



CPT/Inf (98) 13

**Report to the Polish Government  
on the visit to Poland  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 30 June to 12 July 1996**

The Polish Government has requested the publication of this visit report and of its interim and follow-up reports in response. The responses of the Polish Government are set out in document CPT/Inf (98) 14.

Strasbourg, 24 September 1998



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Copy of the letter transmitting the CPT'S report

Strasbourg, 20 December 1996

Dear Sir,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Government of Poland drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to Poland from 30 June to 12 July 1996. The report was adopted by the CPT at its thirty-first meeting, held from 2 to 6 December 1996.

I would draw your attention in particular to paragraph 224 of the report, in which the CPT requests the Polish authorities to provide an interim and a follow-up report on action taken upon its report. The CPT would be grateful if it were possible, in the event of the reports forwarded being in Polish, for them to be accompanied by an English or French translation.

More generally, the CPT is keen to establish an ongoing dialogue with the Polish authorities on matters of mutual interest, in the spirit of the principle of co-operation set out in Article 3 of the Convention. Consequently, any other communication that the Polish authorities might wish to make would also be most welcome.

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

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

Yours faithfully,

Claude NICOLAY  
President of the European Committee for  
the prevention of torture and inhuman  
or degrading treatment or punishment

Mr Andrzej KALIŃSKI  
Ministry of Foreign Affairs  
Law and Treaty Department  
Section of Human Rights  
WARSAW



## Preface

As the European Committee for the prevention of torture and inhuman or degrading treatment or punishment is a relatively new institution, knowledge of its mandate and functions is inevitably limited. The CPT has therefore deemed it appropriate to begin the first of its reports to each Party by setting out some of the Committee's salient features. This should prove particularly helpful in differentiating the basis and aims of the CPT from those of two other Council of Europe supervisory bodies within the field of human rights: the European Commission and European Court of Human Rights.

Unlike the Commission and the Court, the CPT is not a judicial body empowered to settle legal disputes concerning alleged violations of treaty obligations (i.e. to determine claims *ex post facto*).

The CPT is first and foremost a mechanism designed to **prevent ill-treatment from occurring**, although it may also in special cases intervene after the event.

Consequently, whereas the Commission's and Court's activities aim at "conflict solution" on the legal level, the CPT's activities aim at "conflict avoidance" on the practical level.

This being so, the guiding maxim for the CPT when performing its obligations must be to "extend the widest possible protection against abuses, whether physical or mental" (quotation from the 1979 UN Code of conduct for law enforcement officials as well as from the 1988 Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, both adopted by the General Assembly).

The CPT's activities are based on the concept of co-operation (Article 3 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment). The CPT's task is not to publicly criticise States, but rather to assist them in finding ways to strengthen the "cordon sanitaire" that separates acceptable and unacceptable treatment or behaviour. In fulfilling this task the CPT is guided by the following three principles:

- i) that the prohibition of ill-treatment of persons deprived of their liberty is absolute,
- ii) that ill-treatment is repugnant to the principles of civilised conduct, even if used in milder forms, and
- iii) that ill-treatment is not only harmful to the victim but also degrading for the official who inflicts or authorises it and ultimately prejudicial to the national authorities in general.

The CPT first of all explores the prevailing factual situation in the countries it visits. In particular it:

- i) examines the general conditions in establishments visited;
- ii) observes the attitude of law enforcement officials and other staff towards persons deprived of their liberty;
- iii) interviews persons deprived of their liberty in order to understand how they perceive (i) and (ii) and hear any specific grievances they may have;
- iv) examines the legal and administrative framework on which the deprivation of liberty is based.

Subsequently, the CPT reports to the State concerned, giving its assessment of all the information gathered and providing its observations. In this regard, it should be recalled that the CPT does not have the power to confront persons expressing opposing views or to take evidence under oath. If necessary, it recommends measures designed to prevent the possible occurrence of treatment that is contrary to what reasonably could be considered as acceptable standards for dealing with persons deprived of their liberty.

In carrying out its functions, the CPT has the right to avail itself of legal standards contained in not only the European Convention on Human Rights but also in a number of other relevant human rights instruments (and the interpretation of them by the human rights organs concerned). At the same time, it is not bound by the case law of judicial or quasi-judicial bodies acting in the same field, but may use it as a point of departure or reference when assessing the treatment of persons deprived of their liberty in individual countries.

To sum up, the principal differences between the CPT and the European Commission and European Court of Human Rights are:

- i) the Commission and the Court have as their primary goal ascertaining whether breaches of the European Convention on Human Rights have occurred. By contrast, the CPT's task is to prevent abuses, whether physical or mental, of persons deprived of their liberty from occurring; it has its eyes on the future rather than the past;
- ii) the Commission and Court have substantive treaty provisions to apply and interpret. The CPT is not bound by substantive treaty provisions, although it may refer to a number of treaties, other international instruments and the case law formulated thereunder;
- iii) given the nature of their functions, the Commission and the Court consist of lawyers specialising in the field of human rights. The CPT consists not only of such lawyers but also of medical doctors, experts in penitentiary questions, criminologists, etc;
- iv) the Commission and Court only intervene after having been petitioned through applications from individuals or States. The CPT intervenes ex officio through periodic or ad hoc visits;
- v) the activities of the Commission and Court culminate in a legally binding finding as to whether a State has breached its obligations under a treaty. The CPT's findings result in a report, and, if necessary, recommendations and other advice, on the basis of which a dialogue can develop; in the event of a State failing to comply with the CPT's recommendations, the CPT may issue a public statement on the matter.

## I. INTRODUCTION

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

1. In accordance with Article 7 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as "the Convention"), a delegation of the CPT visited Poland from 30 June to 12 July 1996. The visit formed part of the Committee's programme of periodic visits for 1996.

2. The delegation consisted of the following members of the CPT:

- Mrs Ingrid LYCKE ELLINGSEN, First Vice-President of the CPT (Head of the delegation)
- Mrs Nadia GEVERS LEUVEN-LACHINSKY
- Mr Günther KAISER
- Mr John OLDEN
- Mr Stefan TERLEZKI.

It was assisted by:

- Mr Gordon LAKES, former Deputy Director General of the Prison Service of England and Wales (expert)
- Mr Jean-Pierre RESTELLINI, Medical doctor, Specialist in Forensic Medicine and Internal Medicine, Geneva (expert)
- Mr Ryszard DRZEWIECKI (interpreter)
- Mr Andrzej GRZĄDKOWSKI (interpreter)
- Ms Essie HANSEN-MURAWSKA (interpreter)
- Mr Piotr PASTUSZKO (interpreter)
- Mr Robert SZYMANSKI (interpreter).

The delegation was also accompanied by the following members of the CPT's Secretariat:

- Mr Trevor STEVENS, Secretary of the CPT
- Ms Petya NESTOROVA.

**B. Establishments visited**

3. The delegation visited the following places of detention:

Police and Border Guard establishments

- District Police Command, Warsaw-Praga Południe, ul. Grenadierów 73/75
- District Police Command, Warsaw-Praga Północ, ul. Cyryla i Metodego 4
- District Police Command, Warsaw-Śródmieście, ul. Wilcza 21/23
- Local Police Station Targówek No 1, Warsaw, ul. Motycka 15
- Local Police Station Targówek No 2, Warsaw, ul. Chodecka 3/5
- Police detention facility for foreigners awaiting deportation, Warsaw, ul. Ragisa
- District Police Command, Bydgoszcz-Wyżyny, ul. Ogrody 19a
- District Police Command, Grudziądz, ul. Piłsudskiego 19
- Provincial Police Command, Opole, ul. Korfantego 2
- District Police Command, Opole, ul. Powolnego 1
- District Police Command, Toruń, ul. Bydgoska 39
- 4th Local Police Station, Toruń, ul. Dziewulskiego 1
- Provincial Police Command, Wałbrzych, ul. Mazowiecka 2
- District Police Command, Wałbrzych, ul. Kilińskiego 1
- 1st Local Police Station, Wałbrzych ul. Wrocławska 69
- Provincial Police Command, Wrocław, ul. Muzealna 2/4
- District Police Command, Wrocław- Śródmieście, ul. Grunwaldzka 6
  
- Police establishment for children, Bydgoszcz, ul. Chodkiewicza 8
- Police establishment for children, Toruń, ul. Dziewulskiego 1
- Police establishment for children, Wałbrzych, ul. Św.Kingi 26
- Police establishment for children, Warsaw, ul. Wiśniowa 44
  
- Border Guard detention facilities at Warsaw International Airport

Prison establishments

- Warszawa-Białoleka Remand Prison
- Grudziądz Prison No 1
- Strzelce Opolskie Prison No 2
- Psychiatric Hospital at Wrocław Remand Prison

Juvenile establishments

- Correctional Establishment and Home for Detained Juveniles in Świdnica
- Correctional Establishment in Trzemeszno

Military arrest facilities

- Military arrest at the Bydgoszcz Garrison, Bydgoszcz, ul. Warszawska 10
- Military arrest at the Toruń Garrison, Toruń, ul. Dobrzyńska 2

Sobering-up centres in Grudziądz, Opole, Toruń, Wałbrzych and Warsaw

**C. Consultations held by the delegation**

4. In addition to meeting local officials at the establishments visited, the delegation held talks with the competent national authorities, with members of the Polish Bar Association and representatives of other non-governmental organisations active in the areas of concern to the CPT, as well as with staff of the Warsaw Liaison Office of the United Nations High Commissioner for Refugees.

A list of the national authorities and organisations consulted during the visit is set out in Appendix II to this report.

**D. Co-operation encountered during the visit**

5. At the beginning of its visit, the CPT's delegation held fruitful discussions with the Minister for Justice, the Deputy Minister for Internal Affairs, the Under-Secretary for Social and Parliamentary Affairs at the Ministry of National Defence, members of the Polish Senate and Sejm, the Citizens Rights Ombudsman, the Director General of the Prison Service and a number of senior officials. These meetings, as well as the talks with the Polish national authorities held at the end of the CPT's visit, were conducted in a spirit of close co-operation, in full accordance with Article 3 of the Convention.

6. In general, the CPT's delegation received an extremely good reception from management and staff at the establishments visited. With one exception (cf. paragraph 7), it enjoyed rapid access to the establishments visited, including those which had not been notified in advance of the Committee's intention to carry out a visit.

The delegation noted that staff members at all levels were aware of the possibility of a CPT visit and of the Committee's mandate, and were prepared to provide the delegation with all the information and facilities necessary for it to carry out its task. This positive attitude can be attributed at least partly to the two-day information meeting on the CPT organised by the Polish Central Administration of the Prison Service in February 1996, and to the timely dissemination by the Polish authorities of information on the CPT's mandate to all relevant establishments.

7. The exception referred to above concerned the sobering-up centre in Warsaw, where in the evening of 2 July 1996 the delegation had to wait one hour and fifteen minutes before being able to begin its visit. Such a delay is not in accordance with the provisions of Article 8, paragraph 2, subparagraph c, of the Convention.

This difficulty in gaining access to the sobering-up centre in Warsaw was entirely due to the fact that the Centre Manager had received no information concerning the CPT's visit to Poland and considered that he could not allow the delegation to enter the premises without an express authorisation from the relevant municipal authorities. With the assistance of the CPT's liaison officer, who contacted the Office of the Mayor of Warsaw, the delegation was eventually admitted to the sobering-up centre. The co-operation subsequently extended to the delegation by the sobering-up centre's staff was excellent.

8. The CPT wishes to express its appreciation of the efficient assistance provided both before and throughout the visit by Mr Andrzej Kaliński, liaison officer to the Committee at the Ministry of Foreign Affairs, as well as the valuable support received from Mr Mirosław Nowak, Head of the International Division of the Central Administration of the Prison Service, and Mr Cezary Wil:majtys, Inspector in the International Division of the Central Administration of the Prison Service.

#### **E. Immediate observation under Article 8, paragraph 5, of the Convention**

9. At the end of its visit, on 12 July 1996, the delegation met the national authorities in order to make known its first impressions. On this occasion, the delegation in particular made an immediate observation under Article 8, paragraph 5, of the Convention, concerning the treatment of persons detained at the Warsaw-Praga Północ District Police Command. The delegation requested the Polish authorities to carry out without delay an independent inquiry into the methods used by the Criminal Police in the District Police Command of Warsaw-Praga Północ when questioning detained persons and to forward, within three months, a report on the inquiry's findings and the steps subsequently taken.

By letter of 18 October 1996, the Polish authorities informed the President of the CPT that an inquiry had been conducted, and reported on the initial measures adopted as a result. This issue will be considered in more detail later in the report (cf. paragraph 17); however, the CPT wishes already at this point to emphasise the constructive spirit in which the Polish authorities took note of and reacted to the above-mentioned immediate observation.

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

### A. Police and Border Guard establishments

#### 1. Introduction

10. As already mentioned (cf. paragraph 3), the CPT's delegation visited a number of provincial and district police commands and local police stations in Bydgoszcz, Grudziądz, Opole, Toruń, Wałbrzych, Warsaw and Wrocław.

Two of the above-mentioned establishments were used to hold foreigners awaiting deportation. Further, the delegation visited police establishments for children in Bydgoszcz, Toruń, Wałbrzych and Warsaw. These facilities shall be dealt with separately in this chapter, as will the Border Guard detention facilities at Warsaw International Airport.

11. Persons suspected of criminal offences in Poland may be held in police custody for up to 48 hours (cf. Sections 206 and 207 of the Code of Criminal Procedure). To extend custody beyond this period it is necessary to obtain a warrant of "temporary arrest" (i.e. pre-trial detention). At the time of the CPT's visit to Poland, the relevant public prosecutor had the authority to issue such a warrant, acting on a proposal from the police. However, since 4 August 1996, the power of applying temporary arrest has been vested in the competent court, acting on a proposal from the public prosecutor. Persons placed in temporary arrest are then transferred to a prison establishment under the authority of the Ministry of Justice.

Temporary arrest may initially be set for a period not exceeding 3 months, though it can subsequently be extended. However, the total period of temporary arrest until the verdict by the court of first instance may not, as a general rule, exceed 18 months (or 2 years for serious crimes).

12. While visiting the Bydgoszcz-Wyżyny District Police Command, the delegation observed in one of the police registers that several criminal suspects had been held over the maximum 48 hour period of police custody. The delegation was told by a police officer that, in exceptional circumstances, a public prosecutor could authorise an extension of police custody beyond the 48 hour period, for up to five days. **The CPT would like to be informed of the legal provisions which make possible such an extension of police custody.**

13. Special rules apply to juveniles, as well as to foreigners who are illegally present in Poland and have been apprehended by the police for the purpose of deportation.

Specific "police establishments for children" have been set up for the purpose of holding juveniles suspected of criminal offences (13-16 years of age) and juveniles in need of educational or corrective measures (13-18 years old). The periods for which such persons can be detained in police custody are regulated by the Juveniles Act of 1982. Section 40 of the Act authorises police officers to detain a juvenile suspected of a criminal offence for up to 48 hours, a period which may be extended by up to 14 days upon decision of a family court judge. Under Section 102 of the Juveniles Act, a juvenile in need of immediate assistance can be placed in a police establishment for children for a maximum of 72 hours; this stay may also be extended by a family court judge for a period not exceeding 14 days.

Under the Aliens Act of 1963, foreigners illegally present in Poland can be detained by the police for a maximum of 90 days, if their immediate expulsion is not possible. A Ministry of the Interior Regulation of 9 July 1993 specifies the conditions of detention of such persons.

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

14. The majority of the persons met by the CPT's delegation who were, or had recently been, detained by the police, indicated that they had been correctly treated, both at the time of their apprehension and during questioning. Further, the CPT's delegation received no allegations of ill-treatment by staff working in the police establishments for children or for the detention of foreigners awaiting deportation which it visited.

It is also noteworthy that numerous persons with considerable experience of the police stated that there had been a significant change for the better in recent years as regards the manner in which police officers treated persons in their custody.

15. Nevertheless, a not insignificant number of persons interviewed by the delegation alleged that they had been ill-treated (e.g. kicked, punched, slapped or struck with truncheons) at the time of their apprehension and/or during their subsequent transportation to - and/or upon arrival at - a police station.

Specific mention might be made of a prisoner met at Warszawa-Białoleka Remand Prison who alleged that at the time of his arrest some eight months earlier, he had been kicked in the face by police officers whilst handcuffed behind the back and placed face down on the ground. Although no injuries were recorded during the medical examination on admission to prison, his medical file contained information to the effect that lesions to the face had been recorded during a medical examination carried out just before his admission. A photograph of the person concerned - taken by the police after his arrest - was subsequently unearthed, which clearly showed that he bore several lesions to the left side of the face.

Further, a person interviewed at the Warsaw Sobering-up Centre was found on examination by a medical member of the delegation to display three fresh abrasions on the left side of the face which were consistent with his allegation that, after having been restrained by the police, he had been dragged by the feet with his head hitting the ground. Staff at the centre indicated that some three to four persons per day (out of an average of 100 admissions) complained of police violence. The delegation observed for itself that the attitude and behaviour of some of the policemen delivering intoxicated persons to the Centre was characterised by a total lack of respect for those in their charge. Good humoured tolerance is a desirable attitude in such circumstances; treating intoxicated persons as objects of fun and ridicule is not.

16. Very few allegations were heard of ill-treatment during questioning by the police, with the notable exception of the District Police Command at Warsaw-Praga Północ. Several persons interviewed separately by the delegation, both in Warszawa-Białoleka Remand Prison and in police detention facilities, alleged that they had been physically ill-treated by the criminal police of the above-mentioned establishment in the course of their questioning. The cases of two young men met by the delegation who had very recently been questioned by the criminal police at Warsaw-Praga Północ deserve to be highlighted.

The first young man alleged that while being questioned at the Warsaw Praga-Północ District Police Command in the morning of the same day, he had been ordered to undress, treated in a humiliating manner and kicked in the chest. He also alleged that he had been prodded with a baton which had delivered an electric shock. The person concerned was found to display a slightly inflamed area on the chest which could have been caused by a kick.

The second young man had been arrested by the police some 10 hours before being interviewed by the CPT's delegation. He alleged that he was taken to an office of the criminal police at the Warsaw-Praga Północ District Police Command, where he was ordered to lie face down on the floor and struck several times on the soles of the feet with a truncheon. He was then told to stand up and was interrogated. He alleged that when he refused to confess to the offence of which he was suspected, a police officer gave him an electric shock through the shirt on the outer side of the right elbow; the device used for this purpose was apparently a black instrument resembling a truncheon, some 40 cm long, with a button at one end and two metal electrodes at the other. He claimed to have also been threatened with more electric shocks behind the ear if he failed to confess, though this threat was apparently not carried out.

Upon examination by one of the delegation's doctors, the young man was found to bear, in the middle of the plantar arch of the left foot, a discrete longitudinal tumefaction of some 5 cm by 3 cm, painful to palpation. The heel of that foot was also found to be tender to palpation. A little above the swelling, there was a reddish mark, some 3 cm long and 1 cm wide, situated at a slight angle to the axis of the arch of the foot. These physical marks were consistent with the young man's allegation that he had been struck on the soles of the feet earlier that day.

