of the petition for prolonging the stay but also by the competent organ of the Border guard, which, in a justified case, may order the foreigner's release from the guarded facility without need of filing a petition in court.

A detained foreigner receives the following instruction in writing:

- 'instruction on the rights of a detained foreigner' — translation is available in 24 foreign languages;
- 'instruction on the rules and procedure for reviewing the legality of foreigners' stay in Polish territory' — translation is available in 16 foreign languages;
- 'instruction on the rights and obligations of a foreigner staying in a guarded facility for foreigners', if placed in such a facility — translation is available in 15 foreign languages.

If the relevant language is not available, the instruction is translated on an individual basis. So-called social guardians (*opiekunowie socjalni*) and return guardians (*opiekunowie powrotowi*) are active in guarded facilities. One of the duties of the social guardians is to acquaint the foreigner with the facility's regulations and house rules. In the case of those foreigners who are illiterate, the guardians should make sure such foreigner is familiarized with the rules in a manner they can understand. The duty of the return guardians is to keep the foreigner updated on their legal status and explain opportunities for appeal. In principle, important documents in the proceedings are translated into a language the foreigner claims to understand.

Legal assistance for foreigners

Foreigners applying for international protection are entitled to:

- legal information provided free of charge by an employee of the Office for Foreigners;
- unpaid legal assistance provided by selected external providers.

The foreigner is advised of the foregoing through the written instruction received while applying for international protection. Additional information about legal assistance available free of charge is provided by the Office for Foreigners on its website.¹⁴

Moreover, foreigners who are party to criminal, civil or other legally prescribed proceedings are entitled to unpaid legal assistance according to the provisions applicable to such proceedings, on the same terms as Polish citizens.

Direct coercive measures and personal searches

As for the situation described by the Committee in paragraph 47 of the Report, it must be emphasized that was an isolated and incidental case calling for decisive action, as the foreigner was placing her own life and health in danger. The prolonged use of restraining belts was the result of the initial expectation that the foreigner's condition would improve. With the improvement not forthcoming, the guarded facility's physician issued a referral to a psychiatric hospital in the morning hours of the following day, and the foreigner was transported there for observation without delaying.

The rules governing the application of this exceptional measure have already been discussed in the section dealing with Police facilities.

In principle, the application of this measure by the Border Guard cannot be completely excluded but is sporadic and always documented. In all of 2022, it was used only in that single case already known to the Committee, in the guarded facility for foreigners in Białystok, which attests to its exceptional nature.

As regards personal searches, following receipt of the Committee's preliminary remarks, the National Headquarters of the Border Guard, without any delay, addressed all commandants of Border Guard units supervising either guarded facilities for foreigners or detainee quarters, recalling the applicable provisions in this regard. Having regard to the exceptionally sensitive nature of the matter at hand, the following were requested:

- intensification of supervision with regard to the terms and methods of personal searches;
- inclusion of pertinent topics in internal training programmes in Border Guard units. In response, all Border Guard units notified the introduction of the specified measures.

¹⁴ <https://www.gov.pl/web/udsc/institucje-pozarzadowe>

Furthermore, it must be noted that topics relating to the terms and methods of personal searches are discussed in a number of training programmes operated by the Border Guard's Specialist Training Facility in Lubań. In 2022, the topics included:

- 'Implementation of expulsion of foreigners from Polish territory by air' — 11 attendees;
- 'Conducting foreigners by land' — 42 attendees;
- workshops for escorts conducting foreigners by air — 17 attendees;
- workshops for conduction co-ordinators — 23 attendees;
- 'International standards of human rights and torture prevention in the practice of the Border Guard' workshops for Bieszczadzki Oddział (Bieszczady Unit) of the Border Guard — 57 attendees;
- 'Protective escort service with elements of conduction of individuals' for Nadodrzański Oddział (Odra Unit) of the Border Guard — 19 attendees.

Moreover, the Border Guard's Specialist Training Facility organized an e-learning course titled 'Provisions governing conduction and service in detainee quarters operated by the Border Guard', with 275 attendees in 2022.

Language courses in the Border Guard

Leaders of the Border Guard invariably place emphasis on language training. Language courses held in 2021 and 2022 as part of projects financed by the Asylum, Migration and Integration Fund and Norwegian Financial Mechanism were attended by officers and employees of departments responsible for foreigners, such as the personnel of guarded facilities.

