



CPT/Inf (2002) 10

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

from 8 to 19 May 2000

The Polish Government has requested the publication of the CPT's report on its visit to Poland in May 2000 (see CPT/Inf (2002) 9) and of its response. The response of the Polish Government is set out in this document.

The Polish text of the response can be found on the CPT's website : www.cpt.coe.int

Strasbourg, 23 May 2002

REPORT OF THE POLISH GOVERNMENT FOR THE EUROPEAN COMMITTEE FOR PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

The answer of the Polish authorities to the report presented after the visit of the Committee delegation on 8-19 May 2000 adopts the layout of the report of 21st December 2000 according to the suggested recommendations.

A. POLICE AND BORDER GUARD ESTABLISHMENTS

Police establishments

1. Torture and other forms of ill-treatment

Recommendations

Appropriate steps must 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 14 of the report)

The order issued by the Chief Police Commander in his letter No DK-95/96 of 20 November 1996 sent to all Provincial Police Commanders and Police Schools Commanders takes steps to ensure that all items other than standard ones, or objects that could suggest infringing rights of persons who participate in proceedings, held on police premises are removed.

The Chief Police Commander in the instruction No 4/2000 defined the way of holding on police premises items that are pieces of material evidence in conducted proceedings. It has been decided that pieces of evidence should be held in a special isolated and properly secured places.

- **senior 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;**
- **to remind the police officers 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 of the report)

The Chief Police Commander has ordered the superior police officers to reinforce the supervision of their subordinates whether they act according to law and rules of criminal tactics, and in a way not to infringe any citizen's rights including rights of a person taking part in any legal or criminal proceedings.

The Police Act Article 16 item 2 provides that:

The law enforcement officials can apply direct means of restraint that meet needs of situation and are indispensable to comply with orders.

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

As for the qualifications of the law enforcement officials, the Chief Police Commander has ordered to consider more the subject of human rights and training of interpersonal communication skills.

Required information

- **preventive measures taken with a view to providing support for police officers exposed to highly stressful or violent situations in the period of time since 1999 to 2000.**
(paragraph 15 of the report)

According to the order of the Chief Police Commander, since December 1999 it is an obligation to inform police psychologist of traumatic and stressful events. It has been possible to put in practice this order after at least a part of psychologists have undergone a training in psychological relaxation and decision making in critical conditions. During the year 2000, psychologists helped in 288 cases. As regards providing support and help for police officers exposed to high stress situations, it appears from the data that the flow of information need to be improved, and the knowledge of superiors on possibilities of psychological aid not only for traumatic events should be widen.

- **the number and types of complaints of ill-treatment made against police officers and the number of criminal and disciplinary proceedings which were instituted as a result;**
- **an account of criminal or disciplinary sanctions imposed following complaints of ill-treatment by the police;**
- **disciplinary procedures in respect of the police, including the safeguards incorporated to ensure their objectivity, proper documentation.**
(paragraph 16 of the report)

The National Police Headquarters could provide only the following statistic data on disciplinary and criminal proceedings in 1999 and 2000 presented in the table below:

Table No I

<i>Type of complaint</i>	<i>Total numberof complaints</i>		<i>Of which confirmed</i>	
	1999	2000	1999	2000
Using prohibited physical methods	579	572	22	16
Using rubber or electric truncheon	84	102	2	6

Under the law, all criminal proceedings concerning matters of police violence are conducted by public prosecutors with the police being excluded. This rule ensures full objectivism in the course of proceedings.

Data on direct and illegal use of violent means during police action or while conducting criminal proceedings, in particular, during interrogation, and on instituted preliminary proceedings in the period of time since 1999 to 2000 is presented in the following table:

Table No II

Ill-treatment or other violations of personal rights	Number of cases		Number of policemen involved		Criminal proceedings instituted		Number of criminal sanctions	
	1999	2000	1999	2000	1999	2000	1999	2000
Confession under duress	6	10	10	12	6	8	10	12
During police intervention	35	34	54	49	34	34	53	45
During altercation	19	13	19	20	19	14	19	20

The table below gives information on completed criminal proceedings conducted in 1999 and 2000 with regard to crimes of ill-treatment and other violations of personal rights committed by the law enforcement officials:

Table No III

Number of criminal proceedings		Number of policemen involved		Final verdict									
				Not guilty		Case discontinued		Convicted to:					
								Fine		Restriction of liberty		Deprivation of liberty	
1999	2000	1999	2000	1999	2000	1999	2000	1999	2000	1999	2000	1999	2000
55	50	64	60	23	21	31	31	1	1	0	0	5	8

The disciplinary proceedings against law enforcement officials are conducted on the grounds of the provisions of the Minister of Home Affairs and Administration' Ordinance of 19 December 1997 that stipulates detailed rules and the procedure of awarding and disciplinary sanctions for law enforcement officials. The Ordinance has been issued basing on the Article 139 Section 2 of the Police Act.

According to the Article 133 Section 1 of the mentioned Act, law enforcement officials are subject to disciplinary sanctions for breaking down the duty discipline and for other cases stipulated in the Act. According to the Article 132 of the Act, disciplinary sanctions are imposed for committed crimes and offences regardless of the penal liability.

In order to ensure the objectivity of the criminal proceedings, according to the Article 39 Section 2 of the Police Act, in the case criminal proceedings in a matter of unintentional crime prosecuted by indictment are instituted, or if it is justified by other reasons, a law enforcement official can be suspended for a period of time not longer than 3 months. If the proceedings are instituted in a matter of intentional crime prosecuted by indictment, a law enforcement official is suspended obligatorily for a period of time not longer than 3 months (Article 39 Section 1 of the Police Act). In particular matters, the period of being suspended can be prolonged until the criminal case is closed (Article 39 Section 3 of the Police Act).

As regards the question of suspending a law enforcement official it is supervised by the High Administration Court. Disciplinary decisions are subject indirectly to the court supervision, i.e. the High Administration Court hearing complaints for administrative decisions issued with regard to a lawful disciplinary decision, e.g. to reduce or not to grant an annual reward if a police employee is proved guilty in the course of disciplinary proceedings, or to designate to a lower post under the Article 38 Sec., 1 of the Police Act (if a disciplinary sanction foresees designation for a lower post) or dismissing of the service under the Article 41 Sec., 1 item 3 of the Act (if a disciplinary sanction foresees a dismissal of service).

The disciplinary proceedings are recorded. In the course of the proceedings the decision is issued (paragraph 11 of the quoted Ordinance). Furthermore, certain proceedings require to draw up a document in a form of a protocol (paragraph 15 Sec., 2 of the Ordinance).

Other proceedings which are significant to the case but do not require a protocol, are recorded as a note signed by an official who conducted proceedings.

As for the other cases not specified in the Ordinance of 19 December 1997, the provisions of the Code of Criminal Procedure are applied.

2. Conditions of detention

a. detention facilities for criminal suspects

Recommendations

Appropriate steps should be taken in order to

- **the shortcomings observed in the District Police Command Lodz-Baluty and the 1st Police Station in Warsaw-Ursynow District be remedied, and the detainees' access to the toilet guaranteed at the 1st Police Station in Warsaw-Ursynow District**
(paragraph 21 of the report);
- **persevere in efforts to equip all police detention facilities for criminal suspects with outdoor exercise areas.**
(paragraph 21 of the report)

The Chief Police Commander and all other provincial police commanders, taking into account existing financial possibilities, will take steps to refurbish the police detention facilities, police establishments for children, facilities for foreigners awaiting deportation and the Guarded Centre for Foreign nationals according to the requirements stipulated in the below quoted provisions:

- Ordinance No 50 of the Minister of Interior of 20 May 1996 on specifying conditions of rooms in police facilities for detained persons,
- Order No 6/94 of the Chief Police Commander on police service in police establishments for children and on equipment and technical security measures,
- Ordinance of the Minister of Interior and Administration of 10 February 1999 on specifying conditions of guarded centres for foreign nationals and on detention houses for foreign nationals awaiting deportation and on regulation principles of staying in guarded centres and detention facilities.

The Chief Police Commander ordered to observe strictly the recommendations in the Order No 7/94 of the Chief Police Commander of 10 November 1994 which contains instruction on police service in rooms for detained persons. In particular, the paragraph 8 item 14 of the instruction which states that law enforcement officials are obliged to ensure the proper conditions for detained persons with regard to physiological needs.

b. police establishments for children

Recommendations

The CPT recommends that the Polish authorities take the following steps in respect of the police establishment for children in Rzeszow:

- **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 of the report)

- **the Polish authorities are recommended to take appropriate steps to ensure that all new arrivals at police establishments for children are medically screened without delay.**
(paragraph 27 of the report)

As regards the outdoor activities for detained children staying in the police establishments, under the legal provisions children are provided with the possibility of staying outdoor if the weather conditions are good. This remark is necessary since the outdoor activities could be harmful to health of children if the weather is bad, temperature low or it rains.

All children admitted to a police establishment receive a set of clean clothes for a day time (sports suit) and for a night time (a pyjamas). Children also are given a set of clean bed sheets and linen, a towel and items of personal hygiene.

According to the Order No 6/94 of the Chief Police Commander of 27 October 1994 on police service in police establishments for children, on equipment and security measures, police educators taking care of children are at least college graduated and after a training on pedagogical issues.

As far as it is possible and according to individual needs of children, police educators organise educational activities. The range and subject of these activities varies depending on a child and on time of staying in the establishment, as usually children stay under police care for a time not exceeding 72 hours.

The Chief Police Commander makes constant efforts in order to ensure that girls are searched by female police officers. Further, the Chief Police Commander pays special attention to ensure proper medical care to a detained person which is provided in the Article 15 Sec., 2 item 5 of the Police Act that states: ``an apprehended person should be screened medically without delay, and in case there is such a need, the first aid should be given''. The law enforcement officials should observe the provisions of the joined Ordinance of the Minister of Interior and Administration and the Minister of Health and Social Welfare of 24 June 1997 on procedure of medical screening of persons detained by the police, on providing medical care and on recording results of medical examinations.

The shortcomings in functioning of the Gdansk and Rzeszow police establishments for children revealed by the CPT delegation will be remedied by the provincial police commanders.

c. detention facilities for foreign nationals awaiting deportation

Recommendations

The CPT recommends that Polish authorities take the following steps in respect of the Guarded Centre for foreign nationals in Lesznowola:

- **return the toilet and washing facilities in Block 2 to a good state of repair and keep them clean;**
- **enable residents at the centre to receive visitors for at least one hour per week;**
- **ensure that no restrictions whatsoever are imposed on visits by lawyers;**
- **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;**
- **ensure regular attendance at the centre by a psychiatrist and/or a psychologist;**
- **review the selection and training of staff assigned at the centre.**
(paragraph 39 of the report)

- **it is recommended to take steps to ensure that foreign nationals awaiting deportation held at the Gdynia deportation jail have ready access to a telephone.**
(paragraph 42 of the report)

The Chief Police Commander has informed that all renovation works in the guarded centre for foreign nationals in Lesznowola and in the deportation jail in Gdynia have been carried out as the financial means are provided.

To maintain these establishments in the proper state of repair is difficult in view of the fact that persons who live there quite often damage the rooms, especially toilet facilities where the police has limited access and surveillance. It should be noted that right after the visit of the CPT delegation, the provincial police command in Radom refurbished the whole facility, the toilets and bathrooms in Block 2 have been repaired.

As regards visits paid to the residents of the mentioned facilities, provisions stipulate this problem in a very outlined way. With regard to this problem, the letter No E-II-3/97 of 6 January 1997 and the letter No E-IV-1/98 of 21 April 1998 set up a unified procedure of conduct in such cases. The agreement for paying visits is given freely to the representatives of the High Commissioner of the United Nations for Refugees (UNHCR), Helsinki Committee, Citizens' Rights Ombudsman, diplomatic agency employees and Immigrants and Refugees Ombudsman. In other cases the procedure is as follows: a person who wants to pay a visit applies in writing form to a commander of the unit where the jail or a centre is located. The answer to the application is given in 30 days according to the rules stated in the Code of administration proceedings. This situation does not apply to provide a contact with a lawyer (Article 245 paragraph 1 of the Code of the Criminal Procedure).

