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Meeting: 1577th meeting (December 2026) (DH)

Item reference: Action Report (06/11/2026)

Communication from Poland concerning the case of W.W. v. Poland (Application No. 31842/20) - *appendices in Polish are available at the Secretariat upon request*

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Réunion : 1577e réunion (décembre 2026) (DH)

Référence du point : Bilan d'action (06/11/2026)

Communication de la Pologne concernant l'affaire W.W. c. Pologne (Requête n° 31842/20) ***[anglais uniquement]*** - *des annexes en polonais sont disponibles auprès du Secrétariat sur demande*

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SERVICE DE L'EXECUTION DES ARRETS DE LA CEDH

ACTION REPORT[1]
Information on measures aiming at execution of the judgment in the case of *W.W. against Poland*

Case description
W.W. v. Poland, application no. 31842/20, judgment of 11/07/2024, final on 11/10/2024.

The case concerns the impossibility for transgender person to continue hormone therapy in prison between 18 and 31 July 2020 due to the lack of medicines, provision of which was not authorised by the governor of the prison (violation of Article 8 of the Convention).

The applicant is a transgender woman (her request for legal recognition was granted in 2023), who served several terms of imprisonment in male prisons between 2013 and 2024. In 2018, following self-bilateral orchiectomy and an ensuing medical recommendation for urgent treatment, the applicant commenced hormone therapy associated with gender reassignment, at her own expense. After being transferred to another penitentiary facility, in May 2020, her request to the new prison's governor for permission to be send the necessary medication to continue her treatment was left without examination pending a further opinion of an endocrinologist. The applicant ran out of medication on 18 July 2020 and her hormone treatment was interrupted at that date. She regained access to the hormone medication prescribed by her endocrinologist on 31 July 2020, after the Court indicated to Polish authorities an interim measure under Rule 39 of the Rules of Court in that respect.

In its judgment, the Court concluded that the authorities failed to strike a fair balance between competing interests at stake, including protection of the applicant's health, especially bearing in mind her particular vulnerability as an imprisoned transgender person, which required enhanced protection from the authorities. The Court noted that the applicant underwent hormone replacement therapy for nearly one and a half years in two prisons in which she was previously detained and was refused it only when she was transferred to the third prison. It further found that the prison administration's decision affected the applicant's freedom to define her gender identity, one of the most fundamental aspects of self-determination. It also referred to prior medical opinions and the positive impact of hormone therapy on the applicant's mental health. Having regard to the fact that the prison governor's refusal to allow the continuation of the therapy was justified by the need for an endocrinologist's opinion, while at the same time the treatment was interrupted before the applicant could consult with that doctor, the Court held that the burden placed on the applicant to prove the necessity of the treatment by undergoing additional medical consultation appeared to be disproportionate.

I. Payment of just satisfaction and individual measures

1. Details of just satisfaction

Pecuniary damage	Non-pecuniary damage	Costs and expenses	Total
-	8 000 EUR	2 153 EUR	**10 153 EUR**
Due on: 11/01/2025			**Paid on: 03/12/2024**

2. Individual measures

The Court awarded the applicant EUR 8,000 in just satisfaction for non-pecuniary damage and the reimbursement of costs and expenses in the amount of EUR 2,153, which were paid in full. Having regard to the payment of just satisfaction, and the fact that the applicant's hormonal therapy was reinstated on 31 July 2020 in accordance with the interim measure indicated by the Court, and the fact that she underwent additional medical consultation on 5 August 2020, and had her request for legal gender recognition granted on 2 March 2023, and finished her prison sentence in 2024 (points 6, 19, 20, 23 and 24 of the judgement), no other individual measures appear necessary in the circumstances of the present case.

[1] Information submitted by the Polish authorities on 30 October 2026.

In light of the above, no other individual measures appear necessary.

II. General measures

The circumstances of the case appear to indicate that the source of the violation lays solely in practice, and that the breach constituted an isolated incident, given the fact that in the previous penitentiary facilities where the applicant had served her sentence she was properly diagnosed and was able to commence and continue the hormone therapy as prescribed without difficulty. The issue arose only in one institution (Siedlce Prison) and was resolved after the implementation by the authorities of the interim measure indicated by the Court.