Language courses under the AMIF project in 2022 were completed by 113 attendees.

Under the NFM project in 2022, language courses were completed by 60 attendees, with another 65 beginning to attend the next edition of the courses.

This included English, Russian, French, Chinese and Ukrainian.

Officers' manner of addressing the foreigners

Concerning the use of case numbers for the identification of foreigners by facility staff in Wędrzyn, be advised that this was found to have been a supplementary practice at that particular facility to avoid misidentification due to considerable number of foreigners staying therein and considerable similarities with regard to their names.

Nonetheless, the Border Guard National Headquarters have reminded all head managers of guarded facilities for foreigners of the need to address the foreigners by their names.

Case numbers may be used only for the purpose of verifying the foreigner's identity while already conversing with them.

The foreigners' right to lodge complaints

During the onboarding conversation with the social guardian at the detention facility, every foreigner is given instruction concerning the right to lodge complaints. Complaints may be filed in writing (under one's name or anonymously) through the correspondence box or orally to social guardian, return guardian or head manager of the detention facility. Monitoring conducted so far, including external monitoring, has not revealed any violations in this regard. Nonetheless, the Border Guard National Headquarters has communicated guidelines concerning the need for attention to be paid to this aspect and for complaints to be recorded in a manner permitting appropriate statistics to be generated facilitating the monitoring of the degree of potential dissatisfaction of the foreigners in specific areas.

III. Prisons and pretrial detention centres

Living conditions

The Prison Service constantly undertake activities to guarantee suitable living conditions for all persons deprived of liberty and to deepen prison staff's awareness of the existence of binding standards governing the enforcement of penalties and coercive measures resulting in the deprivation of liberty.¹⁵ The infrastructure of prisons and pretrial detention centres is being modernized so as to comply with the standards. Technical maintenance of facilities operated by the Prison Service requires constant activities preventing deterioration.

The *Prison Service modernization plan 2022–2025* will be of particular significance to the effective functioning of the Prison Service and performance of statutory tasks. The Plan covers, among other things, improvement of the energy efficiency of the organizational units of the Prison Service; procurement of new accommodation space for the inmates;

¹⁵Examples include the distribution to all officers of the Prison Service of standards arising from ECtHR decisions and dissemination in correctional facilities of the 2022 report of the National Torture Prevention Mechanism of the Civil Rights Ombudsman ('Human Rights Commissioner') concerning the practical implementation of the recommendations made by the international bodies dealing with the prevention of torture.

and reconstruction and improvement of the infrastructure of the organizational units of the Prison Service. Repairs and investments are currently underway with a view to improving the living conditions for the inmates and increasing the number of inmates that can be accommodated.

Currently, repairs and renovations are pursued in living quarters in 28 penitentiaries with a total accommodation capacity of 2166 spots, which have been taken out of service for this purpose. Repairs and reconstruction works in the existing accommodation resource are optimized so as to finish as soon as possible and take the least accommodation capacity out of service (on a rotational basis), so as not to reduce the space available for inmates.

It must be noted that the living conditions in penitentiaries already comply with the relevant statutory norms. The fact is, however, that the conditions of imprisonment or pretrial detention differ among the individual penitentiaries due to the age of the construction infrastructure, the architectural conditions and technical solutions used. Hence, a number of investment projects, repair projects and investment purchases are pursued every year with a view to improvement and standardization, thanks to which the infrastructure is undergoing constant improvement and modernization.

The Prison Service monitors the occupancy rates of penitentiaries on a current basis and takes organizational steps to ensure the current mandatory statutory residential minimum of 3 square metres per inmate.

As at 18 April 2023, the occupancy rate of residential wings in penitentiaries stood at 93.49%.¹⁶

According to available statistical data and simulations, increasing the requirement of residential space per inmate to 4 m² would result in decreasing the capacity of residential wings from 80,757 to 57,030 spots, i.e. by 23,727. Considering the total number of accommodation spots in penitentiaries and pretrial detention centres, the introduction of a 4 m² norm would result in losing 23,957 spots.