17. At the end of the visit, the CPT's delegation notified the Polish authorities of the information gathered in respect of the Warsaw-Praga Północ District Police Command. It made an immediate observation on this subject (cf. paragraph 9), requesting that an independent inquiry be carried out without delay into the methods used by the Criminal Police at that establishment when questioning detained persons.

By letter of 18 October 1996, the Polish authorities inter alia informed the CPT that "the Regional Prosecutor's Office for Warsaw Praga North investigated the case and found a justifiable suspicion that a crime had been committed. The evidence collected in the case formed the basis of a decision, taken on 3 October 1996, to open an inquiry (No. Ds 695/96/2). It is expected to be concluded in December 1996". It was also indicated that "the issues raised by the CPT have been the subject of briefings held at the 6th District Police Headquarters in Warsaw (i.e. Warsaw-Praga Północ), particularly in its Criminal Department. Each instance of a complaint against police procedures was and continues to be investigated and discussed within organisational units involved".

The CPT welcomes the action taken by the Polish authorities in response to the immediate observation made by its delegation and **looks forward to receiving in due course the results of the above-mentioned inquiry.**

18. Reference should also be made to various non-standard issue items discovered by the CPT's delegation in the course of its visits to some police establishments. At the Warsaw-Śródmieście District Police Command, the delegation found in offices used by the criminal police: a piece of coaxial cable, about 50-60 cm long; a metal rod, some 1 m long and 5 cm in diameter; a baseball-style bat. The explanations proffered for the presence of those objects (e.g. "it must have been left by someone"; "I'm going to use it to mend the fence at my country house" ...) were scarcely convincing. Similar objects were found at the Praga-Północ and Praga Południe District Police Commands in Warsaw, the Wrocław-Śródmieście District Police Command and the 4th Local Police Station in Toruń.

In their previously-mentioned letter of 18 October 1996 (cf. paragraph 17), the Polish authorities stated that: "Following the CPT's visit, the Commandant of the Warsaw Police, as well as the Commandant of the 6th District Police Headquarters, ordered the removal from police service premises of objects which might raise suspicions of being deployed during questioning. Instructions on this subject were sent to the Provincial Police Commandants by the Chief Commandant of the Police".

In this connection, **the CPT recommends that appropriate steps be taken to ensure that:**

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

19. Later in this report, the CPT will recommend some strengthening of formal safeguards against the ill-treatment of persons detained by the police (see paragraphs 45 *et seq.*). However, it should be emphasised that legal and other technical safeguards - while important - will never be sufficient; the best possible guarantee against ill-treatment is for its use to be unequivocally rejected by police officers. It follows that the provision of suitable education on human rights questions and of adequate professional training is an absolutely essential component of any strategy for the prevention of ill-treatment.

The CPT considers that the above-mentioned professional education and training should be pursued at all levels of the police service and be ongoing. It should seek to put across and develop two points. First, that all forms of ill-treatment are an affront to human dignity and as such are incompatible with both Polish law and with the values enshrined in many international instruments ratified by and binding upon Poland. Second, that the resort to ill-treatment is a fundamentally flawed method of obtaining reliable evidence for combatting crime. Further, particular attention should be given to training in the art of handling, and more especially speaking to, persons in police custody, i.e. interpersonal communication skills. The possession of such skills will often enable police officers to defuse situations which might otherwise become violent.

Consequently, **the CPT recommends:**

- **that a very high priority be given to professional training and human rights education for police officers at all levels;**
- **that an aptitude for interpersonal communication be a major factor in the process of recruiting police officers and that, during the training of such officers, considerable emphasis be placed on acquiring and developing such skills.**

20. As regards more specifically the allegations received of ill-treatment at the moment of apprehension, the CPT fully recognises that taking a person into custody - whether a criminal suspect or simply an intoxicated person - is often a hazardous task, particularly if the person concerned resists and/or is someone whom the police have good reason to believe represents an immediate danger. The circumstances may be such that injuries are sustained by the person concerned (or by police officers), without this being the result of an intention to inflict ill-treatment. However, no more force than is reasonably necessary should be used when apprehending a person. Furthermore, once the person apprehended has been brought under control, there can be no justification for him being struck or otherwise roughly treated or humiliated by police officers.

In the light of the information gathered by its delegation, **the CPT recommends that police officers be reminded of these precepts.**

21. Naturally, one of the most effective means of preventing ill-treatment by police officers lies in the diligent examination by the competent authorities of all complaints of such treatment brought before them and, where appropriate, the imposition of a suitable penalty. This will have a very strong dissuasive effect.

**In this connection, the CPT would like the Polish authorities to supply the following information for the years 1995 and 1996:**

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

22. A significant contribution to the prevention of ill-treatment by the police can also be made by prison health care services, through the systematic recording of injuries borne by newly-arrived prisoners and, when appropriate, the provision of information to the relevant authorities (cf. also paragraph 125). This was fully acknowledged by the Polish authorities, which had issued instructions on this question. However, the observations made by the CPT's delegation suggest that sometimes only a cursory description is made of such injuries.

**In this connection, the CPT recommends that the record drawn up following a medical examination of a newly-arrived prisoner contain: (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii).**

23. Of course, public prosecutors and, as from 4 August 1996, judges called upon to consider the issue of the temporary arrest of criminal suspects should themselves take prompt action in appropriate cases. **The CPT recommends that whenever a public prosecutor or judge receives an allegation of ill-treatment by the police, or observes that a criminal suspect brought before him could have been a victim of ill-treatment, he should immediately request a forensic medical examination of the person concerned and bring the matter to the attention of the relevant public prosecutor.**

24. More generally, the CPT considers that regular and unannounced visits to police detention facilities by public prosecutors can make a significant contribution to preventing torture and ill-treatment. Such visits should be seen as an intrinsic part of their duty to control and direct the work of the police in criminal proceedings (cf. Section 292 of the Code of Criminal Procedure). **The CPT therefore recommends that the Polish authorities encourage public prosecutors to undertake on-the-spot supervision of the work of the police in criminal cases.**

### 3. Conditions of detention

#### a. general remarks

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

Persons in custody should be allowed to comply with the needs of nature when necessary, in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Those detained for extended periods (twenty-four hours or more) should, where possible, be allowed to take outdoor exercise.

26. In Poland, criminal suspects are held in police premises for only a relatively short time (a maximum of 48 hours); consequently, the question of activities for them has little relevance. However, as already indicated (cf. paragraph 13), juveniles can be held in police establishments for up to two weeks and foreigners detained under the Aliens Act for up to 3 months. It follows that not only the material conditions, but also the regime to which such persons are subject, must be addressed.

#### b. detention facilities for criminal suspects

27. Conditions in the police detention facilities used for criminal suspects were on the whole in conformity with the criteria outlined in paragraph 25, and were very good in some establishments (e.g. the Bydgoszcz-Wyżyny and Grudziądz District Police Commands). Cells were of an adequate size for the numbers accommodated, had satisfactory lighting (in most cases including access to natural light) and were suitably equipped (including the provision of mattresses to persons held in custody overnight). It is also noteworthy that a call system had been installed in the majority of cells.

Most of the police cells visited were also adequately ventilated; **however, ventilation left something to be desired in at least certain cells at the Wałbrzych District Police Command as well as in the cells at the Wrocław-Śródmieście District Police Command.**

Almost all the police detention facilities were in a reasonably good state of repair and clean. However, **the state of cleanliness of some cells at the District Police Command at Opole was not entirely satisfactory and the sanitary facilities at the Wrocław-Śródmieście District Police Command were in a dirty condition.**

28. Reference should also be made to a detention area (comprising a number of cells and related facilities) discovered by the CPT's delegation, close to the cells used by the Opole District Police Command. The state of the detention area indicated that it had not been used for a considerable time; however, there were signs that at least some of the cells were being renovated for future use.

Consultations with police officers did not enable the delegation to obtain clear information as to the use - if any - to which the above-mentioned detention area might be put in the future; **the CPT requests the Polish authorities to clarify this question.**

Further, **the Committee recommends that the Polish authorities take stock of the contents of the detention area at the earliest opportunity**; it was found to contain various items (e.g. a metal bed fixed to the floor of a cell, equipped with rings which would facilitate physical restraint; leather straps; strait-jackets/body belts) the presence of which in a police establishment is, to say the least, unusual.

c. police establishments for children

29. Material conditions in the four police establishments for children visited by the CPT's delegation were on the whole adequate, and those in the establishment in Wałbrzych were of a very high standard.

During the day, boys and girls (aged between 13 and 18) detained at the establishments had access to spacious, well-equipped and pleasantly decorated activity rooms. At night they were accommodated in separate dormitories, the doors to which were locked between 8 pm and 7 am. Most of the dormitories were adequately sized for the numbers of children accommodated; **however, the authorised occupancy rate in certain of the dormitories at the police establishment for children in Warsaw was rather high** (e.g. six children in 13.5m<sup>2</sup>; seven children in 18m<sup>2</sup>). All dormitories had satisfactory lighting (including access to natural light) and were well-ventilated. Further, all rooms were equipped with beds with clean mattresses, sheets and blankets, and were fitted with a call system.

Separate toilet and shower facilities were provided for the boys and the girls (some dormitories having their own sanitary annexe), which were invariably clean and in a good state of repair.

30. Children accommodated at the establishments had their personal possessions stored away and were provided with clothing (tracksuits, pyjamas and underwear). However, in Toruń and Wałbrzych the delegation observed that the children wore pyjamas and slippers throughout the day, and were only provided with tracksuits and shoes when taken out for outdoor exercise or if the weather became cold. **The CPT invites the Polish authorities to ensure that persons detained at police establishments for children are provided with appropriate daytime clothing.**

31. Food was usually brought in daily from a police canteen and three meals a day were served in the establishment's kitchen. The CPT's delegation heard few complaints about the food provided; **nevertheless, the CPT invites the Polish authorities to ensure that the quantity and variety of food offered at the police establishment for children in Warsaw is satisfactory.**

32. The activities offered to children detained at police establishments for children can be considered as adequate for a stay of up to 17 days. The children spent most of the time in the activity rooms, where they could read, watch TV and video, and play table-tennis and various board games. Some basic schooling was also provided in the form of lectures, discussions, essay-writing, drawing, etc.; however, given the relative short periods of stay and the differences in the children's age, it was not possible to offer any structured educational programmes.

In principle, children were allowed one hour of outdoor exercise per day; however, in bad weather this allowance could be substantially reduced. The outdoor exercise facilities were quite spacious, save at Toruń (two small secure yards measuring some 40m<sup>2</sup>). **The CPT invites the Polish authorities to explore the possibilities of equipping exercise yards with some form of shelter (thereby enabling outdoor exercise to be taken even in inclement weather) and to ensure that children can engage in suitable games during outdoor exercise.**

33. The police establishments for children were adequately staffed by educators and other staff, some of whom had pedagogical training in addition to being police officers; the proportion of female staff was notably high in all the establishments visited. It should also be noted that the establishment in Warsaw benefitted from the presence of two part-time doctors (one of whom was always present for 2 to 3 hours a day) and one full-time nurse (working between 8 am and 4 pm).

34. In Warsaw the children were medically examined upon admission to the establishment. However, this was not the case at the other three establishments, where newly-arrived children were seen only by an educator, who looked for any visible injuries and asked some general health questions. In case of need a doctor could be called in and/or the child concerned could be transferred to a hospital.

The systematic medical screening of children upon their admission, either by a doctor or a qualified nurse reporting to a doctor, would inter alia minimise the risk of the spread of communicable diseases. Further, such a screening would provide an ideal opportunity to identify and record any injuries that may have been incurred prior to admission. **The CPT therefore recommends that the Polish authorities take appropriate steps to ensure that all new arrivals at police establishments for children are medically screened without delay.**

35. Finally, it should be noted that all establishments visited possessed an isolation room, where children displaying aggressiveness or disobedience could be placed for up to 24 hours. These rooms were of an adequate size, well-lit and ventilated, and equipped with a bed and blanket. Further, from the registers consulted by the delegation, it appeared that the isolation rooms were used sparingly and normally for no more than 3 to 4 hours at a time.

d. detention facilities for foreigners awaiting deportation

36. At the time of the delegation's visit, the Provincial Police Command at Wrocław was accommodating twenty-four foreign nationals awaiting deportation, some of whom had already been detained there for over two months. They were held in the establishment's detention unit, consisting of 28 cells spread over six floors. This unit also accommodated criminal suspects (11 at the time of the visit), but the latter were not placed in the same cells as those holding foreigners awaiting deportation.

37. The material conditions of detention of foreigners awaiting deportation were the same as those of criminal suspects; they can be described as on the whole adequate (albeit rather basic bearing in mind that such persons can be held for up to three months).

However, in the light of the information gathered by the delegation, **the CPT requests the Polish authorities to verify that sufficient food is being provided to foreigners awaiting deportation held at Wrocław Provincial Police Command, and to take into account as far as possible the usual dietary practices of such persons.**

**Further, the laundry arrangements at that establishment for detained foreigners might usefully be reviewed;** they should not have to resort to washing their clothes in cold water in their cells.

38. As regards the regime applied to foreigners awaiting deportation held at Wrocław Provincial Police Command, it was quite unacceptable. They were provided with no activities - either inside or outside their cells - save outdoor exercise. As for the latter, it was apparently offered only once or twice per week, for a period of 10 to 15 minutes. In other words, persons awaiting deportation were kept locked up and idle in their cells for practically 24 hours a day. To be subjected to such a situation for weeks, perhaps months, must be a stultifying experience.

**The CPT recommends that immediate steps be taken to ensure that foreign nationals awaiting deportation held at Wrocław Provincial Police Command:**

- are offered at least one hour of outdoor exercise every day;
- are given access to appropriate reading material.

**The CPT also recommends that the possibility of offering such persons access during the day to a communal room where they can associate and engage in recreational activities (television, etc.) be explored.**

39. Further, the delegation was not satisfied that foreigners awaiting deportation held at Wrocław Provincial Police Command could maintain appropriate contacts with the outside world. Certainly, they could send and receive letters. However, they did not have ready access to a telephone and no specific arrangements had been made for visits.

**The CPT recommends that arrangements be made so that foreigners awaiting deportation held at Wrocław Provincial Police Command have ready access to a telephone and are able to receive visits on a regular basis from relatives, friends, lawyers, consular representatives, etc.**

40. The police detention facility for foreigners awaiting deportation in Ragisa St, Warsaw, was empty at the time of the delegation's visit, due to renovation work.

Cells designed for two detainees measured 9m<sup>2</sup> and those designed for three, 15m<sup>2</sup>. They were suitably equipped (beds, table, chair, call system) and had adequate lighting (including access to natural light) and ventilation. It appeared that the sanitary facilities, once refurbished, would also be satisfactory in terms both of quantity and quality.

41. The delegation was unable to obtain clear information on the regime which would be applied to foreigners held in the establishment. However, it noted that no provision appeared to have been made for association and recreative activities, and that the exercise yard (some 35m<sup>2</sup> in size) was a very modest facility.

**The CPT would like to receive detailed information on the regime applicable to persons held at the police detention facility for foreigners awaiting deportation in Ragisa St, Warsaw (outdoor exercise, association and recreative activities, contact with the outside world, etc.).**

42. More generally, the CPT wishes to stress that **ordinary police detention facilities will rarely be in a position to offer adequate conditions of detention to persons deprived of their liberty under the Aliens' legislation. It would be far preferable to set up specific centres for such persons, offering material conditions of detention and a regime appropriate to their legal situation and possessing suitably qualified staff.**

In this connection, the delegation was informed that a centre for foreigners detained under the Aliens' legislation was to be set up in the Warsaw region, at Lesznawolo. **The CPT would like to receive detailed information concerning this centre (capacity; material conditions of detention; regime; staffing arrangements, etc.).**

e. Border Guard detention facilities at Warsaw International Airport

43. Facilities at Warsaw International Airport for persons refused entry to the country and who had to be held overnight were not satisfactory. With the exception of certain categories who might be allowed to stay in a hotel at the airport (for example, women with children), such persons were held together in a large room in the transit area. The average stay was about one day, though stays of several days were clearly not uncommon.

The room had very good lighting (including access to natural light) and ventilation, and possessed a clean and adequately equipped sanitary annexe (albeit with no shower). However, it was completely bare, save for a number of plastic chairs and a few small tables. Persons obliged to stay there overnight were provided with neither mattresses nor blankets, and consequently slept on the floor. Further, the airport's public-address system bellowed incessantly and was clearly a considerable source of irritation.

Persons held in the room were allowed to have their baggage with them and could buy or (if without resources) were provided with food. However, they did not have access to a telephone and were not offered outdoor exercise.

44. The Border Guard Commander at the Airport informed the delegation that he would take immediate steps to provide persons held overnight in the holding room with mattresses and to disconnect the public-address system in the room. He also undertook to improve arrangements concerning access to drinking water for persons held there. **The CPT would like to receive confirmation that these measures were taken.**

He also pointed out that the holding room was soon to be replaced by better equipped facilities. **The CPT would like to be informed whether those facilities have now entered into service and, in the affirmative, to be given a detailed description of the situation of persons held within them (material conditions of detention; access to a telephone, vending machines; access to medical care; outdoor exercise, etc.)**

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

45. The CPT attaches particular importance to three rights for persons deprived of their liberty by the police:

- the right of those concerned to inform a close relative or another third party of their choice of their situation,
- the right of access to a lawyer,
- the right of access to a doctor.

The CPT considers that these three rights are fundamental safeguards against the ill-treatment of persons deprived of their liberty, which should apply from the very outset of custody (that is, from the moment when those concerned are obliged to remain with the police).

46. Furthermore, in the view of the CPT, persons taken into police custody should be expressly informed, without delay and in a language they understand, of all their rights, including those referred to above.

- a. notification of apprehension

47. The Code of Criminal Procedure (Section 206, paragraph 4) entitles a person in police custody to request that his next-of-kin or another person be informed of his situation. Further, according to Council of Ministers' Regulation of 17 September 1990 on identity control and the detention of persons, whenever a detained person is brought to a police station, the police should inform him of the right to request that a close relative or other person, or his place of employment or school be notified of the fact of detention, and take measures to enable him to exercise this right (Section 10, paragraph 1). It should also be noted that this right is specifically referred to in the detention report completed in respect of each detained person, and which the latter is requested to sign.

48. Most persons interviewed by the delegation stated that they had been informed promptly of their right to notify a close relative or other person of their detention; however, the delegation heard a few allegations that the police had withheld information on the existence of this right for a considerable time. In this connection, **the CPT would like to be informed whether there is any possibility in law to delay the exercise of the right concerning notification of apprehension.**

b. access to a lawyer

49. Under the Polish Constitution of 1952, the right to legal defence is guaranteed to the "accused" (Article 63, paragraph 2), and the Code of Criminal Procedure regulates in more detail the right of the "accused under temporary arrest" to have access to his defence counsel (Section 64). However, the Code does not appear to contain any provisions regulating the right of access to a lawyer for persons in police custody (i.e. during the first 48 hours of their deprivation of liberty). Further, neither the Police Act nor the Council of Ministers' Regulation of 17 September 1990 on identity control and the detention of persons addresses the issue.

