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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 11 to 22 May 2018

The Polish Government has requested the publication of this response. The CPT's report on the May visit to Poland is set out in document CPT/Inf (2018) 39.

Strasbourg, 25 July 2018

MINISTER
SPRAWIEDLIWOŚCI

Warsaw, 19 June 2018

DWMPC-III-0825-18/16

Report of the Polish authorities for the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

The Polish authorities would like to thank the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) for preparing the report as a result of another periodic visit of the Committee's delegation to Poland on 11 – 22 May 2017.

The Polish authorities appreciate the efforts taken by the Committee in order to improve the standards of operation of state institutions, in which inmates live, and the standards of treatment of such persons. The Polish authorities also express their willingness to comply with, as much as it is possible, the post-visit recommendations.

This response of the Polish authorities follows the organisational structure of the Committee's Report, commenting on the issues related to the National Preventive Mechanism, Police establishments, Border Guard establishments, prison establishments, juvenile correctional establishments, and psychiatric establishments.

National Preventive Mechanism

The Committee reiterated its recommendation that steeps need to be taken in order to significantly increase the resources provided to the disposal of the National Preventive Mechanism, drawing attention to the 2016 reduction of the budget of the Commissioner for Human Rights to approx. PLN 35 million. With reference to the said recommendation, **it needs to be emphasized that in line with the information published by the Commissioner**

Al. Ujazdowskie 11, 00-950 Warszawa
tel.: +48 22 52 12 888, www.ms.gov.pl

for Human Rights, the Commissioner's budget implementation for 2017 reached PLN 37,070,000, while the expense plan for 2018, according to the budgetary act, is PLN 39,433,000
(www.bip.brpo.gov.pl/sites/bip/files/atoms/files/bud%C5%Bet%20RPO%2017.pdf).

Police establishments

As regards the questions raised by CPT with respect to actions undertaken by the Police in the matters described in the report – A/2/15-17, a inquiry related to events, complaints, information from sources other than complaints, ITC systems in use by the Police was carried out at the Audit Office of the Chief Police Command, resulted in an identification of one of the three events described in the report. As regards the other two events, it must be noted that the information presented in the report are insufficient and imprecise, which makes it impossible to verify the very fact whether a Police intervention was carried out in the described circumstances, not to mention its course. The confirmed case, described in the aforementioned document, concerned a conversation that the representatives of CPT held with Mr Dominik B. (age: 20, no further data available), which took place during the visit to the Juvenile Correctional Facility in Białystok. During the conversation, Dominik B. alleged that: "following his apprehension on 20 March 2017, he had been brought to District Police Command in Sochaczew where he had been physically ill-treated and tortured (kicked, struck with truncheons and asphyxiated using a plastic bag placed over his head) by five police officers in the course of interrogation." Mr B. told the delegation that his lawyer had introduced an official complaint concerning the alleged ill-treatment/torture. In order to explain the said allegations, a question was put to the Voivodship Police Command in Radom, where the arrest of Dominik B. in Sochaczew on 21 March 2017 was confirmed. The arrest was due to Article 244(1) of the Polish Code of Criminal Procedure in connection with the pending matter recorded under no. RSD-176/17 by the Criminal Division of the District Police Command in Sochaczew, under case file no. Ds-384/17, concerning an attempt to break into a car wash at night 18/19 March 2017. The arrest was performed at the place of residence of Dominik B. by (staff warrant officer) asp. szt. Krzysztof W. and (staff warrant officer) asp. szt. Robert B., officers of the Operating and Inquiry Section of the Criminal Division of the District Police Command in Sochaczew. He

attempted to escape by jumping out of the window, while the door to the flat was opened for the Police by his mother. As a result of the chance, he was apprehended. The officers used a coercive measure in the form of handcuffs placed on his hands held in the back, and next they took him to the District Police Command in Sochaczew, where the suspect was detained in the detention room at the station. The suspect was interviewed and the charges were presented by (officer) *asp.* Sławomir D., an officer of the Investigative Section of the II Criminal Division of the District Police Command in Sochaczew. From the analysis of the documentation on the arrest of the person carried out at the Voivodship Police Command in Radom it follows that at the time the arrest report was made, the reason for the arrest was presented and the arrested person signed by hand the field regarding: statement of the arrested person that he was informed about the reasons for the arrest and the rights he has, as well as statement on the health condition (fields containing statements of the arrested person about his health condition, including the description and causes of any injuries; according to the arrested person, he is healthy, he is not being treated for any chronic diseases, he is not under the care of an alcohol and drug abuse clinic nor mental health clinic, there are no visible injuries, no circumstances that would justify conducting an examination). From the report it follows that in line with Article 244(4) of the Polish Code of Criminal Procedure on 21 March 2017 at 8.30 a.m., after Dominik B. was arrested, the Prosecutor from the District Prosecutor's Office in Sochaczew was notified. On 22 March 2017 at 12.30 p.m., the duty officer of the detention room at the District Police Command in Sochaczew, junior warrant officer *(mł. asp.)* Jan B. handed the arrested Dominik B. over to senior warrant officer (*st. asp.)* Paweł R. in order to be taken away to the Police establishment for children in Warsaw. The above was due to the fact that the arrested person was also wanted in order to be taken to a specialised social care home. In the explanations provided, mł. asp. Jan B. indicated that the said person did not make any reservations related to his health condition and the stay at the police detention room. The detention rooms at the District Police Command in Sochaczew, where the arrested persons are detained, are equipped with visual monitoring, without recording option. The arrested person was brought in to the Police establishment for children by (senior warrant officer) st. asp. Paweł R. and (senior sergeant) st. sierż. Izabela P., representing the Team for Juveniles and Social pathologies of the Prevention Division of the District Police Command in Sochaczew. Explanations to this end were provided by (senior officer) st. asp. Paweł R., who

indicated that Dominik B. was taken from the detention room at the District Police Command in Sochaczew at 12.30 p.m. in order to be brought in to the Police establishment for children in Warsaw, in order to carry out the order of the District Court in Sochaczew to bring him in to the correctional facility in Białystok (case file no. III Nw 35/14). After the detained was transferred and his identity was confirmed, a body search was carried out, as a result of which it was determined that Dominik B. had no visible injuries on his body. He did not complain about any ailments; he also did not report that he could have been beaten by the police officers. The officer indicated that "no violence was used against the arrested person, handcuffs were used, the said person was transported in a police car (Fiat Bravo) in the back seat, supervised by sierż. szt. (warrant sergeant) Izabela P., the detained was calm at the time, he did not report any ailments, he did not complain about his health condition, and at 2.45 p.m. he was surrendered to the Police establishment for children in Warsaw, where he stated that he is healthy and that he is not suffering from any ailments". The above is confirmed by the Report on the Admission of a Juvenile to the Police establishment for children of the Convoy Division of the Metropolitan Police Command no. KEN-196/17 dated 22 March 2017 made available by the Metropolitan Police Command. In line with the form instructions related to *Health and hygiene*, it was noted that the condition of the Dominik B.'s body, hair, and clothes at the time of his admission to the Police establishment for children was 'dirty'. In the description of injuries or ailments, the following note was made: "healthy, according to his statement". From the documentation provided it follows that Domink B. was familiarised with the notes on his health conditions and hygiene at the admission to the Police establishment for children as well as the rights and duties of juveniles, day schedule, terms of stay, and the fact that there is monitoring at the establishment, including devices used to observe and record image. The field *comments and observations* of the admitting police officer related to the behaviour of the arrested person during the initial conversation and the admission to the Police establishment for children of the Metropolitan Police Command describes Dominik B. as communicative. The above is mirrored in the Card of comments and recommendations of the supervisor about a juvenile, where his condition was also described as "calm, communicative upon admission". In the course of the pending preliminary investigation against Dominik B., detained in the Correctional Facility in Białystok, an indictment was filed with the District Court in Sochaczew, comprising of 7 charges, including a charge of the offence under Article 279(1) of

the Polish Criminal Code and Article 288(1) of the Polish Criminal Code. Having examined the case under case file no. III K 310/17, the Court sentenced the aforementioned person for 2 years of imprisonment, which he serves in the Białystok Remand Prison. As a result of the aforementioned verification activities undertaken at the Voivodship Police Command in Radom, **the allegations of beating, kicking, or asphyxiating using a plastic bag placed over his head were not substantiated by the analysed documentation of the circumstances and method of apprehension of Dominik B.** As regards the information contained in the report drawn up by the representatives of CPT related to the fact that Dominik B.'s lawyer had introduced an official complaint concerning the alleged ill-treatment, the Inspection Division of the Voivodship Police Command in Radom carried out an inquiry, from which it follows that neither the District Police Command in Sochaczew, nor the Complaints and Requests Team at the Inspection Division of the Voivodship Police Command in Radom received any complaints submitted by Dominik B. or any other person representing him in connection with the allegations. The District Prosecutor's Office in Sochaczew has not recorded any complaint in the subject matter, nor any crime report filed with respect to the conduct of the officers of the District Police Command in Sochaczew to the detriment of Dominik B.

As regards the point of the Report that concerned the determining of the number of complaints concerning ill-treatment filed against officers and the number of proceedings initiated based on them, I would like to inform you that the **complaints containing allegations in the aforementioned area are classified and collected by the Police in accordance with the applicable catalogue of complaint categories, distinguishing the following categories: I, i.e. "Inhuman or degrading treatment" and II, i.e. "Violation of the right to freedom".**

From statistical data for 2017 it follows that the Police handled 1,016 allegations, which concerned category I "Inhuman or degrading treatment", on its own. In 13 cases, the allegations were confirmed; 367 allegations were remitted to the Prosecutor's Office. The number of complaints in this category was 463. As regards category II, in 2017 the Police handled 351 allegations on its own, with 6 of them being confirmed. Moreover, complaints with a total of 120 allegations were remitted to the Prosecutor's Office/Court (letters resembling crime reports or in the matters already pending before the justice system authorities, or complaints that should be resolved in a non-complaint mode), as well as cases

where the allegations were confirmed in the complaint mode. The number of complaints in this category was 153. The Police does not have any other data.

Based on the directive no. 3 of the Chief Police Commander dated 6 February 2017 on the methods and forms of reporting in the Police, statistical data on the disciplinary issues at the Police are being entered into SESPol in half-year reporting periods: balance of disclosed disciplinary violations, the outcome of disciplinary proceedings, number of police officers concerned by disciplinary proceedings, number of police officers subjected to disciplinary sanctions. However, the numerical data is in no way related to receiving a complaint against an officer. Therefore, the data requested by CPT is not collected.

The signals mentioned by the members of the CPT representatives related to "a number of" allegations of ill-treatment of suspects by the Police during apprehension and examination in the form of physical and psychological violence, were the key factor in providing information about the use of torture by Polish officers. This is a very critical conclusion and it resembles the recommendations presented by CPT after the 2013 visit. This allegation must be denied, as it is insufficiently substantiated. In the face of such a serious allegation, one cannot neglect referring to the fact that the manner in which the comments were provided by the CPT delegation members makes it decidedly difficult to establish the circumstances, which were detrimental to the Polish Police. The members of the delegation operate pursuant to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. In line with the subject Convention, the Committee organises visits to places where persons are deprived of their liberty by a public authority. A Party is obligated to provide the Committee with facilities to carry out its tasks, including: access to its territory and the right to travel without restriction; full information on the places where persons deprived of their liberty are being held; unlimited access to any place where persons are deprived of their liberty, including the right to move inside such places without restriction; other information available to the Party which is necessary for the Committee to carry out its task. The Committee may interview in private persons deprived of their liberty. The Committee may communicate freely with any person whom it believes can supply relevant information. The Polish Police have complied with all these terms. The activities were coordinated on a current basis by the Human Rights Plenipotentiary of the Chief Police Command. In line with Article 8 of the Convention – "*If*

necessary, the Committee may immediately communicate observations to the competent authorities of the Party concerned. In seeking such information, the Committee shall have regard to applicable rules of national law and professional ethics." Failure to observe the requirement of "immediate communication" made it impossible for the Police to immediately initiate control activities.

As one sets out to assess the aforementioned information, it must be assumed that at the current stage it seems ungrounded to formulate such serious allegations of torture or inhuman or degrading treatment of persons apprehended or detained in the detention rooms.

Changes in law related to Police establishments for lawful isolation:

1. Acts of commonly binding law:

- Regulation of the Minister of the Interior dated 09 February 2015 amending the regulation on the detention rooms for persons apprehended or detained for sobering up, transition rooms, temporary transition rooms, police establishments for children, terms of stay in such rooms, facilities, and establishments; as well as the manner of handling video recordings from such rooms, facilities, and establishments (Dz. U. (Polish Journal of Laws) of 2015 item 279).
- Regulation of the Minister of the Interior and Administration dated 08 May 2017 amending the regulation on the detention rooms for persons apprehended or detained for sobering up, transition rooms, temporary transition rooms, police establishments for children, terms of stay in such rooms, facilities, and establishments; as well as the manner of handling video recordings from such rooms, facilities, and establishments (Dz. U. (Polish Journal of Laws) of 2017 item 988).

Internal regulations:

- Directive no. 139 of the Chief Police Commander of 18 December 2012 amending the directive on the methods and forms of performing tasks by police officers at the police establishments for children (Dz. Urz. KGP (Official Journal of CPC of 2013, item 1);
- Directive no. 13 of the Chief Police Commander of 10 April 2014 amending the directive on the methods and forms of performing tasks at the detention rooms for apprehended persons or persons detained until sober (Dz. Urz. KGP (Official Journal of CPC) item 33;

- Directive no. 11 of the Chief Police Commander of 08 June 2015 amending the directive on the methods and forms of performing tasks by police officers at the police establishments for children (Dz. Urz. KGP (Official Journal of CPC) item 37;
- Directive no. 28 of the Chief Police Commander of 20 February 2018 amending the directive on the methods and forms of performing tasks by police officers at the police establishments for children (Dz. Urz. KGP (Official Journal of CPC) item 36;
- Directive no. 29 of the Chief Police Commander of 20 February 2018 amending the directive on the methods and forms of performing tasks at the detention rooms for apprehended persons or persons detained until sober (Dz. Urz. KGP (Official Journal of CPC) item 37;
- Directive no. 30 of the Chief Police Commander of 20 February 2018 amending the directive on the methods and forms of performing tasks related to the stay of apprehended persons or arrested persons in a temporary transition room (Dz. Urz. KGP (Official Journal of CPC) item 38;
- Directive no. 31 of the Chief Police Commander of 20 February 2018 amending the directive on the methods and forms of performing tasks related to the stay of apprehended persons or detained in a transition room (Dz. Urz. KGP (Official Journal of CPC) item 39.

As regards the restrictions in access to a lawyer by arrested persons, it must be noted that **Poland has introduced a scheme under which each arrested person has the right to receive information about advocates and legal advisers practising in the given town whose assistance they may seek (a list of advocates and legal advisers available at the Police station)**. Such solution was introduced by the revision of the criminal procedure, and details were provided by the regulation of the Minister of Justice of 23 June 2015 on the manner of granting access to defence counsel to the defendant in a summary proceedings (Dz. U. (Polish Journal of Laws) item 920). This scheme is being referred to in the Guidelines no. 3 of the Chief Police Command, reading as follows: “For the purposes of enabling the arrested person to contact an advocate or a legal adviser, the mode described in the regulation of the Minister of Justice dated 23 June 2015 on the manner of granting access to defence counsel to the defendant in a summary proceedings (Dz. U. (Polish Journal of Laws) item 920) is applied accordingly”.

The issue of medical examinations of persons detained by the Police was governed in the regulation of the Minister of the Interior dated 13 September 2012 on medical examinations of persons detained by the Police (Dz. U. (Polish Journal of Laws) of 2012 item 1102). In line with the said legal provision, a arrested person is examined by a physician, if "the information obtained by the Police or the circumstances of the apprehension indicate that the arrested person is a pregnant woman, a breastfeeding woman, a person that may be suffering from infectious diseases, a person suffering from mental disorders or a juvenile person who has consumed alcohol or another intoxicating agent" (Section 1(3)(2) of the regulation). Therefore, it was guaranteed that medical examination will be administered to the groups of persons who should be covered by special care. It must also be emphasized that the provisions of the regulation on the medical examinations of persons detained by the Police guarantee that medical examinations will be administered to such a person each time the arrested person states that "they suffer from diseases requiring permanent or periodic treatment, whose interruption would pose a threat to life or health", or if "they demand administering of a medical examination" (Section 1(3)(1) of the regulation).

As regards the recommendation of CPT that all medical examinations be conducted out of the hearing and - unless the doctor requests otherwise in a particular case - out of the sight of police officers, it must be noted that from the viewpoint of the Police it should be standard procedure for the police officers who detained the said person, the police officer on duty in the rooms for the arrested persons or persons detained until sober to be present at the medical examination of such a person. In such situations, police officers are responsible for the safety of both the person being examined and the medical personnel conducting the examination. Nevertheless, seeing the essence of the recommendation, at the initiative of the Police the **instruction to carry out medical examinations of arrested persons out of the hearing and out of sight of police officers was incorporated into Section 4(2) of the regulation (...), according to which the "Decision about the presence of a police officer during the medical examination of the arrested person is taken by the physician conducting the given examination".**

As regards the conclusion to suggest that the results of every examination, including the above-mentioned statements and the health-care professional's conclusions, are made

available to the arrested person and his/her lawyer;, it must be noted that as regards the detention rooms at Police station, this recommendation may be observed in the form of providing the arrested person with a copy of the medical certificate; the arrested person also receives a copy of the arrest report. In line with Section 5(1)(1 and 2) of the regulation (...), the physician, after conducting the medical examination of the arrested person, confirms that there are no medical contraindications preventing such a person to stay at the detention room, transition room, temporary transition room, police establishment for children, remand prison, prison, juvenile shelter, or correctional facility, or confirms the presence of such medical contraindications and the necessity to remit the said person to a healthcare facility. In such cases, a relevant medical certificate is issued, whose template is enclosed as an appendix to the said regulation. Nothing prevents the person concerned by the certificate from learning the contents of such certificate.