It should be borne in mind that according to statistics for 30 November 2022 a total of 35,867 individuals have failed to report to the penitentiary on the date set to begin serving

¹⁶ Current information about the population levels of residential wings is published in the statistics tab on the Prison Service's website <https://sw.gov.pl/strona/statystyka--miesieczna>

the penalty. The total number of sentences waiting to be served was 51,840 and referred to 41,867 individuals. Thus, taking into account the provisions of the Act of 5 August 2022 amending the Criminal Enforcement Code and certain other acts (Dz.U.2022.1855), providing for refraining from summoning a convicted individual to report for pretrial detention and introducing the rule of the court ordering the detention and conduction to the pretrial detention facility of every convict sentenced to a prison term, as well as the current population of residential wings (i.e. 93.49%), there is currently no possibility of increasing the residential-space norm per inmate.

It will be expedient to note, however, that although living cells in residential blocks under construction or renovation are designed with the view to the optimal utilization of the useful floorage on the basis of applicable provisions of the law, especially Article 110(2) of the Criminal Enforcement Code providing for a minimum 3 m² per inmate in a residential cells, newly planned residential quarters allow for the possibility of an amendment modifying the norm of residential space per inmate. Expansion of the electronic surveillance system, regulated by the aforementioned Act of 5 August 2022, is conducive to achieving a considerable reduction of the number of inmates. With 1 January 2023, the previously unknown solution contained Articles 43IIa and 43IIb of the Criminal Enforcement Code were introduced. In line with said provisions, in respect of convicts sentenced to short prison terms, decisions whether to permit electronic surveillance to be used will be made by penitentiary boards subject to the possibility of review by penitentiary court. The boards have been authorized to permit this with regard to convicts having already begun to serve their penalties in prisons and those sentenced to terms not exceeding 4 months, subject to meeting other requirements specified by the relevant provisions. Previously, decisions in such cases were made by the court.

Activities for inmates

Being outside of the living cell, participating in activities and organized recreation are important factors in the prevention of the negative effects of isolation in a prison. It must be emphasized, however, that pretrial detention, due to its purpose, involves the necessity of rigorous isolation, the hardship of which is difficult to eliminate. The Prison Service systematically expand the offering of activities available to convicts, persons penalized for infraction, and those in pretrial detention. In 2021, a total of 7100 re-adaptation programmes were implemented in prisons and pretrial detention centres for

various groups of inmates, including those held in pretrial detention, categorized on the basis of their needs, such as prevention of aggression and violence, addictions or crime-inducing attitudes; occupational activation and promotion of employment; shaping of social and cognitive skills; integration of families; prevention of negative effects of isolation. A total of 76,734 inmates participated. The forms of cultural and educational activities offered by penitentiaries are an offering available on a voluntary basis to all inmates.

A total of 577 of all sorts of so-called activity clubs ('interest circles') were operated in penitentiaries in 2021, with participants ranging from 2555 to 7298 inmates depending on the type of activity, and 2249 targeted activities (including 424 sports activities) covering e.g. meetings, presentations, competitions and tournaments. A recreational offering outside of the living cell was designed in the same year, targeting only those held in pretrial detention, with a total of 505 cultural/educational and sports activities, with active participants ranging from 1864 to 7604 depending on the form and timing of the activity.

Where this is possible, the Prison Service raises the standards with regard to the infrastructure. In the period from 2017 to 2021, the number of walking yards with open-air exercise equipment increased from 576 to 670. Organizational units of the Prison Service have access to, among others: 24 sports halls, 172 playing fields, 1064 clubs, 128 gyms, 81 artistic ateliers, 34 musical facilities, 79 reading rooms, 139 libraries and 275 library points. In summary, the recreational offering available to the inmates (including those in pretrial detention) outside of their living cells is sufficiently rich and usually either used or not depending on their own decision.

Employment of pretrial detainees

Those held in pretrial detention do not have a duty to work while in custody and may be employed in conditions enabling the obstruction of the pending criminal proceedings. Having regard to the statutory obligation to offer rehabilitation through work, the primary focus of the Prison Service is to provide employment for as many sentenced convicts as possible. This, however, does not preclude the employment of pretrial detainees where penitentiaries have openings available and the purposes of pretrial detention are not going to be frustrated thereby.