According to the recommendations of the CPT the procedure to give a permission for a visit will be changed within the intended legal amendments resulting from the prepared Aliens' Act. The question of paying visits in jails and centres for foreign nationals will be solved, and it should be attached to the Ordinance of the Minister of Interior and Administration.

The guarded centre for foreign nationals in Lesznawola belongs to structures of the provincial police command in Radom. In connection with this fact the selection of the police staff and other employees is made under the Police Act of 6 April 1990, the Ordinance of the Ministry of Interior and Administration of 6 December 2000 on education level, professional qualifications and service experience, the Law on Labour Code and other executive provisions to the Code of administration proceedings related to civilian employees.

The centre staff takes part in foreign languages courses organised on the basis of expressed needs and financial capability. The main factors limiting selection of professional staff speaking foreign languages are not attractive terms of work and low wages. The problem of interpreting in everyday contact is solved by asking foreigners speaking Polish.

People of so many different nationalities placed for a short time would need to employ quite a lot of interpreters, and such solution is unrealistic.

If there is such a need, the manager of the centre employs an interpreter on terms of an agreement. The officials of the Ministry of Interior and Administration and even employees of some diplomatic institutions help the centre in this respect.

As for the health care and contacts with psychologists and psychiatrists, in case of a need, residents of the centre are brought to the health care establishments. The work of psychologists and psychiatrists with persons awaiting deportation is difficult since they do not have the knowledge on psychological features of certain groups of foreigners, their customs, habits, etc. The experienced staff proves to be very helpful in such cases.

In near future the guarded centre will be enlarged, thus the living and working conditions of both residents and the staff will improve. More space will give a better chance to organise more frequently activities for foreign residents.

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

Recommendations

- **to ensure the access to a lawyer for persons in police custody according to the provisions of the 1998 Code of Criminal Procedure;**
(paragraph 52 of the report)
- **to amend the provisions in the Code of Criminal Procedure concerning the right of a detained person to talk to a lawyer in private, give an instruction to police officers not to be present during the meeting between detained persons and their lawyers;**
(paragraph 52 of the report)
- **to take steps to ensure the effectiveness of the system of legal aid for persons in police custody;**
(paragraph 53 of the report)
- **expand the joined instructions on the manner of conducting medical examinations of persons detained by the police issued in 1997 by the Polish Ministries of the Interior and Health, so as to provide that:**
 - 1. persons deprived of their liberty by the police have the right to have access to a doctor of their choice;**
 - 2. all medical examinations are to be conducted out of the hearing and out of the sight of police, unless the doctor requests otherwise;**
 - 3. the results of every examination, as well as any relevant statements by the detainees are to be formally recorded by the doctor.**
(paragraph 54 of the report)
- **nationals detained under the Aliens' legislation and the necessary steps should be taken to ensure that foreign asylum seekers are systematically issued with a form of 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 has been informed of the rights.**
paragraph 56 of the report)
- **to take the necessary steps for adoption of a code of conduct for interrogations.**
(paragraph 57 of the report)
- **to take appropriate steps to remedy the shortcomings in records for detained persons, the register should record all aspects of the custody period, in particular, the times of arrival and release.**
(paragraph 58 of the report)

The Code of Criminal Procedure in the Article 73 paragraph 1 provides that an accused (suspected) in temporary arrest can have a contact with a defender in private (in absence of other persons) or by a correspondence (only a public prosecutor, in especially justified cases, can require that in 14 days since apprehension time , the contact with a defender should not be in private, that a prosecutor or an entitled person should be present).

In case of apprehension, on demand of an apprehended person, a contact with a lawyer should be ensured including a conversation in private, in this situation, an apprehending party can require to be present at this meeting (according to the Article 245 paragraph 1 of the Code of Criminal Procedure).

The choice of a doctor made by a detained person does not seem possible as the persons are held at the police command for a short time (up to 48 hours, and in some cases up to 72 hours). In every police station that has a place for detained persons, there is also an infirmary. Usually, except for certain cases justified by safety reasons, medical examination is carried out of sight of police officers. The results of medical examinations are recorded, on compulsory basis, in a book of medical visits.

As for the interrogations of the persons deprived of liberty, they are conducted with observing all citizens' rights.

Using the equipment for electronic recording is regulated by the Article 147 of the Code of Criminal Procedure, the Ordinance of the Minister of Justice of 12 August 1998 on electronic equipment used for the purpose of recording and means of preserving, keeping and copying the records.

At present, documents drawn up in facilities for detained persons comply with all formal requirements and are accessible at any time to all entitled persons.

Border Guard establishments

Recommendations concerning material conditions of detention facilities

- **it is recommended to equip and put into service the new facilities for persons detained at Warsaw International Airport**
- **to ensure that all detained persons have access to drinking water and food, as well as access to a pay-phone**
- **to ensure that all persons detained for more than 24 hours are offered at least one hour of outdoor exercise per day**
- **to ensure 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 of the report)

At the Warsaw International Airport, the Border Guard only uses the rooms given by the directors of the Airports State Enterprise. The part of the airport used by the Border Guard has been divided into rooms for accommodating apprehended persons and into rooms for accommodating travellers who have not been admitted the entrance visa to Poland. In view of the fact that the mentioned rooms do not meet the requirements specified for this type of facilities, they are used only when it is necessary.

According to the rules and regulations, the period of time of persons staying in the detention part of the facility should be as short as possible but allowing for legal or administration proceedings or to send an apprehended person to the Police. Detention at the Border Guard facility cannot be longer than 12 hours. This fact does not affect the rights of a detained person, also as regards physiological needs. The rooms for persons who have been refused entrance to Poland function as a waiting room. Travellers staying there are provided with food and drinks on the expense of the Border Guard according to a fixed amount per day. Furthermore, a Border Guard officer is obliged to bring food and drinks to a person staying in the waiting room on the demand and expense of this person. Travelling persons can use pay-phones installed at the Airport. Only in the situation when a person requests to contact the diplomatic agency, the official telephone of the Border Guard can be used. Travelling persons have also access to fresh air and can go outside for a walk if such persons stay in the facility for a period longer than 24 hours. In view of the fact that for this category of travelling persons there is only one room, it is not possible to organise separate places for women and men.

The situation of persons detained at the airport or staying in the waiting room will change when the refurbishment of the adapted building is completed. The new building given to the Border Guard for establishing a new facility has a separate place for outdoor activities, walks, etc. The renovation works are supposed to be completed in 2002.

- to take appropriate steps to remedy the shortcomings noticed at the Border Guard Unit at Medyka Railway Border Crossing.
paragraph 49 of the report)

Buildings located at the Medyka Railway Border Crossing have been repainted and adequately lit. Furthermore, the motion has been brought to the owner of the facility, that is the Polish State Railways, to make an additional access to toilets facilities directly from the room for detained persons. Before this new way to toilets is made, persons detained in the Medyka Border Guard facility are brought to toilets by the surveillance officers. The period of time of the detained persons in Medyka does not exceed few hours which are needed for conducting legal and administration proceedings. In case it is necessary to hold persons longer than few hours, they are sent to the facilities at the Bieszczadzki Border Guard District Command or to the Police command.

In fact, the detention area at the Bieszczadzki Border Guard District Command has no facility for the outdoor exercise. The reason is that this District Command has only rooms for persons detained for a relatively short time, and not for persons awaiting deportation. Setting up such facilities is not justified in the light of provisions of the Ordinance of the Minister for Internal Affairs of 7 August 1996, stipulating conditions for holding rooms at the Border Guard Commands and for outdoor areas. However, if a detained person needs to stay outdoors, on the demand of this person or on the medical indication, it is possible to stay outdoors under surveillance of the Border Guard officers.

Considering that it is necessary to provide appropriate conditions to detained persons, at the beginning of the last year all holding rooms for persons awaiting deportation in facilities of the Border Guard were checked. In result of this control, the programme to improve the state of repair and equipment of the facilities has been worked out.

As regards some of the facilities, like holding rooms at the Medyka Railway Border Crossing or at the Warszawa-Okęcie International Airport, the Border Guard is not their owner, therefore, without the agreement of the legal owner cannot undertake any renovation works. As the mentioned rooms do not guarantee suitable standards, so they are used only for short time detention in order to carry out necessary proceedings, and then to take a detained person to facilities meeting the requirements stipulated in legal provisions.

Recommendations concerning safeguards against the ill-treatment of persons deprived of their liberty:

- **to take appropriate steps to ensure that persons in police custody have access to a lawyer according to the provisions of the 1998 Code of Criminal Procedure;**
(paragraph 52 of the report)
- **to give an instruction to officials of the Border Guard not to be present during meetings between detained persons and their lawyers;**
paragraph 52 of the report)
- **to take steps to ensure the effectiveness of the system of legal aid for persons detained at the Border Guard facilities;**
(paragraph 53 of the report)
- **to take necessary steps 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 a language they understand;**
(paragraph 56 of the report)
- **to take steps to remedy the shortcomings in records of detained persons, the register should record all aspects of the custody period, in particular, the times of arrival and release.**
(paragraph 58 of the report)

Every person apprehended by the Border Guard, regardless of information on rights included in the protocol of apprehension the duplicate of which is given to an apprehended person, obtains a written form with the following information on entitled rights to:

- immediate contact with a lawyer and direct talk to a lawyer,
- request to notify relatives or other person,
- contact with a diplomatic agency of the state of an apprehended person,
- to lodge a complaint with the court.

If an apprehended person is a foreign national, the written document on the entitled rights is translated into his own language or a language he has a command of. An apprehended person signs the document confirming this way that he has been advised of the rights. The original of the document is attached to the records of the case, while the duplicate is handed over to the person concerned. If a person declines to sign the document, this fact must be recorded in the information on rights by an officer of the Border Guard.

The information on rights of detained persons is also placed in visible place in holding rooms for detained persons and persons awaiting deportation in the facilities of the Border Guard.

In order to unify the proceedings concerning apprehended persons and considering the problem of observing the provisions of apprehension by officers of the Border Guard, the Chief Commander of the Border Guard on 16 March 1999 issued rules and regulations on service in facilities of the Border Guard which are provided for detained persons. A significant part of this document contains obligations of Border Guard officers with regard to rights of apprehended persons.

According to the provisions of the rules of regulations it appears clearly that appropriate steps must be taken to meet requests of detained person and to observe his rights that are stipulated by the Code of Criminal Procedure, as well as taking measures to ensure the conditions of living in a proper stage of hygiene to meet their physiological needs.

It should be noted that the recommendation of the CPT that officers of the Border Guard should not be present at the meeting of a detained person with a lawyer, in the light of current legal provisions is not possible to fulfil as the apprehending body can declare to be present at such meetings. However, this right of apprehending bodies is used occasionally and takes into account the benefit of the conducted preliminary procedure.

As regards observing rights of detained persons by officers of the Border Guard, the superiors of the officers supervise their work and check whether apprehensions are justified and are carried out according to legal provisions in force. The rules and regulations also oblige the superiors to periodical checks. Public prosecutors and judges have also rights to check the work of the Border Guard. In every case of lodging a complaint on terms of apprehension or if a court states that apprehension is not justified or illegal, the explaining investigation is conducted in this matter.

As regards observing the rights of detained persons and keeping records by the Border Guard, the Chief Commander of the Border Guard after recent and current checks has not noted any offence or shortcomings.

B. PRISON ESTABLISHMENTS

I. Preliminary remarks on the Prison Service

Recommendations

- **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 of the report)

Under the Polish law there is no possibility to decline admission of a sentenced or a temporary arrested person to the prison or remand establishment even if the establishment is overcrowded. Therefore, solving this problem is not exclusively the task of the Prison Service, since it is the body executing courts' decisions but has no influence on the State policy in this matter, except for giving information on the density of occupancy.