As regards the comment on the information on rights of the arrested person, it must be noted that with respect to detention rooms, it is performed pursuant to the obligation arising out of Section 1(1, 3 and 4) of appendix no. 1 comprising the Terms of stay of persons in the rooms for arrested person or persons held until sober to the regulation of the Minister of the Interior of 04 June 2012 on the detention rooms for persons apprehended or detained for sobering up, transition rooms, temporary transition rooms, police establishments for children, terms of stay in such rooms, facilities, and establishments; as well as the manner of handling video recordings from such rooms, facilities, and establishments. In line with Section 1(1) of the said appendix, the person admitted to such room is immediately informed about:

1) their rights and duties, by familiarising them with these terms. The person admitted to the room confirms having read the terms of stay by signing the field to confirm having read the terms of stay of persons detained in the rooms for arrested persons or persons held until sober;
2) that the room is equipped with monitoring devices, including devices used to observe and record image – if installed.

In turn, Section 1(3) of the said appendix reads that if contact with the person admitted is difficult due to problems with consciousness, the activities mentioned in (1) must be carried out after the cause of the delay in providing the said information is no longer present. In

turn, in line with Section 1(4) of the said appendix (....), if, due to the fact that contact with the arrested person is difficult due to problems with consciousness, the said person was not familiarised with their rights in connection with the detention, under the Code of Criminal Procedure or other acts of law, such activities must be performed immediately after the cause of the delay in providing the said information is no longer present. The arrested person confirms the fact of having read their rights by signing the arrest report. Moreover, in line with Section 1(2) of the said appendix (...), a person who does not speak Polish, admitted to the room, is extended the courtesy of communicating in the matters related to their stay in the room with the help of an interpreter. Additionally, in line with Section 16(2) of the regulation of the Minister of the Interior of 04 June 2012 on the rooms (...), a copy of the terms of stay and a list of institutions protecting human rights is placed in the rooms for the arrested persons or persons held until sober, in such a way that makes it impossible to destroy them or to use them to pose a threat to health of human beings. Copies of the above terms are also translated into foreign languages.
As regards juveniles placed in a police establishment for children, the above is governed in the same way in the regulation.

The binding provisions of law guarantee that the juveniles may contact a defence counsel (Article 32g(3) of the Act on proceedings in the matters of juveniles; Section 8(1)(9) of the regulation of the Minister of the Interior and Administration dated 04 June 2012 on the detention rooms for persons apprehended or detained for sobering up, transition rooms, temporary transition rooms, police establishments for children, terms of stay in such rooms, facilities, and establishments; as well as the manner of handling video recordings from such rooms, facilities, and establishments (Dz. U. (Polish Journal of Laws) item 638 as amended)). The works that are currently under way and are planned to revise the criminal procedure and the procedure in the matters of juveniles do not concern the issue of systemic presence police officers during meetings with juveniles placed in the police establishments for children with their lawyers.

As regards the recommendation of CPT, quote: “the Committee recommends that steps be taken to ensure that persons in police custody are always offered food at normal meal times and that they have unrestricted access to drinking water”, it must be mentioned

that this area is already governed in Section 10(1)(1 and 2) of appendix no. 1o comprising the Terms of stay of persons in the rooms for arrested person or persons held until sober to the regulation of the Minister of the Interior of 04 June 2012 on the detention rooms for persons apprehended or detained for sobering up, transition rooms, temporary transition rooms, police establishments for children, terms of stay in such rooms, facilities, and establishments; as well as the manner of handling video recordings from such rooms, facilities, and establishments. **In line with the wording of the said regulation, a arrested person is provided with**:

1) meals, including at least one warm meal, issued three times a day, and beverages in order to

satisfy thirst, where:

a) energy content of meals issued during the day is at least 60% of the basic nutrition standard (PL: norma szkolna SZ) specified in the provisions if police officer is provided with food and standards of such food, at least 2600 kcal, and for pregnant women and persons below 18 years of age – 75% of the basic nutrition standard, at least 3200 kcal;

b) if meals for arrested persons are prepared in the prisons and remand prisons subordinated to the Minister of Justice, energy content of meal standards are used that are outlined in the provisions on determining the daily energy content of nutrition and type of diets for persons incarcerated in prisons and remand prisons;

c) subject to (d), meals are issued after the lapse of at least 5 hours since the placement of the arrested person in the room, at the following times and in the following proportions:

- between 7.00 a.m. and 8.00 a.m. – breakfast corresponding to 30% of the energy content of meals specified in (a);
- between 12.00 p.m. and 2.00 p.m. – lunch corresponding to 40% of the energy content of meals specified in (a);
- between 6.00 p.m. and 7.00 p.m. – dinner corresponding to 30% of the energy content of meals specified in (a);

d) a person transferred from abroad, within 2 hours from being admitted to the room, receives a meal corresponding to 30% of the energy content of the meals specified in (a), if the admission to the room took place between 6.00 p.m. and 8.00 a.m., and the said person did not receive the meal mentioned in (c);

e) the arrested person has the right to the first relevant meal if they are to be transferred or escorted, or surrendered, and will not be able to eat a meal at the times specified in (c);
f) if the health condition of the given person so requires, they receive meals subject to the dietary requirements indicated by the physician;
2) with respect to persons detained until sober, only beverages to satisfy thirst are provided.

As regards the recommendation that "that all persons detained at the above-mentioned establishment have ready access to a toilet at all times", it must be mentioned that this area is already governed in Section 10(1)(4) of appendix no. 1o comprising the Terms of stay of persons in the rooms for arrested person or persons held until sober to the regulation of the Minister of the Interior of 04 June 2012 on the detention rooms for persons apprehended or detained for sobering up, transition rooms, temporary transition rooms, police establishments for children, terms of stay in such rooms, facilities, and establishments; as well as the manner of handling video recordings from such rooms, facilities, and establishments. In line with the said regulation, **a person detained in the room is provided with the ability to use sanitary facilities and personal hygiene products**. As regards the recommendation that in-cell toilets in multi-occupancy cells be fully partitioned (preferably up to the ceiling) it must be noted that the **in-cell toilets in some detention rooms, called "sanitary annexes", are equipped with a tap with running water, a sink, and a toilet. Due to the necessity to ensure safety to persons staying in the rooms, the sanitary annexes are not fully partitioned up to the ceiling.**

As regards the long-standing recommendation that all persons held for 24 hours or more in police custody be offered outdoor exercise every day, it must be recognised that this conclusion is groundless due to the short time of stay at the detention rooms. Persons placed in the detention rooms until sober may stay there up to 24 hours, while persons detained as perpetrators of offences or petty offences may stay there up to 48 hours. Moreover, the regulation of the Minister of the Interior dated 4 June 2012 on the detention rooms for persons apprehended or detained for sobering up, transition rooms, temporary transition rooms, police establishments for children, terms of stay in such rooms, facilities, and establishments; as well as the manner of handling video recordings from such rooms,

facilities, and establishments does not provide for external rooms at detention rooms, designated as the so-called “exercise yards”. Moreover, attention must be drawn to the fact that persons detained as persons suspected of committing offences or petty offences are participants in procedural activities carried out both at the Police station and at the Prosecutor's Office and at the court, at various times of the day. One must not equate penitentiary facilities (facilities at the disposal of the Ministry of Justice, where imprisonment sentences are being served, among other things), with police isolation facilities (detention rooms), whose purpose is short-term isolation of persons placed in them.

Amendments to the law, procedures, tactics, technology and trainings related to using items designated for incapacitating persons with electricity

To begin with, it must be emphasized that using items designed for incapacitating persons with electricity (tasers) may only take place pursuant to the provisions of the Act of 24 May 2013 on direct coercive measures and arms (Dz. U. (Polish Journal of Laws) of 2017 item 1120, as amended), which entered into force on 05 June 2013. It authorises representatives of 23 formations (including Police, hereinafter referred to as: eligible entities) to use direct coercive measures, including tasers. The act sets out specific cases in which the eligible entities may use a taser. It is important to emphasize here that despite the fact that the legislator granted all police officers the right to use direct coercive measures, including tasers, the Police has introduced internal regulations restricting this general rule with respect to tasers.

In line with the decision no. 337 of the Chief Police Commander dated 12 August 2013 on a specialist course for instructors in using items designed for incapacitating persons with electricity (Dz. Urz. KGP (Official Journal of CPC) of 2013, item 66 as amended), which was replaced by the decision no. 352 KGP (decision no. 352 of the Chief Police Commander) dated 24 October 2016, it is only police schools that are entitled to conduct such training courses in Poland. Police officers who are sent to participate in the training, gain additional skills related to providing first aid, safe and lawful use of the device, or maintaining and storing it. In line with the current provisions, the persons sent to participate in the course must, among other things, have two years of experience in using tasers and the

authorisation of a tactics and intervention instructors, or shooting training. The course ends with a written and practice exam, and after passing it with a positive result, the police officer is granted the instructor's title. Based on the aforementioned decision, a uniform training programme for all voivodship commands/Metropolitan Police was drawn up in the area of local professional development in using items designed for incapacitating persons with electricity.

It is important to emphasize here that it is only instructors trained in using items designed for incapacitating persons with electricity, who have gained their authorisations during a specialist course, may run a training programme in the area of local professional development at Police establishments. The aforementioned course, similarly to the specialist course, ends with a written and practice exam, and if the exam is passed with a positive result, the police officer is granted the authorisation of a user.

In the context of the aforementioned programme, it must be mentioned that the following issues are included in the curriculum for users:

- legal basis for using items designed for incapacitating persons with electricity;
- construction and characteristics of items designed for incapacitating persons with electricity;
- tactics of using items designed for incapacitating persons with electricity and the rules of giving first aid;
- final exam.

Considering the aforementioned, it must be noted that a taser, as one of the few direct coercive measures at the disposal of the Police, has been treated by the Police in a particular way, as only police officers who are instructors or users may use it.

While discussing the issues related to using tasers, it must be noted that each police officer who is a user must absolutely obey the provisions of the Act on direct coercive measures and arms, which governs the procedure both before and after using a taser, prohibitions to use tasers, and the way to document the use of a direct coercive measure of this type. As regards the act referred to above, it must be noted that a police officer, when deciding to use a given direct coercive measure, is obligated to obey the principle of adequacy in the measures used, the principle of minimal loss, and the principle of combining measures, expressed in Articles 5-7 of the Act on direct coercive measures and arms. Therefore, a police officer uses a direct coercive measure in a way that is necessary to achieve the purpose of such use, proportionally to the degree of threat, selecting the means

that is the least troublesome. Additionally, a police officer uses a direct coercive measure in a way so as to minimise the incurred loss.
The police officer is obligated to stop using the given coercive measure as soon as the purpose of using it was achieved. Irrespective of the aforementioned, direct coercive measures are used while paying particular care and diligence, considering their characteristics which may pose a threat to life or health of the eligible person or another person. Additionally, it must be emphasized that in line with Article 9(1) of the aforementioned act, the legislator set out exceptions, according to which a police officer may only use physical force in the form of incapacitating techniques with respect to women in visible pregnancy, persons whose appearance indicates that they are 13 years of age or younger, and persons with visible disabilities. A necessary condition for the proper use of a direct coercive measure is making sure whether there is a substantive or objective prohibition to use a given measure and proceeding in line with the subject procedure both before and after using such a direct coercive measure, meaning that a police officer may use such measures after the police officer ineffectively calls upon the person to behave lawfully and after the police officer warns the person about their intention to use such coercive measures. The obligation of such a call and of a warning may be waived only if there is a direct threat to life, health, or freedom of a police officer or another person, or if any delay would lead to a threat to a legally protected good. Based on the aforementioned provisions allowing to use direct coercive measures, the legislator recognised that as regards the allowed cases of using a taser, it is not allowed to use a taser to make sure that a person obeys an order. However, irrespective of the aforementioned legal basis for using direct coercive measures, Police, as an armed formation serving the entire society, striving to achieve full professionalism, undertakes actions intended to properly pursue its statutory tasks, engages in professional development regularly, and identifies irregularities requiring remedial measures.

In connection with the irregularities identified in the area related to using a taser on Igor S., which were quoted in the Report, the Chief Police Commander, nadinsp. dr (superintendant PhD) Jarosław Szymczyk, on 01 August 2017, in a letter under no. EP-2842/17, issued a relevant order to all voivodship commanders/Municipal Police Commander to increase supervision over the procedure of using electric discharge weapons

(items designed for incapacitating persons with electricity). The supervision will extend, among other things, to daily briefings and reports, as well as verifying the legitimacy, conditions, and manner of using tasers while on duty. It must be mentioned that the Prevention Bureau at the Chief Police Command is currently finalising its works on developing Guidelines on selected procedures of conduct of police officers or other designated persons with respect to electric discharge weapons, which are at the disposal of the Police. The subject draft has already been consulted with voivodship commands/Metropolitan Police Command, organisational units of the Chief Police Command, Central Investigation Bureau of the Police, and Police schools. The Guidelines are to specify selected procedures to exercise supervision over the conduct of police officers or other designated persons with respect to electric discharge weapons. The subject regulation is also intended to improve the physical safety of both persons against whom tasers are used as well as the physical and legal safety of police officers.

I would also like to inform you that the Regional Prosecutor's Office in Poznań handling the investigation no. PO II Ds. 5.2016 regarding I.S., filed an indictment against four police officers, i.e. Ł.Rz., A.W., P.P., and P.G., to the District Court for Wrocław-Śródmieście V (5th) Criminal Division in Wrocław with respect to an offence under Article 231(1) of the Polish Criminal Code and Article 247(1) of the Polish Criminal Code read together with Article 11(2) of the Polish Criminal Code.

As regards item 23 of the Report, it needs to be emphasized that the comment under number 23, which is an introduction to further recommendations, numbered 24-29 (indication of measures to protect against ill-treatment), is too far-reaching. It does not take into account the fact that in 2014-2015 a legislative process was being carried out, during which several amendments were introduced to the Act of 06 June 1997 – Polish Code of Criminal Procedure (consolidated text: Dz.U. (Polish Journal of Laws) of 2017 items 1904, 2405, of 2018 items 5, 106, 138, and 201), inter alia by:

1) the Act of 27 September 2013 on amending the Act – Polish Code of Criminal Procedure and some other acts of law (Dz.U. (Polish Journal of Laws) item 1247);
2) the Act of 15 January 2015 on amending the Act – Polish Criminal Code and some other acts of law (Dz.U. (Polish Journal of Laws) item 21);

3) the Act of 20 February 2015 on amending the Act – Polish Criminal Code and some other acts of law (Dz.U. (Polish Journal of Laws) item 396).

Below you will find a table containing a table to present the provisions that concern a procedural arrest of a person and their right to seek the advice of an advocate or a legal adviser.

Moreover, the issue that enjoyed interest of the Committee was reflected in the Guidelines no. 3 of the Chief Police Commander dated 30 August 2017 concerning the performance of investigation-examination activities by police officers that entered into force on 22 September 2017 (Dz. Urz. KGP (Official Journal of CPC) item 59. The issue was also the subject-matter of correspondence between the Human Rights Plenipotentiary of the Chief Police Commander with the Commissioner for Human Rights (Ombudsman). Due to the revision of the criminal procedure we saw in 2016, internal regulations of the Police were also amended.

In the subject guidelines of the Chief Police Commander concerning the performance of investigation-examination activities by police officers, the provision on the procedural arrest of a person reads as follows:

"§ 87. 1. Immediately after arresting a person, the police officer informs the said person about the grounds for arrest and about the rights that they have, in particular about the right to seek advice of an advocate or a legal advisor and about the right to make a statement and refuse making a statement, as well as other rights discussed in Article 244(2) of the Polish Code of Criminal Procedure, and next hears them out.

2. The arrested person must be immediately allowed to contact an advocate or a legal adviser and to have a direct conversation with them. In exceptional cases, where circumstances so justify, a police officer may be present during such conversation.

3. For the purposes of enabling the arrested person to contact an advocate or a legal adviser, the mode described in the regulation of the Minister of Justice dated 23 June 2015 on the manner of granting access to defence counsel to the defendant in a summary proceedings (Dz. U. (Polish Journal of Laws) item 920).

4. An arrested person being a citizen of a foreign country, on their request, is allowed to contact a competent consular authority or a diplomatic representation, and if the arrested person is stateless – they are allowed to contact the representative of the state in which that person has their permanent place of residence.

5. Hearing the arrested person out and accepting their statement is not a procedural examination. While hearing the person out, the arrested person must be allowed to make requests and statements in order to provide circumstances speaking for releasing the arrested person, in particular those that exclude him committing the offence or that are due to the person's health condition. Hearing out may not violate the irrevocable rights of the person related to the fact that there is no obligation to prove your innocence or to provide evidence to your detriment (the right to stay silent). The circumstances mentioned should be immediately verified.

6. The arrest report mentions the statements made by the arrested person after they informed about the grounds for the arrest and the associated rights, in the manner described in (1). Upon providing the arrested person with the instruction about their rights in a criminal proceedings, it is also necessary to clarify the contents of the instruction. A copy of the signed instruction is placed in the main case files.

7. The arrested person who does not speak Polish is provided by a police officer with such instruction translated into a foreign language known to such a person. If no foreign-language text is available, the arrest report contains a note about interpretation of the instruction by an interpreter, informing the arrested person that they may demand delivering a written summary of the rights in a language that the said person can understand.

8. The persons mentioned in Article 261 of the Polish Code of Criminal Procedure are notified only on request of the arrested person.

9. If the consular agreement between the Republic of Poland and the state whose nationality the arrested person holds, the competent consular authority or diplomatic representation is informed automatically.

10. The Police immediately notifies the prosecutor about the arrest, in the manner agreed by the heads of the prosecution organisational unit and the Police unit.

11. If after the arrest there is no person obligated to take custody of the flat or property of the arrested person, the Police undertakes the necessary conditions intended to secure the flat or the property of the arrested person, taking into account the requests and comments made by such a person, as much as possible."

In the context of the above, the Committee's statement: about "absence of any real progress in their application since the CPT's previous visits", which, as it seems, is based on cases being occasional in nature, is unfair to the police officers.

In another issue mentioned in point 24, it must be noted that calling upon the Polish authorities

"to take effective steps to ensure that persons deprived of their liberty by the police are systematically accorded the right to inform a close relative or another third party of their situation, as from the very outset of their deprivation of liberty" seems incomprehensible.