Medical assistance

In line with the Regulation of the Minister of Justice of 14 June 2012 *concerning the provision of health-care by health-care facilities for persons deprived of liberty* (Dz.U.2017.2131), interviews and physicals are held without delay upon admission to a penitentiary, though no later than 3 working days of the day of admission. The principle is for the inmate to undergo sanitary and epidemiological assessment, as well as interview for medical history, especially diseases such as tuberculosis, epilepsy, viral hepatitis or HIV. Chest x-ray is also done to detect tuberculosis.

The method of proceeding with a patient, including an inmate, and with their medical documentation is specified by the Act of 6 November 2008

on the Patient's Rights and on the Patient's Rights Ombudsman (Dz.U.2022.1876), as well as the Regulation of the Minister of Justice of 12 July 2022 *concerning the medical records kept by health-care facilities for persons deprived of liberty* (Dz.U.2022.1659).

In the light of the regulations and procedures applicable to the Prison Service, especially the rules for the examination of inmates upon admission to pretrial detention facilities and prisons, as well as the rules for the determination of circumstances and courses of events occurring in penitentiaries, the conclusion has to be that they comply with the international standards. Persons deprived of liberty are provided with medicines and the necessary scope of health-care services free of charge. The rule is for services to be provided primarily within health-care facilities belonging to prisons or pretrial detention centres. If the conditions specified in Article 115(5) of the Criminal Enforcement Code are met,¹⁷ services can be provided in facilities outside of the prison system. Where an inmate reports a sudden deterioration of health outside of the working hours of a facility belonging to the prison system, the Prison Service relies on Medical Rescue Teams,

¹⁷ Article 115 of the Criminal Enforcement Code.

§ 4 Health-care services shall be provided to a convicted inmate primarily by health-care providers for inmates.

§5 Health-care providers other than referred to in § 4 shall collaborate with such providers so as to provide health-care to convicted inmates where it is necessary in particular to:

- (1) provide health-care due to a threat to the convicted inmate's life or health;
- (2) provide specialist examinations, treatment or rehabilitation;
- (3) provide health-care to an inmate who is on a leave or has been given temporary permission to leave the penitentiary.

Hospital Emergency Departments and other facilities outside of the prison system. The decision in this regard is made by the personnel of the health-care facility without delay. Every penitentiary contains health-care facilities for the inmates. Those include outpatient clinics and inpatient wards. Some units have prison hospitals.

Those include hospital wards, physicians' offices, dentists' offices, diagnostic laboratories, rehabilitation and physiotherapy clinics, pharmacies and hospital pharmacy departments. Health-care providers belonging to the prison system will work together with other providers if necessary in order to provide health-care immediately where the inmate's life or health is in danger or there is need for specialist examinations, treatment or rehabilitation or diagnostics. In addition to the priority placed on saving life and health, the above solutions allow inmates to be provided with such highly specialized care as cannot be provided by providers belonging to the prison system or is not economically viable e.g.

because of the low number of such services to be provided.

This is with the caveat that shortages of medical staff are a systemic problem occurring also in regular, generally available health-care providers.

Inmates are provided adequate necessary medical assistance upon reporting to any officer or employee of the Prison Service the necessity of receiving it without delay. Consultations are provided on terms of confidentiality, subject to the necessity of ensuring that staff feel safe, which is connected especially with Articles 115(7a–8) of the Criminal Enforcement Code, which provides that in precisely defined situations inmates are to be provided with medical assistance in the presence of a non-medical officer.

All officers attending training programmes delivered by the Prison Service are required to receive theoretical and practical training in (pre-medical) first aid. This means that all officers and employees of the Prison Service having attended preparatory training and professional training have the requisite knowledge and practical skills to provide cardio-pulmonary resuscitation and operate an automated external defibrillator.

Contacts by inmates, including pretrial detainees, with the external world

Pretrial detention is imposed only in situations of large probability of the commission of a new serious criminal offence or for the purpose of ensuring the proper course of criminal proceedings if there is a reasonable fear of obstruction on the part of the suspect or defendant, according to the principle of proportionality. In the light of the essence of

pretrial detention, if any restrictions are imposed on the detainee's contact with the outside world, those are linked solely to the need to ensure the proper course of the proceedings.