Pursuant to the Article 248 paragraph 2 of the Code for Execution of Sentences, the Minister of Justice published two Ordinances on rules and procedures the appropriate bodies should apply when the number of prisoners in the prison and remand establishments overpasses the capacity of these prisons on the national level. One Ordinance is of 29 June 1999 (Journal of Law No 61, Sec., 669), the other one of 26 October 2000 (Journal of Law No 97, Sec., 1060). The Ordinance of 29 June stipulated conditions for appropriate measures to be taken by courts and public prosecutors' offices when the general capacity of prison establishments is over passed on the national level, the Ordinance of 26 October put the limit of capacity on 110\% level.

Under the Ordinance of 26 October 2000, the range of steps that should be taken by the Director General of Prison Service is defined as follows:

- according to the paragraph 1, when the number of prisoners accommodated in prison and remand establishments and subordinated outside units overpasses the general capacity of these establishments on the national level, Director General of Prison Service in the period of 7 days has to inform of the existing situation the Minister of Justice, director of Regional Prison Service and directors of establishments.
- according to the paragraph 10, Director General of Prison Service keeps on informing the Minister of Justice once per month about the number of prisoners held in establishments.

After having received the information, director of Regional Prison Service and directors of establishments, within the range of their power, should undertake steps to adapt other rooms for cells considering the required conditions. In additional cells living conditions can be of lower standard i.e. less than 3 m².

The Director General of Prison Service has been taking all kinds of steps, within the range of his competence, to soften the effects of overcrowding in prison establishments. The measures he has taken comprise:

- adapting other building of establishments for the accommodation purpose,
- contacting the representatives designated by the Minister of Defence to talk about overtaking military buildings appropriate for prisons and remand establishments,
- admitting to not overcrowded semi-open prison establishments sentenced prisoners who must serve a sentence or continue serving it after a temporary release,
- directing sentenced prisoners who serve penalty of deprivation of liberty for 1 to 3 months to semi-open prison establishments.

The already existing situation of overcrowding is complicated further by the fact that the number of persons awaiting a sentence in remand prisons and awaiting for execution of a sentence in prison establishments is still increasing.

Table No I

Date	Number of prison sentences awaiting enforcement	Number of persons concerned by these sentences	Number of persons whose entry into prison was postponed
12.09.2000	24,670	22,448	20,324
31.01.2001	24,866	22,387	19,452
28.02.2001	25,088	22,587	19,537
31.03.2001	25,152	22,854	19,851

- **as regards a living space, the existing standard for male prisoners should be aligned on that for female prisoners, namely 4 m² per person.**
(paragraph 61 of the report)

According to legal provisions, the standard living space per one person in the remand prison or a prison establishment should be no less than 3 m² (Article 110 of the Code for Execution of Sentences) The standard could be reduced only in particular case, and a penitentiary judge should be informed of the case (Article 248 CES).

On the grounds of the Article 110 of the Code for Execution of Sentences, the number of persons who can be accommodated in each cell of remand prisons and prison establishments is defined. It is agreed that the standard living space does not comprise a window and radiator niche, space inside the inner grilled door and sanitary annexes (paragraph 4 item 2 of the instruction No 2/99 issued by Director General of Prison Service on 16 February 1999 in the matter of defining the capacity of prison establishments).

Establishing the standard accommodation capacity for each room, the real conditions of a given room are considered in order to use its space in rational way. The purpose of rooms is foreseen, for example, if it is for persons with mental disorder, mentally or physically handicapped, etc.

In result of this approach to establishing the capacity of cells the standard living space is larger than 3 m² per person, there are:

the standard of 4 m² -- 1.402 cells
the standard of 5 m² -- 444 cells
the standard of 6 m² -- 431 cells
the standard of 7 m² -- 20 cells
the standard of 8 m² -- 10 cells
the standard of 9 m² -- 1 cell
the standard of 10 m² -- 3 cells

Furthermore, considering specific assignment of accommodation rooms in hospitals of remand and prison establishments that can provide in total 1.343 beds, the standard living space per person is as follows:

the standard of 4 m² -- 170 cells
the standard of 5 m² -- 57 cells
the standard of 6 m² -- 11 cells
the standard of 7 m² -- 6 cells
the standard of 8 m² -- 3 cells
the standard of 9 m² -- 3 cells
the standard of 10 m² -- 1 cell

Applying the same rules, the standard living space per person in mother and child unit in the Grudziądz Prison No 1 and Krzywaniec Prison has been increased to respectively 7 and 9 m².

Considering the problem of the standard living space the current density of population in prison establishments should be mentioned.

As a result of more severe criminal policy, the number of persons deprived of liberty has significantly increased. The real population in remand and prison establishments over passed 100% of the fixed capacity on 4 September 2000 (population was 63,994, capacity 63,771, it attained 100.3%).

Later, the number of persons deprived of liberty was gradually increasing, and although additional accommodation rooms were provided owing to refurbishment, adaptation of other buildings etc.), density of population on 9 April 2001 reached 114.8% (population was 76,400, capacity 66,552).

The Prison Service faces now the problem of providing the standard living space for all persons deprived of liberty.

Therefore, the Central Board of Prison Service has worked out a programme for finding new places. The programme consists of plans to enlarge the accommodation establishments in the period since 2001 to 2012 in four stages and provide 20,000 new beds.

Over 3,000 beds can be found in a relatively short time due to refurbishment, renovations and adapting different buildings for accommodation units, and about 8,000 beds by building new blocks within the area of existing remand and prison establishments.

It should be noted that these plans can be implemented if additional funds in the amount of 85 million PLN are provided in 2001 for investments and renovations:

- 72 million to complete the first stage of the programme,
- 13 million to start the second stage.

As regards other possibility to increase the accommodation capacity, adapting military buildings is a kind of a solution, however, it is still necessary to:

- invest in renovation for the needs of a closed regime prison establishments (the approximate amount is 20-30 million PLN),
- provide qualified staff (for an establishment with a capacity of 600 places, the number of staff should be 200 employees).
- **to pursue efforts to introduce measures aimed at ensuring that both sentenced and remand prisoners are provided with work.**
(paragraph 62 of the report)

The Central Board of Prison Service takes following steps in order to provide work for persons held in prisons:

1. Takes active part in drawing up legal provisions that should set up a system solving the problem. In 2000, the projects of amendments to the Law of the Code for Execution of Sentences and to the Law on Employment of Persons Deprived of Liberty and to other Laws (like on employment and combating unemployment, on system of social insurance) were brought forward. Passing the amendments to these Acts will enable to lower costs of employment of sentenced persons to the level which allows the actual increase of all kinds of employment. The level of remuneration received by the sentenced employees would be the same.

2. Strives to increase the number of inmates who have paid work, especially cleaning and additional works done for the benefit of the prison establishment within its financial limits. The inmates are employed on part-time terms. Due to such approach, more prisoners have the chance to get a paid work, and in result, after the release to have a right to receive social aid for unemployed. Such situation is possible through the positive interpretation of the provisions of the Law on employment and combating unemployment which has been issued by the State Labour Bureau. In view of a very difficult situation on the work market, more efforts will be made to increase the level of unpaid employment, especially outside prison establishments, for the benefit of the region self-government, the works considered include a wide range of voluntary activities for public benefit or charity works. Still, the main aim of the efforts made by the Central Board is to seek remunerated employment of sentenced persons.

3. Puts into action region expert inspectors of the Prison Service who are responsible for employment of persons deprived of liberty, and make them plan and co-ordinate actions aimed at increasing the employment of inmates of different prison establishments. To begin such actions on their own level as well as in the subordinated units, to check and evaluate undertaken actions, and after all to supervise whether employment of persons deprived of liberty complies with legal provisions.

4. Insists constantly on executing the orders given to regional directors of the Prison Service to take steps:

- to improve the state of employment on the level of the inspecting body,
- to monitor of the actual state of employment,
- to organise at least once a year a meeting of the directors of basic units to discuss the problems of employment of persons deprived of liberty,
- to draw up with 3 months of the new year an annual brief and solid analysis of the state of employment.

Furthermore, according to a new rule, the state of employment in prison establishments is one of the important elements in the evaluation of their functioning.

II. Recommendation concerning the information received by the CPT delegation on allegations of various forms of ill-treatment of inmates by prison officers at Przemyśl Prison, the oppressive atmosphere and security based on intimidation and fear.

- **the management of Przemyśl Prison should take appropriate steps to make use of all means at its disposal to prevent ill-treatment and, more generally, to decrease tension in the prison.**

(paragraph 65 of the report)

The disciplinary measures have been imposed on prison officers who have been responsible for any offence in their work such as decrease of bonuses, warnings, transfers on posts, etc. the action concerned 23 employees together with the director. The manager of the security unit submitted a report and asked for relieving from the post. A qualified and experienced educator has been designated to manage this unit.

Following the complaint of the inmate F., the personal data of prison officials accused of illegal physical ill-treatment of prisoners have been found out. The detailed investigation has been conducted and considering the importance of this case the District Prosecutor's Office in Przemyśl has been informed. The matter, after a detailed investigation has been discontinued since there was no evidence confirming the complaint, as the prisoners have withdrawn their complaints (there is a note in the decision of the prosecutor).

The "Programme of measures in Przemyśl Prison aimed at improving the situation noted by the CPT" has been worked out in agreement with the region director of the Prison Service in Rzeszów. The most important tasks of this programme are as follow:

- i. the workshop training for prison officers of the security unit (leaders of a shift, unit leaders) in 14-16 June 2000 carried by an experienced psychologist from the Kraków Psychological and Psychotherapeutic Centre. The training concerned development of interpersonal communication skills, approach to aggressive behaviour, way of dealing with stress. 16 employees took part in the training (4 leaders of shifts, and 12 unit leaders),
- ii. the training for the leaders of shifts and the leaders of units on proper communication lowering tensions, acquiring skills to defuse "difficult" situations, etc. the training was carried by a psychologist and educators,
- iii. the training for all officers employed in the security unit on the subject of legal methods of treatment of inmates, proper reaction on aggressive behaviour, the training carried by the manager of the penitentiary unit, the manager of the security unit (in different periods of time to 10 June 2000),
- iv. everyday visits of educators in cells, proper conversation with prisoners and listening their complaints, explaining complaints and taking relevant measures without delay,
- v. periodical (at least once a month) visits in all rooms where prisoners are placed paid by a director. In case of complaints on degrading their dignity, the director himself will conduct explaining procedure,
- vi. periodical (at least twice a month) visits paid in all cells by managers of penitentiary unit and quartermasters in order to receive in person opinions and complaints on conditions of serving a sentence,
- vii. discussing noted shortcomings, evaluation of the educational atmosphere at the meetings of management of the establishment and each unit,
- viii. educators and psychologists taking part in evaluating work of the security unit staff,
- ix. reorganising the office work of educators by employing a secretary in the penitentiary unit,
- x. organising regular meetings of the director with cells' leaders, informing prisoners about living conditions, education programmes and cultural activities, receiving and considering remarks of the cells' leaders,
- xi. evaluating procedures of admission of newly-arrived and taking action without delay in case of an offence.

- **in the course of the training for prison officers, considerable emphasis should be placed on the acquisition and development of interpersonal communication skills, in particular, building positive relations with prisoners.**
(paragraph 66 of the report)

In Przemyśl Prison the following measures have been taken:

- i. in the course of training and examinations of new prison officers and employees, special emphasis is put on observing the law in contact with prisoners, on knowledge of rights and obligations of prisoners stipulated in international and national legal provisions, interpersonal communication, and building positive relations with prisoners as elements indispensable in the process of social reintegration,
- ii. in the course of meetings with staff the management of establishments raise issues related with observing the law during contacts with persons deprived of liberty, appropriate interpersonal communication skills and positive human relations,
- iii. after the visit of the CPT delegation in May 2000, a series of special training for prison staff was organised, with a special attention paid to security unit officers.

It should be noted that programmes of training for all officers and employees of the Prison Service consider the issue of interpersonal communication with building positive relations with prisoners. This subject is discussed at preliminary training. The Order No 2/98 of the Director General of the Prison Service of 27 January 1998 in the matter of stipulating detailed principles of organising training and improving professional skills of prison officers and Prison Service officials draws up the plan of teaching during the preliminary training course.

