



CPT/Inf (2002) 9

**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 8 to 19 May 2000**

The Polish Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2002) 10.

Strasbourg, 23 May 2002

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Copy of the letter transmitting the CPT's report

Strasbourg, 21 December 2000

Dear Mrs Adamiak-Derendarz,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Polish Government drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to Poland from 8 to 19 May 2000. The report was adopted by the CPT at its 43<sup>rd</sup> meeting, held from 7 to 10 November 2000.

I would draw your attention in particular to paragraph 214 of the report, in which the CPT requests the Polish authorities to provide a report within six months on action taken upon its visit report. The CPT would be grateful if it were possible, in the event of the report forwarded being in Polish, for it to be accompanied by an English or French translation. It would also be most helpful if the Polish authorities could provide a copy of the report in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's visit report or the future procedure.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours sincerely,

Silvia CASALE  
President of the European Committee for  
the prevention of torture and inhuman  
or degrading treatment or punishment

Mrs Anna ADAMIAK-DERENDARZ  
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## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In accordance with 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 visited Poland from 8 to 19 May 2000.

The visit formed part of the Committee’s programme of periodic visits for 2000, and was the second periodic visit to Poland to be carried out by the CPT (the first periodic visit having taken place in June - July 1996).<sup>1</sup>

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

- Ingrid LYCKE ELLINGSEN, First Vice President of the CPT, Head of delegation
- Aleš BUTALA
- Renate KICKER
- Veronica PIMENOFF
- Rudolf SCHMUCK
- Pieter Reinhard STOFFELEN.

They were assisted by:

- James MacKEITH, Consultant Forensic Psychiatrist, the Bethlem Royal and Maudsley Hospitals, London, United Kingdom (expert)
- Bohdan AMBROZIEWICZ (interpreter)
- Ryszard DRZEWIECKI (interpreter)
- Andrzej GRZĄDKOWSKI (interpreter)
- Piotr PASTUSZKO (interpreter)
- Robert SZYMANSKI (interpreter)

and accompanied by the following members of the CPT's Secretariat:

- Petya NESTOROVA
- Borys WÓDZ.

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<sup>1</sup> The Committee’s report on its first periodic visit to Poland and the responses of the Polish Government have been made public at the request of the Polish authorities (cf. documents CPT/Inf (98) 13 and CPT/Inf (98) 14).

## **B. Establishments visited**

3. The delegation visited the following places of detention:

### Police establishments

- District Police Command, Gdańsk, ul. Nowe Ogrody 27
- District Police Command, Gdynia, ul. Starowiejska 50
- District Police Command, Łódź – Bałuty, ul. Ciesielska 27
- District Police Command, Łódź – Śródmieście, ul. Sienkiewicza 28
- District Police Command, Przemyśl, ul. Bohaterów Getta 1
- District Police Command, Rzeszów, ul. Jagiellońska 13
- Metropolitan Police Command, Warsaw, ul. Nowolipie 2
- District Police Command, Warsaw-Praga Północ, ul. Cyryla i Metodego 4 (follow-up visit)
- 1<sup>st</sup> Police Station, Warsaw – Ursynów District, ul. Janowskiego 7
- 4<sup>th</sup> District Police Command, Warsaw, ul. Żytnia 36
- 7<sup>th</sup> District Police Command, Warsaw, ul. Grenadierów 73/75 (follow-up visit)
- Police Station at Warsaw Central Railway Station
  
- Police establishment for children, Gdańsk
- Police establishment for children, Rzeszów
  
- Police deportation jail, Gdynia
- Guarded Centre for foreign nationals, Lesznów

### Border Guard establishments

- Morski Border Guard District Command, Gdańsk
- Border Guard Unit at the Korczowa Border Crossing
- Border Guard Unit at the Medyka Road Border Crossing
- Border Guard Unit at the Medyka Railway Border Crossing, Przemyśl Railway Station
- Bieszczadzki Border Guard District Command, Przemyśl
- Border Guard detention facilities at Warsaw International Airport (follow-up visit)

### Prison establishments

- Łódź Prison No. 2
- Przemyśl Prison
- Rzeszów Prison
- Warszawa – Białołęka Remand Prison (follow-up visit)

### Psychiatric establishments

- Starogard Gdański Neuro-Psychiatric Hospital

### Sobering-up centres in Gdańsk, Łódź and Rzeszów

Emergency Care Centre for children, Warsaw, ul. Bonifacego 81

**C. Consultations held by the delegation and co-operation encountered**

4. In addition to meeting local officials at the establishments visited, the delegation held talks with the competent national authorities and with representatives of several non-governmental organisations active in areas of concern to the CPT. A list of the national authorities and organisations consulted during the visit is set out in Appendix II to this report.

5. As had been the case during the first CPT visit to Poland in 1996, the delegation's meetings with the national authorities - both at the start and the end of the visit - took place in a spirit of close co-operation. The CPT is grateful for the time devoted to its delegation by the Secretary of State of the Ministry of Justice, Mr Janusz NIEDZIELA. Fruitful discussions were held with senior officials of the Ministry of Justice's Central Board of the Prison Service, the Ministry of Health's Department of Public Health, the Central Police Board and the Border Guard Command. The delegation also welcomed the possibility to hold discussions with Mr Adam ZIELIŃSKI, the Citizens Rights' Ombudsman, and members of his staff.

The delegation appreciated the efficient assistance provided to it during and after the visit by the liaison officer designated by the national authorities, Mrs Anna ADAMIAK-DERENDARZ, Public Prosecutor at the Ministry of Justice.

6. With one exception (cf. paragraph 7), the delegation received a very satisfactory reception from management and staff in the places of detention visited, including those which had not been notified in advance of the CPT's intention to carry out a visit. In particular, there were no undue delays in gaining access to the premises, the delegation was able to interview in private persons deprived of their liberty, and was provided with the information and facilities necessary for its work.

7. The exception referred to above concerned the 7<sup>th</sup> District Police Command in Grenadierów Street in Warsaw, which a sub-group of the delegation visited in the evening of 8 May 2000. The officer of duty had apparently not received sufficient information concerning the CPT's mandate and declined to show the delegation any documentation related to the custody period. He argued that this documentation was confidential and that the credentials issued by the Ministry of Internal Affairs did not specify the delegation's right to have access to such documentation. Having sought by telephone the assistance of the CPT's liaison officer, the delegation was eventually able to examine the apprehension protocols, but could still not look at the establishment's logbook.

During talks with senior officials at the Central Police Board on the following day, the issue of access by the CPT's delegation to documentation in police establishments was discussed at length, and no further obstructions were encountered by the delegation in this respect throughout the visit. **The CPT welcomes the spirit of mutual understanding and co-operation in which this issue was resolved.**



8. As regards more particularly those establishments which were the subject of a follow-up visit, the delegation noted that in some of them the management was not familiar with the pertinent extracts of the CPT's report on the 1996 visit to Poland. In this respect, **the CPT would like to underline the importance of Parties bringing the contents of the report drawn up by the Committee after a visit to the attention of all the relevant authorities and staff, in an appropriate form. It would also be desirable to make use of the reports on CPT visits and the substantive sections of CPT general reports in the training of the different categories of staff working with persons deprived of their liberty.**

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Police and Border Guard establishments

#### 1. Preliminary remarks

9. The CPT's delegation visited a number of police establishments in Gdańsk, Gdynia, Łódź, Przemyśl, Rzeszów and Warsaw, including two establishments for children. It also paid visits to two police detention facilities for foreign nationals awaiting deportation, the deportation jail in Gdynia and the Guarded Centre for foreign nationals in Lesznowola.

Further, the delegation visited several Border Guard establishments in Gdańsk, the Przemyśl area and at Warsaw International Airport.

10. Pursuant to Article 248 of the new Code of Criminal Procedure (in force since 1 September 1998), persons suspected of criminal offences in Poland may be held by the police for up to 48 hours. To extend custody beyond this period it is necessary to obtain a warrant of "temporary arrest" from the competent court, acting on a proposal by a public prosecutor. The apprehended person must be released if within 24 hours from the moment of bringing him to the disposition of the court a temporary arrest warrant has not been issued. Persons placed in temporary arrest are transferred to a remand prison. In other words, the maximum time a criminal suspect may spend in police custody is 72 hours.

11. The basic rules which apply to the detention of juveniles (i.e. persons under the age of 18) by the police remain the same as those described in paragraph 13 of the report on the CPT's first visit (CPT/Inf (98) 13).

As regards foreign nationals who are illegally present in Poland, new rules have entered into force since the CPT's 1996 visit. Under Article 88 of the Aliens Act of 1997, foreign nationals illegally present in Poland can be detained by the police or Border Guard for a maximum of 48 hours. Within this period, the relevant Provincial Police Commander or Commander of the Border Guard Unit must submit a motion to the Voïvod (i.e. the Governor of the Province) to have an expulsion decision issued. Once such a decision has been issued, two kinds of detention measures are possible in order to guarantee the execution of a deportation order: placement in a guarded centre or in a deportation jail, for a period not exceeding 90 days (cf. Article 59 of the same Act). Decisions in this respect are taken by the competent district court, acting on a proposal from the Voïvod, the police or the Border Guard.

## 2. Torture and other forms of ill-treatment

12. A number of persons interviewed by the delegation alleged that they had been physically ill-treated by the police, in particular in Warsaw and in the area of Przemyśl. For the most part, these allegations were made by remand prisoners who had recently been in police custody.

The ill-treatment alleged concerned, in the main, slaps, punches, kicks and blows with a truncheon. In certain isolated cases, allegations were also made of ill-treatment of a more severe nature, such as the infliction of electric shocks and blows to the soles of the feet. Most of the persons concerned stated that the ill-treatment alleged had occurred during questioning by police officers; however, some allegations were also heard of the disproportionate use of force at the time of apprehension. Further, a number of persons interviewed gave accounts of psychological pressure put on them at the time of interrogation, in the form of threats to use physical force in order to obtain confessions.

No allegations were received of ill-treatment by police officers in charge of guarding police cells or staff working in the police establishments for children visited. However, a few complaints were heard of verbal abuse and rough treatment on the part of security staff at the Guarded Centre for foreign nationals in Lesznowola.

As regards Border Guard staff, the CPT's delegation received no allegations of ill-treatment.

13. In one of the police establishments visited – the 7<sup>th</sup> District Police Command in Warsaw – the delegation found several non-standard issue items in offices used by criminal police officers: an axe, two baseball-style bats and a metal rod about 1 m long. The officers present stated that the objects in question had been confiscated from criminal suspects and secured as evidence.

**The CPT must reiterate the recommendation made in paragraph 18 of the 1996 visit report that appropriate steps be taken to ensure that:**

- **any items held on police premises as pieces of evidence are properly labelled and held in a secure and centralised location;**
- **no other non-standard issue items are held on police premises.**

14. The information gathered during the CPT's second visit indicates that the Polish authorities must exercise continuing vigilance as regards the treatment of persons in police custody. In this respect, **the CPT recommends that senior police officers deliver to their staff the clear message that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions.**

In this connection, **the CPT also reiterates the recommendation made in the 1996 report that police officers be reminded that no more force than is reasonably necessary should be used when apprehending a person, and that once the person apprehended has been brought under control, there can never be any justification for him being struck or otherwise roughly treated or humiliated by police officers.**

15. The CPT also recommended in its 1996 visit report that steps be taken in the area of initial and ongoing training of law enforcement officials, as well as with regard to the development of interpersonal communication skills (cf. CPT/Inf (98) 13, paragraph 19). In their responses, the Polish authorities provide detailed information on the human rights education given to police officers. However, it would appear from this information that the human rights training courses are of an essentially theoretical nature.

In this connection, the CPT wishes to stress that human rights concepts should be incorporated into initial and ongoing practical training for handling high-risk situations such as the apprehension and interrogation of suspects; this will prove more effective than separate courses on human rights. **The CPT recommends that training programmes for law enforcement officials be reviewed in the light of the above remarks.**

Similarly, the testing of interpersonal communication skills referred to by the Polish authorities in their responses concerns only the selection of future law enforcement officials. As already stated by the CPT, **considerable emphasis should also be placed on the acquisition and development of interpersonal communication skills during initial and ongoing training.**

Further, it is clear that continued exposure to highly stressful or violent situations can generate psychological reactions and disproportionate behaviour. **The CPT would like to be informed of any preventive measures taken with a view to providing support for police officers exposed to such situations.**

16. As already stated in the 1996 visit report, another effective means of preventing ill-treatment by police officers lies in the diligent examination by the competent authorities of all complaints of such treatment and, when appropriate, the imposition of a suitable penalty. This will have a very strong dissuasive effect on police officers minded to ill-treat detained persons.

In this respect, **the CPT would like the Polish authorities to supply the following information in respect of 1999 and 2000:**

- **the number and types of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which were instituted as a result;**
- **an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment by the police.**

**The CPT would also like to receive detailed information on complaints and disciplinary procedures in respect of the police, including the safeguards incorporated to ensure their objectivity, proper documentation, timely consideration and resolution.**

17. The CPT welcomes the fact that under Section 249, paragraph 3, of the Code of Criminal Procedure, the court or the prosecutor must hear the accused before applying a preventive measure. This will provide a timely opportunity for a person who has been ill-treated to lodge a complaint.

**In this connection, the CPT wishes to reiterate the recommendation made in 1996 that whenever a person brought before a judge/prosecutor alleges ill-treatment by the police, the judge/prosecutor should immediately request a forensic medical examination of the person concerned. This approach should be followed irrespective of whether the person concerned bears visible injuries. Further, even in the absence of an express allegation, the judge/prosecutor should request a forensic medical examination whenever there are grounds to believe that the person brought before him could have been the victim of ill-treatment.**

### **3. Conditions of detention**

#### a. introduction

18. The CPT wishes to recall the conditions of detention which should be offered to persons in police custody.

All cells should be clean and of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should have access to natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in police custody should be allowed to comply with the needs of nature in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held in custody for 24 hours or more should, as far as possible, be offered one hour of outdoor exercise every day.

19. As already indicated, criminal suspects in Poland may only be held on police premises for a relatively short time (i.e. a maximum of 72 hours). However, juveniles may be detained in police establishments for children for longer periods (up to 17 days). Similarly, foreign nationals detained under the Aliens Act may be kept in police custody for up to 90 days. Such periods of detention call for a better material environment than the one described above, as well as an appropriate activities programme.

b. detention facilities for criminal suspects

20. Conditions of detention in the police cells used for criminal suspects were almost invariably of a good standard. Cells were of a reasonable size for the number of persons they were designed to hold, and had access to natural light (even if somewhat limited in basement cells) as well as adequate artificial lighting and ventilation. They were equipped with beds, call-bells and, occasionally, a table and bench/stools. Further, persons detained overnight were provided with mattresses, blankets and pillows, which were in an acceptable condition.

Cells in some of the establishments visited were equipped with toilets, while in others detained persons had access to common sanitary facilities. No complaints were heard as regards access to a toilet or drinking water.

Food was brought in and distributed three times a day; in this connection, it should be noted that all detention areas comprised a kitchen where the food could be heated.

However, the only establishment which possessed an area for outdoor exercise was Gdańsk City Police Command. **The CPT invites the Polish authorities to persevere in their efforts to equip all police detention facilities for criminal suspects with outdoor exercise areas.**

21. Almost all the detention areas were clean and in good state of repair. However, the state of repair of the cells at the District Police Command in Łódź-Bałuty left something to be desired. Further, at the 1<sup>st</sup> Police Station in Warsaw – Ursynów District, the delegation saw what appeared to be piles of excrement in the corners of some of the cells.

**The CPT recommends that the shortcomings observed in the above-mentioned establishments be remedied, and detainees' access to the toilet guaranteed at the 1<sup>st</sup> Police Station in Warsaw – Ursynów District.**

c. police establishments for children

22. The delegation gained a positive impression of the police establishment for children in Gdańsk. It was located some 10 km outside Gdansk, in a large villa surrounded by an attractive garden. The establishment had an official capacity of 25 places, distributed amongst six bedrooms of varying size (16 - 20 m<sup>2</sup>). Material conditions in the rooms were of a good standard (adequate lighting and ventilation, pleasant decoration). Further, children detained at the establishment were offered a range of sports, recreational and educational activities.

23. In contrast, conditions in the police establishment for children in Rzeszów left much to be desired. Ventilation was deficient in the boys' dormitory and detained boys slept on mattresses placed on the floor. Conditions in the girls' dormitory were somewhat better: it was adequately ventilated and equipped with beds. Access to natural light in the dormitories was satisfactory; however, artificial lighting was switched on throughout the night. More generally, conditions in both dormitories were very austere.

The establishment's toilet and shower facilities were in an acceptable state of cleanliness, albeit somewhat dilapidated. However, they did not guarantee an adequate level of privacy (transparent shower curtains and unscreened windows, toilet doors which did not close), a failing which is all the more important given that the same facility was used by both boys and girls.

24. Children spent the day in a very modestly equipped activity room. Activities were essentially limited to watching TV, reading books and playing table tennis. The establishment did not possess an outdoor exercise yard and staff acknowledged that children would only occasionally be taken out to the internal courtyard/garage.

Further, as had been the case in some of the police establishments for children visited in 1996 (cf. paragraph 30 of CPT/Inf (98) 13), children detained in Rzeszów had to wear pyjamas and slippers throughout the day.

25. As regards staffing, the delegation was informed that each shift should in principle comprise two educators – one man and one woman. At the time of the visit, only one male educator was present, the female staff member being on sick leave. However, the director assured the delegation that in case of need a female police officer from the nearby police command could be called in.

26. In the light of the above, **the CPT recommends that the Polish authorities take the following steps in respect of the police establishment for children in Rzeszów:**

- **to improve the ventilation in the boys' bedroom and equip it with beds and full bedding;**
- **to improve the decoration and the equipment in the day activity room;**
- **to refurbish the establishment's toilets and shower room and guarantee an adequate level of privacy there;**
- **to provide detained children with appropriate daytime clothing;**
- **to ensure that detained children are offered at least one hour of outdoor exercise a day;**
- **to develop the range of activities offered to detained children, with particular emphasis on education;**
- **to ensure that searches of girls detained at the establishment are performed by female staff members.**

27. Neither of the establishments visited had health-care staff. Newly-arrived children were seen by an educator, who looked for any visible injuries and asked some general health questions. In case of need a doctor could be called in and/or the child transferred to a hospital. In this regard, **the CPT reiterates the recommendation made in the 1996 visit report that the Polish authorities take appropriate steps to ensure that all new arrivals at police establishments for children are medically screened without delay.**

**The Polish authorities are also invited to reflect upon the possibility of providing for daily visits by a nurse to the establishments in question.** Such a nurse could in particular receive requests from children to see a doctor, ensure the provision and distribution of prescribed medicines and manage the establishments' stock of medicines as well as ensure that medical records are kept in a confidential manner.

d. detention facilities for foreign nationals awaiting deportation

28. As was indicated in the report on the 1996 visit, when it is deemed necessary to deprive persons of their liberty under the aliens legislation, they should be accommodated in centres specifically set up for such persons, offering material conditions and a regime appropriate to their legal situation and staffed by suitably qualified personnel. The Polish authorities have subsequently taken steps in this direction. In particular, a large-capacity guarded centre has been set up in Lesznowola in 1998. Further, deportation jails, normally located on a distinct floor of police commands, have been established in other parts of the country.

**The CPT welcomes this development; however, it trusts that in due course more guarded centres comparable to the one in Lesznowola will be established.** Apparently, this is foreseen by the 1997 Aliens Act, according to which the reinforced measure of placing a foreign national in a deportation jail should only be taken when there are grounds to believe that the foreign national concerned will violate the internal regulations of the guarded centre or abscond (cf. Section 59, paragraph 2).

i. *Guarded Centre for foreign nationals in Lesznowola*

29. The Guarded Centre for foreign nationals in Lesznowola is located in former military barracks some 50 km south-east of Warsaw. With an official capacity of 131, the centre was accommodating 123 persons on the day of the CPT's visit (91 men, 17 women and 15 children) of twenty-six different nationalities.