The delegation was told by certain of its interlocutors that a public prosecutor could authorise an apprehended person to have access to a lawyer during the first 48 hours of deprivation of liberty; however, it emerged clearly from discussions with detained persons, police officers and public prosecutors that persons detained by the police were not informed to this effect and that in practice it was extremely rare for a lawyer to be present at that stage. In fact, it transpired that the police were keen to avoid the involvement of lawyers during the initial period of police custody.

50. The CPT wishes to stress that, in its experience, it is during the period immediately following deprivation of liberty that the risk of intimidation and ill-treatment is greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment. The existence of that possibility will have a dissuasive effect on those minded to ill treat detained persons; moreover, a lawyer is well placed to take appropriate action if ill-treatment actually occurs.

The CPT recognises that in order to protect the interests of justice, it may exceptionally be necessary to delay for a certain period a detained person's access to a particular lawyer chosen by him. However, this should not result in the right of access to a lawyer being totally denied during the period in question. In such cases, access to another, independent, lawyer who can be trusted not to jeopardise the legitimate interests of the police investigation should be arranged.

The right of access to a lawyer must include the right to talk to him in private. The person concerned should also be entitled to have a lawyer present during any interrogation conducted by the police (whether this be during or after the initial period of police custody). Naturally, the fact that a detained person has stated that he wishes to have access to a lawyer should not prevent the police from beginning to question him on urgent matters before the lawyer arrives. Provision might also be made for the replacement of a lawyer who impedes the proper conduct of an interrogation, though any such possibility should be closely circumscribed and made subject to appropriate safeguards.

51. In the light of these considerations, **the CPT recommends that steps be taken to ensure that:**

**-persons detained by the police have, as from the very outset of their deprivation of liberty, a right of access to a lawyer as defined in the preceding paragraph;**

**-persons taken into police custody are promptly informed of their right to have access to a lawyer.**

c. access to a doctor

52. The Police Act of 3 April 1990 provides that "if necessary, the detainee must immediately undergo a medical examination or be provided with first aid" (Section 15, paragraph 5). More specifically, in accordance with the previously mentioned Council of Ministers' Regulation of 17 September 1990, a detained person should be given professional medical care whenever needed, and in particular if he is injured or unconscious, if he requests immediate medical assistance or declares that he suffers from a disease requiring medical treatment the interruption of which may be dangerous to his life or health, or if there are indications that he suffers from an infectious disease (Section 9, paragraph 2, of the Regulation). If the doctor's opinion indicates that detention might endanger the life or health of the person concerned, he should be promptly released (Section 12, paragraph 2, sub-paragraph 3, of the Regulation).

53. Police officers interviewed by the delegation stated that, in principle, whenever a detained person had a health problem, they either called in a doctor or took the person concerned to a nearby health centre/hospital. The delegation also noted that the detention report completed for each person detained by the police included a section for information on the state of his health.

However, the delegation met some persons who claimed that they had not been seen by a doctor whilst in police custody, despite their alleged need for medical assistance. Further, it transpired from interviews with police officers and detainees that persons detained by the police were not explicitly informed of their right to be seen by a doctor; neither was it obvious that such persons were entitled to be examined by a doctor of their own choice.

**The CPT recommends that:**

- **the right of persons deprived of their liberty by the police to have access to a doctor include the right - if the persons concerned so wish - to be medically examined by a doctor of their choice;**
- **persons taken into police custody are promptly informed of their right of access to a doctor**

54. According to Section 15, paragraph 9, of the Police Act, the precise procedure of performing medical examinations of persons detained by the police is to be determined by the Minister of Internal Affairs and the Ministers of Health and Social Welfare. **The CPT would like to receive a copy of any existing regulations on the matter.**

**In this connection, the CPT would like to stress that:**

- **all medical examinations should be conducted out of the hearing and - unless the doctor requests otherwise - out of the sight of police officers;**
- **the results of every examination, as well as any relevant statements by the detainee and the doctor's conclusions, should be formally recorded by the doctor and made available to the detainee and his lawyer.**

d. information on rights

55. The CPT has already indicated the importance it attaches to persons taken into police custody being informed of all their rights, including those referred to in paragraphs 45 to 54 above.

In order to ensure that persons in police custody are duly informed of all their rights, **the CPT recommends that a form setting out those rights in a straightforward manner be systematically given to such persons at the very outset of their deprivation of liberty. The form should be available in an appropriate range of languages. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights.**

e. conduct of interrogations

56. The Code of Criminal Procedure, Sections 129 to 141, lays down basic rules on the recording of interrogations. However, it appeared that there were no detailed directives on how to actually conduct interrogations.

Although the art of questioning criminal suspects will always be based in large measure on experience, the CPT considers that formal guidelines should exist on a number of specific points. The existence of such guidelines will, inter alia, help to underpin the lessons taught during police training.

**57. The CPT therefore recommends that the Polish authorities draw up a code of practice for police interrogations.** This code should deal, inter alia, with the following: the systematic informing of the detainee of the identity (name and/or number) of those present at the interrogation; the permissible length of an interrogation; rest periods between interrogations and breaks during an interrogation; places in which interrogations may take place; whether the detainee may be required to remain standing while being questioned; the questioning of persons who are under the influence of drugs, alcohol or medicine, or who are in a state of shock. The code should also provide for a systematic record to be kept of the times at which interrogations start and end, the persons present during each interrogation and any request made by the detainee during the interrogation.

The position of specially vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) should be subject to specific safeguards.

58. The CPT also considers that the electronic recording of interrogations represents another important safeguard for those in custody, as well as offering advantages for the police. In particular, it can provide a complete and authentic record of the interrogation process, thereby greatly facilitating the investigation of allegations of ill-treatment and the correct attribution of blame.

The CPT notes that the Code of Criminal Procedure contains provisions for the possible use of audio or video equipment for the electronic recording of police interrogations (Section 133). It is stipulated that the equipment to be used, the procedure for recording and keeping the information and the appropriate safeguards are to be described in a circular issued by the Ministry of Justice, in collaboration with the State Prosecutor General (Section 133, paragraph 2). **The CPT would like to know if such a circular has been issued and, in the affirmative, to be informed of its contents. Further, the Committee would like to receive information on the extent to which the provisions of the Code of Criminal Procedure are implemented in practice.**

f. custody records

59. The CPT's delegation observed that the period spent in police custody was, in general, quite well documented. Various facts relating to the period spent in police custody were recorded in a number of separate registers ("Book on detained persons' supervision", "Book on the transfer of detainees", "Book on medical visits", "Complaints book", "Book on events", etc.).

60. Nevertheless, **the CPT considers that the fundamental safeguards offered to persons in police custody would be reinforced if a single and comprehensive custody record were to be kept for each person detained, in which would be recorded all aspects of his custody and all the action taken in connection with it (time of and reason(s) for the apprehension; when informed of rights; signs of injury, mental disorder, etc.; contact with and/or visits by a relative, lawyer, doctor or consular officer; when offered food; when questioned; when brought before a judge; when released, etc.).**

g. persons detained under the Aliens' legislation

61. **The CPT wishes to stress that the recommendations in this chapter concerning safeguards against ill-treatment apply to all detained persons, including those deprived of their liberty under the Aliens' legislation.**

62. In this context, it should be noted that at least certain of the foreigners awaiting deportation held at Wrocław Provincial Police Command at the time of the delegation's visit had not been informed in a language they understood of the procedure which applied to them.

**The CPT recommends that persons detained under the Aliens' legislation be provided with a document explaining the procedure applicable to them and setting out their rights; the document should be available in the languages most commonly spoken by those concerned and, if necessary, the services of an interpreter should be made available.**

63. Finally, it is axiomatic that it would be in violation of both national and international legal obligations for persons to be returned to a country where they run a risk of being subjected to torture or to inhuman or degrading treatment or punishment. **The CPT would like to receive a detailed account of the precise practical steps taken by the Polish authorities to ensure that such a situation does not occur.**

## **B. Prison establishments**

### **1. Introduction**

64. The CPT's delegation carried out visits to three prisons in Poland: Warszawa-Białoleka Remand Prison, Grudziadz Prison No 1 and Strzelce Opolskie Prison No 2. Further, it paid a visit to the Psychiatric Hospital at Wrocław Remand Prison; this establishment shall be dealt with separately, under the section "Medical issues".

Warszawa-Białoleka Remand Prison, in service since 1961, is the largest prison in Poland, with an official capacity of 1,238 places. On the first day of the delegation's visit, the prison was holding 1,334 male prisoners, of which 164 were juveniles. Most of the prisoners were awaiting trial; however, 273 were sentenced.

Grudziadz Prison No 1 is primarily a closed prison for women, though it comprises also two small "half-open" sections for respectively women and men. A correctional establishment has been operational on the site since the early-19th century. The present facilities have an official capacity of 602. However, due to ongoing extensive refurbishing and construction works, the prison was operating below its official capacity at the time of the visit. As of 28 June 1996, the establishment was holding a total of 349 prisoners, of which 280 sentenced women, 11 women detained on remand and 57 sentenced men.

Strzelce Opolskie Prison No 2 is essentially a closed prison for sentenced men, though it also accommodates a small number of remand prisoners. Some of the buildings date back to the mid-19th century, and a considerable amount of renovation work was under way at the time of the visit. As a result, the normal official capacity of 577 had been reduced to 535. On the first day of the visit, the prison was holding 506 inmates, the great majority of whom were sentenced; a considerable number of these prisoners had been sentenced more than once and were serving very long sentences.

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

65. The CPT's delegation heard no allegations of torture in the prison establishments visited; nor was any other evidence of torture found. Further, allegations of other forms of ill-treatment of prisoners by prison officers were rare.

Many prisoners met by the CPT's delegation in the prison establishments visited stressed that the attitude of prison officers had improved in recent years. The delegation itself observed that relations between staff and inmates in the prisons visited were fairly relaxed, despite low staffing levels.

66. A few isolated allegations of physical ill-treatment of inmates by prison officers were heard in Strzelce Opolskie Prison No 2. They all related to incidents in which troublesome prisoners had apparently been placed in a restraint cell and beaten; in two cases, the prisoners concerned alleged that they had been transferred to the restraint cell and beaten by persons whose faces were covered. **The CPT recommends that the management of Strzelce Opolskie Prison No 2 monitor carefully the treatment of persons placed in the establishment's restraint cells.**

The Committee's delegation noted in this connection that no prisoner had been subjected to the disciplinary sanction of solitary confinement during the previous 18 months. This is rather unusual in an establishment of the size and nature of Strzelce Opolskie Prison No 2. The question was raised as to whether the allegations heard by the delegation might not be the result of certain prison officers - faced with a reluctance on the part of the prison management to have resort to the sanction of solitary confinement - having decided to unofficially "discipline" troublesome inmates. **The CPT would like to receive the comments of the Polish authorities on this question.**

67. In order to obtain a nationwide view of the situation concerning the treatment of prisoners by prison staff, **the CPT would like to receive the following information for 1995 and 1996, in respect of all prisons in Poland:**

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

68. Finally, the CPT's delegation received allegations from several sources that conditions in the vehicles used for transporting prisoners were frequently very poor. The delegation examined a number of vehicles used for prisoner transport and shall make some observations on this subject at a later stage (cf. paragraphs 155 and 156). However, reference must be made in this section of the report to the cubicles for "dangerous" prisoners found in a prisoner transport vehicle examined at Strzelce Opolskie Prison No 2. The cubicles were extremely small (0.5m<sup>2</sup>), dark and had no evident means of ventilation; to hold any person deprived of their liberty in such a place would be totally unacceptable.

The delegation observed that more recent prisoner transport vehicles did not contain such cubicles. Further, it was informed that the cubicles contained in the older vehicles still in service were no longer used to hold prisoners; **the CPT would like to receive confirmation that this is indeed the case.**

### 3. Conditions of detention

#### a. general remarks

69. In the course of its initial discussions with the Minister of Justice and the Central Administration of the Prison Service, the delegation was informed of measures taken since 1989 to improve the situation within the Polish prison system. It was stressed, however, that efforts to modernise the prison infrastructure were being hampered by the prevailing economic situation.

The delegation subsequently observed for itself in the different prison establishments visited that good-quality renovation and construction work was underway. However, due to a lack of resources, progress was not being made at the desired pace; as a result, conditions in parts of the establishments visited still left much to be desired.

**The CPT recommends that efforts to modernise the Polish prison infrastructure continue to be accorded a high priority.**

70. In this context the CPT wishes to stress that the existing standard of 3 m<sup>2</sup> per male prisoner does not offer a satisfactory amount of living space, in particular in cells of a relatively small size. **The CPT recommends that the standard for male prisoners be aligned on that for female prisoners, namely 4 m<sup>2</sup> per prisoner. The Committee also recommends that any cells measuring less than 6 m<sup>2</sup> be taken out of service as prisoner accommodation.**

71. It should also be emphasised that the employment situation for inmates in the prison establishments visited was far from satisfactory, a problem which apparently exists throughout the Polish penitentiary system.

The Polish authorities acknowledged that the provision of appropriate work to sentenced prisoners is a fundamental part of the rehabilitation process. The CPT would add that in the interests of their psychological well-being, remand prisoners should as far as possible also be offered work. It follows that the employment situation within the prison system should not be dictated exclusively by market forces. If necessary, special measures should be introduced with a view to promoting work for prisoners.

The CPT's delegation was informed that the Polish authorities were currently considering measures designed to improve the employment situation for prisoners; **the Committee would like to receive further information on this subject.**

b. Warszawa-Białoleka Remand Prison

i. *material conditions*

72. The prison was situated within an extensive compound surrounded by a secure perimeter. The establishment's detention facilities consisted of four separate blocks, connected via underground corridors. Each block had 4 levels, each level corresponding to a "ward". Three of the blocks had a small extension at one end, referred to as the "boot". The outdoor areas between the blocks were divided into a number of exercise yards.

Block 1 operated as a reception unit and also accommodated sentenced prisoners with jobs, as well as a substantial proportion of the juvenile population. Block 2 was intended for recidivists, Block 3 for first-time offenders and remand prisoners, and Block 4 for the majority of the establishment's "dangerous" prisoners; however, the pressure of numbers meant that these allocation criteria tended to be blurred. The "boots" at the ends of Blocks 2 to 4 accommodated inmates who needed, for one reason or another, to be held separately from the main prisoner population and also contained the disciplinary cells.

73. The juvenile population was spread among the blocks, the juveniles usually sharing cells with one or more adult prisoners who had been specially selected to give guidance and help to maintain control, but had no formal authority. In the opinion of prison staff, this system had a beneficial impact on the juveniles. The CPT is nevertheless concerned about the use of prisoners in a controlling capacity, and the possibility of domination and exploitation of the young by the adult prisoners.

The CPT considers that the juvenile population should be held together in a quite distinct detention facility, under the supervision of specifically chosen staff. This would inter alia facilitate the provision of a regime adapted to the needs of young persons (cf. paragraph 84).

74. A standard cell measured approximately 14.5m<sup>2</sup>, and in principle accommodated four inmates (in accordance with the Polish standard of at least 3m<sup>2</sup> per male prisoner). However, the delegation observed that some cells were accommodating five prisoners and was told that up to six prisoners had been held per cell in the past (a fact borne out by the presence of six beds in some cells).

The cells in the "boots" measured some 6.7m<sup>2</sup> (1.3m<sup>2</sup> of which was taken up by a sanitary annexe) and were used to accommodate up to two inmates.

To sum up, living space in the cells was far from generous, a situation which is all the more of concern given the fact that the great majority of prisoners spent most of the day locked in their cells (cf. paragraph 83). As already indicated, the standard of 3m<sup>2</sup> per male prisoner is not satisfactory, in particular as regards cells of a relatively small size.

75. All cells were fitted with a sanitary annexe (lavatory and wash basin with cold water), but not all the annexes were partitioned. Access to natural light and the artificial lighting were generally acceptable and there was adequate ventilation. In addition to beds, the cell fittings comprised a table, a few chairs/stools, lockers, shelves, and on occasion a private TV set. All the cells were equipped with a call system.

76. Shower facilities existed in the basement of each block, and were in an acceptable condition. However, prisoners were only allowed to take one shower a week, a situation which was the source of numerous complaints. The delegation was told that there were plans for the installation of more shower rooms (one per ward); such a development, which apparently depends on the availability of financial resources, would enable inmates to have more frequent access to showers.

Bed linen was washed once a fortnight in the prison laundry, but the latter did not appear to be in a position to handle adequately prisoners' clothes; many prisoners resorted to washing their personal clothes in their cells, using buckets to bring in hot water from the shower rooms.

77. Reference should also be made to the existing prison kitchen, which was old and in a dilapidated condition. However, a new state-of-the-art kitchen had been built and was expected to enter into service before the end of the year. It was very spacious and fitted with modern equipment of a very high standard. The CPT welcomes this development.

78. Finally, it should be emphasised that the establishment as a whole was clean and in a good state of repair. Given the prison's financial difficulties and the overcrowding, this was a particularly creditable state of affairs.

79. **The CPT recommends that:**

- **the current practice of placing adult and juvenile prisoners in the same cell be discontinued. Juveniles should be held in a quite distinct detention facility; the staff assigned to such a unit should be carefully chosen and, more specifically, be persons capable of guiding and motivating young people;**
- **no more than four prisoners be held in the establishment's standard cells, and no more than one prisoner in its 6.7m<sup>2</sup> cells (save in exceptional cases when it would be inadvisable for a prisoner to be left alone);**
- **efforts be made to reduce further the occupancy rate of the establishment's cells (taking into account the recommendations made in paragraph 70);**
- **steps be taken to ensure that all in-cell sanitary facilities are suitably partitioned from the rest of the cell.**

**The CPT would also request that the Polish authorities pursue plans to give prisoners more frequent access to showers, and that the laundry arrangements for prisoners' clothes be reviewed.**

*ii. programme of activities*

80. All prisoners were entitled to one hour of outdoor exercise every day. There were a number of exercise areas of varying dimensions. Most were of a satisfactory size (for example, those of Block 1 measured some 250m<sup>2</sup>). However, the outdoor exercise facilities of Block 4 left a lot to be desired. They consisted of a series of high-walled yards, each measuring a mere 70-80m<sup>2</sup>. Up to 15 prisoners at a time took exercise in such a yard; such arrangements do not allow prisoners to physically exert themselves.

Prisoners also had daily access of one hour to a common room where they could watch television and video, play table tennis and board games, and make use of a limited amount of weight-lifting equipment.

81. However, only 274 of the 1,334 prisoners had work. These were mainly sentenced prisoners (who, under Polish law, have a duty to work), plus a small number of those on remand. The prisoners worked in the kitchen, and on maintenance and domestic work. Further, there were no structured educational or training activities, and sports activities were limited to an outdoor football/basketball field; no covered sports facilities were available.

82. The prison had a central library with some 25,000 books which were rotated between the sixteen library points within the prison (one on each ward). However, the delegation heard some complaints about the limited choice of books; indeed, the library appeared to be operating on a very modest budget, the few more recent publications being gifts from publishing houses. One positive feature was that the prison received regularly a range of Polish newspapers.

The prison also had its own well-equipped recording and broadcasting facility which was used to broadcast performances by prison and visiting groups, interviews with visitors to the prison, and radio and TV programmes. Further, the prison management made efforts to provide inmates with some cultural and recreational activities, such as inviting actors and musicians, organising competitions, etc.