The teaching plan includes a subject called “A choice of issues on professional ethics”, it includes other subjects referring to the ideas of law-abiding, humanitarian values and respect of human rights, all these issues are related to the situation of a prison or remand establishment, and discuss the aspect of a relation between a prisoner and a prison officer, and relations among prison staff. The subject of “A choice of penitentiary issues”: the discussed problems refer to measures of social reintegration of a sentenced person and the function of prison officers in this process. The next subject included in the training programme is “Training of interpersonal skills”, this course is organised by psychologists. During the course the issue of behaviour of prison staff in front of prisoners and their families is discussed. Special emphasis is placed on taking under control the behaviour of prison staff in contacts with prisoners.

In the course of professional training the officers of the Prison Service study the above-mentioned issues in different schools, like Non-commissioned officers' school, Ensigns' school and Officers' school, and at the time of special training, e.g. a course of security unit.

During the training, officers improve their interpersonal skills. The Programme of the non-commissioned officers' school of the Prison Service offers "simulation training" aimed at developing of verbal skills to send and to receive a message, at making officers more sensitive to moral and ethics issues resulting from the decision to enter the Prison Service. Training is related with all kinds of human relation problems, and the future officers have to accomplish such tasks, like: analysing the first days at work, conversation as a means to communicate thoughts and emotions, developing of self-confidence, developing of negotiation skills, analysing behaviour through psychodrama activities. The same programme is offered by two other schools. In addition, there is a training concerning problems of self-respect and respect of other persons, prisoners, subordinates, clients, self-evaluation, evaluation of other persons, self-control and law-abiding conduct.

Information of the Prison Service

- **on the number and types of complaints of ill-treatment lodged against prison staff.**
(paragraph 67 of the report)

In 2000, the Prison Service institutions investigated 1,761 complaints of treatment of prisoners by custodial staff and Prison Service officials.

Among these complaints were:

234 complaints of verbal abuse,
94 complaints of ill-treatment such as beating,
48 complaints of using direct restraint,
1,385 complaints of other forms of incorrect treatment.

21 complaints were recognised as justified. Furthermore, 379 cases were investigated by other authorities entitled to examine complaints lodged by persons deprived of liberty (i.e. courts, public prosecutors, Citizens' Rights Ombudsman). The complaints referred to all kinds of treatment by custodial staff and Prison Service officials.

- **on the account of disciplinary or criminal sanctions imposed following complaints of ill-treatment by prison staff.**
(paragraph 67 of the report)

In 2000, following complaints of incorrect treatment of prisoners, disciplinary sanctions were imposed on 4 Prison Service officials. Two of them were admonished, one was reproached and one severely reproached. This year, no complaint was lodged at court.

Remarks of the CPT delegation with regard to the regime applied to prisoners classified as "dangerous", which was characterised by a total absence of organised activities and a paucity of human contact.

In recent years the number of especially demoralised prisoners has been increasing. They impede seriously the Prison Service officials and other inmates. On the grounds of the criminal executive provisions being in force since September 1998, a part of these prisoners have been classified as "dangerous". Their number has been increasing and now there are 335 of them.

In order to prepare adequately the prison staff and the security staff for work with this group of sentenced prisoners, the special training has been organised. In the course of the training, the prison employees have learnt about legal provisions to be used in contact with this group of prisoners, and about international standards and laws.

Restraints applied to the “dangerous” group of prisoners results of the Article 88, paragraph 3 of the Code for Execution of Sentences and executive provisions to this Code, they provide that:

- they are placed in the unit or cells for this group of prisoners,
- accommodation cells and places for work, education, exercises, visits, religious services, and different activities are equipped with additional technical and security measures,
- accommodation cells are closed for the whole day and are under strict control,
- they can move around the establishment under reinforced surveillance and only in case of necessity,
- every time they are leaving and coming back to a cell, they are searched, they can go outdoor only in indicated places and under reinforced surveillance,
- they are not allowed to use their own clothes.

Furthermore, according to the paragraph 96 Sec., 4 of the Ordinance of the Minister of Justice of 12 August 1998 on rules of execution of imprisonment sentence (Journal of Law No 111, Sec., 699) and the paragraph 64 Sec., 3 of the Ordinance of the Minister of Justice of 12 August 1998 on rules of execution of temporary arrest (Journal of Law No 111, Sec., 700), “a dangerous” prisoner can study, work, attend religious service, take part in sport activities only in the unit he is placed at. Activities are organised and give a possibility to watch films in common rooms, to have access to newspapers and books, to take part in physical recreation (table tennis, body building), to attend religious service and to attend religion classes, etc.

As regard the problem of a paucity of human contact, it should be noted that “dangerous” prisoners can contact with other people within limits provided by the Code for Execution of Sentences and pursuant to legal provisions issued of the basis of the Code.

Procedures stipulated in the Ordinance of the Minister of Justice of 12 August 1998 on rules of executing the temporary arrest and in the Ordinance of the Minister of Justice of 12 August 1998 on rules of executing imprisonment sentence provide that:

- in every case, the way of contact of a “dangerous” prisoner with the organisations defined in the Article 38, paragraph 1 of the CES, i.e. societies, foundations, organisations that realise purposes stipulated in the Chapter 7 of the Code for Execution of Sentences, as well as with churches and other religious organisation, is defined by a director of an establishment,
- visits to a “dangerous” prisoner have place in an indicated room under a reinforced surveillance. At the time of a visit, a dangerous prisoner cannot have a direct contact with a visitor, cannot eat food or drink beverages bought by a visitor. A dangerous prisoner cannot receive visits in presence of other prisoners who are not classified as dangerous,

- according to the paragraph 96, Sec. 10 of the Rules and regulation of executing imprisonment penalty, if a visitor could be in a serious danger, visits can be received in a way excluding a direct contact with a visitor. This decision is made by a director. This situation does not refer to persons mentioned in the Article 8, paragraph 3 of the Code, i.e. a defender or a lawyer. On demand of these persons, during a visit they need not have a direct contact with a dangerous prisoner,
- according to the paragraph 64, Sec. 11 of Rules and regulations of executing a temporary arrest, on demand of a visitor, the way of a visit with a temporary arrested dangerous prisoner should prevent a direct contact,
- according to the paragraph 64, Sec. 10 of the Rules and regulations of executing a temporary arrest, a director of an establishment informs an appropriate body that a visitor could be in a serious danger and that it is necessary to allow visits exclusively in a way preventing a direct contact.

“Dangerous” prisoners have the rights as all sentenced persons:

- in an establishment of a closed regime, a sentenced person can have two visits per month, with the agreement of the director accumulated at the same time (i.e. once a month),
- according to the paragraph 42 Sec. 3 of the Rules and regulation of executing a temporary arrest, in justified cases, a director can allow for a longer time of a visit,
- according to the paragraph 33 Sec. 4 of the Rules and regulations of executing imprisonment penalty, in justified cases, a director can allow for a longer time of a visit, increase the number of visits per day or allow for a visit of a more than one visitor at a time,
- according to the paragraph 35 Sec. 1 of the Rules and regulations of executing imprisonment penalty, a sentenced person has the right to a telephone call on his own expense,
- according to the Article 105 of the Code for Execution of Sentences, a sentenced person has the right to correspondence,
- prisoners can be awarded by increasing a number of visits and their length.

To sum up, it should be noted that the Code and the rules and regulations provide many possibilities for a sentenced person to contact with the outside world, it refers also to prisoners classified as “dangerous”. Restrictions imposed on them are aimed only at ensuring safety to other prisoners, prison staff members and other persons.

Activities for “dangerous” prisoners include evaluation and verification of their needs, in particular with regard to education, employment, psychocreation, detoxication and preparing for social reintegration.

The Central Board of Prison Service supervises the way of execution of imprisonment penalty and temporary arrest, as well as observing the rights of sentenced persons classified as “dangerous”.

Information on the project for building a facility for “dangerous” prisoners at Rzeszów Prison and its envisaged date of entry into service.

(paragraph 73 of the report)

The project to build a Block for “dangerous” prisoners was worked out in 2001, which is now evaluated. The procedure to make plans will begin in 2002. Building of this new Block for “dangerous” prisoners will probably start in 2004.

III. The recommendations of the CPT to pursue efforts to modernise infrastructure of Polish prison establishments, considering as a matter of high priority:

in Warszawa-Białoleka Remand Prison:

- the completion of the refurbishment programme.

(paragraph 76 of the report)

The refurbishment of the Block 1 which started at the time of the CPT delegation visit has already been completed. During the repair works the following changes have been made:

- i. in the cells: new electric installation, water connections, sanitary installation, window frames and floors changed or repaired, new sanitary equipment, walls redecorated;
- ii. the corridors in the Block 1 have been refurbished: new electric installation, window frames repaired, walls redecorated.

The standard cells furniture equipment was changed or repaired. Currently, refurbishment works are underway in the Block 3 and it is planned to be completed at the end of this year. If sufficient funds are provided, two other Blocks and the kitchen facility will be renovated in the period of 2003 to 2004.

- to ensure that no more than four prisoners be held in the establishment's standard cells, and no more than one prisoner in its 6.7 m² cells (save in exceptional cases when it would be inadvisable for a prisoner to be left alone).

(paragraph 76 of the report)

The prison establishment is constantly overcrowded since November 1999, such situation makes impossible providing even the standard living space of 3 m². Since last year, although the accommodation capacity of the establishment has been doubled, other different rooms have been adapted, and changes in the way of serving a sentence have been introduced (depending on a region), there is still not enough place for temporary arrested persons. Thus, it happens that in cells for 4 prisoners, 6 persons are accommodated, and in cells for one person there are two prisoners. Even the financial funds provided for adapting new places, 150-200 in Block 5, at the same level of occupancy cannot guarantee that the standard 3 m² is ensured.

- **to make vigorous efforts to develop the programme of activities for prisoners, in particular, to provide young offenders with a programme of educational and recreational activities.**
(paragraph 78 of the report)

I would like to inform that the remand prison has already put in life the educational and recreational programme provided in particular for young offenders. The offer of the programme is quite rich, for example, educational films on addiction or HIV problems are presented. Different quizzes and contests on legal, health, culture, geography, history etc. issues are organised. The recreational activities offer chess and table tennis competitions.

It should be noted that in order to make the educational programme more attractive, the remand prison looks for sponsors who could support financially penitentiary administration. Among the parties co-operating with the remand prison there are Jard Press, National Office for AIDS and Drug Addiction (providing video tapes, books, education brochures), BlueBOX (audiocassettes and CD's). Other organisations such like MONAR, SANEPID and Polish Radio also support our establishment.

In the course of the education programme, 9 vocational courses have been organised, such as: bricklayer, tilelayer, rooflayer, gardener, wall painter, tinsmith, etc. 167 sentenced prisoners have already completed these courses.

- **to improve the outdoor exercise facilities for prisoners held in Block 4.**
(paragraph 78 of the report)

The lack of sufficient financial means causes enormous problems for making adequate outdoor conditions for sport activities for prisoners in Block 4, like building a new pitch. Currently, the young offenders are held in this Block, in spring and summer they use the sport facility located at the Block 1.

Information of the current state of functioning of the diagnostic unit for young offenders.
(paragraph 79 of the report)

The diagnostic centre (unit) for young offenders has been functioning since the beginning of the 2000. The unit can accommodate 43 persons, the staff consists of 3 psychologists and 1 educator. The centre provides psychological diagnoses for sentenced young offenders in custody. If it is possible, sentenced young offenders from other prison establishments subordinated to the Regional Director of the Prison Service in Warsaw are also examined. Last year 142 prisoners were examined, this year 40 persons.

The proper classification of young offenders is the aim of the psychological examination.

The diagnostic unit has at its disposal better than other units' equipment and accommodation conditions as it contains a reading room, two common rooms with two ping-pong tables, book shelves, more tables. It can also offer a wider range of cultural, educational, recreational activities, and the activities can be attended more often.

in Łódź Prison No 2:

- **the completion of the cell refurbishment programme.**
(paragraph 84 of the report)

At present, the refurbishment programme which was underway at the time of the CPT visit has been completed. During the refurbishment all accommodation cells have been redecorated, the sanitary system has been repaired. Also the cells in unit first and second have been repainted, thus, all cells in the establishment have been repainted. The renovation programme for 2001 foresees renovation of wards in the hospital building.