The residents were all, in principle, awaiting deportation. However, 65% of them had applied for refugee status. Pending the examination of their applications, the execution of the deportation orders had been suspended.



30. The centre consisted of 2 two-storey blocks. Block 1 housed, on the ground floor, the administration offices and canteen, while families, single women and unaccompanied minors were accommodated on the first floor. Block 2 contained the medical facilities and admission room on the ground floor, and accommodation for single men and a prayer room on the first floor.

31. Material conditions were on the whole acceptable. Residents were accommodated three or four to a room (measuring 18 - 36 m<sup>2</sup>) in Block 1, and ten to a room (measuring 56 m<sup>2</sup>) in Block 2. All rooms enjoyed adequate access to natural light, artificial lighting and ventilation, and were clean and pleasantly decorated. The equipment, consisting of individual or double bunk beds with full bedding, wardrobes, lockers, tables and stools/chairs, was in a good state of repair. The bedding was somewhat worn out but clean. Further, residents were provided with personal hygiene items and products for cleaning the rooms in sufficient quantities.

The only major point of concern as regards material conditions in the centre was the state of repair of the toilet and washing facilities in Block 2. Despite a recent renovation, many of the installations were in a poor state of repair and some were out of order. The level of hygiene also left a great deal to be desired.

32. The arrangements with respect to food appeared satisfactory. Residents received meals three times a day in a spacious, clean and well-decorated canteen. The delegation heard hardly any complaints concerning the quality and quantity of the meals. It is noteworthy that the specific dietary requirements of the foreign nationals were taken into account in the provision of food, and genuine efforts were being made to provide baby food as well as additional quantities of milk to families with small children.

33. As regards the regime, residents could circulate freely within their respective blocks between 6 a.m. and 10 p.m. They were allowed to take outdoor exercise for up to 3 hours a day. Occasionally, football, volleyball and basketball games were organised. Residents could also occupy their time by watching television (exclusively Polish channels), reading newspapers, magazines and books (also mostly in Polish language), as well as playing board games. Nevertheless, a number of residents interviewed by the delegation were dissatisfied with their enforced idleness and expressed the wish to have more purposeful activities, such as work, even without pay. It should also be noted that although children had access to a small playground and some toys, no educational activities were provided to them.

34. As for contact with the outside world, residents had unlimited access to pay-phones and could send and receive as much correspondence as they wished. However, the procedure with respect to visits appeared unnecessarily cumbersome and restrictive. Each visit had to receive prior approval from the Provincial Police Commander, and the delegation was told that the period from the moment of a resident's request to the approval of a visit could be as long as a month. The same procedure applied to visits by lawyers. In this connection, it should be noted that the delegation heard many complaints that residents had not been able to receive visits.

35. Concerning information provided to residents, upon arrival each resident was given a copy of the centre's internal regulations and asked to sign that he/she had received them. The regulations were available in a wide range of languages<sup>2</sup>. However, the delegation heard some complaints from detained foreign nationals about the absence of information on their legal situation (including their right of access to a lawyer, the procedure concerning them and its likely length).

36. The centre's health-care staff comprised two doctors (a specialist in internal medicine and a paediatrician) who attended the establishment for 4 hours a day and could be called outside these periods in case of need. The establishment also employed two full-time nurses who ensured a daily presence and performed medical screening on admission. In emergencies and cases requiring more specialised examination/treatment, the centre relied upon the general emergency medical service and hospitals in nearby towns. The facilities of the health service (a well-equipped medical consultation room and two medical isolation rooms) were also quite satisfactory.

37. However, the CPT is concerned by the absence of psychological and psychiatric support to residents at the centre. The delegation's medical members interviewed several residents who had psychological problems (anxiety, depression, sleeping problems, etc.) or exhibited psychiatric symptoms. The delegation was told that residents requiring psychological and/or psychiatric care were transferred to a nearby hospital. However, this concerned only persons in an acute state; no provision was being made for those who needed regular consultations/support.

38. The centre's staff was composed of uniformed police officers serving as security guards and civilian staff employed as educators/contact persons for the residents. It is noteworthy that a number of female police officers were employed at the centre, in particular in Block 1.

The staff of centres for immigration detainees have a particularly onerous task. Consequently, the CPT places a premium upon the supervisory staff in such centres being carefully selected and receiving appropriate training. As well as possessing well-developed qualities in the field of interpersonal communication, the staff concerned should be familiarised with the different cultures of the detainees and at least some of them should have relevant language skills. Further, they should be taught to recognise possible symptoms of stress reactions displayed by detained persons (whether post-traumatic or induced by socio-cultural changes) and to take appropriate action.

In this connection, the CPT was concerned to learn that police staff assigned to the Lesznawola Centre had not benefited from any specific training before taking up their duties. Further, contacts between staff and residents - in particular those of Asian and African origin - were made difficult because of the language barrier. Although several staff members spoke Russian, English or German, the communication difficulties with many of the residents were a source of tension and mutual frustration.

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<sup>2</sup> Arabic, Armenian, Bengali, Bulgarian, English, French, German, Hindi, Punjabi, Romanian, Russian, Serbo-Croat, Tamil, Turkish and Vietnamese.

39. In the light of the above, **the CPT recommends that the Polish authorities:**

- **return the toilet and washing facilities in Block 2 to a good state of repair and keep them clean;**
- **review the procedure described in paragraph 34 so as to enable residents at the centre to receive visits without undue delay. Residents should have the possibility to receive visitors for at least one hour per week;**
- **ensure that no restrictions whatsoever are imposed on visits by lawyers;**
- **make additional efforts to ensure that all residents are duly informed of their rights and obligations, as well as of the nature and state of the proceedings in their cases;**
- **take steps to ensure regular attendance at the centre by a psychiatrist and/or a psychologist;**
- **review the selection and training of staff assigned to the centre in the light of the remarks made in paragraph 38.**

The CPT also invites the Polish authorities to explore the possibility of offering foreign nationals held at the centre a wider range of purposeful activities. The longer the period for which persons are detained, the more developed should be the activities which are offered to them. Particular attention should be given to the specific needs of young children and juveniles, education forming an important part of the programmes of activities to be offered to them.

*ii. deportation jail in Gdynia*

40. The detention facility for foreign nationals awaiting deportation in Gdynia was located on the 1<sup>st</sup> floor of the District Police Command (the ground floor of which contained cells used for criminal suspects). It comprised five cells (measuring some 10 m<sup>2</sup>), accommodating one to three foreign nationals each. At the time of the visit, the deportation jail was accommodating 8 foreign nationals, including one woman. Some of them had already spent two months in custody awaiting deportation.

41. Material conditions of detention were on the whole adequate. The cells benefited from satisfactory access to natural light, artificial lighting and ventilation, and were suitably equipped (beds, a table and stools, shelves, a semi-partitioned toilet, call system). Detainees were supplied with an appropriate range of personal hygiene items and could use the shower room at will. The laundry arrangements also appeared to be satisfactory. Further, no complaints were heard as regards food. **However, a 10 m<sup>2</sup> cell should not be used to accommodate more than two persons overnight.**

As regards the regime at the deportation jail, cell doors were unlocked from 6 a.m. to 10 p.m., and foreign detainees could associate in a common room equipped with a TV set, some books, newspapers and games, as well as go to the outdoor exercise yard.

42. However, the delegation was not satisfied that foreign nationals awaiting deportation could maintain appropriate contact with the outside world. Although they could receive visits and send/receive letters, there was no possibility to use a telephone. The delegation was informed by staff of the deportation jail that access to a telephone was subject to authorisation by the court.

**The CPT recommends that steps be taken to ensure that foreign nationals awaiting deportation held at the Gdynia deportation jail have ready access to a telephone.**

e. Border Guard establishments

43. The delegation visited three holding facilities run by the Border Guard - the detention facilities at Warsaw International Airport and the Border Guard Commands in Gdańsk and Przemyśl - as well as three Border Guard units located at crossing points on the border with Ukraine.

44. In the report on the 1996 visit, the CPT made a number of critical remarks concerning the Border Guard detention facilities at Warsaw International Airport (cf. paragraphs 43 and 44 of document CPT/Inf (98) 13), used for persons refused entry to the country. By the time of the 2000 visit, the holding facilities had been moved to a different part of the airport building (the transit area); however, the new accommodation continued to exhibit a number of shortcomings.

There was one very large room for foreign nationals declared "inadmissible", in principle intended for men; however, an examination of the registers revealed that women and children had also been held there on occasion. The usual length of stay was one day (i.e. until the next available plane), though stays of several days were not uncommon. The room had good artificial lighting; however, there was no access to natural light and ventilation left something to be desired. The equipment consisted of some ten beds, tables and benches.

The delegation heard complaints from foreign nationals concerning access to drinking water and the availability of food (including from people who had offered to pay for the food themselves). Further, persons held at the facility had no access to outdoor exercise. Staff informed the delegation that they could use a telephone; however, none of the persons interviewed had yet been in a position to make telephone calls, despite their expressed wish.

There were also two waiting rooms (each measuring some 6 m<sup>2</sup>) for persons who had committed criminal offences and awaiting transfer to a police detention facility. The rooms had no access to natural light and ventilation left something to be desired. Further, interviews with detainees suggested that the provision of food and drinking water was problematic.

45. In their responses to the CPT's report on the 1996 visit, the Polish authorities informed the Committee that a new facility for foreign nationals who had been refused entry to Poland was being set up in a separate building with a surface area of 495 m<sup>2</sup>. However, it became clear during the visit to the airport that the project in question remained to be completed. The building assigned for the purpose – a former military facility – stood empty and awaiting equipment.

The CPT recommends that the Polish authorities equip and put into service the new facilities for persons detained at Warsaw International Airport as a matter of priority. In the meantime, the Committee recommends that immediate measures be taken to ensure that all detained persons have access to drinking water and food, as well as access to a pay-phone. Steps should also be taken to ensure that all persons detained for more than 24 hours are offered at least one hour of outdoor exercise per day and that female detainees held overnight are accommodated separately from men, unless they have expressed a wish to be placed with persons with whom they share an emotional or cultural affinity.

46. The four cells at the Morski Border Guard District Command in Gdańsk offered satisfactory conditions for periods of detention for up to 72 hours. They were of an appropriate size (11 m<sup>2</sup>) for accommodating two persons each, well-lit and ventilated, and suitably equipped (beds with mattresses, blankets and pillows, a table, chairs, call system). The sanitary facilities were also of a good standard. Similar to police cells, food was distributed three times a day. Further, the detention facility was equipped with an outdoor exercise area.

47. The detention area at the Bieszczadzki Border Guard District Command in Przemyśl was also, on the whole, acceptable. The cells were of an adequate size (some 9 m<sup>2</sup> for a double cell), benefited from adequate lighting and ventilation and were equipped in a similar manner as those in Gdańsk. Further, detainees had ready access to sanitary facilities (toilets, washbasins, showers). Food was brought in three times a day from the nearby Border Guard canteen. **However, there was no facility for outdoor exercise.**

48. The delegation visited Border Guard units on the Polish–Ukrainian border at the Korczowa Border Crossing, the Medyka Road Border Crossing and the Medyka Railway Border Crossing. All of them possessed rooms used to accommodate persons detained for periods not exceeding a few hours, i.e. the time necessary for drawing up the apprehension protocol.

The holding rooms at Korczowa and Medyka (Road) were satisfactory for such short periods of detention. They measured approximately 10 m<sup>2</sup>, were well lit (including good access to natural light) and ventilated, and adequately equipped (tables and benches/stools). Suitable arrangements had also been made as regards access to toilet and washing facilities.

49. Conditions were less satisfactory at the Border Guard Unit at Medyka Railway Border Crossing, which was located in the building of Przemyśl railway station. The unit's holding rooms were inadequately lit and one of them was in a poor state of repair and hygiene. The delegation was also not convinced that persons placed in the holding cells had ready access to toilet facilities. **The CPT recommends that steps be taken to remedy these shortcomings.**

#### 4. Safeguards against the ill-treatment of persons deprived of their liberty

50. In the report on its 1996 visit, the CPT made a number of recommendations and comments as regards safeguards for persons detained by the police and the Border Guard (notification of custody, access to a lawyer, access to a doctor, information on rights, etc). The information gathered in the course of the 2000 visit indicates that there remains room for improvement in this area.

51. In the report on the 1996 visit, the CPT asked whether there was any possibility in law to delay the exercise of the right concerning notification of custody. In their interim response the Polish authorities indicated that under Polish law there was no possibility to delay the exercise of this right or the provision of information about it.

Practically all persons met by the delegation in the course of the 2000 visit had been promptly put in a position to notify a close relative or other person of the fact of their detention. However, there were a few exceptions to this rule, mostly foreign nationals who claimed that they had not been allowed to contact a relative (even when the latter apparently lived in Poland) or their consular authorities. **The CPT would like to receive the comments of the Polish authorities on this matter.**

52. In respect of access to a lawyer, the legal situation has changed since the CPT's 1996 visit. Under the 1998 Code of Criminal Procedure (Section 245, paragraph 1), access to a lawyer is guaranteed to persons who have been "detained" (in contrast to the "accused under temporary arrest" under the provisions which were in force in 1996). This right includes the right to immediately contact the lawyer and to talk with him directly, but the official who has apprehended the person may be present during such a conversation. The detained person may also have his lawyer present at interrogations during police custody.

However, the information gathered in the course of the 2000 visit would suggest that the application of the above-mentioned right is not yet fully guaranteed in practice. Some police officers met by the delegation affirmed that detained persons could not meet their lawyers prior to the first interrogation; others stated that no visits by lawyers were allowed until a court decision for temporary arrest had been issued. **The CPT recommends that appropriate steps be taken to ensure that the provisions of the 1998 Code of Criminal Procedure concerning access to a lawyer for persons in police custody are fully complied with.**

Further, to be fully effective as a means of preventing ill-treatment, the right of access to a lawyer must include the right to talk to him in private. Consequently, **the CPT recommends that Section 245, paragraph 1, of the Code of Criminal Procedure be amended accordingly and that, pending such an amendment, an instruction be given to officials who apprehend suspects that they should not make use of the possibility to be present during meetings between detained persons and their lawyers.**

53. If the right of access to a lawyer is to be fully effective in practice, appropriate provision must be made for those who are not in a position to pay for legal services. In this respect, police officers informed the CPT's delegation that lawyers appointed *ex officio* would rarely appear during the investigation unless paid an additional fee by their client, because of the low official fees for such services. **The CPT recommends that the Polish authorities take steps to ensure the effectiveness of the system of legal aid, including at the initial stage of police custody.**

54. With regard to access to a doctor for persons detained by the police, in 1997 the Polish Ministries of the Interior and Health issued joint instructions (in accordance with the Police Act) on the manner of conducting medical examinations of persons detained by the police. Police officers are under an obligation to ensure that such examinations take place whenever an apprehended person has visible injuries or is unconscious, or states that his health condition requires periodical or permanent medical care. Medical examinations are conducted by a doctor from the nearest public medical centre; if necessary, the detained person may be transferred to a hospital. The CPT welcomes the issuing of these instructions; further, the information gathered during the visit suggests that they are being complied with.

**Nevertheless, the CPT recommends that the above-mentioned instructions be expanded so as to provide that:**

- **the right of persons deprived of their liberty by the police to have access to a doctor includes the right - if the persons concerned so wish - to be medically examined by a doctor of their choice;**
- **all medical examinations are to be conducted out of the hearing and - unless the doctor requests otherwise - out of the sight of police/ Border Guard officers;**
- **the results of every examination, as well as any relevant statements by the detainees and the doctor's conclusions, are to be formally recorded by the doctor and made available to the detainee and his lawyer.**

55. As for information on rights, Section 244, paragraph 2, of the 1998 Code of Criminal Procedure stipulates that an apprehended person must be immediately informed of the reasons for his apprehension and of his rights.

In the report on the 1996 visit, the CPT recommended that a form setting out the rights of persons in police custody in a straightforward manner be systematically given to such persons at the very outset of their deprivation of liberty. In the course of the 2000 visit, it was observed that the protocol drawn up in respect of criminal suspects apprehended by the police contains information on the detained person's rights to: (i) request that his next-of-kin or place of work be notified; (ii) contact a lawyer and be enabled to communicate directly with him; and (iii) lodge a complaint with the court. The protocol also records any statements made by the detained person concerning his state of health as well as whether he has been examined by a doctor. The person taken into custody is asked to sign the detention protocol and is given a copy of it. Further, the information gathered in the course of the 2000 visit suggests that this protocol is drawn up without delay.

Consequently, the terms of the recommendation made by the CPT after the 1996 visit can be considered as having been, on the whole, complied with. However, **it is important that the protocol be available in an appropriate range of languages**; at the moment, it only exists in Polish.

56. As regards foreign nationals detained under the Aliens' legislation and asylum seekers, the delegation saw at some of the Border Guard establishments visited copies of a document setting out their rights and explaining the procedure applicable to them. This document was available in a range of languages. However, certain of the foreign nationals interviewed by the delegation did not appear to have received such a document.

**The CPT recommends that the necessary steps be taken to ensure that foreign nationals detained under the Aliens' legislation and asylum seekers are systematically issued with a form setting out in a straightforward manner their rights, at the very outset of their deprivation of liberty. The information should be available in different languages and the person concerned should attest that he has been informed of his rights in a language he understands.**

57. The CPT recommended in the report on its 1996 visit that the Polish authorities draw up a code of conduct for interrogations (cf. paragraph 57 of CPT/Inf (98) 13), supplementing the basic rules on the recording of interrogations contained in the Code of Criminal Procedure. In their responses, the Polish authorities stated that the current norms concerning interrogations as well as the system of police training and supervision make such a special code unnecessary.

Admittedly, the Code of Criminal Procedure does lay down important procedural safeguards concerning the custody and questioning of detained persons. In addition, the Code of Police Ethics provides general guidelines on the behaviour of police officers. However, although a useful document, it is not a substitute for a detailed code of conduct for interrogations. Having regard to the information gathered during the 2000 visit, the Committee remains convinced of the need for such a code, setting out in detail the procedure to be followed on a number of specific points, including those mentioned in paragraph 57 of the report on the 1996 visit. The existence of a code of conduct for interrogations would, in particular, serve to underpin the lessons taught during professional training. **The CPT therefore calls upon the Polish authorities to take the necessary steps for the adoption of a code of conduct for interrogations.**

Further, **the CPT reiterates its request for information as to whether a circular on the use of audio or video equipment for the electronic recording of police interrogations has been issued** (cf. paragraph 58 of the 1996 visit report).

58. Finally, the delegation's examination of custody records in the police and Border Guard establishments visited revealed that the period of custody was sometimes poorly documented. In particular, the times of arrival and release or transfer were not always indicated, especially in the custody records kept at the border crossing points. **The CPT recommends that appropriate steps be taken to remedy these shortcomings.**

Moreover, **the CPT remains of the opinion that a single and comprehensive custody record should be kept for each person detained by the police or Border Guard. This register should record all aspects of the custody period and all action taken in connection with them (time and reason(s) for the apprehension; when informed of rights; signs of injury, mental disorder, etc.; contact with and/or visits by a relative, lawyer, doctor or consular officer; when offered food; when released, etc.).**



## **B. Prison establishments**

### **1. Preliminary remarks**

59. In the course of the second periodic visit to Poland, the CPT's delegation visited four prison establishments: Warszawa-Białoleka Remand Prison, Łódź Prison No 2, Przemyśl Prison and Rzeszów Prison. The visit to the first establishment was of a follow-up nature.