Accordingly, the Government is of the opinion that the implementation of the judgment at hand does not require legislative amendments and that the below-described dissemination and awareness-rising measures, which are under preparation or had already been implemented, should be deemed sufficient.

Practical measures

By the order No. 62/2024 of 27 September 2024 the Director General of the Prison Service established a Team for elaborating standards for dealing with transgender persons in organisational units of the Prison Service (*Zespół do spraw opracowania standardów postępowania z osobami transpłciowymi w jednostkach organizacyjnych Służby Więziennej*), with a task to analyse the situation of transgender persons in penitentiary institutions and to propose measures aimed at ensuring appropriate conditions for serving custodial sentences by such persons. The Team is chaired by the Director General of the Prison Service and consist of the directors of the Health Service Office, Records Office, Staff and Trainings Office, Human Resources and Security Office, Quartermaster and Investment Office and the Penitentiary Office. It was later expanded to include the Plenipotentiary of the Director General of the Prison Service for the protection of human rights and equal treatment and the legal counsel.

The Team was asked to submit information about their work to the Director General of the Prison Service by 31 March 2025. Within this time, the Team prepared draft recommendations of the standards for dealing with transgender persons, which was later forwarded to the Department for Equal Treatment in the Prime Minister's Chancellery for consultations.

The final document was sent to the Ministry of Foreign Affairs on 23 July 2026 and is titled "Standards for the treatment of transgender inmates" (*Standardy postępowania z osobami transpłciowymi w jednostkach organizacyjnych Służby Więziennej*). It was also transmitted to all organizational units reporting to the Director-General of the Prison Service, with instructions to apply it in the enforcement of custodial sentences and other measures involving deprivation of liberty, as well as in training activities carried out at all organizational levels of the Prison Service.

Among other things, it covers: addressing transgender persons in accordance with their declared gender identity; voluntary recording of such declarations; staff training; placement, wherever possible, in either women's or men's units, with attention to safety (including single cells where needed); access to hormone therapy and to psychiatric and psychological support; and access to clothing, hygiene products and canteen goods corresponding to the declared gender identity. Searches remain based on legally registered sex. The recommendations operate within the current binary model of sex in Polish law and do not amend any legal norms. They are intended to ensure uniform practice across the prison system and to contribute to the general measures taken to execute the judgment.

The recommendations are attached to this updated action report.

Dissemination and awareness-rising measures

On 12 July 2024 the Ministry of Justice informed the Director General of the Prison Service of the Court's judgment in the *W.W. v. Poland* case and the conclusions contained therein, and requested an assessment of whether any transgender persons were currently held in penitentiary institutions, whether they had undergone or were undergoing gender transition procedures, and whether they were receiving hormone therapy. The letter also requested a review of the handling of such cases, in particular whether appropriate medical care and access to medication were being ensured. The Director General of the Prison Service was further asked to consider issuing relevant guidelines to prison directors.

In response of 4 September 2024, and later supplemented, the Director General of the Prison Service confirmed that transgender persons are indeed held in penitentiary facilities and are receiving appropriate medical care, including hormone therapy, and are provided with medication in accordance with current medical recommendations and the individual health status of each patient. It was also noted that, in matters of specialised care, the prison administration adheres to the principle of caution, relying in each case on the decision of the attending physician. The Prison Service reaffirmed its commitment to ensuring proper medical care for all persons deprived of liberty. The Director of the Central Board of the Prison Service further reiterated that the role of penitentiary administration is to ensure the humane treatment of persons deprived of liberty, and that this responsibility is treated as a priority by the management of the Prison Service. The fundamental importance of lawful treatment of all detainees - regardless of gender, sexual orientation, religion or belief, or other personal characteristics - is consistently emphasised during official briefings and training sessions.

