

Report

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

from 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.

The Government's response is set out in document CPT/Inf (2024) 11.

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EXECUTIVE SUMMARY

The main objective of the visit was to review the measures taken by the Polish authorities in response to the recommendations made by the Committee after previous visits. In this connection, particular attention was paid to the treatment and conditions of detention of persons in police custody, foreign nationals detained in Border Guard establishments, remand prisoners, and forensic psychiatric patients.

The CPT deplores yet again the very poor level of cooperation from the Polish authorities at central level. The delegation was again unable, despite requests reiterated several times, to present its preliminary observations to the Ministers of Internal Affairs and Administration, Justice and Health.

Moreover, the Committee is very concerned to note that, after its seventh periodic visit to Poland, no real action has been taken to implement its long-standing recommendations as regards the practical operation of fundamental legal safeguards for persons in police custody, as well as on some other issues such as remand prisoners' restrictions on contact with the outside world and the inadequate screening for injuries on arrival to remand prisons (including the recording and reporting mechanisms).

The Committee must stress that if no progress is made by the Polish authorities to fundamentally improve the level of their cooperation with the Committee, including as regards the implementation of the CPT's long-standing recommendations, the Committee is likely to be obliged to have recourse to Article 10, paragraph 2, of the Convention.¹ The CPT expects that urgent and decisive action by the Polish authorities will render such action unnecessary.

Police establishments

Most persons interviewed by the delegation, who were or had recently been in police custody, stated that they had been treated by the police in a correct manner. Nonetheless, the delegation received several complaints regarding excessive use of force during apprehension.

Throughout their dialogue with the Polish authorities, the CPT has repeatedly emphasised that three fundamental rights (the rights of detained persons to notify a third party of their detention and to have access to both a lawyer and a doctor) should apply from the very outset of a person's deprivation of liberty. However, the delegation's findings from the 2022 visit suggest that, as in the past, these safeguards usually do not become effective from the outset of deprivation of liberty.

As regards material conditions in the police establishments visited, they were generally acceptable for the periods of custody foreseen by the law.

Foreign nationals held under aliens' legislation

The CPT delegation carried out follow-up visits to the Guarded Centres for Foreigners in Biała Podlaska and Białystok, and a first-time visit to the temporary Guarded Centre for Foreigners in Wędrzyn.

The delegation heard no allegations of ill-treatment or verbal abuse of foreign nationals by staff at the centres visited. On the contrary, in Biała Podlaska and Białystok, many detainees spoke positively about staff and interactions with them, and the delegation observed that staff displayed a generally positive attitude vis-à-vis the detained foreign nationals.

The material conditions at the centres visited were generally acceptable, in terms of the general state of repair, the furnishing and equipment of the rooms and levels of hygiene.

¹ "If the Party fails to co-operate or refuses to improve the situation in light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

There was, however, a near total lack of any constructive purposeful activities for adults in the centres visited except for some ad hoc, unstructured group events once or twice per month. The delegation noted staff efforts to provide activities for pre-school age children but those similarly lacked structure and were not offered daily.

Access to specialist medical care (including dental and gynaecological) was problematic in all the centres visited. For specialist consultations, foreigners were taken to an external hospital or to relevant specialists, but many complained of long delays in this respect.

As regards psychiatric and psychological care, the Committee is concerned about possible mental health issues remaining undetected and/or not being addressed adequately, mainly due to a lack of mental health care specialists.

As found during previous CPT visits, the issue of legal assistance was left almost entirely to various non-governmental organisations, whose representatives could visit the guarded centres and assist detained foreign nationals with their immigration and asylum procedures on a *pro bono* basis. The Committee reiterates its recommendation that the Polish authorities take steps to ensure that immigration detainees can effectively benefit from the services of a lawyer in all phases of the legal procedures.

Furthermore, the CPT expressed serious misgivings regarding the presence and use of restraint beds in detention facilities for foreigners and recommended that the Polish authorities put an immediate end to their use and remove them from all such facilities in the country.

Prison establishments

The delegation's visits to two penitentiary establishments (Białystok Remand Prison and Prison No. 1 in Grudziądz) were of a targeted nature, primarily focused on interviews with newly arrived remand prisoners on the way they had been treated by the police. However, in the report, the CPT mentions a few issues of concern that the delegation has noted and where it is clear that no progress has been made since the Committee's previous visits.

To begin with, the CPT regrets to note yet again that, despite its long-standing previous recommendations, the official minimum standard of 3 m² of living space per prisoner (excluding sanitary facilities) has remained unchanged.

Further, the Committee regrets to note that the regime for remand prisoners has remained extremely impoverished despite the CPT's repeated recommendations on the subject. Indeed, the vast majority of remand prisoners still spent days and months on end in a state of idleness, with no meaningful activities, locked up in their cells for up to 23 hours per day.

The CPT also notes the lack of progress as regards medical examination of newly arrived prisoners. As during previous visits, the initial examination in the prisons visited was cursory and superficial, usually limited to a few general questions about the state of health and in most cases not including a full physical examination. Furthermore, due to the insufficient health-care staffing levels and attendance patterns, newly arrived prisoners were sometimes medically examined with a significant delay.

Despite legislative amendments introduced several years ago concerning remand prisoners' contacts with the outside world, the practice remained the same as in the past, that is, newly arrived remand prisoners continued to be routinely subjected to restrictions on visits and telephone calls, frequently during their first month (but sometimes for longer, up to two months and exceptionally even three months) of their imprisonment.

The CPT is even more concerned by the persistence of the negative practice already observed during the 2019 ad hoc visit, namely that the aforementioned restrictions applied quasi-systematically also to remand prisoners' contacts with their lawyers (whether in person or via telephone). The situation was particularly paradoxical (and somewhat absurd) in the case of remand prisoners who had requested to be granted free legal aid (and whose requests had been accepted) but who were in fact incapable of receiving such aid because of the impossibility of contacting their *ex officio* lawyer.

National Centre for the Prevention of Dissocial Behaviour

The delegation carried out a follow up visit to the National Centre for the Prevention of Dissocial Behaviour in Gostynin and, for the first time, to the branch of the National Centre for the Prevention of Dissocial Behaviour in Czersk.

The delegation heard no credible allegations of ill-treatment of patients by staff, who generally appeared to treat the patients in a calm and respectful manner. This is to be welcomed, particularly given the challenging behaviour of some of the patients and (at the National Centre in Gostynin) the additional stress and tension caused by overcrowding.

Both at the National Centre in Gostynin and at the Czersk branch, the delegation observed a very high level of security which did not appear individualised and adapted to the level of risk posed by a particular patient inside the Centre. This applied to the privacy during consultations and treatment interventions, the handcuffing during outside medical consultations (including dental and gynaecological) but, first and foremost, to the CCTV coverage of absolutely every area where patients lived, including the toilets and showers.

The Committee considers the aforementioned approach to be excessive and unacceptable, even more so in the case of female patients who could be watched by male security guards as they were moving into and from the toilet/shower areas in their room. While the picture was partially pixelised (covering the genitals) inside the toilet and shower area, this was not true of the adjoining areas used by the patients to dress and undress. In the CPT's view, this could be considered as amounting to degrading treatment.

Living conditions could, in principle, have been described as acceptable at the National Centre in Gostynin, however, it was severely overcrowded. The premises in the branch in Czersk were still undergoing refurbishment, although the part of the building already in use seemed to offer generally adequate conditions.

Both sites of the National Centre for the Prevention of Dissocial Behaviour had satisfactory numbers of care staff, who appeared duly trained and highly motivated. Patients were offered (exclusively on a voluntary basis) a range of both medical (somatic and psychiatric) and psycho-social treatments.

Seclusion, mechanical and chemical restraint were applied at both sites in accordance with the relevant provisions in force, and no indications of excessive recourse to them were found by the delegation.

The CPT delegation was informed by the Director of the National Centre that work was ongoing at the Ministry of Health on draft amendments to the Act on Procedure vis-à-vis Persons with Mental Disorders who represent a Danger to Life, Health or Sexual Freedom of Other Persons. The Committee is of the view that the ongoing work on amendments should be the opportunity to fundamentally alter the Centre's purpose from one based on security to one based on rehabilitation, implying proper preparation for release in cooperation with the relevant structures in the outside community.

I. INTRODUCTION

A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Poland from 21 March to 1 April 2022. The visit formed part of the CPT’s programme of periodic visits for 2022 and was the Committee’s seventh periodic visit to Poland.²

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

- Hans Wolff, 1st Vice-President of the CPT (Head of delegation)
- Gergely Fliegau
- Marie Kmecová
- Ömer Müslümanoğlu
- Solvita Olsena
- Jari Pirjola.

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

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

3. The list of police, Border Guard, penitentiary, and psychiatric establishments visited by the CPT’s delegation can be found in the Appendix to this report.

4. The report on the visit was adopted by the CPT at its 109th meeting, held from 24 to 28 October 2022, and transmitted to the Polish authorities on 16 November 2022. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Polish authorities to provide within six months a response containing a full account of action taken by them to implement the Committee’s recommendations and replies to the comments and requests for information formulated in this report.

² In addition, an ad hoc visit to Poland took place in September 2019. The reports on all these visits and related Government responses have been made public upon request of the Polish authorities and are available on the Committee’s website: <http://www.coe.int/en/web/cpt/poland>.

B. Cooperation encountered

5. The delegation received generally very good cooperation from the management and staff of the establishments visited. The delegation had rapid access to all premises it wished to visit, was able to meet in private with persons with whom it wanted to speak and was provided with access to all the information it required.

However, it is most regrettable that the delegation encountered problems at accessing detained foreign nationals' medical files at Biała Podlaska Guarded Centre for Foreigners, since the outside medical company contracted by the establishment to provide health care services had not been properly informed that the Convention establishing the Committee entitled its visiting delegations to have unrestricted access to personal administrative and medical files of detained persons. **The CPT urges the Polish authorities to take action to ensure that visiting delegations of the Committee henceforth have unrestricted access to medical files of detained persons in all establishments concerned in Poland.**

6. The CPT deplores yet again the inadequate level of cooperation from the Polish authorities at central level. As already stressed by the Committee in its report on the 2019 ad hoc visit,³ co-operating with the CPT implies the authorities' willingness to engage in a meaningful dialogue at the appropriate level. In this context, it is indeed deplorable that the delegation was again unable, despite requests reiterated several times (starting from the letter notifying the visit, sent three weeks prior to the visit's commencement), to present its preliminary observations to the Ministers of Internal Affairs and Administration, Justice and Health.⁴

7. Moreover, the Committee must recall once again that the principle of cooperation between Parties to the Convention and the CPT also requires that decisive action be taken to improve the situation in light of the Committee's recommendations.

In this respect, the CPT is very concerned to note that, after its seventh periodic visit to Poland, no real action has been taken to implement its long-standing recommendations as regards the practical operation of fundamental legal safeguards for persons in police custody,⁵ as well as on some other issues such as remand prisoners' restrictions on contact with the outside world⁶ and the inadequate screening for injuries on arrival to remand prisons (including the recording and reporting mechanisms).⁷ Seen in this context, the failure of the Polish authorities to organise end-of-visit meetings with the Ministers is particularly regrettable.

8. The Committee must stress that if no progress is made by the Polish authorities to fundamentally improve the level of their cooperation with the Committee, including as regards the implementation of the CPT's long-standing recommendations, the Committee is likely to be obliged to have recourse to Article 10, paragraph 2, of the Convention.⁸ The CPT expects that urgent and decisive action by the Polish authorities will render such action unnecessary.

³ See paragraph 7 of CPT/Inf (2020) 31.

⁴ The delegation did meet with Ms Hanna Machińska, Deputy Commissioner for Human Rights (Deputy Ombudsman) and representatives of the National Prevention Mechanism, as well as with non-governmental and International Organisations active in areas of concern to the CPT.

⁵ See paragraphs 13 to 21 below.

⁶ See paragraphs 60 and 61 below.

⁷ See paragraphs 56 and 57 below. Visits to prisons having been of a targeted nature (focused on interviews with newly-arrived remand prisoners), these two issues (restrictions on remand prisoners' contacts with the outside world and recording/reporting injuries) were the key points the Committee wishes to raise with respect to establishments under the responsibility of the Ministry of Justice. Other issues of continuing concern are mentioned in paragraphs 53, 54, 55, 59 and 62 below.