83. Despite the activities referred to above, it was commonplace for prisoners without work (i.e. 80% of the prison population) to spend the bulk of the day confined to their cells, in a state of idleness, their main distraction being watching television, listening to the radio and reading books and newspapers. Time spent outside the cells could be as little as 2 hours. As regards the juvenile prisoners, they were not provided with any programme of activities suitable for their age. It should be emphasised that, although a lack of purposeful activity is detrimental to all prisoners, it is particularly harmful for juveniles, who have a special need for physical activity and intellectual stimulation.

The fact that a considerable proportion of those on remand had been held in the establishment for over a year, and some of them in excess of two years, renders the situation described above all the more serious.

**84. The CPT recommends that a thorough examination of the means of improving the activities offered to prisoners at Warszawa-Białoleka Remand Prison be conducted. The aim should be to ensure that all prisoners (including those on remand) spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities - work, preferably with vocational value, education, sport, recreation/association. Juvenile prisoners should be offered a full programme of educational, recreational and other purposeful activities; physical education should constitute an important part of that programme.**

**Further, the CPT recommends that the outdoor exercise facilities for prisoners held in Block 4 of the establishment be improved.**

c. Grudziądz Prison No 1

i. *material conditions*

85. The prison complex was situated near the centre of the town of Grudziądz on a surface area of some 6.5 hectares and comprised a number of buildings of different ages. At the time of the delegation's visit, the prison was undergoing an extensive building and refurbishment programme; as a result, parts of the old facilities had been closed down and some temporary arrangements had been made for the allocation of the reduced inmate population.

Although classified as a closed prison for women, Grudziądz Prison No 1 was in fact a multi-functional establishment with a mixed population. Most of the inmates were sentenced women; however, the establishment also accommodated a certain number of female remand and male sentenced prisoners. The prison population included a small number of juveniles (both female and male). Further, some of the female prisoners were accompanied by their children of up to 3 years of age. The sentenced female prisoners belonged to several classification groups: 70 women were under a closed regime (subgroup 1), 168 under a half-open regime (subgroup 2), 3 under an open regime (subgroup 3) and 40 were undergoing special medical and educational treatment (category "S"). All male prisoners had been placed under a half-open regime.

Male and female prisoners occupied separate living areas, but could meet at supervised recreational events; this was deemed to have a positive effect on both genders and the delegation was told that there had been no conflicts between male and female prisoners. As for the juvenile prisoners (6 in the male section and 16 in the female blocks), they were accommodated in separate cells from the adult prisoners.

86. Prisoner accommodation was provided in a total of seven buildings at different stages of refurbishment and offering varying standards of material conditions. Block 1 - the oldest and the most dilapidated of the buildings - housed temporarily the half-open section for sentenced men. Block 2 had only recently been constructed and held the bulk of the female sentenced prisoners, as well as the remand section, the special medical and educational treatment unit (the "S" unit), the prison shop, the visiting facilities and the two "security" cells; the top floor of this new facility had not yet been completed. Two levels of Block 3 were used for sentenced women under a half-open regime; the rest of the building was still being renovated and was intended for occupation by the sentenced men. Block 4 housed primarily the Mother-and-Child Unit, though the top floor was occupied by the library and cells for sentenced women working in the kitchen. Although essentially a medical facility containing the maternity unit, Block 5 also provided cellular accommodation for sentenced women on the second floor. The prison school was in Block 6, together with a half-open section for 26 sentenced women. Finally, Block 7 housed the Health Centre and provided accommodation for women participating in the "Atlantis" programme for the treatment of alcoholics.

87. The occupancy levels were within the officially approved standards of 4m<sup>2</sup> per female prisoner and 3m<sup>2</sup> per male prisoner (e.g. in Block 2: six women in a cell measuring 25m<sup>2</sup>, five women in a cell of 20m<sup>2</sup>, four women in a cell of 17.5m<sup>2</sup>, one to two women in a cell of 12.5m<sup>2</sup>; in Block 1: four male prisoners in a cell measuring 14m<sup>2</sup>).

All the cells for female prisoners were fitted with a sanitary annexe (toilet and wash-basin with hot water) and were well-lit and well-ventilated. They were equipped with single or bunk beds with bedside lockers, a table, chairs and wardrobes. The presence of curtains, colourful blankets and plants in the cells contributed to the creation of a cheerful atmosphere and thus counterbalanced the rather limited living space. Particular reference should be made to the newly constructed Block 2 which provided a very good standard of living accommodation, including fully partitioned sanitary facilities. Further, each unit in that block had a well-equipped kitchen and a laundry room.

As regards the male sentenced prisoners, Block 1 was to be taken out of service; nevertheless, improvements had recently been made to the Block's sanitary facilities, and the cells were clean and tidy.

88. Prisoners were allowed unlimited access to the shower facilities and could, in principle, have their clothes washed in the prison laundry. However, the delegation heard some complaints about the cleanliness of items returned from the laundry; many inmates chose to wash their own clothes and there were insufficient washing and drying facilities in the wards to enable this to be done satisfactorily.

89. The main prison kitchen was well-equipped and catered for a range of diets; the delegation was informed that every meal was tasted and approved beforehand by a doctor or nurse. However, the delegation heard a number of complaints from prisoners about the limited amount of time (15 minutes) available to them to eat their meals in the prison dining room.

90. The Mother-and-Child Unit was intended for women in advanced pregnancy and mothers with children of up to 3 years of age. At the time of the visit, the unit was holding 14 children, 11 mothers and 6 pregnant women. The living accommodation for mothers with children consisted of five rooms, each of them being designed for triple occupancy. The rooms were spacious, clean, enjoyed a profusion of natural light and had access to a balcony. Further, there were two good-sized playrooms containing a variety of toys, as well as a small garden used as a playground. The unit also had its own kitchen in the basement of the block.

To sum up, the Mother-and-Child Unit was a quite impressive facility. However, it should be noted that the unit's shower facilities were not sufficient in quantity and, moreover, were in a rather neglected condition.

91. **The CPT recommends that:**

- **a high priority be given to the completion of the refurbishment programme at Grudziądz Prison No 1;**
- **the remarks made in paragraph 70 be taken into account when transferring the male sentenced prisoners from Block 1 to Block 3;**
- **the shower facilities in the Mother-and-Child Unit be improved.**

**The CPT also invites the Polish authorities to:**

- **review the laundry arrangements for prisoners' clothes;**
- **revise the timetable for the use of the prison dining room in order to augment the time allowed to prisoners between entering and leaving the room.**

ii. *programme of activities*

92. All prisoners were guaranteed at least one hour of outdoor exercise per day, which took place in an open and attractive exercise yard, surrounded with flower beds. Certain categories of prisoner (e.g. those attending the prison school) benefitted from more than one hour in the open air. Further, prisoners had regular access to common rooms, where they could watch television and engage in other activities (e.g. table tennis).

93. At the time of the visit, about 180 prisoners benefitted from some form of work activity, the number of prisoners in paid employment being some 100.

The main source of remunerated work was a textile factory built within the prison complex in 1977, with an overall capacity of 500 places. However, because of the fluctuation of demand for its output (overalls, shirts, bed sheets, etc.), the factory was operating well below its full capacity. The amount of jobs varied according to the season and the market situation (up to 70 in the first half of the year, around 120 in the second half). At the time of the delegation's visit, the factory employed some 60 sentenced women. Because of the limited number of places, they were distributed as a priority to graduates of the prison's professional textile school and prisoners with financial obligations or difficulties.

Some more paid jobs were provided in the kitchens, the repairs and maintenance unit, the laundry, the library, the medical facilities, the administration and the boiler room.

Further, a number of prisoners performed unpaid cleaning and maintenance chores of brief duration, for which they received various awards (very small sums of money, extra visits, etc.). However, the delegation spoke to a number of women who stated that they would not do unpaid work because they could not benefit from extra visits and the money they received was not worth the amount of effort needed to earn it.

94. As regards educational activities, Grudziądz Prison possesses the only prison school for women in Poland, offering vocational training, general education and some short-term specialised courses. The school's main activity was a two-year professional textile course which was accessible to female prisoners from the whole country, without discrimination on the basis of the prisoner's classification subgroup. However, the school's full capacity of 200 places was apparently never attained; eighteen women had graduated in June 1996, and 43 women were going to be enrolled in the next school year. Prisoners attending the school enjoyed a number of privileges, such as visits to a sports centre and an extra hour of outdoor exercise per day. All graduates received a diploma without mention of the prison.

In addition, various courses of short duration were organised (e.g. cooking, cosmetics, "know your region", etc.), providing a form of instruction to some 30 inmates per year. Further, Polish language courses were sporadically organised for foreign prisoners. The school also served as the nucleus of social life in the prison, through the organisation of meetings with external groups, celebrations of religious and other holidays, various competitions (musical, spelling, mathematics), etc. On an exceptional basis, it was also possible for prisoners to go to school outside the prison, in order to complete their secondary education.

95. Further, Grudziądz Prison had good facilities for cultural, leisure and religious activities, such as several libraries, a number of recreation rooms and a chapel. The prisoners also published a newsletter and made use of an internal broadcasting facility.

96. To sum up, Grudziądz Prison offered a fair range of activities to inmates, though certain of the establishment's facilities (in particular the textile factory) were clearly under exploited.

**The CPT recommends that:**

- **efforts be made to provide more prisoners at the establishment with paid work, preferably of vocational value;**
- **steps be taken to diversify the training courses available to prisoners and encourage more prisoners to take part in them.**

**The CPT also considers that the open garden could be used more extensively for the benefit of prisoners.**

*iii. special facilities for sentenced women undergoing "therapeutical and educational treatment"*

97. The delegation was impressed by the unit for category "S" prisoners, which accommodated inmates displaying mental or personality disorders of one kind or another.

With a capacity of 28 places, at the time of the visit the "S" unit was housing 20 women. The intended occupancy levels were considerably more generous than in the rest of the prison: rooms with three beds measured some 19 m<sup>2</sup>, and those with four beds 24 m<sup>2</sup>. Further, the unit's facilities included several recreation and therapy rooms.

A broad range of activities were offered, embracing occupational therapy (embroidery, weaving, garden work, making envelopes, etc.) directed towards the building of interpersonal relations and the development of new skills and teamwork; group therapy and activities (lectures, discussions, films) and individual therapy. Further, the unit was appropriately staffed (two psychologists, one half-time psychiatrist, an occupational therapy instructor, an educator, two nurses).

98. Reference should also be made to the unit for women participating, on a voluntary and contractual basis, in therapeutical treatment for alcohol addiction under the "Atlantis" programme.

The unit comprised six spacious rooms designed for three to five inmates and a number of well-equipped therapy and activity rooms. As was the case for the "S" unit, the "Atlantis" unit was well-staffed (including one psychologist and three pedagogues-therapists) and offered a diverse range of therapeutic activities. Further, the unit's occupants enjoyed a number of privileges as regards contacts with the outside world.

d. Strzelce Opolskie Prison No 2

i. *material conditions*

99. The establishment's prisoner accommodation was divided between three quite distinct buildings (Blocks 1 to 3); Blocks 1 and 2 dated back to the 19th century and Block 3 had been built in the 1970's.

Block 1 contained the establishment's "S" unit (cf. paragraph 111) and also accommodated a number of other sentenced prisoners, including two who had been classified as "dangerous". Block 2 provided accommodation for some 160 prisoners, including the establishment's remand prisoner population (approximately 30 persons at the time of the visit); it also housed the establishment's main infirmary and educational facilities. Block 3 was the largest of the three buildings, providing accommodation for over 300 sentenced prisoners.

100. Most of the prisoners were accommodated in cells for two, three or four inmates, the two-man cells measuring some 6.5m<sup>2</sup>, the three-man cells, 11.5 to 13m<sup>2</sup>, and the four-man cells, approximately 14m<sup>2</sup>. A few cells for five persons (15m<sup>2</sup>) were to be found in Block 1, and an eight-man cell (27m<sup>2</sup>) in Block 3; a handful of prisoners had a cell of 6 to 7 m<sup>2</sup> for themselves.

Once again, the inadequate amount of living space offered by the standard of 3 m<sup>2</sup> per prisoner was all too evident, in particular in the smaller cells occupied by two prisoners.

101. Cellular accommodation was on the whole adequately equipped (though some of the cell furniture had clearly seen better days), and many prisoners had their own TV and radios. Lighting and ventilation was also of a satisfactory standard. As for the state of cleanliness, this clearly depended to a large extent on the prisoners' own attitude and standards; some cells were very clean and tidy, others very decidedly were not.

The CPT would add that it is concerned by the home-made electrical wiring arrangements observed by its delegation in many cells; much of it was clearly not in conformity with even the most basic safety standards.

102. The ground floor cells of Building 2 were undergoing refurbishment, and the delegation observed that the new accommodation would be of a good standard. In particular, fully-partitioned sanitary annexes were being installed, which would represent a major improvement over the curtain-screening arrangements seen in the existing cellular accommodation. Nevertheless, at the envisaged occupancy levels (four prisoners in 13m<sup>2</sup>, excluding the sanitary annexe), living space in the new accommodation would still not be good.

103. Conditions in the establishment's main kitchen were on the whole adequate. However, the containers used for carrying food and hot beverages to the detention areas were clearly not (or no longer) capable of conserving heat: not surprisingly, many complaints were heard that food and drink was served cold.

Further, the situation in the kitchen's vegetable preparation room left a great deal to be desired. It was dirty, in a poor state of repair and, most importantly, potentially unhygienic due to the presence in the room of a toilet and changing area. The delegation was informed that the construction of a new - and quite separate - sanitary facility and changing area was about to commence. In the light of the delegation's observations, it would be appropriate for improvements also to be made in the washing-up room, which was found to be in an unhygienic condition.

104. Reference should also be made to the establishment's restraint cells (to be carefully distinguished from the disciplinary cells, which call for no comment). They were designed to hold for short periods inmates displaying violent behaviour. Albeit very small, they might be considered as adequate for their purpose, on condition that they are provided with better ventilation. In the light of certain allegations received (cf. also paragraph 66), the CPT would add that any one held overnight in a restraint cell should be provided with a mattress.

105. **The CPT recommends that:**

- **a high priority be given to the cell refurbishment programme at Strzelce Opolskie Prison No 2;**
- **immediate steps be taken to verify the safety of the electrical wiring in prisoner accommodation;**
- **no more than one prisoner be held in the establishment's 6.5m<sup>2</sup> cells (save in exceptional cases when it would be inadvisable for a prisoner to be left alone);**
- **efforts be made to reduce the cell occupancy rates in general (taking into account the recommendations made in paragraph 70);**
- **conditions in the main kitchen be improved, in the light of the remarks in paragraph 103;**
- **ventilation in the restraint cells be improved and anyone held overnight in such a cell be provided with a mattress.**

ii. *programme of activities*

106. All prisoners were offered one hour of outdoor exercise every day. The exercise areas for sentenced prisoners were of a moderate size and certain sport activities (e.g. volley ball) could be practised. The delegation was informed that it was planned to provide a small basketball pitch; this would be a most welcome addition to the existing rather modest outdoor exercise/sport facilities.

Outdoor exercise arrangements for remand prisoners were not satisfactory. They exercised in small (40-50 m<sup>2</sup>), high-walled and completely bare yards. This situation is all the more of concern given that outdoor exercise appeared to be the principal out-of-cell activity for remand prisoners.

107. Sentenced prisoners had regular access (two to three hours a day) to common rooms, where they could watch television and play board games, and could engage in weight-lifting in rooms in the basements of the blocks. Further, they could visit other cells subject to certain conditions.

Staff informed the delegation that remand prisoners were also allowed access to common rooms, but conflicting information was received from some remand prisoners.

108. As in the other establishments visited, there was not sufficient work for inmates at Strzelce Opolskie Prison No 2. At the time of the visit, only 157 of the 506 prisoners had a paid job (though a further 60 had some form of unpaid work activity). A shoe workshop provided paid employment of considerable vocational value; however, it offered jobs for only 38 prisoners. Other paid work activities included the making of industrial bags, footballs and cardboard boxes, and general services (eg. kitchens/maintenance work).

109. A certain number of primary and secondary education courses were offered, some 140 prisoners having taken part in such courses during 1995. Apparently, many more prisoners had sought education/professional courses, but financial constraints meant that the demand could not be met.

Staff attempted to promote various other cultural activities - drama, music, craft work, etc. - but the delegation was not able to obtain a clear idea of the number of prisoners involved. **The CPT would like to receive further information on this issue.**

110. Staff at Strzelce Opolskie Prison No 2 were clearly making genuine efforts to provide purposeful activities to prisoners. However, the odds appeared to be very much stacked against them.

The overall programme of activities offered would be modest for any establishment accommodating in excess of 500 prisoners; for a prison catering primarily for persons serving lengthy sentences, it was quite inadequate. As a result, the establishment was scarcely in a position to meet the requirements of Section 37 of the Executory Criminal Code concerning the purpose of imprisonment.

**The CPT recommends that steps be taken as a matter of urgency to enhance the programme of activities for sentenced prisoners at Strzelce Opolskie Prison No 2; above all, more prisoners must be provided with paid work, preferably of vocational value.**

**The CPT also recommends that the outdoor exercise facilities for remand prisoners held in the establishment be improved and that efforts be made to diversify out-of-cell activities for those prisoners.**

*iii. the "S" unit*

111. As had been the case at Grudziądz Prison No 1, the delegation was on the whole favourably impressed by conditions in the unit for category "S" prisoners at Strzelce Opolskie Prison No 2.

With a capacity of 54 places, at the time of the visit the unit was accommodating 30 prisoners displaying one or more forms of mental or personality disorder. Material conditions of detention were comparable to those observed in the rest of the establishment (cf. paragraphs 100 and 101); however, the programme of activities was distinctly superior.

112. The unit was staffed by three psychologists, an occupational therapist, one part-time psychiatrist and several prisons officers. Further, two nurses from the establishment's medical service were placed in the unit, where they had an infirmary. These staff members met regularly and together formed a diagnostic team.

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

113. All the category "S" prisoners took part in psycho-social activities (which encompassed occupational, group and individual therapy) and some of the prisoners had paid jobs in the prison's workshops. Further, there was cooperation with outside Alcoholics Anonymous groups (though apparently few of the recognised alcoholics wished to take part in a therapy programme).

114. The delegation observed that there was a relaxed atmosphere within the unit and that prisoners and staff had constructive relations. All the prisoners interviewed indicated that they were generally satisfied with their situation and environment.

#### 4. Medical issues

##### a. medical services in the prisons visited

##### i. *staff and facilities*

115. The health-care service at Warszawa-Białoleka Remand Prison was staffed by four full-time doctors, a full-time dentist, a radiologist working half-time and nine nurses. During weekdays, members of the medical service were present from 8 am to 8 pm, and a nurse was available on a 24 hour basis. At weekends, the presence of a doctor was ensured from 8 am to 1 pm. In case of emergency, a doctor could always be called in from a nearby hospital and first aid could be provided by specially trained prison officers.

