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Meeting: 1310<sup>th</sup> meeting (March 2018) (DH)

Item reference: Action report (05/03/2018)

Communication from Poland concerning the case of Budnik v. Poland (Application No. 61928/13)

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Réunion : 1310<sup>e</sup> réunion (mars 2018) (DH)

Référence du point : Bilan d'action

Communication de la Pologne concernant l'affaire Budnik c. Pologne (requête n° 61928/13)  
**(anglais uniquement)**

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## ACTION REPORT<sup>1</sup>

### Information on measures aiming at execution of the judgment in the case of *Budnik against Poland*

#### Case description

Piotr Budnik against Poland, application no. 61928/13, judgment of 07/09/2017, final on 07/12/2017.

The applicant submitted that he was subjected to inhuman and degrading treatment. The applicant submitted that during his detention in Łowicz Prison between 27 January 2007 and 19 April 2009 he had been periodically held in overcrowded cells in which the space per person had been below the Polish statutory minimum standard of 3 sq. m. Moreover the applicant complained that he was placed in a solitary confinement cell for fourteen days as part of a disciplinary measure, where the toilet was not separated from the living space.

The national courts partially upheld the civil action lodged by the applicant and found the infringement of applicant's personal rights due to the poor conditions in the cells at which he had been held and granted the applicant the compensation of PLN 7,000.

The applicant submitted in his complaint that the overcrowding and poor sanitary conditions in a prison where he had been held for almost 2 years and 3 months, had had an adverse effect on his health and had amounted to inhuman and degrading treatment under Article 3 of the Convention.

The Court, considering the admissibility issue, reiterated that Article 3 enshrines one of the most fundamental values of democratic societies and persons in custody are in a vulnerable position and the authorities are under a duty to protect them. The Court accepted the Government's acknowledgement of a breach of the Convention and found that the remedy used by the applicant is effective. However taking into account the Court's case –law regarding cases concerning prison conditions the Court found that the compensation awarded to the applicant is not sufficient.

The Court considered that the applicant was detained in overcrowded conditions for a period of 802 days, even after the systemic problem of overcrowding was considered to be resolved. Therefore the Court considers that the distress and hardship endured by him exceeded the unavoidable level of suffering inherent in detention and went beyond the threshold of severity under Article 3 of the Convention

Because of found violation of Article 3 of the Convention, the Court awarded the applicant EUR 3700 in respect of just satisfaction.

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<sup>1</sup> Information submitted by the Polish authorities on 5 March 2018

## I. Individual measures

### 1. Just satisfaction

Pecuniary damage	Non-pecuniary damage	Costs and expenses	Amount
-	3700 EUR	-	3700 EUR
Due on: 07/12/2017		Paid on: 17/11/2017	

### 2. Individual measures

Currently the applicant is not entitled to any additional measures.

The applicant was released from Warsaw - Służewiec Remand Centre on 20 December 2013.

*In these circumstances, additional individual measures do not seem necessary.*

## II. General measures

Judgment was translated into Polish and published on the website of the Ministry of Justice ([www.ms.gov.pl](http://www.ms.gov.pl)). Moreover the judgement in Polish language is available on the European Court on Human Rights' website.

The information about the judgement was also sent to the Director General of the Prison Service and directly to the Presidents of courts which were adjudicating in the civil case considering the infringement of applicant's personal rights due to the poor sanitary conditions in the cells at which he had been held, to: the President of Łódź Court of Appeal and the President of Łódź Regional Court.

The general measure applied by the Government concerning the overcrowding were presented in the action report in the *Orchowski and Sikorski v. Poland* group of cases. Additionally to the information included in this report should be noticed that according to the information of 2 February 2018, the penitentiary institutions are populated in 89,2%, the units are populated in 90,1 %, and in any of the penitentiary institutions the number of inmates do not exceeded the number of places in cells.

The general measures applied by the Government concerning the sanitary conditions in a solitary confinement cells, where the toilets were not separated from the living space, were presented in the action report in the *Szafrański against Poland* case. In additional to the information included in this report, it should be noticed that in 2017 there were build 429 sanitary facilities. In 2018 the Prison Service is planning to allocate funds to build 276 sanitary facilities in prisons cells. As a result of entering into force of the Act of 15 December 2016 on establishment of "Prison Service modernization program for the years 2017-2020" (ustawa z dnia 15 grudnia 2016 r. o ustanowieniu "Programu modernizacji Służby Więziennej w latach 2017-2020"), it cannot be excluded that, in 2018, number of prison cells in which sanitary facilities will be modernized, increase.

*In this situation, no other general measures seem necessary.*

### III. Conclusions of the respondent state

The Government is of the opinion that no other individual and general measures are necessary in this case and that the measures already adopted are sufficient to conclude that Poland has fulfilled its obligations under Article 46 § 1 of the Convention.