Warszawa-Białoleka Remand Prison was described in detail in the report on the CPT's 1996 visit to Poland (cf. paragraphs 64 and 72 to 78 of document CPT/Inf (98) 13). The establishment's official capacity has remained unchanged (1,238 places). At the time of the 2000 visit, the inmate population was much the same as in 1996: 1,305 male prisoners, of whom 301 had already been sentenced but were appealing their sentences or awaiting trial in other cases. A considerable number of the inmates (513) were young offenders (under Polish law, this category comprises persons aged between 17 and 24), both on remand and already sentenced and awaiting transfer to other establishments.

Łódź Prison No 2 is essentially a closed-type establishment composed of two quite distinct parts: a prison for sentenced men, and a prison hospital catering for all categories of prisoners referred to it for treatment from several districts around the town of Łódź.<sup>3</sup> The establishment's current official capacity is 325 places, of which 171 in the hospital. As of 15 May 2000, the establishment was holding a total of 274 inmates, of whom 148 were undergoing treatment in the hospital. The latter group included 10 women and 23 young offenders. The great majority of the inmates (82%) were sentenced.

Przemyśl Prison is a relatively old establishment, dating back to the late 19<sup>th</sup> century. It is situated in the centre of Przemyśl, a town near the Polish-Ukrainian border. At the time of the visit, the prison was operating at full capacity with a population of 219 male prisoners (130 sentenced, 79 on remand and 10 serving administrative punishments). The inmate population included 79 young offenders and 45 foreign nationals.

Rzeszów Prison is a large and quite new establishment (in service since 1980), situated on the outskirts of the town. It is essentially a closed prison for sentenced men, with an official capacity of 923 places. The establishment also includes a semi-open and open regime unit for female prisoners (both on remand and sentenced), two units for male prisoners on remand, a unit for prisoners with mental disorders and a unit for prisoners with drug problems. On the first day of the delegation's visit, the prison was accommodating 808 inmates, including 39 women, 94 young offenders and 193 male remand prisoners. The unit for prisoners with mental disorders was accommodating 52 inmates, and that for drug-addicted prisoners, 22 inmates.

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<sup>3</sup> In view of its specific medical functions, the prison hospital is considered independently from the prison, in the section "Health-care issues" of the report.

60. In the course of the initial discussions at the Ministry of Justice, the delegation was informed of a disturbing trend: between August 1999 and May 2000, the number of remand prisoners had risen by 7,000, as a result of which the prison system was operating close to its maximum official capacity of 63,000 places. Senior officials of the Ministry of Justice voiced their concern over the increased use of temporary arrest as a preventive measure and the tendency in recent years to impose longer sentences, in response to public opinion, developments which could lead to a situation of overcrowding.

The CPT's delegation was also informed of various measures conceived to address this problem. In the first place, the Polish authorities have pressed on with their programme for expanding and modernising the prison estate (with the entry into service of a new prison in Radom in early 2000, the decision to build a new remand prison in Piotrków Trybunalski and the refurbishment of existing prison establishments). Further, a wider use of alternatives to imprisonment - envisaged by the new Criminal Code and Code of Criminal Procedure - and the possibilities for early release are expected to counter the above-mentioned trend.

61. The CPT welcomes the multi-faceted approach adopted by the Polish authorities to counter the risk of overcrowding. Indeed, the Committee is far from convinced that providing additional accommodation will alone offer a lasting solution. A number of European States have embarked on extensive programmes of prison building, only to find their prison populations rising in tandem with the increased capacity acquired by their prison estates. Current law and practice in relation to custody pending trial as well as sentencing policies should also come into the equation.

**The CPT recommends that the Polish authorities pursue vigorously the application of a range of measures designed to combat prison overcrowding, including policies to limit or modulate the number of persons sent to prison.** In this context, the Polish authorities will find useful guidance in the principles and measures set out in the recent Recommendation N° R (99) 22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation.

**The CPT also wishes to reiterate the recommendation made in 1996 that the existing standard for male prisoners be aligned on that for female prisoners, namely 4 m<sup>2</sup> per prisoner.** The existing standard of 3 m<sup>2</sup> per male prisoner does not offer a satisfactory amount of living space, in particular in cells of a relatively small size.

62. In the report on its 1996 visit, the CPT also expressed concern about the unsatisfactory employment situation in the Polish penitentiary system. Following the CPT's first visit, the Polish authorities have stepped up their efforts to create more jobs for prisoners, in particular through the adoption in 1997 of a special Law on the Employment of Persons Deprived of Liberty, intended to facilitate the employment of prisoners outside the prison system. However, these efforts have failed to date to bear fruit. At the time of the CPT's 2000 visit, only 20% of all prisoners had work. The withdrawal of VAT exemption from which prison production used to benefit in the past and the lack of public procurement schemes and other incentives were apparently at least partly responsible for this unfavourable situation.

The Polish authorities are fully aware of the scope of the problem and are seeking ways to improve the employment situation for prisoners, *inter alia* through amendments to the Law on the Employment of Persons Deprived of Liberty. In this context, the CPT wishes to stress that even in times of economic difficulty, the provision of work to prisoners should not be determined solely by market forces; an active state policy, based if necessary on special incentives for the placing of orders for prison production, should be developed. A wider range of voluntary unpaid work activities should also be offered to prisoners.

**The CPT recommends that the Polish authorities pursue their efforts to introduce measures aimed at ensuring that both sentenced and remand prisoners are provided with work.**

## **2. Torture and other forms of ill-treatment**

63. At Łódź Prison No 2 and Rzeszów Prison, the CPT's delegation received hardly any allegations of ill-treatment of prisoners by prison staff, and observed that relations between staff and inmates were quite relaxed.

A few isolated allegations of physical ill-treatment (slaps, kicks) were heard at Warszawa–Białołęka Remand Prison. The ill-treatment alleged was in particular said to have occurred while agitated and/or aggressive prisoners were being transferred to the establishment's restraint cells. However, on the whole, the atmosphere in the establishment was free of noticeable tension.

In contrast, at Przemyśl Prison the delegation was inundated with allegations of various forms of ill-treatment of inmates by prison officers. These allegations referred to both verbal and physical abuse, the latter including the random delivery of slaps, kicks and punches as well as rough body searches (e.g. involving the squeezing of prisoners' testicles). As regards in particular young offenders, over a third of those interviewed claimed that they had been ill-treated by prison staff. In two cases, the prisoners concerned alleged that they had been taken to a restraint cell and beaten with truncheons.

64. The delegation did not gather any medical evidence consistent with the above-mentioned allegations of ill-treatment. Nevertheless, they are of serious concern for the CPT because of their widespread nature and the description of a consistent pattern of behaviour by prison officers, which lend the allegations considerable credibility. It should also be noted that the general atmosphere at the establishment was oppressive. Communication between custodial staff and prisoners was limited to short commands, and the delegation had the distinct impression that security in the prison was based on intimidation and fear rather than positive relations between staff and prisoners.

65. An improvement of the situation observed at Przemyśl Prison will require a fundamental shift in approach, combining more direct management involvement and interaction with staff and prisoners, and the encouragement of positive relations between staff and prisoners. **The CPT recommends that appropriate steps be taken by the management of Przemyśl Prison to make use of all means at its disposal to prevent ill-treatment and, more generally, to decrease tension in the prison.** This should involve *inter alia* regular presence by prison managers in the detention areas and their direct contact with prisoners, as well as unannounced checks at all hours, and the thorough investigation of complaints made by prisoners.

66. The CPT has already stressed in the report on its 1996 visit that there can be no better safeguard against ill-treatment than properly recruited and trained prison officers, who know how to adopt the appropriate attitude in their relations with prisoners.

The CPT has taken note of the information provided by the Polish authorities in their responses to the report on the 1996 visit as regards the recruitment criteria for prison staff and the content of their training. In the light of the delegation's findings in the course of the 2000 visit, **the CPT recommends that in the course of such training, considerable emphasis be placed on the acquisition and development of interpersonal communication skills. Such skills are essential, since they will often enable prison staff to defuse a situation which could otherwise turn into violence. Further, building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation. They can lead to a lowering of tension and raise the quality of life in an institution, to the benefit of all concerned.**

67. Finally, in order to obtain a nationwide view of the situation concerning the treatment of prisoners by prison staff, **the CPT would like to receive the following information for 1999 and 2000, in respect of all prisons in Poland:**

- **the number and types of complaints of ill-treatment lodged against prison staff;**
- **an account of disciplinary/criminal sanctions imposed following complaints of ill-treatment by prison staff.**

### **3. Prisoners classified as "dangerous"**

68. In every country there will be a number of so-called "dangerous" prisoners (a notion which covers a variety of types of person) in respect of whom special conditions of custody are required. This group of prisoners will (or at least should, if the classification system is operating satisfactorily) represent a very small proportion of the overall prison population. However, it is a group that is of particular concern to the CPT, in view of the fact that the need to take exceptional measures concerning such prisoners brings with it a greater risk of inhuman treatment than is the case with the average prisoner.

69. Under Polish legislation, prisoners accused or convicted of serious crimes (especially those involved in organised crime activities), as well as prisoners who have repeatedly violated the internal regulations, may be classified as "dangerous" by decision of the penitentiary commission.<sup>4</sup> The status of "dangerous prisoner" is reviewed every three months as regards remand prisoners, and every six months with respect to sentenced prisoners. The prisoner concerned may attend the hearings of the penitentiary commission and express his views, and is informed of the reasons for the decision as well as of his right to appeal against it to the penitentiary judge.

The procedural safeguards applicable to dangerous prisoners might therefore be considered as adequate, though in the CPT's opinion **it would be preferable for the status of all dangerous prisoners, including those who are sentenced, to be reviewed every three months.**

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<sup>4</sup> Cf. Sections 62 to 64 of the Regulations on the Execution of Temporary Arrest; Sections 79, 80 and 96 of the Regulations on the Execution of the Punishment of Deprivation of Liberty.

70. During the 2000 visit, the CPT's delegation met a certain number of prisoners classified as "dangerous" (six in Warszawa-Białoleka Remand Prison, one in Przemyśl and five in Rzeszów Prison). Material conditions in the cells for such prisoners were, on the whole, satisfactory. They were accommodated in single cells or in two's or three's in cells designed for such a level of occupancy. The equipment was analogous to that seen in cells for other categories of prisoners, except that the furniture was fixed to the floor and there was an extra grilled door.

71. However, the CPT has serious misgivings about the regime being applied to "dangerous" prisoners, which was characterised by a total absence of organised activities and a paucity of human contact. Pursuant to the relevant regulations, such prisoners were offered one hour of outdoor exercise a day, which they took either alone or with their cellmates. Apart from that, they spent their time confined to their cells, watching TV and reading books being their only forms of distraction. Some "dangerous" prisoners in the Przemyśl and Rzeszów prisons were occasionally allowed to go to a common room.

Contacts between prisoners and prison officers were very restricted, due to the severe security requirements imposed by the regulations. As regards contact with other staff members, it consisted of periodic visits by educators and, upon request, visits by psychologists. The rules applicable to family visits were analogous to those for remand and sentenced prisoners, except that "dangerous" prisoners were not allowed physical contact with their visitors. However, some "dangerous" prisoners on remand met by the delegation had been denied visits for up to two months.

Any regime which denies appropriate mental and physical stimulation to prisoners is likely to have a detrimental effect on the health of the person concerned and, in particular, can lead to a gradual deterioration of mental faculties and social abilities. Consequently, regardless of the gravity of the offences of which prisoners are accused or have been convicted and/or their presumed dangerousness, efforts must be made to provide them with appropriate stimulation and, in particular, with adequate human contact.

**The CPT recommends that the Polish authorities review the regime applied to prisoners classified as "dangerous" in the light of the above remarks.**

72. Another characteristic of the regime applied to "dangerous" prisoners is of concern to the CPT. Such prisoners were routinely handcuffed when taken out of their cell as well as whenever a staff member entered the cell. This measure was also applied during visits as well as when the prisoners concerned used the telephone.

The practice of routinely handcuffing prisoners is highly questionable, all the more so when it is applied over a prolonged period of time in a secure environment. Other means can and should be found to counter any security risks. Further, to be handcuffed when receiving a visit could certainly be considered as degrading for both the prisoner concerned and his visitor. The CPT considers that the current practice of routinely handcuffing "dangerous" prisoners is disproportionate and punitive; **it recommends that the Polish authorities take immediate steps to review that practice.**

73. In the course of its visit to Rzeszów Prison, the CPT's delegation was informed of plans to build a separate block designed specifically to accommodate prisoners classified as "dangerous". In paragraph 145 of the report on the CPT's 1996 visit, the Committee has already identified the essential components of a satisfactory regime in such a special unit. **The Committee wishes to receive detailed information on the project for building a facility for "dangerous" prisoners at Rzeszów Prison and its envisaged date of entry into service. The CPT also trusts that the remarks made in paragraph 145 of the report on the CPT's 1996 visit (document CPT/Inf (98) 13) will be taken fully into account in the design of the regime applied within that new facility.**

#### 4. Conditions of detention

##### a. follow-up visit to Warszawa-Białoleka Remand Prison

74. Warszawa-Białoleka Remand Prison was first visited by the CPT in 1996 and was the subject of a number of recommendations and comments in the subsequent visit report (cf. paragraphs 72 *et seq.* of document CPT/Inf (98) 13). The present report considers the progress made in response to those recommendations and comments, and makes some proposals for further action.

##### *i. material conditions*

75. Certain improvements had been made to the prison since the 1996 visit: a modern kitchen facility had entered into service, new laundry machines had been provided, and some of the accommodation units had been renovated. Refurbishment works were currently underway in Blocks 1 and 2, involving the installation of fully screened in-cell sanitary annexes and shower facilities on every floor, and the visiting area was also undergoing renovation.

Material conditions in the units which had already been renovated were of a good standard. However, the unrefurbished units were dilapidated and, in some cases, in a poor state of cleanliness. Further, the establishment's small cells measuring 6.7 m<sup>2</sup> were frequently used to accommodate two prisoners, and certain of the standard cells (14.5 m<sup>2</sup>) accommodated up to five prisoners, despite the recommendations made by the CPT in the report on its 1996 visit (cf. paragraph 79 of CPT/Inf (98) 13).

Unlike the situation observed in 1996, all young offenders (427 on remand and 86 sentenced) were accommodated separately from adult inmates in distinct units; this is a most welcome development.

76. The establishment's Director informed the delegation of plans to complete the refurbishment programme within three years; however, this depended on the provision of sufficient funds.

**The CPT recommends that the completion of the refurbishment programme at Warszawa-Białoleka Remand Prison be considered as a matter of priority. Further, the CPT wishes to reiterate its recommendation that no more than four prisoners be held in the establishment's standard cells, and no more than one prisoner in its 6.7 m<sup>2</sup> cells (save in exceptional cases when it would be inadvisable for a prisoner to be left alone).**

*ii. programme of activities*

77. The programme of activities offered at the prison remained unsatisfactory. According to information provided to the CPT's delegation, a mere 214 prisoners had work, as compared to 274 during the 1996 visit. It should be added, however, that some 120 prisoners - mostly sentenced young offenders - had recently participated in vocational training courses (painting, tile- and bricklaying, road works, gardening). There were still no organised educational activities.

In the continued absence of indoor sports facilities, sports activities (volleyball, basketball, football) were only offered in the summer season. Further, the weightlifting equipment had recently been removed from the blocks. The establishment's outdoor exercise facilities were also unchanged; those of Block 4 remained quite unsatisfactory.

Other activities were limited to daily access of one hour to common rooms where prisoners could watch television and videos, and play table tennis and board games. The prison library offered only a limited choice of books and no longer received daily newspapers on a regular basis.

78. To sum up, as had been the case in 1996, the vast majority of prisoners spent the bulk of the day confined to their cells, in a state of idleness, their main distraction being watching television, listening to the radio and reading books and old newspapers. Time spent outside the cells could still be as little as 2 hours. As regards young offenders, despite the fact that they were given priority as regards access to work, vocational training and outdoor sports, the majority of them were still not provided with a programme of activities suitable for their age.

**The CPT calls upon the Polish authorities to make vigorous efforts to develop the programme of activities for prisoners in Warszawa-Białoleka Remand Prison. As regards in particular young offenders, the Polish authorities should strive to provide them with a full programme of educational, recreational and other purposeful activities; physical education should constitute an important part of that programme.**

**The Committee also reiterates its recommendation that the outdoor exercise facilities for prisoners held in Block 4 be improved.**

79. Reference should also be made to the newly opened diagnostic unit for young offenders. The unit's primary function was to assess the personality, attitude and needs of sentenced young offenders, in order to direct them to the most appropriate type of prison establishment and regime.

Apart from the psychological assessment *stricto sensu*, it was foreseen that the diagnostic unit would offer a wide range of association opportunities and leisure activities (including an indoor gym). However, at the time of the visit, this was still at the planning stage; as a result, the activities offered to young offenders accommodated in the unit hardly differed from those in the rest of the prison. **The CPT trusts that the Polish authorities will implement the above-mentioned plans without delay, and wishes to be informed of the current state of functioning of the diagnostic unit.**

b. Łódź Prison No 2

i. *material conditions*

80. The prison complex is situated in a residential area not far from the centre of Łódź and comprises a number of buildings of different ages. The prison and hospital sections are separated by a high wall.

The establishment's cellular accommodation occupied three floors of the prison block, each corresponding to a unit. The 1<sup>st</sup> floor contained the therapeutic unit with 48 places (cf. paragraphs 91 to 96). The 2<sup>nd</sup> floor accommodated sentenced prisoners held under an open or semi-open regime, the majority of whom had work (64 places). Finally, the 3<sup>rd</sup> floor contained a closed-regime unit holding insulin-dependent prisoners, disabled prisoners undergoing physiotherapy and prisoners awaiting transfer to other establishments (42 places).

81. Material conditions of detention were on the whole acceptable, though the state of repair of some of the cells was sometimes deficient (peeling walls, leaking toilets). At the time of the visit, repair works were underway on the 3<sup>rd</sup> floor of the prison block, and the delegation observed that the refurbished cells were of a good standard.

At the time of the visit, the cell occupancy levels were within the officially approved standard of 3 m<sup>2</sup> per male prisoner (e.g. three inmates in a cell measuring 11 m<sup>2</sup>, five inmates in a cell measuring 16 m<sup>2</sup>, 7 inmates in a cell measuring 21 m<sup>2</sup>). However, the delegation saw several cells which were very narrow (1.78 m) and consequently offered poor quality living space; there should always be 2 m or more between walls in cellular accommodation.

The cells were well-lit and well-ventilated, and were fitted with a partitioned sanitary annexe (WC and wash-basin). Further, they were equipped with single or bunk beds, a table, stools and wall shelves. Prisoners had a variety of personal belongings, including TV sets, radios, cassette players, and photographs and posters on the walls. As for the state of cleanliness, it varied in relation to the prisoners' own attitudes and standards. All cells were equipped with a call system.



82. As a general rule, prisoners were allowed to take one shower a week in the establishment's central bathroom. In addition, prisoners who had been prescribed additional showers by the doctor (e.g. diabetics) and working prisoners had access to the shower room located in each unit. Further, inmates received an appropriate range of personal hygiene items (soap, tooth paste, razors, toilet paper, washing powder, etc.).

Bed linen was changed once every two weeks, and prisoners' towels and pyjamas every week. However, the delegation observed that some of the towels and sheets were threadbare. As for personal clothes, prisoners washed and dried them in their cells.

83. Most of the prisoners interviewed by the delegation expressed satisfaction with the food provided by the prison. However, a number of prisoners suffering from diabetes complained that their specific dietary needs were not appropriately catered for (e.g. not enough fruit and vegetables).