The Director General further emphasised that ensuring the humane treatment of all persons deprived of liberty, including persons identifying as transgender, protecting them from torture, inhuman or degrading treatment or punishment, and respecting their dignity is treated as a priority by the management of the Prison Service. The fundamental importance of lawful and respectful treatment of all detainees - regardless of gender, sexual orientation, religion, or other personal characteristics - is consistently underscored during every official briefing and training session. The issue of respect for the human rights of transgender persons in the penitentiary and detention facilities is considered as important by the Prison Service, and deemed as strictly connected with the principle of individualisation, which is one of the fundamental principles in the execution of a prison sentence. It should be noted in this respect that in July 2024 the Deputy Minister of Justice and the Deputy Director General of the Prison Service met with the representatives of the civil society to discuss the needs of LGBT+ persons in the prison and detention facilities (see information from this meeting at the website of the Ministry of Justice: https://www.gov.pl/web/sprawiedliwosc/wiceministra-sprawiedliwosci-maria-ejchart-spotkala-sie-z-przedstawicielami-kampanii-przeciw-homofobii).

The importance that the Prison Service is assigning to the humane treatment of all imprisoned and detained persons was also underscored in the letter of 4 September 2024 send by the Director General of the Prison Service to the Polish Commissioner for Human Rights. It was underlined therein that the officers of the Prison Service are thought about principles of humane execution of a prison sentence with respect for human dignity, and about countering all forms of discrimination, which allows them to understand that any factual or perceived difference might be met with intolerance and aggression from the society, including from other detainees, and therefore they are prepared for providing necessary assistance to all persons deprived of liberty.

Furthermore, on 27 August 2024 the Director General of the Prison Service send information about the judgment to the regional directors of the Prison Service, commanders of the Prison Service training centres, as well as to the directors and heads within the Prison Service Central Board, with a request to include the judgment at hand in training, organisational and supervisory activities. Regional directors of the Prison Service were also provided with the materials about the judgment with a view discuss it with the subordinate personnel.

Findings of the Court raised in the judgment in question were also discussed at a pre-service briefing of the management of the Prison Service health service in the training centre in Popów in July 2024, which was attended also by the Plenipotentiary of the Minister of Justice for the reform of the prison health service. Questions regarding transgender persons are also discussed regularly by the prison health staff.

In addition, the issues raised in the Court's judgment in the present cases were included in the training for all officers and civil staff of the Prison Service.

The judgment in *W.W. v. Poland* case was also discussed during the 10th session of the 15th year of judicial training, held on 4–8 November 2024 at the National School of Judiciary and Public Prosecution in Kraków, as part of the course entitled "Human Rights in Criminal Proceedings," which was attended by 155 judicial trainees.

Translation of the judgment

The Court's judgment in the *W.W. v. Poland* case was translated into Polish and published at the website of the Ministry of Justice (https://arch-bip.ms.gov.pl/pl/prawa-czlowieka/europejski-trybunal-praw-czlowieka/orzecznictwo-europejskiego-trybunalu-praw-czlowieka/), and in the HUDOC database.

The Information about the judgment was also published in the "News" section of the Ministry of Justice's website, and included in the Ministry's newsletter, send to all courts and prosecution services, as well as other subscribers.

III. Conclusions of the respondent state

The Government is of the opinion that no further individual measures are necessary in this case and that the measures of a general nature described above will be sufficient to conclude that Poland has fulfilled its obligations under Article 46 § 1 of the Convention.

Attachments:

(1) "Standards for the treatment of transgender inmates" (*Standardy postępowania z osobami transpłciowymi w jednostkach organizacyjnych Służby Więziennej*).

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Standards for the treatment of transgender inmates

The judgment of the European Court of Human Rights from 11 July 2024 in the case W.W. Poland (application no. 31842/20) constitutes an important point of reference for the execution of custodial sentences in respects of transgender persons. The Court held that such persons, especially in conditions of penitentiary detention form part of a vulnerable group requiring increased protection, and that the respondent State is under an obligation to secure genuine respect for their private life within the meaning of Article 8 of the Convention, encompassing the sphere of gender identity and access to adequate healthcare.