The CPt delegation was undoubtedly familiarised with the current state of law regarding notifying about the arrest. The provisions in force ensure that the arrested person may notify more than one person, in the place of or next to their next of kin (including an employer, a school or a university, a commander or a person managing the enterprise of the arrested person, or the enterprise for which they are responsible for). That notified person may also be another person specified by the arrested person. The said right is complied with by the police officers only on request of the arrested person, because in line with Article 345(3) of the Polish Code of Criminal Procedure, the provisions of Article 261 shall be applied *mutatis mutandis*, but the notification is made on request of the arrested person[1].

Therefore, the allegations of the Committee seem unfounded, and the recommended practices (sentence 2 and 3) have been applied by the Police for a long time now.

The provisions of Articles 244 and 245 of the Polish Code of Criminal Procedure serve as the sufficient basis for assuring the assistance of an advocate to a person arrested by the Police. Thanks to the amendments introduced to Article 245, which makes it possible to apply the provisions on advocates on duty to arrested persons, an arrested person may urgently seek advice of an advocate who is on duty on the given day (Dz.U. (Polish Journal of Laws) of 2013 item 1247). Therefore, the provisions of the Polish Code of Criminal Procedure do not require any amendments in this area**.**

[1] Article 261(1). The court is obligated to notify the next of kin of the defendant about imposition of detention; the notified person may be indicated by the defendant.

§ 2. On request of the defendant, also a different person may be notified in the place of or in addition to the person mentioned in (1).

§ 2a. The court notifies the authority conducting the proceedings against the defendant in another case about the detention, provided that the court gained knowledge about such proceedings. The court instructs the defendant about Article 75(1).

§ 3. The court is obligated to immediately notify the employer, the school or university, and for soldiers – the commanding officer, and if the defendant is an entrepreneur or a member of a governing body of an enterprise who is not an employee, on request of the person – the person responsible for managing the enterprise, about the imposition of detention.

The statement that ", there is still no provision in Polish law allowing for the appointment of an ex officio lawyer before the stage of court proceedings" is untrue. **The right to use the services of a defence counsel is granted as soon as the person becomes a suspect (Article 78 read together with Article 71 of the Polish Code of Criminal Procedure). As regards an arrested person who is not a suspect, such a person is only granted the right to seek the advice of an advocate; they are not entitled to be appointed a defence counsel, including ex officio defence counsel (public defender)**. If the status of the arrested person changes during the arrest and they become a suspect, then such a person will be entitled to exercise the above right also at the stage of preliminary proceedings. However, if their status will not change, they will need to cover the costs of the advocate themselves. No amendments to the Polish Code of Criminal Procedure are planned in this area.

It must be noted that the revised Article 245(1) of the Polish Code of Criminal Procedure reads that "the arrested person, on their request, should be immediately allowed to contact an advocate or a legal advisor in an available form and to have a direct conversation with them. The arresting authority may reserve the right to be present during the conversation in exceptional cases substantiated by special circumstances." In practice, such a contact takes place as defined in the regulation of the Minister of Justice dated 23 June 2015 on the manner of granting access to defence counsel to the defendant in a summary proceedings (Dz. U. (Polish Journal of Laws) item 920).

It is also important to recall the decision of the Supreme Court of 13 October 2011 (III KK 64/11), with the following language: "Enabling the arrested person to immediately contact an advocate, mentioned in Article 245(1) of the Polish Code of Criminal Procedure, does not mean that such a contact must take place "at once", as this time limit must be interpreted in the context of the entire given case, in particular, in the context of technical capabilities and the conditions arising out of the applicable legal regulations, including those related to appointing a public defender."

As regards item 26, it must be noted while such incidents did take place, they should be assessed negatively. **The Police regulation provides that the arrested person must be immediately allowed to contact an advocate or a legal adviser and to have a direct conversation with them. In exceptional cases, where circumstances so justify, a police officer may be present during such conversation.**

As regards item 27, it must be noted that a medical examination of a person arrested by the Police is defined in the regulation of the Minister of the Interior dated 13 September 2012 on medical examinations of persons arrested by the Police (Dz.U. (Polish Journal of Laws) of 2012, item 1102). It governs the issues related to giving first aid or qualified first aid to arrested persons, as well as resolves the matters related to subjecting such persons to medical examinations. In turn, **medical examinations of a person in criminal proceedings for the purposes of gathering evidence, and this is probably the one mentioned by CPT in its recommendations, is set forth in the regulation of the Minister of Justice dated 23 February 2005 on subjecting the defendant and the suspect to examinations or other activities (Dz. U. (Polish Journal of Laws) No. 33, item 299).** The said regulation defines detailed conditions and manner of:

1) subjecting the defendant and the suspect to inspection of the body and other inspections which are not associated to disrupting the bodily integrity of the person, including drawing of blood, taking samples of hair or bodily fluids;
2) performing a cheek swab, taking fingerprints, photographing, presenting for recognition to other persons.

The provisions of the said regulation, under Article 192 of the Polish Code of Criminal Procedure, are also applied if it is necessary to subject the victim (a witness) to inspection or examination, in particular if the punishment for the offence depends on their health condition.

As it seems, the recommendations of the Committee are partially implemented, as some of them are based in the provisions of the criminal procedure already in place, e.g. requirements set for reports (here: report on the inspection of a person), the rules of recording images (photographing), etc.

However, as regards the matter mentioned in 28, it must be noted that the Guidelines no. 3 of the Chief Police Commander dated 30 August 2017 concerning the performance of investigation-examination activities by police officers (Dz. Urz. KGP (Official Journal of CPC) item 59) in its Section 1(87) referring to the manner in which a person is to be arrested by police officers, provide that **immediately after arresting a person, the police officer informs the said person about the grounds for arrest and about the rights that they have, in particular about the right to seek advice of an advocate or a legal advisor and about the**

right to make a statement and refuse making a statement, as well as other rights discussed in Article 244(2) of the Polish Code of Criminal Procedure, and next hears them out.

Moreover, Section (6) reads that "the arrest report mentions the statements made by the arrested person after they informed about the grounds for the arrest and the associated rights, in the manner described in (1). Upon providing the arrested person with the instruction about their rights in a criminal proceedings, it is also necessary to clarify the contents of the instruction. A copy of the signed instruction is placed in the main case files."

It must be mentioned that Section 19(3) of the said Guidelines provide that while providing the victim or the suspect or the witness with the written instruction mentioned in Article 300 of the Polish Code of Criminal Procedure, its contents must also be explained in a way that is adequate for the age, intellectual development and emotional condition of the person being familiarised with the instruction. It is obvious that the aforementioned rule also applies to instructing an arrested person.

It must also be noted that the person who does not speak Polish is provided by a police officer with such instruction translated into a foreign language known to such a person; if no foreign-language text is available, the arrest report contains a note about interpretation of the instruction by an interpreter, informing the arrested person that they may demand delivering a written summary of the rights in a language that the said person can understand.

Considering the mode of procedure recommended to police officers, it is reasonable to conclude that the recommendations of CPT are fully implemented by the Polish Police, in the manner recommended by the Committee.

A table comparing changes to the Polish Code of Criminal Procedure:

	Current wording	Wording before amendments
Article 244 – Arrest procedures		
§ 1	A person may be arrested by the Police if there are justified grounds to suspect that this person committed an offence and it is feared that they might escape, go into hiding, conceal traces of the	A person may be arrested by the Police if there are justified grounds to suspect that this person committed an offence and it is feared that they might escape, go into hiding, conceal traces of the

	offence, or their identity cannot be established, or the conditions are fulfilled to implement accelerated procedure with respect to this person.	offence, or their identity cannot be established, or the conditions are fulfilled to implement accelerated procedure with respect to this person.
§ 1a.	A person may be arrested by the Police if there are justified grounds to suspect that this person committed an offence with the use of violence against a member of their household and it is feared that such an offence may be repeated, especially if the suspected person is threatening to do so.	A person may be arrested by the Police if there are justified grounds to suspect that this person committed an offence with the use of violence against a member of their household and it is feared that such an offence may be repeated, especially if the suspected person is threatening to do so.
§ 1b.	The Police arrests a person suspected of the offence, if the offence referred to in § 1a was committed with the use of a firearm, a knife or any other dangerous item, and it is feared that such an offence may be repeated, especially if the suspected person is threatening to do so.	§ 1b. The Police arrests a person suspected of the offence, if the offence referred to in § 1a was committed with the use of a firearm, a knife or any other dangerous item, and it is feared that such an offence may be repeated, especially if the suspected person is threatening to do so.
§ 2.	The arrested person must immediately be informed about the grounds for their arrest and about their rights, including the right to seek advice of an advocate or a legal adviser, to use free-of-charge assistance of an interpreter, if the arrested person does not speak Polish to a sufficient degree, to make a statement and to refuse to make a statement, to receive a copy of the arrest report, to have access to first medical aid, and the	§ 2. The arrested person must immediately be informed about the grounds for their arrest and about their rights, including the right to seek advice of an advocate, and be heard.

	rights mentioned in Article 245, 246(1) and 612(2), as well as about the provisions of Article 248(1) and (2), as well as be heard.	
§ 3.	The arrest should be recorded in a report indicating the name, surname and the function of the person making the arrest, as well as the name and the surname of the arrested person, or, if their identity cannot be established, a physical description and the date, hour, place, and grounds for the arrest, detailing the offence of which the arrested person is suspected. The report must also include statements made by the arrested person and the fact that the said person was advised of their rights. A copy of the report is given to the arrested person.	§ 3. The arrest should be recorded in a report indicating the name, surname and the function of the person making the arrest, as well as the name and the surname of the arrested person, or, if their identity cannot be established, a physical description and the date, hour, place, and grounds for the arrest, detailing the offence of which the arrested person is suspected. The report must also include statements made by the arrested person and the fact that the said person was advised of their rights. A copy of the report is given to the arrested person.
§ 4.	Immediately after the arrest of the person suspected of the offence, the necessary data must be gathered; also, the prosecutor must be notified about the arrest. In the event of grounds mentioned in Article 258(1-3), a request to the prosecutor must be filed to lodge a motion for remand to the court.	§ 4. Immediately after the arrest of the person suspected of the offence, the necessary data must be gathered; also, the prosecutor must be notified about the arrest. In the event of grounds mentioned in Article 258(1-3), a request to the prosecutor must be filed to lodge a motion for remand to the court.
§ 5.	The Minister of Justice shall define by way of a regulation the form of the instruction referred to in § 2, containing in particular the information on the	§ 5. The Minister of Justice shall define by way of a regulation the form of the instruction referred to in § 2, containing in particular the information on the

	rights of the arrested person: to use free-of-charge assistance of an interpreter, to make a statement and to deny making a statement, to receive copies of the arrest report, to have access to first medical aid, as well as the rights specified in §2, in Article 245, 246(1) and 612(2) and information about the provisions of Article 248(1 and 2), taking into account the necessity to understand the instruction also by the persons who are not assisted by an attorney.	rights of the arrested person: to use free-of-charge assistance of an interpreter, to make a statement and to deny making a statement concerning the arrest, to receive copies of the arrest report, to have access to first medical aid, as well as the rights specified in §2, in Article 245, 246(1), 248(2) and Article 612(1 and 2), taking into account the necessity to understand the instruction also by the persons who are not assisted by an attorney.
Article 245 – Contacting an advocate		
§ 1.	The arrested person, on their request, should be immediately allowed to contact an advocate or a legal advisor in an available form and to have a direct conversation with them. The arresting authority may reserve the right to be present during the conversation in exceptional cases substantiated by special circumstances.	The arrested person, on their request, should be immediately allowed to contact an advocate in an available form and to have a direct conversation with them. The arresting authority may reserve the right to be present during the conversation.
§ 2.	The provisions of Article 517j(1) and provisions issued under Article 517j(2) are applied *mutatis mutandis*.	
§ 3.	The provisions of Article 261 shall be applied *mutatis mutandis,* but the notification is made on request of the arrested person	The provisions of Article 261(1 and 3) shall be applied *mutatis mutandis,* but the notification is made on request of the arrested person.

Professional training and development, monitoring, and other adopted solutions

Polish Police disposes of a unique (on an European scale) model of operation of the network of police human rights plenipotentiaries working at the Chief Police Command, voivodship police commands, Central Investigation Bureau of the Police, and Police schools. The plenipotentiaries operate based on a uniform model, which provides for preventive activities related to protection of rights and freedoms of humans, observing the rules of professional conduct, and equal and non-discriminatory treatment.

On 31 December 2015, the implementation of the *Targeted strategy of the development of the human rights protection system of the Police for 2013-2015* ended. Already in Q3 2015 dialogue was initiated with multiple state and non-governmental institutions and an analysis of multiple systemic documents was commenced. Therefore, works began on preparing another planning document for 2016-2018. The following key documents served as the basis for the conceptual work to plan further actions in the area of protecting human rights: *Strategy of activities aimed at preventing human rights violations by Police officers* developed by the Ministry of the Interior in 2015 in cooperation with other entities, including the Police, and the *Priorities and priority tasks of the Chief Police Commander for 2016-2018.* The developed document is one of the measures for the priority of the Chief Police Commander for 2016-2018 outlined in item 6, worded as follows: *Improving the quality and efficiency of Police work by gradual improvement of professional competences of police officers and employees,* and thus, the task no. 14: *Carrying out educational-informative activities in the area of protecting human rights and freedoms and equal opportunities strategy.* The document is a form of "anticipation" for systemic solutions, including ones in the area of police education. The analyses, which took into account the need to avoid overlapping of tasks for the Police in the documents issued by authorities and state institutions, recommendations of international institutions, as well as NGOs, resulted in drawing up a measure document –, which was given the title taken from priority 6, task 14: "Main targets of educational-informative activities in the area of protecting human rights and freedoms and equal opportunities strategy in the Police for 2016-2018".

The document was developed on the basis of information received from police sources and positions of state and international institutions as well as from other materials

of significance for emphasizing fundamental activities in the area of human rights protection, which are to be implemented in 2016-2018 by the Police.

For example, such source materials include in particular:

1. Information from official reports, strategies, and research results of national and international institutions whose area of expertise includes protection of human rights.
2. Positions obtained as a result of requests directed among other things to: the Office of the Commissioner for Human Rights, the Office of the Government Plenipotentiary for Equal Treatment.
3. Results of inquiries sent to Police units and the offices of the Chief Police Command.
4. Results of internal reports, Police analyses, developed among others by: Office of the Chief Police Command Bureau, Audit office of the Chief Police Command, the Internal Affairs Bureau of the Chief Police Command, and the then Office of Prevention and Road Traffic of the Chief Police Command.
5. Information has been obtained on the basis of the daily experiences of the Police human rights plenipotentiaries.
6. Information and media reports on the suspicion or confirmation of improper conduct of Police officers.
7. Media information and publications of research centres on the dynamically changing international situation related to armed conflicts, including in particular social consequences for Poland of intensifying migration movements, which are the result, among other things, of operation of the so-called ISIS.
8. Annual analyses of results of work of Police units and organisational units of the Chief Police Command, responsible for implementing the *Targeted strategy of the development of the human rights protection system of the Police for 2013-2015.*

TARGET I

Improving the internal educational-informative activities affecting the professionalisation of the activities undertaken by the Police in the context of observing human rights and freedoms, professional conduct, and equal treatment.

Tasks:

1. Educational activities in the area of popularisation of recommendations and guidelines of international and domestic institutions safeguarding the protection of human rights

and freedoms, as well as educational activities on the basis of the case law of the European Court of Human Rights, mainly with respect to the so-called unexecuted judgements.

2. Within its competences, implementing results of the *Strategy of activities to prevent human rights violations by Police officers.*
3. Continuing holding of workshops for the managerial personnel at the city, regional, and poviat level entitled "*Human rights in Police governance".*
4. Carrying out educational and informative activities in the area of protecting human rights and freedoms, based on original or available educational and informative tools.
5. Carrying out educational and informative activities in the area of professional conduct in the context of human rights and freedoms, based on original or available educational and informative tools.
6. Carrying out educational and informative activities in the area of equal treatment and creating equal opportunities environment within the Police, based on original or available educational and informative tools.
7. Carrying out educational and informative activities in the area of practical aspects of protecting the so-called whistle-blowers and fighting the conspiracy of silence in the environment, based on original or available educational and informative tools.
8. Carrying out post-incident educational activities, being a quick and effective response to disclosed or alleged cases of torture or other forms of inhuman or degrading treatment or punishment.
9. Carrying out educational and informative activities in the area of disabilities, based on original or available educational and informative tools and working out a procedure to govern contacting the Police with persons with disabilities.
10. Carrying out educational and informative activities in the area of multiculturalism, based on original or available educational and informative tools.
11. Introduction of the issue of homelessness to the issues raised during the educational and informative campaigns.
12. Continuing educational and informative activities to raise the awareness of police officers and employees to the issues of, among other things: refugees, humanitarian attitudes, diversity, tolerance, and anti-discriminatory activities, as well as hate-driven offences and incidents.

13. Responding to identified training needs and inspiring educational activities in the area of protecting the human rights and freedoms, professional conduct, and equal treatment by establishing working relations with organisational units of the Police and third entities, as well as conducting educational undertakings based on available sources, e.g. complaint proceedings, results of disciplinary proceedings, legally binding court rulings, reports, analyses, research results, recommendations, etc.
14. Inspecting detention rooms for arrested persons or persons held until sober, police establishments for children, and other rooms as regards the conditions of stay of persons in them, including personnel, and running training courses for the personnel in the area of protecting human rights and freedoms related to the rights of persons who are temporarily deprived of liberty.
15. Holding annual educational and informative activities on the occasion of the International Human Rights Day (10 December).
16. Carrying out current consultations for police officers and civilian employees of the Police in the area of potential violations of human rights, professional conduct, or equal treatment principle.
17. Cooperation in the area of managing and updating a website concerning human rights in the portal managed by the Police unit, paying particular attention to make sure that the website concerning human rights, professional conduct, and equal treatment has an educational formula.

TARGET II

Improving the external educational-informative activities affecting the professionalisation of the activities undertaken by the Police in the context of observing human rights and freedoms, professional conduct, and equal treatment.