With 17 September 2022 came into force certain changes arising from the aforementioned Act of 5 August 2022 amending the Criminal Enforcement Code and certain other acts. In accordance with the new wording of Article 217c(3a) of the Criminal Enforcement Code, permission to use the payphone to contact e.g. the defence counsel, issued by the authority holding the detainee in custody, authorizes multiple instances of such contact and remains in force until the termination of the pretrial detention, irrespective of any changes of the responsible authority. In accordance with Articles 217c(2) and 217c(3) of the Criminal Enforcement Code, the permission may be withdrawn only if there is a reasonable fear that it will be used for unlawful obstruction of the proceedings or for the commission of a criminal offence. Accordingly, this solution strengthens the practical effect of inmates' right to mount a defence in criminal proceedings.

The minimum standard of access to phone calls for inmates is at least once weekly, according to the internal timetable of the relevant penitentiary unit, irrespective of the circumstances prevailing there. These statutory guarantees may be expanded by the internal regulations of the various penitentiary units, issued by their directors under statutory delegation. The adoption of such a solution on the one hand requires the administration of penitentiary units to ensure the basic (statutorily guaranteed) right to contact the defence counsel by payphone, and on the other hand it allows the directors of penitentiaries and pretrial detention centres to increase the frequency of the calls, subject to the specificity of the unit and its technical and human resources. The provisions also mandate that in especially justified cases, if the timing of procedural activities suggests the need for the immediate use of the payphone, the director of the penitentiary or pretrial detention centre shall grant permission outside of the timetable arising from the internal regulations.

The amended provisions also allow the inmate to use the payphone to contact a different person, provided the principle that the permission authorizes a single instance of telephone contact, i.e. each individual call requires the permission of the authority having custody of the detainee. They include the exception that the responsible authority may

provide otherwise and thus also grant a general permission for calls. In such case, the permission remains in force as long as the authority does not change.

Provisions for permissions for visits to pretrial detainees have also been modified, harmonizing the diverse court practice, specifying that the permission authorizes a single visit, although the procedural authority may provide otherwise, hence also grant a general permission similarly to the case of phone calls. It must be emphasized that, in accordance with Articles 217(1a–1c), 217c(1c), 217c(2) and 217c(4), refusals by the responsible authorities to authorize phone calls and visits within specified limits may only take place for a closed list of reasons. Both the inmate and the person seeking to visit the inmate are entitled to lodge a complaint against the refusal.

Provisions defining the procedure for forwarding the detainees' correspondence to advocates and counsellors-at-law have also been narrowed down and framed in a more realistic manner; now, only correspondence to the advocate or counsellor-at-law appointed as defence counsel in the case in which the pretrial detention has been ordered is sent directly to the recipient. The detainee's correspondence with a representative not being an advocate or counsellor-at-law, approved by a Chamber President of the ECtHR to represent the pretrial detainee before that Court, the Civil Rights Ombudsman, Children's Rights Ombudsman and bodies established by international agreements for the protection of human rights ratified by the Republic of Poland is sent directly to the recipient.

Maintaining contact with the family and the external world is mentioned in Article 67(3) of the Criminal Enforcement Code among methods of influence on the convicted inmate in the interest of the purposes for which the prison term has been imposed.

Convicted inmates serve their penalties in different types of penitentiaries differing, among other things, in the scope of contact allowed with the external world. Inmates serving time in a closed facility may use two visits months; in a semi-open facility three visits monthly; and in open facilities an unlimited number of visits. Moreover, inmates being long-term caretakers for a child up to 15 years of age have a right to an additional visit. Juvenile convicts in a closed or semi-open penitentiary are entitled to an additional visit once monthly.

Irrespective of the regulations narrowing down the scope of convicted inmates' rights in the various types of penitentiaries, the applicable norms of the Criminal Enforcement

Code contain a wide range of prizes that may be awarded to such inmates, including without limitation expanded contact with the external world, viz.:

- permission for an additional or longer visit;
- permission for an unsupervised visit;
- permission for an unsupervised visit in a separate room;
- permission to receive visitors while dressed in the inmate's own clothes, for up to 3 months;
- permission for an additional food package;
- permission for an additional use of the payphone at the inmate's own or the interlocutor's own cost.

Due to their special rehabilitation value, the list of prizes has been expanded to include a new type, consisting in permission for the additional use of the payphone at one's own or the interlocutor's cost.