116. At Grudziadz Prison No 1 the general health-care service comprised one full-time doctor and three nurses, as well as a number of para-medical staff. A psychologist also took part in the work of the health-care service. In addition, six nurses were employed in the Mother-and-Child Unit, which also benefitted from daily visits by an outside paediatrician. Further, the prison hospital - where imprisoned women from the whole of Poland were admitted to give birth or undergo gynaecological surgery - was staffed by two gynaecologists, a surgeon, a paediatrician, an anaesthetist, a cytologist and seven nurses.

117. The health-care service at Strzelce Opolskie Prison No 2 comprised three part-time doctors and five full-time nurses. At the time of the delegation's visit, the prison's head doctor had been away on sick-leave for over a year (i.e. since June 1995). Each of the doctors was in charge of a block; however, those responsible for Blocks 2 and 3 only attended the prison for an average of 10 hours per week, and the doctor responsible for Block 1 spent even less time at the prison, in view of the smaller number of prisoners in his charge. In practice, the overall attendance of doctors was equivalent to less than one full-time doctor for some 577 prisoners, a state of affairs which cannot be considered as satisfactory. The nurses worked in shifts which ensured the presence of at least one nurse between 7 am and 7 pm on week days.

118. The three prisons were also visited by a wide range of medical specialists. Thus Warszawa-Białoleka Prison was attended on average once a week by a dermatologist, a neurologist, an ophthalmologist, an otorhinolaryngologist and, twice a week, by a psychiatrist. As regards Grudziadz Prison, nine medical specialists from an outside hospital paid visits to it once to three times a week (a dentist, a dermatologist, a laryngologist, a neurologist, an ophthalmologist, a radiologist, a rheumatologist, a psychiatrist and a surgeon). A range of specialists could apparently also be called in at Strzelce Opolskie Prison (cf. however paragraph 119). If necessary, prison doctors could refer prisoners to other specialists or transfer them to a hospital.

119. From the information gathered, it appeared that requests to consult the health-care service in the establishments visited were met without undue delay. However, some complaints were heard at Strzelce Opolskie Prison No 2 about long waiting times before seeing specialist doctors, in particular a dentist.

It should be added that the prolonged absence of a head doctor at Strzelce Opolskie Prison No 2 had caused difficulties of an organisational nature.

120. In the light of the above, **the CPT recommends that steps be taken to fill the vacant post for a head doctor at Strzelce Opolskie Prison No 2. Access to outside specialists for prisoners at that establishment should also be reviewed.**

**The CPT also wishes to underline that prisoners should be able to communicate with the health-care service of their establishment on a confidential basis, for example by means of a message in a sealed envelope.**

121. At Warszawa-Białoleka Prison, each of the four blocks had a health-care unit comprising a nurses' room and a number of sick-rooms, which were clean, well-lit and well-ventilated. Further, some of the blocks contained medical examination rooms (for specialised examinations), which were also appropriately equipped. The available medicines were varied and in sufficient quantities.

122. The medical facilities at Grudziądz Prison No 1 were situated in two of the prison's buildings. In Block 5, the ground floor contained a laboratory and X-ray facilities, and the first floor consisted of an operating theatre, an examination room, a delivery room, a baby room and a number of rooms for women expecting/having given birth or awaiting/recovering after an operation. Further, Block 7 housed the general health-care centre which comprised, inter alia, several examination rooms, a dentist's room, a physiotherapy room, two nurse's rooms, a number of sick-rooms, three "psychological" cells (where sentenced prisoners could be held alone upon their own request and with the authorisation of the psychologist) and a room accommodating three HIV-positive women. Despite the modest financial resources, all medical facilities could be considered adequate and were maintained in a good state of repair and cleanliness.

123. The health-care facilities at Strzelce Opolskie Prison No 2 were less satisfactory. The main health facility comprised a doctor's room which also contained the pharmacy, an oculist's room with very modest equipment, a nurses' room, a three-bed sick-room, a small room for sterilisation and a dentist's room; this last mentioned room was in a very dilapidated state and poorly equipped. However, the infirmary in Block 1 was of a good standard.

**The CPT recommends that the Polish authorities review the material facilities of the health-care service at Strzelce Opolskie Prison No 2, and, more specifically, improve conditions in the dentist's room.**

124. The delegation's observations indicated that the recording of medical data for each prisoner was generally of a good standard and that on the whole the confidentiality of medical information was guaranteed (cf. however paragraph 127). Further, whenever a prisoner was transferred to another prison, his medical file was also sent to the new institution.

*ii. medical screening on admission*

125. At Warszawa-Białoleka and Strzelce Opolskie prisons newly arrived prisoners (unless transferred from another prison) were seen by a nurse and, if necessary, examined by a doctor, in the first 24 hours following their arrival at the prison. All female prisoners at Grudziądz Prison were examined medically within the first two days from arrival. The standard medical reception procedure consisted of a clinical examination (measuring the pulse, the blood pressure, auscultation, etc.) and various paraclinical examinations, some of which were obligatory (Bordet-Wassermann test, X-ray of the thorax), whereas others (HIV and hepatitis tests) were performed on a voluntary basis. In addition, at Grudziądz Prison women underwent a gynaecological examination.

The initial medical screening on admission also served to assign sentenced prisoners to a classification group (A to D) corresponding to their ability to engage in work activity.

As part of the initial examination, prisoners were checked for injuries and could also be X-rayed, in particular if they alleged ill-treatment by the police. The delegation was told that, in practice, doctors would inform the prison governor in cases of serious ill-treatment; however, this was said to have happened very rarely, especially in the last 3-4 years. There was no special form for recording and reporting injuries (the information on injuries was a section of the personal medical file dealing with allegations of ill-treatment).

126. In this context, **the CPT wishes to recall the recommendations made in paragraph 22 of this report. It also considers that the same approach should be followed whenever a prisoner is medically examined following a violent episode in the prison. Further, if so requested by the prisoner, the doctor should provide him with a certificate describing his injuries.**

*iii. issues related to transmissible diseases*

127. Apparently, no routine testing for HIV was performed at the three prisons visited. However, certain categories of prisoners considered to be at risk did undergo an HIV test, subject to the prisoner's consent.

The CPT wishes to emphasise that appropriate counselling should be provided before any screening test and in the case of a positive result, psychological support should be guaranteed. Further, it is axiomatic that information regarding HIV-positivity should be protected by medical confidentiality (in this connection, the CPT was concerned to learn that at Warszawa-Białoleka Prison, the names of HIV-positive prisoners were displayed on a notice board in the nurses' room to which non-medical staff had access). **The CPT recommends that the Polish authorities ensure that the above-mentioned precepts are fully respected in practice.**

128. During its visit, the delegation was informed that there were eight known HIV-positive prisoners at Warszawa-Białoleka Remand Prison and three at Grudziądz Prison No 1. Those at Warszawa-Białoleka Prison were accommodated separately from the other prisoners in Blocks 1 and 4. They had access to a separate shower facility, which, however, was in a poor state of repair (i.e. numerous patches of mould on the ceiling and the walls). Although accommodated in separate cells, the HIV-positive prisoners could in principle take part in common activities with the rest of the prisoners in the ward. However, some of the HIV-positive prisoners interviewed by the delegation complained that their access to activities and work was in practice very limited.

Similarly, the three known HIV-positive women at Grudziądz Prison were held in a cell away from the other prisoners, on the first floor of Block 7. They used a separate shower facility and ate in their room. Although the door to their cell was unlocked between 7 am and 7 pm, they had very few activities with which to fill the day. They were involved in some common activities (e.g. going to the chapel; discotheques), but could not engage in paid work or in educational courses.

At the time of the visit, there were apparently no known HIV-positive prisoners at Strzelce Opolskie Prison No 2.

129. Although the CPT recognises the problems of integration of HIV-positive prisoners with the rest of the prison population - arising from the lack of experience, insufficient information and fear on the part of other prisoners and staff - it wishes to emphasise that there is no medical justification for the segregation of an HIV-positive prisoner who is well.

The CPT's delegation was informed by the Head of the Medical Section at the Central Administration of the Prison Service that in April 1996 a recommendation had been made to put an end to the segregation of HIV-positive prisoners, and to accommodate them in "normal" cells. However, in practice the implementation of this recommendation had proved to be slow and problematic, apparently as a result of the prevailing climate of rejection of HIV-positive detainees by the rest of the prison population.

The CPT welcomes the new approach taken by the Polish authorities vis-à-vis HIV-positive prisoners and **recommends that they persevere in their efforts to put an end to the practice of segregating such prisoners.**

130. More generally, **the CPT recommends that the Polish authorities devise a policy for combatting transmissible diseases (in particular hepatitis, AIDS, tuberculosis and skin diseases) in places of detention, based upon a programme of education and information - for both prison staff and inmates - about methods of transmission and means of protection, as well as the application of adequate preventive measures.**

131. At the time of the delegation's visit, the Mother-and-Child Unit at Grudziądz Prison was accommodating a woman and her 3 year old child, both of whom had chronic viral hepatitis. They were subjected to a number of specific measures: they were accommodated in a separate room, the child was not allowed to play with other children in the playrooms, the mother was not permitted to use the unit's shower facility and the two of them ate separately in their room. In the Committee's opinion, there is no medical justification for such measures. **The CPT would welcome the Polish authorities's comments on this situation.**

b. Psychiatric Hospital at Wrocław Remand Prison

132. The Psychiatric Hospital at Wrocław Remand Prison is located within the prison perimeter, in a separate building constructed in 1911 (the prison proper having been built between 1845-52). It performs a two-fold function: first, to diagnose sentenced prisoners with psychiatric symptoms, following which they either remain for treatment or are transferred to an ordinary psychiatric hospital; secondly, to establish the criminal responsibility of persons referred to the hospital by a public prosecutor or a judge. The scope of the first function is nationwide, and that of the second, regional. The current capacity of the hospital is 54 patients; at the time of the delegation's visit, it was accommodating 40 male patients, of whom 21 were sentenced prisoners and the rest were undergoing forensic-psychiatric observation.

The hospital's full-time staff included 5 psychiatrists, 2 psychologists, 11 nurses and various non-medical staff; further, a number of outside doctors visited the hospital on a part-time basis. In addition to serving the hospital's needs, the staff also provided an ambulatory psychiatric service for the remand prison as such, as well as to other nearby prison establishments.

133. The CPT's delegation heard no allegations - and gathered no other evidence - of the ill-treatment of patients at the hospital. More generally, the observations of the delegation suggested that both medical staff and prison officers assigned to the hospital maintained positive relations with the patients.

134. The hospital's two wards had a distinctly penitentiary feel to them and much of the patients' accommodation was in a rather poor state of repair, as were the establishment's shower facilities. Further, living space in many of the patients' rooms was far from satisfactory. However, the rooms were gradually being renovated and the delegation noted that the refurbished accommodation was of a good standard; further, the envisaged occupancy levels (e.g. 4 beds in a room of 20m<sup>2</sup>) offered adequate living space.

**The CPT recommends that the Polish authorities pursue actively the refurbishment of the hospital; the underlying objective should be to replace the current prison-like atmosphere by a material environment of a varied and therapeutic nature.**

135. The treatment provided to patients appeared to be limited essentially to pharmacotherapy (though no indications were found of overmedication). Psycho-social activities (occupational, group and individual therapy) were clearly underdeveloped, a state of affairs fully acknowledged by the hospital's staff. One hour of outside exercise per day and access to a common room, again for one hour per day, were the principal activities offered. The outdoor exercise facilities were modest in size and devoid of any equipment save a bench; as for the common rooms, they were furnished and decorated in a very drab manner, and merely provided patients with an opportunity to watch television together. The delegation noted that plans had been devised for the development of therapeutic activities; however, at the time of the visit they remained very much on paper.

**The CPT recommends that a broader range of therapeutic activities be introduced at the hospital, particularly for patients who remain there for extended periods.**

136. On the decision of a doctor, patients displaying disturbed or aggressive behaviour could be placed in an isolation room and, if necessary, strapped to the bed and administered a sedative. The two isolation rooms were suitably equipped and patients placed within them were subject to close supervision by nursing staff.

Each placement in an isolation room was recorded in a specific register (with an indication of the time at which the measure began and ended, the reasons for the measure and the doctor ordering it), as well as in a detailed protocol attached to the patient's medical file. Consultation of these documents revealed that the isolation rooms were used sparingly and for limited periods of time.

137. Finally, in the light of information received by the delegation, **the CPT wishes to stress that prison officers assigned to the Psychiatric Hospital at Wrocław Remand Prison should be placed under the direct authority of the establishment's Head doctor insofar as their work within the Hospital is concerned, and that medical staff on duty should have unrestricted access to patients, including those held in an isolation room.**

## 5. Other issues

### a. prison staff

138. There can be no better safeguard against ill-treatment than a properly recruited and trained prison officer, who knows how to adopt the appropriate attitude in his relations with prisoners.

**In this connection, the CPT would like to receive detailed information on the duration and content of prison staff training, both initial and in service.**

139. The delegation was informed that a large proportion (some 50%) of the prison staff in service in 1989 had subsequently been relieved of their duties, and that those who had replaced them were generally younger and better educated. As already indicated (cf. paragraph 65), this development had proven beneficial for the overall atmosphere within prisons.

Nevertheless, **staffing levels in detention areas tended to be low, which impeded the development of a constructive dialogue between staff and prisoners and had an adverse impact on the provision of a satisfactory programme of activities.**

140. The prison educators - staff with particular responsibility for the activities and general welfare of inmates - were called upon to have a more personalised contact with prisoners, and the delegation formed a favourable impression of their work. **It would be desirable for the educators to also encourage uniformed prison officers working in detention areas to see their role as going beyond merely supervising and controlling prisoners;** building positive relations with prisoners should be recognised as a key feature of the vocation of every prison officer.

141. Finally, the delegation was informed that prisoners' correspondence with their family and friends was subject to censorship. The CPT considers that this almost certainly represents a wasteful use of limited staff resources. **The Committee would like to receive the comments of the Polish authorities on this subject.**

b. discipline and isolation

142. A range of disciplinary sanctions are provided for by law, the most severe being "placement in solitary confinement for up to one month" (applicable to both remand prisoners and sentenced prisoners under a closed regime). Disciplinary sanctions are imposed by the prison governor (ex officio or on a written motion of a prison officer); however, authorisation of the penitentiary judge is required for the imposition of solitary confinement.

Before any disciplinary sanction is imposed, the prisoner concerned has a right to be heard. Further, the delegation was informed that prisoners could appeal to the penitentiary judge against disciplinary sanctions; **the CPT would like this to be confirmed.**

The CPT's delegation did not gather any evidence of the excessive use of disciplinary sanctions. As regards more particularly the sanction of solitary confinement, an examination of the relevant registers by the CPT's delegation indicated that the disciplinary cells were used very sparingly.

143. The material conditions in the disciplinary cells at the three prisons visited were on the whole acceptable, and do not call for any remarks. As for the regime, a prisoner subject to the sanction of solitary confinement is not entitled to receive visits (save exceptional circumstances), to participate in common activities or to engage in work outside the disciplinary cell; however, he may have access to books and periodicals and is entitled to one hour of outdoor exercise per day.

144. Aside from the issue of solitary confinement for disciplinary reasons, the delegation met two sentenced prisoners in Strzelce Opolskie Prison No 2 who were classified as "dangerous". They were segregated from the rest of the inmates and were held in conditions akin to solitary confinement.

The prisoners in question were being held in two cells in Block 1, normally intended for occupancy by three to four prisoners. The cells measured respectively 11 and 14m<sup>2</sup> and were equipped with beds, a table, chairs and a sanitary annexe. Natural light, artificial lighting and ventilation were good. To sum up, at the time of the visit, the material conditions of detention of these prisoners were satisfactory. However, the delegation learned that immediately prior to its visit, one of the prisoners had been accommodated in a disciplinary cell (cell No 101). Although adequate for the serving of a disciplinary sanction, the material conditions in that cell rendered it quite unsuitable for use as a prisoner's normal accommodation. The delegation received an assurance that the prisoner concerned would not in future be placed there.

As for the regime applied to these prisoners, out-of-cell time was limited to one hour of daily outdoor exercise and any visits the prisoners might receive; in-cell activities were restricted to reading books. The prisoners were not permitted to engage in any form of work; nor could they take part in any activities involving other prisoners. In short, they were subject to an impoverished regime.

The delegation also met a certain number of "dangerous" prisoners at Warszawa-Białoleka Prison. Their conditions of detention appeared to be no worse - but also no better - than those of the vast majority of persons held in that establishment.

145. In the course of its meetings with staff of the Polish prison service, the CPT's delegation was informed of the existence of plans for the creation of special units for the detention of "dangerous" prisoners. A Minister of Justice Order issued on 9 April 1996 would regulate the treatment of sentenced and remand prisoners placed in such units.

The CPT recognises that it may exceptionally be necessary to arrange special conditions of custody for certain prisoners considered to be "dangerous". Nevertheless, such arrangements bring with them a greater risk of inhuman treatment than in the case of the average prisoner. Consequently, considerable care should be taken when establishing units of this kind.

Prisoners who present a particularly high security risk should, within the confines of their special detention unit, enjoy a relatively relaxed regime (able to mix freely with the small number of fellow prisoners in the unit; allowed to move without restriction within what is likely to be a relatively small physical space; granted a good deal of choice about activities, etc.) by way of compensation for their severe custodial situation.

Special efforts should be made to develop a good internal atmosphere within such units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's occupants but also of the maintenance of effective control and security and of staff safety. Success in this area requires that the staff assigned to work in such units must be very carefully chosen. They should be appropriately trained, possess highly developed communication skills and have a genuine commitment to working in a more than usually challenging environment.

The existence of a satisfactory programme of activities is just as important - if not more so - in a special detention unit than on normal location. It can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.) As regards, in particular, work activities, it is clear that security considerations may preclude many types of work found on normal prison location. Nevertheless, this should not mean that only work of a tedious nature is provided for prisoners. In this respect, reference might be made to the suggestions set out in paragraph 87 of the Explanatory Memorandum to Recommendation No R (82) 17 on the custody and treatment of dangerous prisoners, adopted by the Committee of Ministers of the Council of Europe on 24 September 1982.

**The CPT recommends that the above-mentioned remarks be taken fully into account in the design of the regimes to be applied within any special units set up for prisoners classified as "dangerous".**

146. The CPT also considers that any decision to classify a prisoner as dangerous and subject him to special conditions of custody should be accompanied by certain procedural safeguards. The prisoner concerned should be informed in writing of the reasons for the measure taken against him (it being understood that the reasons given might not include details which security requirements reasonably justify withholding from the prisoner), be given an opportunity to present his views on the matter before a definitive decision is taken, and be able to contest the measure before an appropriate authority. Further, the situation of any person subject to such a measure for an extended period should be fully reviewed at regular intervals (at least every three months), where appropriate on the basis of a medico-social opinion.

**The CPT would like to receive confirmation that the above-mentioned safeguards exist in Poland.**

c. complaints and inspection procedures

147. Effective complaints and inspection procedures are basic safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to have confidential access to an appropriate authority.

The CPT attaches particular importance to regular visits to all prison establishments by an independent body (for example, a visiting committee or a supervisory judge) with authority to receive and, if necessary, take action upon prisoners' complaints and to inspect the establishment's premises.