Tasks:

1. Carrying out educational and informative cooperation with the public administration, universities, and NGOs in order to work out best practices to prevent all and any forms of violations of human rights, professional conduct by police officers and employees.

2. Cooperation in the area of educational and informative cooperation with the public administration, universities, and NGOs in order to develop best practices to prevent any forms of aggression against police officers.
3. Continuing multilateral cooperation in the area of preventing offences motivated by hate and social prejudice.
4. Gathering information on the current basis and analysing them for educational purposes related to incidents, phenomena and offences in the area of discrimination and improper conduct of the Police; also, initiating ad hoc educational undertakings for the police community related to combating and preventing negative stereotypes and violence motivated by hate and prejudice.
5. Initiating cooperation and staying in regular touch with the representatives of social minorities, NGOs, and state institutions whose actions are aimed at supporting social minorities.
6. Acting as a local coordinator for the matters related to conducting visits by the National Preventive Mechanism at the Office of the Commissioner for Human Rights and the Committee Against Torture (CPT).

Based on the aforementioned documents, two central programmes were developed and implemented for the purposes of local professional development within the Police, being: "Human rights in Police governance" and "Preventing torture".

In 2017 and 2018, a general report and a detailed report were also drawn up in the area of coordinating activities intended to establish teams to review the areas pointed out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) during their visits to police isolation establishments. On 11 July 2017 the Chief Police commander, Mr nadinsp. dr (superintendant PhD) Jarosław Szymczyk, countersigned by Deputy Chief Police Commander, Mr nadinsp. (superintendant) Jan Lach, approved the *"Information on the proposal to establish a team to review the areas pointed out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) during visits to police isolation establishments",* developed by the Prevention Bureau of the Chief Police Command. Coordination in the area of implementing conclusions contained in the Information was entrusted with the Human

Rights Plenipotentiary of the Chief Police Command. In the course of such coordination activities, the CPC Plenipotentiary developed a letter to be distributed among Police units discussing the nature of the tasks to be carried out, containing e.g. such information:

1. The purpose and the essence of the activities is to ensure early prevention and immediate counteracting activities with respect to any irregularities in the functioning of detention rooms and police establishments for children in the horizontal aspect (personnel, logistics, trainings, violations and irregularities, supervision, etc.).
2. The focal and support point is the CPC Human Rights Plenipotentiary.
3. The last CPT's report for Poland after visiting Police isolation establishments was developed for Poland on 27 November 2013, which is at the disposal of the human rights plenipotentiaries, among other persons.
4. The report on the visits of CPT to the police isolation establishments that took place in May of this year is expected to be published at around October of this year. (information obtained during consultations of the Plenipotentiary with the Ministry of Justice).
5. The universal CPT standards e.g. in the area of arresting persons can be found at: http://www.coe.int/en/web/cpt/standards?p_p_id=56_INSTANCE_rmo9MHZGnl46&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-4&p_p_col_count=1&_56_INSTANCE_rmo9MHZGnl46_languageId=pl_PL#police.
6. The working teams should complete their work by 15 October of this year, and the time left until 30 October should be dedicated to developing a report for the Chief Police Command.
7. The positions of heads of such teams should, if possible, be held by Police human rights plenipotentiaries, with the substantive help of heads of units, where detention rooms and Police establishments for children exist.
8. It is worth considering engaging local Police leaders responsible for human rights protection in the works.
9. Activities in the area of operation of the teams should be reasonable and adjusted to the diagnosed needs.

10. The number (proportion) of establishments visited is not determined. For the purposes of planning visits to establishments, priority should be granted to extraordinary events, complaints against the functioning of detention rooms and Police establishments for children, disciplinary proceedings, criminal proceedings against persons handling detention rooms and Police establishments for children, lack of earlier visits/inspections in 2017.
11. The teams should use all and any available resources collected within the internal supervision and control system, through the National Preventive Mechanism, judges-inspectors, etc.
12. It is recommended to avoid "forced" doubling of visits or collecting information about detention rooms or Police establishments for children subjected to an inspection, visit, analysis or study in 2017, unless the prerequsites took place that were mentioned in 10.
13. For item II, 4-5 of the Information (...), the said data should be presented in a table presentation/summary of all active detention rooms and Police establishments for children.
14. As of 1 August of this year, the attention of the teams should be focused primarily on the units, about which the least information is available or where extraordinary events happened within the detention rooms or the Police establishments for children.
15. Heads of the relevant Police units must be immediately informed about the purpose of the teams, and the activities should be conducted in a way that disturbs the day-to-day operation of the units.
16. The report should be uniform in nature, offering a comparative perspective (a sample is enclosed).

The CPC Plenipotentiary coordinated the formal selection of the 17 monitoring teams, served as the focal point for the Police units, collected the results of work of the monitoring teams (708 pages of feedback), and made the following general conclusions:

1. Establishing monitoring teams in Police units brought in a measurable result in the form of a review of facilities, documentation, forms of supervision exercised, etc. Nevertheless, these activities seem a bit premature, because to date Poland has not

received the final report of CPT after the visit paid to our country in May of this year, therefore the Police does not yet know the conclusions and recommendations, while monitoring was to be closely related to the results of the CPT's visit.

2. The guidelines developed by the CPC Plenipotentiary and a sample report made the works much easier and introduced order to data collection process, making it possible to carry out further analyses and comparative studies, or drawing conclusions at a detailed level.
3. All Police units approached the task implementation in a professional way; even though the final reports often vary significantly in terms of volume and the level of detail.
4. The forms of supervision exercised over detention rooms and Police establishments for children, in terms of formal and structural matters, must be deemed adequate. The real supervision must be strengthened.
5. The determined irregularities pertained in particular to the official documentation; this area requires intensification of supervision.
6. Some Police units developed requests of legal-organisational and financial nature, which should be subjected to additional analysis carried out by the experts representing the Prevention Bureau of the Chief Police Command.
7. A careful analysis of the legal-organisational requests should be the subject-matter of a more extensive and orderly discussion (briefing).
8. The amount of the material collected suggests that a thorough analysis coupled with drawing up final conclusion must be carried out by the Prevention Bureau of the Chief Police Command.
9. It is proposed to repeat such organised activities at least every two years.
10. It is suggested to consider introducing the recommendations of the National Preventive Mechanism of the Commissioner for Human Rights and the recommendations of penitentiary judges to monitoring.
11. Detailed conclusions developed later on by the Prevention Bureau of the Chief Police Command must be discussed during a target briefing in the prevention section.
12. It is important to consider that, via the Ministry of Justice in concert with the Ministry of Foreign Affairs, the European Committee for the Prevention of Torture and

Inhuman or Degrading Treatment or Punishment (CPT) should be informed about such monitoring, as an example of good practice.

As a result of the aforementioned document, a detailed *"Information on analysing the legal-organisational requests formed by the teams established at the Voivodship Police Commands/Municipal Police Command to review Police detention rooms with respect to the areas raised by the representatives of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)"*.

Also, *"Information concerning the functioning of rooms for arrested persons or persons held until sober, transition rooms, temporary transition rooms, and Police establishments for children in 2017* was drawn up, and along with conclusions, it was forwarded to Police units.

As regards new training courses, changes to training curricula related to the visit of CPT, it is necessary to note that the Chief Police Commander approved the position of the Bureau of Personnel, Training, and Legal Services of the Chief Police Command, which indicated the need of practical application of the knowledge related to observing professional conduct rules and respecting human rights and freedoms, in particular throughout the educational process.

Therefore, by way of a decision no. 253 of the Chief Police Commander dated 17 October 2017, a team was established to develop a draft central professional development plan for Police teachers in the area of the methodology of teaching about the issues of observing human rights and freedoms and professional conduct during training undertakings.

The purpose of the project is to emphasize the significance of such issues and the optimal way of preparing the training personnel to hold classes in this area. The above will also strengthen the message related to observing professional conduct rules and respecting human rights and freedoms not only during the classes dedicated to these issues, but it will also emphasize it – in line with the inter-disciplinary principle – mostly during classes in the area of tactics and techniques of intervention and undertaking procedural activities. The programme will be implemented in Q2 of this year.

Moreover, I would like to inform you that the need to model the attitudes of police officers in the area of lawful conduct is emphasized throughout the entire process of professional training and development, e.g. by obligating Police officers by relevant provisions in the training curricula so that they refer to professional conduct rules as well as human rights and shape the desired attitudes in this area.

In detail, these issues are taken into account in:

- basic professional training curriculum

JM01 Establishing the circumstances of events and securing the place of events;

JS09 Human rights, professional conduct of police officers, history of the Police;

JM02 Ensuring safety and public order in the place where an officer is on duty and undertaking interventions;

JS06 Arresting a person;

JM04 Serving in convoys and detention rooms for arrested persons or persons held until sober;

JS02 Protective detail at Police detention rooms;

JM10 Tactics and techniques of intervention;

JS02 Using physical force as a direct coercive measure.

The basic professional training curriculum has been modified in December 2016. The modification concerned, among other things, module 10 Tactics and techniques of intervention, which was extended by 63 lessons. Increasing the number of lessons in this area obviously affects the development of high-level skills in this area, and thus it contributes to reducing the number of mistakes made during interventions.

It needs to be emphasized that the basic professional training curriculum is mandatory for all new police officers, and as of December 2016 to this date, 3,505 persons completed the training.

Professional training programme for graduates of universities:

On 12 July 2017, by way of the decision no. 160 of the Chief Police Commander, a professional training programme for graduates of universities was introduced, which contains, in module IX Professional pragmatics, topic no. 8 – protection of human rights in the work of a Police officer.

The teaching curriculum at the specialist course in the area of serving in the detention rooms for arrested persons or persons held until sober and in Police establishments for children:

The Chief Police Commander on 31 December 2015 by way of the decision no. 145 introduced the teaching curriculum at the specialist course in the area of serving in the detention rooms for arrested persons or persons held until sober and in Police establishments for children. The purpose of the said programme is, among other things, to improve the knowledge and skills of police officers in the area of observing human rights of persons staying in the Police detention rooms. The following issues were incorporated into topic no. 6: human rights – basic notions, legal regulations on discrimination, shaping of tolerance in the context of minorities and multiculturalism.

Also, it must be mentioned that the manner in which the curricula are developed and modified is mentioned in the decision no. 863 of the Chief Police Commander of 05 December 2007 (Dz. Urz. KGP (Official Journal of CPC) item 176) on developing, modifying, changing, and revoking professional training programmes and curricula. Under the said decision, the heads of organisational units of the Chief Police Command make programming requests in the area of their expertise.

Therefore, if it is necessary to modify training programmes and curricula in the area of interest for the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, i.e. the matters related to detention establishments, officers on duty, preventing aggressive behaviour, including torture, etc., the Bureau of Personnel, Training and Legal Services of the Chief Police Command will, after receiving a relevant request, undertake the necessary actions.

As regards initiatives in the area of psychology, it must be mentioned that the Division of Police Psychologists of the Bureau of Personnel, Training and Legal Services of the Chief Police Command coordinates the works related to developing local professional development for the Police managerial personnel entitled “Workshop of Pro-Active Superiors”, which is continuing the workshops carried out within the Police until 2015, entitled “Early Intervention System”.

The development programme includes 5 days of workshops, whose purpose is to develop the skills of the managerial personnel in the area of recognizing and responding in a pro-active manner to undesirable conduct at work and on duty. In Q1 2018, the material will

be forwarded to implementation to Police psychologists and human rights plenipotentiaries in voivodship (Metropolitan) Police commands. Further, the professional development programme will be adjusted to fit the specific nature of operations of such organisational units as training units, Central Bureau of Investigation of the Police, Internal Affairs Bureau of the Police, or the Forensic Laboratory of the Police.

It must be emphasized that any cases of inhuman or degrading treatment by Police officers will be met with decisive and persisent response, up to the expulsion from the formation.

Border Guard establishments

It seems that point 35 of the Report was drawn up both on the provisions that are no longer in force (consolidated text of the Act of 12 December 2013 on foreigners) and the provisions of the act of 13 June 2003 on foreigners, which, as a rule, was in force until 30 April 2014. In particular, **attention must be drawn to the fact that while the Police does have the right to arrest a foreigner; however, under Article 394(4) (1) of the said Act, the Police transfers the foreigner immediately to the competent body of the Border Guard having jurisdiction for the place of arrest. It means that the Police does not undertake any other activities towards the foreigner, such as requesting that the court places the foreigner in a guarded centre for foreigners (which was true under the regime of the previous act of law).**

Moreover, the Committee also failed to note that after the arrest the Border Guard has the ability not only to request the placement of the foreigner in a guarded centre, but also under Article 398(1) of the said Act – to apply a measure alternative to detention towards such a foreigner.

Moreover, the footnote 34 (indicating that "deportation arrests are currently called "arrests for foreigners") seems unnecessary – the proper terminology should have been used throughout the text of the report itself, i.e. the phrase "arrest for foreigners" should be used.

In turn, the footnote 35 referring to Articles 87-89 of the Act on foreigners first of all provides an incorrect source of the provisions of law – in this place, the Act of 13 June 2003

on extending protection to foreigners within the territory of the Republic of Poland (Act on protection) should be referred to here. In addition, Articles 87-89 of the said Act indicate the circumstances, where the person applying for international protection may be arrested, where measures alternative to detention may be imposed with respect to the foreigner of that category, or where the person may be placed in a guarded centre. Moreover, it must be emphasized that in line with Article 89(6) of the Act on protection, the period of stay of the person applying for international protection at a guarded centre may not exceed 6 months. Therefore, the information mentioned in the subject footnote 35 is out of date, referring to the legal status that was applicable before 01 May 2014.

The Guarded Centre for Foreigners in Lesznowola is continuously expanded, including with the help of foreign funding. Since 2013, as part of projects co-financed under the SOLID programme, building no. 1 of the guarded centre has been renovated and fitted. It allowed us to open a male block for 49 persons. Moreover, internal fence was replaced, a sports field and a leisure yard for foreigners were built.

At the moment, i.e. in the period 2016-2018, a project is being implemented with the help of financing from the Asylum, Migration and Integration Fund, which provides for a comprehensive overhaul of the buildings at the Guarded Centre for Foreigners in Lesznowola, including increasing its capacity to 73 places. The works consist in:

– renovation of building no. 2 (in order to adapt the building for housing additional 24 foreigners);

– building a waste treatment plant;

– upgrading the boiler room;

– demolishing the building of the current waste treatment plant;

– erecting building no. 5 (storage building);

– land development;

– additional fittings in building no. 1 (internal smoking room - booth, accommodation equipment, x-ray device for security controls);

– erecting a garage building.

After receiving the first signals of irregularities discussed in item 37 during the visit of CPT (referring to detainees using their case numbers, disrupting night-time rest by verifying

the presence of foreigners at night), a letter of 05 June 2017 was directed to the management of the Guarded Centre for Foreigners in Białystok ordering them to cease such practices, i.e. to verify the presence of foreigners at night only if it is necessary.

It must be assured that the Border Guard undertakes all and any steps on a current basis to prevent cases of violence among foreigners, paying particular attention to monitoring of foreigners. For this purpose, systemic actions are undertaken that concern all guarded centres. For example, it must be emphasized that as of 03 November 2017 the so-called monitoring sheets were introduced as a result of a dialogue undertaken with one of the NGOs. Monitoring sheets are completed by social workers in the course of the monitoring/observation of persons belonging to the category of persons with special needs. It is important to note that they contain both the remarks of social workers and other persons working at the centre and having contact with the foreigners. Such solution was intended to incorporate independent comments of various persons in one sheet.

As regards the way the windows open in the residential rooms at the Guarded Centre for Foreigners in Lesznowola, it must be first and foremost mentioned that in connection with the request tabled by NGOs and the Commissioner for Human Rights related to the removal of external bars so that the windows would not resemble the so-called prison-regime windows, it was necessary to install the so-called safe windows. Such windows, as are installed in the Guarded Centre for Foreigners in Lesznowola and the Guarded Centre for Foreigners in Kętrzyn, do not have handles, and therefore it is not possible to open them without assistance. The windows are opened with a key that is in the custody of the personnel on duty. It means that the foreigners report the need to open or close the window to the person on duty. Apart from the manner in which the windows are opened, there are no other restrictions that would have a negative impact on access to fresh air.

As regards the absence of curtains in the windows, the Committee's remark was recognized as legitimate.
On 05 March 2018, **the Director of the Board for Foreigners of the Chief Command of the Border Guard instructed all guarded centres to verify which residential rooms for foreigners are at the highest risk of exposure to unfavourable weather conditions (too**

much sun exposure) and to undertake the relevant steps in order to equip the windows with a measure of protection (curtains or roller-blinds).

While performing the task called “Modernisation of the Guarded Centre for Foreigners in Białystok”, by 20 December 2018 the completion of the following works is planned:

– moving the entrance to the remand centre for foreigners (the remand centre is still closed, due to the fact that it is not necessary to open it) to another section of the building;

– erecting emergency exit door between the guarded centre for foreigners and the remand centre;

– changing the purpose of two rooms at the remand centre (converting it into a room for admitting foreigners and a room for performing administrative activities with respect to foreigners);

– comprehensive refurbishment of toilets and wash rooms, including in isolation cells;

– building a system for voice announcements (radio system);

– building 4 alcoves in the corridors on the first and second floors in order to place a hot water urn (batch cookers for water, beverages);

– installing electric igniter for cigarettes in internal smoking rooms, installing mechanical ventilation;

– installing IT access systems in computer rooms;

– expanding and refurbishing of the CCTV IP system (monitoring system);

– expanding the installation of emergency guaranteed power supply for the guarded centre, replacement of the USP emergency power supply device;

– expanding and refurbishing of the break-in and robbery alarm system in the rooms of the guarded centre (alarm system).

On 08 March 2018, the tender procedure was concluded. The selected contractor should commence the aforementioned modernisation works within 14 days.

The second stage of the investment will be incorporated into the 2019-2021 financial perspective and will include, in particular, building a multi-purpose sports field with external

lighting, removal of internal bars in corridors and replacing them with partition walls with safe glass filling; refurbishing the CCTV IP system in the guarded centre and within its premises (monitoring system).

As soon as after receiving the first signals about potential irregularities regarding complaints related to food (both in terms of quality and quantity) during the visit of CPT, by way of a letter dated 05 June 2017 the management of the Guarded Centre for Foreigners was ordered to verify the quality of the nutrition services offered.