⁸ "If the Party fails to co-operate or refuses to improve the situation in light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

9. Since the CPT's very first visit to Poland (in 1996), the Polish authorities have (as already mentioned in paragraph 1 above) considered it important to follow the standard practice of requesting the publication of the Committee visit reports together with the corresponding Government responses. The CPT welcomes this approach.

Having said that, in recent years, both the Committee of Ministers and the Parliamentary Assembly of the Council of Europe have been encouraging the Organisation's Members States which have not done so to request the automatic publication of future CPT visit reports and related Government responses.⁹

The Polish authorities are invited to consider authorising in advance the publication of all future CPT visit reports concerning Poland and related Government responses, subject to the possibility of delaying publication in a given case.

⁹ See, in particular, Parliamentary Assembly Resolution 2160 (2017) adopted on 26 April 2017, and Committee of Ministers' reply to Recommendation 2100 (2017), adopted at the 1301st meeting of the Ministers' Deputies of 29 November 2017. See also www.coe.int/en/web/cpt/faqs#automatic-procedure.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

10. The legal framework governing the detention of adult criminal suspects by the police has remained basically unchanged since the CPT's last visit. Persons apprehended by the police, unless released, must be brought before the court within 48 hours of apprehension with a request for remand in custody. The apprehended person must be released if, within 24 hours of that moment, they have not received a copy of the court decision ordering temporary arrest. Persons remanded in custody must be transferred to a remand prison without delay.

As for the detention of juveniles suspected of a criminal offence, they must be released from police detention if, within 72 hours, a court decision on their placement in a shelter for juveniles, an appropriate protective educational facility or an appropriate treatment facility has not been issued. Further, the Act on the Procedure in Juvenile Cases (Juveniles Act) allows the police to hold juveniles in a police establishment for children (PID)¹⁰ for up to five days if they have absconded from a shelter or an educational or correctional facility or pending their transfer to another institution after a court decision has been issued. Further, Section 40a of the Juveniles Act allows the police to hold a juvenile in a PID, for up to 24 hours if, during their transfer to a shelter or an educational or correctional facility, there has been a "justified interruption of convoy".

Pursuant to the legislation currently in force, the police may hold intoxicated persons for up to 24 hours.

Further, the Police Act¹¹ allows the police to hold apprehended persons in "transit rooms" (in local police stations) for the time required to prepare a transfer to a police detention facility, a PID or a prison (but in any case for no longer than six hours), as well as in "temporary transit rooms" (which may be set up outside police establishments) for the time required to decide on how to proceed further with the person (but in any case, for no longer than eight hours). The time spent in the above-mentioned rooms is included within the maximum permitted length of police custody.

11. As had been the case during previous visits, the information gathered by the CPT's delegation during the 2022 visit suggests that the above-mentioned legal time-limits were respected in practice. In most cases, criminal suspects remained in police custody for periods between 24 and 48 hours, after which they were either released or transferred to a remand prison.

2. Ill-treatment

12. Most persons interviewed by the delegation, who were or had recently been in police custody, stated that they had been treated by the police in a correct manner. Nonetheless, the delegation received several complaints regarding excessive use of force during apprehension, including slapping, hitting with a truncheon, excessively tight handcuffing¹² (including behind one's back), as well as violently pushing a person face down to the ground and kneeling on them while, allegedly, they no longer resisted.

The Committee calls upon the Polish authorities to pursue rigorously their efforts to combat ill-treatment by the police. Police officers throughout the country should receive a firm message that all forms of ill-treatment (including verbal abuse) of persons deprived of their

¹⁰ "Policyjna izba dziecka": PID.

¹¹ Section 15 (7) b.

¹² It should be noted that excessively tight handcuffing can have serious medical consequences (for example, sometimes causing a severe and permanent impairment of manual function).

liberty are unlawful and will be punished accordingly. It should also be reiterated to the police officers that, when carrying out an apprehension, no more force than is strictly necessary is to be used and that, once apprehended persons have been brought under control, there can be no justification for striking them.

Further, police officers must be trained in preventing and minimising violence in the context of an apprehension. In cases in which the use of force becomes necessary, they need to be able to apply professional techniques which reduce as much as possible any risk of harm to the persons they are seeking to apprehend. Whenever it is deemed essential to handcuff a person at the time of apprehension or during the period of custody, the handcuffs should under no circumstances be excessively tight and should be applied only for as long as is strictly necessary.

In this context, the Committee requests the Polish authorities to provide detailed information about the training in the use of force currently provided to the police officers.

3. Safeguards against ill-treatment

13. Throughout their dialogue with the Polish authorities, the CPT has repeatedly emphasised that three fundamental rights (the rights of detained persons to notify a third party of their detention and to have access to both a lawyer¹³ and a doctor) should apply from the very outset of a person's deprivation of liberty. However, the delegation's findings from the 2022 visit suggest that, as in the past, these safeguards usually do not become effective from the outset of deprivation of liberty.

14. As regards notification of custody, many of the persons interviewed by the delegation complained of delayed notification of custody or even alleged to have been denied it; in a few cases detained persons alleged that their families had been notified only after a court hearing on remand custody.¹⁴ Further, complaints were again received from some detained persons that feedback regarding notification had not been provided to them and that, as a result, they did not know whether their relatives or other persons of their choice had been informed about their detention.

The CPT again calls upon the Polish authorities to increase their efforts to ensure the right of persons deprived of their liberty by the police to inform a close relative or another third party of their situation, as from the very outset of their deprivation of liberty and without delay.

Furthermore, the Committee reiterates its recommendation that detained persons be provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention. The relevant legislation and/or regulations should be amended so as to oblige the police to record in writing whether or not notification of custody has been performed in each individual case, with an indication of the exact time of notification, the identity of the person who has been contacted, and that the detained person has been informed of the successful notification. A waiver of the right to notify a relative or a third party should be systematically signed by the person deprived of their liberty if they do not wish to exercise that right.

¹³ See also Articles 3, 5 and 6 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, also applicable in Poland.

¹⁴ Several persons also complained that they had not been allowed to access their mobile phones to check the phone numbers of the persons they wished to be informed.

15. The delegation's findings during the 2022 periodic visit suggest that access to a lawyer in police custody remains highly exceptional in practice. Despite repeated recommendations by the Committee, there is still no provision in Polish law allowing for the appointment of an *ex officio* lawyer before the stage of court proceedings. Therefore, persons in police custody who are not able to pay for legal services (the majority among those interviewed by the delegation) are effectively deprived of the right of access to a lawyer (see also paragraph 61 below regarding restrictions on contacting a lawyer during the initial period of remand detention).

As stated by the Committee following previous visits, such a state of affairs reflects Poland's failure to transpose into its national law the requirements of the EU Directive on access to legal aid.¹⁵

The Committee again calls upon the Polish authorities to immediately take measures to ensure that the right of access to a lawyer is effectively guaranteed to all persons in police custody as from the very outset of their deprivation of liberty, in accordance with the aforementioned EU Directive.

The CPT also once again calls upon the Polish authorities to develop, without further delay and in cooperation with the Polish Bar Council – a fully-fledged and properly funded system of legal aid for persons in police custody who are not in a position to pay for a lawyer, to be applicable from the very outset of police custody.¹⁶

16. The delegation received an allegation from a detained juvenile who alleged having been questioned without a presence of a lawyer and another trusted person.

The CPT reiterates its recommendation that the Polish authorities take steps to ensure that detained juveniles are never questioned, do not make any statements or sign any documents related to the offence of which they are suspected without the benefit of a lawyer and, in principle, of another trusted adult being present and assisting the juvenile; the option “does not wish to see a lawyer” should not apply to juveniles.

Moreover, a specific information form on rights, setting out the particular position of detained juveniles and including a reference to the presence of a lawyer/another trusted adult, should be developed and given to all such persons taken into custody. Special care should be taken to explain the information to ensure comprehension.¹⁷

17. As regards access to a doctor, persons in need of medical care were provided with such care (namely, either the police called an ambulance or took the detained person to a hospital emergency ward); reportedly, intoxicated persons were always taken to a hospital for a medical examination before their admission. However, the majority of interviewed persons alleged that police officers were systematically present during medical examinations, despite repeated recommendations by the Committee to stop this practice. Furthermore, as in the past, the injuries observed on persons brought to police detention facilities continued to be poorly recorded or not recorded at all.

The Committee once again calls upon the Polish authorities to implement its long-standing recommendation that all medical examinations of persons in police custody be conducted out of the hearing and – unless the health professional requests otherwise in a particular case – out of the sight of police officers.

¹⁵ See, in particular, Article 4, paragraph 4b, and Article 5 of Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings, OJ L 297, 4 November 2016, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L1919>. The deadline for its transposition expired on 25 May 2019.

¹⁶ See also Article 7, paragraph 1, of Directive (EU) 2016/1919.

¹⁷ Reference is made in this regard to the Recommendation Rec(2003)20 of the Council of Europe's Committee of Ministers concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

As regards the documenting of medical examinations and reporting of injuries observed on persons in police custody, the Committee calls upon the Polish authorities to ensure that:

- the record drawn up following the medical examination of a person detained by the police contains:
 - (i) an account of statements made by the person in question, which are relevant to the medical examination (including their description of their state of health and any allegations of ill-treatment);
 - (ii) a full account of objective medical findings based on a thorough examination;
 - (iii) the health-care professional's observations in light of i) and ii), indicating the consistency between any statements made and the objective medical findings;
- any traumatic injuries observed in the course of the medical examination are recorded in a dedicated register. In addition to this, all injuries should be photographed in detail and the photographs kept, together with "body charts" for marking traumatic injuries, in the detained person's individual medical file;
- whenever injuries are recorded which are consistent with allegations of ill-treatment made by a detained person (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned;
- health-care staff advise detained persons of the existence of the reporting obligation and that the forwarding of the report to the competent prosecutor's office is not a substitute for the lodging of a complaint in a proper form;
- special training is provided to health-care professionals working in police detention facilities. In addition to developing the necessary competence in the documentation and interpretation of injuries as well as ensuring full knowledge of reporting obligations and procedures, that training should cover the technique of interviewing persons who may have been ill-treated. For the purpose of a unified practice, national guidelines on medical examination upon detention and recording of injuries should be developed;
- the results of every examination, including the above-mentioned statements and the health-care professional's conclusions, are made available to the detained person and their lawyer.

18. In addition, the CPT reiterates once again its long-standing recommendation that persons deprived of their liberty by the police be expressly guaranteed the right of access to a doctor (including a doctor of their own choice, it being understood that an examination by such a doctor may be carried out at the detained person's own expense) from the very outset of their deprivation of liberty. The relevant provision should make clear that a request by a detained person to see a doctor should always be granted; it is not for police officers, nor for any other authority, to filter such requests.

19. As during the previous visits, the delegation noted that information on rights was still not always provided to detained persons upon apprehension but usually several hours later (at the start of the first formal interview by the investigator) which is contrary to the EU Directive on the right to information in criminal proceedings, also applicable in Poland. Verbal information was as a rule accompanied by the provision of written information (albeit in a manner that was difficult to understand for persons without a legal education) in a document that a detained person had to sign but was not allowed to keep. The delegation noted that the information in foreign languages did not list all the relevant rights. Further, written information on rights was seen posted inside most of the cells at the police detention facilities visited.

The CPT once again calls upon the Polish authorities to ensure that all persons detained by the police are fully informed of their rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police), in accordance with the aforementioned EU Directive. This should be ensured by provision of clear verbal information upon apprehension, to be supplemented at the earliest opportunity (that is, immediately upon first entry into police premises) by provision of a written form setting out the detained person's rights in a straightforward manner. This form should be made available in an appropriate range of languages. Persons detained should always be given a copy of the above-mentioned written form. Moreover, particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case.

20. While visiting police establishments the delegation examined a number of detention protocols and noted that several of them had been filled in by police officers using, *inter alia*, the following standard-looking wording: "I will not submit a complaint about the validity, legality, and regularity of the detention". Detained persons had been asked to sign the aforementioned protocols. In the Committee's view, such a wording in a detention protocol could be seen as an undue pressure on a detained person to abstain from filing a complaint regarding their detention. Therefore, **the CPT recommends that such wording no longer be used by police officers when filling in detention protocols.**

21. In the Committee's view, electronic (i.e., audio and/or video) recording of interviews represents an important additional safeguard against the ill-treatment of detainees.¹⁸

The CPT recommends that the Polish authorities introduce systematic electronic recording of all police interviews (including any initial questioning). Needless to add, audio and video recording devices should be always functioning, recorded material preserved for reasonable periods of time (e.g., 30 days or longer) and made available to appropriate persons (including those responsible for monitoring and inspecting detention facilities and those charged with investigating allegations of ill-treatment as well as the detained person and/or their lawyer).