Giving effect to the international standards governing the service of prison terms with regard to the exercise of the inmates' right to contact the outside world, all penitentiary units in Poland have for additional contact for the inmates with their loved ones via Skype. Priority access is given to those inmates whose families live within Poland or abroad at a distance preventing systematic direct contact.

In semi-open facilities, the number of visits comes close to the minimum of one per week suggested by the CPT. Only in closed facilities is the number of visits two per month, but it must be noted that such facilities, in principle, hold only the most dangerous perpetrators of the most serious crimes and convicted inmates who, while incarcerated in other types of facilities, had presented a serious security threat or exhibited an especially negative attitude or conduct. At the same time, inmates whose propriety of conduct so warrants are moved to milder-type facilities, where opportunities for contacting the external world are broader.

With regard to recommendations in paragraphs 61 and 62 of the Report, it must be noted that Polish authorities give effect to the inmates' right to contact the external world in accordance with the applicable international standards, which do not establish detailed norms concerning the minimum frequency of such contacts for inmates.

IV. Gostynin Centre

Living conditions

The facility holding the Off-Campus Site of the National Centre for the Prevention of Antisocial Behaviours in Czersk has undergone complex adaptation to the Centre's activities. All rooms on the ground floor and first floor are available. In the main room, the patients have a large club and dining hall located on the ground floor and a dedicated club room on the first floor. Management spares no effort to ensure the best living conditions possible for the patients. Problems reported by patients are resolved as soon as possible, and if improvements can be made, then that is done. All elements of the infrastructure are subject to constant monitoring, with periodic inspections. A utility building has been adapted for the needs of therapy, thanks to which patients have access to a large room with training equipment, manual-therapy room and library, serving as a chapel according to need. Rooms are air-conditioned and fitted out with blinds to protect from excessive sunlight.

As regards the construction of the intended location of Gostynin Centre, it is currently at an advanced preparatory stage. In 2022, existing design documentation was audited in order to adapt the Centre's intended location to provisions currently in force (including energy requirements) that newly constructed objects must be complied with, account also being taken of solutions used by European facilities with comparable tasks.

Rooms for patients will be adapted with regard to size, equipment and therapeutic needs. Rooms for patients with disabilities and for bedridden patients are also provided for. The living quarters of every ward will be separate from the therapy wing. The expansion plans comprehensively reflect the patients' therapy needs, not only allowing interests and skills to be honed but also helping patients with a positive prognosis to function independently in society. Outside, the patients will have a large recreation/sports/walking space available, separate for each ward.

Currently, Gostynin patients are successively moved to the Off-Campus Site in Czersk. This does not lead to the liquidation of bunk beds, because new patients keep replacing the transferred patients, due to the significant number of persons referred to the Centre by courts. In exceptional cases, staff spare no effort to provide individual rooms for patients requiring this. Currently, the Centre has four residents living in individual rooms.

This, however, has resulted in the need for 'condensation' of patients in other rooms. The Centre's current location does not allow any other solutions to be used.

As at 19 April 2023, the National Centre for the Prevention of Antisocial Behaviours holds a total of 98 patients, with 75 in Gostynin and 23 in Czersk.

The Off-Campus Site holds:

- two 2-person rooms (at present, each of them holds a single patient),
- nine 4-person rooms, with the following occupancy:
 - four rooms with 2 patients each;
 - three rooms with 3 patients each;
 - one room with 1 patient.

One 4-person room is currently free. This means that patients can be transferred to different rooms, e.g. in conflict situations, until the admission of new patients.

The Gostynin Centre, which currently hold four wards, has:

- in Ward 1: one 2-person room and eight 3-person room; patients: 18
- in Ward 2: three 8-person rooms; patients: 20
- in Ward 3: three 8-person rooms; patients: 19
- in Ward 4: three 8-person rooms; patients: 18.

As for the matter of insufficient ventilation, the patients' reports reflect their subjective feelings rather than objective facts. All legally required inspections are performed on time and in a professional manner. Ventilation has never been inefficient. In addition to the ventilation system, living quarters allow window vents to be opened widely and windows to be opened somewhat. Protections from escape through the window or window vent have no negative impact on air circulation. Air conditioning has been installed in quarters holding a large number of patients, such as clubs, exercise rooms or therapy rooms; this is activated whenever needed and serviced regularly.