As regards the applicable nutrition standards, this issue is governed by the regulation of 24 April 2015 on guarded centres and remand centres for foreigners, whose Section 23 reads that foreigners placed in a guarded centre receive three meals a day, including one warm meal, and beverages. The daily energy content of meals and beverages is:

1) for children:

– between 300 and 900 kcal – until the child turns 6 months old;

– between 700 and 1000 kcal – children between 7 months and 1 year old

– between 1000 and 1700 kcal – children between 1 year and 4 years old;

– between 1700 and 2600 kcal – children between 4 year and 12 years old;

– between 2600 and 3400 kcal – children between 12 year and 18 years old;

2) for the sick, pregnant women and breastfeeding woman – between 2600 and 3400 kcal;

3) for other foreigners – at least 2600 kcal.

As regards the daily rate (PLN 9.60) it must be noted that the rate is within the adopted value of nutrition daily rates used for collective nutrition facilities (for example, in prisons, the minimum value of the nutrition rate per inmate was set at PLN 4.00). It also seems improper to convert the said amount from PLN to EUr, as the price differences between Poland and Eurozone countries are significant.

In turn, as regards allowing foreigners to prepare their own food at the Guarded Centre for Foreigners in Białystok in a room designated for this purpose, it must be noted that after the Committee's visit, the foreigners were provided a microwave for their use. Moreover,

the refurbishment plan for 2018 provides for erecting special alcoves on the corridors, where batch cookers will be installed, i.e. containers with hot water or beverages (see item 40). As regards the Guarded Centre for Foreigners in Białystok, attention must be drawn to the fact that this centre has its own kitchen instead of relying on catering nutrition, which is certainly a more optimal solution.

It must be emphasized that the Boarder Guard exercised every effort to increase employment rates at its organisational units, including at the guarded centres for foreigners, so that all of them function properly.

At the moment, the employment rate in the Guarded Centre for Foreigners in Lesznowola is as follows:

– 76 FTEs – 60 persons actually employed, including 53 FTEs with 46 persons employed in the convoy-security group.

At the moment, the employment rate in the Guarded Centre for Foreigners in Białystok is as follows:

– 156 FTEs – 132 persons actually employed, including 83 FTEs with 73 persons employed in the security section.

The actual employment rates in the convoy-security group in Lesznowola and the security section in Białystok were emphasized due to the fact that it is those internal units who are tasked with securing the foreigners's stay from the outside.

Also, attention must be drawn to the very awareness of the foreigners staying in the guarded centres for foreigners as to their ability to freely access recreation-sports facilities outside. Each foreigner admitted to the guarded centre receives an “Instruction on the rights and duties and terms of stay at the guarded centre” and a “Daily schedule”. The Instruction, in section “Rights”, point 13, discusses the right to move around the centre between 7.00 a.m. and 10.00 p.m., and on holidays between 8.00 a.m. and 10.00 p.m., except the places that are covered by a “no entry order” issued by the centre's management. Moreover, in the “Daily schedule” document, in its section entitled “Organisation of own tasks”, point 1 reads that own tasks of detainees may be performed while using the common, room, IT room, library, and recreation-sports yard and sports field. Both the “Instruction on the rights and duties and terms of stay at the guarded centre” and

a “Daily schedule” are available in 17 language versions. However, in order to emphasize the fact that the foreigners may freely move around the guarded centre mentioned in the “Instruction on the rights and duties and terms of stay at the guarded centre”, the said point 13 will be reworded to emphasize that it applies to locations both inside and outside the building of the guarded centre.

As regards the offer of activities offered by the guarded centre, this issue is subject to continuous monitoring performed by the Chief Command of the Border Guard. The designated coordinator for guarded centres exercises every effort to make sure that the activities organised by the educational sections of the guarded centres is varied and adjusted to the centre’s profile. Educational sections are obligated to submit for review and assessment a schedule of activities and undertakings planned for each upcoming half-year. These plans should take into account any suggestions and proposals made by the foreigners.

The state of the facts was verified as regards the duty to ensure the presence of nurses in all guarded centres for foreigners, which was due to the order of the Chief Commander of the Border Guard of 04 November 2013 (order to extend as of 02 January 2014 the shift of the nurses so that it included all days of the week, including Sundays and holidays, between 7.30 a.m. and 9.30 p.m.). It was established that the above order is complied with in all guarded centres (i.e. the presence of nurses is assured on all days of the week between 7.30 a.m. and 9.30 p.m.). Therefore, no irregularities in this area were confirmed.

Moreover, as regards planning the shifts in such a way that an officer is present during each night shift who has been trained in first aid, the Committee's recommendations are correct. Therefore, **the Director of the Board for Foreigners of the Chief Border Guard Command, in the letter dated 06 March 2018, ordered the commanders of sections of Border Guard who supervise the guarded centres for foreigners to plan shifts while taking into account the recommendations of the Committee.**

Having verified the state of the facts as regards the time of administering medical examinations of a foreigner after being admitted to the guarded centre for foreigners in all such centres, **by way of an order of the Chief Commander of the Border Guard dated 05**

March 2018, all commanders of sections of Border Guard who supervise the guarded centres for foreigners to immediately undertake actions intended to secure the presence of a physician on each day of the week.

As regards the scope of the examinations administered, the belief of the Committee that such a scope does not allow for identifying those at risk of self-harm, recording of injuries, or screening for transmittable diseases cannot be shared. It must be emphasized that as of 12 December 2016 a uniform list of mandatory examinations administered to foreigners is applicable, which includes: an x-ray of the chest (RTG), quick test for the presence of tuberculosis (IGRA – T-Spot TB or Quantiferon) for pregnant women, ECG, complete blood count and blood smear, glucose level, markers: HCV, HBS, HIV, classic syphilis marker (WR or USR, or VDRL), epidemiology interview, and in the case of women aged 18-45 – a pregnancy test.

Moreover, each foreigner has a healthcare file created, in line with the rules governing the management of medical documentation under the Act of 06 November 2008 on the rights of a patient and the Ombudsman for Patient Rights, where relevant notes are made in the event of any injuries. Moreover, as of 09 May 2016, a more in-depth questionnaire was introduced, entitled "Health interview as part of admission examination of a foreigner admitted to a Guarded Centre for Foreigners". The subject questionnaire, after being completed by the foreigner and analysed by the medical personnel, is placed in the healthcare file of the foreigner.

It must be noted that the presence of a Border Guard officer during each medical examination is a result of the requests made by the physician. It is not a rule for an officer to be present during a medical examination. Moreover, medical documentation is created, stored, and made available in line with the provisions of the Act of 06 November 2008 on the rights of a patient and the Ombudsman for Patient Rights. Thus, it is not available to non-medical personnel. Moreover, if the foreigner is released from the guarded centre against whom a proceeding is pending to grant international protection and to transfer the foreigner to a reception centre, the medical documentation of the foreigner is forwarded directly by the medical personnel to the foreigner or to the entity that provides medical services to the

foreigner at the reception centre, if the foreigner refuses to accept such documentation and it is necessary to continue medical care.

The rule of the thumb is that if a psychologist or a physician do not speak the language known to the foreigner, the services of an interpreter are assured for the duration of the consultation (with a psychologist or a physician). It must be emphasized that any problems in the communication due to language barrier between the psychologist/physician and the foreigner would make it impossible to carry out the consultation, rendering it useless. The fact remains that there have been a vacancy on the position of a psychologies for a couple of months in the Guarded Centre for Foreigners in Białystok. The management of the centre exercises every effort to hire a person with relevant qualifications to hold the position (at this time, such a person is undergoing professional training at the Border Guard's training centre to last several months). It must be emphasized that activities are undertaken at the central level to implement systemic managerial solutions. It was ordered to change the scope of duties of the psychologists hired in the branches of Border Guard, where a guarded centre exists, so that they could perform their tasks not only for the purposes of the Border Guard branch but also to meet the needs of the foreigners placed in the guarded centre for foreigners. In the meantime, the Guarded Centre for Foreigners in Białystok may use services of psychologists hired by the Podlaski Branch of the Border Guard in Białystok.

The complaints reported to the Committee in the area of the alleged lack of information about the status of the procedure seem to be groundless, as the Border Guard pays a lot of attention to ensure transparency of procedures undertaken in the matters of foreigners placed in the guarded centres, as such an approach makes it possible to avoid escalation of negative emotions. On 17 September 2015, the "Rules of procedure of the Border Guard with respect to persons requiring special treatment" were approved and entered into force. The said algorithm, among other things, defines a category of persons requiring special treatment; it also establishes mechanisms monitoring moods and conduct of foreigners placed in the guarded centres. In line with the adopted rules, each foreigner admitted to the guarded centre is granted a "return care officers" and a "social worker". It is the return care officers who is obligated to provide the foreigner with all and any information related to the pending administrative proceedings, including indicating the

ability to file an appeal. In turn, the social worker is responsible for informing the foreigner about the structure of the guarded centre and the terms of stay, as well as carrying out conversations with the foreigner (as a guardian) and for monitoring their behaviour.

As regards free-of-charge legal assistance for foreigners, it must be noted that such assistance is provided in a systemic way to persons under the proceedings to grant international protection. In turn, the proceedings to impose an obligation to return home, may at this time take advantage of the offer of NGOs who deal with providing assistance to foreigners, whose representatives may visit the foreigners placed in the guarded centres in order to provide them with legal assistance. As regards systemic solutions, it must be emphasized that the relevant solutions are included in the bill to amend the Act on granting protection to foreigners within the territory of the Republic of Poland. The bill is now being developed by the Council of Ministers.

As regards the translation of the decision to obligate the foreigner to return home, it must be indicated that such a decision is explained partly in the decision and partly in the rights of the foreigner. Moreover, each administrative decision is discussed by the return care officers with the foreigner.

The proposed amendment to the Act on granting protection to foreigners within the territory of the Republic of Poland is motivated by the needs arising from the dynamically changing migration context in Europe, as well as the need to adjust the Polish law to all options allowed under Article 43 of the Directive 2013/32/EC. The proposed changes will introduce the ability to examine the requests to grant international protection within the so-called border procedure, which means that the foreigners who file the subject request at the border but are not entitled to enter the territory of the Republic of Poland will be placed in a guarded centre for foreigners for a period of 28 days after submitting such a request; within that period of time, the competent authority will be obligated to examine such a request. However, if the collected evidence indicates that the proceedings may not be carried out as border proceedings, the foreigner will be released and transferred to a reception centre. The said mode will be applicable for minors without guardians and persons who have suffered traumatic events.

The Border Guard pays particular attention to the need to improve language skills. The Border Guard has used foreign funding to do so for several years now, with good results. Between September 2011 and June 2015, as part of the funds available under the European Return Fund for Immigrants, language courses were run in English, Russian, Ukrainian and Chinese (at the A1-C1 levels). In total, 550 persons were trained. Additionally, 40 persons completed courses in oriental languages: Georgian, Vietnamese, and Urdu, at A2 level. Out of those, 20 persons continued to learn, attaining B1 proficiency level. At the end of these courses, study visits were organised to Vietnam, India, and Georgia, attended by three persons from each language course who were the best in their group. Between September 2015 and November 2016, using the funds granted from the Norwegian Financial Mechanism (project 26/NMF PL 15/14), language courses in English, Russian, and German were organised. The aforementioned training courses were organised as a response to the training needs of the Border Guard identified during the Schengen evaluation mission held in 2013 as well as during other internal and external inspection and monitoring activities. Within the project, 399 officers and employees of the Border Guard were trained. The courses were held at the levels A1-C2. At the moment, with the help of the Asylum, Migration, and Integration Fund (project no. 19/2-2017/BK-FAMI), language courses are being held for the Border Guard personnel. Language courses are intended to improve language skills of officers and civilian employees, who have direct contact with the foreigners during the transition proceedings, including during their stay in the guarded centres. The selected languages are: Russian, English, Chinese. The courses are held at the levels A1-C1 and will be offered in total to 515 persons (English – 312 persons, Russian – 200 persons, and Chinese – 3 persons) representing all organisational units of the Border Guard, including the Board for Foreigners of the Chief Command of the Border Guard. The courses will be run from September 2017 to November 2018.

The opinion of the Committee is correct that carrying tasers and truncheons in full view should be a rule while serving in guarded centres. Therefore, the Director of the Board for Foreigners **of the Chief Command of the Border Guard verified the use of this practice in all guarded centres and in the letter dated 06 March 2018 ordered that tasers and truncheons should be collected only if it is necessary to use such items.**

It must also be emphasized that the rules of using direct coercive measures are outlined in the Act of 24 May 2013 on direct coercive measures and arms, and direct coercive measures are used only in line with its provisions.

As regards the use of restraints (belts) and straitjackets, it must be noted that the guarded centres are, as a rule, equipped with such direct coercive measures. At this time, the Guarded Centre for Foreigners in Lesznowola has 3 belts and 2 straitjackets, while the Guarded Centre for Foreigners in Białystok has 7 belts and 10 straitjackets. Here it must be emphasized **that such coercive measures are used sporadically and always in line with the Act of 24 May 2013 on direct coercive measures and arms.** In 2017, straitjackets or belts have not been used even once in any of the guarded centres for foreigners.

No complaints were confirmed that concerned any failures to observe the two-stage approach to the search procedure by the Border Guard officers with respect to foreigners. However, due to the fact that is issue is highly sensitive, the Director of the Board for Foreigners of the Chief Command of the Border Guard reminded the management of all guarded centres for foreigners in the letter of 06 March 2018 that it is necessary to carry out strip searches in a two-stage approach, while respecting the dignity of the foreigner, in line with the recommendations contained in the letter of 01 June 2016.

As regards the issue raised by the Committee to allow the foreigners to use VoIP (Voice over Internet Protocol) technology that makes it possible to make international telephone calls without any cost, it must be noted that no guarded centre offers such an option for security reasons. **However, foreigners may contact the outside world using e-mail services.**

As regards the maximum amount of PLN 500 to be spent by the foreigners during their stay at the guarded centre raised by the Committee, it must be first and foremost stated that this is a result of an incorrectly interpreted provision of law. The subject issue is related to the rule expressed in the provisions of the Act on foreigners, according to which the costs of issuing and enforcing a decision to obligate the foreigner to return home are incurred by the foreigner concerned by the decision or by other persons/entities indicated in the said act.

In line with Article 343(1) of the said Act, the amounts incurred to issue and enforce a decision to obligate the foreigner to return home may be deducted from the funds at the disposal of the foreigner deposited with the guarded centre or remand centre for foreigners (if the foreigner is obligated to cover such costs). Therefore, the commander of the branch of the Border Guard or the commander of the Border Guard facility to whom the guarded centre or remand centre for foreigners is subordinate, determines, within 14 days of admission of the foreigner to the guarded centre or remand centre for foreigners, a flat-rate amount for covering the said costs.

The flat-rate is an approximate amount of costs determined by way of a decision to determine the value of costs related to the issue and enforcement of a decision obligating the foreigner to return home. The said amount is determined using the amounts of flat-rate daily costs of the foreigner's stay in the guarded centre and the length of stay in the guarded centre specified in the decision to place the foreigner in such a centre. The amount of the flat rate may change, in particular if the stay of the foreigner in the guarded centre is extended. The money at the disposal of the foreigner deposited in the guarded centre, up to the amount of the set flat rate, are stored and may not be reimbursed until the decision to determine the value of costs related to the issue and enforcement of the decision obligating the foreigner to return home or until a relevant deduction is made by the Border Guard authority.

If the foreigner does not have funds in the appropriate amount, the foreigner is left with money no less than PLN 600 (until 12 February 2018, the amount was PLN 500) per each family member placed in the guarded centre in order to meet their current needs during the stay at the centre. If the stay of the foreigner at the guarded centre is extended, the amount may be increased by PLN 100 for each additional month of stay of the foreigner and family members, if it is substantiated by their current needs.

Therefore, a statement that there is a rule imposing a limit of PLN 500 (PLN 600) that the detained persons may spend during their stay at the guarded centre is false. **The foreigner may freely dispose of the funds deposited at the guarded centre, except the funds that have been secured on the account of the amounts arising from the issued decision to determine the amount of costs related to issuing and enforcing the decision obligating the foreigner to return home.**

As early as in 2013, in order to facilitate communication between the foreigners placed in the guarded centre for foreigners and their personnel, several possibilities to report complaints, requests, or demands by foreigners were offered. The foreigner may report any reservations directly to the head of the guarded centre – a foreigner can arrange a conversation with such a person. The foreigner may also report the reservations in a conversation with a social worker or during his contacts with a psychologist. The most anonymous way of reporting reservations is the ability to use the so-called "post boxes", which are placed in the corridors with any person being able to access them. The boxes are emptied out once a day by the officers on duty. Such communication manner allows the foreigners to speak more freely, in particular if the complaints concern the general social co-existence rules.

Moreover, plans include obligating the plenipotentiaries for the protection of human rights and equal treatment that are employed in each branch of the Border Guard to take shifts 2-3 times a week at the guarded centres. The purposes of such shifts will be to increase the awareness of foreigners about their rights and duties.

Prison establishments

Management of all organisational levels of the Prison Service has been continuously conducting activities intended to constantly improve the conditions of enforcing penalties of imprisonment and detention in prisons and remand centres. These activities comprise of several undertakings carried out both in the area of training activities for the officers and civilian employees of the Prison Service as well as in the area of investments, which include works intended to build new prison establishments meeting all international standards in the area of prisons, as well as modernisation works of the existing prison infrastructure, focusing on improving the social and living conditions in the Polish prison establishments.

The manner of treating persons detained in prison establishments and remand centres is the subject-matter of training courses for the staff, both within individual organisational units and in particular in the training centres for the Prison Service during the basic,

professional, and specialist training courses. A prominent place in the curricula of such training courses is occupied by the issues related to humanitarianism, rule of law, tolerance, as well as issues related to international standards of conduct with respect to persons deprived of liberty. Particular emphasis is placed on providing the officers and employees with knowledge about the major principles of conduct with respect to persons deprived of liberty contained in the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Code of professional conduct of the officers, Resolutions of the Eighth United Nations Congress on detention and European Prison Rules. The officers have the knowledge about the rules related to the international protection of human rights; they are also familiarised with the case law of the European Court of Human Rights.