148. In Poland, prisoners can address confidential complaints to the prison service authorities (both within the prison concerned and at a higher level), the public prosecutor, the courts and any appropriate public authority. Further, prisoners may send letters to the Citizens Rights Ombudsman and international human rights organisations, which are not subject to censorship.

149. At the time of the delegation's visit, public prosecutors were called upon to supervise the manner in which remand custody was implemented and conditions of detention in remand prisons. However, it appeared that following the entry into force of amendments to the Code of Criminal Procedure in August 1996, public prosecutors' functions have been restricted and no longer involve visits to prisons.

The supervision of prisons forms an integral part of the penitentiary judge's functions. An on-going contact with the prison establishment for which he is responsible is ensured through weekly visits, during which he has the power to interview inmates and verify their complaints. Further, once or twice a year penitentiary judges carry out a thorough inspection of all aspects of prison life: living conditions, health care, work, education, etc.; a formal report is submitted to the prison governor, the Central Administration of the Prison Service and the Ministry of Justice. The CPT's delegation had the opportunity to meet the penitentiary judges responsible for Warszawa-Białoleka Remand Prison and Strzelce Opolskie Prison No 2, and formed a favourable opinion of the manner in which they carried out their duties.

Periodic inspections of all prisons are also carried out by the District Prison Administration (RAŚ) and the Central Administration of the Prison Service. Finally, the Citizens Rights Ombudsman pays visits to prison establishments, the results of which are published.

In this context, **the CPT wishes to emphasise that authorities with powers of inspection should make themselves "visible" not only to the prison management and staff, but also to the prisoners themselves. They should not limit their activities to seeing persons who have expressly requested to meet them, but should take the initiative and visit the establishments' detention areas (including units in which inmates under special regimes may be placed) and enter into contact with prisoners.**

d. contact with the outside world

150. It is very important for prisoners to be able to maintain reasonably good contact with the outside world. Above all, prisoners must be given the means of safeguarding their relationships with their family and close friends. The continuation of such relationships is of critical importance for all the interested parties, and especially for the social rehabilitation of a prisoner. The guiding principle should be the promotion of contact with the outside world; any limitations upon such contact should be based exclusively on security concerns of an appreciable nature or resource considerations.

151. Prisoners were allowed two visits of one hour each per month; further, additional or extended visits could be authorised as a reward for good behaviour.

However, as regards remand prisoners, visits were "subject to the prior consent of the authority at whose disposal they remain" (Section 34(1) of the Rules for Remand Prisoners). In this connection, certain remand prisoners met at Warszawa-Białoleka Remand Prison alleged that they had been denied visits for more than six months. In the CPT's view, such a situation would be difficult to justify; **the Committee would like to receive the comments of the Polish authorities on this question.**

152. Visiting rooms were on the whole adequate, and could be considered as very good at Grudziądz Prison No 1. Further, a new visiting area of a high standard was under construction at Strzelce Opolskie Prison No 2.

Sentenced prisoners received visits under relatively open conditions, i.e. around a table in a large room. Such prisoners might also be allowed extended unsupervised visits, thereby enabling them to consolidate their personal relations with members of their families. The CPT welcomes this measure; visits of this kind are of fundamental importance in the context of the social reintegration of a prisoner.

Remand prisoners in principle received visits under conditions rendering physical contact between the prisoner and visitor impossible; this was usually achieved by the prisoner and his visitor sitting on opposite sides of a glass partition and communicating via a telephone. However, remand prisoners could be allowed to have visits under more open conditions. **The CPT trusts that care will be taken to ensure that remand prisoners are only denied physical contact with their visitors in cases when this is strictly necessary.**

153. Prisoners are allowed to send and receive an unlimited number of letters. As already mentioned (cf. paragraph 141), their correspondence is subject to censorship, with certain exceptions (e.g. letters to the judiciary, the Citizens Rights Ombudsman, international human rights organisations, etc.) Prisoners with financial problems are provided with paper, envelopes and stamps for four letters per month by the prison administration.

Further, sentenced prisoners can make telephone calls, at their own expense (and in exceptional circumstances, at the prison's expense); **the CPT would like to receive information on the possibilities for remand prisoners to make telephone calls.**

154. In exceptional circumstances, prisoners may be granted prison leave of up to 5 days by the penitentiary judge (or, in case of emergency, by the prison governor himself, subject to a subsequent notification of the penitentiary judge and the public prosecutor).

At Grudziądz Prison No 1, the CPT's delegation heard a number of complaints from female prisoners about the allegedly unfair manner in which decisions to grant home leave were taken, and even suggestions that refusal to grant it was used as an informal disciplinary sanction. **The CPT would like to receive the comments of the Polish authorities on this subject.**

e. transport of prisoners

155. Many allegations were heard that prisoners were often transported in cramped and inadequately ventilated vehicles. The delegation had the opportunity to inspect the vehicles used for the transport of prisoners at Warszawa-Białoleka Remand Prison and Strzelce Opolskie Prison No 2.

Warszawa-Białoleka Remand Prison possessed three vehicles for transporting sentenced prisoners to other prison establishments or hospitals. Two of them were small and used for shorter journeys (of around 45 minutes); the inner section, which could accommodate up to six prisoners, was cramped, uncomfortable and inadequately ventilated. In the third, larger, vehicle, the compartment for transporting prisoners was divided into two sections, each measuring 1.25m by 3m; the delegation was told that up to 12 prisoners could be seated in each of these sections. This vehicle was used for longer journeys and prisoners could spend all day in it; it was inadequately ventilated and not suitable for carrying up to 24 prisoners on long journeys.

One of the vehicles inspected at Strzelce Opolskie Prison No 2 was similar in design to the larger vehicle seen at Warsaw. However, a second and more modern vehicle offered far better conditions; the delegation was told that 20 to 30 percent of the existing fleet of vehicles were of this latter model.

156. **The CPT recommends that the Polish authorities give a high priority to modernising the fleet of prison transport vehicles.**

**Further, the CPT would like to receive a copy of any regulations which might exist concerning the characteristics of vehicles used for transporting prisoners.**

## **C. Juvenile establishments**

### **1. Introduction**

157. The CPT's delegation visited two establishments for juveniles falling under the authority of the Ministry of Justice - the Correctional establishment and Home for detained juveniles in Świdnica and the Correctional establishment in Trzemeszno.

158. The Correctional establishment and Home for detained juveniles in Świdnica occupied two separate buildings dating back to the late 19th century. Although essentially managed as one establishment, the two institutions performed distinctly different functions. The Home was designed for short-term stays (of up to six months) of boys aged between 13 and 16, after which they would either be released or assigned to a correctional establishment. On-going refurbishment had brought the number of boys accommodated at the Home down from the usual capacity of thirty-six to thirty. As regards the Correctional establishment, it catered for boys aged between 15 and 21 years who had been committed to it by a family court and normally remained there until the completion of their education. With an official capacity of sixty, at the time of the visit the Correctional establishment was holding forty boys.

159. The Correctional establishment for juveniles in Trzemeszno is one of three establishments in Poland providing intensified educational supervision over juveniles who have committed criminal offences and are considered to have a "high level of demoralisation". Boys aged between 15 and 21 years are committed to the establishment on the basis of a court decision (an indeterminate sentence of a minimum of six months) and an order of the Ministry of Justice, and are released upon the decision of the establishment's Teachers' Committee. Set up in 1966 with a maximum capacity of forty-eight, the establishment was subsequently closed in May 1994 following a riot. The closure provided an opportunity to undertake an extensive rebuilding programme. Having re-opened in August 1995, the establishment currently operates with a capacity of twenty-four. At the time of the delegation's visit, it had in its charge twenty-two boys, of whom only nine were in residence (the rest being away on holiday).

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

160. The CPT's delegation heard no allegations, and found no other evidence, of torture of juveniles by staff at the juvenile establishments visited.

161. According to information gathered by the CPT's delegation both before and during its visit to the Correctional establishment and Home for detained juveniles in Świdnica, there had been instances of the ill-treatment of juveniles by staff at this institution, one of which had led to a court case some years previously. Staff members spoken to acknowledged that there had been a problem, but asserted that ill-treatment now "belonged to the past". Nevertheless, the delegation received some allegations of recent ill-treatment of juveniles by certain of the educators, in particular vis-à-vis juveniles who had escaped from the establishment or who had attempted to do so. In one case, marks consistent with the alleged ill-treatment were observed: upon examination by medical members of the delegation, the boy concerned was found to display two oval-shaped ecchymoses (1cm by 2cm), apparently of recent origin, on the neck, immediately below the jaw; further, the left side of the boy's upper lip was found to be swollen. These marks were consistent with the boy's allegation that he had been grabbed by the neck with two fingers and hit on the mouth by an educator the previous day.

Further, the delegation was informed that a written complaint about ill-treatment had been lodged by certain boys held at Świdnica earlier in 1996. Apparently, the complaint had not been substantiated; however, the educator concerned had been encouraged to take sick leave. It should nevertheless be emphasised that relations between staff and inmates at the Świdnica institution appeared on the whole to be quite relaxed.

At the end of its visit, the delegation notified the establishment's Director of the information it had gathered, and he undertook to discuss the issue with his staff. **The CPT trusts that it has been made clear to staff at the Świdnica institution that the ill-treatment of juveniles in their custody is unacceptable and, if it occurs, shall be the subject of severe sanctions.**

162. The CPT's delegation gathered no evidence of ill-treatment of juveniles by staff working at the Correctional establishment for juveniles in Trzemeszno. Moreover, the delegation observed no signs of an unduly authoritarian attitude on the part of staff, who seemed to be extremely tolerant of the challenging behaviour of the few boys in residence at the time of the visit.

163. Finally, both staff and inmates informed the delegation that, from time to time, juveniles held at the Home in Świdnica were physically assaulted by juveniles held at the Correctional establishment. In this connection, the CPT can only welcome the plans to create a watertight separation between the two parts of the establishment; **the Committee would like to be informed as to whether these plans have now been implemented.**

### **3. Special detention facilities**

164. The Correctional establishment and Home for detained juveniles in Świdnica contained a number of "transit" cells which performed several functions: placement of new arrivals for the purpose of diagnosis before their assignment to a dormitory; segregation of juveniles following their return after an escape; isolation as a disciplinary sanction; temporary confinement of juveniles displaying aggressive or disturbed behaviour. The delegation was informed that new arrivals could spend up to two weeks in a transit room, escapees up to one week, and juveniles subject to a disciplinary sanction, 24 hours.

There were three transit cells on the ground floor of the Home for detained juveniles. One of them measured 6.8m<sup>2</sup> and was completely bare, save for a blanket on the floor. Access to natural light was mediocre, but artificial light was satisfactory; as for the ventilation, it was totally inadequate, a situation fully acknowledged by staff. The two boys held in that transit cell at the time of the visit had been there for several days, following their return after an escape; they alleged that they had not been provided with mattresses at night but merely with an extra blanket. The CPT's delegation was pleased to note that by the second day of its visit, it was clear that the boys were being provided with mattresses at night.

The other two transit cells were somewhat larger and had some furniture (bed, table, chair). However, the ventilation in these cells also left a lot to be desired. More generally, they provided a rather inhospitable environment for new arrivals (which they frequently accommodated).

Two transit cells were situated on the ground floor of the Correctional establishment. One of them - which at the time of the visit held three boys who had escaped from the establishment - measured 10.5m<sup>2</sup> and was equipped with only one bed (without a mattress) and a table; the staff stated that mattresses were provided at night, a response met with hilarity by the boys present. Although access to natural and artificial light was adequate, ventilation was manifestly poor. The second cell - which was divided into day and night areas - was potentially a better facility; however, it was also rather modestly equipped.

165. In the light of the above remarks, **the CPT recommends that steps be taken immediately:**
- **to improve the ventilation and lighting in the transit cells at the Correctional establishment and Home for detained juveniles in Świdnica, and to equip all of them with a means of rest;**
  - **to provide all juveniles held overnight in the transit cells of that establishment with both mattresses and blankets.**

**Further, the CPT recommends that all newly arrived juveniles be held separately from juveniles isolated after an escape or for disciplinary reasons, in a facility offering an appropriate environment for boys being admitted to a juvenile establishment (possibly for the first time in their lives).**

166. Staff employed at Trzemeszno were authorised to resort to three types of "preventive security measures" in order to control aggressive behaviour by juveniles. The most common measure was isolation of up to 24 hours for juveniles under the age of 17 and up to 48 hours for those over 17 years of age.

The isolation facilities consisted of three rooms located on the first floor of the building immediately adjacent to the main dormitory building. The first room measured some 4.6m<sup>2</sup> and contained one plastic chair; it was said to be used for the most violent juveniles, and only for a few hours at a time. The other two rooms, measuring respectively 6m<sup>2</sup> and 9m<sup>2</sup>, were used to hold inmates who were less violent but whose behaviour nevertheless required a period of isolation. One of these rooms was equipped with a plastic table and chair, and was not used for overnight stays; the second room contained a mattress on the floor, a table and two plastic chairs, and was used for stays of up to 48 hours. Toilet and shower facilities were available next to the isolation rooms.

Unlike Świdnica, the establishment had a quite distinct reception unit, situated on the second floor of the building adjacent to the main dormitory building. New arrivals were accommodated there for up to 14 days, in the course of which they were introduced to the establishment's regulations, underwent psychological and intellectual assessment and were medically examined before being allocated to a group. The reception area comprised two rooms (9.5m<sup>2</sup> in size), each of which was fitted with two folding beds, a table and two chairs, as well as a toilet and shower facility.

167. More generally, as regards sanctions involving the isolation of a juvenile, **the CPT recommends:**

- **that they be served in suitably equipped cells (containing at least a bed with a mattress, a table and a chair, if necessary fixed to the floor);**
- **that juveniles undergoing a measure of isolation as a sanction be provided with reading matter and guaranteed at least one hour of outdoor exercise every day;**
- **that the maximum possible duration of such a measure be formally laid down and that the measure never be applied for longer than is strictly necessary.**

#### **4. Material conditions**

168. At the outset of its visit to the Correctional establishment and Home for detained juveniles in Świdnica, the CPT's delegation was informed by the establishment's Director of the existence of an extensive refurbishment programme which would involve, inter alia, the construction of a covered sports facility.

Living accommodation in the Home was provided in several recently renovated dormitories. They were adequate in size (e.g. a dormitory for four boys measured some 14m<sup>2</sup> and a dormitory for three, some 12m<sup>2</sup>), appropriately furnished and benefitted from sufficient natural light, artificial lighting and ventilation. There were well-equipped and spacious common rooms where the boys could study, associate, watch TV, etc. Further, sanitary facilities were found to be clean and in a good state of repair.

The juveniles held at the Correctional establishment were accommodated in dormitories of an adequate size (e.g. a dormitory measuring some 47m<sup>2</sup> was designed for occupancy by up to eight juveniles). The dormitories were equipped with beds, a few tables, chairs, shelves and a cupboard, and were pleasantly decorated with pictures and plants. Access to natural and artificial light and ventilation were of a good standard. Further, each group of juveniles had access to an attractively furnished common room equipped inter alia with a TV set. However, the state of repair and cleanliness observed in the sanitary facilities left something to be desired, and the central shower room at the Correctional establishment was in a very poor condition. Staff said that the latter had been withdrawn from service, the juveniles going to the Home twice a week in order to take a shower; in due course, shower facilities would be installed on each floor of the Correctional establishment.

As for the establishment's kitchen, it was appropriately equipped and could cater for special diets.

To sum up, the material conditions in the Correctional establishment and Home for detained juveniles in Świdnica were adequate and plans were afoot to improve them further.

169. The Correctional establishment in Trzemeszno comprised a number of buildings, the most recent of which had been constructed and decorated with the help of the juveniles detained at the establishment, as part of their vocational training. Living accommodation was provided in a 19th century building which had originally been used as a prison, but had been extensively refurbished to provide dormitory accommodation and various recreational facilities (cf. also paragraph 171). The ground floor contained inter alia the chapel and a large shower room.

Living accommodation was situated on the first and second floors and was divided into four units corresponding to the four educational groups to which the boys were assigned (six boys per group). Each wing comprised three bedrooms, a toilet facility, a common room, a room where the boys kept their clothes and other belongings, and a room for the educator. The bedrooms measured some 7.5m<sup>2</sup>; they were fitted with two single beds and had posters and a few shelves on the walls (the boys' personal belongings being kept in cupboards in a separate part of the unit). Further, the bedrooms had large windows fitted with curtains and a ventilation system; they were also very clean and in a good state of repair. **However, a room of 7.5m<sup>2</sup> - even if only used for sleeping purposes - should ideally only be occupied by one person.**

Finally, the CPT's delegation was impressed by the establishment's dining room, which was of a very high standard (its marble-paved floor, wood-panelled walls and ceiling and other fittings having been made by the boys held at the establishment). The kitchen was also well-equipped, and the delegation was told that the nutritional value and quality of the food prepared there were regularly controlled by the establishment's doctor.

## 5. Programme of activities

170. The Correctional establishment in Świdnica possessed a primary school and a vocational school providing metal work and carpentry courses. During the school year, juveniles attended school three days a week and went to the workshops for a further three days; the two workshops were found to be well-maintained and equipped. Further, some juveniles were employed in the establishment's pig farm.

As already mentioned, juveniles spent a maximum of 6 months at the Home for detained juveniles in Świdnica. During this period, they underwent a thorough assessment from a psychological, mental, social and pedagogical point of view, performed by a team composed of two psychologists, a psychiatrist and a pedagogue. The programme of activities offered to the juveniles was similar to that at the Correctional establishment: most of them went to the school and some worked in the workshops.

Juveniles also had access to several well-equipped common rooms (cf. paragraph 168), where they could engage in various forms of activities.

At the time of the delegation's visit, there were no covered sports facilities; however, as already indicated, this lacuna was soon to be filled. Reference should also be made to the very modern and well-equipped fitness room on the ground floor of the Correctional establishment.

171. Juveniles detained at the Correctional establishment in Trzemeszno were assigned to four educational groups which functioned as autonomous units. The educational programme involved both general education subjects and vocational training. The school was located on the ground floor of the administrative building, and comprised three spacious and attractively decorated classrooms (some of which were being renovated during the summer holidays) and a library containing some 2,000 books.

Vocational training took place in three workshops (carpentry, metal work and lathe operating, and painting and decorating), which were spacious and well-equipped. At the time of the visit, school activities had ceased because of the summer holidays, and only a few boys were engaged on voluntary work in the workshops.

Further, the boys could engage in various recreational activities in rooms situated in the basement of the main dormitory building (a very attractive common room equipped with a fireplace, a TV-set and video, and a small shop run by the boys; a music room containing a variety of instruments; a computer room, a fitness room and a photo lab). In addition, each educational group had access to a well-decorated and spacious common room (some 40m<sup>2</sup>) located within the dormitory units, where the boys could watch TV, make tea and coffee, etc. A range of other activities were organised by the establishment, such as sports competitions with outside teams, sightseeing tours and summer camps by a nearby lake.

It is noteworthy that the establishment possessed excellent sports facilities: outdoor football and basketball pitches, and a recently constructed gym which was large enough to be used for volleyball and basketball.