84. **The CPT recommends that:**

- **the completion of the cell refurbishment programme at Łódź Prison No 2 be considered as a matter of priority;**
- **efforts be made to reduce the cell occupancy rates, taking into account the recommendation made in paragraph 61;**
- **the configuration of the narrow cells referred to in paragraph 81 be changed so as to ensure that there is 2 m or more between walls;**
- **special care be taken of the particular dietary needs of diabetic prisoners.** One way of achieving this might be to set up a sub-unit for dietary cooking in the prison kitchen, catering for prisoners in need of special diets in both the prison and the hospital parts of the establishment;

**The CPT also invites the Polish authorities to verify the state of the bed linen and towels distributed to prisoners, and to review the laundry arrangements for prisoners' own clothes.**

*ii. programme of activities*

85. Prisoners' out-of-cell time varied in relation to the type of regime under which they were serving their sentences. Those in unit 2 (open and semi-open regime) had their cell doors unlocked throughout the day and had unlimited access to a common room, where they could watch television and play board games, and could engage in weight-lifting in a fitness room. These were also the prisoners who, as a rule, had jobs. As to prisoners in units 1 and 3 (closed regime), they remained locked inside their cells for most of the day and had to request permission to use the recreation facilities in the units (cf. also paragraph 94).

86. All prisoners were offered one hour of outdoor exercise every day, and prisoners with diabetes were entitled to an additional hour. However, the outdoor exercise facilities left a lot to be desired. Of the three exercise yards available, only one was spacious enough to allow prisoners to physically exert themselves (e.g. play volleyball). The other two yards were rather small (50 to 60 m<sup>2</sup>), narrow, high-walled and completely bare. This situation is all the more of concern given that outdoor exercise appeared to be the principal out-of-cell activity for the majority of prisoners.

87. As in the other establishments visited, there was not sufficient work for inmates at Łódź Prison No 2. At the time of the visit, only 49 of the 126 prisoners had a paid job. The only sources of remunerated work were within the establishment (kitchen, hospital, laundry, warehouse, general maintenance workshop). Further, approximately 20 prisoners had some form of unpaid work activity. Many prisoners resented the lack of work, which in particular prevented them from obtaining remission.

88. There were no structured educational or training activities at the establishment. However, staff made efforts to promote various cultural and recreational activities, such as inviting actors and musicians, organising competitions, celebrating public and religious holidays. Further, the establishment possessed a library with some 16,000 books which were rotated between library points within the prison (one in each unit).

89. Reference should also be made to the therapeutic treatment for alcohol addiction offered to prisoners on a voluntary basis. It involved weekly meetings of a self-help group "Abakus", run by a psychologist, as well as visits by volunteers from an outside Alcoholics Anonymous group. Some 50 prisoners were involved in these activities.

90. **The CPT recommends that steps be taken to enhance the programme of activities for prisoners at Łódź Prison No 2; above all, more prisoners must be provided with work, preferably of vocational value.**

**The CPT also recommends that the outdoor exercise facilities be improved.**

*iii. the therapeutic unit*

91. Pursuant to Section 96 of the Polish Code for the Execution of Sentences, sentenced prisoners who are mentally disordered or handicapped, addicted to alcohol or other psychotropic substances or physically disabled, and who require special psychological, medical or rehabilitative care, serve their sentences in a therapeutic unit. The aim of such a unit is to provide treatment which prevents the aggravation of the pathological features of the prisoner's personality, improves his capacity to function in society and prepares him for independent life (Section 97, paragraph 1, of the Polish Code for the Execution of Sentences).

92. With a capacity of 48 places, at the time of the visit the therapeutic unit of Łódź Prison No 2 was accommodating 39 prisoners displaying one or more forms of mental or personality disorder. Some 90% of them had committed offences under the influence of alcohol.

Material conditions in the unit were comparable to those observed in the rest of the establishment (cf. paragraph 81); however, in terms of staffing arrangements and programme of activities, the therapeutic unit was in principle in a more favourable position.

93. The unit was staffed by a director (with a degree in psychology), a psychologist, an educator, an occupational therapist, two nurses and four prison officers. Further, a psychiatrist from the prison hospital attended the unit twice a week. Outside specialists and therapists could also be consulted.

94. According to staff, some 70% of the prisoners in the unit were involved in occupational therapy or other therapeutic activities. There were several rooms where prisoners could engage in various activities: a computer room with 3 PCs, a tapestry workshop, a carpentry workshop, a fitness room and a common room equipped with a TV set, video recorder and board games. The delegation was told that 5 prisoners had paid jobs and that another 14 were engaged in occupational therapy.

The unit also offered therapeutic treatment for alcohol addiction and there was co-operation with an outside Alcoholics Anonymous group (though apparently few of the recognised alcoholics wished to take part in a therapy programme).

However, it transpired from interviews with inmates that, apart from the daily hour of outdoor exercise, few of them spent time outside their cells.

95. The delegation was unable to meet the unit's psychologist, who at the time of the visit was attending a training course, and could not get a clear picture of the proportion of prisoners who took part in psycho-social activities. Only a few of the prisoners met by the delegation said that they were receiving individual psychotherapy, and none were attending group therapy sessions. Some prisoners interviewed by the delegation indicated that they were reluctant to have dealings with the psychologist: "whatever you tell the psychologist, she passes it on to the director".

96. To sum up, the unit was scarcely in a position to meet the requirements of Section 97 of the Polish Code for the Execution of Sentences. The therapeutic programmes offered in the unit were underdeveloped and the number of prisoners who benefited from them was limited. It should also be noted that a number of prisoners expressed dissatisfaction with their situation and environment.

**The CPT recommends that steps be taken to enhance substantially the programme of activities for prisoners in the therapeutic unit of Łódź Prison No 2. Further, efforts should be made to build positive relations between prisoners and staff, by putting more emphasis on group and milieu therapy, and to ensure that there are appropriate relations of confidence between inmates and the psychologist.**

c. Przemyśl Prison

i. *material conditions*

97. The majority of prisoners (some 80%) were accommodated in multi-occupancy cells/dormitories which varied in size between 16 m<sup>2</sup> (for 5 inmates) and 70 m<sup>2</sup> (for 23 inmates). They were generally in a good state of repair and cleanliness and were equipped with beds with full bedding, tables, stools, lockers, shelves, fully or partially partitioned sanitary annexes and call bells. However, ventilation and access to natural light left something to be desired, especially in the dormitories in Block 2.

Cells measuring 6.5 to 8 m<sup>2</sup> were accommodating two prisoners each. Given the fact that all of them were equipped with an in-cell sanitary annexe, the actual living space was very limited, in particular in the 6.5 m<sup>2</sup> cells. Further, access to natural light in the cells was poor; consequently, the artificial lighting was kept switched on throughout the day.

98. All prisoners were entitled to take a shower once a week, and those who had work could take showers every day. However, the establishment's only shower facility was in a poor state of repair. As for the provision of personal hygiene and cleaning items to inmates, this calls for no particular comment.

Conditions in the establishment's kitchen were on the whole adequate, and the delegation heard very few complaints from prisoners about the quality and quantity of food.

99. Large dormitories are, for various reasons, not a satisfactory means of accommodating inmates. The Director of Przemyśl Prison himself observed that it was very difficult to carry out individualised work in such conditions, and that the tensions between staff and prisoners (cf. paragraph 64) were partly due to the difficulties for staff to control the situation in multi-occupancy accommodation. The Director also informed the delegation that a project for the reconstruction of the prison - including the transformation of the large dormitories into cells accommodating not more than 4 inmates - had been submitted to the Prison Administration; its implementation was awaiting the allocation of the necessary funds. The establishment's official capacity was expected to decrease as a result of the refurbishment.

**The CPT recommends that the Polish authorities attach a high priority to the implementation of the above-mentioned project. In the meantime, measures should be taken in order to reduce the occupancy levels in Przemyśl Prison, priority to be given to young offenders. In particular, efforts should be made to ensure that not more than one prisoner is accommodated in the establishment's 6.5 m<sup>2</sup> cells (save in exceptional cases when it would be inadvisable for a prisoner to be left alone).**

Further, the CPT recommends that access to natural light and ventilation in the prisoner accommodation be improved, and the shower facility refurbished.

ii. *programme of activities*

100. All prisoners could take one hour of outdoor exercise every day. The establishment possessed three small, concrete-covered exercise yards, two measuring some 50 m<sup>2</sup> each, and one some 100 m<sup>2</sup>. The yards had no equipment and no protection from inclement weather.

101. At the time of the visit, only 30 sentenced prisoners (14% of the total population) had work, consisting of maintenance, cleaning and kitchen duties. The prison's tailoring workshop was unused because the last contractor had withdrawn, and efforts to find new contractors had failed due to the high rate of unemployment in the region.

As regards educational and vocational training activities, a limited number of sentenced prisoners participated in courses on various topics (preparation for release, coping with stress, healthy lifestyle, geography, etc.) organised by educators or outside organisations. Several prisoners were also attending Alcoholics Anonymous meetings.

The possibilities for sports were limited to playing football in the larger exercise yard. The establishment also possessed a weightlifting room; however, at the time of the visit, it had been taken over by the health-care service during the renovation of the latter's facilities.

102. The prison had a library with approximately 7,000 books and an internal recording/broadcasting facility. There were also two common rooms where prisoners could in principle spend one hour per day watching television and videos and playing table tennis and board games. However, some prisoners alleged that they were only allowed access to the common rooms twice a week. Furthermore, the delegation observed that the common room in Block 2 was dilapidated.

103. At the time of the visit, some 30% of the inmates were young offenders. They were accommodated separately from the adult prisoners and benefited from priority access to sports activities. However, there was nothing at the establishment which resembled a structured programme of purposeful activities adapted to the specific needs of this category of prisoner. Moreover, the delegation heard allegations from several young offenders that they were not even guaranteed daily access to the common rooms. Such a situation can have damaging effects on the psychological health of young prisoners.

The CPT also has misgivings about the policy of placing young offenders in a remote prison with an infrastructure incapable of providing adequate conditions of detention. In this context, the Director informed the delegation that he had made an official request to the Prison Administration to cease placing sentenced young offenders at the establishment.

104. **The CPT recommends that the Polish authorities:**

- **strive to develop the programmes of activities for prisoners in Przemyśl Prison;**
- **take urgent measures to ensure that young offenders at Przemyśl Prison are offered a complete programme of educational and recreational activities as well as other purposeful activities which may stimulate their potential for integration/re-integration. Physical education should form a major part of that programme. If such a programme cannot be provided at the establishment, the young offenders should be transferred elsewhere;**
- **re-decorate the common room in Block 2;**
- **improve the outdoor exercise facilities, in particular by installing a means of rest and protection against poor weather conditions.**

d. Rzeszów Prison

i. *material conditions*

105. Prisoner accommodation was provided in three main detention blocks comprising nine units of different sizes (from 41 to 120 places). Five units (Units 1 and 3 to 6) accommodated male sentenced prisoners, two units (Units 7 and 8) were reserved for male remand prisoners, and another two units (Units 2 and 10) were “therapeutic” facilities for male prisoners with mental disorders and drug problems. Further, a small one-storey block accommodated sentenced women subject to a semi-open and open regime (Unit 9).

At the outset of the visit, the establishment’s Director informed the CPT’s delegation of the ongoing refurbishment in Rzeszów Prison. The work already accomplished included modernisation of the heating system and improved insulation of the roofs and external walls. Further, a refurbishment of Units 1 and 9 had already been completed. The renovation of the remaining units depended on the availability of funds.

106. Material conditions in the refurbished units were of a very good standard. In Unit 1, cells measuring some 12 m<sup>2</sup> were accommodating a maximum of three inmates. They benefited from good access to natural light as well as adequate artificial lighting and ventilation. The equipment, in a very good state of repair, consisted of beds with full bedding, a table, stools, lockers, a fully screened sanitary annexe with hot water, and a call system and intercom installation. The women's Unit 9 offered similarly good conditions. The rooms (17 to 27 m<sup>2</sup>, for up to 4 inmates each) were pleasantly decorated and very clean. Furthermore, each room was equipped with a bathroom enjoying hot water supply.

107. Material conditions in the other units were less satisfactory. In the first place, there was somewhat less living space for prisoners (e.g. four inmates in a cell of some 13 m<sup>2</sup>). Moreover, the establishment's single cells (for disruptive prisoners and those who had requested to be placed alone) were very small, barely 5.5 m<sup>2</sup>, including an unscreened in-cell sanitary annexe. Further, most of the cells in these units were dilapidated, hindering prisoners' efforts to maintain them in a satisfactory state of cleanliness, and ventilation left something to be desired.

108. The prison also possessed four admission ("quarantine") cells in Units 7 and 8. They were intended for accommodating newly-arrived remand prisoners for up to 14 days, a period necessary for the carrying out of medical examinations and observation by educators and psychologists. However, due to overcrowding in the units for remand prisoners, some of the prisoners interviewed had stayed in the admission cells for over a month.

The "quarantine" cells measured some 26 to 29 m<sup>2</sup> and were equipped in a similar way to the rest of the cells. However, they were in a poor state of repair and dirty, and apparently could accommodate up to 10 prisoners.

109. Prisoners were allowed to take a shower once a week (and working prisoners, every working day) in freshly renovated and clean shower facilities. Further, all prisoners were provided with an appropriate range of personal hygiene and cleaning products.

The prison laundry was a well-equipped, modern facility. Prisoners' underwear and towels were washed once a week, and the bedding once every two weeks. As for personal clothes, prisoners washed them in their cells.

110. The majority of the prisoners spoken to made no complaints about the quality and quantity of the food provided. Further, the standard of equipment and level of hygiene in the kitchen was quite satisfactory.

111. In the light of the above remarks, **the CPT recommends that:**

- **the completion of the refurbishment programme at Rzeszów Prison be treated as a high priority. In the meantime, efforts should be made to reduce the occupancy levels in Units 3 to 8 (i.e. the non-refurbished units for men);**
- **the state of repair and cleanliness of the "quarantine" cells be improved and that each of the cells accommodate no more than 7 prisoners;**
- **the establishment's 5.5 m<sup>2</sup> cells be either enlarged or withdrawn from service.<sup>5</sup>**

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<sup>5</sup> Cf. also paragraph 70 of the 1996 visit report.

ii. *programme of activities*

112. All prisoners were entitled to outdoor exercise of one hour per day. The outdoor exercise facilities for remand prisoners consisted of eight yards measuring 115 m<sup>2</sup> each (four of which had been closed for refurbishment), surrounded by a high fence and topped by wire netting. They were equipped with a concrete path and a bench and enjoyed some greenery. Further, there were four exercise yards for sentenced prisoners, which were spacious (1,500 m<sup>2</sup>) and could be used as pitches to play football, volleyball and basketball. However, none of the yards was equipped with a means of protection from inclement weather.

113. Outdoor exercise periods apart, the amount of time prisoners could spend out of their cells varied from one unit to another. Prisoners were allowed to associate in common rooms for 2 to 3 hours a day, where they could watch TV and play table tennis and board games. Further, Units 3, 5 and 8 possessed weightlifting rooms. In addition, cell doors in the units for sentenced prisoners were left unlocked for two (Unit 3) or four hours a day (Units 4 and 5).

114. At the time of the visit, less than a quarter of the establishment's inmates had work. The number of paid work places available stood at 139 (kitchen, heating facility, water pumps, showers, laundry, garage, cleaning, food distribution, etc.). In addition, 44 prisoners performed voluntary unpaid work (up to 60 hours per month) in the common rooms, libraries, broadcasting facility, etc. All prisoners who worked were sentenced, priority being given to those paying alimony or whose families were in a difficult financial situation.

115. The establishment did not possess a school, and the range of educational and vocational training activities was limited. Some 20 prisoners (mostly sentenced juveniles) took primary and secondary level classes by correspondence, and 34 inmates attended short-term specialised courses (cooking, electricity, operating central heating installations).

116. The prison possessed a recording/broadcasting facility, which was used to broadcast lectures on various topics of general interest given by educators and psychologists. There was also a central library and library points in each unit (however, many prisoners complained that the collection of books was out-of-date). Further, the educators periodically organised chess and bridge contests for prisoners. Finally, the establishment's management periodically invited actors and other celebrities to hold meetings with groups of inmates.

117. Reference should also be made to 13 male inmates participating on a voluntary and contractual basis in therapeutic treatment for alcohol addiction. They were accommodated in Unit 5 and were offered a diverse range of therapeutic activities (Alcoholics Anonymous meetings, lectures, group and individual therapy) organised by the unit's psychologist and educator.



118. Female prisoners in Unit 9 had access to an additional range of activities. They had the possibility to participate in various interest groups (cooking, knitting, tailoring) and cultivated a small vegetable and fruit garden next to their block. A theatre group composed of female inmates staged performances both inside and outside the prison. Further, periodic meetings were held with children from a nearby orphanage, during which the women organised quizzes and offered the children gifts made by the prisoners themselves.

**119. The CPT recommends that the Polish authorities strive to develop the programme of activities for prisoners at Rzeszów Prison. Above all, more prisoners must be provided with work, preferably of vocational value. Steps should also be taken to extend the range of education and vocational training activities and to make them available to more prisoners.**

**Further, the CPT recommends that:**

- **the outdoor exercise facilities be equipped with means of protection against inclement weather;**
- **the possibility of installing an indoor gym facility be examined in the context of the establishment's refurbishment programme;**
- **efforts be made to supply the prison library with recent books.**

*iii. the therapeutic units*

120. The CPT's delegation gained an overall positive impression of the prison's two therapeutic units, for prisoners with mental or personality disorders (Unit 2) and for drug-addicted inmates (Unit 10).

121. At the time of the visit, Unit 2 (capacity: 70) was accommodating 52 inmates, and Unit 10 (capacity: 41) held 22 prisoners.

Unit 2 was undergoing refurbishment (scheduled to finish by July 2000), due to which half of the cells in it offered improved conditions. Material conditions in the rest of the cells in the two therapeutic units were similar to those already described in respect of the non-renovated units of the prison (cf. paragraph 107).

The therapeutic units possessed their own shower facilities, to which prisoners had ready access.

122. Each therapeutic unit was staffed by a director (psychologist by training), a full-time psychologist, an occupational therapist, a part-time psychiatrist (present 20 hours a week), a full-time nurse (the one in Unit 2 had specialised training in psychiatry), two educators and a security guard. In case of need, it was possible to arrange for consultations with outside medical specialists.

In addition, five ordinary sentenced prisoners worked in Unit 2 as "facilitators"; they had been chosen in the light of their balanced personalities and their role was to help promote a good atmosphere in the unit as well as keep the premises clean and in good order.

123. Both units offered a range of therapeutic activities, including group therapy, social and cognitive therapy, individual psychotherapy, relaxation training, lectures and occupational therapy (in Unit 2: manufacturing wicker baskets, weaving, wood carving, gardening; in Unit 10: producing envelopes, painting, sculpture, music, and likewise wood carving and gardening). Further, cell doors were open in the afternoon and prisoners were allowed to associate in pleasantly decorated and well-equipped common rooms, where they could watch TV/videos, and play table tennis and board games. They also had access to a weightlifting room and could play football, volleyball and basketball twice a week. Moreover, in the summer, prisoners were allowed an extra hour of outdoor exercise per day.

It should also be noted that most of the prisoners interviewed indicated that they were generally satisfied with their situation and environment.

## 5. Health-care issues

### a. health-care services in the prisons visited

124. As had been the case in 1996, the delegation formed a generally positive impression of the health-care services in the prison establishments visited.

125. In the first place, the organisation and staffing of the health-care services was, on the whole, satisfactory.

At **Warszawa-Białoleka Prison**, the health-care staff comprised four doctors, one dentist and nine nurses (all working full time) and one half-time radiologist. Further, seven medical specialists held surgeries at the prison.