Conditions of detention

a. material conditions

As at 02 March 2018, there were 75,277 persons detained in total in remand centres and prisons, which comprised 90.3% of the total capacity of the prison establishments which is 83,374 places. The population of residential wards was at 91.2%, meaning that 73,588 inmates were detained in residential wards, offering 80,694 places. 1,689 inmates are detained in residential cells situated in hospital wards, wards and cells mentioned in Article 88a(3) and Article 212a(2) of the Act of 06 June 1997 – Polish Enforcement Penal Code, hereinafter referred to as PEPC, security rooms, sick wards, rooms placed in establishments for mothers and children, and temporary accommodation wards for inmates – which are not counted as part of the general capacity of prison establishments under Article 2(2) (1) of the Regulation of the Minister of Justice of 25 November 2009 on the mode of conduct of the competent authorities if the number of inmates detained in prisons and remand centres exceeds the total capacity of such establishments in the country (Dz. U. (Polish Journal of Laws) of 2009, no. 202, item 1564 as amended), hereinafter referred to as "Resolution".

As at 28 February 2018, the number of sentences awaiting enforcement is 54,089 and concerns 43,268 persons. In the case of 38,411 persons, the time limit for reporting to a remand centre to serve the sentence has lapsed, and these persons failed to report to a prison establishment.

The requirements related to the minimum area of a residential cell were specified in the domestic law in Article 110(2) of the PEPC, according to which the living space of the residential cell per inmate is no less than 3 m².

It must also be emphasized that in the context of such a high population of inmates as compared to the infrastructural capacities of the Prison Service it is not possible to ensure 4 m² of minimum living space per inmate as of today. Nevertheless, the Prison Service continues to undertake efforts in the area of building new prison establishments that would meet those standards, however, this largely relies on the penal policy of the country and its financial capacity.

The Prison Service continues the undertaken activities intended to resolve the issue of high occupancy levels in prison establishments, i.e.:

1. once a week monitors the occupancy rates of remand centres and prisons;
2. performs refurbishments over as short periods of time as possible and in a way that makes it possible to shut down the lowest number of places (on a schedule), in order to reduce the number of places for inmates by the lowest number possible;
3. maintains even occupancy of prisons by transporting inmates from prison establishments with higher occupancy rates to establishments with lower occupancy rates;
4. reasonably uses the places available in the wards and residential cells, by adjusting the number of cells allocated to individual categories of inmates to the actual needs of the establishment at a given time;
5. modifies the purpose of individual prison establishments in such a way so that to ensure that the occupancy of the establishments is even by transporting a relevant category of inmates;
6. introduces changes to regional distribution of detained persons in order to adjust the number of persons assigned in remand centres for detained persons to the actual needs of the courts and the prosecution;
7. files requests to penal courts related to granting early release or allowing to serve the imprisonment sentence under the electronic supervision regime.

As at 31/12/2017, 31,769 motions to grant early release and 1,785 motions to serve the imprisonment sentence under the electronic supervision regime were submitted.

Moreover, I would like to inform you that as at 02 March 2018 the occupancy rate of the visited prisons was as follows:

1. Warsaw-Służewiec Remand Prison held 1,032 inmates in total (the total capacity of the prison is 1,080 - 72 places excluded from use), the occupancy rate was at the level of 96.0%, meaning that 1,027 inmates were staying in residential wards out of the total 1,070 places available;
2. Warsaw-Białołęka Remand Prison held 1,463 inmates in total (the total capacity of the prison is 1,548), the occupancy rate was at the level of 94.8%, meaning that 1,460 inmates were staying in residential wards out of the total 1,540 places available;
3. Białystok Remand Prison held 621 inmates in total (the total capacity of the prison is 713), the occupancy rate was at the level of 89.5%, meaning that 603 inmates were staying in residential wards out of the total 674 places available;
4. Gliwice Remand Prison held 393 inmates in total (the total capacity of the prison is 412), the occupancy rate was at the level of 95.3%, meaning that 387 inmates were staying in residential wards out of the total 406 places available;
5. Prison no. 2 in Strzelce Opolskie held 526 inmates in total (the total capacity of the prison is 570 (44 places excluded from use), the occupancy rate was at the level of 93.2%, meaning that 519 inmates were staying in residential wards out of the total 557 places available.

The Prison Service undertakes a series of actions in the area of investments and refurbishments in order to improve the sanitary and living conditions of the inmates detained in prisons and remand centres. As a result of such activities, e.g. two baths per week were introduced for all inmates detained in prison establishments.

The tasks currently implemented are, among others, as follows:

1. Refurbishing sanitary annexes in multiple occupancy cells so that the partition walls reach up to the ceiling.
2. Ensuring supply of hot utility water to residential cells.

3. Carrying out refurbishments and investments that involve, among other things, refurbishing or building residential pavilions and other facilities to meet the needs of the inmates.

Since 2011 the Prison Service, in order to intensify the activities intended to improve the living and sanitary standards, has designated funds every year to perform tasks related to refurbishing sanitary annexes in multiple occupancy cells. Separation of sanitary rooms in cells significantly improves the living and sanitary conditions in which imprisonment services are served.

In individual years, the following number of sanitary annexes has been refurbished:

– 2011 – 373;

– 2012 – 879;

– 2013 – 1106;

– 2014 – 1278;

– 2015 – 918;

– 2016 – 794;

– 2017 – 429;

In 2018, the Prison Service plans to designate funding for refurbishment of sanitary annexes in 276 residential cells. Moreover, I would like to inform you that in connection with the entrance into force of the Act of 15 December 2016 on the establishment of the "Programme of modernisation of the Prison Service in the years 2017-2020" (Dz.U. (Polish Journal of Laws) of 2016 item 2176), the prison service does not exclude the possibility of performing more refurbishments of sanitary annexes in 2018 (within the planned refurbishment and investment works).

However, in connection with the fact that the sanitary annexes that are left to be refurbished are situated in units that require increased financial expense to do so, if the current level of financing is maintained, the Prison Service plans to complete the aforementioned tasks within the upcoming 3 years.

Since 2012, prison establishments have undertaken activities intended to allow the inmates to use hot utility water in residential cells. The above is to continuously increase the number of cells with hot utility water supply. Over the recent years, hot utility water installation was performed in the following number of residential cells:

– 2012 – 269;

– 2013 – 696;

– 2014 – 1,897;

– 2015 – 1,565;

– 2016 – 1,479;

– 2017 – 1,482;

In 2018, the Prison Service plans to designate funding for refurbishment in order to provide hot utility water supply to 135 residential cells. Moreover, I would like to inform you that in connection with the entrance into force of the Act of 15 December 2016 on the establishment of the "Programme of modernisation of the Prison Service in the years 2017-2020" (Dz.U. (Polish Journal of Laws) of 2016 item 2176), the prison service does not exclude the possibility of performing more refurbishments intended to provide hot utility water supply to a greater number of residential cells in 2018 (within the planned refurbishment and investment works).

Moreover, as regards assuring hot utility water supply to inmates in prison establishments, it must be noted that there are still tasks left to be performed that require increased financial funding. The Prison Service, provided that the current level of financing is maintained, plans to complete this task over the period of upcoming 4 years.

In 2017, undertakings defined in the Act of 15 December 2016 on the establishment of the "Programme of modernisation of the Prison Service in 2017-2020" were initiated (Dz. U. (Polish Journal of Laws) of 2016 item 2176). The implementation of investment and refurbishment tasks included in the said act will significantly contribute to improving the technical condition of the Prison Service establishments, thus resulting in improving the standards of serving imprisonment sentences.

The following undertakings were performed in the course of investment activity:

1. Measure no. 4 "Thermo-modernisation of buildings";
2. Measure no. 5 "Ensuring safety of power and energy supply to prison establishments";
3. Measure no. 6 "Improving the technical condition of buildings";
4. Measure no. 9 "Modernising treatment facilities for persons deprived of liberty".

In the course of measure no. 6, in 2017 as many as 38 building investments were in progress, with 11 of them ended in the last year. The measure called “improving the technical condition of buildings” also involved refurbishments of existing buildings in 2017. Last year, 19 refurbishment tasks were performed, with 18 of them being one-year tasks, and 1 being a two-year task (2017-2018).

In the course of measure no. 9, in 2017 as many as 11 building investments were in progress, with 5 of them ended in the last year.

To sum up, it needs to be emphasized that the Prison Service undertakes a series of actions intended to improve the terms and conditions of serving imprisonment sentences. A positive example is offered by effective implementation of undertakings in the area of partitioning sanitary annexes in residential cells and installing hot utility water supply in residential cells. Moreover, thanks to the Act of 15 December 2016 on the establishment of the “Programme of modernisation of the Prison Service in 2017-2020” were initiated (Dz. U. (Polish Journal of Laws) of 2016, item 2176), the financial expenditure on such measures was increased.

Remand Prison in Warsaw-Białołęka

In agreement with the Director of the Regional Prison Service in Warsaw, activities will be undertaken to equip common rooms at the Remand Prison in Warsaw-Białołęka.

Remand Prison in Białystok

The admission unit at the Remand Prison in Białystok was refurbished in Q4 2017. All transition cells located in Block A were refurbished. The refurbishment also included repairing the accommodation equipment. In October 2017, the annual inspection of chimneys in Block A was carried out, during which it was confirmed that the ventilation operates properly.

The use of partitions is intended to prevent prohibited contact among the inmates (mainly among detained persons) and to prevent sharing items between cells. The partitions, in line with the guidelines no. 2 of the Director General of the Prison Service dated 04 June 2013 on the requirements for technical-protective security measures may only be used in the buildings of closed prisons and remand centres for inmates. Partitions used in the Prison

Service's organisational units should be made of a polycarbonate board at least 2 mm thick that is flame retardant, non-transparent, and has a light transparency factor in the range of 70-80%.

The view presented by CPT that spending time outside the living cell as often as possible, attending classes and organised activities is a factor that prevents the negative consequences of prison isolation and is justified. Nevertheless, detention as a preventive measure carries with it strict isolation consequences, which cannot be fully eliminated. It must also be noted that the forms of cultural and educational activities and sports activities proposed and carried out by prison establishments are only a proposals and the inmates may but do not have to use it. It needs to be emphasizes that in 2017 the prison establishments, as part of the cultural and educational activities that may also be accessed by detained persons, there were a total of 533 different types of interest clubs run, with 3565 - 9007 inmates exhibiting interest and activity in them. At the same time, statistical data indicates that in total in 2017 2197 various targeted activities were held (including 389 related to sports), which involved e.g. meetings, lectures, competitions, and tournaments. Each year national and international competitions are held, which may be accessed by all imprisoned persons, including detained persons. In 2017, 35 competitions were announced and held.

As rightly pointed out by the CPT representatives, some establishments have infrastructure that, despite the efforts of the Prison Service, will not be modern enough to meet the expectations expressed in recommendations. It should also be noted that where possible, the prison administration raises standards in this regard, e.g. in 2016, prison establishments had 317 walking yards with gym equipment for exercising in the open air installed. In 2017, this number increased to 576. In addition, an effort was taken to increase the number of rooms equipped with equipment and equipment for sports / recreational activities from 465 in 2016 to 597 in 2017. At this time, prison establishments have 173 sports fields, i.e. by 3 more than in 2016.

The CPT's position should be shared as regards the need to activate persons against whom a preventive measure is imposed in the form of detention, by offering cultural , educational and sports activities. While it remains true that spending time outside the living cell as often as possible, attending classes and organised activities is a factor that prevents

the negative consequences of prison isolation. Nevertheless, detention as a preventive measure carries with it strict isolation consequences, which cannot be fully eliminated. Moreover, the necessity to secure a proper course of the criminal proceedings may result in restricting the possibility of organising group activities.

Considering the above, **I would like to inform you that a letter was directed to the directors of the regional Prison Service instructing them to pay particular attention to organising cultural, educational and sports activities for detained persons.**

Health care services

a. **staff and treatment**

The recommendation mentioned in point 76 is complied with by **holding trainings in providing first aid for the security personnel who is on duty in residential blocks.** If it is necessary to provide medical aid to the inmates outside the opening hours of the prison hospital ward, they may use the services of the State Emergency Service on the same terms as other citizens of the Republic of Poland.

As regards the Remand Prison in Warsaw-Białołęka, 1.5 FTEs general practitioners were hired under contract, which together with the doctors employed under an employment agreement gives 4.5 FTEs in total. Nurse assistance is provided from 7.00 a.m. to 7.00 p.m. every day.

General practitioners for 1.5 FTEs are employed in total at the Remand Prison in Warsaw-Służewiec. Between June and December 2017 there has been a general practitioner hired under contract, but he was not interested in extending his contract. At this time, the unit undertakes activities intended to hire a general practitioner. Nurse assistance is provided from 6.30 a.m. to 6.30 p.m. every day. As of 1 February 2018, a nurse was transferred on a position of an officer from another unit. Another one is being hired at the moment.

In both units, the services are rendered in an out-patient mode, therefore the nurses are not on duty at night. In the event of a medical emergency, assistance is provided by the Emergency Service.

At this time, the Remand Prison in Białystok has general practitioners at its disposal, totalling 2.5 FTEs. The current employment rate of physicians, nurses, and rescuers fully meets the needs of the establishment. The Remand Prison in Białystok offers medical services in an out-patient mode, therefore day&night services are not ensured. In order to render first aid, a sufficiently high number of security officers were trained, who are on duty day&night; moreover, defibrillators were purchased. In this context, it seems groundless to ensure day&night presence of qualified nurses.

In the Prison No. 2 in Strzelce Opolskie inmates have been assured with the assistance of physicians and nurses. Activities are also undertaken to hire additional members of the medical personnel.

b. **medical screening and confidentiality**

The Committee has reiterated its long-standing recommendation that the Polish authorities remind all prison health care staff that every newly-arrived prisoner should be properly interviewed and physically examined as soon as possible and no later than 24 hours after admission by a doctor or by a fully-qualified nurse reporting to a doctor.

In line with the regulation of the Minister of Justice of 14 June 2012 on rendering health care services by health care facilities to inmates (Dz.U. (Polish Journal of Laws) of 2012 item 738 as amended): medical examinations: interview and physical examination are administered to the inmate immediately after the inmate is admitted to the prison establishment, no later than within 3 business days of admission.

Examinations performed by a doctor and a nurse of new arrivals is performed immediately. The general rule is that on the admission date the inmate is subjected to sanitary and epidemiology assessment and an interview is held to determine the past diseases, in particular tuberculosis, epilepsy, viral hepatitis, HIV. The medical examination also includes an x-ray of the chest in order to diagnose tuberculosis, whereas tests for the presence of viral hepatitis are performed if there are medical indications to do so. Moreover, patients are familiarised upon admission about the information on HIV infections and if they agree, they may take a free test for HIV. Any other system would require medical personnel to be present in almost 150 prison establishments on the days that are statutory holidays, e.g. in the form of shifts, which would require hiring a significant number of extra medical

personnel, and significant funds for salaries – such a model is groundless, as it would overlap with the functions served by the State Emergency Service. Additionally, it must be emphasized that the persons arrested by the Police before being detained in a prison or a remand centre are examined in healthcare facilities in order to determine whether they may serve time in a prison establishment.

In line with the PEPC, Article 115(7a), the inmates that pose a significant social threat or a serious threat to the facility ("N" status prisoners), inmates who serve their sentences in a closed prison, receive health care services in the presence of an officer who is not a member of the medical staff. On request of an officer or employee of a prison medical facility for persons deprived of liberty, medical services may be rendered without the officer who is not a member of the medical staff being present.

The use of preventive measures towards this group of convicts while providing medical services is regulated in the provisions of law. The provisions of law provide that in order to prevent an escape of a person deprived of liberty or to prevent active aggression or self-directed aggression, the following measures may be applied: physical force, protective helmet, handcuffs, or restraining belt. The analysis showed that in practice, preventive measures (handcuffs) are only used to take the "N" prisoners to medical examination and after the examination is complete. During the examinations "N" prisoners have the handcuffs taken off and are treated like other patients, unless they behave aggressively, posing a threat to the physician who conducts the examination.

In the majority of cases, if there is no threat from the inmate, no preventive measures are used during medical examinations or other medical services. Prison physician providing health services in a closed prison, i.e. a prison in which prisoners with the most severe sentences are held, is not obliged to have full knowledge of the risks arising from the nature of the crime committed by individual prisoners and is not able to determine in relation to which patient he should request that these services be provided in the presence of an officer who is not a medical professional. On the other hand, the physician has the appropriate substantive knowledge in order not to exercise this right in a situation where the health care services provided in an objective manner require respecting the intimacy and personal dignity of the patient while observing the principles of safety.

However, the dispute over potential exposure of prison personnel will always be unresolved and in this context it is difficult to prioritise the dignity of the detainee over the sense of security of, for example, a nurse. Any solution adopted will always lead to a disproportion between the goods understood in this way.

Medical records are kept in accordance with the Regulation of the Minister of Justice of 26 February 2016 on the types and scope of medical records kept in healthcare facilities for persons deprived of liberty and the manner of processing such records (Dz.U. (Polish Journal of Laws) of 2016 item 258), which does not take into account the need to maintain an "injury register". If any injuries are found, they are recorded in the healthcare book. Only medical records can be used to record any illness, including injuries. The introduction of any other documents, such as an “injury register”, would force medical staff to needlessly duplicate their records.

If bodily injuries are determined, the physician will record this the healthcare book, together with a description of the location and extent of the injury. The physician will also draw up a memo and forward it to the director of the prison establishment. Complete health information, including information about any injuries, contained in the medical records are then made available to the inmate and to entitled entities and institutions in accordance with the provisions of the Act of 6 November 2008 on the rights of patients and on the Ombudsman for Parients Rights (Dz. U. (Polish Journal of Laws) of 2017 item 1318 consolidated text) and the Regulation of the Minister of Justice of 26 February 2016 on the types and scope of medical records kept in healthcare facilities for persons deprived of liberty and the manner of processing such records (Dz.U. (Polish Journal of Laws) of 2016 item 258).