This judgment is not confined to the individual situation of the applicant; it also discloses a wider structural deficiency, namely the absence of comprehensive, uniform, and operational standards governing the treatment of transgender persons within penitentiary institutions. In particular it identifies the need to regulate practice concerning access to healthcare services, the way of treating the individuals in detention in the context of their sexual identity, as well as the organization of the conditions of the treatment of detainees by reference to their gender identity, and the organization of the conditions of detention.

It must be stressed that execution of the judgment is subject to supervision by the Committee of Ministers of the Council of Europe, which further underlines the importance of the systemic implementation of measures consistent with Convention standards. The elaboration of guidelines in this area constitutes one of the elements required to discharge that obligation; accordingly, the Director General of the Prison Service established a working group tasked with developing standards of treatment for transgender persons within the organizational units of the Prison Service.

It should be noted that these standards are being developed within the framework of the legal order currently in force in the Republic of Poland, which at both constitutional and statutory level rests upon a binary model of sex.

The applicable domestic provisions make no institutional possibility for introducing categories other than the female and male sex, nor do they establish a distinct legal regime for non-binary or transgender persons outside the procedure for the legal recognition (correction) of registered sex. Consequently, this document does not attempt to reinterpret or modify the applicable legal norms; it seeks instead to develop practical solutions falling within their limits.

The purpose of the elaboration of the present standards is to reconcile two parallel legal frameworks:

- On the one hand - the requirements resulting from the European Court of Human Rights case law and the State's international obligations in particular with regard to the protection of human dignity, physical and psychological integrity, and the right to respect for private life;
- On the other hand - the applicable provisions of domestic law, which govern the functioning of the penitentiary system, including the classification of detainees and the organization of the execution of custodial sentences.

Within this framework, these standards constitute good practice and recommendations for the treatment of a transgender person held in conditions of detention, both at an early stage of transition and following gender correction (in both its legal and somatic dimensions). Their purpose is to assist Prison Service officers and staff in decision-making in situations calling for particular sensitivity, while ensuring uniformity of practice across the system as a whole. The document contains a set of guidelines which, without departing from the applicable regulations, will allow to minimize the risk of violations of human rights and to strengthen the security of penitentiary institutions.

The adoption of uniform standards of action does not alter the current legal framework, but it constitutes the intention to secure the fullest interpretation and application of that status in practice consistent with the Convention. In this sense the document of a bridging character, linking the requirements of domestic law with international standards for the protection of human rights in the execution of custodial sentences.

In the interests of transparency, the recommendations set out below have been organised by sections, with reference to the competence of the respective branches of the service. It should nonetheless be borne in mind that only the elaboration and implementation of a comprehensive approach, having regard to the principle of individualization, will secure the lawful execution of sentences and other measures entailing deprivation of liberty.

General recommendations

1. Transgender persons should be addressed in accordance with their declared gender identity, without prejudice to applicable security requirements (for example, addressing

persons impersonally in a group setting, while adhering in individual contact to the gender identity declared by the person concerned).

2. On the basis of information provided on a voluntary by persons deprived of their liberty on their own initiative, a record shall be maintained of persons who have declared themselves to be transgender. Data on the number of persons declaring a gender identity at variance with their legally registered sex shall be collated by officers of the penitentiary division.
3. Institution-wide and unit-level training curricula shall address the following issues:
    1) The principles governing the humane and lawful treatment of persons deprived of their liberty, having particular regard to detainees with disabilities, elderly detainees, persons with mental illness, foreign nationals, and LGBTQIAP persons;
    2) The prevention of discrimination on grounds of sex, sexual orientation, and gender identity;
    3) The principles and methods of treatment of transgender persons held in conditions of detention, consistent with applicable security requirements.

Measures Falling within the Competence of the Records Service

1. Transgender persons deprived of their liberty shall, as a matter of priority - subject to other relevant considerations (such as legal status, classification subgroup, or catchment-area assignment) - be allocated to units in which both women and men are held.
2. In organizing the transport of a person deprived of their liberty, due regard shall be had to the overriding requirement of ensuring security.

Measures Falling within the Competence of the Health Service

1. Health-care personnel shall possess an elementary knowledge of matters relating to gender identity, including the course of social and medical transition, having regard to the respective roles of physicians and nursing staff.
2. Health-care personnel shall be granted access to medical records compiled in the course of transition, on the basis of an authorization given by the patient.