The prison part of **Łódź Prison No 2** (considered separately from the prison hospital) employed one full-time doctor and four full-time nurses. Prisoners also had access to medical specialists working at the prison hospital.

The health-care service at **Przemyśl Prison** was staffed by two general practitioners, one dentist, one radiologist, one laryngologist and one psychiatrist (all working half-time) and two full-time nurses.

At **Rzeszów Prison**, the health-care service comprised three doctors, two dentists, one radiologist, one physiotherapist and eight nurses. The prison was also visited by a wide range of medical specialists.

126. From the information gathered, it appeared that at all the prison establishments visited requests to consult the health-care service and to have access to diagnostic services and outside specialists were met without undue delay.

At Łódź Prison No 2 the delegation met several prisoners, accommodated on the top floor of the prison block (Unit 3) who were seriously physically handicapped (e.g. one prisoner was partly paralysed following brain tumour operations, another had severe spine problems and atrophy of the right leg, etc.). They were receiving physiotherapy at the prison; nevertheless, their condition was such that transfer to an appropriate establishment where sustained care could be provided was essential. However, the delegation was informed that there were long waiting lists for transfers to nursing establishments. **The CPT invites the Polish authorities to seek to reduce the time such prisoners have to wait before being transferred to appropriate nursing establishments.**

127. As regards the health-care services' facilities, they call for no particular comments. Further, similar to the situation observed in 1996, the recording of medical data for each prisoner was of a good standard and the confidentiality of medical information was guaranteed.

128. The procedure followed as regards prisoners' medical screening on admission was the same as that described in the report on the 1996 visit, and was on the whole satisfactory.

However, as regards the recording of injuries as part of the initial medical screening, the observations made by the CPT's delegation suggest that only a cursory description is made of such injuries in the prisoners' personal medical file. In this connection, **the CPT reiterates the recommendation made in the report on the 1996 visit that the record drawn up following a medical examination of a newly-arrived prisoner contain: (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment); (ii) a full account of objective medical findings based on a thorough examination (i.e. the nature, location, size and specific characteristics of each and every injury); and (iii) the degree of consistency between the allegations made and the objective medical findings; this will enable the relevant authorities, and in particular prosecutors, to properly assess the information set out in the record. The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison.**

Further, **the results of every examination, as well as the above-mentioned statements and the doctor's conclusions, must also be made available to the prisoner and his lawyer.**

129. Finally, the CPT is pleased to note that an end has been put to the segregation of HIV-positive prisoners in Poland.

**The Committee trusts that the Polish authorities will pursue their efforts to provide education and information to both prison staff and inmates about transmissible diseases (in particular, hepatitis, AIDS, tuberculosis and skin diseases), including methods of transmission and means of protection, as well as the application of adequate preventive measures.**

b. Hospital at Łódź Prison No 2

130. The prison hospital at Łódź Prison No 2 is located in a separate four-level building. It has a total capacity of 171 beds distributed among the following wards: internal medicine (22 beds), detoxification (3 beds), urology (19 beds), surgery (41 beds), forensic psychiatry (41 beds) and pulmonary diseases (45 beds). The urology ward is the only one of its type in Poland and receives prisoners from the whole country.

131. The room occupancy levels were calculated according to the standard of 4 m<sup>2</sup> per patient. Sick prisoners were accommodated accordingly (e.g. 3 persons in a room of 13 m<sup>2</sup>, six persons in a room of 25 m<sup>2</sup>). Material conditions in the rooms were on the whole satisfactory, as regards access to light and ventilation as well as equipment. However, electric bulbs were missing in some of the rooms, as a result of which artificial lighting was deficient. Moreover, the electricity was turned off at 10 p.m., and the delegation heard complaints from sick prisoners that they experienced difficulties in going to the toilet at night. Further, the delegation observed that in several rooms the beds were positioned very close to one another, leaving little space to move around. The state of repair and hygiene in some of the sanitary facilities in the rooms and the bathrooms located on each ward also left something to be desired.

**The CPT recommends that appropriate steps be taken to remedy the above-mentioned shortcomings.**

132. The hospital's medical equipment, the staffing levels in the various wards as well as the treatment provided to sick prisoners were of a standard expected from a hospital facility.

Further, prisoners receiving treatment at the hospital were allowed at least one hour of outdoor exercise per day (and those in the forensic psychiatric ward, two hours) and had access to activity rooms located on each ward, where they could watch TV and play table tennis.

133. Particular mention should be made of the forensic psychiatric ward, which admitted both prisoners in need of psychiatric treatment and prisoners undergoing psychiatric observation of up to 6 weeks. It was staffed by four psychiatrists, two psychologists (one of whom part-time), one neurologist (part-time), seven nurses and two sentenced prisoners working as orderlies. The treatment included pharmacotherapy and individual psychotherapy; however, there was no occupational therapy or other activities of an organised nature.

**The CPT recommends that steps be taken to develop psycho-social therapeutic activities for prisoners in the forensic psychiatric ward at Łódź Prison No 2, in particular for patients who remain there for extended periods.**

## **6. Other issues**

### **a. prison staff**

134. As already indicated (cf. paragraph 66), the cornerstone of a humane prison system will always be properly recruited and trained prison staff who see their work more as a vocation than as a mere job. However, it is axiomatic that in addition to being properly recruited and trained, prison staff must also be present in sufficient numbers.

135. Staffing levels were not satisfactory in the prisons visited. This was true with respect to educators and psychologists, but particularly noticeable as regards custodial staff in the prisoner accommodation areas. By way of example, the number of prison officers on duty during a given shift could be as little as one officer for 160 inmates in Przemyśl Prison, one for 120 inmates in Rzeszów Prison and one for 100 inmates in Warszawa-Białoleka Remand Prison. Prison staff in all the establishments visited - and in particular custodial staff - had accumulated significant amounts of overtime: for example, an average of 157 hours per staff member in Przemyśl, 100 hours in Rzeszów and 70 hours in Warszawa-Białoleka. This resulted in high levels of stress and motivation difficulties for overburdened officers. The staff shortages had a negative influence on the quality and level of development of the activities regimes and of probation work. Further, the low staff presence in prisoner accommodation areas generated an insecure environment for both staff and prisoners.

**The CPT recommends that the Polish authorities take urgent steps to improve staffing levels in the prisons visited, in the light of the above remarks. Further, the CPT recommends that measures be taken to provide psychological support to prison staff exposed to highly stressful work conditions.**

b. discipline and isolation

136. On the whole, the disciplinary procedure applicable to prisoners has remained the same as that described in the report on the 1996 visit (cf. paragraph 142 of document CPT/Inf (98) 13). The only important change introduced by the 1998 Code for the Execution of Sentences is that the maximum length of disciplinary solitary confinement is now different for sentenced and remand prisoners: respectively, 28 and 14 days. These periods are not renewable. Prisoners have the right to be heard on the subject of the offence with which they are charged and can appeal against the disciplinary sanction of solitary confinement to the penitentiary judge. In short, the disciplinary procedure can be considered as satisfactory.

137. As in 1996, the CPT's delegation did not gather any evidence of the excessive use of disciplinary sanctions. For example, in 1999, the sanction of solitary confinement had only been applied 5 times in Przemyśl and Rzeszów Prisons. Recourse to this sanction had been somewhat more frequent in Warszawa-Białoleka Remand Prisons (31 times in 1999), but can still be regarded as unexceptionable given the size of the inmate population.

As regards material conditions in disciplinary cells and the regime applied to prisoners subject to the sanction of solitary confinement, the overall positive impression gained by the CPT in 1996 was confirmed in the course of the 2000 visit.

138. However, the delegation noted that placements in restraint cells – a measure which can be imposed by prison governors outside the normal disciplinary procedure – were relatively frequent in the prisons visited (for example, in respect of 1999, 59 placements in Warszawa-Białoleka; 26 in Rzeszów and 16 in Przemyśl), and that the reasons invoked for such placements included “flagrant insubordination”, “dangerous disturbance of peace”, “destruction of property” or “calling for rebellion”. On some occasions, prisoners had been placed in restraint cells for periods of days. This leads the CPT to raise the question of whether placements in restraint cells are at times used as an informal means of disciplinary punishment and control. **The CPT would like to receive the comments of the Polish authorities on this matter.**

139. The CPT is also concerned about the approach followed vis-à-vis instances of self-harm and suicide attempts by prisoners. The delegation was informed that prisoners who committed such acts were subjected to a compulsory psychological consultation, the purpose of which was to ascertain whether the act in question was due to mental distress or was an “instrumental” act directed against the prison management. In the latter case, self-harm and suicide attempts were considered as disciplinary offences and punished accordingly.

The CPT wishes to stress that acts of self-harm and suicide attempts frequently reflect problems and conditions of a psychological or psychiatric nature, and should be approached from a therapeutic rather than punitive standpoint. Consequently, **the CPT wishes to be informed about the precise manner in which psychologists evaluate whether a given act of self-harm or suicide attempt was an “instrumental” act.**

c. complaints and inspection procedures

140. The complaints and inspection procedures described in paragraphs 148 and 149 of the report on the 1996 visit (cf. document CPT/Inf (98) 13) remained unchanged in 2000. As on the occasion of the previous visit, they appeared on the whole to be operating satisfactorily.

However, in Przemyśl Prison, several prisoners alleged that it took a very long time to receive a reply to their complaints, in particular those addressed to the establishment's management. The director explained that he himself opened the “complaint boxes” once every 2 weeks; however, as he was frequently absent from the establishment due to his numerous other activities, it could on occasion take even longer before these boxes were opened and the complaints read by him. Further, some allegations were heard to the effect that staff members, having seen a prisoner putting a sealed envelope into the “complaint box”, exercised threats and/or psychological pressure on the prisoner concerned in order to find out the substance of the complaint.

**The CPT recommends that effective measures be taken in order to significantly reduce delays in the follow-up of complaints at Przemyśl Prison. Steps must also be taken to ensure that the lodging of a complaint does not have adverse consequences for the prisoner concerned.**

d. contact with the outside world

141. The description of the rules applicable to the prisoners' visits, correspondence and telephone calls made in paragraphs 151 and 153 of the report on the 1996 visit remains valid. As during the first visit, the situation observed in this respect in 2000 was generally satisfactory, especially with regard to sentenced prisoners. The visiting rooms were also of an adequate standard, although **ventilation in the visiting area at Warszawa-Białoleka Remand Prison could be improved.**

142. However, as concerns remand prisoners, the CPT has noted that all visits are still subject to express authorisation by the competent authority (investigating authority or court with jurisdiction in the case). Further, remand prisoners' correspondence is submitted to the same rules. In this context, a number of remand prisoners met by the delegation indicated that they had spent long periods of time (up to 7 months) without being allowed to receive visits from their relatives or to correspond.

The CPT recognises that on occasion it may be necessary, in the interests of justice, to impose certain restrictions on visits for particular remand prisoners. However, any such restrictions should be strictly limited to the requirements of a given case and applied for as short a time as possible. Under no circumstances should visits between a remand prisoner and his/her family be prohibited for a prolonged period. If it is considered that there is an ongoing risk of collusion, visits should be authorised, but under strict supervision. As regards correspondence, the existing possibilities to read letters to and from prisoners should rule out the need to ban correspondence for a prolonged period.

**The CPT recommends that the Polish authorities review arrangements concerning visits and correspondence vis-à-vis remand prisoners, in the light of the above comments.**

**Further, the Polish authorities are invited to reconsider the current blanket ban on telephone calls by remand prisoners.** Such an approach is not in line with modern penological thinking.



## C. Starogard Gdański Neuro-Psychiatric Hospital

### 1. Preliminary remarks

143. Starogard Gdański Neuro-Psychiatric Hospital dates back to 1895, and is currently one of the largest in-patient psychiatric establishments in Poland, admitting patients from the northern part of the country. It represents an extensive multi-pavilion complex located in the midst of a park, on the periphery of the small town of Starogard Gdański (some 60 km south-west of Gdańsk).

Over time, the hospital's official capacity has gradually been reduced, and at the time of the visit stood at 868 beds. On 10 May 2000, the hospital was caring for a total of 923 patients, including 20 juveniles (from 15 to 21 years of age). The vast majority of the patients were hospitalised in accordance with the Polish Mental Health Act of 1994. Within this group, some 60 patients had been admitted without consent on the basis of a guardianship court order. Further, there were 100 patients undergoing treatment for alcohol addiction and/or detoxification, some 30% of whom had been committed by court order.

The hospital also had a forensic psychiatric ward with 80 beds, which catered for patients hospitalised involuntarily pursuant to criminal proceedings. At the time of the visit, this ward was accommodating 64 patients who had been declared criminally irresponsible and placed in psychiatric confinement by court order<sup>6</sup>, 10 persons undergoing psychiatric observation<sup>7</sup> and 5 remand prisoners admitted for treatment.<sup>8</sup> Persons placed in the forensic psychiatric ward were regarded as ordinary patients, although their release had to be decided by a criminal court.

144. The delegation received no allegations and found no other evidence of ill-treatment of patients by staff at Starogard Gdański Neuro-Psychiatric Hospital. Quite on the contrary, it observed relationships of trust between patients and staff, and wishes to place on record the devotion to patient care demonstrated by the establishment's staff.

### 2. Patients' living conditions

145. With its stylish redbrick pavilions submerged in greenery, the hospital offered a pleasant and convivial setting. Nonetheless, because of the buildings' advanced age, increased efforts were required in order to maintain them in good repair and bring them in line with the requirements of modern psychiatry. A programme of gradual refurbishment was underway, and over half of the pavilions had already been completely overhauled. However, the modernisation of the hospital's facilities was being held back due to a lack of finance as well as by the very fact that the hospital had been classified as a historic monument and any modifications had to be made in keeping with the original architectural design.

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<sup>6</sup> Under Section 94 of the Criminal Code.

<sup>7</sup> In accordance with Section 203 of the Code of Criminal Procedure, an accused person may be hospitalised for the purpose of psychiatric observation for a period not exceeding 6 weeks. If the observation has not been completed within this period, the court may order an extension for a determined time.

<sup>8</sup> Under Section 260 of the Code of Criminal Procedure.

146. At the time of the visit, a total of nineteen wards were in operation: nine general psychiatric wards, two psycho-somatic wards, two wards for patients with alcohol addiction, a ward for psychiatric patients with tuberculosis, a ward for patients with nervous disorders, a ward for juveniles, a ward for chronic patients, a nursing unit and the forensic psychiatric ward. The number of beds on each ward varied between 22 and 80.

One ward (No 10) had been temporarily closed down for refurbishment, and a newly constructed forensic psychiatric ward (No 21) was due to enter into service in July 2000 (cf. paragraph 148).

147. The material environment in the wards which had already benefited from refurbishment (e.g. the juveniles' ward No 12A, the nursing unit No 16, the TB ward No 17, the general psychiatric wards Nos 19 and 20) was of a high standard. Patients were accommodated in rooms with two or three beds (measuring some 12 to 16 m<sup>2</sup>). The rooms were light, airy, clean and comfortable. In addition to beds, all patients had individual lockers and shared wardrobes, and were allowed to keep their clothes and a range of personal belongings in the rooms. The sanitary facilities were also appropriately equipped and allowed patients some privacy. Further, the common areas on the wards - dining room, recreation areas, activities rooms, visiting rooms, corridors - were all attractively decorated and clean. In short, living conditions in the refurbished wards were compatible with the norms of modern psychiatry.

148. Special mention should be made of the new Ward 21, intended to house the future Regional Centre for Forensic Psychiatry. The delegation was told that this 70-bed facility would function as a high security ward for persons found to be criminally irresponsible for their acts and considered to be particularly dangerous. The centre will be subordinated directly to the Ministry of Health and managed by a separate director; further, all staff members will be employees of the Ministry of Health. The delegation observed that the material environment in the new centre was of a high standard: well-equipped patients' rooms with 2 or 3 beds, each fitted with a separate sanitary annexe, a number of activities rooms, a spacious exercise yard, etc. Special care had been taken to avoid giving the impression of a carceral environment; quite the contrary, conditions in the new facility could be described as conducive to the creation of a positive therapeutic environment.

149. However, as already noted, the management's efforts to provide an appropriate material environment to all patients were being held back by a lack of finance. The unrefurbished wards seen by the delegation (e.g. the general psychiatric ward No 13, the forensic psychiatric ward No 24) continued to accommodate patients in large-capacity dormitories in which the number of beds ranged from 9 to 22. Although these dormitories were spacious, well-lit and adequately ventilated (thanks to the high ceilings and large windows), they failed to provide the privacy necessary for patients hospitalised for long periods. The hospital's management was fully aware of the need to set up smaller accommodation structures, similar to the ones in the refurbished wards. It should also be noted that even in the unrefurbished wards, efforts were being made to decorate the dormitories and common areas and to keep them reasonably clean.

150. The delegation observed that despite the above-described specialisation of the wards, in practice many of them catered for patients with a variety of clinical diagnoses and legal statuses. For example, the general psychiatric wards grouped together mentally ill with mentally retarded patients, acutely psychotic with chronically ill patients, as well as patients who had already been diagnosed with persons undergoing psychiatric observation. As regards the large capacity dormitories in particular, such a mixing of patients with different needs could result in failure to provide appropriate care and develop suitable treatment programmes for each individual patient. **The CPT would like to receive the comments of the Polish authorities on this matter.**

151. The delegation heard no complaints about food, which appeared to be offered according to a variety of diets, in sufficient quantities and to be of an appropriate nutritional content. Further, conditions in the hospital's kitchen call for no particular comment.

152. **The CPT recommends that efforts be made to complete the refurbishment of the hospital. The aim should be to create in all wards a positive therapeutic environment, with accommodation structures based on small groups.** This is a crucial factor in preserving/restoring patients' dignity, as well as a key element of any policy for the psychological and social rehabilitation of patients. Structures of this type can also facilitate the allocation of patients to relevant categories for therapeutic purposes.

Further, **the CPT would like to be informed whether the new Regional Centre for Forensic Psychiatry has now entered into service.** In this context, **the Committee would also like to receive detailed information on the new organisation of forensic psychiatry in Poland.**

### **3. Treatment and regime**

153. As already mentioned, the hospital caters for a wide variety of patients with different diagnoses and needs. Pharmacotherapy appeared to be satisfactory, and no signs of over-medication were observed. The delegation also noted that electro-convulsive therapy was administered in a modified form (i.e. with the use of anaesthetic and muscle relaxants) in a room set aside and equipped for that purpose in Ward 9, and was appropriately recorded.

154. Patients in all wards were offered a range of therapeutic options: individual and group psychotherapy, occupational therapy (knitting, sewing, carpentry, gardening), art and music therapy, gymnastics and sports activities. Each ward was equipped with recreation and occupational therapy rooms where patients could associate, watch TV and engage in various activities under the supervision of an occupational therapist. However, the delegation observed in some of the wards (e.g. Wards 13, 24) that in spite of the previously mentioned therapeutic options, many patients spent the day in the dormitories, lying on their beds. **The CPT suggests that efforts be made to involve more patients in the available rehabilitative activities.**

The hospital ran a patients' club ("Bajka") where patients could associate on a daily basis, listen to music, play board games, etc. There was also a reasonably stocked library, a chapel and a hall used for general meetings, projections of films and celebrations. Further, the social workers organised exhibitions of patients' art, outings to museums and excursions.

155. The delegation was particularly impressed by the treatment approach followed in the juveniles' ward, which was run on a therapeutic community model, with daily meetings between staff and patients. Juvenile patients were offered diverse therapeutic options: individual psychotherapy, ADL training, educational activities, occupational therapy, art therapy and various sports activities.