Each time after an incident occurs as a result of which an inmate suffers from injuries, explanatory activities are initiated to determine the reasons for the subject event, the circumstances and the course, as well as its effects. The head of the organisational unit is obliged to secure the evidence, in particular monitoring recordings. The incident in which the inmate participates is immediately reported to the penal judge. An explanatory report is to be prepared concerning the incident, containing inter alia, the circumstances and course of the incident, actions taken after the incident, causes of the incident and conclusions regarding the given incident. If it is revealed while conducting the activities that there have

been circumstances indicating that an offence or a petty offence was committed, as well as an act for which criminal or professional liability is provided for under the law, the head of the organisational unit notifies a competent authority. The report on explanatory actions is evaluated by the superiors, in particular by assessing the reliability and objectivity, the accuracy of the formulated conclusions and the completeness of the documentation.

Officers and civilian employees of the prison health care service are regularly trained in becoming more sensitive to the human rights aspects and content included in the "Istanbul Protocol". On July 27, 2017, a letter was sent to all regional directors of the Prison Service and commanders of the Prison Service training centres reminding them about the necessity to constantly take into account the topics mentioned in the said protocol in the schedule of the prison healthcare service trainings. Between 9 and 11 October 2017, the management of the Prison Service attended a training, whose topic concerned the contents of the "Handbook of effective enforcement and documentation in the matters related to the use of torture or other inhuman or degrading treatment or punishment". The superior act of law that governs the conduct of physicians, including prison health care services, is the Act on the profession of a physician and a dentist of 05 December 1996 (Dz.U. (Polish Journal of Laws) of 2017 item 125) and the Code of Medical Ethics.

c. **drug-related issues**

Drug addicts are provided with medical, nurse and psychological care. In order to continue the therapy, the following are directed are to prison therapeutic units for people addicted to narcotic drugs or psychotropic substances.

Inmates held in remand prisons and prisons on admission to the establishment are familiarised with the issue of HIV infections, attend training on the harm caused by drug use, and harm reduction. In 2017 under the Join Action project entitled "Prevention of HIV and related infections and harm reduction (HA-REACT)" under the Third Programme in the Area of Health of the European Union (2014-2020) Work Package 6: Improving access to harm reduction services and continuity of care for drug users in prisons two international seminars were organised in cooperation with the Prison Service and the National AIDS Centre to raise awareness among staff working in prisons in the area of implementation of effective substitution treatment programmes, as well as looking, from the perspective of other EU

countries, at harm reduction programmes and continuity of care for HIV+ inmates with co-infected with HCV, HBV, or TB, who are also using drugs. The meetings were attended by representatives of Poland, Germany, Czech Republic, Luxembourg, Hungary, Italy, Latvia, Lithuania, Greece, Finland, who are responsible, among other things, for planning and implementing treatment programmes and reducing damage to penitentiary institutions in their countries.

Other issues

a. **contact with the outside world**

According to the PEPC, an inmate has the right to maintain a bond between the inmate and the family and other closed persons through visits, correspondence, parcels, money orders and, where appropriate, with the consent of the prison director, also by using other means of communication. The extent and the manner of contacts, in particular the supervision of visits, the censorship of correspondence, the monitoring of telephone conversations and visits, depend on the type of the prison establishment in which the sentenced person is serving the imprisonment sentence.

Prisoners who are serving their imprisonment sentence in closed prisons may have two visits per month, in semi-open prisons – three visits per month , and an unlimited number of visits in an open prison. In addition, convicts who have custody of a child under the age of 15 have the right to additional visitations.

Irrespective of the rules which specify the scope of the rights of the convicts in individual types of prison establishments, the applicable provisions of the PEPC contain an extensive catalogue of rewards that may be granted to the convicts. A significant number of such rewards is directly or indirectly linked to the widely-understood concept of “contact with the outside world”. This applies to rewards such as: permission for additional or longer visits, permission visits without supervision, permission for visits in a separate room, without a supervisor, permission for visits in one's own clothes, permission for receiving an additional food package, permission for the convicted person to communicate by phone with a person designated by him/her at the cost of the prison.

The existing forms of contact with the family are supplemented by the possibility of using instant messaging software, which enable the inmates to carry out video conversations. By way of a letter no. BP-073-325/14/1816 of 19 August 2014, the Director General of the Prison Service instructed the directors of prisons and remand centres to separate in each unit a suitably equipped workstation for holding conversations via SKYPE under conditions that ensure that contact can be made freely and in isolation from other inmates. Priority was given to the possibility of making contact available to convicted persons who are parents or legal guardians of children under 15, to foreigners whose families or closest persons live far from their place of residence or whose family, health or financial situation makes it impossible for them to come to visit. Maintaining an extensive system of leaves from prison that has been in use for years promotes maintaining family and social ties and contributes to reducing tensions in the prison. In 2017, a total of 146,261 people were allowed to temporarily leave prison without supervision. The frequency of use of these leaves per a statistical convict is 2.4. Compared to 2016, in 2017 the number of permits and leaves issued to convicted persons increased globally by approx. 2.3%.

With regard to the recommendations contained in sections 82-85 of the Report, related to the restrictions of contact with the outside world for detained persons, I would like to inform you that the Prison Service offers visits to detained persons and allows them to use telephones under the directives issued by the responsible authorities, in line with the wording of the regulations contained in Articles 217 and 217c of the PECP.

b. **discipline and means of restraint**

Placing an inmate in a security room, in accordance with Article 143(1)(8) of the PEPC, is the most severe form of disciplinary penalty specified by the legislator. Full penalties, i.e. up to 28 days, are applied occasionally and only in exceptional cases. The legislator made the imposition of the penalty for more than 14 days conditional on the consent of the penal judge. In the case of detained persons, the 28-day placement in a security room is not included at all in the list of disciplinary penalties; its maximum length is 14 days.

When imposing the disciplinary penalty, the degree of guilt and the principle of individualisation are taken into account, in particular with regard to the type and circumstances of the deed, the attitude to the committed deed, the attitude to date,

personality traits, health condition of the convicted person and educational goals. The most severe form of disciplinary penalty is applied if an inmate commits a deed that seriously affects prison discipline and order. Before the penalty may be imposed, a physician's or psychologist's opinion is required regarding the mental and physical fitness of the inmate to serve such a penalty. The fitness of the inmate to serve such a penalty is to be controlled as the penalty is being enforced.

Placement in a security room does not apply to pregnant women, breastfeeding women, or women taking care of their own children in establishments for mothers and children.

For one transgression, only one disciplinary penalty may be imposed, whereas if the convicted person committed more than one transgression before being punished for any of them, one penalty is imposed which is sufficiently severe (Article 146(1) of the PEPC. Section (2) of the said Article explicitly mentions a ban introduced by the legislator on imposing the disciplinary penalty again in such a way that it is a direct extension of the same penalty. This provision is a guarantee against inhuman or degrading treatment.

In 2017, a total of 3,909 disciplinary penalties were carried out in the form of placement in a security room. Compared to 2016, this number decreased by 238 incidents, i.e. by about 6%. The inmates were punished 3,526 times (90.2%) and the detained persons – 386 times (9.8%). The said penalty was imposed the most frequently on convicted repeat offenders – 2,037 (52.1%), while for first-time offenders – 1,209 times (30.9%). The penalty was imposed on juvenile offenders 227 times (7%).

Like in 2013, the delegation was informed that the medical examination of the inmates was only envisaged at the request of the prison staff if there were clear indications to do so (visible injuries or other symptoms indicating a threat to life or health).

The disciplinary penalty in the form of placing in a security room is an onerous penalty, entailing certain burdens resulting from the stay of the punished person in a one-person cell. Therefore, before the penalty is imposed, the subject inmate is examined by a physician or a psychologist, in order to ascertain their ability to serve the penalty in terms of their current mental and physical condition, and to exclude any possible auto aggressive tendencies. The physician's opinion on the consequences for the prisoner's state of health if the penalty is enforced, depending on the conclusions, may be the grounds for deciding not to enforce such a penalty, to enforce another penalty, or enforce the penalty but to postpone its

enforcement. Positive relations between the physician or psychologist and the inmate are not disturbed, because the actions of these persons are a result of taking care of the inmate's safety.

The physician has no access to the information related to the use of direct coercive measures, if their imposition is due to security measures. Polish law does not require that a physician be informed of any use of direct coercive measures. However, such notification is always necessary if, as a result of using a direct coercive measure, injuries or other visible symptoms indicating a threat to the life or health of the person on whom such measures have been applied take place. The above rules apply to all entities authorised to use direct coercive measures and concern all persons against whom they are used. Such a solution allows a sufficient protection of the inmates' rights.

As regards the implementation of the recommendation to increase the minimum standard of living space per one inmate, the Committee presents its opinion that despite subsequent visits and previous recommendations not all the recommendations have been implemented, mainly those related to the need to amend the Polish provisions of law in order to ensure at least 4 m^2 per person for multiple-occupancy cells (excluding sanitary annexes) and at least 6 m^2 in single-occupancy cells (excluding sanitary annexes).

There is no doubt that for several years now the problem of the occupancy rate of prisons and remand centres have been closely followed by the Ministry of Justice and the Prison Service. Requirements concerning the minimum living area in the cell per one prisoner, set forth in the PEPC at the level of 3 m*2* (Article 110(2) of PEPC), seem – taking into account the current occupancy rate of prison establishments and the necessary restructuring changes – to constitute the maximum area that the state of Poland is able to assure at this time to the inmates.

This position does not of course exclude that Poland may undertake all and any possible organisational and investment actions aimed at increasing the standard area per one inmate.

It should be noted that as at 16 March 2018, the total number of places for inmates in residential wards was 79,588, where 73,675 prisoners were incarcerated, which constituted

92.6% of the full occupancy of the wards. Therefore, the provision of at least 4 m^2 for each inmate in a multiple-occupancy residential cell and 6 m^2 for a single-occupancy residential cell does not seem feasible at present due to the overpopulation of existing remand centres and prisons.

In this context, it also needs to be emphasized that there are no doubts that the option to serve an imprisonment sentence outside prisons, within the electronic supervision system, is an important element leading to reducing the prison population. It should be noted that as at 19 March 2018, 4,962 convicts were serving their sentences under the electronic supervision system. 65,945 convicts ended serving their sentences. The system covered a total of 70,907 people. The current capacity of the electronic supervision system is 15,000 people.

As regards the situation of persons posing a serious social threat or a serious threat to the security of the establishment, it should be noted that it is the subject of constant analysis. The situation of persons posing a serious social threat or a serious threat to the security of the prison is discussed during the meetings of the Minister of Justice with penal judges and the management of the Prison Service. It is also the subject of briefings by the Prison Service's management. Judgements issued by the European Court of Human Rights are thoroughly analysed, while their conclusions are implemented. It should also be noted that the amended PEPC introduced the possibility of derogating from some of the rules of punishment for particularly dangerous offenders. It allows, among other things, to change the way the inspections are carried out. Existing mandatory personal searches, carried out at each departure and return to the cell, may be amended e.g. to random searches performed in specific situations. This possibility is widely used by penitentiary commissions, which decide whether to qualify or verify the categorisation of prisoners as dangerous (“N” prisoners). The previous regulations of the PEPC did not allow for any changes in the manner of serving a sentence, and the restrictions resulting from this were only the result of the code's norms that were properly implemented. The changes introduced, trainings conducted and guidelines issued in this respect are consistently implemented and result from judgements of the ECHR.

The number of prisoners with the status of an “N” prisoner posing a serious social threat or a serious threat to the security of the establishment, which in 2010-2015 was: 320, 315, 201, 189, 162, 156, while as at 31 December 2016 there were only 123 such prisoners, while as at 31 December 2017 – only 113. At present, this number is 112 as at 31 January 2018, which is a testament to the proper work of the penitentiary commissions, which analyse each case in detail regarding qualification for this category and verify the need to continue serving the sentence under this system.

It should also be noted that work is an important factor affecting the persons being isolated. To this end, a programme was developed, entitled “Work for inmates”. The programme has three main pillars which determine its activities:

1. construction of production halls in penitentiary institutions;
2. extending the scope of possibilities of unpaid prison labour for the benefit of local governments;
3. benefits for entrepreneurs who employ prisoners.

In the first pillar, plans involve building, over the years 2016-2023, 40 industrial halls situated within prisons and remand centres, where prisoners will work.

As part of the programme, production halls were built and put into use: in:

1. Prison in Krzywaniec (date of commissioning for use: 30 September 2016);
2. Remand Prison in Poznań – External Branch in Poznań (30 November 2016);
3. Prison in Potulice (9 December 2016);
4. Prison in Sieraków Śląski (13 July 2017);
5. Remand Prison in Koszalin, External Branch Doborwo (30 September 2017);
6. Remand Prison in Warsaw-Grochów (31 August 2017);
7. Prison no. 1 in Grudziądz (31 August 2017);
8. Prison in Kraków-Nowa Huta (11 December 2017);
9. Prison in Nowy Wiśnicz (15 December 2017).

In 2017, financial resources were also released for the implementation of investments involving the construction of 14 production facilities, which will be commissioned in 2018.

1,400 people are planned to be employed in these facilities. The Prison Service still has 23 potential locations (within its organisational units) where production facilities can be built.

The second pillar consists in a statutory extension of the circle of entities which are entitled to employ persons deprived of liberty free of charge. Since 1 April 2017, in connection with the amendment of the PEPC initiated by the Ministry of Justice, inmates may be employed free of charge in to perform cleaning and auxiliary works for organisational units of the Prison Service, as well as community work for:

1. local self-government units;
2. entities for which the commune, poviat or voivodeship entity is the founding body;
3. state or local government organizational units;
4. commercial law companies with exclusive participation of the State Treasury or of a commune, poviat, or voivodeship;

for up to 90 hours per month.

With regard to the third pillar, the Act on the employment of persons deprived of liberty is the act of law that provides for a catalogue of benefits to be granted to entrepreneurs for the employment of persons deprived of liberty, which provides the following benefits:

- payment to entrepreneurs a lump sum in exchange for the increased costs of employment of persons deprived of liberty; this is a benefit to which these entities are entitled to on a mandatory basis and which is currently taken advantage of by about 300 entrepreneurs; as a result of the activities initiated within the legislative action programme within the Ministry of Justice and the Prison Service, the amount of the lump sum was increased from 20% to 35% of the prisoners' salaries,
- granting subsidies or loans to entities employing persons deprived of liberty for the implementation of tasks related to the rehabilitation of convicts through labour.

These benefits are paid from the Fund for Professional Activation of Convicted Persons and Development of Prison Work Facilities, which is administered by the Director General of the Prison Service.

In 2016, the following funds were allocated to the implementation of the Prison Service's programme:

- PLN 12.6 million for the payment of lump sums (incentives for entrepreneurs to employ persons deprived of liberty),
- PLN 16.3 million for the construction of production halls in prisons/remand centres and the assurance of technical and protective security measures making it possible to employ persons deprived of liberty.
- PLN 189.9 thousand for vocational training of convicted persons,
- PLN 20.4 million for financing undertakings by entrepreneurs aimed at creating jobs for convicted persons (grants for entrepreneurs).

Gradual increase in employment among prisoners (Table 1) and scale of employment increase during the programming period (Table 2) are reflected in the tables below.

Table no. 1

Total employment	2015	2016	2017 average	2017 As at 30 September 2017
Average monthly employment paid and unpaid	24,762	26,850	31,979	35,292
Rate of employment (percentage of employed persons in	36%	40%	47%	53%

relation to the total number of convicts)				
Persons employed outside the organisational units of the Prison Service – % of the total number of employed persons	25%	27%	27%	29%

Table no. 2

31 December 2015	31 September 2017
Number of employed convicted and sentenced persons	Number of employed convicted and sentenced persons
24,048	35,292
Increase by 11,244 47%	

As at 31 January 2018, there have been 35,394 inmates employed, with 15,628 rendering paid work, while 19,746 rendered unpaid work.

Juvenile correctional establishments

At the Juvenile Correctional Facility in Białystok, the atmosphere in the facility is monitored on an ongoing basis by the employees of the Facility, it is analysed and discussed: once a week there are meetings of the management staff of all departments - schools, boarding houses, school workshops, diagnostic and consulting team; every two weeks there are educational meetings of the boarding house team and pedagogical boards of schools;

once a month there are pedagogical staff meetings, analysing the atmosphere of work and the effectiveness of educational interactions during supervisions.

In addition, surveys of the educational atmosphere in schools are conducted among the students - the conclusions are presented at meetings of all the pedagogical staff, the so-called Council meeting of the Department - and no alarming indicators of recent violence have been noted. In the near future, it is also planned to study the educational atmosphere in the boarding house - the conclusions will be presented during the Facility's Council meeting. The staff of the facility effectively prevents aggression; however, situations related to aggression among students happen regardless of the efforts of the employees. These are occasional, impulsive events, sometimes provoked by the situation and deficiencies of the personality of the minors. These incidents are recorded as extraordinary events, an investigation is carried out and individual impact measures are implemented to prevent future aggression. These events, in accordance with the Regulation on correctional facilities and shelters for minors, are reported as extraordinary events to the responsible authority, i.e. to the Minister of Justice (Section 77 of the Regulation on correctional facilities and shelters for minors).

The Minister of Justice, in a supervisory letter addressed to all correctional institutions and shelters for minors, ordered an examination of the educational atmosphere in the facility at least once every semester (supervisory letter of 29 June 2016 No. DSRiN.III.5340-23/16), to familiarise all employees of the facility with the results and to take preventive actions. Workers at the Juvenile Correctional Facility in Białystok observe this recommendation.

The directors of correctional institutions and shelters for minors, according to the instructions of the Ministry, provide supervision in their institutions for employees working directly with children (supervisory letter of 28.02.17 No. DSRiN-III-134-2/17/2). The entire staff of the Juvenile Correctional Facility in Białystok is subject to constant supervision, which is a world standard for therapeutic, educational and assistance work.

All the establishments and shelters were also instructed by the Ministry of Justice to systematically train their employees in the Aggression Replacement Therapy ART for young people according to A Goldstein and B. Glick. Employees of the Juvenile Correctional Facility in Białystok will take part in such a training soon (long waiting time for participation).