Current legislative works

At present, following a broad consultation stage, analysis is underway of a draft bill to amend the Act on Proceedings with Persons with Psychic Disorders Presenting a Threat to the Life, Health or Sexual Freedom of Others, Act on Publicly Financed Health Benefits and Act on Health-Care Activities.

Among other things, the proposed amendments define a procedure for dealing with persons admitted to the Centre, rights and obligations of persons placed the Centre, rules

of control with regard to the residents of the Centre, and rules for permitting temporary stay outside of the Centre.

The draft bill is recorded with the number UD350 on the list of the legislative and programmatic works of the Council of Ministers.¹⁸ Due to the intended scope of the document, it was necessary to engage in additional working consultations with the most important ministries (viz. Finance; Justice; Culture and National Heritage; Development and Technology; and Government Legislation Centre). Works are underway on the final version of the contents.

Manner of addressing the patients

Concerning allegations relating to the personnel's communication with the patients, be advised that employees of the Centre are reminded cyclically of the need to use appropriate language and polite forms with regard to the patients.

Surveillance

The high level of security and safety at the Centre, as noted by the CPT, arises primarily from the applicable provisions of the law in this regard and from the personnel's practices. As such, it does not require legislative intervention. The abandonment of surveillance, e.g. in sanitary rooms, could have the effect of increasing the threat of dangerous behaviours from the patients. The practices currently followed in this regard do not in any way infringe on the patients' right to intimacy, as private zones are covered. The CCTV room does not display signal from bathrooms in wards. The placement of monitors on the communication ducts is such that there is no opportunity to see clear picture while passing by the CCTV position, due to small size of each room window, e.g. 144 windows on 9 monitors.

Personnel and qualifications

Security employees are hired following qualification procedures verifying, among others, their communication ability and willingness to work in difficult circumstances capable of adverse impact on the employee's physical or mental health. During a three-year probationary period, security employees undergo appropriate theoretical training and practical training in the performance of the duties of the service in work with persons having mental disorders posing a danger to the life, health or sexual freedom of others.

¹⁸ <https://www.gov.pl/web/premier/wplip-rm>

Appropriate behaviours are taught, as well as responses to active and passive acts of aggression, as well as self-aggression by patients.

Security staff's first obligation is to protect the life and health of the patients and of the Centre's personnel, as well as broadly understood safety and security. Professionalism and an individual approach to each case are the distinctive traits of this particular professional group. It is always security staff's priority to resolve any conflicts in a peaceful manner. Employees do not get dragged into needless discussions with patients and do not take an emotional attitude to the detail duties of their service. Such direct coercive measures as are part of security staff's equipment do not act as deterrents but are necessary for the quick and effective repulsion of any active aggression from the patients. At each time, security staff bear in mind the following rules for direct coercive measures:

- the duration of the use of direct coercion may not be longer than needed;
- the least onerous measure is to be selected, with particular attention to special caution and care to the welfare of the person.¹⁹

Every security employee working at the Centre is a licensed security guard. Among other requirements, this means needing a positive examination by psychiatrist and authorized psychologist referred to in Article 15c(1) of the Act of 21 May 1999 on Arms and Ammunition (Dz.U.2022.2516). The control of the execution and documentation of psychological examinations and psychological certificates issued is governed by the provisions of Article 15i and 15j of the Act.

I wish to advise that the Centre has provided complete training for security staff with regard to specific aspects of communication with a patient, reflecting the Committee's recommendations, viz. therapeutic conversations, communication skills, as well as techniques for conflict de-escalation and resolution.

The training cycle commenced in June 2022 will continue.

So far, it has been attended by 161 persons. To facilitate teaching and learning, the meetings are in small groups of fewer than twenty attendees.

Topics covered include without limitation:

- 1) characteristic features of antisocial personality;
- 2) the difficult/aggressive patient — who they are;

¹⁹ Article 34 of the Act on Proceedings with Persons with Psychic Disorders Presenting a Threat to the Life, Health or Sexual Freedom of Others (Dz.U.2022.1689)

- 3) diagnosis of problems usually surfacing in relation to an aggressive patient;
 - 4) the aggressive patient — how to deal with them; conduct in the face of aggressive behaviour from the patient;
 - 5) methods to mitigate aggression, negotiations; basic rules of communication with an aggressive patient;
 - 6) stress and emotion in the relationship between medical staff and the aggressive patient;
 - 7) description of sample situations — good practices with regard to an aggressive patient.
- Further training in these areas is expected for the remainder of the personnel, having direct contact with the patients.