156. The therapeutic programme for alcohol addiction lasted 6 weeks. Each patient followed an individual therapy plan which comprised pharmacotherapy, individual therapy, group therapy and Alcoholics Anonymous meetings. However, it transpired from the delegation's interviews with patients undergoing compulsory treatment by court order that they looked upon their placement as a form of punishment, and were highly sceptical of the positive outcome of the therapy. This was corroborated by the supervising judge met by the delegation, according to whom the outcome of compulsory treatment was often minimal because of the patients' attitude. **The CPT would like to receive the comments of the Polish authorities on this issue.**

157. Patients were offered outdoor exercise on a daily basis. Each ward had been assigned an adjacent part of the park, equipped with benches and sports equipment, to which patients had access several times a day. Further, the hospital had a football pitch which was used for tournaments.

158. One conspicuous gap in the existing therapeutic programme was the absence of work for patients. The delegation was told that, following a legal ban on work by psychiatric patients passed several years ago, the hospital's workshops and farm (which in the past had provided work to the majority of patients) had stopped functioning. The only workshop which continued to offer a limited number of jobs and some vocational training to patients was the printing workshop, employing 10 patients at the time of the visit.

Work has an important rehabilitative function for psychiatric patients. **The CPT recommends that strenuous efforts be made to enhance the possibilities for work at Starogard Gdański Neuro-Psychiatric Hospital and other psychiatric establishments; if necessary, the relevant legal provisions should be amended.**

159. A "semi-open" regime was followed throughout the hospital: patients could move freely within their wards, and had access to the yard adjacent to each pavilion. Further, some patients were authorised to move around the hospital grounds, independently or accompanied by a nurse, and could also receive passes to go outside the hospital. As for patients in the forensic psychiatric ward, they were under stricter supervision and were rarely authorised to have access to the hospital grounds.

The above-described regime was applied to both patients admitted with consent and without consent. From a legal point of view, such a situation is questionable. **The CPT would like to receive the comments of the Polish authorities on the compatibility of admission with consent with the restrictions imposed on patients' movements within and outside the hospital.**

#### 4. Staff

160. At the time of the visit, the hospital employed 690 staff, some 60% of whom had direct contact with patients, while the remainder performed administrative and maintenance jobs. Practically all the available posts had been filled.

The hospital's medical team comprised 34 doctors, 26 of whom were psychiatrists (both fully qualified and trainee doctors). There were also two neurologists, two dentists, one X-ray specialist, and a number of specialists working on a contracted-in basis (internist, surgeon, pulmonary specialist, ORL, gynaecologist, ophthalmologist).

As regards other staff qualified to provide psycho-therapeutic activities, it consisted of 12 psychologists, 20 occupational therapists, 1 physiotherapist and 3 social workers.

The nursing staff comprised 190 nurses. Some 70% of them had graduated from the hospital's nursing school where they had received practical training in psychiatry. Further, ten nurses had followed social rehabilitation courses and four nurses had higher qualifications at post-graduate level.

The hospital's nursing staff was assisted by 170 ward attendants.

161. At night, two nurses and one ward attendant were on duty in each ward, and one doctor was on duty for the whole hospital. The forensic psychiatric ward, whose staff complement was higher than those of the others ward (i.e. 44 staff members), had a reinforced night shift: 2 to 3 nurses and 4 ward attendants.

162. The psychiatrist/patient ratio at the time of the visit can be considered as adequate. Further, the number of psychologists and occupational therapists employed at the hospital is conducive to the emergence of a therapeutic milieu based on a multidisciplinary approach. However, because of the low number of social workers, the objective of preparing patients for dehospitalisation and further rehabilitation outside the hospital could not be fully attained.

As regards the nursing staff, the CPT considers that the current resources are not sufficient for providing adequate standards of care.

**The CPT recommends that the Polish authorities take steps to:**

- **reinforce the team of social workers employed at the hospital;**
- **strive to increase the nursing staff/patient ratio.**

**Further, the CPT would like to be informed of the existing arrangements for specialised psychiatric nursing training in Poland.**

## **5. Means of restraint**

163. In any psychiatric facility, the restraint of agitated and/or violent patients may on occasion be necessary. This is a subject of particular concern to the CPT, given the potential for abuse and ill-treatment.

164. In Poland, the use of physical restraint is governed by the provisions of Article 18 of the Mental Health Act and the Minister of Health's Ordinance of 23 August 1995 on "The methods of application of restraint". According to these legal acts, physical restraint consists of holding, compulsory medication, immobilisation or seclusion. The decision to use physical restraint is made by a doctor, who determines the type of physical restraint to be applied and supervises its implementation. In emergency situations, when a doctor is not available, the decision may be taken by a nurse who must notify the doctor immediately.

The above-mentioned Minister of Health's Ordinance also contains detailed instructions on the use of means of restraint. According to the Ordinance, physical restraint may only be applied for as long as strictly necessary. Immobilisation and seclusion may be applied for a maximum of 4 hours; in case of need, the doctor - having personally examined the patient - may prolong the immobilisation by further 6-hour periods. The restrained patient must be checked at least every 15 minutes by the duty nurse and his condition recorded in a special form. Further, each case of the application of restraint is recorded in the patient's medical file as well as in the form; copies of all forms are kept in a central register at the hospital.

165. At Starogard Gdański Neuro-Psychiatric Hospital, the procedure for applying means of restraint and recording their use was in compliance with the above provisions. Further, the delegation was informed that seclusion was not practised at the hospital.

**Nevertheless, the CPT has some reservations about the practice observed at the hospital of restraining patients onto their beds in the large-capacity dormitories, in the presence of other patients and without the permanent supervision of staff.**

166. The CPT welcomes the approach followed at the establishment to refrain from the seclusion of patients. Indeed, in most of the countries visited by the CPT, the current trend is to avoid secluding violent or otherwise unmanageable patients.

As regards other means of restraint, **the CPT recommends that the instructions on their use make clear that initial attempts to restrain aggressive behaviour should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control.**

Further, **the CPT recommends that health-care staff in psychiatric establishments receive training in both non-physical and manual control techniques vis-à-vis agitated or violent patients.** The possession of such skills will enable staff to choose the most appropriate response when confronted by difficult situations, thereby significantly reducing the risk of injuries to patients and staff.

## **6. Safeguards in the context of involuntary hospitalisation**

167. Mentally ill and mentally handicapped persons are particularly vulnerable, and hence should benefit from safeguards in order to prevent any form of conduct - or avoid any omission - contrary to their well-being. It follows that involuntary admission/placement in a psychiatric facility should always be surrounded by appropriate safeguards, and that the need for such a placement should be reviewed at regular intervals. Further, the admission of a person to a psychiatric facility on an involuntary basis should not be construed as authorising treatment without the patient's consent. Other safeguards should deal with such matters as effective complaints procedures, the maintenance of contact with the outside world, and external supervision of psychiatric establishments.

168. The Polish Mental Health Act of 1994 stipulates the legal procedures applied in the case of civil commitment to a psychiatric hospital. Admission without consent must always be based on a court order or, in cases of emergency, confirmed by a court within a short time limit. Admission without consent is in no case possible without a prior psychiatric examination. Upon admission, the patient must be informed of his rights and of the reasons for his admission.

The decision concerning the discharge of a patient hospitalised without his consent is made by the head of the ward (who must also notify the competent court) as soon as the circumstances which prompted admission cease to apply. The patient or his legal representative/relatives may also request discharge, but not earlier than 30 days after the court's decision on admission. A discharge denial may be appealed against within 7 days of its notification.

169. The Polish Criminal Code contains the legal grounds for compulsory medical measures in respect of persons found to be criminally irresponsible for their acts or who develop a mental illness in the period after committing a crime. Section 94 of the Code provides that the placement of such persons in an appropriate psychiatric establishment is decided by a court. The Code for the Execution of Sentences provides for a periodic review of the court's decision – at least once every six months - on the basis of a report on the patient's state of health or a proposal for his release submitted by the establishment's director (Sections 203 and 204).

170. However, the CPT is concerned by the somewhat dubious legal position of some of the voluntary patients interviewed at Starogard Gdański Neuro-Psychiatric Hospital, who complained that they had not been allowed to leave the establishment when they had expressed a wish to do so. **The CPT would like to have the comments of the Polish authorities on this matter.**

171. Specific arrangements enabling patients to lodge formal complaints with a clearly-designated body and to communicate on a confidential basis with an appropriate authority outside the establishment are essential safeguards. In this connection, the CPT was pleased to note that patients at Starogard Gdański Neuro-Psychiatric Hospital had a number of channels for lodging complaints: the hospital administration, the regional administration, the guardianship courts, the Ministry of Health and Social Welfare, as well as the Citizens Rights' Ombudsman. Further, the confidentiality of patients' correspondence was respected.

172. However, information provided to patients left something to be desired. The delegation was shown a brochure which gave a general description of the hospital, its various wards and therapeutic options. Apart from that, patients did not receive written information explaining their situation and rights and outlining the hospital's internal regulations.

**The CPT recommends that an introductory brochure setting forth the hospital routine and patients' rights be devised and issued to each patient on admission, as well as to their families. Any patients unable to understand this brochure should receive appropriate assistance.**

173. The maintenance of patients' contact with the outside world is essential, not only for the prevention of ill-treatment but also from a therapeutic standpoint. Patients should be able to send and receive correspondence, to have access to the telephone, and to receive visits from their family and friends. Confidential access to a lawyer should also be guaranteed.

Patients committed under civil law to Starogard Gdański Neuro-Psychiatric Hospital were allowed to receive an unlimited number of visits, to send and receive letters without restriction and to use pay-phones. The same rules applied to criminally irresponsible patients in the forensic psychiatric ward. As regards patients hospitalised for the purpose of forensic psychiatric observation, the delegation was told that their visits (including by a lawyer) were subject to approval by the prosecutor. **The CPT would like to receive more information on this matter.**

174. The CPT also attaches considerable importance to psychiatric establishments being visited on a regular basis by an independent outside body, responsible for the inspection of patients' care.

In accordance with Section 45 of the Mental Health Act, Starogard Gdański Neuro-Psychiatric Hospital was visited by a guardianship court judge who heard all persons admitted without consent. Further, the forensic psychiatric ward was supervised by a penitentiary judge. The supervising judges were authorised to talk privately with patients, to receive any complaints they might have and make the necessary recommendations.

**The CPT would like to be informed whether Starogard Gdański Neuro-Psychiatric Hospital receives visits from any other outside body.**



## 7. Dehospitalisation of chronic patients

175. During the official talks at the Ministry of Health and Social Welfare, the CPT's delegation was informed about the progress of the national programme for mental health protection, one of the main objectives of which is to give priority to the discharge of chronic patients from psychiatric hospitals and to promote community-based care. Under this programme, the number of psychiatric beds should be reduced to 5 beds per 10,000 inhabitants, each specialised psychiatric hospital should have a maximum of 350 beds, and psychiatric wards should be opened in general hospitals. This process should go hand in hand with the setting-up of half-way houses and the transfer of chronic patients to nursing homes.

At the time of the visit, the proportion of chronic patients at Starogard Gdański Neuro-Psychiatric Hospital was high (some 400 patients, i.e. 43% of all patients). The hospital's social workers informed the delegation that some 100 patients were staying at the establishment because they had nowhere else to go and were "totally institutionalised".<sup>9</sup> Due to the shortage of places in nursing homes and the lengthy placement procedure, only a small number of chronic patients could be admitted to such homes (in 1999, of the 70 patients who applied for admission to nursing homes, only 47 were admitted).

176. The CPT can only encourage the policy of discharging chronic patients from psychiatric hospitals and reducing the size of such establishments, whilst hoping that the provision of community care, half-way houses and nursing homes will accompany dehospitalisation. Indeed, it is now widely accepted that large-capacity psychiatric establishments entail major risks of institutionalisation for both patients and staff which may have adverse effects on patients' treatment. In addition, small structures (preferably located close to urban centres) make for significantly easier provision of care which exploits the full range of psychiatric and psycho-social treatment.

**The CPT would appreciate further information on the national programme for mental health protection in Poland (in particular, number and category of patients affected by the dehospitalisation policy, institutions concerned, timetable for implementation of the measures, etc.).**

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<sup>9</sup> The high death rate recorded at the hospital - an average of 100 deaths per year during the period 1990 to 1999 - can be attributed to the presence of many elderly chronic patients.

#### **D. Sobering-up centres**

177. The CPT's delegation visited three sobering-up centres: in Gdańsk, Łódź and Rzeszów.

As had been the case in 1996, such centres are run and financed by the municipal authorities. Since the CPT's first visit to Poland, new comprehensive regulations governing the functioning of sobering-up centres have been adopted.<sup>10</sup> Pursuant to these regulations, new arrivals are examined without delay by a doctor, who establishes the presence of medical reasons for their admittance to a sobering-up centre. Breathalyser tests can only be performed with the consent of the person concerned. The lack of intoxication symptoms may result in a refusal to admit the person to a sobering-up centre. The final decision to admit a person is taken by the centre's director or his substitute, on the basis of the doctor's opinion.

The delegation was told that a considerable proportion of persons brought to sobering-up centres were criminal suspects apprehended by the police. In this connection, **the CPT would like to receive clarification as to whether the time spent in a sobering-up centre is counted as part of the initial 48 hours of police custody.**

178. The CPT's delegation did not gather any evidence of deliberate ill-treatment of intoxicated persons by staff working in the sobering-up centres visited. On the contrary, it observed a professional and humane attitude on the part of staff vis-à-vis persons in their charge, some of whom were behaving in an aggressive manner.

Further, the delegation was told that the procedure observed during the 1996 visit – which involved the placing of intoxicated persons behind grilles and hosing them with cold water - was not practised at the centres visited. The CPT welcomes this approach, which is in conformity with the recommendation made in the report on the 1996 visit (cf. paragraph 187 of document CPT/Inf (98) 13).

179. The sobering-up centres in Gdańsk and Rzeszów offered satisfactory material conditions. The premises were clean, well ventilated, adequately equipped and in a good state of repair. There were separate rooms for men, women, juveniles and persons infested with lice/scabies. **However, the rooms were not equipped with a call system.**

180. In contrast, the sobering-up centre in Łódź was an old facility badly in need of repair. It had a capacity of 42 beds, which was clearly insufficient to meet the needs of the city. The delegation observed that the rooms were poorly lit and ventilated, some of the mattresses tattered, and the integral toilets dirty. As a positive element, all rooms were equipped with call bells.

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<sup>10</sup> Minister of Health and Welfare Regulation of 23 October 1996 on "Procedures for delivering intoxicated persons, the organisation of sobering-up centres and the range of health-care services provided, and the principles of paying for the delivery and stay in a sobering-up centre".

The delegation was informed of plans to overhaul the centre's premises in the near future. In this connection, the centre's Director spoke of a pilot project for the transformation of the centre into a fully-fledged health-care facility offering a complete course of detoxification to persons with alcohol problems. **The CPT would like to receive information on the progress of the centre's refurbishment and the development of the above-mentioned pilot project.**

181. At all the centres visited, the staffing levels were adequate. At least one doctor was present on a 24-hour basis, and a variety of other staff (male and female) ensured constant care and supervision of persons admitted to the centres.

Further, the procedures for admitting and releasing persons and recording their stay were also appropriate and call for no particular comments.

182. Intoxicated persons who became violent could be restrained with straps on a bed. The sobering-up centres in Gdańsk and Rzeszów each possessed one room specifically designed for violent persons and equipped with beds with straps for restraining the wrists, chest and ankles of such persons. In Łódź, the delegation saw beds fitted with straps in most of the centre's rooms, and observed several persons who were restrained at the time of the visit.

The administration of restraints is subject to the provisions of Article 18 of the Mental Health Act (cf. also paragraph 164). Pursuant to this article, the decision to use physical restraint is made by the doctor on duty, following which the restrained person is placed under close supervision. However, at Łódź the delegation was told that in practice it was the orderlies rather than the doctor who decided when to apply and remove the physical restraints. **The CPT recommends that steps be taken to ensure that the provisions of Article 18 of the Mental Health Act are followed when applying physical restraints at the Łódź Sobering-up Centre.**

183. As had been the case in 1996, the use of restraints was recorded in a special form attached to the personal card. **The CPT re-iterates its recommendation that, in addition to the entry made in the personal card, any resort to isolation or physical restraint in a sobering-up centre be recorded in a central register established for this purpose, with an indication of the times at which the measure began and ended, the person who ordered its application, as well as the circumstances of the case and the reasons for resorting to such means.**

**E. Emergency Care Centre for children, Warsaw**

184. The Emergency Care Centre for children in Warsaw is run by the Ministry of Labour and Social Policy and provides emergency assistance and care to children from 3 to 18 years of age. With a total capacity of 144 places, it is currently the largest facility of this type in Poland.

The majority of the children admitted to the Centre are placed for educational and diagnostic purposes by decision of a guardianship court judge for a period of 3 months, in order to assess the child's needs and prospects. However, the delegation was told that, due to lengthy court proceedings and the shortage of places in specialised educational establishments, it was not infrequent for children to spend up to a year at the Centre while awaiting transfer to an appropriate establishment. **The CPT would like to receive the comments of the Polish authorities on this matter.**

The Centre also receives children apprehended by the police as criminal suspects as well as foreign children illegally residing in Poland (in cases when they are not accompanied by their families) and detained by court decision pending deportation. Such children were kept in a secure facility within the Centre referred to as the "rotation unit".

185. The CPT's delegation heard no allegations of ill-treatment of children by staff at the Emergency Care Centre and was generally impressed by the dedication and caring attitude demonstrated by staff.

Further, the delegation gained an overall positive impression of the material conditions, regime of activities and staffing levels in the facilities for children of pre-school and school age.

186. However, the CPT has certain misgivings concerning the "rotation unit". With a capacity of 30 beds, at the time of the visit it was accommodating 21 children (of whom one was a foreign national). Material conditions in the unit's four bedrooms, common room and bathing and toilet facilities were of an acceptable standard. However, some of the children interviewed by the delegation alleged that they were not being offered outdoor exercise on a daily basis, and in particular on weekends. **The CPT recommends that immediate steps be taken to ensure that all children held at the Emergency Care Centre in Warsaw are guaranteed at least one hour of outdoor exercise every day.**

187. The "rotation unit" possessed an isolation room measuring some 6 m<sup>2</sup> and fitted with a bed. It was impossible for the delegation to establish how often and for what length of time the isolation room had been used in the past, as there were no records of its use. Staff indicated that the room in question was not being used. However, interviews with children held in the unit suggested that the isolation room was used on occasion for placements of several hours.

The placement of children in conditions resembling solitary confinement is a measure which can compromise their physical and/or mental integrity. The CPT considers that resort to such a measure must be regarded as highly exceptional. If children are held separately from others, this should be for the shortest possible period of time and, in all cases, they should be guaranteed appropriate human contact.

**The CPT recommends that the Polish authorities review the use made of the isolation room at the “rotation unit”, in the light of the above remarks. Further, the CPT recommends that a special register be set up recording the use of the isolation room.**

188. Finally, the CPT wishes to stress once again that persons deprived of their liberty under the aliens’ legislation – including children - should be accommodated in centres specifically set up for such persons and staffed by suitably-qualified personnel (cf. also paragraph 28). At present, foreign children detained at the Emergency Care Centre in Warsaw are being held for periods of up to several months together with criminal suspects in the “rotation unit”. Furthermore, because of the language barrier, staff working in that unit acknowledged that they experienced communication problems with foreign children. **The CPT invites the Polish authorities to review the situation of foreign children detained for the purpose of deportation, in the light of the above remarks.**

### III. RECAPITULATION AND CONCLUSIONS

#### A. Police and Border Guard establishments

189. In the course of the second periodic visit to Poland, a number of persons interviewed by the delegation alleged that they had been physically ill-treated by the police, in particular in Warsaw and in the area of Przemyśl. For the most part, these allegations were made by remand prisoners who had recently been in police custody.