The Juvenile Correctional Facility in Białystok employs specialists (psychologists, educators, therapists, psychotherapists) - the prison runs psychological preventive and therapeutic classes and programmes. The staff of the facility takes part in training sessions on a regular and ongoing basis - also with the use of workshop methods - in accordance with the needs resulting from the specific personalities of minors transferred to the Juvenile Correctional Facility in Białystok. Employees are trained on an ongoing basis and as far as it is possible for organisational reasons at the Addiction Therapy Study, the Psychological-Corrective Methods Study, the Social Reintegration Study and take an active part in conferences and thematic training courses.

For example, in 2017, the Department for Family Affairs and Juveniles of the Ministry of Justice trained all psychologists and educators of institutions and shelters in the area of violence, diagnosis and working with people experiencing violence. Training courses were held at the facility in Popowo with the participation of experienced specialists and practitioners in working with violence. Diagnostic and correction team of the Juvenile Correctional Facility in Białystok also participated in all parts of the training.

The implementation of the recommendations is monitored, inter alia, each time the visiting representatives of the Department for Family Affairs and Juveniles come to the establishments and during ongoing supervision.

In each correctional juvenile facility and a shelter for minors, the juvenile is examined on admission by a nurse and a doctor in accordance with the provisions of the Regulation on correctional facilities and shelters for juveniles:

“§ 44. 1. After a juvenile is admitted, they are placed in a transition room or in a group.

2. Placement of a juvenile in a transition room may take place for a period of up to 14 days in order to:

(...)

2) subject them to initial medical examinations and hygienic/sanitary administrations”.

In the Juvenile Correctional Facility in Białystok, an initial examination of newly arrived juveniles is carried out immediately after admission by a qualified nurse in accordance with his or her qualifications and privileges. The nurse carries out a preliminary examination. The nurse checks height, weight, inspects skin in general, hair, blood pressure, temperature, conducts an interview on well-being and health condition. The nurse creates medical

records and makes the first entries. The full examination is carried out by a physician. The doctor is called to attend to each newly arriving juvenile.

Additionally, an analysis of medical records of a newly arrived juvenile is carried out.

All students are examined immediately, however, the opinion of the juveniles is subjective.

If treatment or diagnostics is necessary, the juvenile is provided with specialist medical and rehabilitation care at the practices, clinics, hospitals and laboratories outside the facility, as required by the health condition. Medical and rehabilitation assistance is provided to the juveniles in accordance with the general rules applicable to all persons insured by the National Health Fund. The basic health care is provided by the general practitioner at the NZOS FIDOS clinic in Białystok, which refers the juveniles for all specialist examinations, if necessary. Medical care in cases of emergency is provided on general rules, meaning that a visit is paid with the juvenile to a Hospital Emergency Unit (SOR) or emergency services are called, depending on the given situation, in line with the instruction that outlines the rules and the manner of taking juveniles for medical procedures and to doctors (In-house rules of the Juvenile Correctional Facility in Białystok). This instruction is drawn up by the director of the facility in accordance with Section 1057 of the Regulation on facilities and shelters.

Juvenile correctional facilities employ doctors of various specialities. These include general practitioners, surgeons, orthopaedics and psychiatrists.

Due to the specificity of working with minors addicted to psychoactive substances, the Juvenile Correctional Facility in Białystok employs a psychiatrist.

Isolating a juvenile is possible in a security room only in exceptional cases in the Juvenile Correctional Facility in Białystok. As of 1 July 2016, any placement of juveniles in the transitional room has been prohibited for educational reasons by way of the Regulation of the Ministry of Justice on correctional facilities and shelters for minors.

A security room, being one of the direct coercive measures, may be applied only “if psychological and pedagogical influence measures are ineffective” – Article 95a(1) of the Act on proceedings in the matters of juveniles. Imposing a direct coercive measure in the form of a security room (or straitjacket, or a restraining belt) is only possible (according to Article 95a(2) of the Act on proceedings in the matters of juveniles) only if the use of physical force

is insufficient, in case of an attempt by the minor to commit suicide or to pose a threat to health or life of that juvenile or of another person.

In the Juvenile Correctional Facility in Białystok, the stays of the juveniles in the security room are recorded in the central register, i.e. in the list of measures of direct coercion applied. A record of all stays in the security room is also kept. In addition, all records of the use of coercive measures shall be kept as a separate document, for administrative order purposes. Immediately after the measure of direct coercion is imposed, a doctor attends to the child.

In view of the irregularities found, the director of the facility was instructed to record the use of a direct coercive measure on an external electronic medium, in accordance with Section 1055(4) of the Regulation on correctional facilities and shelters for minors; such record must be kept in the juvenile's file until the juvenile turns 23.

In 2016, 36 measures of direct coercion in the form of a security room were applied in the Juvenile Correctional Facility in Białystok, including the use of restraining belts three times.

Since September 2018, one pupil has been placed in the security room in the Juvenile Correctional Facility in Białystok. This is the best evidence that the isoliation measure is currently used as a last resort.

The juveniles under the care of the Juvenile Correctional Facility in Białystok currently have the opportunity to make telephone calls at the facility's expense and also without the use of a reward in the form of "a call at the cost of the facility". This is the case e.g. if it is necessary to hold an important telephone conversation with the family (especially with respect to new juveniles staying in the transitional room), conversations on work or in the process of becoming independent, conversations on financial burdens, pending court proceedings, etc.

This does not change the fact that the conversation at the expense of the company still remains in the catalogue of rewards, which results from the provisions of the Act on proceedings in the matters of juveniles - Article 95cc (1) (4): "permission to make a phone call at the cost of the shelter or the facility".

Responding to the needs of the pupils and promoting contacts with the outside world, it was allowed to have contact with the outside world via Skype.

A separate independent telephone line has also been set up in the facility for the sick ward and in the transitional rooms.

The directors of all the establishments and shelters were obliged by the Ministry to ensure that juveniles have access to a free telephone line to the Commissioner for Children's Rights and to place a notice on the information boards that contacting the appeal authorities is not subject to supervision (letter of 29 June 2016, no. DWOiP.III.5340-23/16).

In the past, there were incidents at the Juvenile Correctional Facility in Białystok where minors were restricted from having free telephone contact with the Commissioner for Children's Rights. This problem has now been completely eliminated.

A thorough renovation of the basketball court was carried out at the Juvenile Correctional Facility in Białystok. The whole surface was replaced with a professional mat, new boards with baskets were hung and purchasing football goals is also planned. In addition, the football field was fenced and lighting was installed, which made it possible to use these sports facilities at any time of the day, so as not to interfere with the organisation of the work of the groups. For financial and technical reasons, roofing the basketball pitch must be postponed for now.

For organisational reasons, the timetables for the use of outdoor sports facilities in the boarding house provide for the stay of one educational group on the pitch for one hour. The aim is to make it possible for all pupils who are staying in the facility to use the pitch. Groups are often combined together when using outdoor facilities, which automatically extends their stay to two hours. In addition, the daily schedule provides for group activities in the boarding house and a daily walk outdoors between 4.00 p.m. and 7.00 p.m. on weekdays and between 3.00 p.m. and 7:00 p.m. on public holidays. This means that in practice, weather permitting, outside the ir classes at the field, the juveniles may stay outside until 7.00 p.m.

The central register of the measures of direct coercion applied, i.e. the register provided for in the Regulation on correctional facilities and shelters for minors -–the register of exceptional events, as provided for in Section 9. "(...) shall contain the following information: name and surname of the student (juvenile), date and time of the event, type of the event and place of its occurrence, description of the event, under whose supervision the student

(juvenile) was at the time of the event. In the event of an escape, the date and time of the bringing (or arrival) of the juvenile must also be stated, together with the name of the person who brought him in and the name and surname of the receiving person."

There is no duty to mark the end of application of the direct coercive measure in the Register. However, the time the direct coercive measure is no longer applied is noted down in the memo on the use of the coercive measure required by the Act of 24 May 2013 on direct coercive measures and arms (Article 51(3) and Article 54(1))

This note, together with details of the course and reasons for the measure applies, the memos, the start and end times, are to be placed in separate documentation. Along with the recording of the monitoring of the event recorded on an electronic data carrier, it is sent to the Ministry of Justice, the Juvenile Family Court, the judge supervising the Juvenile Correctional Facility in Białystok.

At this time, restraining juveniles on a bed in a security room is no longer used at the Juvenile Correctional Facility in Białystok. It has not been in use for the past two years.

Mechanical means of direct coercion are not used in at the Juvenile Correctional Facility in Białystok as penalties or threats of penalties. No coercive measures are used as penalties.

The facility uses the catalogue of disciplinary measures provided for in the Act of 26 October 1982 on the proceedings in matters of juveniles – Article 95 cf.

At the Juvenile Correctional Facility in Białystok, the reason for placing students in the sick ward, next to typical illnesses and health problems, may also be the need to observe them due to their abnormal behaviour, suspicion of using intoxicants, suicidal tendencies, reduced mood or poor psychophysical condition. It is a doctor who each time decides that it is necessary to place a juvenile in the sick ward. It is also the doctor who decides whether the juvenile may leave the sick ward. During a juvenile's stay in the sick ward, he or she is provided with school, day-care and therapeutic activities.

Psychiatric establishments

With reference to the issue of legal regulations indicated by the Committee to be amended or regulated, it should be noted that on 24 November 2017 the Act on mental

health protection was revised. The amended provisions include an amendment to Article 45(1), according to which, in cases concerning admission to a psychiatric hospital or a social care home, removal from that hospital or social care home, as defined in Article 25, Article 29, Article 36(3), Article 38(2) and Article 39, the guardianship court shall decide immediately after the hearing, which should take place no later than within 14 days of the receipt of the motion or of the notification to the head of the hospital referred to in Article 23(4).

Another amendment concerns Article 46(3), which provides for the application of those provisions on admission to a psychiatric hospital also to admission procedures to a social care home. It shall also take into account the circumstances referred to in Article 38(2), requiring a court decision and the need for the social assistance body to provide the necessary assistance during that period.

The above proposals for new solutions, related to the provision of adequate legal protection for persons referred without their consent to a social care home, are connected with the amendment of Article 48 of the amended Act (Chapter 5 of the proceedings before the guardianship court). The current wording of Article 48 is changed, according to which the court shall appoint (before the amendment: may appoint) for the person directly concerned, a lawyer (an advocate or a legal adviser) ex officio, even without being requested to do so, if the person is not able to submit such a request due to their mental health condition and the court deems the participation of an advocate a necessity in the given case. In addition, a new provision has been added according to which, for a person admitted to a psychiatric hospital or social care home without his/her consent, the court shall appoint a lawyer (an advocate or a legal adviser) ex officio. The proposed amendment to Article 48 aims at providing additional and full legal protection for individuals with mental disorders.

The provisions defining the obligation to appoint psychiatrists authorised to assess the legitimacy of the use of direct coercion measures by the Marshal of the Voivodeship have also been clarified, which will not constitute a new obligation for the Voivodship's local governments; rather, they are only a literal clarification of the existing obligation in this respect. On the other hand, it is a novelty to indicate the manner in which information on a doctor or doctors authorised by the Marshal of the Voivodship will be made available. The Act indicates that the Marshal of the Voivodship should provide this information to the

public by placing them on the website of the Marshal's Office. Proposals for changes in this respect are set out in the following additions to Article 6(4) and (5).

Additionally, the provisions stipulate that the record of monitoring the use of direct coercion measures in the form of isolation shall be kept for at least 12 months, but not longer than 13 months from the date of its registration. This will strike the right balance between the protection of personal data of persons with mental disorders and the need to preserve possible evidence under the control exercised by the judges. Pursuant to Article 43(4)(1), the judge shall inspect the psychiatric facility at least once a year. Such a solution guarantees the possibility of accessing the monitoring records by the judge controlling the medical records concerning the use of this form of direct coercive measures.

The draft also specified amendments to the provisions of the Act in the scope of:

1). the coordination of the National Programme for Mental Health Protection, hereinafter referred to as 'NPOZP', and the obligation to report on its implementation;

2) strengthening the role of the minister in charge of health with regard to the implementation of the NPOZP and extending and clarifying the regulations concerning mental health centres currently regulated in Article 5a of the Act;

3) modification of statutory authorizations to issue implementing acts - as already mentioned above, their purpose is to amend these authorizations, repeal or transfer the contents of an implementing act directly to the Act due to on the matter that they regulate;

4. terminology.

As regards the issues relating to the Regional Centre for Forensic Psychiatry and the National Centre for the Prevention of Dissocial Behaviour in Gostynin, it should be pointed out that the Committee's comments and suggestions have been forwarded to the above mentioned entities.

It should be noted that, despite the fact that staff are exposed to threats and vulgar language from patients, they fully respect and obey patients' rights. The staff of the Centres, who have direct contact with patients, try to prevent violence among patients as well as to resolve conflict situations. Training courses are held, among others, on how to prevent aggressive behaviour involving different professional groups. During the training the main

emphasis is placed on the principles of communication and de-escalation of aggression through verbal methods.

Currently, the Centre has a building permit. In the new facility, patient rooms and rooms where therapy will be provided will comply with the provisions of law contained in the Regulation of the Minister of Health of 16 January 2014 on the National Centre for the Prevention of Dissocial Behaviour. The planned size of the patient room is 14.02 m, the room for a person with disabilities is 20.23 m2, and the total size of the ward for 10 patients will vary from 515 m2 to 526 m2.

Individual Therapy Plans are implemented for patients staying in the National Centre. Meetings are held with a psychologist, a sex therapist, a physician, a social worker, a therapist, a social assistant. Patients have the opportunity to participate in sports and recreation activities, which in appropriate weather conditions also take place outdoors.

Due to the fact that at present the National Centre is located in a building and on the territory of the Regional Centre for Forensic Psychiatry, it should be borne in mind that there are various housing and spatial limitations which make it difficult to implement certain solutions, including the installation of appropriate weatherproof covering.

A physician on duty is present at the Centre every day from 3.35 p.m. to 8.00 a.m. He is not a member of the therapeutic team that meets with patients on a daily basis, and therefore may not carry out a therapeutic programme. The activity of the on-call physician is related to the performance of tasks resulting from the performance of medical supervision.

With regard to the issue of training of security personnel, it should be first of all noted that the persons placed in the Centre had stayed in prisons for many years. They are aggressive, demanding, conflicting, arrogant and vulgar people, and not all situations can be solved without special measures, although the first action is to try to resolve the conflict verbally. Special measures, on the other hand, are a last resort. It should be noted, however, that throughout the 4 years of operation of the Centre, not even once a truncheon was used, or a manual thrower of incapacitating substances, which the security personnel are entitled to use.

The staff of the Centre shall be adequately trained in the application of the measures of direct coercion, the procedure for initiating such coercion and its course, including the provision of information to the patient on the end of such a coercive measure.

In addition, the following should not be considered as “informal sanctions” applied in the centre, as all and any activities undertaken are related to specific situations. Preventing the use of a mobile phone is the result of inappropriate negative behaviour on the part of individual patients. If the patient's behaviour is not objectionable and there are no inappropriate or conflicting situations, then the use of a personal mobile phone is not prohibited. As far as the issue of shopping for patients is concerned, they have a new opportunity to shop. This is done by ordering food from a third party who delivers the ordered products directly to the Centre's patients.

At the same time, the complexity and problems related to persons staying in the National Centre for the Prevention of Dissocial Behaviour should be emphasized. On the one hand, they are people who have been imprisoned for many years, who feel that the sentences imposed on them have been served in full, and on the other hand, they have been recognised by the justice system as posing a threat to the life, health or sexual freedom of others. Their stay at a medical institution such as the National Centre must be subject to special rules, since the risk of committing criminal acts by them is at least high.

In 2017, the Psychiatric Hospital in Toszek completed the construction and fitted a gym for the Ward XVII with reinforced protection for minors. During this period, among others, the X-ray equipment, hot water installation and smoke extraction system were replaced in the staircase in all sick wards. By the end of 2018, on the other hand, it is planned to build a fire protection tank (a water reservoir for extinguishing potential fires in the Court Ward with enhanced protection for minors), to build a lift for the forensic Wards V, VI and VII with enhanced protection, as well as to modernize the recreational area of the Hospital.

In the forensic psychiatric ward with enhanced protection for minors, the rooms for patients are single and double and fulfil their therapeutic role. The hospital does not plan to refurbish the aforementioned facility, which was put into use about 8 years ago, meeting the standards and approvals required by the law.

Access to therapeutic and recreational activities results directly from the Individual Care Plan developed for a given patient, as well as on the Hospital's staffing and organizational capabilities. No changes are currently foreseen in this respect. Patients,

including long-term patients, have access to occupational therapy, psychological education, training and workshops where they acquire social skills. All these tasks shall be carried out by a competent therapeutic team. Participating in such activities is voluntary, in line with the rights of patients in this area. It is practicable for a patient to sign an Individual Care Plan. in order to increase their motivation and involvement in therapeutic activities.

The introduction of unlimited access to exercise outside hospital wards is not possible primarily for organisational reasons. This would require a significant increase in the number of medical staff. On the other hand, attracting new employees, due to the current level of salaries at the Hospital and the general shortage of qualified staff, makes any actions in this area impossible. The increase in the presence of staff (including after 2 p.m.) is connected with additional financial expenses, which already consume 81% of revenues generated by the Hospital under the contract with the National Health Fund.

All hospital staff, including security staff, are regularly trained in the principles of using direct coercive measures, the scope of patients' rights and how to deal with difficult situations in a constructive manner. Training sessions are held to improve communication with the patients. The Hospital is the first hospital in Poland to train its employees in the latest tools for professional assessment of the risk of aggressive behaviour and protective factors - HCR-20v3 ISAPRO.

In order to prevent immobilized patients from being exposed to the view of other patients, screens are used at the Hospital which serve their function. Due to the shortage of sufficient premises that would allow for the separation of single rooms for the use of direct coercive measures, it is not possible to abandon the current method of isolation of patients subjected to direct coercive measures.

The forensic Ward for Juveniles applies coercive measures in accordance with Article 18 of the Mental Health Protection Act of 19 August 1994. If there is any reason to use them, pharmacological measures are used first, then isolation, and finally restraining with belts. Before a coercive measure is used, the patient is warned of this fact each time, as stated in the Report of using a coercive measure or isolation and in the patient’s individual records.