- **to make efforts to reduce the cell occupancy rates.**
(paragraph 84 of the report)

The increasing number of prisoners forces the appropriate authorities to make all possible efforts to keep the present level of the occupancy rates to maintain the standard of living in cells. Therefore, in co-operation with the management of the hospital, all inmates whose treatment or forensic psychiatric observation have been completed, are directed to serve the sentence in appropriate establishments. If it is possible to change the category of a prisoner due to progress in therapy, they are then placed in semi-open regime establishments. Systematically, according to the requirements of the Code, the management applies to the penitentiary court to release certain inmates ahead of time if they show positive attitude towards life in society.

Except for the above steps, other measures are used to increase the capacity of the establishment. For example, the common rooms have been adapted for the accommodation needs of the prisoners. Such situation causes many problems with carrying out a cultural and educational programme, nevertheless, these activities are organised in another way and in another place.

- **to change the configuration of the narrow cells, so as to ensure that there is 2 m or more between walls.**
(paragraph 84 of the report)

Under the Polish legal provisions (Article 110 of the Code for Execution for Sentences) the standard living space per one persons is not less than 3 m². The establishment observes the stipulated standards and for each unit of the establishment there are lists of rooms with their purpose and the admissible number of places to accommodation. Theoretically, changing the configuration of the narrow cells is possible, however, the costs of renovation works would be quite significant. The works to change configuration should take under consideration the architecture features, such as roof and its load factor, and also changing the sanitary, heating and electric systems of the building. At present, these cells are provided for non smoking persons who are not willing to live in cells accommodating several persons. Two of these cells are used as infirmary.

The recommendation of the CPT cannot be implemented at the moment as the prison faces dramatic lack of financial funds.

- **to take special care of the particular dietary needs of diabetic prisoners.**
(paragraph 84 of the report)

As regards the particular dietary needs of diabetic prisoners, the establishment employs a dietician for 1/4 time. She co-operates with the inspecting official responsible for food supply and with the health-care staff. These employees together make decisions as for the most suitable diet for sentenced patients. The diet for diabetes is systematically modified on the basis of the modern knowledge on the disease. In every case, the diet is fixed after an individual consulting with a physician. In order to carry out thoroughly the medical recommendations, the constant co-operation is established with the clinical health-care service outside the prison hospital.

- **to take steps to enhance the programme of activities and to provide more prisoners with work** (paragraph 90 of the report).

The steps to enhance the programme of cultural and educational activities for the prisoners have been taken. The radio system started to transmit programmes on the establishment's and prisoners' problems. Except for the radio, the inmates have now more TV channels, seven including three from the satellite. In 2000, the "Vision RTV" decoding machine was bought, and the TV offer is now more attractive than it used to be. The establishment offers more active way of spending time, like in a computer room or in a musical centre. All inmates who participate in these activities learn new skills which could be of use after release.

Educators of all units organise different kinds of competitions and tournaments which are quite popular among the establishment population. Usually once a month, cultural meetings, such as concerts, theatre performances, etc. are organised for all inmates. Prisoners have at their disposal library, newspapers and magazines.

The steps have been taken to make the educational and cultural offer more attractive and to make the larger number of inmates more active.

However, the increasing number of prison population, and changing two of 5 common rooms into accommodation makes difficult to plan and to carry out many forms of activities for a huge group of prisoners.

The prison establishment employs inmates only at works necessary for functioning of the prison. Significant increase of employment is possible in summer at renovation works, if there are sufficient financial means.

The employment could be increased if more prisoners could work outside the prison, however, there are some limits:

- special purpose of the establishment, hospital, therapeutic, rehabilitation and diabetic units accommodate mostly sentenced persons suffering from physical and mental disfunctions,
- small number of prisoners is qualified to serve a sentence under the semi-open or open regime, and if employed outside the establishment, then the escort system could not be so strict.

It should be noted that the establishment makes efforts to find a contracting party to offer employment to inmates; however, owing to the problem of increasing unemployment in the country, there are no positive results.

- **to improve the outdoor exercise facilities.**
(paragraph 90 of the report)

Prisoners of the establishment can use only three yards for the purpose of outdoor exercise activities, there is a basket for playing basketball in one of the yards. Unfortunately, the prison is situated in an urban area, therefore it is not possible to build another yard for outdoor activities. It is not possible as well to join the yards, as the large number of isolated prisoners should also have place for staying outside their cells.

In spite of all these difficulties, the project to equip one of the yards with a set to physical exercises has been made.

- **to take steps to enhance substantially the programme of activities for prisoners in the therapeutic unit, to make efforts to build positive relations between prisoners and staff, by putting more emphasis on group and milieu therapy.**
(paragraph 96 of the report)

The staff of the therapeutic unit worked out and has been implementing the programme of interaction in order to widen the range of activities for the patients of the unit and in order to build positive interpersonal relations, in both environments, among prisoners and between prisoners and the staff. The programme is implemented basing on four subjects: sports activities, education, psycho-correction and vocation (employment).

SPORTS ACTIVITIES

Owing to poor space and sports logistic conditions in the establishment, the exercise activities are limited to body building and ping-pong competitions.

- i. body building

This kind of exercises have been planned in cycles, for different parts of muscles. Every time a patient wants to take part in exercise, a physician must agree. The body building exercises, in particular, at the very beginning, are supervised by a coach. The programme is as follows:

- explaining exercises by a coach,
- showing how to make them in a safe way,
- warm up and stretching,
- exercising the planned elements of activities,
- relaxing.

Every cycle of the activities is planned for two weeks and ends with a competition. Winners receives awards and diplomas. There are also competitions organised between the units of the establishment.

ii. The table tennis league

The table tennis league is a voluntary activity for all interested in taking part in matches. The results are rewarded four times a year. The awards are given to six players who proved to be the best during 3 months. At the end of every three months cycle, a general meeting between all units is organised. Three players out of the best of the therapeutic unit take part in this general meeting. In individual matches, also prisons staff members can play.

EDUCATION

Education is divided into three subject groups:

i. Computer - how it is constructed, how it works and how to make use of it. Computer activities are planned in such a way as to give all participants a possibility to learn new skills, to enable to use these skills in other classes, and to make it a starting point for further education. After this basic training, prisoners interested in computers can develop their new knowledge in the computer workshop, publishing a unit newspaper or the provision of computer services for the unit.

ii. Internet - a source of knowledge. When the computer room is enlarged, for prisoners who are interested in improving their computer skills, Internet meetings will be organised. Since Internet guarantees a direct contact with the whole world, the meetings will be held in a limited groups of patients (2 persons per group), once a week for two hours. The purpose of using Internet is above all educational. Through the education sites, the knowledge of patients on Poland, history, geography, administration will be developed.

iii. School and teaching. This group should take care of patients who have gaps in knowledge at the school level, or if some of them cannot read and write. The task of this activity group is to teach basic school information to participants.

PSYCHO-CORRECTION

The activities organised under this subject have been worked out together with experts of the Psychological and Pedagogical Aid Centre for Youth in Łódź. The therapeutic team of the unit to carry out the programme has planned the following forms and methods of psychological work with patients placed in the establishment to serve the sentence:

- workshop “taming stress”,
- workshop “efficient communication”,
- workshop “efficient dealing with difficult situations”,
- workshop “tolerance - a slogan or maybe something more”,
- workshop “we don't smoke - why should you - smoking prevention”,
- workshop “psychodrawings”.

The therapeutic workshops are planned as a unified cycle to affect one group of inmates, then, the whole cycle lasts one year. Classes can be attended as separate subjects depending on the interest of patients.

Each workshop is foreseen to last 3 months.

Since April this year, in view of the fact that the staff of the unit underwent a special professional training, the unit started to put into action the new psychotherapeutic workshop that is aimed at work with patients showing aggressive behaviour.

VOCATION

Employment is an element accomplishing the programme, since it is a kind of a test of acquired skills under conditions forcing patients to be more active and self-responsible. Patients staying outside a therapeutic unit (even temporary) give information on their life ability without supervision of the therapeutic staff.

The occupational therapy is aimed at organising activities for patients in their leisure time. This kind of activities is provided for inmates who have no qualification for any kind of employment for different reasons: state of health, difficult personality, no vocational skills, or for inmates who want to learn new skills. There are following workshops at the unit:

- weaving (producing all kinds of tapestry and products made of string),
- tailoring (the main products are toys: teddy bears, doggies, bunnies, and pillows, doilies, bedspreads, etc.),
- carpentry,
- computers.

in Przemyśl Prison:

- **to take measures in order to reduce the occupancy level in Przemyśl Prison, priority to be given to young offenders.**
(paragraph 99 of the report)

Taking certain steps in accordance with the Regional Inspectorate of Prison Service in Rzeszów, the number of young offenders held in the establishment was limited to 20 prisoners in the period before the prison has become overcrowded. At the moment, the population accommodated attained 120% of the total capacity, in result, the number of young offenders increased as well.

- **to make efforts to ensure that not more than one prisoner is accommodated in the establishment's 6.5 m² cells, save in exceptional cases when it would be inadvisable for a prisoner to be left alone.**
(paragraph 99 of the report)

Considering the fact that it is not possible to reduce the population of the prisoners or to increase the capacity of the establishment, the recommendation of accommodating not more than one prisoner in cells of 6.5 m² cannot be implemented.

- **to improve access to natural light and ventilation in the prisoner accommodation, and to refurbish the shower facility.**
(paragraph 99 of the report)

At the time of cells' refurbishment the gravitation ventilation and windows have been repaired, the shower facility has been refurbished as well. The water installation works properly providing water to shower facilities.

- **to make efforts to develop the programme of activities for prisoners in Przemyśl Prison.**
(paragraph 104 of the report)

More efforts have been made to intensify and to widen the cultural, educational and sports activities of the prisoners in the Przemyśl Prison. In particular, they have more possibilities to take part in such activities like playing chess, art lessons, theatre workshops, film workshops, geography lessons.

Also the range of sports activities has been widened, prisoners have a chance to play soccer, basket ball, ping-pong at the outdoor facility, or to use the body building room. The management takes steps to organise musical, theatrical and artistic performances with people from outside the prison establishment. Although the prison is still overcrowded, the common rooms at accommodation units are at constant disposal of the inmates.

- **to 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 or re-integration.**
(paragraph 104 of the report)

As regards the problem of young offenders, urgent measures have been taken to stimulate their potential for integration. The programme called "Relaxation training" has been worked out and implemented. Its aim is to teach the young offenders how to deal with negative emotions and aggression through the elements of music therapy and visualisation. Furthermore, quite a lot of activities have been worked out to let the young offenders relax and deal with a stress. The young prisoners have possibilities to watch educational films that teach what the assertiveness is and they can learn techniques to avoid aggressive reactions. Young prisoners spend a lot time on physical activities, as well as take part in activities inspiring to educational development (e.g. on geographical discussion film club).

Other educational programmes include films on addiction to alcohol or drugs, legal advice and programmes on functioning in a family, meeting the social demands. The young offenders are given brochures on different subjects, like addiction, medical issues, family violence. They also have a chance to take part in the re-berthing training teaching them how to calm down and react to stressful situations. The undertaken measures resulted in improvement of relations between the inmates, as well as building better relations with the prison staff, and limited the cases of aggression and self-harm.

- **to re-decorate the common room in Block 2.**
(paragraph 104 of the report)

The common room in Block 2 has already been re-decorated.

- **to improve the outdoor exercise facilities, and to install a means of protection against poor weather conditions.**
(paragraph 104 of the report)

The outdoor exercise facilities have been adapted to play basket ball, soccer, “unihoc” (a kind of a hockey) and table tennis (ping-pong). There are plans to build a new and large outdoor field; however, the plans depend on getting additional funds.

The security system of the establishment does not allow to install protection roof over the outdoor exercise facility. In winter or when it rains, the prisoners are supplied with additional overcoats.

in Rzeszów Prison:

- **to complete the refurbishment programme and to make efforts to reduce the occupancy levels in Units 3 to 8.**
(paragraph 111 of the report)

The refurbishment programme is carried out according to a fixed agenda.