## 6. Medical issues

172. The health-care staff employed at the Correctional establishment and Home for detained juveniles in Świdnica comprised two full-time nurses working in shifts between 7 am and 8 pm on weekdays; one of them was also available at the weekend. A doctor attended the establishment three times a week, and could be called in if there was an emergency. Further, a psychiatrist was available once a week. As already mentioned (cf. paragraph 170), two psychologists were employed at the Home, and together with the psychiatrist diagnosed new arrivals. The delegation was informed that a new diagnostic-therapeutic team would be introduced in September 1996. For any specialist treatment, including dental, juveniles were referred to outside specialists.

At the Correctional establishment in Trzemeszno, the health-care staff consisted of a doctor (paediatrician), a psychiatrist, a dentist - all of whom were employed part-time - and a full-time nurse. The doctor was present in the afternoon on weekdays, the psychiatrist attended the establishment twice a week, and the dentist worked four days a week for one-two hours per day. Additional medical care was available at a nearby hospital.

In conclusion, the resources of the health-care services in the two establishments visited can be considered as adequate. **However, the CPT wishes to stress the importance of ensuring that someone qualified to provide first aid, preferably with a recognised nursing qualification, is always present on the premises, including at night and weekends.**

173. At each establishment, newly arrived juveniles were first seen by a nurse, who checked their general health condition and entered the information in a personal medical file, and subsequently examined by a doctor. Further, all new arrivals at Trzemeszno underwent a thorough psychiatric examination.

174. From conversations held with staff at Trzemeszno, it transpired that juveniles admitted to the establishment underwent some compulsory tests (HIV, hepatitis, Wassermann) and, in accordance with an agreement between the establishment's Director and the medical staff, the results were notified to the Director. In contrast, at Świdnica the delegation was told that an HIV-test could be performed only with the consent of the boy concerned, and the test results would be treated confidentially.

The CPT would emphasise that information on HIV test results should be protected by strict medical confidentiality and **recommends that appropriate measures be taken to ensure that this is the case.**

**The CPT would also stress the importance of appropriate counselling both before and - if appropriate - after an HIV test.**

Further, the CPT wishes to draw the attention of the Polish authorities to the fact that, given the current state of scientific knowledge, both the World Health Organisation<sup>1</sup> and the Council of Europe<sup>2</sup> consider that compulsory screening for HIV infection should be proscribed since it is ineffective and discriminatory, and therefore unethical.

**The CPT would like to receive information on the current Polish legislation and any existing public health regulations concerning this subject.**

175. Finally, at Świdnica, the delegation observed that the medical information concerning each juvenile was spread over a number of documents. **The CPT recommends that a complete medical file be compiled for each juvenile, containing diagnostic information as well as an ongoing record of his evolution and of any special examinations he has undergone. In the event of a transfer, the file should be forwarded to the doctors in the receiving establishment.**

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<sup>1</sup> WHO guidelines on HIV infection and AIDS in prisons, Global programme on AIDS, WHO, Geneva, 1993.

<sup>2</sup> Prison and criminological aspects of the control of transmissible diseases including AIDS and related health problems in prison, Recommendation No R (93) 6 of the Committee of Ministers of the Council of Europe, Strasbourg, 18 October 1993.

## **D. Military arrest facilities**

### **1. Introduction**

176. The delegation visited the military arrest facilities at the Garrison Commands in Bydgoszcz and Toruń.

Such facilities perform a double function. Firstly, they are used for the detention of soldiers arrested by the military police who are suspected of a criminal offence or intoxicated; such persons can be kept in a military arrest facility for up to 48 hours. Secondly, they are used for disciplinary purposes: cellular confinement of up to 14 days for a private and up to 10 days for a non-commissioned officer is one of a range of disciplinary punishments applied in the Polish army.

Military arrest facilities are staffed by specifically trained career soldiers ("profos") who ensure a 24-hour presence in the custodial facility. The "profos" are subordinated to the Commander of Custody (a warrant officer) and to the Commander of the Garrison.

### **2. Ill-treatment**

177. The CPT's delegation received no allegations of ill-treatment of soldiers detained in the military arrest facilities visited. All soldiers met by the delegation stated that they had been correctly treated. Further, no other indications of ill-treatment were observed.

### **3. Material conditions of detention**

#### **a. Bydgoszcz Garrison Command**

178. The arrest facilities comprised 11 cells with an overall capacity of 28. Four of the cells were for double occupancy and were used to hold soldiers under arrest; they were of an adequate size (11m<sup>2</sup>). The remainder of the cells were used to hold soldiers undergoing disciplinary detention. Six of them were for triple occupancy and measured some 12m<sup>2</sup>, which again can be considered acceptable. The remaining cell measured 14m<sup>2</sup> and could accommodate up to two non-commissioned officers. The cells were equipped with beds, a table and stools, and occasionally a locker; they also had a large window which allowed good access to natural light and ventilation, and were fitted with a call system. The whole detention area, including the sanitary facilities, was clean and maintained in good order.

b. Toruń Garrison Command

179. The military arrest facility at Toruń Garrison Command was situated in the basement of the main administrative building. It had a maximum capacity of 23 and was accommodating two soldiers at the time of the visit. The detention area comprised 3 cells for soldiers undergoing disciplinary punishment and 6 cells for soldiers under arrest. All cells had a large window covered by a metal grille and were equipped with fixed bed plinths, a table and stools, a call system and artificial lighting. Meals were served in a secure area containing three tables, and there were common toilet and bathing facilities to which detained soldiers had access on request. The whole facility was clean and in good state of repair.

180. Nevertheless, **the CPT recommends that the maximum capacity of the military arrest facility at Toruń Garrison Command be reduced.** In this connection, the CPT would underline that a cell of 6.5m<sup>2</sup> should not accommodate more than one person overnight.

#### 4. Regime

181. The regime applied to soldiers held in military arrest facilities differed depending on whether they were under arrest or undergoing disciplinary punishment. All detained soldiers received one hour of outdoor exercise every day. Disciplined soldiers were employed on routine cleaning duties within the garrison for some 8 hours a day. In the evening, they had at their disposal 1 hour and 15 minutes "free time", during which they could read books and newspapers, shop or smoke outside their cells. As regards soldiers under arrest, the limited time (i.e. up to 48 hours) and the purpose of their detention did not allow for a similar regime of activities to be applied to them.

#### 5. Medical care

182. All soldiers were examined by the garrison doctor before reception into the military arrest; in fact, the profos have no right to place a person in detention without a prior medical examination. Further, the garrison doctor visited detained soldiers every day and, if appropriate, might recommend the suspension of a disciplinary detention.

#### 6. Appeal and inspection procedures

183. A soldier punished by disciplinary detention can appeal against the punishment to the Regional Military Court within seven days of the announcement of the punishment; the execution of the punishment is postponed until the end of this seven day period.

As for inspection, the District Military Prosecutor exercises supervision over military custody and carries out monthly visits to the military arrest facilities within his competence. In addition, the Garrison Commanders are expected to visit such facilities on a daily basis.

## E. Sobering-up centres

### 1. Introduction

184. The CPT's delegation visited the sobering-up centres in Grudziądz, Opole, Toruń, Wałbrzych and Warsaw. Set up under the 1982 Sobriety Act and further regulated by a 1983 Ordinance, such centres are placed under the direct authority of - and financed by - the municipal authorities. In principle, all Polish towns with a population of over 50,000 should have a sobering-up centre; however, by June 1996 only 56 towns had opened such a facility.

185. Intoxicated persons are delivered to the centre by the police or an ambulance, but the decision for admitting a person to the sobering-up centre lies exclusively with the centre's staff. Persons admitted to a sobering-up centre must be released (or, in the case of criminal suspects, returned to police custody) within 24 hours, and are frequently released earlier if the centre's staff considers that they have sobered-up sufficiently.

It should also be noted that persons admitted to a sobering-up centre are in principle obliged on release to pay a charge (100 to 200 zloty), though in some cases the payment could be waived.

### 2. Ill-treatment

186. The CPT's delegation did not gather any evidence of deliberate ill-treatment of intoxicated persons by staff working at the sobering-up centres visited. The delegation was generally impressed by the professionalism and caring attitude of the staff who, despite the pressures inherent in the difficult task they had to perform, demonstrated sensitivity and compassion to the persons in their charge.

187. Nevertheless, the CPT is concerned by one particular question arising out of the visits to the sobering-up centres in Wałbrzych and Toruń. The shower room at the Wałbrzych centre contained inter alia two showers behind grilles which could be closed from the outside. The delegation was told that intoxicated persons were occasionally placed in these facilities and hosed with cold water in order to "calm them down". An identical grilled shower facility was found at the centre in Toruń; however, according to staff, the hose placed nearby was used for "watering the garden".

To place intoxicated persons in a cage-like structure and spray them with cold water is a rather undignified procedure which could well be considered as degrading. Further, intoxicated persons have a tendency to lose body heat; consequently, spraying them with cold water is also inappropriate from a medical point of view. **The CPT therefore recommends that resort no longer be had to this practice in sobering-up centres.**

### 3. Material conditions and staffing arrangements

188. With a capacity of 130 beds - and an average daily turnover of 100 - the sobering-up centre in Warsaw is the largest and busiest facility of its type in Poland. On the night of the visit, the centre was already accommodating some 50 intoxicated persons, and there was a steady flow of new arrivals. The centre occupied the lower two levels of a three-storey building; it comprised a reception area on the ground floor and a number of adjoining dormitories of varying size on the first floor. The latter floor also contained a "detoxification" unit with 9 beds, where patients who so wished could stay for up to five days. The top floor of the building housed a psychiatric ward of the regional psychiatric centre which, although independent, apparently collaborated with the sobering-up centre.

The dormitories were equipped with beds, some 15 of which were fitted with straps for restraining the feet and chest of agitated persons. The dormitories benefitted from adequate natural and artificial light and were fitted with a call system. Further, the sanitary facilities were clean and in a good state of repair. More generally, the centre was adequately equipped and well-maintained.

189. Material conditions in the smaller sobering-up centres in Grudziądz, Opole, Toruń and Wałbrzych were also on the whole quite satisfactory; in particular, the premises were clean and all persons admitted were provided with a bed.

**However, the isolation room in the Grudziądz Centre (used, for example, for persons displaying aggressiveness or dermatological infections) was not an entirely satisfactory facility; in particular, it was very small (4.5m<sup>2</sup>) and was not equipped with a call system.**

190. The five sobering-up centres visited by the delegation were adequately staffed and, in particular, there was an appropriate level of medical supervision. Doctors, nurses, orderlies and other non-medical staff provided on-going surveillance of the intoxicated persons held in the centres. As a matter of principle, there was at least one female member of staff on each shift, in order to search and undress female patients. The doctors were usually employed at hospitals and worked part-time in the sobering-up centres for one or more shifts a week.

The centres in Opole, Toruń and Wałbrzych had the presence of at least one doctor and a number of orderlies at all times. At the centre in Warsaw, the day shift consisted of one doctor, one nurse and six orderlies; at night, this team was reinforced by another doctor. At Grudziądz, the night shift comprised one doctor, one female and two male orderlies; however, no doctor was present in the morning, his functions being performed by a nurse.

#### 4. Procedures followed

191. Upon arrival at the sobering-up centre, intoxicated persons were immediately examined by a doctor. This initial examination usually involved a breathalyser test and, in some cases (cf. paragraph 195), a blood test. Depending on the alcohol level and the general condition of the person concerned, the doctor prescribed the number of hours for which he should remain at the centre. Persons whose health condition so warranted (e.g. poisoning; serious injuries) were taken immediately to a hospital.

The results of the initial examination, as well as any signs of injuries, were duly recorded in a personal card completed for each person admitted to the centre. This personal card was kept at the centre for a two year period. As for the clothing and belongings of persons admitted to the centre, they were removed and registered. The person was then dressed in a disposable night shirt and taken to a bed (if necessary, after having had a shower).

Before being released at the end of the prescribed period, the person was examined again and his psychological and physical state were documented in his personal card.

192. Staff at the sobering-up centres were apparently under no obligation to inform a close relative of the intoxicated person of the fact that he had been admitted to a sobering-up centre, and in practice did not do so unless explicitly requested by the person concerned. The CPT welcomes this approach.

193. Intoxicated persons who become violent could be placed in an isolation room and/or restrained with straps on a bed. The decision to apply physical restraint was taken by the centre's doctor, who had to specify the reasons for the measure in the relevant personal card. Anyone subjected to physical restraint was placed under close supervision (a check being made every 15 minutes), and the delegation was told that physical restraint was usually applied for a maximum of 1-2 hours (although it noted that in one instance at the centre in Grudziądz a person had been restrained for 6 hours).

In addition to the entry made in the personal cards of persons admitted, **the CPT recommends that any resort to isolation or physical restraint in a sobering-up centre be recorded in a central register established for this purpose, with an indication of the times at which the measure began and ended as well as the circumstances of the case and the reasons for resorting to such means.**

194. It is noteworthy that the methods applied to violent intoxicated persons differed. At four of the centres visited, reliance was placed exclusively on physical restraint; however, at the centre in Warsaw, resort was had to tranquilisers, physical restraint only being applied until such time as the tranquilisers took effect. **The CPT would like to receive the comments of the Polish authorities on this divergence of approach, as well as details of any medical guidelines issued on this subject.**

195. Finally, it should be noted that under Polish law, drivers suspected of having an illegal alcohol content can be required by the police to provide a blood sample. The delegation was told that if the person concerned refused to give such a sample, the centre's staff would take it by force (if necessary with police assistance).

The forcible taking of blood or other samples can lead to high-risk situations from the standpoint of ill-treatment. To avoid such situations, one might consider attaching adverse legal consequences to a refusal to give a sample required by law rather than proceeding to take the sample by force in the event of a refusal to provide it. **The CPT would like to receive the views of the Polish authorities on this subject.**



### III. RECAPITULATION AND CONCLUSIONS

#### A. Police and Border Guard establishments

196. The majority of the persons met by the CPT's delegation who were, or had recently been, detained by the police, indicated that they had been correctly treated, both at the time of their apprehension and during questioning. Further, the CPT's delegation received no allegations of ill-treatment by staff working in the police facilities for the detention of children or foreigners awaiting deportation which it visited. It is also noteworthy that numerous persons with considerable experience of the police stated that there had been a significant change for the better in recent years as regards the manner in which police officers treated persons in their custody.

197. Nevertheless, a not insignificant number of persons interviewed by the delegation alleged that they had been ill-treated (e.g. kicked, punched, slapped or struck with truncheons) at the time of their apprehension and/or during their subsequent transportation to - and/or upon arrival at - a police station. In this connection, the CPT has recommended that police officers be reminded that no more force than is reasonably necessary should be used when apprehending a person and that, once apprehended persons have been brought under control, there can be no justification for their being struck or otherwise roughly treated or humiliated by police officers.

198. Very few allegations were heard of ill-treatment during questioning by the police, with the notable exception of the District Police Command at Warsaw-Praga Pólnoc. Several persons interviewed separately by the delegation alleged that they had been physically ill-treated by the criminal police of the above-mentioned establishment in the course of their questioning. Upon examination by a medical member of the delegation, one of those persons was found to bear lesions which were consistent with his allegation that he had been struck on the soles of the feet with a truncheon earlier the same day.

At the end of its visit, the CPT's delegation requested the Polish authorities to carry out without delay an independent inquiry into the methods used by the criminal police in the District Police Command at Warsaw-Praga Pólnoc when questioning detained persons. By letter of 18 October 1996 the Polish authorities informed the Committee that the competent Prosecutor's Office had carried out an investigation and found a justifiable suspicion that a crime had been committed; as a result, an inquiry had been opened. Further, the issues raised by the CPT had been the subject of briefings held at the Warsaw-Praga Pólnoc District Police Command. The Committee welcomes the action taken by the Polish authorities and looks forward to receiving in due course the results of the above-mentioned inquiry.

199. The CPT has proposed some strengthening of formal safeguards against the ill-treatment of persons detained by the police. In particular, it has recommended that steps be taken to ensure that persons detained by the police have, as from the very outset of their deprivation of liberty, a right of access to a lawyer. It is currently extremely rare for a lawyer to be present during the initial period of police custody, which can last up to 48 hours. In the CPT's experience, it is precisely during the period immediately following deprivation of liberty that the risk of intimidation and ill-treatment is greatest; consequently, the possibility for persons taken into police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment.

Other recommendations have been made concerning the right of persons in police custody to be examined - if they so wish - by a doctor of their choice, and the need to ensure that such persons are promptly informed of all their rights. The CPT has also proposed that a code of practice for police interrogations be drawn up; the existence of such guidelines will, inter alia, help to underpin the lessons taught during police training.

200. The CPT has emphasised the contribution to the prevention of ill-treatment which can be made by public prosecutors and judges. In this connection, the Committee has recommended that whenever a public prosecutor or judge called upon to consider the issue of the temporary arrest of criminal suspects receives an allegation of ill-treatment by the police, or observes that a criminal suspect brought before him could have been a victim of ill-treatment, he should immediately request a forensic medical examination of the person concerned and bring the matter to the attention of the relevant public prosecutor. Further, the CPT has recommended that the Polish authorities encourage public prosecutors to undertake on-the-spot supervision of the work of the police in criminal cases.

201. Of course, the best possible guarantee against ill-treatment is for its use to be unequivocally rejected by police officers. It follows that the provision of suitable education on human rights questions and of adequate professional training is an absolutely essential component of any strategy for the prevention of ill-treatment. The CPT has recommended that a very high priority be given to professional training and human rights education for police officers at all levels and that particular attention be accorded to the acquisition and development of interpersonal communication skills.

202. Material conditions in the police detention facilities used for criminal suspects were on the whole in conformity with the criteria established by the Committee, and were very good in some establishments. The few shortcomings observed related to ventilation and hygiene in some facilities.

Conditions of detention in the four police establishments for children visited by the CPT's delegation were also adequate, and those in the establishment in Wałbrzych were of a very high standard. Nevertheless, in the light of its delegation's observations, the CPT has invited the Polish authorities to ensure that children detained at police establishments for children are provided with appropriate daytime clothing. Further, the CPT has recommended that the Polish authorities take steps to ensure that all new arrivals at police establishments for children are medically screened without delay.

203. The CPT has expressed concern about the situation of foreign nationals awaiting deportation detained at the Provincial Police Command at Wrocław. Although their material conditions could be considered as adequate (albeit basic bearing in mind that the detention period could last for up to three months), the regime applied to them was quite unacceptable. The CPT has recommended, inter alia, that immediate steps be taken to ensure that such persons are offered at least one hour of outdoor exercise every day and are given access to appropriate reading material. The CPT has also recommended that arrangements be made so that they can have ready access to a telephone and are able to receive visits on a regular basis from relatives, friends, lawyers, consular representatives, etc.

More generally, the CPT has stressed that ordinary police detention facilities will rarely be in a position to offer adequate conditions of detention to persons deprived of their liberty under the Aliens' legislation. It would be far preferable to set up specific centres for such persons, offering material conditions of detention and a regime appropriate to their legal situation and possessing suitably qualified staff.

204. The Border Guard detention facilities at Warsaw International Airport for persons refused entry to the country and who had to be held overnight were not satisfactory. Such persons were held together in a large, bare and noisy room in the transit area. They were provided with neither mattresses nor blankets at night, had no access to a telephone and were not offered outdoor exercise. The Airport Border Guard Commander stated that he would take immediate steps to improve the situation of persons held overnight in the holding room, and also pointed out that better equipped facilities would soon enter into service.