3. Transgender persons shall be afforded the possibility of hormone therapy in accordance with the applicable recommendations of the Polish Sexological Society concerning health care for transgender adults, having regard to the patient's rights under Article 115 § 6 of the Code of Execution of Criminal Sentences.
4. Medical care afforded to transgender persons shall include an assessment of the health risks associated with hormone therapy, as well as access to specialist health-care services.
5. Transgender persons shall be afforded, as part of out-patient care, urgent consultations with a psychiatrist at every stage of the transition process.
6. Transgender persons shall be afforded access to information relating to gender-identity matters, including information from non-governmental organizations and support groups engaged in this field.

Measures Falling within the Competence of the Penitentiary Service

1. In arranging accommodation, due regard shall be had to the security needs of transgender persons. Detainees shall be accommodated together with persons who are tolerant and who exhibit no aggressive tendencies or discriminatory attitudes on grounds of sexual orientation or gender identity. Where the totality of the individual circumstances so requires, consideration shall be given to placing the transgender person in a single-occupancy cell.
2. Transgender persons shall be afforded continuous educational and welfare support appropriate to their needs.
3. Transgender persons shall be afforded continuous psychological support appropriate to their needs.
4. Resocialization measures shall be conducted on a non-exclusionary basis, having regard to the particular circumstances of transgender persons and consistent with applicable security requirements.
5. Transgender persons shall be afforded access to information relating to gender-identity matters, including, inter alia, contact with health-care services, non-governmental organizations, and support groups.
6. Measures directed at persons deprived of their liberty shall include education on the prevention of discrimination, human rights, and the fostering of attitudes of tolerance.

Measures falling within the competence of the Security Service

1. Outdoor exercise and visits shall be organized on a non-exclusionary basis, having regard to the particular circumstances of transgender persons and consistent with applicable security requirements.
2. Personal and cursory searches shall be conducted in accordance with the principles laid down in the Code of Execution of Criminal Sentences, that is by a Prison Service officer of the same sex as the person being searched, the criterion for the lawful performance of such searches being the person's legally registered sex.
3. In determining the composition of an escort, due regard shall be had to the need to ensure the security of the transgender person, consistent with generally applicable security requirements.
4. Where required for security purposes, a transgender person shall be permitted to bathe separately from other detainees

Measures falling within the competence of the Quartermaster’s Service

1. Transgender persons shall be afforded access to clothing, underwear and hygiene products according to the declared gender identity. Where a transgender person is held in a penitentiary institution whose allocation does not include items designated for women, it is recommended that an appropriate package intended for women be obtained from the institution in which such persons may be held. This possibility applies to transgender persons undergoing transition prior to the legal recognition of a change of sex. Clothing, underwear, and hygiene products appropriate to the declared gender identity shall be provided with the consent of the director of the institution in which the transgender person is held.
2. Transgender persons may, with the consent of the director of the penitentiary institution, receive in parcels from close relatives clothing or items characteristic of a given gender, such as cosmetics.
3. Where transgender persons are held in a given institution, the range of goods available in the canteen of a penal institution for men shall be supplemented with items intended for women.

Concluding remarks

This document constitutes a coherent attempt to develop practical standards of treatment for transgender persons deprived of their liberty, within the framework of the legal order currently in force in the Republic of Poland. Its purpose is not to create new legal norms or to modify existing statutory arrangements, but to secure their application in a manner consistent with the human rights standards arising from the State's international obligations.

In accordance with the Convention mechanism, execution of the judgment remains under the supervision of the Committee of Ministers of the Council of Europe, which assesses both the individual and general measures taken by the State. It follows that the implementation of adequate standards of treatment within the penitentiary system constitutes an essential element of the execution of the judgment and remains subject to international scrutiny.

The recommendations set out in this document should be understood precisely in that light - as an instrument for the practical fulfilment of the State's obligations, while respecting the domestic legal framework. They have regard both to the need to secure for transgender persons appropriate protection of their dignity, integrity, and private life, and to the need to maintain security and order within penitentiary institutions.