At the end of 2000 and the beginning of 2001, the modernisation of certain parts was completed. Since the financial funds are not sufficient, the priority is given to renovation works necessary for proper functioning of the establishment.

Considering the problem of overcrowding of all prison establishments in the country, at the moment it is not possible to reduce the occupancy level in any unit. However, certain steps have been taken to modulate the number of prisoners:

- the work of the penitentiary commission has been intensified in order to direct sentenced persons to prisons of semi-open and open regimes establishments,

- the motion to change one of the semi-open regime blocks in the Dębica Prison into a closed one has been put forward, this could reduce the number of prisoners serving the sentence for the first time.

- **to improve the state of repair and cleanliness of the “quarantine” cells, each cell should accommodate no more than 7 prisoners.**
(paragraph 111 of the report)

The state of repair and cleanliness in the quarantine cells have been improved. The appropriate staff of the establishment is responsible for keeping the cells in a proper state of cleanliness. At the moment, there are 10 quarantine cells in the establishment, 5 of them can accommodate 4 persons, while the other 5 can accommodate 8 or 9 persons. The capacity of these cells observes the standard 3m² of living space per person. Actually, as the establishment is overcrowded, the situation does not allow to reduce the occupancy level of “large” quarantine cells to 7 beds.

- **to enlarge or withdraw from service the cells of 5.5 m².**
(paragraph 111 of the report)

Pursuant to the Article 110 of the Code for Executing of Sentences which stipulates the standard living space, a cell of 5.5 m² can accommodate one prisoner and need not to be withdraw from service.

- **to make efforts to develop the programme of activities for prisoners, above all more prisoners must be provided with work of vocational value, to extend the range of education and vocational training activities.**
(paragraph 119 of the report)

In order to increase the rate of employment of sentenced prisoners, many efforts have been made to arouse interest in prisoners' work among the potential contracting parties, steps, like newspapers' adverts, offers to the County Labour Bureau, owners of companies, offers of renting production workshops of establishments have been taken, unfortunately in vain, as the possible contracting parties were not interested in this offer, giving as the main reason the low profitability of employment of sentenced prisoners.

As regards the vocational training activities to prepare the prisoners to future life, the programme of active professional training has been carried out. In the course of the training prisoners learn about the legal provisions of the Code of Labour, job offers for persons after serving a sentence, and also they are trained in developing the skills of being active in looking for jobs.

In the course of training the prisoners are motivated to permanent learning and gaining new professional skills, they are also directed to schools. In 2000, 48 persons were sent to schools and for professional training.

It should also be noted that the establishment implements programmes aimed at helping persons addicted to alcohol or drugs or programmes combating family violence.

- **to equip the outdoor exercise facilities with means of protection against inclement weather.**
(paragraph 119 of the report)

The security system of the establishment does not allow to install protection roof over the outdoor exercise facility. In winter or when it rains, the prisoners are supplied with additional overcoats.

- **to examine the possibility of installing an indoor gym facility.**
(paragraph 119 of the report)

The sport education is noted as a significant means in attaining the re-integrating aims. The present sports and gymnastics facilities, like exercise yards, common rooms and body building rooms, are the indispensable basis to carry out the physical exercise activities.

Installation of an indoor gym will allow to widen the range of physical exercise activities and could lessen the effect of many years isolation.

However, it should be noted that building an indoor gym requires high financial investments. In case the establishment receives the sufficient financial aid, it will be possible, by the year 2003, to adapt the building of boiler heating for the purpose of an indoor gym facility.

- **to supply the prison library with recent books.**
(paragraph 119 of the report)

The basic obstacle to supply the library with recent books is insufficient supply of financial means. Therefore, in the recent time, the main way of getting new books is to apply to libraries of different organisations that have been closed. The application for receiving 250 books (56 titles) has been sent to the Foundation in Warsaw aiding the Polish Libraries.

The District Administration Training Centre has sent 436 books, a private person has sent 50 classical literature books. Also the library of the chapel has been increased by 200 books on history and religion subjects.

Furthermore, the Provincial Library in Rzeszów, since many years, has been lending a part of their books collection for prisoners. Thus, in 2000, there were 500 new books to be read, and 200 in 2001.

Recommendations referring to health-care issues:

- **the record drawn up following a medical examination of a newly-arrived prisoner should contain:**
 - **a full account of statements made by the person concerned which are relevant to the medical examination (including a description of a state of health and any allegations of ill-treatment);**
 - **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);**
 - **the degree of consistency between the allegations made and the objective medical findings;**

The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison;

- **the results of every examination must be available to the prisoner and his lawyer.**
(paragraph 128 of the report)

As regards records of medical examinations, the Prison Service acts on the grounds of the following legal provisions:

- Article 41 Sec., 1 of the Law of 5 December 1997 on Physicians (Journal of Law No 28, Sec., 152 with later amendments) that states how an individual medical documentation should be kept,
- Article 18 Sec., 7 of the Law of 30 August 1991 on health-care establishments (Journal of Law No 91, Sec., 409 with later amendments) stipulating conditions of access to medical documentation.

Pursuant to the above-mentioned legal provisions, the prison medical service implements immediately the recommendations of the CPT on keeping, describing, giving opinions, and access to medical records to prisoners.

- **to take steps to remedy the shortcomings in the Hospital at Łódź Prison No 2**
(paragraph 131 of the report):
 1. **turning off the electricity at 10 p.m. which causes difficulties for sick prisoners in going to the toilet at night.**

The problem refers to the hospital. According to the order of the day, the light is turned off at 10 p.m., there is no light in toilets. The light in toilets is found only in the prison blocks. In order to solve the problem in the hospital it is necessary to modernise the electric installation. After having calculated the costs of the undertaking, it will be considered whether the hospital can afford it.

At the moment, in order to solve the problem of going to toilets at night, a person in charge of a ward is responsible for turning on the light every time there is such need. The inmates have been informed that they can use the hospital calling system to signalise their needs.

2. placing the beds very close to one another and leaving little space to move around.

All rooms provide the standard living space per person stipulated by the Code. Usually, the living space is larger than 3 m², and at the pulmonology ward it even overpasses 5 m². In order to make more space between beds, some of them should be removed, in consequence the capacity of the hospital would be reduced. In the situation when prisons and remand prisons are overcrowded, it is not possible to reduce the capacity of the hospital.

3. bad state of repair and hygiene in some of the sanitary facilities in the rooms and the bathrooms.

In order to improve the state of repair of sanitary facilities in rooms and bathrooms of the hospital the sanitary devices have been changed, the supply of hygiene items to each Unit has been increased. The prisoners are motivated to keep the sanitary facilities in a proper state of hygiene.

- **to take steps 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 of the report)

In the case of patients who remain longer (over 3 weeks) and who are treated at the forensic psychiatric ward, if the state of mental health allows, a patient joins a system of psycho-social therapeutic activities, such as:

- interpersonal training (meeting of groups of patients - once a week),
- adaptation to conditions of freedom (individual meetings with a psychologist - once a week),
- occupational therapy (every day during the activities in the common room),
- family therapy (individual meetings with a physician or a psychologist, also with a family - once a month),
- solving the problems of addictions (individual meetings with a physician - once a week).

- **to attempt to reduce the time prisoners seriously physically handicapped have to wait before being transferred to appropriate nursing establishments.**

(paragraph 126 of the report)

At the time of the CPT visit, the delegation paid attention to the situation of the sentenced K.B. This prisoner, as he has suffered from organic changes OUN was serving the sentence in the therapeutic system for physically handicapped, he was a disabled person of second group needing other people to take care of him.

His situation was more complicated by the fact that he had no place to return after the release (the end of his punishment is 31 August 2002; on 31 August 1998, he received the right to apply for conditional release ahead of time of the sentence).

In connection with the described situation, the management of Łódź Prison No 2 since 1999 have made efforts to place the inmate concerned in a Social Aid House. They were supported with the help of a social welfare employee of the Łódź-Górna Social Aid House and the custodian of the Region Court in Łódź. At the very beginning, undertaken steps proved to be inefficient, as in May 2000, the Municipal Centre of Social Aid sent a letter No 4024-11-62/2000 according to which “the decision of placement in a house of social aid will be issued later, i.e. in 2005”.

The director of the prison establishment, however, appealed against this decision, pursued to take all kinds of measures that finally got a place for the sentenced concerned in the Social Aid House in Ozorków, where the prisoner was transferred on 26 January 2001, after having received a conditional release ahead of time.

The positive accomplishment of this matter was possible thanks to the determination of the establishment's officers to place the prisoner in an establishment suitable for his needs, and due to their action many obstacles have been overcome.

- **to pursue the efforts to provide education and information to both prison staff and inmates about transmissible diseases (in particular, hepatitis, AIDS, tuberculosis and skin diseases).**
(paragraph 129 of the report)

As regards the issue of transmissible diseases, all officers of the Prison Service are informed since the moment they start working in the service, during the professional training in schools of the Prison Service. Furthermore, during the training courses and training meetings they learn about the epidemiological problems.

As for the education on AIDS, in 2000:

- physicians of the basic health-care were trained in the matter of appropriate medical guidance before and after a test for HIV has been made,
- about 1000 books on the HIV and AIDS issue have been disseminated,
- a training on the issue called “reducing damages” related to a problem of HIV-positive prisoners and prisoners suffering from AIDS was organised.

This year, the Prison Health Care starts a programme concerning prevention of hepatitis, this programme is addressed both to inmates and officers.

Every person held in a prison establishment is informed of problems of transmissible diseases during the compulsory medical examination at admission to prison. The medical education on this issue is continued either individually (at the time of a medical visit to a doctor or a nurse) or generally, in a form of a radio programme transmitted through the call system, films, TV programmes, brochures, etc.

Recommendations referring to other issues of the prison and remand establishments.

- **to improve ventilation in the visiting area at Warszawa-Białoleka Remand Prison.**
(paragraph 141 of the report)

The building for visits has been thoroughly refurbished and modernised.

According to the suggestion of the CPT the roof ventilation (11 pieces) has been installed and the gravitation ventilation has been improved.

- **to reconsider the current blanket ban on telephone calls by remand prisoners.**
(paragraph 142 of the report)

The answer depends on the definition of the term "a remand prisoner", since there are three categories of remand prisoners:

1. temporary arrested persons,
2. sentenced and punished, who are temporary arrested while awaiting trial in another matter (paragraph 73 of the Rules and regulations for execution of temporary arrest, and paragraph 105 of the Rules and regulations for execution of imprisonment punishment),
3. sentenced and punished who are not temporary arrested awaiting trial for another matter, but whose staying in the remand prison is justified by e.g. need of employment, medical treatment, legal proceedings in cases not related to arrest, etc.

The ban on telephone calls concerns exclusively the two first categories of prisoners, while the third category is subject to the legal provisions of the Article 105 of the Code for Execution of Sentences and paragraphs 87-89 of the Rules and regulation on execution of the penalty of deprivation of liberty which provides the possibility of telephone calls for sentenced and punished persons.

The Code for Execution of Sentences in Chapter 15, namely "Temporary arrest" stipulates in detail the rules of contact between a temporary arrested person and:

1. a defender or a lawyer (Article 215, paragraph 1) in the absence of other persons, or by correspondence,
2. with other persons (Article 217, paragraph 1);
 - visits with the agreement of the body a prisoner is subject to,
 - correspondence, under a condition that letters are subject to a censorship of the body a prisoner is subject to, unless the order of the body is different.

Any of these legal provisions do not state the possibility of telephone contact of a temporary arrested person with others.

Issues concerning the contact of temporary arrested persons with the outside world have been worked out in the Ordinances of the Minister of Justice:

- of 11 April 1992 - Rules and regulations of functioning of public prosecutors' offices (Journal of Law, No 38, Sec., 163 with later amendments). Paragraph 154 item 1 provides a possibility of a contact through a visit: "during the period of temporary arrest, a prosecutor helps a suspected persons to communicate with persons from the outside in order to arrange personal and family matters; if a permission for a visit has been declined, a person concerned has to be informed". Item 2 quotes only contact by correspondence,

- of 19 November 1987 - Rules and regulations of functioning of courts (Journal of Law No 38, Sec., 218 with later amendments). Paragraphs 366 and 367 provide a possibility of contact through visits, and paragraph 377 through correspondence.