The ill-treatment alleged concerned, in the main, slaps, punches, kicks and blows with a truncheon. In certain isolated cases, allegations were also made of ill-treatment of a more severe nature, such as the infliction of electric shocks and blows to the soles of the feet. Most of the persons concerned stated that the ill-treatment alleged had been incurred during questioning by police officers; however, some allegations were also heard of the disproportionate use of force at the time of apprehension. Further, a number of persons interviewed gave accounts of psychological pressure put on them at the time of interrogation, in the form of threats to use physical force in order to obtain confessions.

No allegations were received of ill-treatment by police officers in charge of guarding police cells or staff working in the police establishments for children visited. However, a few complaints were heard of verbal abuse and rough treatment on the part of security staff at the Guarded Centre for Foreign Nationals in Lesznowola.

As regards Border Guard staff, the CPT's delegation received no allegations of ill-treatment.

190. The information gathered indicates that the Polish authorities must exercise continuing vigilance as regards the treatment of persons in police custody. The CPT has recommended that senior police officers deliver to their staff the clear message that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions. Further, training programmes for police officers should be reviewed in order to incorporate human rights concepts into initial and ongoing practical training for handling high-risk situations such as the apprehension and interrogation of suspects; this will prove more effective than separate courses on human rights.

191. In the report drawn up after the first periodic visit to Poland, the CPT made a number of recommendations designed to reinforce formal safeguards against ill-treatment by the police and the Border Guard. The facts found during the second periodic visit demonstrate that, despite a number of measures adopted by the Polish authorities, there remains room for improvement in this area. Various recommendations have been made concerning, in particular, access to a lawyer, access to a doctor and the drawing up of a code of conduct for interrogations.

192. Material conditions in the police detention facilities used for criminal suspects were almost invariably of a good standard. Nevertheless, the CPT has invited the Polish authorities to persevere in their efforts to equip all police detention facilities for criminal suspects with outdoor exercise areas.

As for the two police establishments for children visited, the one in Gdańsk offered material conditions of a good standard and a range of sports, recreational and educational activities. In contrast, conditions in the establishment in Rzeszów left much to be desired. The CPT has made several recommendations concerning the latter establishment (improvement of ventilation and the equipment in the boys' bedroom; refurbishment of the toilets and shower room; providing detained children with daytime clothing; ensuring that they are offered daily outdoor exercise and a range of activities, etc.). More generally, the CPT has reiterated the recommendation made after the first periodic visit that all new arrivals at police establishments for children be medically screened without delay.

193. In the report drawn up after the first periodic visit, the CPT stressed that when it is deemed necessary to deprive persons of their liberty under the aliens legislation, they should be accommodated in centres specifically set up for such persons, offering material conditions and a regime appropriate to their legal situation and staffed by suitably qualified personnel. The Polish authorities have subsequently taken steps in this direction, by setting up a large-capacity guarded centre in Lesznowola in 1998. The CPT has welcomed this development; however, it trusts that in due course more guarded centres comparable to the one in Lesznowola will be established.

194. Material conditions at the Guarded Centre for foreign nationals in Lesznowola were on the whole acceptable. However, there remained much room for developing the range of activities offered to residents. Further, the procedure with respect to visits appeared unnecessarily cumbersome and restrictive. The CPT has recommended that this procedure be reviewed so as to enable residents to receive visits without undue delay, for at least one hour per week; no restrictions whatsoever should be imposed on visits by lawyers.

The Committee has also stressed the importance of supervisory staff at centres for immigration detainees being carefully selected and receiving appropriate training. As well as possessing well-developed qualities in the field of interpersonal communication, the staff concerned should be familiarised with the different cultures of the detainees and at least some of them should have relevant language skills.

As regards the deportation jail in Gdynia, conditions of detention there were on the whole adequate. Nevertheless, the CPT has recommended that steps be taken to ensure that foreign nationals held at that establishment have ready access to a telephone.

195. In the report on the first periodic visit, the CPT made a number of critical remarks concerning the Border Guard detention facilities at Warsaw International Airport. By the time of the 2000 visit, the holding facilities had been moved to a different part of the airport building; however, the new accommodation continued to exhibit a number of shortcomings. The CPT has recommended that the Polish authorities equip and put into service, as a matter of priority, a new facility which was foreseen for persons detained at the airport. In the meantime, immediate measures should be taken to ensure that all detained persons have access to drinking water and food, as well as to a pay-phone.

## **B. Prison establishments**

196. The CPT's delegation received hardly any allegations of ill-treatment of prisoners by prison staff at Łódź Prison No 2 and Rzeszów Prison. A few isolated allegations of physical ill-treatment (slaps, kicks) were heard at Warszawa–Białoleka Remand Prison. However, on the whole, the atmosphere in that establishment was free of noticeable tension.

In contrast, at Przemyśl Prison the delegation was inundated with allegations of various forms of ill-treatment of inmates by prison officers. These allegations referred to both verbal and physical abuse, the latter including the random delivery of slaps, kicks and punches as well as rough body searches (e.g. involving the squeezing of prisoners' testicles). As regards in particular young offenders, over a third of those interviewed claimed that they had been ill-treated by prison staff. Further, the general atmosphere at the establishment was oppressive.

The CPT has recommended that appropriate steps be taken by the management of Przemyśl Prison to make use of all means at its disposal to prevent ill-treatment and, more generally, to decrease tension in the prison. This should involve inter alia regular presence by prison managers in the detention areas and their direct contact with prisoners, as well as unannounced checks at all hours, and the thorough investigation of complaints made by prisoners.

197. More generally, the Committee has recommended that in the course of prison staff training, considerable emphasis be placed on the acquisition and development of interpersonal communication skills. Such skills are essential, since they will often enable prison staff to defuse a situation which could otherwise turn into violence. Further, building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation. They can lead to a lowering of tension and raise the quality of life in an institution, to the benefit of all concerned.

198. The CPT has welcomed the multi-faceted approach adopted by the Polish authorities to counter the risk of prison overcrowding. Nevertheless, in view of the disturbing trend of increase in the number of remand prisoners, the Committee has recommended that the Polish authorities pursue vigorously the application of a range of measures designed to combat prison overcrowding, including policies to limit or modulate the number of persons sent to prison. The Committee has also reiterated its recommendation made after the first periodic visit that the existing standard for male prisoners be aligned on that for female prisoners, namely 4 m<sup>2</sup> per prisoner.

199. Despite certain steps taken by the Polish authorities to create more jobs for prisoners, the employment situation in Polish prisons continues to be unsatisfactory. The CPT has recommended that the Polish authorities pursue their efforts to introduce measures aimed at ensuring that both sentenced and remand prisoners are provided with work. An active state policy, based if necessary on special incentives for the placing of orders for prison production, should be developed. A wider range of voluntary unpaid work activities should also be offered to prisoners.



200. In the course of the 2000 visit, the CPT's delegation met a certain number of prisoners classified as "dangerous". Material conditions in the cells for such prisoners were, on the whole, satisfactory. However, the Committee has serious misgivings about the regime being applied to these prisoners, which was characterised by a total absence of organised activities and a paucity of human contact. The CPT has stressed that, regardless of the gravity of the offences of which prisoners are accused or have been convicted and/or their presumed dangerousness, efforts must be made to provide them with appropriate stimulation and, in particular, with adequate human contact.

Further, the CPT has recommended that the Polish authorities take immediate steps to review the current practice of routinely handcuffing "dangerous" prisoners when taken out of their cells, a measure also applied during visits; in the Committee's opinion, this practice is disproportionate and punitive.

201. Certain improvements have been made to the material environment at **Warszawa-Białoleka Remand Prison** since it was first visited by the CPT in 1996. Material conditions in the renovated units were of a good standard. However, the unrefurbished units were dilapidated and, in some cases, in a poor state of cleanliness. The CPT has recommended that the completion of the refurbishment programme be considered as a matter of priority. It has also reiterated its recommendation that no more than four prisoners be held in the establishment's standard cells, and (save exceptional cases) no more than one prisoner in its 6.7 m<sup>2</sup> cells.

The Committee has welcomed the fact that all young offenders were accommodated separately from adult inmates in distinct units. However, the majority of them were still not provided with a programme of activities suitable for their age. As regards adult prisoners, the vast majority of them spent the bulk of the day confined to their cells, in a state of idleness. The CPT has called upon the Polish authorities to make vigorous efforts to develop the programme of activities for prisoners, paying particular attention to young offenders.

202. Material conditions at **Łódź Prison No 2** were on the whole acceptable. Nevertheless, the CPT has recommended that the completion of the cell refurbishment programme be considered as a matter of priority, and that efforts be made to reduce the cell occupancy rates. Further, the Committee has proposed that steps be taken to enhance the programme of activities for prisoners, including in the establishment's therapeutic unit. Above all, more prisoners must be provided with work, preferably of vocational value.

203. At **Przemyśl Prison**, the majority of prisoners were accommodated in large dormitories. The CPT has recommended that a high priority be attached to the implementation of the project for the reconstruction of the prison, which includes the transformation of those dormitories into cells accommodating not more than 4 prisoners. In the meantime, measures should be taken in order to reduce the occupancy levels at the establishment, priority to be given to young offenders.

The programme of activities for prisoners was quite inadequate. As regards young offenders in particular, there was nothing which resembled a structured programme of purposeful activities adapted to the specific needs of this category of prisoner. The Committee has recommended that the Polish authorities strive to develop the programme of activities for prisoners. In particular, urgent measures need to be taken to ensure that young offenders are offered a complete programme of educational and recreational activities as well as other purposeful activities which may stimulate their potential for integration/re-integration.

204. Material conditions in the two refurbished units at **Rzeszów Prison** were of a very good standard. However, the rest of the accommodation units and the admission (“quarantine”) cells displayed a number of shortcomings. The CPT has identified a number of steps designed to improve the situation: completion of the refurbishment programme; reduction of the occupancy levels; enlarging or withdrawing from service the establishment’s 5.5 m<sup>2</sup> cells, etc.

As in the other prisons visited, there was not sufficient work for inmates and the range of other activities was limited. The CPT has recommended that the Polish authorities strive to develop the programme of activities for prisoners and make them available to more prisoners.

The CPT’s delegation gained an overall positive impression of the prison’s two therapeutic units.

205. As had been the case in 1996, the CPT’s delegation formed a generally positive impression of the health-care services in the prison establishments visited. Nevertheless, one aspect which remains unsatisfactory is the recording of injuries as part of the initial medical screening. In this context, the Committee has reiterated the essential elements which such records should comprise. The CPT has also proposed that steps be taken to develop psycho-social therapeutic activities for prisoners in the forensic psychiatric ward at the Hospital at Łódź Prison No 2.

206. The CPT has made a number of recommendations and comments about a variety of other issues of relevance to the Committee’s mandate (prison staff; discipline and isolation; complaints and inspection procedures; contact with the outside world). Reference should be made in particular to the recommendation that the Polish authorities take urgent steps to improve staffing levels in the prisons visited.

### **C. Starogard Gdański Neuro-Psychiatric Hospital**

207. The delegation received no allegations and found no other evidence of ill-treatment of patients by staff at Starogard Gdański Neuro-Psychiatric Hospital. On the contrary, it observed relationships of trust between patients and staff.

208. A programme of gradual refurbishment was underway at the hospital, and the material environment in the wards which had already benefited from it was of a high standard. However, the unrefurbished wards continued to accommodate patients in large-capacity dormitories, failing to provide the privacy necessary for patients hospitalised for long periods. The CPT has recommended that efforts be made to complete the refurbishment of the hospital, the aim being to create in all wards a positive therapeutic environment, with accommodation structures based on small groups.

Patients were offered a range of therapeutic options. However, one conspicuous gap in the existing therapeutic programme was the absence of work. The Committee has recommended that strenuous efforts be made to enhance the possibilities for work at the hospital and other psychiatric establishments in Poland; if necessary, the relevant legal provisions should be amended.

With respect to staff, the CPT has recommended that the Polish authorities take steps to reinforce the team of social workers employed at the hospital and strive to increase the nursing staff/patient ratio.

209. The practice followed at the hospital in respect of applying means of restraint and recording their use appeared to be satisfactory. Nevertheless, to reinforce this practice, the CPT has recommended that the instructions on the use of means of restraint make clear that initial attempts to restrain aggressive behaviour should, as far as possible, be non-physical and that where physical restraint is necessary, it should in principle be limited to manual control. Further, health-care staff in psychiatric establishments should receive training in both non-physical and manual control techniques vis-à-vis agitated or violent patients.

210. The CPT has also addressed various issues related to safeguards in the context of involuntary hospitalisation of psychiatric patients. In particular, the Committee has recommended that an introductory brochure setting forth the hospital routine and patients' rights be devised and issued to each patient on admission, as well as to their families.

Further, the CPT has encouraged the policy of discharging chronic patients from psychiatric hospitals and reducing the size of such establishments, whilst expressing a hope that the provision of community care, half-way houses and nursing homes will accompany dehospitalisation.

#### **D. Sobering-up centres**

211. The CPT's delegation did not gather any evidence of deliberate ill-treatment of intoxicated persons by staff working in the sobering-up centres visited.

The centres in Gdańsk and Rzeszów offered satisfactory material conditions. In contrast, the one in Łódź was an old facility badly in need of repair. In all the centres visited, the staffing levels as well as the procedures for admitting and releasing patients and recording their stay were adequate. Nevertheless, in the light of the information gathered in the centre at Łódź, the CPT has recommended that steps be taken to ensure that the provisions of Article 18 of the Mental Health Act are followed when applying physical restraints to intoxicated persons who become violent. More generally, the Committee has re-iterated its recommendation made after the first periodic visit that in addition to the entry made on the personal card, any resort to isolation or physical restraint in a sobering-up centre be recorded in a central register established for this purpose.

#### **E. Emergency Care Centre for children in Warsaw**

212. The CPT's delegation heard no allegations of ill-treatment of children by staff at the Emergency Care Centre for children in Warsaw.

The material conditions, regime of activities and staffing levels in the facilities for children of pre-school and school age appeared to be satisfactory. However, the CPT has certain misgivings concerning the establishment's "rotation unit", designated for criminal suspects and foreign children illegally residing in Poland. The Committee has recommended that immediate steps be taken to ensure that all children held in that unit are guaranteed at least one hour of outdoor exercise every day. As regards the isolation room in the "rotation unit", the CPT has recommended that the Polish authorities review the use made of it and set up a special register recording its use.

**F. Action on the CPT's recommendations, comments and requests for information**

213. The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I.

214. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Polish authorities to provide within six months a report providing a full account of action taken to implement the recommendations.

The CPT trusts that it will also be possible for the Polish authorities to provide in the above-mentioned report reactions to the comments formulated in this report which are listed in Appendix I as well as replies to the requests for information made.

**APPENDIX I**

**LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS  
AND REQUESTS FOR INFORMATION**

**A. Police and Border Guard establishments**

**1. Torture and other forms of ill-treatment**

recommendations

- appropriate steps to be taken to ensure that:
  - any items held on police premises as pieces of evidence are properly labelled and held in a secure and centralised location;
  - no other non-standard issue items are held on police premises (paragraph 13);
- senior police officers to deliver to their staff the clear message that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions (paragraph 14);
- police officers to be reminded that no more force than is reasonably necessary should be used when apprehending a person, and that once the person apprehended has been brought under control, there can never be any justification for him being struck or otherwise roughly treated or humiliated by police officers (paragraph 14);
- training programmes for law enforcement officials to be reviewed in the light of the remarks made in paragraph 15 (paragraph 15);
- whenever a person brought before a judge/prosecutor alleges ill-treatment by the police, the judge/prosecutor to immediately request a forensic medical examination of the person concerned. This approach should be followed irrespective of whether the person concerned bears visible injuries. Further, even in the absence of an express allegation, the judge/prosecutor should request a forensic medical examination whenever there are grounds to believe that the person brought before him could have been the victim of ill-treatment (paragraph 17).

comments

- considerable emphasis should be placed on the acquisition and development of interpersonal communication skills during initial and ongoing training (paragraph 15).

requests for information

- any preventive measures taken with a view to providing support for police officers exposed to highly stressful or violent situations (paragraph 15);
- in respect of the years 1999 and 2000:
  - the number and types of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which were instituted as a result;
  - an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment by the police (paragraph 16);
- detailed information on complaints and disciplinary procedures in respect of the police, including the safeguards incorporated to ensure their objectivity, proper documentation, timely consideration and resolution (paragraph 16).

**2. Conditions of detention**

a. detention facilities for criminal suspects

recommendations

- the shortcomings observed in the District Police Command in Łódź-Bałuty and the 1<sup>st</sup> Police Station in Warsaw-Ursynów District to be remedied, and detainees' access to the toilet guaranteed at the 1<sup>st</sup> Police Station in Warsaw- Ursynów District (paragraph 21).

comments

- the Polish authorities are invited to persevere in their efforts to equip all police detention facilities for criminal suspects with outdoor exercise areas (paragraph 20).

b. police establishments for children

recommendations

- the Polish authorities to take the following steps in respect of the police establishment for children in Rzeszów:
  - to improve the ventilation in the boys' bedroom and equip it with beds and full bedding;
  - to improve the decoration and the equipment in the day activity room;
  - to refurbish the establishment's toilets and shower room and guarantee an adequate level of privacy there;

- to provide detained children with appropriate daytime clothing;
  - to ensure that detained children are offered at least one hour of outdoor exercise a day;
  - to develop the range of activities offered to detained children, with particular emphasis on education;
  - to ensure that searches of girls detained at the establishment are performed by female staff members (paragraph 26);
- the Polish authorities to take appropriate steps to ensure that all new arrivals at police establishments for children are medically screened without delay (paragraph 27).

comments

- the Polish authorities are invited to reflect upon the possibility of providing for daily visits by a nurse to police establishments for children (paragraph 27).

c. detention facilities for foreign nationals awaiting deportation

recommendations

- the Polish authorities to take the following steps in respect of the Guarded Centre for foreign nationals in Lesznowola:
- to return the toilet and washing facilities in Block 2 to a good state of repair and keep them clean;
  - to review the procedure described in paragraph 34 so as to enable residents at the Centre to receive visits without undue delay. Residents should have the possibility to receive visitors for at least one hour per week;
  - to ensure that no restrictions whatsoever are imposed on visits by lawyers;
  - to make additional efforts to ensure that all residents are duly informed of their rights and obligations, as well as of the nature and state of the proceedings in their cases;
  - to take steps to ensure regular attendance by a psychiatrist and/or a psychologist;
  - to review the selection and training of staff assigned to the Centre in the light of the remarks made in paragraph 38 (paragraph 39);
- steps to be taken to ensure that foreign nationals awaiting deportation held at the Gdynia deportation jail have ready access to a telephone (paragraph 42).

comments

- the CPT trusts that in due course more guarded centres comparable to the one in Lesznowola will be established (paragraph 28);
- the Polish authorities are invited to explore the possibility of offering foreign nationals held at the Lesznowola Centre a wider range of purposeful activities. The longer the period for which persons are detained, the more developed should be the activities which are offered to them. Particular attention should be given to the specific needs of young children (paragraph 39);
- a 10 m<sup>2</sup> cell should not be used to accommodate more than two persons overnight (paragraph 41).

d. Border Guard establishments

recommendations

- the Polish authorities to equip and put into service the new facilities for persons detained at Warsaw International Airport as a matter of priority. In the meantime, immediate measures to be taken to ensure that all detained persons have access to drinking water and food, as well as access to a pay phone. Steps should also be taken to ensure that all persons detained for more than 24 hours are offered at least one hour of outdoor exercise per day and that female detainees held overnight are accommodated separately from men, unless they have expressed a wish to be placed with persons with whom they share an emotional or cultural affinity (paragraph 45);
- steps to be taken to remedy the shortcomings observed at the Border Guard Unit at Medyka Railway Border Crossing (paragraph 49).

comments

- there was no facility for outdoor exercise at the Bieszczadzki Border Guard District Command in Przemyśl (paragraph 47).