4. Conditions of detention

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

Overall, cells were of a sufficient size,¹⁹ well-lit and ventilated, adequately equipped (with beds or sleeping platforms, a table and a bench or stools, as well as a call system), clean and generally in a good state of repair. However, as on previous visits, none of the police establishments visited, except for Chojnice, possessed an exercise yard. **The CPT again calls upon the Polish authorities to implement its long-standing recommendation that all persons held for 24 hours or more in police custody be offered outdoor exercise every day.**

¹⁸ Such a facility can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of any allegations of ill-treatment. This is in the interest both of persons who have been ill-treated and of law enforcement officials confronted with unfounded allegations that they have engaged in physical ill-treatment or psychological pressure. Electronic recording of interviews also reduces the opportunity for defendants to later falsely deny that they have made certain statements.

¹⁹ For example, a cell measuring some 11 m² for two persons, a cell of some 17 m² for three persons or 22 m² for five persons.

5. Other issues

23. In most police establishments visited, the delegation was informed that a straitjacket and/or a padded helmet could be applied to violent and/or agitated detained persons (most often intoxicated) for the purpose of preventing self-harm and/or harm to others. Reportedly, one police officer would then observe the detained person while another would stay with them in a cell. According to the police officers present at the time of the visit, such measures were not frequently used, although the delegation was unable to confirm this, as there were no registers of their use.

The CPT recommends that the Polish authorities ensure that whenever resort is had to head protection vis-à-vis agitated detained persons, its use is properly recorded in a dedicated register. Such a register is an important management tool to provide oversight of the frequency and duration of the use of such a measure and to enable actions to be taken, where appropriate, to reduce its use. The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the person who ordered or approved it, and an account of any injuries sustained by the detained person or staff. The duration of using head protection should always be for the shortest possible time. Moreover, persons at risk of self-harming should promptly be seen by a doctor.

Regarding straitjackets, the Committee considers that they should never be used in a police detention facility, *inter alia* because of the safety risks when using them in a non-medical environment, and of their humiliating and stigmatising impact. **The CPT recommends that straitjackets be removed from the means of restraint used in police detention.**

24. In all police establishments visited, newly arrived detained persons were subjected to a pat-down or a strip search which, according to police officers, was always conducted in two stages to ensure that the detainee was never fully naked.²⁰ However, several detained persons interviewed by the delegation, including a juvenile, claimed that they had undergone a strip search fully naked, and, allegedly, also had to squat several times.

The CPT must stress that every strip search is a very invasive and potentially degrading measure. Therefore, a strip search should be carried out only when there are reasonable grounds to suspect that a detained person may have hidden on them items that may be used to harm themselves or others or that may be evidence of a crime and such a search is necessary to detect these, an ordinary search being unlikely to result in their discovery.

Furthermore, to minimise embarrassment, detained persons who are being searched should, as a rule, not be required to remove all their clothes at the same time. Rather, a person should be allowed to remove clothing above the waist and put it back on before removing further clothing. Request to squat during a strip search should also be exceptional and based on an individual assessment.

The CPT recommends that the Polish authorities take steps to ensure that these precepts are effectively implemented in practice in all police establishments.

²⁰ Police officers also told the delegation that a strip search of LGBT persons was conducted by a police officer of that gender which a detainee stated they felt comfortable with.

B. Foreign nationals held under aliens' legislation

1. Preliminary remarks

25. The border crisis between the European Union and Belarus, which had begun in the summer of 2021, saw thousands of people, mostly from the Middle East, trying to enter the European Union through Latvia, Lithuania, and Poland from neighbouring Belarus.

In response to an unprecedented increase in attempts to cross the Polish border from Belarus, a localised state of emergency was introduced in 183 Polish municipalities on 2 September 2021. Around the same time, the Polish authorities also began the construction of a fence between the two countries aimed at stopping the irregular border crossings.²¹

26. In October 2021, the Polish Parliament passed amendments to the Aliens Act and the Act on Granting Protection to Aliens on the Territory of the Republic of Poland. According to these amendments, a foreigner stopped after crossing the Polish border illegally is obliged to leave the Polish territory and will be temporarily banned from entering the country for a period ranging from six months to three years. Polish border officials were also granted the right to leave unexamined an asylum application filed by a foreigner who was stopped immediately after illegally entering unless they had arrived from a country where their life and freedom were threatened.

The CPT recalls that based on the principle of *non-refoulement* and the established case law of the European Court of Human Rights, States are under an absolute obligation not to send a person to a country where there are substantial grounds for believing that he or she would run a real risk of being subjected to torture or other forms of ill-treatment. This obligation is applicable to any form of forcible removal, including deportation, expulsion, informal transfer, and non-admission at the border, and in respect of return to any other country to which the person may subsequently be removed (so-called chain refoulement). It follows that Article 3, in conjunction with Article 13, of the European Convention on Human Rights requires States to enable persons to lodge an asylum claim and thereafter to provide for an independent rigorous scrutiny of the claim.

The Committee considers that irregular migrants should have ready access to an asylum procedure (or other residence procedure) which guarantees both confidentiality and an objective and independent analysis of the human rights situation in other countries. That procedure should involve an individual assessment of the risk of ill-treatment in case of expulsion of the person concerned to the country of origin or a third country.

In the Committee's view, immediately and forcibly returning irregular migrants without any prior identification or screening of their needs, would be clearly contrary to the principles and standards mentioned above. To effectively prevent persons from being exposed to the risk of ill-treatment, **the CPT recommends that the Polish authorities align the legal framework and practice with procedural requirements of Article 3 and ensure that irregular migrants who have entered the Polish territory are not forcibly returned prior to an individualised screening with a view to identifying persons in need of protection, assessing those needs, and taking appropriate action.**

27. Foreigners deprived of their liberty (pending asylum or return proceedings) are, according to the Act on Granting Protection to Aliens on the Territory of the Republic of Poland and the Aliens Act, accommodated in guarded centres for foreigners.²²

²¹ The state of emergency along the border with Belarus was lifted on 1 July 2022, after the construction of a fence had been completed.

²² Or in "arrests for foreigners" (*areszt dla cudzoziemców*) if there is a risk that they will not obey the rules in force in a guarded centre, or the foreigner has already disobeyed these rules. At the time of the visit, there was only one such establishment with a capacity of 37 places, located in Przemyśl.

According to the Act on Granting Protection to Aliens on the Territory of the Republic of Poland, a decision to detain an asylum seeker is issued for a period of up to 60 days by a court, upon request by the Border Guard. If a foreigner claims asylum during their stay in a guarded centre, the period of detention can be prolonged for up to 90 days from the day of filing the application. The period of a stay in a guarded centre can also be prolonged if the final decision concerning international protection has not been issued before the end of the previous period of detention and the original reasons for detention still exist. In this case, detention can be prolonged by a court for a specified period.²³ The detention of an asylum seeker in a guarded centre cannot exceed six months.

Pursuant to the Aliens Act, the court indicates the period of stay in its decision on placing a foreigner in a guarded centre, but this cannot initially be for longer than three months. That period may then be prolonged for a specified period which cannot exceed six months in total. After the expiry of that six-month period, the stay may be further prolonged for a specified period, but not longer than 12 months in total.²⁴ If a foreigner has filed a complaint with an administrative court against the decision obliging the foreigner to return, together with a request to suspend its enforcement, the period of stay in a guarded centre may be extended to 18 months in total.

28. According to the statistics provided by the Polish Border Guard, at the end of 2021, 1 737 migrants were detained in the guarded centres for foreigners, of whom 1 299 were asylum seekers.

As a result of the extraordinary situation at the Polish-Belarusian border, by the end of 2021, the number of guarded centres for foreigners had increased from the previous six to nine,²⁵ and the number of places from 628 to 2 038.²⁶

As of February 2022, men were placed in Wędrzyn, Lesznów and Krosno Odrzańskie guarded centres, with Biała Podlaska, Czerwony Bór, Białystok, Kętrzyn, and Przemyśl²⁷ guarded centres accommodating families and single women.²⁸

29. The CPT delegation carried out a follow-up visit to the Guarded Centre for Foreigners in Biała Podlaska, last visited by the CPT in 2009, a follow-up visit to the Guarded Centre for Foreigners in Białystok, last visited in 2017, and a first-time visit to the temporary Guarded Centre for Foreigners in Wędrzyn.

30. At the time of the visit, the Guarded Centre for Foreigners in Biała Podlaska, with a capacity of 361 places, was accommodating 135 detained foreign nationals – families and single women with children – 69 adults (25 male and 44 female) and 66 children (there were no unaccompanied minors). The vast majority were Iraqis, 117 were asylum seekers.

The foreigners were accommodated in two buildings – the original guarded centre and a repurposed open reception centre for asylum seekers which, until August 2021, had belonged to the Office for Foreigners.

²³ Prolongation is not possible if the delay in proceedings is not due to reasons attributable to the applicant or the person on behalf of whom the applicant is acting.

²⁴ These periods do not include the period of the foreigner's stay in a guarded centre in connection with their application for international protection.

²⁵ In August 2021, new detention centres were opened in Czerwony Bór, Biała Podlaska and Wędrzyn; the first two had previously served as reception centres.

²⁶ During the summer and autumn of 2021, the irregular migrants detained at the Polish-Belarusian border were also placed in two Border Guard stations (in Dubicze Cerkiewne and Połowce) called "centres for foreigners' registration" (*Centrum Rejestracyjne Cudzoziemców*). It is noteworthy that during the CPT visit in April 2022 these two centres had been empty for weeks.

²⁷ At the end of February 2022, the guarded centre in Przemyśl was reorganised to receive foreigners who crossed the border with Ukraine, the foreigners previously detained there being transferred to the guarded centre in Biała Podlaska.

²⁸ Although Białystok Guarded Centre had a separate section for single men (see paragraph 31 below).

31. The Guarded Centre for Foreigners in Białystok, with a capacity of 159 places, was, at the time of the visit, accommodating 99 detained foreign nationals – families, single women with children, and single men - 59 adults (33 male²⁹ and 26 female) and 40 children (there were no unaccompanied minors). The large majority were Iraqis; 84 were asylum seekers.

When opened in 2008, the centre had originally accommodated families but in 2012 it was converted into an establishment for adult men. However, in response to the increased numbers being detained, in August 2021 it was again repurposed to accommodate families (with an 18-bed ward for single men).³⁰

32. With the capacity of 450 places at the time of the visit, the temporary Guarded Centre for Foreigners in Wędrzyn, was accommodating 320 detained foreign nationals, all adult single men. The majority of the men were Iraqis; 226 of them had requested asylum in Poland.

The centre, which is a branch of the guarded centre in Krosno Odrzańskie,³¹ had been opened in September 2021, in response to the unprecedented influx of migrants, and is located within an active military training ground. The temporary character of the establishment clearly had a negative impact on a number of issues, including the material conditions, regime, numbers of properly trained staff, etc. (see paragraphs 36, 37 and 49 below). **The Committee would like to receive information on the Polish authorities' plans regarding further functioning of this guarded centre.**

2. Ill-treatment

33. It is to be stressed that the delegation heard no allegations of ill-treatment or verbal abuse of foreign nationals by staff at the centres visited.³² On the contrary, in Biała Podlaska and Białystok, many detainees spoke positively about staff and interactions with them, and the delegation observed that staff displayed a generally positive attitude vis-à-vis the detained foreign nationals.

Incidents of inter-personal violence between detained foreign nationals appeared to be rare and were well handled by the staff. However, the delegation noted that the situation had been somewhat different in Wędrzyn Guarded Centre several months prior to the visit when the establishment had been overcrowded³³ and there were tensions and even physical violence between ethnic groups, aggravated by incidents of smuggling of illegal drugs and the presence of self-made weapons.

The CPT recommends that the management and staff of Wędrzyn Guarded Centre remain vigilant and ready to prevent inter-personal violence and intimidation.

²⁹ Of whom, 16 single men were kept in a separate male ward on the ground floor.

³⁰ In August 2021, a temporary branch of the Centre was opened in Czerwony Bór with a capacity of 131 places, which was not visited.

³¹ Which was not visited during the 2022 visit.