None of these Ordinances provides a possibility of contacts with temporary arrested persons by means of a telephone call.

One of the reasons of applying a temporary arrest measure are justified misgivings that a suspected or an accused can force persons participating in legal proceedings to depose false testimonies or false explanations, or in any other way can impede the criminal proceedings (Article 258, paragraph 1 of the Code of Criminal Procedure). Therefore, the legal provisions allow only such forms of contact for temporary arrested persons that can guarantee to have under control a suspected person and the content of the contact.

- **the comments of the Polish authorities whether placements in restraint cells are at times used as an informal means of disciplinary punishment and whether it is used for periods of days**
(paragraph 138 of the report).

The Law of 26 April 1996 on Prison Service (Journal of Law, No 61, Sec., 283 with later amendments) stipulates the range of rights of the Prison Service whose task, among others, is to provide order and security in the prison and remand establishments. In the situation when order or security is put into danger the legal provisions of the Law give right to the officers of the Prison Service to apply a direct restraint measure to persons deprived of liberty and others if it is necessary, but exclusively in clearly defined cases in order to counteract:

- attempts on life or health of an offender or another person,
- inciting people to rebellion,
- striking insubordination,
- dangerous breaking of peace and order,
- destroying property,
- the escape of a person deprived of liberty.

Furthermore, the use of direct restraint measures by the officers of the Prison Service is stipulated by the legal provisions of the Ordinance issued by the Ministers Council on 20 November 1996 in the matter of detailed conditions of application of this means, fire-guns or a service dog by officers of the Prison Service (Journal of Law, No 136, Sec., 637).

Application of the direct restraint means should follow the rules:

- an applied measure should be adequate to the degree of danger,
- the measure should be applied after the warning of its application, unless a delay in applying a measure may put in direct danger the life of an officer or another person,
- the application of a restraint measure should cause as little damage as possible to the person it has been applied to,
- must not intend to take that person's life, and also cannot put into danger of loss of life or health of other persons (Article 21 Sec., 1 and 2 of the Law on Prison Service).

The Law names placing in a restraint cell as one of the means of direct restraint. The decision to apply this means is made by the director of a prison or remand establishment, or persons acting of behalf of the director.

A prisoner to whom a means of direct restraint, such as placing in a restraint cell, is applied, should undergo a medical examination:

- if it is possible, at the time when the measure is applied,
- every time and without delay after release from the restraint cell,
- every time when it is necessary to apply this means for a period longer than 24 hours.

The behaviour of an inmate to whom the above-mentioned restraint measure has been applied should be checked by an officer on duty at the unit not less than every hour (in the case a prisoner has attempted to commit a suicide, not less than 15 minutes). Checking can be exchanged by monitoring, and in the case of suicide, monitoring should be oral and visual. A leader of a shift is obliged to check the application of the means in periods of every two hours and to evaluate whether its application is necessary.

The Ordinance of the Ministers Council stipulates the aim and the way of applying each means of restraint, also placing in a restraint cell.

This measure serves only for temporary isolation of an inmate and cannot last after the premise quoted in the Law has come to an end.

During the time spent in a restraint cell, a prisoner:

- cannot have any objects,
- receives personal objects only for a period of time necessary to have a meal or wash himself,
- receives clothes, underwear and shoes belonging to the prison, at night receives a mattress with sheets and bed linen.

When the restraint means comes to an end, the director or vice-director of the establishment talks with the prisoner and advises him of the right to lodge a complaint to a penitentiary court. After having checked the report of application of the restraint means, the director of the establishment evaluates if referring to this means was justified, or makes a decision to institute an explanation investigation. The record, which has been described in detail by the Ordinance, contains results of medical examination, results of checking the way of application of the restraint means, and the results of influence exerted by an educator (or a psychologist) in order to stop using the restraint means.

To sum up, in the case of using a direct restraint means such as placing in a restraint cell, every time it happens, the above quoted rules must be observed.

In remand and prison establishments there has never been used “informal system of disciplinary punishments of prisoners”, and applying a direct restraint means such as a restraint cell for over 24 hours requires meeting of strictly defined conditions, with obtaining a medical opinion.

In such cases, after a medical examination, the medical opinion states whether it is possible to continue applying the mentioned restraint means.

Application of restraint measures in prison establishments is subject to control on all levels of the Prison Service organisation. The legality of application is checked by a penitentiary judge within the penitentiary supervision. The problem of using this measure is also of main interest of the Citizens' Rights Ombudsman.

Information about the precise manner in which psychologists evaluate whether a given act of self-harm or suicide attempt was an “instrumental” act directed against the prison management.

(paragraph 139 of the report)

A professional and competent psychologist should, or rather is obliged to analyse in detail possible reasons of self-harm as well as motivation leading a doer to such behaviour. However, the provisions do not contain a clear criterion that can determine which act of self-harm or a suicide attempt should be regarded as an “instrumental” one. Its evaluation is the task of a psychologist who, in giving an opinion on the motivation of self-harm, should use his/her knowledge about emotions, motivations, psychopathology and knowledge of the personality of the person who has attempted self-harm or suicide.

It should be noted that motivations of human behaviour (including acts of self-harm) are not simple or consisted of one-sided elements; on the contrary, they are complex, dynamic and multidirectional. Usually, such person is motivated by different factors and more often it is justified to talk about complex motivation of self-aggression, rather than about one and clear cause.

For evaluating somebody's behaviour, a psychologist takes under consideration the following factors:

- situation and circumstance under which an act of self-harm has taken place (a direct cause, “a press button”, of self-harm, situation in a cell and the wider “social situation” of a prisoner),
- the emotional state of an inmate (at the moment of committing the act of self-harm, before and after),
- the acquired mechanisms of behaviour and reaction in difficult situations,
- the kind and intensity of disorder shown in the behaviour of the prisoner,
- the ability to emotional and behavioural control,
- the explanation of the prisoner.

In this report there is no need to describe in detail the most often met types of motivations of self-harm committed in prisons.

As it is assumed the following factors confirm that a given behaviour belongs to a category of instrumental self-harm:

- clearly verbally expressed demands addressed to the prison management or courts (e.g. to change a cell, release from confinement, etc.), which are declared directly as motives of committing a self-harm,
- high degree of self-control,
- good emotional state,
- lack of habitual mechanisms of reacting with self-aggression in difficult situation using this means as the only accessible at the moment “to deal with the situation”,
- subculture motives (self-harm is regarded as a means of getting to a “higher position” in the milieu of inmates who are participating in the prison subculture),
- group solidarity motives (forms of self-harm committed by a group).

Other factors include the aggressive behaviour to the category of non-instrumental one, such as:

- the prisoner does not express clearly any demands addressed to the management of the establishment, courts, etc.; there are difficulties in identification of the direct cause of self-harm,
- the prisoner's ability to self-control is obviously weakened,
- the inmate shows symptoms of a bad emotional state (nervous break-down, depression, etc.),
- habitual mechanisms to react with self-aggression in difficult situations,
- generally, difficult personal, family, situation in a cell, lack of social support, etc.

It should be added that in a situation when different motivations are present, a psychologist evaluates the importance of each factor, degree of influence of each factor on the behaviour of a prisoner and then determines the kind of motivation. The psychologist also considers the influence of the decision on possible imposing of a disciplinary sanction for self-harm and its effect of later behaviour in isolation conditions.

Generally speaking, the psychologist's examination and evaluation related to self-harm behaviour, including suggestions to further treatment of a self-harm doer, ensure working out of an individual way of interaction that in future could be effective in preventing self-harm attempts.

C. Starogard Gdanski Neuro-Psychiatric Hospital

Recommendations

- **to take steps to complete the refurbishment of the hospital in order to create a positive therapeutic environment, with accommodation structures based on small groups;**
(paragraph 152 of the report)

- **to make efforts to enhance the possibilities for work at Starogard Gdanski Neuro-Psychiatric Hospital and other psychiatric establishments;**
(paragraph 158 of the report)
- **to take steps to reinforce the team of social workers employed at the hospital and to increase the nursing staff per patient ratio;**
(paragraph 162 of the report)
- **to make clear in the instructions on the use of means of restraint 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**
(paragraph 166 of the report);
- **the health-care staff in psychiatric establishments should receive training in both non-physical and manual control techniques vis-à-vis agitated or violent patients**
(paragraph 166 of the report);
- **to devise and issue to each patient on admission an introductory brochure setting forth the hospital routine and patients' rights.**
(paragraph 172 of the report)

The territorial self-government and the appropriate health insurance body are the authorities with all rights to take more efficient steps to intensify works connected with the refurbishment of the hospital. Considering the recommendations of the CPT delegation, the Ministry of Health has already sent a letter to the Pomeranian Provincial Government with the request for financial support in order to complete the refurbishment of the hospital.

The legal regulations in force and the clinical indications do not provide for accommodating patients with various diagnosis and different legal statuses in specialised therapeutic units, with the exception of psychiatric patients who are dangerous for public safety, and the courts' verdicts state that preventive means should be applied in their cases. The three Regional Centres for Forensic Psychiatry which have entered into service are meant for these patients. The Centres are aimed at 209 beds, now there are 129 beds in operation.

The Centres are equipped with safety systems to prevent patients from leaving the units at their will. Furthermore, the staff of these Centres are equipped with alarm devices to signalise danger, and what is significant, the staff members are qualified to provide therapeutic activities for this specific population of patients.

16 more forensic units are planned to be put into operation in psychiatric hospitals with less strict safety measures, also meant for treatment of offenders with psychic disorder. At present, there are 8 of them entered into service.

The Regional Centres for Forensic Psychiatry and forensic units with reinforced safety conditions accommodate patients with equal legal status, persons with the court verdict concerning preventive means.

The Regional Centre for Forensic Psychiatry in Starogard Gdanski and the two other in Gostynin and Branice have entered into service to provide proper and safe conditions of executing the courts' decisions concerning the most dangerous offenders and they comply with the relevant provisions of the Minister of Health's Ordinance of 26 February 2001 to the Article 201 paragraph 3 of the Code for Execution of Sentences.

Until the end of 1998, there was no psychiatric hospital in Poland to be equipped with appropriate safety means in therapeutic units, or properly trained and qualified staff, and often the level of staffing was inadequate. In such situations, following the courts' decisions to apply preventive means, offenders with mental disorders were accommodated in the units of the general psychiatric hospitals. Thus, it often restricted freedom and rights of other patients, as well as put them in dangerous situations.

The Law of the Code for Execution of Sentences in Article 201, paragraph 3 provides that the Minister of Health in accordance with the Minister of Justice will publish an Ordinance with the list of psychiatric hospitals and detoxification therapeutic establishments suitable for executing the preventive means sentences, including their accommodation capacity, rules of hospitalising, treatment and regime, safety conditions.

The Ministry of Health understands the necessity of creating appropriate conditions for executing the sentence of a preventive measures and as early as 1997, it took the first steps to adapt psychiatric establishments for accommodation of offenders with psychiatric diagnoses who might be a danger to public safety. Therefore, it anticipated the legal regulations that have been put in force in 2001.

The first Regional Centre for Forensic Psychiatry in Gostynin was entered into service in 1999, then, successively in 2000 two other Centres in Starogard Gdanski and in Branice. As it has been mentioned before, these Centres will provide together 209 beds for offenders with psychiatric diagnoses who may cause a particular social menace.

Furthermore, as it has been mentioned, 16 therapeutic units in psychiatric hospitals have been adapted to meet the needs of the offenders with mental disorder, the material conditions are similar, yet less strict. All these establishments will attain the capacity of about 800 beds.

The new organisation of forensic psychiatry in Poland refers to ensuring safe and proper execution of preventive measures and in accordance with the provisions of the Minister of Health's Ordinance to Article 201, paragraph 3 of the Code for Execution of Sentences.

It is necessary to provide suitable conditions for forensic psychiatric observation which now usually takes place in general therapeutic units of psychiatric hospitals. In consequence, some patients attempt to escape while the others become aggressive towards staff and other patients.