Concerning plans to increase the number of caretaking personnel, in accordance with the provisions in force at present, the number of staff is proportionate to the number of patients staying at the Centre. Please also be informed that there are currently two psychologists working at the Off-Campus Site in Czersk.

Matter of patients' employment and preparation of meals

Legal solutions applicable in Poland do not allow patients to work; the overarching purpose of their stay at the Centre is to complete their psychological and sexological therapy with the goal of prevention of re-offending.

Every ward at the Centre has a microwave for the patients' use to prepare an additional meal. In principle, however, there is no need for them to do so, as they have food provided for them by the Centre for the whole day. Moreover, they have the option to order meals from the neighbouring restaurants and bars at their own cost.

Diagnostics and therapy

Every six months, an aggregate assessment is made of the patients' health condition: psychiatric, psychological psycho-sexual and in other areas of the patient's health. The degree of achievement of the individual therapy plan and the need for any change are assessed. For each identified problem, goals are set to be achieved and method defined for their achievement. The following areas of a patient's health in which their problems are diagnosed have been distinguished:

- psychopathological;
- psychological;
- psycho-social;

- psycho-sexual;
- somatic;
- social;
- addition-related.

Semi-annual review of individual therapy plans has been in place since the beginning of the Centre's operations. Each patient's psychological documentation contains detailed and developed individual therapy plans concerning psychological and psycho-social. The plans include descriptions of the patients' problems, general and specific goals of the therapy, as well as a programme of psychological and psychologico-sexological therapy tailored to each patient individually.

The patients are informed of any diagnosed problems, as well as therapy goals and methods of achieving them. Activities with psychologists include psychological contracts with patients, covering the above-listed topics by design.

The Centre's activities to date show that there is no need for any additional centralized register of incidents because every event is recorded in a patient's individual records, as well as aggregate reports concluding duty shifts. The Centre provides individualized therapy aimed to resolve each patient's specific problems.

Protections at the Centre

The Centre is a closed facility. It only houses persons 'presenting a threat'. Accordingly, it is not possible to ensure free unsupervised movement of patients across the recreational space and the Centre's building.

However, a satisfactory solution has been developed together with the patients for the recreation yard in Czersk for protection from adverse weather conditions, in the form of a large awning four meters long, permanently attached to one of the walls.

It should also be noted that the recreation space has undergone considerable modernization. Metal fence with razor wire has been removed, making the yard more accessible. Some razor-wire installations have been removed from the interior side, which too has been favourably received by the patients. Modern lighting has been installed, so as to make walks and activities also available in evening time. If the patients report such a need, steps will be taken to enable them to play ball games.

All heaters in isolation wards at the Gostynin Centre have been installed in such a way as to prevent self-harm by an agitated patient. There are no sharp edges on them. Moreover,

the isolation ward on the ground floor has been fitted out with a safe toilet bowl and wash basin of acid-proof steel.

There are no window panels that could be broken or shattered in a dangerous way. All glazing is in so-called safe glass or protected by special foil. Where possible, glass is replaced with safe polymer. In Czersk, the door to the isolation war has no glass that could be broken but only polymer. All mirrors are also wholly executed in polymer.

Matters relating to coercive measures

As for the conversation summarizing the use of direct coercion at the Centre, currently, a medical examination is conducted prior to releasing the patient from such measures; the examination features all of the elements mentioned in the CPT's address. The suggestions offered in the recommendations will be forwarded to the medical personnel applying direct coercive measures.

Patients' contact with the external world

The decision leading to the restriction of patients' use of private mobile phones is individualized, and the prohibition applies pending completion of all activities undertaken by procedural bodies. Restriction on the use of means of communication applies to private devices in the patient's possession. There are situations necessitating restrictions to be imposed also on the patient's use of the infokiosque at the ward. Here, it should be added that the patient is not deprived of contact with their closed ones, as they have the option to use the telephone in the corridor and accept incoming calls at the duty nurse's office. At each time the patient call also correspond by letter.

Yours sincerely,

[STAMP:]
per pro
MINISTER OF JUSTICE
/s/
Sebastian Kaleta
SECRETARY OF STATE