³² That said, it is noteworthy that as a consequence of the legal amendments referred to in paragraph 26 above, it could reasonably be assumed that a number of foreign nationals denied entry to (or obliged to leave immediately) the Polish territory had been unable to make any statements regarding the manner in which they had been treated by law enforcement officials who had apprehended them.

³³ The delegation was informed by the management that, at one point, Wędrzyn Guarded Centre had accommodated over 800 detained foreign nationals.

3. Conditions of detention

a. material conditions

34. The material conditions at the centres visited were generally acceptable, in terms of the general state of repair, the furnishing and equipment of the rooms and levels of hygiene.

In August 2021 the relevant legislation regarding the permitted minimum living space per person in a guarded centre or “arrest for foreigners” was amended, being reduced to not less than 2 m² instead of the previous 4 m², under certain circumstances.³⁴ It is noteworthy that, at the time of the visit, all three guarded centres were only about half full, which rendered the new provision unnecessary. Notwithstanding these findings, **the CPT recommends that the Polish authorities revise the law, reverting the minimum standard of living space to 4 m² per detainee in multiple-occupancy rooms in guarded centres for foreigners.**

35. At the Guarded Centre in Biała Podlaska, accommodation was provided in two (three- and four-storey) buildings; every family had a separate room.

At the Guarded Centre in Białystok, foreigners were accommodated in a three-storey building: single men in a wing on the left side of the ground floor, families in separate rooms on the first and second floors.

The rooms were adequately spacious³⁵ and furnished with beds with full bedding, wardrobes, tables, and chairs; children were provided with toys and baby milk formula, and nappies for infants were made available. In each building there was a library, communal rooms with a TV, classrooms, activity rooms, sport rooms, computer rooms, prayer rooms (and kitchenettes in Biała Podlaska). The delegation also noted a brand-new sports ground at the Guarded Centre in Białystok, with basketball and football fields and various exercise machines.

36. At the Guarded Centre in Wędrzyn, accommodation was provided in three single-storey buildings. The multiple-occupancy rooms were sufficiently spacious³⁶ but lacked some furniture – there were not enough tables, chairs and bedside lockers, and no curtains to offer protection against the sun and heat;³⁷ moreover, there were no rooms for non-smoking foreign nationals. Each building had a prayer room, a computer room, and a communal room with a TV (but insufficient seating).

The delegation noted an ongoing programme of refurbishment, which was welcome as there were various signs of wear and tear (broken taps and doorknobs, mould in the showers, etc.), but was concerned that the concertina barbed wire around the exercise yards and between the buildings posed a serious risk of injury. Furthermore, the exercise yards were austere and lacked any basic equipment on which to sit or shelter from inclement weather.

The Committee recommends that the Polish authorities take steps to remedy the deficiencies listed above.

³⁴ In case of increased demand, for a specified period, but no longer than 12 months.

³⁵ Rooms for three persons measuring some 17 m², for four persons approximately 20 m², and for five persons approximately 27 m².

³⁶ Measuring between 45 and 55 m² and accommodating up to eight persons each.

³⁷ The centre's management was in the process of replacing the bunk beds with regular beds.

b. regime

37. The CPT notes as a positive fact that there was an open-door policy within the centres during the day and daily unrestricted outdoor access (except during mealtimes) to the spacious exercise yards and (at Białystok Guarded Centre) to the sports ground. In Wędrzyn, the delegation was informed of advanced plans to provide an indoor gym and table tennis equipment in the near future.

There was, however, a near total lack of any constructive purposeful activities in all the centres visited for adults except for some ad hoc, unstructured group events once or twice per month.³⁸ The delegation noted staff efforts to provide activities for pre-school age children but those similarly lacked structure and were not offered daily. In the CPT's view, the longer the period for which persons are held in an immigration detention centre, the more developed should be the activities which are offered to them. Purposeful activities, in an immigration detention context, can include, *inter alia*, language classes, IT/computer classes, gardening, arts and crafts, and cookery skills. Therefore, **the CPT recommends that the Polish authorities put in place a purposeful programme of activities for detained foreigners, including pre-school age children, in all guarded centres, considering the above remarks.**

4. Detention of minors

38. As already indicated in paragraphs 30 and 31 above, there were no unaccompanied minors in the two guarded centres which were accommodating families with children and single women, nor in the centre accommodating single adult men.

In this regard, the CPT wishes to stress that every effort should be made to avoid resorting to the deprivation of liberty of migrant children. As regards more specifically unaccompanied minors, given their particular vulnerability, they should not, as a rule, be held in an immigration detention facility. When, exceptionally, children are held with their parents in a detention centre, the deprivation of liberty should be for the shortest possible period.³⁹

Given the fact that many children detained with their families at Biała Podlaska and Białystok Guarded Centres had been there for six months and longer, **the CPT recommends that the Polish authorities significantly increase their efforts to avoid detaining families with children in guarded centres for foreigners and to ensure that when, exceptionally, children are held in a guarded centre, their deprivation of liberty is for the shortest possible period.**

³⁸ The men detained in Wędrzyn Guarded Centre, were not offered any purposeful activities. In Biała Podlaska and Białystok Guarded Centres, children from 7 years old were attending school (which was organised mostly online during the Covid-19 pandemic). However, there were no daily activities for pre-school children and no purposeful structured activities for adults except some weekly Polish language courses organised shortly before the CPT visit.

³⁹ It is noteworthy that Poland was found to have violated Articles 5 and 8 of the European Convention on Human Rights in several immigration detention cases. In the March 2022 judgment in one of the most recent cases, *Nikoghosyan and Others v. Poland* (no. 14743/17), the European Court of Human Rights concluded that the detention of both the adult and the child applicants, for a period of almost six months, was not a measure of last resort for which no alternative was available, and that the national authorities must act with greater speed and diligence.

5. Health care

39. The Guarded Centre in Biała Podlaska employed nine nurses (corresponding to seven full-time equivalents) who were also present at weekends but not during the night. An internal medicine specialist and two paediatricians (who visited the centre four times per week) were present for a total of ten and 16 hours per week respectively.

The healthcare staff at the Guarded Centre in Białystok consisted of six full-time nurses present on weekdays and weekends (but not during the night) and two half-time doctors – a general practitioner and an internal medicine specialist – who came to the establishment six times a week for sessions, with each lasting about four hours.

A general practitioner visited the Guarded Centre in Wędrzyn three times a week for sessions of about four hours each, a nurse was available on call for seven hours every day and there were also two paramedics on duty 12 hours every day. Given the establishment's capacity, **the CPT recommends that the doctor's presence be increased to the equivalent of at least one full-time post, and that the nursing complement be increased and their presence in the establishment ensured.**

Further, **steps should be taken to ensure that someone competent to provide first aid (who holds a valid certification in the application of cardiopulmonary resuscitation and the use of an automated external defibrillator) is always present at all guarded centres for foreigners, including at night.**

40. Access to specialist care (including dental and gynaecological) was problematic in all the centres visited (see paragraph 42 below regarding psychiatric care). For specialist consultations, foreigners were taken to an external hospital or to relevant specialists, but many complained of long delays in this respect. **The CPT recommends that the Polish authorities take steps to ensure that detained foreign nationals are given reasonably fast and free-of-charge access to outside specialists when medically necessary, including to dental care.**

41. The medical examination of newly admitted persons by a nurse or a paramedic usually took place within 24 hours and consisted of an anamnesis, a basic physical examination, and a screening for transmissible and infectious diseases (including a chest X-ray); a doctor normally examined the detainees within the first three days after their arrival. That said, there was no examination of possible traumatic psychological disorders and signs of victimisation, and, in Wędrzyn Guarded Centre, no systematic recording of injuries.

The CPT recommends that the Polish authorities ensure that medical screening upon admission includes aspects such as the recording of any signs of injury, together with any relevant statements of the detained person and the doctor's conclusions. A dedicated register on injuries observed in detained foreign nationals during admission and detention should be put in place.

Special training should be provided to healthcare professionals working in guarded centres for foreigners. In addition to developing the necessary competence in the documentation and interpretation of injuries, as well as ensuring full knowledge of reporting obligations and procedures, that training should cover the technique of interviewing persons who may have been subject to ill-treatment.

Furthermore, particular attention during the medical examination upon admission should be paid to the possible existence of traumatic psychological disorders and signs of victimisation.

42. As regards psychiatric and psychological care, the Committee is concerned about possible mental health issues remaining undetected and/or not being addressed adequately, mainly due to a lack of mental health care specialists.⁴⁰ Given the sheer volume of detained foreigners transiting through the guarded centres, their personal histories and the stress incurred by the circumstances of their arrival, the prospect of deportation and sometimes prolonged detention, a number of them presented a heightened risk of self-harm and suicide, as well as symptoms of post-traumatic stress disorder and/or other mental disorders.

The CPT recommends that a needs assessment be carried out in all guarded centres for foreigners – in cooperation with the relevant health authorities – with a view to ensuring that psychiatric and psychological disorders and emotional distress amongst detainees are detected and that appropriate psychological assistance and psychiatric care is provided.

43. Medical confidentiality was generally respected by staff, that is, medical examinations normally took place without the presence of custodial staff. However, due to language barriers and a lack of interpretation arrangements, fellow detainees were often invited to be present and assist during examinations, in breach of medical confidentiality.

In the Committee's view, it is imperative that healthcare staff have access to appropriate translation/interpretation services to ensure that a comprehensive assessment can be formulated, and any conclusions and treatment needs communicated to the persons concerned.

Therefore, **the CPT recommends that the Polish authorities take measures to ensure that qualified interpretation is provided in all cases when a healthcare professional is unable to make a proper diagnostic evaluation and/or communicate treatment needs due to language problems. Save for exceptional circumstances, interpretation by a fellow-detainee should be avoided.**

6. Safeguards during detention

44. In the Committee's view, detained irregular migrants and asylum seekers should benefit from an effective legal remedy enabling them to have the lawfulness of their deprivation of liberty decided speedily by a judicial body. The need for continued detention should be reviewed periodically by an independent authority.

It is also essential that newly admitted detained foreign nationals be expressly informed, without delay, and in a language they understand, of all their rights, their legal situation (including the grounds for their detention), the procedure applicable to them, and the house rules of the relevant detention facility.

45. The delegation noted that, upon admission to a guarded centre, detained foreign nationals were seen by a social worker and an administrative officer who informed them about their legal situation and the house rules of the centre (if necessary, with an interpreter present). The house rules were available in the languages most commonly spoken by the detainees, with the exception of Wędrzyn Guarded Centre, where there were no house rules in Kurdish, despite there being a large number of detainees there who spoke this language. **The CPT recommends that the Polish authorities take steps to remedy this deficiency. Specific attention should also be paid to the situation of those detainees who are illiterate or who cannot understand any language in the written form.**

⁴⁰ None of the centres visited benefited from regular visits by a psychiatrist, and there were no clinical psychologists in any of the healthcare teams. Psychologists employed by the Border Guard formed part of the administrative staff and were usually not involved in any therapeutic work. Consultations by an external psychologist could be organised on an *ad hoc* basis, based upon the recommendation of health-care professionals or upon request by the detained foreign nationals, their lawyers or NGO representatives supporting the detained persons.

Detained foreign nationals were also given copies of the court decisions regarding their detention; it is noteworthy that generally the operative part of the court decision was translated into a language the detained foreign nationals understood, and they seemed to be aware of the modalities and deadlines for appealing. However, some foreign nationals complained that translation was given in a language they did not understand. **The CPT invites the Polish authorities to ensure that translation of relevant processual documents is always provided in a language which a detained foreign national actually understands.**

Personal files of migrants and asylum seekers were duly kept, and the periodic judicial review of their detention by the court appeared to be timely.

46. As found during previous CPT visits, the issue of legal assistance was left almost entirely to various non-governmental organisations, whose representatives could visit the guarded centres and assist detained foreign nationals with their immigration and asylum procedures on a *pro bono* basis.

The CPT reiterates its recommendation that the Polish authorities take appropriate steps – in consultation with the relevant Bar Associations – to ensure that, in all guarded centres in Poland, immigration detainees can effectively benefit from the services of a lawyer in all phases of the legal procedures (including through the provision of free legal aid for foreign nationals who are not able to pay for a lawyer).