The Ministry of Health with regard to the suggested amendments to the Penal Code has worked out a project of a relevant legal provision stipulating the detailed principles of executing the forensic psychiatric observations.

As regards the therapy for alcohol addiction it is not obvious how efficient it is for patients undergoing compulsory treatment, as well as if it is useful. Scientific reports on this subject, Polish and foreign, indicate low efficiency of this kind of treatment. The addiction therapists have noticed that the negative attitude of patients undergoing group therapy on compulsory terms is destructive for other persons who are there at their own will. One of the most important factors to achieve positive outcome of the therapy is motivation, and quite often persons on compulsory terms are not positively motivated; on the contrary, they show a kind of “negative motivation”. The reason is that the therapists are regarded as “executors of a sentence” who do not consider the patients’ good.

It is also claimed that the legal provisions on compulsory treatment of addictions are not coherent and univocal. It is not clear whether the order for compulsory treatment is a relation between the court and a patient, or whether it concerns also a therapeutic establishment. The provisions stipulate the terms of the direct restraint which means bringing a patient to an establishment; however, there are no provisions stipulating the terms of direct restraint towards a person already in a therapeutic establishment who has been ordered to undergo a compulsory treatment. In consequence, if a patient does not agree, it is not possible to bring him/her to a therapeutic unit.

The mutual complaints of lack of co-operation between courts and health-care establishments are quite common. Frequently, orders for compulsory treatment are called “a legal absurdity with vague confines of what is repressive or overprotective attitude toward a patient”. It is questionable whether these provisions are necessary since they were put into force before the Act on Protection of Mental Health which now defines social conditions of persons with mental disorders, including alcohol addicts.

On the other hand, there are three main factors supporting the compulsory treatment:

1. The pressure of the public opinion convinced of good results of this treatment.
2. There are some positive effects, in separate cases, although generally speaking, compulsory treatment is not efficient.
3. Lack of practical and legal power of relatives of persons addicted to alcohol or drugs.

As regards “the compatibility of admission with consent with the restrictions imposed on patients’ movements within and outside the hospital”, such a situation is not frequent and in the view of the Polish authorities it is an offence. The ruling principle in psychiatric hospitals should be of “open door”, and a patient who gives consent to treatment must have unlimited rights including the right to move within and outside a hospital; however, the rules and regulations of the hospital should be observed.

The Mental Health Act refers to all problems related, among others, to the situation of discharging voluntary patients.

In order to improve nursing staff qualifications in the field of psychiatry the specialised courses and training are organised. The nursing staff has also a possibility to specialise in psychiatry. The framework of the education programme for the preliminary and the specialisation courses are based on the Minister of Health and Social Welfare Ordinance of 17 December 1998 on post-graduate education of nursing staff. The programme considers also the Ordinance of 2 September 1997 on range and kind of preventive, diagnostic, medical and rehabilitation services which can be provided independently by nurses.

The education centre for psychiatric nursing staff will be open in the Warsaw Institute of Neurology and Psychiatry. Basing on the outline of the framework education programme the more detailed programmes have been worked out. They are aimed, according to the mentioned legal grounds, at obtaining qualifications in psychiatry for nurses, and in result, the quality of nursing services should improve.

The rules of receiving visits by persons hospitalised for the purpose of forensic psychiatric observation are stipulated by the Code of Criminal Procedure. As regards persons in detention who are hospitalised for observation, public prosecutors and a person conducting legal proceedings have unlimited access to visits. Other persons, that is a defender, police, relatives, etc. can pay visits with an approval of a relevant court or a public prosecutor.

As for voluntary patient who are hospitalised for forensic psychiatric observation, the rules are applied as in case of ordinary patients.

Psychiatric establishments can be visited by an independent outside body, other than a penitentiary judge or a family court judge, and such visits often take place. Establishments can also be visited by visiting judges, provincial or national psychiatric supervisory body, and by representatives of a hospital establishing body.

The Mental Health Act of 1994 which came into force in January 1995 started a new period in the psychiatric health-care. At the same time, the Ministry of Health and Social Welfare adopted the Mental Health Protection Programme as the programme of the Minister of Health. The programme needed five years to be carried out; however, it was proved that it was limited to one domain only, that is to the health care. Taking under consideration the fact that it is necessary to build new and proper conditions to improve the mental health of the Polish society, the project of National Programme for Mental Health Protection was worked out in co-operation with other institutions and Ministries.

In the light of this project, other Ministries like Education, Work and Social Welfare, Home Affairs and Administration, National Defence and many different institutions working for the benefit of mental health protection have been involved. The Programme is aimed at taking steps to support the idea of mental health, to prevent mental disorder, to support and help people suffering from mental disorders.

The Mental Health Act and the future National Programme for Mental Health Protection are regarded as means able to introduce modern model of environmental psychiatry. Hospitals should be the last establishment of treatment when/if other means and methods fail.

It is planned to reduce about 10,000 beds in psychiatric establishments.

At the same time, new psychiatric units will be located in general health-care establishments, possibly close to patients' residing places.

Furthermore, there are plans for establishing intermediate forms of psychiatric treatment such as day time units, home treatment, hostels.

Employment of medical staff is supposed to be increased, including psychiatrists, also for children and young persons, clinical psychologists, social workers, nurses and occupational therapists. The large psychiatric hospitals should reduce the accommodation capacity to at least 350 beds maximum, to be restructured by organising special units, like geriatric psychiatry, rehabilitation, for juveniles, with neuroses, health care and welfare, protected accommodation.

The programme is to be completed in 10 years. In order to strengthen the programme, it is indispensable to amend the Mental Health Act.

The Ministry of Health has urged the Management of the Starogard Gdanski Neuro-Psychiatric Hospital to take steps to correct their approach to noted misgiving and to accept and implement other recommendations of the CPT.

The State Specialist Psychiatric Supervision will use the received information concerning conclusions of the delegation of the Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment to improve the measures of taking care of persons suffering from mental disorder and to remedy indicated shortcomings and incorrectness in functioning.

D. Sobering-up centres

Recommendations

- **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 of the report);
- **in addition to the entry made in the personal card, any resort to isolation or physical restraint should 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 reason for restoring to such means.**
(paragraph 183 of the report)

In order to follow the provisions of Article 18 of the Mental Health Act of 19 August 1994, the staff of the sobering-up centre in Łódź took part in the organised training, it should be noted that participation in the training has been recorded in personal employment records.

Physical restraint is applied towards persons who make attempts on their own or somebody else's life or health, put in danger public safety or behave in an aggressive way and destroy public property.

In the course of renovation of the sobering-up centre in Łódź, isolation rooms, safe for persons staying inside, have been designed and built. Each case of resorting to physical restraint is recorded in medical documents. Documents called “records of application of physical restraint in the sobering-up centre” have been worked out and have been used. An example of the document is attached to the report.

The refurbishment of the sobering-up centre in Łódź will be completed at the end of October 2001. According to the project, the centre will be enlarged with a unit for diminishing health damages/detoxication and early psychological intervention.

With the help of a health-care establishment professionally treating all kind of addictions the programme to aid addicted persons and their families has been worked out. The sobering-up centre will become an integral part of this system without need to be transformed into a health-care unit.

The director of the sobering-up centre in Łódź, on request of the Ministry of Health has drawn up a preliminary programme of transforming sobering-up centres into health-care establishments, however, it has not been accepted by the State Bureau for Combating Alcoholism.

The time spent in a sobering-up centre is included in the overall period of detention. When an intoxicated person commits an illegal act, he should be accommodated in a sobering-up centre with a note that after detoxication such a person has to be taken by the Police to continue proceedings. The time of detention is counted from the actual deprivation of liberty, even though the person was informed later about his detention (paragraph 12, Section 1 of the Ordinance of the Ministers’ Council of 17 September 1990 on the procedure of checking identity, apprehension, personal searching and luggage and cargo searching).

E. Emergency Care Centre for children

Recommendations

- **to take steps to ensure that all children held at the Emergency Care Centre are guaranteed at least one hour of outdoor exercise every day;**
(paragraph 186 of the report)
- **to review the use made of the isolation room at the “rotation unit”;**
(paragraph 187 of the report)
- **to set up a special register recording the use of the isolation room at the “rotation unit”**
(paragraph 187 of the report).

According to the Article 12, Section ,1 item 3 of the Law on Social Welfare of 29 November 1990 (amendments in Journal of Law, No 19, Sec., 238, 2000) the Provincial Governor is responsible for supervising establishments for children's care and education. The Ordinance of the Minister of Labour and Social Policy of 29 August 2000 (Journal of Law, No 74, Sec., 826, 2000) stipulates detailed provisions on rules of supervising activities and quality of education and care provided by education and care centres, as well as adoption institutions. The supervisory work in care centres for children can only be done by persons entitled by the Provincial Governor.

In connection with the above-stated situation, the information on shortcomings noted by the CPT's delegation in the visited facility and the recommendations have been sent to the Social Affairs Division of the Mazovian Provincial Office.

Problems referred to in the report of the CPT are clearly stipulated by legal provisions.

The provisions of the Ordinance of the Minister of Labour and Social Policy of 1 September 2000 concerning educational and children care establishments (Journal of Law, No 80, Sec., 900, 2000) guarantee adequate life and development conditions for children placed in such facilities. Special attention should be paid to paragraph 6 of the Ordinance which states that care centres for children in particular consider children's rights, well-being of children and work for their benefit. The rights of child have been stipulated in the Convention on Child's Rights ratified by Poland. The rights stated in the Article 24 of the Convention include a right to a state of health as good as it is possible, right to medical and rehabilitation service, and the Article 27 provides the right to a standard of life suitable to the needs of physical, psychic, spiritual, moral and social development. The Ordinance mentioned above, the paragraph 40 states that care centres for children should organise sports and recreation activities. It seems that there should be no obstacle to organise outdoor exercises suitable for needs of children and taking under consideration the weather conditions.

As regards the use of isolation room at the "rotation unit" at the Emergency Care Centre for juveniles, according to the Law on Juveniles of 26 October 1982 (Journal of Law, No 91, Sec., 1010, Article 95a, 2000), the use of direct restraint means in the light of this Law, isolation as a restraint means is used exclusively to juveniles placed in a detention house for juveniles or in a shelter house for juveniles. The Emergency Care Centre is an educational establishment and pursuant to the provisions of the Law, the only means to be used is physical restraint. The recent project of the Ordinance of the Ministers Council prepared by the Ministry of Justice on detailed conditions and way of use of direct measures of restraint in case of juveniles placed in detention houses, shelters, care and education establishments contains detailed rules referring to use of restraint means, and setting up a register of its use.

The problem of foreign children staying in the Polish care and education centres is a quite new phenomenon. The Ministry of Internal Affairs and Administration, Ministry of Labour and Social Policy, other governmental and non-governmental organisations started to co-operate in order to set up a system of care of children under the aliens' legislation and procedure to obtain a status of a refugee. The co-operation is active and is aimed at providing the best legal solutions to ensure the foreign children staying in Poland to have possibly the best conditions of development.

As regards the problem children being placed in the emergency care centre for a long period of time (up to one year), it is not justified either by present or by previous legal provisions issued by the Minister of National Education. The Ordinance of the Minister of National Education of 21 February 1994 on public care, education and social rehabilitation and re-integration establishments and their rules of work, as well as on statutes of these facilities (Journal of Law of 1994, No 41, Sec., 156) in its paragraph 21 provide that a child placed in an emergency care centre can stay for a period of time not longer than 3 months, and in exceptional cases this period can be prolonged for another 3 months. This Ordinance was in force until the above mentioned Ordinance of the Minister of Labour and Social Policy have been brought into force. The provisions of the new Ordinance in question of defining the time a child can stay in an intervention establishment (previously an emergency care centre) adopts a similar solution which is stated in the paragraph 15 Sec., 6.

However, taking into consideration the increasing number of children and juveniles who should be placed in such establishments, and the limited number of places, it is possible that in certain cases children and/or juveniles stay longer than foreseen by the legal provisions.

The Ministry of Labour and Social Policy has been working on the creation of a new system of taking care of children in social rehabilitation establishments in order to make their function more efficient.

The report was drawn up by

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