**3. Safeguards against the ill-treatment of persons deprived of their liberty**

recommendations

- appropriate steps to be taken to ensure that the provisions of the 1998 Code of Criminal Procedure concerning access to a lawyer for persons in police custody are fully complied with (paragraph 52);
- Section 245, paragraph 1, of the Code of Criminal Procedure to be amended so as to provide that persons in police custody have the right to talk to a lawyer in private; pending such an amendment, an instruction to be given to officials who apprehend suspects that they should not make use of the possibility to be present during meetings between detained persons and their lawyers (paragraph 52);



- the Polish authorities to take steps to ensure the effectiveness of the system of legal aid, including at the initial stage of police custody (paragraph 53);
- the 1997 instructions of the Ministries of the Interior and Health on the manner of conducting medical examinations of persons detained by the police to be expanded so as to provide that:
  - the right of persons deprived of their liberty by the police to have access to a doctor includes the right - if the persons concerned so wish - to be medically examined by a doctor of their choice;
  - all medical examinations are to be conducted out of the hearing and - unless the doctor requests otherwise - out of the sight of police/ Border Guard officers;
  - the results of every examination, as well as any relevant statements by the detainees and the doctor's conclusions, are to be formally recorded by the doctor and made available to the detainee and his lawyer (paragraph 54);
- the necessary steps to be taken to ensure that foreign nationals detained under the Aliens' legislation and asylum seekers are systematically issued with a form setting out in a straightforward manner their rights, at the very outset of their deprivation of liberty. The information should be available in different languages and the person concerned should attest that he has been informed of his rights in a language he understands (paragraph 56);
- the Polish authorities to take the necessary steps for the adoption of a code of conduct for interrogations (paragraph 57);
- appropriate steps to be taken to remedy the shortcomings observed in the keeping of custody records in the police and Border Guard establishments visited (paragraph 58).

#### comments

- it is important that the protocol of detention be available in an appropriate range of languages (paragraph 55);
- a single and comprehensive custody record should be kept for each person detained by the police or Border Guard. This register should record all aspects of the custody period and all action taken in connection with them (time and reason(s) for the apprehension; when informed of rights; signs of injury, mental disorder, etc.; contact with and/or visits by a relative, lawyer, doctor or consular officer; when offered food; when released, etc.) (paragraph 58).

#### requests for information

- the comments of the Polish authorities concerning the possibility for foreign persons deprived of their liberty to contact a relative or their consular authorities (paragraph 51);
- whether a circular on the use of audio or video equipment for the electronic recording of police interrogations has been issued (paragraph 57).

## **B. Prison establishments**

### **1. Preliminary remarks**

#### recommendations

- the Polish authorities to pursue vigorously the application of a range of measures designed to combat prison overcrowding, including policies to limit or modulate the number of persons sent to prison (paragraph 61);
- the existing standard for male prisoners to be aligned on that for female prisoners, namely 4 m<sup>2</sup> per prisoner (paragraph 61);
- the Polish authorities to pursue their efforts to introduce measures aimed at ensuring that both sentenced and remand prisoners are provided with work (paragraph 62).

### **2. Torture and other forms of ill-treatment**

#### recommendations

- appropriate steps to be taken by the management of Przemyśl Prison to make use of all means at its disposal to prevent ill treatment and, more generally, to decrease tension in the prison (paragraph 65);
- in the course of training, considerable emphasis to be placed on the acquisition and development of interpersonal communication skills. Such skills are essential, since they will often enable prison staff to defuse a situation which could otherwise turn into violence. Further, building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation. They can lead to a lowering of tension and raise the quality of life in an institution, to the benefit of all concerned (paragraph 66).

#### requests for information

- for 1999 and 2000, in respect of all prisons in Poland:
  - the number and types of complaints of ill-treatment lodged against prison staff;
  - an account of disciplinary/criminal sanctions imposed following complaints of ill-treatment by prison staff (paragraph 67).

### **3. Prisoners classified as “dangerous”**

#### recommendations

- the Polish authorities to review the regime applied to prisoners classified as “dangerous” in the light of the remarks made in paragraph 71 (paragraph 71);

- the Polish authorities to take immediate steps to review the practice of routinely handcuffing “dangerous” prisoners (paragraph 72).

comments

- it would be preferable for the status of all dangerous prisoners, including those who are sentenced, to be reviewed every three months (paragraph 69);
- the CPT trusts that the remarks made in paragraph 145 of the report on the CPT's 1996 visit (CPT/Inf (98) 13) will be taken fully into account in the design of the regime applied within the new facility for “dangerous” prisoners at Rzeszów Prison (paragraph 73).

requests for information

- detailed information on the project for building a facility for “dangerous” prisoners at Rzeszów Prison and its envisaged date of entry into service (paragraph 73).

**4. Conditions of detention**

- a. follow-up visit to Warszawa-Białoleka Remand Prison

recommendations

- the completion of the refurbishment programme at the prison to be considered as a matter of priority (paragraph 76);
- no more than four prisoners to be held in the establishment's standard cells, and no more than one prisoner in its 6.7 m<sup>2</sup> cells (save in exceptional cases when it would be inadvisable for a prisoner to be left alone) (paragraph 76);
- the Polish authorities to make vigorous efforts to develop the programme of activities for prisoners. As regards in particular young offenders, the Polish authorities should strive to provide them with a full programme of educational, recreational and other purposeful activities; physical education should constitute an important part of that programme (paragraph 78);
- the outdoor exercise facilities for prisoners held in Block 4 to be improved (paragraph 78).

comments

- the CPT trusts that the Polish authorities will implement without delay the plans for offering a wide range of association opportunities and leisure activities within the diagnostic unit for young offenders (paragraph 79).

requests for information

- the current state of functioning of the diagnostic unit (paragraph 79).

b. Łódź Prison No 2

recommendations

- completion of the cell refurbishment programme at the prison to be considered as a matter of priority (paragraph 84);
- efforts to be made to reduce the cell occupancy rates, taking into account the recommendation made in paragraph 61 (paragraph 84);
- the configuration of the narrow cells referred to in paragraph 81 to be changed so as to ensure that there is 2 m or more between walls (paragraph 84);
- special care to be taken of the particular dietary needs of diabetic prisoners (paragraph 84);
- steps to be taken to enhance the programme of activities for prisoners; above all, more prisoners must be provided with work, preferably of vocational value (paragraph 90);
- the outdoor exercise facilities to be improved (paragraph 90);
- steps to be taken to enhance substantially the programme of activities for prisoners in the therapeutic unit. Further, efforts should be made to build positive relations between prisoners and staff, by putting more emphasis on group and milieu therapy, and to ensure that there are appropriate relations of confidence between inmates and the psychologist (paragraph 96).

comments

- the CPT invites the Polish authorities to verify the state of the bed linen and towels distributed to prisoners, and to review the laundry arrangements for prisoners' own clothes (paragraph 84).

c. Przemyśl Prison

recommendations

- the Polish authorities to attach a high priority to the implementation of the project for the reconstruction of the prison. In the meantime, measures should be taken in order to reduce the occupancy levels in Przemyśl Prison, priority to be given to young offenders. In particular, efforts should be made to ensure that not more than one prisoner is accommodated in the establishment's 6.5 m<sup>2</sup> cells (save in exceptional cases when it would be inadvisable for a prisoner to be left alone) (paragraph 99);

- access to natural light and ventilation in the prisoner accommodation to be improved, and the shower facility refurbished (paragraph 99);
- the Polish authorities to strive to develop the programmes of activities for prisoners in the establishment (paragraph 104);
- the Polish authorities to take urgent measures to ensure that young offenders are offered a complete programme of educational and recreational activities as well as other purposeful activities, which may stimulate their potential for integration/re-integration. Physical education should form a major part of that programme. If such a programme cannot be provided at the establishment, the young offenders should be transferred elsewhere (paragraph 104);
- the common room in Block 2 to be re-decorated (paragraph 104);
- the outdoor exercise facilities to be improved, in particular by installing a means of rest and protection against poor weather conditions (paragraph 104).

d. Rzeszów Prison

recommendations

- the completion of the refurbishment programme to be treated as a high priority. In the meantime, efforts should be made to reduce the occupancy levels in Units 3 to 8 (i.e. the non-refurbished units for men) (paragraph 111);
- the state of repair and cleanliness of the “quarantine” cells to be improved and each of the cells to accommodate no more than 7 prisoners (paragraph 111);
- the establishment’s 5.5 m<sup>2</sup> cells to be either enlarged or withdrawn from service (paragraph 111);
- the Polish authorities to strive to develop the programme of activities for prisoners at the establishment. Above all, more prisoners must be provided with work, preferably of vocational value. Steps should also be taken to extend the range of education and vocational training activities and to make them available to more prisoners (paragraph 119);
- the outdoor exercise facilities to be equipped with means of protection against inclement weather (paragraph 119);
- the possibility of installing an indoor gym facility to be examined in the context of the establishment’s refurbishment programme (paragraph 119);
- efforts to be made to supply the prison library with recent books (paragraph 119).

## **5. Health-care issues**

### recommendations

- the record drawn up following a medical examination of a newly-arrived prisoner to contain: (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment); (ii) a full account of objective medical findings based on a thorough examination (i.e. the nature, location, size and specific characteristics of each and every injury); and (iii) the degree of consistency between the allegations made and the objective medical findings; this will enable the relevant authorities, and in particular prosecutors, to properly assess the information set out in the record. The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison. The results of every examination, as well as the above-mentioned statements and the doctor's conclusions, must be made available to the prisoner and his lawyer (paragraph 128);
- appropriate steps to be taken to remedy the shortcomings observed at the prison hospital at Łódź Prison No 2 (paragraph 131);
- steps to be taken to develop psycho-social therapeutic activities for prisoners in the forensic psychiatric ward at Łódź Prison No 2, in particular for patients who remain there for extended periods (paragraph 133).

### comments

- the Polish authorities are invited to seek to reduce the time physically handicapped prisoners at Łódź Prison No 2 have to wait before being transferred to appropriate nursing establishments (paragraph 126);
- the CPT trusts that the Polish authorities will pursue their efforts to provide education and information to both prison staff and inmates about transmissible diseases (in particular, hepatitis, AIDS, tuberculosis and skin disease), including methods of transmission and means of protection, as well as the application of adequate preventive measures (paragraph 129).

## **6. Other issues**

### recommendations

- the Polish authorities to take urgent steps to improve staffing levels in the prisons visited, in the light of the remarks made in paragraph 135 (paragraph 135);
- measures to be taken to provide psychological support to prison staff exposed to highly stressful work conditions (paragraph 135);

- effective measures to be taken in order to significantly reduce delays in the follow-up of complaints at Przemyśl Prison. Steps must also be taken to ensure that the lodging of a complaint does not have adverse consequences for the prisoner concerned (paragraph 140);
- the Polish authorities to review arrangements concerning visits and correspondence vis-à-vis remand prisoners, in the light of the comments made in paragraph 142 (paragraph 142).

comments

- ventilation in the visiting area at Warszawa-Białołęka Remand Prison could be improved (paragraph 141);
- the Polish authorities are invited to reconsider the current blanket ban on telephone calls by remand prisoners (paragraph 142).

requests for information

- the comments of the Polish authorities on the question of whether placements in restraint cells are at times used as an informal means of disciplinary punishment and continue for periods of days (paragraph 138);
- the precise manner in which psychologists evaluate whether a given act of self-harm or suicide attempt was an “instrumental” act (paragraph 139).

**C. Starogard Gdański Neuro-Psychiatric Hospital**

**1. Patients’ living conditions**

recommendations

- efforts to be made to complete the refurbishment of the hospital. The aim should be to create in all wards a positive therapeutic environment, with accommodation structures based on small groups (paragraph 152).

requests for information

- the comments of the Polish authorities on the mixing of patients with a variety of clinical diagnoses and legal statuses in one and the same ward (paragraph 150);
- whether the new Regional Centre for Forensic Psychiatry has now entered into service (paragraph 152);
- detailed information on the new organisation of forensic psychiatry in Poland (paragraph 152).

## **2. Treatment and regime**

### recommendations

- strenuous efforts to be made to enhance the possibilities for work at Starogard Gdański Neuro-Psychiatric Hospital and other psychiatric establishments; if necessary, the relevant legal provisions should be amended (paragraph 158).

### comments

- efforts should be made to involve more patients in the available rehabilitative activities. (paragraph 154).

### requests for information

- the comments of the Polish authorities on the benefits of compulsory treatment for alcohol addiction (paragraph 156);
- the comments of the Polish authorities on the compatibility of admission with consent with the restrictions imposed on patients' movements within and outside the hospital (paragraph 159).

## **3. Staff**

### recommendations

- the Polish authorities to take steps to:
  - reinforce the team of social workers employed at the hospital;
  - strive to increase the nursing staff/patient ratio (paragraph 162).

### requests for information

- existing arrangements for specialised psychiatric nursing training in Poland (paragraph 162).

## **4. Means of restraint**

### recommendations

- the instructions on the use of means of restraint to make clear that initial attempts to restrain aggressive behaviour should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control (paragraph 166);



- health-care staff in psychiatric establishments to receive training in both non-physical and manual control techniques vis-à-vis agitated or violent patients (paragraph 166).

comments

- the CPT has some reservations about the practice observed at the hospital of restraining patients onto their beds in the large-capacity dormitories, in the presence of other patients and without the permanent supervision of staff (paragraph 165).

**5. Safeguards in the context of involuntary hospitalisation**

recommendations

- an introductory brochure setting forth the hospital routine and patients' rights to be devised and issued to each patient on admission, as well as to their families. Any patients unable to understand this brochure should receive appropriate assistance (paragraph 172).

requests for information

- the comments of the Polish authorities on the legal position of voluntary patients who are not allowed to leave the hospital when they express a wish to do so (paragraph 170);
- the provisions for visits (including by a lawyer) to patients hospitalised for the purpose of forensic psychiatric observation (paragraph 173);
- whether Starogard Gdański Neuro-Psychiatric Hospital receives visits from any outside body other than a guardianship court judge and penitentiary judge (paragraph 174).

**6. Dehospitalisation of chronic patients**

requests for information

- the national programme for mental health protection in Poland (in particular, number and category of patients affected by the dehospitalisation policy, institutions concerned, timetable for implementation of the measures, etc.) (paragraph 176).

**D. Sobering-up centres**

recommendations

- steps to be taken to ensure that the provisions of Article 18 of the Mental Health Act are followed when applying physical restraints at the Łódź Sobering-up Centre (paragraph 182);

- in addition to the entry made in the personal card, any resort to isolation or physical restraint in a sobering-up centre to be recorded in a central register established for this purpose, with an indication of the times at which the measure began and ended, the person who ordered its application, as well as the circumstances of the case and the reasons for resorting to such means (paragraph 183).

comments

- rooms at the sobering-up centres in Gdańsk and Rzeszów were not equipped with a call system (paragraph 179).

requests for information

- clarification as to whether the time spent in a sobering-up centre is counted as part of the initial 48 hours of police custody (paragraph 177);
- the progress of the refurbishment of the sobering-up centre in Łódź and the development of the pilot project for the transformation of the centre into a fully-fledged health-care facility (paragraph 180).

**E. Emergency Care Centre for children, Warsaw**

recommendations

- immediate steps to be taken to ensure that all children held at the centre are guaranteed at least one hour of outdoor exercise every day (paragraph 186);
- the Polish authorities to review the use made of the isolation room in the “rotation unit”, in the light of the remarks made in paragraph 187 (paragraph 187);
- a special register to be set up recording the use of the isolation room in the “rotation unit” (paragraph 187).

comments

- the Polish authorities are invited to review the situation of foreign children detained for the purpose of deportation, in the light of the remarks made in paragraph 188 (paragraph 188).

requests for information

- the comments of the Polish authorities on the fact that children may spend periods of up to a year at the Emergency Care Centre awaiting transfer to an appropriate establishment (paragraph 184).

## APPENDIX II

### **LIST OF THE NATIONAL AUTHORITIES AND ORGANISATIONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

#### National authorities

##### Ministry of Justice

|                            |   |
|----------------------------|---|
| Mr Janusz NIEDZIELA        | Secretary of State  |
| Mr Aleksander NAWROCKI     | Director General, Central Board of Prison Service                                       |
| Mr Mirosław NOWAK          | Head of Department, Central Board of Prison Service                                     |
| Mrs Marzena KSEL           | Medical Director, Central Board of Prison Service                                       |
| Mrs Dorota JASTRZĘBSKA     | Department of Family and Juveniles' Matters   |
| Mrs Anna ADAMIAK-DERENDARZ | Public Prosecutor, Department for Foreign Legal Relations, National Prosecutor's Office |

##### Ministry of Internal Affairs

|                                  |  |
|----------------------------------|--|
| Mr Andrzej PRZEMYSKI             | Adviser to the National Police Commissioner  |
| Mrs Wiesława LACJECKA-BRZOZOWSKA | Head of Department of European Integration and International Co-operation                  |
| Mrs Hanna RUSZKOWSKA             | Head of International Co-operation Division, National Police Headquarters                  |
| Mr Stanisław GŁUCHOWSKI          | Chief Specialist, Prevention Department, National Police Headquarters                      |
| Mr Robert GAŁGAŃSKI              | Specialist, Division of Co-ordination of Prevention Services, National Police Headquarters |
| Mr Ryszard KAMIŃSKI              | Specialist, Division of Co-ordination of Prevention Services, National Police Headquarters |
| Mr Lech AKELAS                   | Director of Investigation Bureau, National Border Guard Headquarters                       |
| Mr Tomasz LIPSKI                 | Deputy Director of Investigation Bureau, National Border Guard Headquarters                |
| Mr Kazimierz GAWŁOWICZ           | Head of Readmission Division, National Border Guard Headquarters                           |

##### Ministry of Health

|                        |  |
|------------------------|--|
| Mr Michał SOBOLEWSKI   | Deputy Director, Department of Public Health   |
| Mr Stanisław PUZYŃSKI  | National Consultant on Psychiatry, Director of the Institute of Psychiatry and Neurology |
| Mr Jan Czesław CZABAŁA | Deputy Director, Institute of Psychiatry and Neurology                                   |
| Mr Wojciech KŁOSIŃSKI  | Psychiatrist, Department of Public Health  |

Office of the Citizens' Rights Ombudsman

|                         |  |
|-------------------------|--|
| Mr Adam ZIELIŃSKI       | Citizens' Rights Ombudsman   |
| Mr Janusz ZAGÓRSKI      | Director of the Group for Penal Executive Law                          |
| Mr Zbigniew KUŹMA       | Senior specialist, Group for Penal Executive Law                       |
| Mrs Mieczysława BRAMSKA | Senior specialist, Group for Penal Executive Law                       |
| Mr Teodor BULENDA       | Senior specialist, Group for Penal Executive Law                       |
| Mr Ryszard MUSIDŁOWSKI  | Senior specialist, Group for Penal Executive Law                       |
| Mrs Małgorzata KIRYLUK  | Senior specialist, Group for Penal Executive Law                       |
| Mr Robert PYSZNIAK      | Specialist, Group for Penal Executive Law                              |
| Mr Piotr PRZYBYSZ       | Senior specialist, Group for Constitutional Rights and Civil Liberties |
| Mr Anna NOWICKA-CHACHAJ | Senior specialist, Group on Law for Family Relations                   |
| Mrs Elżbieta CZYŻ       | Senior specialist, Group on Law for Family Relations                   |

Non-governmental and other organisations

Helsinki Foundation for Human Rights  
Institute for Psychiatry and Neurology  
Patronat  
Polish Coalition for Mental Health  
United Nations High Commissioner for Refugees, Branch Office in Warsaw