7. Other issues

47. At the Guarded Centre in Białystok, the delegation found that, in March 2022, a highly agitated woman was mechanically restrained to a bed for more than 19 hours using five-point fixation with leather belts (and a helmet) before being transferred to a psychiatric hospital; during her restraint there was no continuous direct supervision (via the presence of a staff member in the room), only video surveillance.

Due to the potential risk of ill-treatment, the Committee has serious misgivings regarding the presence and use of restraint beds in detention facilities for foreigners. In the CPT's opinion, as a matter of principle, if resort to such a mechanical restraint is unavoidable it should take place in a medical environment.

An individual who is so agitated or who presents such a danger to themselves or to others that they are deemed to require such a high level of restraint, must be medically assessed without delay. If a person's agitation is caused by a mental disorder, the person should be transferred immediately to a medical establishment where such an intervention can be safely applied under clinical supervision. In other cases, where an intervention is needed to prevent a person not suffering from a mental disorder from hurting themselves or others, the least restrictive measure must be applied, and the person concerned must be observed continuously by staff.

In light of the comments above, **the CPT recommends that the Polish authorities put an immediate end to the use of restraint beds in detention facilities for foreigners and remove them from all such facilities in the country.**

48. As regards other safety issues, the Committee welcomes the fact that, following its recommendation after the 2017 visit, custodial staff in guarded centres have stopped carrying long truncheons and tasers in full view of detained foreign nationals.

However, the delegation once again received a number of allegations that, despite legislative amendments, upon admission, foreign nationals (including children of all ages) were routinely strip searched in Biała Podlaska and Białystok centres; furthermore, these searches were, allegedly, carried out without respecting the requirement for a two-stage approach, set by law, in order to ensure that the detainee was never fully naked.

The CPT considers that a strip-search is a very invasive and potentially degrading measure and should only occur when absolutely necessary and based on justifiable risk. When carrying out such a search, every reasonable effort should be made to minimise embarrassment and maintain as much as dignity as possible; detained persons who are searched should not normally be required to remove all their clothes at the same time, e.g., a person should be allowed to remove clothing above the waist and get dressed before removing further clothing.

In addition, the search should be carried out by a custodial officer of the same gender as the person being searched and, as a rule, a second officer of the same gender should also be present during any strip-search as a protection for detained persons and staff alike; consideration should also be given to cultural background, religious beliefs, sexual identity, etc.

49. The guarded centres for foreigners visited employed two categories of staff: border guards (including uniformed custodial officers) and civilian staff (educators and social workers). In Biała Podlaska and Białystok centres, staff members were regularly offered training on different subjects, such as working in a multi-cultural environment, mediation, conflict resolution, etc. In Wędrzyn, however, the system of staff rotation⁴¹ made it virtually impossible to train the custodial officers properly (especially in inter-cultural communication).

As regards language skills, most staff had some notions of English and/or Russian; however, communication was a problematic issue, especially since most of the detainees spoke Kurdish or Arabic.

At the Guarded Centre in Wędrzyn, the delegation also observed that some custodial staff tended to address foreign nationals by their ID number and not by their name.

The CPT recommends that greater efforts be made in the guarded centres visited (and, if relevant, in all other detention facilities for foreigners) to improve staff's training in languages commonly spoken by detained foreign nationals and in inter-cultural communication. Furthermore, the staff should be instructed to cease impersonal modes of communication and address foreign nationals by their names.

50. As for contact with the outside world, detained foreign nationals could send and receive correspondence and had access to mobile telephones;⁴² they also had access to computers equipped with the VoIP (Voice over Internet Protocol) technologies.

Visits were allowed (authorisations for visits usually being granted within a few days)⁴³ but rare in practice.

51. In the centres visited, detained foreign nationals could make requests or complaints regarding various issues and place them in the complaint boxes available on the floors. However, there seemed to be no clear policy regulating the complaints system, and the majority of the detained foreign nationals were either unaware of its existence or reluctant to use it.

The CPT recommends that the Polish authorities review the operation of the complaints' procedures at the guarded centres to make sure that detained foreign nationals are effectively enabled to send complaints in a confidential manner and are duly informed of this possibility. All written complaints should be recorded in a dedicated register.

⁴¹ Only the heads of shifts came from core staff with experience of work in a guarded centre. Most staff were on rotation, that is, they came from various services of the Border Guard and were temporarily seconded to work in Wędrzyn Guarded Centre, each time coming for 14 days. This lack of consistency and permanency was not helped by the fact that even the Director of the centre was not sure whether the establishment would still be operational during the second half of 2022.

⁴² They were either allowed to keep their own mobile phones, if these were without cameras and sound recording, or were issued such phones by the establishment.

⁴³ Due to the centre's location inside the territory of an active army unit, the procedure was more complex in Wędrzyn where, to be allowed to visit, Polish citizens had to request two permissions (one from the Head of the centre and another one from the Commander of the army unit), and foreign nationals were additionally required to obtain clearance from the Military Counterintelligence Service (SKW).

Internal complaints should be processed rapidly (with any delays duly justified in writing) and detainees should be informed within clearly defined time periods of the action taken to address their concerns or of the reasons for considering the complaint unjustified. In addition, statistics on the types of internal complaints made should be kept as an indicator to management of the areas of discontent within the establishments.⁴⁴

⁴⁴ Reference is also made here to the substantive section on complaints mechanisms published in the CPT's 27th General Report.

C. Prisons

52. As already mentioned in paragraph 7 above, the delegation's visits to two penitentiary establishments (Białystok Remand Prison and Prison No. 1 in Grudziądz) were of a targeted nature, primarily focused on interviews with newly-arrived remand prisoners on the manner in which they had been treated by the police. However, the CPT wishes to mention below a few issues of concern that the delegation has noted during visits to the aforementioned prisons and where it is clear that no progress has been made since the Committee's previous visits.

53. To begin with, the CPT regrets to note yet again that, despite its long-standing previous recommendations,⁴⁵ the official minimum standard of 3 m² of living space per prisoner (excluding sanitary facilities) has remained unchanged.

Admittedly, the above-mentioned standard seemed to be respected in the prisons visited during the 2022 visit.⁴⁶ That said, the Committee wishes to reiterate its view that the minimum legal standards for personal living space in prison establishments should be 6 m² for a single-occupancy cell and 4 m² per prisoner for a multiple-occupancy cell (excluding sanitary facilities).⁴⁷ Providing living space of less than 4 m² significantly increases the risk of a violation of Article 3 of the European Convention on Human Rights, as evidenced by the ample jurisprudence of the European Court of Human Rights.

The CPT calls upon the Polish authorities to urgently amend the relevant legal provisions so as to raise the minimum standard of living space per prisoner to at least 4 m² in multiple-occupancy cells (not counting the area taken up by any in-cell sanitary facility) and 6 m² in single-occupancy cells. The official capacities of all prisons should be reviewed accordingly.

54. Further, the Committee regrets to note that the regime for remand prisoners has remained extremely impoverished despite the CPT's repeated recommendations on the subject.⁴⁸ The situation observed by the delegation was virtually the same as during the Committee's 2017 periodic visit.

In particular, apart from daily outdoor exercise (lasting at least one hour) and an opportunity to visit an association room for an hour up to several times per week, the vast majority of remand prisoners spent days and months on end in a state of idleness, with no meaningful activities, locked up in their cells for up to 23 hours per day.

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

⁴⁵ See, *inter alia* paragraph 83 of the report on the 2009 periodic visit CPT/Inf (2011) 20, paragraph 42 of the report on the 2013 periodic visit CPT/Inf (2014) 21, and paragraph 59 of the report on the 2017 periodic visit CPT/Inf (2018) 39.

⁴⁶ Białystok Remand Prison had the official capacity of 704 places and was, at the time of the visit, accommodating 609 adult inmates (including 51 women); Prison No. 1 in Grudziądz (main campus) had the official capacity of 1332 and was accommodating 1165 adult inmates (including 733 women); and the branch (former Prison No. 2, adjoining to the main campus) had the capacity of 342 and was accommodating 330 male adult inmates.

⁴⁷ See document "Living space per prisoner in prison establishments: CPT standards" CPT/Inf (2015) 44.

⁴⁸ See, for example, paragraph 84 of CPT/Inf (2011) 20, paragraph 43 of CPT/Inf (2014) 21 and paragraph 72 of CPT/Inf (2018) 39.

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

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

In this context, the CPT regrets to note the lack of progress as regards medical examination of newly-arrived prisoners. As during the 2017 periodic visit⁴⁹ and the 2019 ad hoc visit,⁵⁰ the initial examination in the prisons visited was cursory and superficial, usually limited to a few general questions about the state of health and in most cases not including a full physical examination.

Furthermore, due to the insufficient health-care staffing levels and attendance patterns (see paragraph 59 below), newly-arrived prisoners were sometimes medically examined with a significant delay, especially when they arrived at the establishment on a Friday afternoon.

The Committee calls upon the Polish authorities to implement its long-standing recommendation that every newly-arrived prisoner be properly interviewed and physically examined as soon as possible and no later than 24 hours after admission by a doctor or by a fully-qualified nurse reporting to a doctor.

57. Regrettably, the delegation observed that the CPT's long-standing concerns regarding the poor recording of injuries in penitentiary establishments had not been addressed: neither of the prisons visited kept a specific register to record injuries (information was entered in prisoners' medical files only), the descriptions were superficial⁵¹ and did not contain conclusions by a doctor as to the possible origin of injury or the consistency of the injuries with the statements made by a prisoner.

As in the past, there was no systematic transmission of information on injuries observed to the relevant prosecutor.

The Committee again calls on the Polish authorities to put in place specific injury registers in every penitentiary establishment. The CPT also calls upon the Polish authorities to take steps to ensure that the record drawn up after the comprehensive medical examination of a newly-arrived prisoner contains:

- (i) an account of statements made by the person concerned which are relevant to the medical examination (including their description of their state of health and any allegations of ill-treatment);**
- (ii) a full account of objective medical findings based on a thorough examination, and**
- (iii) the doctor's observations, in light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings.**

The report should also contain the results of additional examinations carried out, the detailed conclusions of any consultations with specialists and a report of the treatment given for the injuries and any other procedure carried out.

⁴⁹ See paragraph 78 of document CPT/Inf (2018) 39.

⁵⁰ See paragraph 26 of document CPT/Inf (2020) 31.

⁵¹ For example, they often did not mention the type, colour, and/or dimensions of the injuries.

Further, the CPT also reiterates its recommendation that all injuries observed on newly-arrived prisoners be photographed in detail and the photographs kept, together with the "body charts" for marking traumatic injuries, in the inmates' individual medical files.

In addition, the Committee reiterates its recommendation to review the existing procedures in order to guarantee that, whenever injuries consistent with the allegations of ill-treatment made by a prisoner (or indicative of ill-treatment, even if no allegations are made) are recorded, the findings be immediately and systematically brought to the attention of the competent prosecutor, irrespective of the wishes of the prisoner concerned. The findings of the examination should also be made available to the prisoner concerned and their lawyer. The health care staff should advise the prisoner concerned that the writing of such a report falls within the framework of a system for preventing ill-treatment, that this report automatically has to be forwarded to the competent prosecutor and that such forwarding does not substitute for the lodging of a complaint in proper form.

58. The delegation noted persistent problems with the observance of confidentiality of medical consultations and data in the prisons visited; in particular, requests for medical consultation continued to be filtered by custodial staff. Further, allegations were heard that custodial staff were sometimes present during consultations (including during the initial medical screening of newly-arrived inmates).

Moreover, in the absence of interpretation arrangements, doctors and nurses had recourse to fellow inmates to assist with interpretation during medical consultations with patients who did not speak Polish (or any other language that the health-care staff spoke).

The CPT reiterates its recommendation that steps be taken in the prisons visited (and, as applicable, in all other penitentiary establishments in Poland) to ensure that:

- requests for medical consultations can be made directly to health care staff, in complete confidentiality;
- all medical consultations take place out of the hearing and, unless the health-care professional requests otherwise in a particular case, out of sight of non-medical staff and fellow prisoners;
- there are arrangements in place to ensure access to professional and confidential interpretation during medical consultations (for example, using telephone or online interpretation services).

59. As far as the delegation's medical members could ascertain during these brief and targeted visits, health-care services in both prisons were understaffed⁵² and there was no health-care staff present during weekends or at night.⁵³ The delegation also heard several prisoners complain about poor access to specialist care, in particular dental⁵⁴ and psychiatric.⁵⁵

The Committee recommends that steps be taken to increase the complements and periods of presence of doctors and nurses at Białystok Remand Prison and Prison No. 1 in Grudziądz. Steps should also be taken to improve prisoners' access to specialist medical care (in particular, dental and psychiatric).

⁵² Białystok Remand Prison (capacity 704, population 609) had two general practitioners and only one part-time nurse visiting three days per week. Staffing levels were somewhat better at Prison No. 1 in Grudziądz, where the main campus (capacity 1332, population 1165) had three full-time general practitioners and seven full-time nurses, while the branch (capacity 342, population 330) had two general practitioners and three nurses. However, the attention of doctors and nurses was to a considerable extent absorbed by work in the in-patient units (approximately 30 places) and in the mother-and-child unit (capacity 32).

⁵³ Except in the in-patient units and mother-and-child unit at Prison No. 1 in Grudziądz.

⁵⁴ A dentist held surgeries at Białystok Remand Prison during six hours per week. There were two dentists at Prison No. 1 in Grudziądz (one in each of the two parts of the establishment).

⁵⁵ A psychiatrist visited Białystok Remand Prison four hours per week. At Prison No. 1 in Grudziądz, there were two psychiatrists in the main campus and one in the branch.

Further, the CPT reiterates its recommendation that the Polish authorities take steps to ensure that a person competent to provide first aid (who holds a valid certification in the application of cardiopulmonary resuscitation and the use of an automated external defibrillator) is always present in every penitentiary establishment. The Committee also reiterates its view that, at the least, a qualified nurse should be present in every penitentiary establishment at night and on weekends.

60. Despite legislative amendments introduced several years ago concerning remand prisoners' contacts with the outside world,⁵⁶ the practice remained the same as in the past, that is, newly-arrived remand prisoners continued to be routinely subjected to restrictions on visits and telephone calls, frequently during their first month (but sometimes for longer, up to two months and exceptionally even three months) of their imprisonment.

Remand prisoners were still obliged to request authorisation from a prosecutor or judge (depending on the stage of criminal proceedings)⁵⁷ for every single visit,⁵⁸ and it could reportedly take up to two weeks before a reply (either positive or negative) from the "organ of inquiry" reached the prisoner concerned.

In this regard, the CPT reiterates its view that remand prisoners should be entitled to receive visits (and make telephone calls) as a matter of principle, rather than these being subject to authorisation by a judicial authority. Any refusal in a given case to permit such contacts should be specifically substantiated by the needs of the investigation, require the approval of a judicial authority and be applied for a specific period of time. If it is considered that there is an on-going risk of collusion, particular visits (or telephone calls) can be monitored.

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

61. The CPT is even more concerned by the persistence of the negative practice observed during the 2019 ad hoc visit,⁵⁹ namely that the aforementioned restrictions applied quasi-systematically also to remand prisoners' contacts with their lawyers (whether in person or via telephone). The situation was particularly paradoxical (and somewhat absurd) in the case of remand prisoners who had requested to be granted free legal aid (and whose requests had been accepted) but who were in fact incapable of receiving such aid because of the impossibility of contacting their *ex officio* lawyer.

The CPT calls upon the Polish authorities to take urgent steps to remedy this unacceptable state of affairs.

62. The Committee must also reiterate its view that all inmates – both those on remand and those already sentenced – should benefit from the equivalent of at least one hour of visiting time per week. In the two prisons visited during the 2022 periodic visit, the actual visiting entitlement was far below the above-mentioned standard; sentenced prisoners were entitled to between two and three visits (of up to an hour) per month, while remand prisoners (those who were not/no longer subjected to restrictions) could receive visitors once a month (likewise, for up to an hour).

The CPT once again calls upon the Polish authorities to increase the visiting entitlement for prisoners, in light of the above remarks.

⁵⁶ See paragraph 82 CPT/Inf (2018) 39.

⁵⁷ The authorisation had to be granted by the "organ of inquiry" ("*organ dysponujący*"), that is, the prosecutor during the investigation stage and the judge as from the moment court proceedings started.

⁵⁸ The practice was somewhat more lenient as regards telephone calls, authorisation of which tended to be a general one in practice (with restrictions concerning the list of persons with whom telephone contact was permitted).

⁵⁹ See paragraph 23 CPT/Inf (2020) 31.

D. National Centre for the Prevention of Dissocial Behaviour

1. Preliminary remarks

63. The delegation carried out a follow up visit to the National Centre for the Prevention of Dissocial Behaviour in Gostynin and, for the first time, to the branch (“*Oddział Zamiejscowy*”) of the National Centre for the Prevention of Dissocial Behaviour in Czersk, located approximately 230 km from Gostynin. Both facilities are under the responsibility of the Ministry of Health.

The general description of the National Centre for the Prevention of Dissocial Behaviour in Gostynin (hereafter the National Centre), made in the report on the CPT’s 2017 periodic visit, remains valid.⁶⁰ At the time of the 2022 visit, the National Centre had an official capacity of 60 and was accommodating 94 adult patients⁶¹ including two women; it was thus officially (severely) overcrowded (with the overcrowding rate of 156%). It is also noteworthy that, according to the Director, there were approximately 180 pending motions to send persons to the National Centre, most of these motions already at various stages of consideration by courts.⁶²

The branch of the National Centre in Czersk (hereafter, the Czersk branch) was located in the centre of town in a part⁶³ of a former prison for women (closed in 2021). The buildings dated back to the early 19th century and were leased from the Prison Service, initially for 3 years. It was meant to be a temporary solution, pending the construction of the new premises of the National Centre in Gostynin (see paragraph 64 below). At the time of the 2022 visit, the recently opened facility (in service since 3 January 2022) was still undergoing refurbishment and only the patients’ rooms on the ground floor (12 places) were available, accommodating 11 male adult patients transferred from Gostynin.⁶⁴ The first floor was partially operational (staff offices, therapy rooms and one of the two seclusion rooms, see paragraph 81 below) while work was still ongoing on additional patients’ rooms with 28 places in total; the target capacity of the Czersk branch was 40.

64. The Director told the delegation that plans to extend the National Centre by means of constructing a new accommodation building in Gostynin with 60 additional places⁶⁵ had not progressed despite the fact that a suitable plot of land had been allocated by the municipality and that all the technical documentation had been prepared and submitted for approval to the Ministry of Health with a request for providing the necessary funds.

Whilst it is clear for the CPT that creating additional capacity alone will not offer a solution and that other, more fundamental steps are required regarding the very purpose and the future of the National Centre (see paragraph 86 below), the fact remains that living space available on the existing premises in Gostynin is already extremely limited and that (as already mentioned), the Czersk branch is meant to offer only a temporary relief.

Taking the above into account, **the Committee would like to receive updated information on the aforementioned extension plans.**

⁶⁰ See paragraph 110 CPT/Inf (2018) 39. The only important difference compared with the 2017 visit was that the former Regional Centre for Forensic Psychiatry, located on the ground floor, had been relocated to another establishment and the National Centre had taken over the Regional Centre’s premises (which were described in paragraph 117 of the report on the 2017 periodic visit).

⁶¹ Formally speaking “persons representing a threat” as defined by the Dangerous Persons’ Act (see paragraph 65 below).

⁶² Furthermore, the Director informed the delegation that patients placed in the National Centre had only very limited prospects for release (see also paragraph 86 below).

⁶³ One of the two detention blocks, the other one standing empty and unused.

⁶⁴ The Director of the National Centre told the delegation that, in principle, patients transferred to Czersk were those considered to be less “challenging” by the doctors, and in better health (at least somatically).

⁶⁵ Already referred to during the 2017 visit, see paragraph 118 of CPT/Inf (2018) 39.

65. The legal framework for the placement in the National Centre for the Prevention of Dissocial Behaviour had remained basically unchanged since the 2017 periodic visit. It will be recalled that, pursuant to the Act on Procedure vis-à-vis Persons with Mental Disorders who represent a Danger to Life, Health or Sexual Freedom of Other Persons (hereafter referred to as Dangerous Persons' Act, DPA),⁶⁶ persons who fulfil all the conditions mentioned below can be placed for an unlimited time in a closed establishment: serving a prison sentence in a "therapeutic unit";⁶⁷ suffering from a mental disorder (that is, learning disability, personality disorder or "disorders of sexual preference" – especially paedophilia); the disorder is of the type or intensity that a repeat violent prohibited act (against life, health or sexual freedom) is at least highly likely, and the punishment for such crime would be at least 10 years of imprisonment.

Such persons are called "persons representing a threat". They can either be subjected to "preventive supervision" (in the outside community) or placed in the National Centre for the Prevention of Dissocial Behaviour.

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

The court must appoint two expert psychiatrists and, in addition, an expert psychologist (for persons with a personality disorder) or an expert sexologist (or, possibly, expert psychologist specialised in "disorders of sexual preference"). The court must be composed of three professional judges (no lay judges) and the presence of the prosecutor and the person's *ex officio* lawyer (who must obligatorily be appointed, unless the person has his/her own lawyer) is compulsory during the court hearing.⁶⁸

The court may order compulsory in-patient forensic psychiatric assessment for up to four weeks. The court, when deciding on the final measure, must consider possibilities of therapy in the community.

The final decision may be: unlimited "preventive supervision"⁶⁹ (in case of "high degree of probability") or unlimited placement in the National Centre, when there is a "very high degree of probability" of a violent prohibited act. The court decision may be appealed by the person. The placement decision is subject to periodic court review (every six months) based on the recommendation by the internal commission of the National Centre composed of the Director, the treating doctor, the clinical psychologist and the sexologist (for patients with a diagnosed disorder of sexual preference).

⁶⁶ Adopted by Parliament in November 2013 and in force as from January 2014. In November 2016, the DPA was declared in conformity with the Constitution by the Constitutional Court (after referrals by the President and the Ombudsperson); in the main, the Constitutional Court assessed the DPA to be a protective and therapeutic measure unrelated with criminal punishment, thus not violating the *ne bis in idem* and *lex retro non agit* principles. The Constitutional Court also concluded that the DPA did not violate the principles of judicial control over deprivation of liberty and the right to a court.

⁶⁷ That is, prisoners serving their sentence under the so-called "therapeutic system" (or programme), in over 20 "therapeutic units" located in prisons. This includes inmates (90% of them men) with "disorders of sexual preference", other non-psychotic mental disorders and learning disability. There are also dedicated "therapeutic units" for persons with a substance use problem (drugs and alcohol). The placement in such units is by decision of each prison's penitentiary commission.

⁶⁸ The patient's presence is normally not required (unless the court decides otherwise) but he/she may request to be present and such a request must be granted by court. The patient must be informed in advance of this right.

⁶⁹ "Preventive supervision" is carried out by the police, at the person's home. The person must regularly report to the police and inform about any travel plans.

66. The delegation was informed by the Director of the National Centre that work was ongoing at the Ministry of Health on draft amendments to the DPA. Among other things, the Director hoped that the placement and release criteria would be rendered less restrictive (facilitating rehabilitation and return to society)⁷⁰ and that patients would be given the right to request the court to grant them leave for important personal reasons (for example, attending a funeral of a close relative).⁷¹ **The CPT would like to receive detailed information on the planned amendments to the DPA and, in due course, on their adoption.**

2. Ill-treatment

67. The delegation heard no credible allegations of ill-treatment of patients by staff, who generally appeared to treat the patients in a calm and respectful manner. This is to be welcomed, particularly given the challenging behaviour of some of the patients and (at the National Centre in Gostynin) the additional stress and tension caused by overcrowding (see paragraphs 63 above and 71 below).

However, a few isolated allegations of staff (mostly security guards) using rude, disrespectful and impolite language were received from patients. **The Committee recommends that staff at the National Centre and the Czersk branch be reminded that patients are to be treated in a respectful manner and that any verbal abuse will not be tolerated.**

68. As for inter-patient violence, it was not an issue at the Czersk branch. At the National Centre, incidents did occur from time to time (both verbal and physical)⁷² but staff intervened promptly and adequately.

3. Security

69. Both at the National Centre in Gostynin and at the Czersk branch, the delegation observed a very high level of security which did not appear individualised and adapted to the level of risk posed by a particular patient inside the Centre. This applied to the privacy during consultations and treatment interventions (always taking place within the sight, though not within the hearing, of security staff), the handcuffing during outside medical consultations (including dental and gynaecological)⁷³ but, first and foremost, to the CCTV coverage of absolutely every area where patients lived, including the toilets and showers.⁷⁴

It is to be added that, at the National Centre, large screens on which security guards watched the CCTV footage were placed in such a way that other passers-by (including unauthorised staff and even patients) could see what was broadcast on the screen.

The Committee considers the aforementioned approach to be excessive and unacceptable, even more so in the case of female patients who could be watched by male security guards as they were moving into and from the toilet/shower areas in their room. While the picture was partially pixelised

⁷⁰ See also paragraph 86 below.

⁷¹ Although granting such leaves was currently not foreseen by the DPA, the delegation was informed of a recent court decision which had authorised a patient to attend his mother's funeral. It was considered to be a precedent decision, after several similar requests had been rejected previously.

⁷² As mentioned by some of the interviewed patients, acknowledged by staff and documented in incident reports (on the latter, see also paragraph 78 below).

⁷³ It had previously been applied routinely to every patient but after a group protest by patients of the National Centre in Gostynin (in 2020), an agreement (drafted with the help of a professional police negotiator appointed by the penitentiary judge, and signed by the Director and by patient representatives) had been reached whereby certain categories of patients (including those aged over 70, those with a comorbid psychiatric diagnosis and those who had a positive assessment by the internal commission) were no longer routinely handcuffed.

⁷⁴ While the delegation carried out its visit, this was not yet the situation at the Czersk branch because only a few CCTV cameras were operational; however, many more were being installed and the management's intention was clearly to have the same level of camera surveillance as in Gostynin.

(covering the genitals) inside the toilet and shower area, this was not true of the adjoining areas used by the patients to dress and undress. In the CPT's view, this could be considered as amounting to degrading treatment.

The CPT calls upon the Polish authorities to amend the current regulations at the National Centre (and at the Czersk branch) and change the practice as a matter of priority, and to make sure that CCTV monitoring of toilet and shower areas is applied only when there is a direct threat to health and life of the patients concerned (or other persons). More generally, steps must be taken to ensure that any security measures (CCTV monitoring, presence of security guards within sight during consultations and treatment interventions, handcuffing, etc.) are based on a duly motivated and documented individual assessment and adapted to the level of risk posed by a particular patient. The relevant legal provisions should be amended accordingly.

70. In both establishments visited, uniformed security guards⁷⁵ were present in big numbers⁷⁶ inside the patient accommodation areas.

The guards acted under the instructions by health-care staff and had to report to them. They were, for example, in charge of convoys to outside medical and other institutions and carried special means (truncheons, handcuffs and pepper spray) at all times, including inside the accommodation areas and in full view of patients.⁷⁷ As already stressed in the report on the 2017 visit,⁷⁸ this is an intimidating and unjustified practice; **the CPT reiterates its recommendation that it be stopped.** Training for the security guards (both initial and ongoing) in the specific aspects of work with the patients was supposed to be done internally,⁷⁹ upon recruitment and subsequently on an ongoing basis;⁸⁰ however, the delegation did not gain the impression that it was very thorough (all the training combined amounted to approximately 10 hours per year).

The Committee recommends that more attention be paid to the training of security guards employed by the National Centre for the Prevention of Dissocial Behaviour in Gostynin, with a particular focus on communication skills, de-escalation techniques, conflict resolution and debriefing.

⁷⁵ Security guards were Ministry of Health employees, recruited by the National Centre for the Prevention of Dissocial Behaviour. There were 167 of them at the National Centre (working 12-hour shifts with six to eight guards present on each ward accommodating approximately 20 patients); this number included several female guards (two to three per shift) working with the female patients. At the Czersk branch, at the time of the delegation's visit there were 20 security guards, but the recruitment process was still ongoing. The plan was to ensure, once the first floor is brought into service, the presence of at least 12 security guards on each shift.

⁷⁶ At the time of the visit, the Czersk branch also employed 30 uniformed custodial officers seconded from the Prison Service on a temporary basis (provisionally until the end of July 2022), pending the completion of the recruitment process of security guards (the final deadline being the end of 2022). This was not a very convenient arrangement for the custodial officers concerned as most of them had to commute on a daily basis from the area of Gdańsk (some 100 km by car).

⁷⁷ According to the statements by staff and the relevant documentation, since the National Centre had opened, only handcuffs had been used a few times (only for escorts outside) and no other means apart from holding agitated patients for the time necessary for nurses to intervene.

⁷⁸ See paragraph 128 of document CPT/Inf (2018) 39.

⁷⁹ It was explained to the delegation that the initial recruitment requirements were based on the 1997 Personal and Property Protection Act which sets out general conditions for professional qualifications of security guards, irrespective of their place of employment. These requirements are very basic (minimum age of 21, absence of criminal record, at least primary education, good opinion by the police, good physical condition, etc.).

⁸⁰ The delegation was *inter alia* told by the management that security officers received initial and ongoing training in the use of special means, in manual control, defusing tension and interpersonal communication, and in self-defence.

4. Living conditions

71. Living conditions could in principle have been described as acceptable at the National Centre in Gostynin, all rooms being bright, adequately furnished (beds with full bedding, lockers, a table, chairs, a wardrobe), pleasantly decorated and clean. Some of the rooms (those on Ward 1⁸¹) were equipped with fully-screened sanitary annexes comprising also a shower.⁸² Conditions in the communal sanitary facilities (toilets and showers) – to which access was not restricted in any way – were also very good.

However, as already mentioned in paragraph 63 above, the National Centre faced the obvious problem of overcrowding⁸³ with many patients having to sleep in bunk beds, which was not conducive to creating a therapeutic environment and contributed to tensions between patients and also between patients and staff.⁸⁴ Further, the delegation heard several complaints from patients about the insufficient number of lockers (due to overcrowding) and about the poor ventilation in patients' rooms, especially in the summer. **The CPT recommends that steps be taken to limit the occupancy of the rooms at the National Centre (for example, by transferring more patients to the Czersk branch) and to improve ventilation. Once the overcrowding has been reduced, steps must be taken to remove the bunk beds.**

72. As for the branch in Czersk, the premises were still undergoing refurbishment and adaptation to their new role; the part of the building already being used seemed to offer generally adequate conditions.⁸⁵ However, **it would be advisable to provide at least a few individual rooms for patients who have difficulties in getting along with the others.** Further, just like with the National Centre, some patients had to sleep on bunk beds; on this, see paragraph 71 above.

73. On the positive side, rooms at both establishments were always unlocked and patients could associate during the day and had access to common rooms equipped with chairs or sofas, tables, TV, radio and games, books and newspapers. That said, the severe overcrowding at the National Centre had as one of its consequences that the aforementioned common rooms were cramped, with various therapeutic activities (see paragraph 75 below) having to take place in them at the same time as recreational activities (see paragraph 76 below).

It is also noteworthy that in general patients interviewed by the delegation made no complaints about the food served to them both at the National Centre and at the Czersk branch.

⁸¹ Including the room shared by the two female patients.

⁸² A few of the larger rooms had no sanitary annexes but a washbasin.

⁸³ The larger rooms (measuring approximately 30 m²) accommodating between seven and twelve patients each, and the smaller rooms (measuring approximately 12 m²) between two and three patients.

⁸⁴ As stated by some of the interviewed patients and acknowledged by staff.

⁸⁵ With double-occupancy rooms measuring some 15 m² and rooms for four patients measuring approximately 24 m². All the rooms were well-lit and ventilated, clean and suitably furnished (except for the bunk beds, see below).

5. Care staff and therapeutic activities

74. Both sites of the National Centre for the Prevention of Dissocial Behaviour had satisfactory numbers of care staff, who appeared duly trained and highly motivated.

The National Centre employed four full-time psychiatrists (in addition to the Director who was also a psychiatrist by training), 32 full-time nurses (all of them trained in psychiatry), 12 full-time clinical psychologists (eight of them also specialised in sexology), four full-time addiction specialists, four resocialisation specialists/work therapists and four social workers.

The Czersk branch employed eight full-time nurses, a full-time clinical psychologist and a full-time social worker. Other visiting professionals commuted from Gostynin (230 km by car): one of the psychiatrists came twice a week for at least 4 hours; one of the addiction specialists visited twice a week and one of the psychologists/sexologists once a week.

The normal working time was 8 a.m. to 3 p.m. from Monday to Friday but health-care staff coverage was also ensured at night and on weekends (with at least four nurses being present at the National Centre and least two at the Czersk branch); in addition, a psychiatrist was always on duty (24/7) at the National Centre.

That said, if and when the patient population at the Czersk branch increases, recruiting a second full-time clinical psychologist will be required. The Committee would also like to be informed whether it is planned to increase the care staff complement at the National Centre after the envisaged (significant) increase in capacity takes place (see paragraph 64 above).

Further, the CPT invites the Polish authorities to offer professional external support and supervision to the care staff in order to prevent burnout given the challenging work environment.⁸⁶

75. Patients at the National Centre for the Prevention of Dissocial Behaviour were offered (exclusively on a voluntary basis) a range of both medical (somatic and psychiatric) and psycho-social treatments.

Only a few patients received, with their written informed consent, psycho-active medication including three patients on hormonal therapy. Further, all the patients were offered assistance (exclusively on a voluntary basis) by means of individually tailored programmes comprising individual psychotherapy, work with sexologists and addictologists, occupational and art therapy. The offer was quite varied and generally satisfactory despite space constraints due to overcrowding at the National Centre (see paragraph 71 above).

That said, as the delegation was told by the Director and members of the therapeutic team, motivation of the patients was clearly an issue, with many patients remaining uncritical towards their deeds and conditions and/or being uninterested in following any therapy. Some of them were reportedly persuaded that they had been placed at the National Centre by error or for political motives, while many others did not see the point in participating given the perceived lack of impact of such participation on their prospects for release (see also paragraph 86 below).

76. A range of recreational activities was available to the patients, such as various board and computer games, table tennis, table football, billiard, and access to fitness/workout machines during the exercise period (see paragraph 79 below). However, some patients complained that they were not allowed to work (even on a voluntary unpaid basis) and cook their own meals.

⁸⁶ By way of illustration, the sole clinical psychologist at the Czersk branch saw five to eight patients every working day, which represented a considerable workload.

77. Further, although the delegation did see written “individual programmes of activities” (i.e. individual treatment plans) in patients’ files, it appeared that they were not always very detailed nor frequently updated; as had been the case in the past,⁸⁷ patients were not systematically asked to confirm their agreement with the aims and the content of these programmes.

Furthermore, staff told the delegation that multi-disciplinary teamwork practices (in the form of daily meetings of all therapeutic staff, in addition to a daily meeting of all nurses), reportedly suspended at the outset of the Covid-19 pandemic in the spring of 2020, had not been reactivated since.

The Committee recommends that steps be taken to remedy all the shortcomings referred to in paragraphs 75 to 77 above, given their particular importance in helping increase patients’ motivation to engage in therapeutic activities.

78. Patients’ individual files and other documentation seen at the National Centre and the Czersk branch were indeed impressive in the frequency of entries, their quality and their detail. However, there was no centralised incident register, although any extraordinary event that occurred during any particular shift would be described in a fairly detailed manner in the patient’s file, in the nurses’ logbook and in the security guards’ logbook; in addition, copies of incident reports sent by staff to the Director were kept in a special folder. Nevertheless, **the CPT is of the view that keeping such a centralised incident register would be helpful for the management and other competent authorities in maintaining an overview of the situation at the National Centre for the Prevention of Dissocial Behaviour.**

79. As concerns access to outdoor exercise, patients at the National Centre and the Czersk branch could go to the exercise yard for up to 2.5 hours per day (longer at weekends). **The Committee recommends that patients in both establishments visited benefit in fact from unrestricted access to outdoor exercise during the day unless treatment activities require them to be present on the ward.**

The outdoor exercise area at the National Centre was a good facility that does not call for any particular comment. By contrast, the two yards at the Czersk branch, although not very small (measuring approximately 150 m² and 1000 m² respectively) and equipped with benches and some fitness machines, had a very carceral aspect and were deprived of any protection against inclement weather. The CPT is aware of the fact that it will be difficult to change the design of the yards considering their origin (formerly exercise yards for prisoners) and the fact that the lease contract signed between the National Centre for the Prevention of Dissocial Behaviour and the Prison Service prohibits any major structural alterations to the premises.

However, **the Committee invites the Polish authorities to reflect upon ways to improve the exercise yards at the Czersk branch, especially by providing a shelter against inclement weather and adapting the yards for some form of group sports activities (for example, ball games).**

⁸⁷ See paragraph 124 of the report on the 2017 periodic visit CPT/Inf (2018) 39.

6. Means of restraint

80. Seclusion, mechanical and chemical restraint were applied at both sites of the National Centre for the Prevention of Dissocial Behaviour in accordance with the relevant provisions in force,⁸⁸ and no indications of excessive recourse to them were found by the delegation.⁸⁹

The use of such means was well documented in patients' medical files;⁹⁰ further, instances of restraint were recorded in a special restraint form⁹¹ and reported to the Director (who kept all such reports in a separate file).

81. Conditions in the four seclusion rooms at the National Centre were adequate. Measuring approximately 12 m² and being well lit and ventilated, the rooms were equipped with a bed (with the possibility to attach the restraint belt) with a mattress, a blanket and a pillow. Each room had a call bell and an adjoining toilet. Staff were instructed to offer food and drink to secluded patients and to allow them to use the toilet and give them the possibility to wash (as well as use the shower). Patients in seclusion were not issued with special clothing.

As for the Czersk branch, the two seclusion rooms, while sufficient in size (approximately 10 m²), bright, airy and well furnished (normal hospital-type beds with a possibility to attach the restraint belt, full bedding, a call system, a fully-screened sanitary annexe with a toilet, a washbasin and a shower), contained sharp corners (especially the radiators) and breakable fittings (including glass windows in the doors and ceramic toilet bowls) which could potentially be dangerous for an agitated patient. **The CPT invites the Polish authorities to rethink the design of these rooms so as to make them safer for the patients.**

82. The rules in force at both the National Centre and the Czersk branch included the obligation for the nurses to check on the condition of a patient placed in the seclusion room every 15 minutes (and to record their observations in the restraint form and in the nurses' logbook).

In this context, the Committee must reiterate its view that every patient subjected to mechanical restraint (fixation) should be subjected to continuous supervision, with a qualified member of staff being permanently present in the room in order to maintain a therapeutic alliance with the patient and provide him/her with assistance.⁹² Video surveillance cannot replace such a continuous staff presence.

The CPT calls upon the Polish authorities to amend the existing rules accordingly.

⁸⁸ Which had remained unchanged since the CPT's 2017 periodic visit (see paragraph 130 CPT/Inf (2018) 39). It will be recalled here that the decision to use means of restraint rests with a doctor, who defines the type of restraint measure and personally supervises its execution. When it is impossible to obtain an immediate decision of a doctor, the use of means of restraint is decided upon by a nurse, who is under an obligation to notify a doctor without delay. The doctor confirms the application of the measure or orders it to be stopped. The initial duration of a measure is four hours maximum. In case of need, a doctor, upon a personal examination of the patient, may prolong the restraint measure for two further six-hour periods. Any further extension (for additional six-hour periods) requires each time an examination of the patient by another psychiatrist.

⁸⁹ Since 1 January 2020, mechanical restraint (fixation in the seclusion room – see paragraph 82 below – using leather belts) had been applied seven times at the National Centre (and not a single time at the Czersk branch since its opening in January 2022) and chemical restraint three times at the National Centre (not a single time in Czersk). Seclusion (usually for a few hours, exceptionally longer but not more than nine hours in practice) was the most frequently resorted to restraint measure (over 50 times at the National Centre since 1 January 2020; twice so far at the Czersk branch).

⁹⁰ An order to use or prolong the use of means of restraint was recorded by the doctor, with a description of the reasons and circumstances of the use of means of restraint, its kind and duration. If the order to use a means of restraint in the form of mechanical restraint or seclusion was initially made by a nurse, they recorded the reasons for its use in the patient's file, about which they notified the doctor, which was also recorded as an appropriate entry in the file. The nurse was furthermore obliged to record information on the use of means of restraint in the nurses' logbook.

⁹¹ Providing the reasons for the use of means of restraint, its kind and the duration of mechanical restraint or seclusion; the form was enclosed with the patient's medical file and a copy transmitted to the Director.

⁹² This may include escorting the patient to a toilet facility or helping them to drink/consume food.

83. As had been the case during the 2017 periodic visit,⁹³ some of the interviewed patients (who had recently been subjected to means of restraint) perceived restraint episodes as punitive. Although the delegation was told that doctors and/or clinical psychologists would usually speak with the patients after the end of the restraint measure, **the Committee reiterates its recommendation that steps be taken in both sites of the National Centre for the Prevention of Dissocial Behaviour to ensure that a proper debriefing with the patient always takes place at the end of the application of any means of restraint.**

The debriefing should provide an opportunity for the doctor to explain the need for the measure and thus help relieve uncertainty about its rationale as well as discuss the strategies to avoid using means of restraints in the future. For the patient, such debriefing should provide an occasion to explain their emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of their behaviour.

7. Safeguards

84. Both at the National Centre and the Czersk branch the applicable legal framework appeared to be duly followed, patients were aware of the rules⁹⁴ and of the review mechanism⁹⁵, and were offered adequate possibilities to receive visits⁹⁶ and make telephone calls⁹⁷, as well as to make complaints⁹⁸ inside and outside the establishments, including to the Commissioner for Human Rights (Ombudsman) and the national and local Patient Ombudsman.⁹⁹

Further, since the signing of the agreement referred to in paragraph 69 above, a practice of holding monthly meetings between the Director and elected patient representatives had been put in place, which is commendable.

However, the CPT is concerned by the fact that whenever a patient was found by the staff and the Director to use a telephone for unlawful purposes,¹⁰⁰ the response was to put in place, for the patient in question, a total and unlimited ban on access to a telephone.¹⁰¹ The Committee must stress that any such bans should be individualised and proportional, and should not result in permanently

⁹³ See paragraph 135 of document CPT/Inf (2018) 39.

⁹⁴ They received copies of court decisions and were informed of procedures and deadlines for appeal.

⁹⁵ Including the internal review pursuant to Section 38 of the DPA: "At least once every six months the court decides whether the continuation of the person's placement in the National Centre is necessary, having regard to the psychiatric report and the results of therapeutic activities. Every six months the Director of the National Centre submits to the court the psychiatric report on the detained person and the results of their treatment." Patients interviewed by the delegation confirmed having been offered the possibility to attend the meetings of the internal commission (and the court hearings) and to present their views. They also confirmed the presence of their lawyer (usually *ex officio* lawyer) during the court hearings.

⁹⁶ There were no restrictions on visits, which took place in pleasant, dedicated facilities. Furthermore, as from June 2020 (pursuant to the agreement referred to in paragraph 69 above), patients have as a rule (save in case of abuse) been authorised visits without the physical presence of security guards and allowed a degree of physical contact with their visitors (kissing, hugging and holding hands).

⁹⁷ Patients could have their own mobile phones (including smartphones with Internet access) and laptops (with unlimited internet access), in addition to the access to payphones on their wards.

⁹⁸ Information about the bodies to which complaints could be sent (including addresses and telephone numbers) was posted on the walls inside the wards. Patients were also given a copy of the house rules (which they confirmed with their signature). It is noteworthy that patients were making frequent use of the various avenues of complaint, and several had already won civil suits against the National Centre for the Prevention of Dissocial Behaviour (regarding the living conditions) and had been granted damages.

⁹⁹ Pursuant to the Act on Patients' Rights and the Ombudsman for Patients' Rights, the tasks of patients' ombudsmen include, in particular: providing assistance in asserting rights (including help in writing and sending complaints) in cases connected with the admission, treatment, conditions of stay at, and discharge from, psychiatric establishments (including the National Centre for the Prevention of Dissocial Behaviour); investigating or assisting the investigation of patients' oral and written complaints; co-operating with patients' families, statutory representatives, legal or *de facto* guardians; initiating and conducting education and information activities in respect of patients' rights.

¹⁰⁰ For example, by using it to sexually harass a person by means of a call or online communication.

¹⁰¹ Especially any private mobile phone which would be taken away from the patient.

preventing patients from calling their close relatives; if necessary, calls should be allowed using an office phone or one of the payphones, and staff could control the number that is being dialled and (in exceptional and duly justified cases) a particular telephone conversation could be monitored. **The CPT recommends that the current practice with respect to bans on telephone calls be amended accordingly.**

85. Concerning the monitoring, apart from frequent visits by the Ombudsman/National Preventive Mechanism¹⁰² (and various NGOs), the National Centre for Prevention of Dissocial Behaviour was visited, at least once a year, by penitentiary judges.

That said, the delegation was struck by the absence of internal inspections by the Ministry of Health; reportedly, the Director of the National Centre held weekly online or telephone consultations with the relevant senior officials, but it was not a practice for the Ministerial representatives to physically visit the establishment.

In the Committee's view, also shared by some of the members of the management and staff of the National Centre, this was quite regrettable as it made it more difficult for senior officials from the Ministry of Health to familiarise themselves with the actual situation and the challenges facing the Director and his team in running such an overcrowded establishment. **The CPT would welcome the Polish authorities' observations on this subject.**

8. Final remarks

86. As already mentioned in paragraph 75 above, many patients interviewed by the delegation failed to understand the reason for their placement at the National Centre for the Prevention of Dissocial Behaviour and were unable to foresee how long they would have to remain there; indeed, some expected to have to spend the rest of their days at the Centre.¹⁰³ Predictably, this had a negative impact on their mood, their attitude and motivation to co-operate with the staff.¹⁰⁴ It is noteworthy that there are currently several complaints by patients under consideration by the European Court of Human Rights, involving issues under Articles 3, 5 and 8 of the European Convention on Human Rights.¹⁰⁵

The Committee is of the view that the ongoing work on amendments to the DPA¹⁰⁶ should be the opportunity to fundamentally alter the Centre's purpose from one based on security to one based on rehabilitation, implying proper preparation for release in cooperation with the relevant structures in the outside community.

The current overcrowding at the National Centre in Gostynin can be tackled not only through expanding the premises¹⁰⁷ but also through helping more patients reintegrate into society (under appropriate supervision whenever required). Further, the amended law should help increase the recourse to alternative measures (for example, the "preventive supervision", see paragraph 65 above) so as to limit the number of patients sent to the National Centre for the Prevention of Dissocial Behaviour.

The CPT recommends that a serious reflection be undertaken - while amending the DPA - into the concept and purpose of the National Centre for the Prevention of Dissocial Behaviour, in light of the above remarks.¹⁰⁸ This should include creating effective alternatives to the placement at the National Centre.

¹⁰² See the page of the Commissioner for Human Rights (Ombudsman).

¹⁰³ An expectation that could be understood in light of the facts: the Director told the delegation that he had so far requested the court to release at least 20 patients (and to replace their placement at the National Centre for the Prevention of Dissocial Behaviour with "preventive supervision", see paragraph 65 above); however, only four patients had been released by court.

¹⁰⁴ See also paragraph 75 above.

¹⁰⁵ The Polish Ombudsman has joined these proceedings as *amicus curiae*, see *amicus curiae* article .

¹⁰⁶ See paragraph 66 above.

¹⁰⁷ See paragraph 64 above.

¹⁰⁸ In this context, reference is also made to the Ombudsman's comments to the draft new DPA.

APPENDIX

ESTABLISHMENTS VISITED

Police establishments

- Metropolitan Police Headquarters (Biała Podlaska)
- Metropolitan Police Headquarters (Białystok)
- Police establishment for children (Białystok)
- District Police Headquarters (Bielsk Podlaski)
- District Police Headquarters (Chojnice)
- District Police Headquarters (Człuchów)
- District Police Headquarters (Gostynin)
- Metropolitan Police Headquarters (Grudziądz)
- District Police Headquarters (Siemiatycze)
- District Police Headquarters (Świecie)
- Metropolitan Police Headquarters (Toruń)
- Metropolitan Police Headquarters (ul. Nowolipie 2, Warsaw)
- District Police Headquarters, Warsaw IV (ul. Żytnia 36, Warsaw)
- District Police Headquarters, Warsaw V (ul. Żeromskiego 7, Warsaw)
- District Police Headquarters, Warsaw VI (ul. Jagiellońska 51, Warsaw)

Border Guard establishments

- Guarded Centre for Foreigners (Biała Podlaska)
- Guarded Centre for Foreigners (Białystok)
- Guarded Centre for Foreigners (Wędrzyn)

Prison establishments

- Remand Prison (Białystok)
- Prison No. 1 (Grudziądz)

Psychiatric establishments

- National Centre for Prevention of Dissocial Behaviour in Gostynin and its branch in Czersk