**B. Prison establishments**

205. The CPT's delegation heard no allegations of torture in the prison establishments visited; nor was any other evidence of torture found. Further, allegations of other forms of ill-treatment of prisoners by prison officers were rare. Many prisoners met by the CPT's delegation in the prison establishments visited stressed that the attitude of prison officers had improved in recent years. The delegation itself observed that relations between staff and inmates in the prisons visited were fairly relaxed, despite low staffing levels.

A few isolated allegations of physical ill-treatment of inmates by prison officers were heard in Strzelce Opolskie Prison No 2. They all related to incidents in which troublesome prisoners had apparently been placed in a restraint cell and beaten. The CPT has recommended that the management of Strzelce Opolskie Prison No 2 monitor carefully the treatment of persons placed in the establishment's restraint cells.

206. In the course of its initial discussions with the Minister of Justice and the Central Administration of the Prison Service, the delegation was informed of measures taken since 1989 to improve conditions of detention within the Polish prison system. The delegation subsequently observed for itself in the different prison establishments visited that good-quality renovation and construction work was underway. However, due to a lack of resources, progress was not being made at the desired pace; as a result, conditions in parts of the establishments visited still left much to be desired. The CPT has therefore recommended that efforts to modernise the Polish prison infrastructure continue to be accorded a high priority. In this connection, the CPT has also stressed that the existing standard of 3 m<sup>2</sup> per male prisoner does not offer a satisfactory amount of living space, in particular in cells of a relatively small size.

The CPT has also expressed concern about the employment situation for inmates in the prison establishments visited and, more generally, throughout the Polish penitentiary system. The provision of appropriate work to sentenced prisoners is a fundamental part of the rehabilitation process; further, in the interests of their psychological well-being, remand prisoners should as far as possible also be offered work. It follows that the employment situation within the prison system should not be dictated exclusively by market forces.

207. At Warszawa-Białoleka Remand Prison, living space in the cells was far from generous, a situation which was all the more of concern given the fact that the great majority of the prisoner population (i.e. 80%) spent most of the day locked in their cells. The CPT has recommended a reduction of the occupancy rate of the establishment's cells and a thorough examination of the means of improving the out-of-cell activities offered to prisoners. The Committee has also expressed concern about the practice of placing adult and juvenile prisoners in the same cell.

The establishment as a whole was clean and in a good state of repair. However, the CPT has proposed improvements in a number of specific areas (e.g. partitioning of in-cell sanitary facilities, access to showers).

208. Material conditions at Grudziądz Prison No 1 were on the whole adequate, and the newly constructed Block 2 provided a very good standard of living accommodation. The Committee has recommended that a high priority be given to the completion of the refurbishment programme at the prison.

Grudziądz Prison offered a fair range of activities to inmates, though certain of the establishment's facilities were clearly under exploited. In this connection, the Committee has proposed that efforts be made to provide more prisoners at the establishment with paid work, preferably of vocational value, and that steps be taken to diversify the training courses available to prisoners and to encourage more prisoners to take part in them.

209. At Strzelce Opolskie Prison No 2, the inadequate amount of living space offered by the standard of 3 m<sup>2</sup> per prisoner was all too evident, in particular in the smaller cells occupied by two prisoners. An ongoing refurbishment was improving substantially material conditions in parts of the prison, although at the envisaged occupancy levels, living space in the new accommodation would still not be good. The CPT has recommended, inter alia, that a high priority be given to the cell refurbishment programme and efforts be made to reduce cell occupancy rates. Further, ventilation in the restraint cells should be improved and anyone held overnight in such a cell should be provided with a mattress.

Staff at Strzelce Opolskie Prison No 2 were making genuine efforts to provide purposeful occupation to prisoners. However, the overall programme of activities offered was quite inadequate for an establishment catering primarily for persons serving lengthy sentences. The CPT has recommended that steps be taken as a matter of urgency to enhance the programme of activities for sentenced prisoners. Arrangements for activities for remand prisoners also need to be improved, as do their outdoor exercise facilities.

210. Health-care services at the three prisons visited were on the whole of a satisfactory standard. However, the prolonged absence of a head doctor at Strzelce Opolskie Prison No 2 had caused difficulties of an organisational nature. The CPT has recommended that this situation be resolved and that access to outside specialists for prisoners at that establishment also be reviewed.

The CPT has emphasised that prison health-care services can make a significant contribution to the prevention of ill-treatment by the police, through the systematic recording of injuries borne by newly-arrived prisoners and, when appropriate, the provision of information to the relevant authorities. The same approach should be followed whenever the prisoner is medically examined following a violent episode in the prison.

The CPT also stressed that there is no medical justification for the segregation of an HIV-positive prisoner who is well. Attempts have already been made to put an end to the segregation of HIV-positive prisoners; however, implementation of this measure has proved to be slow and problematic, apparently as a result of the prevailing climate of rejection of HIV-positive detainees by the rest of the prison population. The CPT has recommended that the Polish authorities persevere in their efforts to put an end to the practice of segregating HIV-positive prisoners.

211. Both Grudziądz and Strzelce Opolskie Prisons contained a unit for category "S" prisoners (i.e. inmates displaying one or more forms of mental or personality disorder). These units were appropriately staffed and offered a diversified programme of psycho-social activities.

212. As regards the Psychiatric Hospital at Wrocław Remand Prison, it was observed that both medical staff and prison officers assigned to the hospital maintained positive relations with the patients. However, the hospital's two wards had a distinctly penitentiary feel to them and much of the patients' accommodation was in a rather poor state of repair, though it was gradually being renovated. As regards the treatment provided to patients, it appeared to be limited essentially to pharmacotherapy. The CPT has recommended that the Polish authorities pursue actively the on-going refurbishment of the hospital, and that a broader range of therapeutic activities be introduced, particularly for patients who remain at the hospital for extended periods.

213. The CPT has made a number of recommendations and comments about a variety of other issues of relevance to the Committee's mandate (prison staff; discipline and isolation; complaints and inspection procedures; contact with the outside world; and transport of prisoners). Reference should be made in particular to the recommendation that a high priority be given to modernising the fleet of prison transport vehicles.

### C. Juvenile establishments

214. No evidence of ill-treatment of juveniles by staff working at the Correctional establishment for juveniles in Trzemeszno was gathered. However, some allegations were received of recent ill-treatment of juveniles by certain of the educators at the Correctional establishment and Home for detained juveniles in Świdnica, in particular vis-à-vis juveniles who had escaped from the establishment or who had attempted to do so. In one case, marks consistent with the alleged ill-treatment were observed. Nevertheless, relations between staff and inmates at both Świdnica and Trzemeszno appeared on the whole to be quite relaxed.

The Director of the Świdnica institution was notified of the information gathered, and he undertook to discuss the issue with his staff. The CPT is confident that it has been made clear to them that the ill-treatment of juveniles in their custody is unacceptable and, if it occurs, shall be the subject of severe sanctions.

215. The Committee has expressed concern about the conditions in the "transit" cells at the Correctional establishment and Home for detained juveniles in Świdnica; it has recommended in particular that ventilation and lighting in these cells be improved and that juveniles held within them overnight be provided with mattresses and blankets. Further, the Committee has stressed that newly arrived juveniles should be held separately from juveniles isolated after an escape or for disciplinary reasons.

216. The CPT's delegation was on the whole favourably impressed by the material conditions and the programme of activities offered to the young persons in both establishments visited.

The resources of the health-care services in the two establishments visited could also be considered as adequate. However, the CPT has stressed the importance of ensuring that someone qualified to provide first aid, preferably with a recognised nursing qualification, is always present on the premises, including at night and weekends.

**D. Military arrest facilities**

217. The CPT's delegation received no allegations of ill-treatment of soldiers detained in the military arrest facilities visited by the staff of those establishments.

218. The military arrest facilities at Bydgoszcz and Toruń Garrison Commands were found to be on the whole of an adequate standard, clean and in a good state of repair. Nevertheless, the CPT has recommended that the maximum capacity of the military arrest facility at Toruń Garrison Command be reduced.

The Committee has no criticisms to make of the regime applied to soldiers held in the military arrest facilities visited and of the medical care provided to them.

**E. Sobering-up centres**

219. The CPT's delegation did not gather any evidence of deliberate ill-treatment of intoxicated persons by staff working at the sobering-up centres visited. It was generally impressed by the professionalism and caring attitude of the staff who, despite the pressures inherent in the difficult task they had to perform, demonstrated sensitivity and compassion to the persons in their charge.

Nevertheless, the CPT has recommended that resort no longer be had to the method occasionally used in some sobering-up centres of spraying intoxicated persons with cold water in order to "calm them down". This is a rather undignified procedure which could well be considered as degrading; it is also inappropriate from a medical standpoint.

220. Material conditions in the five sobering-up centres visited were on the whole quite satisfactory; in particular, the premises were clean and all persons admitted were provided with a bed. Further, the sobering-up centres visited were adequately staffed and, more specifically, there was an appropriate level of medical supervision.

221. The procedures followed at the sobering-up centres were also appropriate. Nevertheless, as regards intoxicated persons who became violent, the CPT has recommended that in addition to the entry made in their personal cards, any resort to isolation or physical restraint be recorded in a central register established for this purpose.

222. Finally, the Committee has pointed out that the forcible taking of blood or other samples requested by law can lead to high-risk situations from the standpoint of ill-treatment. The Committee has sought the views of the Polish authorities on possible alternative approaches.

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

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

224. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the CPT requests the Polish authorities:

- i. to provide within six months an interim report giving details of how it is intended to implement the CPT's recommendations and, as the case may be, providing an account of action already taken (N.B.: the Committee has indicated the urgency of certain of the recommendations);
- ii. to provide within twelve months a follow-up report providing a full account of action taken to implement the CPT's recommendations.

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



## APPENDIX I

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

#### **A. Police and Border Guard establishments**

##### **1. Introduction**

###### requests for information

- the legal provisions which make possible an extension of police custody beyond the 48 hour period (paragraph 12).

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

###### recommendations

- appropriate steps to be taken to ensure that:
  - any items held on police premises as pieces of evidence are properly labelled and held in a secure and centralised location;
  - no other non-standard issue items are held on police premises (paragraph 18);
- a very high priority to be given to professional training and human rights education for police officers at all levels (paragraph 19);
- an aptitude for interpersonal communication to be a major factor in the process of recruiting police officers and, during the training of such officers, considerable emphasis to be placed on acquiring and developing such skills (paragraph 19);
- police officers to be reminded that no more force than is reasonably necessary should be used when apprehending a person and that, once apprehended persons have been brought under control, there can be no justification for their being struck or otherwise roughly treated or humiliated by police officers (paragraph 20);
- the record drawn up following a medical examination of a newly-arrived prisoner to contain: (i) a full account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii) (paragraph 22);
- whenever a public prosecutor or judge receives an allegation of ill-treatment by the police, or observes that a criminal suspect brought before him could have been a victim of ill-treatment, he should immediately request a forensic medical examination of the person concerned and bring the matter to the attention of the relevant public prosecutor (paragraph 23);
- the Polish authorities to encourage public prosecutors to undertake on-the-spot supervision of the work of the police in criminal cases (paragraph 24).

requests for information

- the results of the inquiry opened in respect of the District Police Command of Warsaw-Praga Północ (paragraph 17);
- for the years 1995 and 1996:
  - the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which were instituted as a result;
  - an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment by the police (paragraph 21).

**3. Conditions of detention**

a. detention facilities for criminal suspects

recommendations

- the Polish authorities to take stock at the earliest opportunity of the contents of the detention area situated close to the cells used by the Opole District Police Command (paragraph 28).

comments

- ventilation left something to be desired in at least certain cells at the Wałbrzych District Police Command as well as in the cells at the District Police Command of Wrocław-Śródmieście (paragraph 27);
- the state of cleanliness of some cells at the District Police Command at Opole was not entirely satisfactory and the sanitary facilities at the District Police Command of Wrocław-Śródmieście were in a dirty condition (paragraph 27).

requests for information

- clarification of the intended function of the currently unused detention area situated close to the cells of the Opole District Police Command (paragraph 28).

b. police establishments for children

recommendations

- the Polish authorities to take appropriate steps to ensure that all new arrivals at police establishments for children are medically screened without delay (paragraph 34).

comments

- the authorised occupancy rate in certain of the dormitories at the police establishment for children in Warsaw was rather high (paragraph 29);
- the Polish authorities are invited to ensure that persons detained at police establishments for children are provided with appropriate daytime clothing (paragraph 30);
- the Polish authorities are invited to ensure that the quantity and variety of food offered at the police establishment for children in Warsaw is satisfactory (paragraph 31);
- the Polish authorities are invited to explore the possibilities of equipping exercise yards with some form of shelter (thereby enabling outdoor exercise to be taken even in inclement weather) and to ensure that children can engage in suitable games during outdoor exercise (paragraph 32).

c. detention facilities for foreigners awaiting deportation

recommendations

- immediate steps to be taken to ensure that foreign nationals awaiting deportation held at Wrocław Provincial Police Command:
  - are offered at least one hour of outdoor exercise every day;
  - are given access to appropriate reading material (paragraph 38);
- the possibility to be explored of offering foreign nationals awaiting deportation held at Wrocław Provincial Police Command access during the day to a communal room where they can associate and engage in recreational activities (television, etc.) (paragraph 38);
- arrangements to be made so that foreigners awaiting deportation held at Wrocław Provincial Police Command have ready access to a telephone and are able to receive visits on a regular basis from relatives, friends, lawyers, consular representatives, etc. (paragraph 39).

comments

- the Polish authorities are requested to verify that sufficient food is being provided to foreigners awaiting deportation held at Wrocław Provincial Police Command, and to take into account as far as possible the usual dietary practices of such persons (paragraph 37);
- the laundry arrangements for detained foreigners at Wrocław Provincial Police Command might usefully be reviewed (paragraph 37);
- ordinary police detention facilities will rarely be in a position to offer adequate conditions of detention to persons deprived of their liberty under the Aliens' legislation. It would be far preferable to set up specific centres for such persons, offering material conditions of detention and a regime appropriate to their legal situation and possessing suitably qualified staff (paragraph 42).

requests for information

- detailed information on the regime applicable to persons held at the police detention facility for foreigners awaiting deportation in Ragisa St, Warsaw (outdoor exercise, association and recreative activities, contact with the outside world, etc.) (paragraph 41);
- detailed information on the new centre for foreigners detained under the Aliens' legislation to be set up at Lesznawolo (capacity; material conditions of detention; regime; staffing arrangements, etc.) (paragraph 42).

d. Border Guard detention facilities at Warsaw International Airport

requests for information

- confirmation that measures have been taken to provide persons held overnight in the holding room in the transit area of Warsaw International Airport with mattresses, to disconnect the public-address system in the room and to improve arrangements concerning access to drinking water for persons held there (paragraph 44);
- whether the envisaged new holding facilities at Warsaw International Airport have now entered into service and, in the affirmative, a detailed description of the situation of persons held within them (material conditions of detention; access to a telephone, vending machines; access to medical care; outdoor exercise, etc.) (paragraph 44).

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

recommendations

- steps to be taken to ensure that:
  - persons detained by the police have, as from the very outset of their deprivation of liberty, a right of access to a lawyer as defined in paragraph 50;
  - persons taken into police custody are promptly informed of their right to have access to a lawyer (paragraph 51);
- the right of persons deprived of their liberty by the police to have access to a doctor to include the right - if the persons concerned so wish - to be medically examined by a doctor of their choice (paragraph 53);
- persons taken into police custody to be promptly informed of their right of access to a doctor (paragraph 53);
- a form setting out in a straightforward manner the rights of persons in police custody to be given systematically to such persons at the very outset of their deprivation of liberty. That form to be available in an appropriate range of languages (paragraph 55);
- detained persons to be asked to sign a statement attesting that they have been informed of their rights (paragraph 55);

- the Polish authorities to draw up a code of practice for police interrogations (paragraph 57);
- persons detained under the Aliens' legislation to be provided with a document explaining the procedure applicable to them and setting out their rights; the document should be available in the languages most commonly spoken by those concerned and, if necessary, the services of an interpreter should be made available (paragraph 62).

#### comments

- all medical examinations should be conducted out of the hearing and - unless the doctor requests otherwise - out of the sight of police officers (paragraph 54);
- the results of every examination, as well as any relevant statements by the detainee and the doctor's conclusions, should be formally recorded by the doctor and made available to the detainee and his lawyer (paragraph 54);
- the fundamental safeguards offered to persons in police custody would be reinforced if a single and comprehensive custody record were to be kept for each person detained, in which would be recorded all aspects of his custody and all the action taken in connection with it (time of and reason(s) for the apprehension; when informed of rights; signs of injury, mental disorder, etc.; contact with and/or visits by a relative, lawyer, doctor or consular officer; when offered food; when questioned; when brought before a judge; when released, etc.) (paragraph 60);
- the recommendations concerning safeguards against ill-treatment apply to all detained persons, including those deprived of their liberty under the Aliens' legislation (paragraph 61).

#### requests for information

- whether there is any possibility in law to delay the exercise of the right concerning notification of apprehension (paragraph 48);
- a copy of any existing regulations on the procedure of performing medical examinations of persons detained by the police (paragraph 54);
- as regards the electronic recording of police interrogations, whether a circular specifying the equipment to be used, the procedure for recording and keeping the information and the related safeguards has been drawn up and, in the affirmative, information on its contents (paragraph 58);
- the extent to which the provisions of the Code of Criminal Procedure concerning electronic recording of police interrogations are implemented in practice (paragraph 58);
- a detailed account of the precise practical steps taken by the Polish authorities to ensure that persons are not returned to a country where they run a risk of being subjected to torture or to inhuman or degrading treatment or punishment (paragraph 63).

## **B. Prison establishments**

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

#### recommendations

- the management of Strzelce Opolskie Prison No 2 to monitor carefully the treatment of persons placed in the establishment's restraint cells (paragraph 66).

#### requests for information

- the comments of the Polish authorities of the possible consequences of the very limited use of the disciplinary sanction of solitary confinement at Strzelce Opolskie Prison No 2 (paragraph 66);
- for 1995 and 1996, in respect of all prisons in Poland:
  - the number of complaints of ill-treatment lodged against prison staff;
  - an account of the sanctions imposed following complaints of ill-treatment by prison staff (paragraph 67);
- confirmation that the cubicles contained in the older prisoner transport vehicles seen by the CPT's delegation are no longer used to hold prisoners (paragraph 68).

### **2. Conditions of detention**

#### recommendations

- efforts to modernise the Polish prison infrastructure to continue to be accorded a high priority (paragraph 69);
- the standard for male prisoners as regards cell space to be aligned on that for female prisoners, namely 4m<sup>2</sup> per prisoner (paragraph 70);
- any cells measuring less than 6m<sup>2</sup> to be taken out of service as prisoner accommodation (paragraph 70);
- the current practice of placing adult and juvenile prisoners in the same cell at Warszawa-Białoleka Remand Prison to be discontinued. Juveniles should be held in a quite distinct detention facility; the staff assigned to such a unit should be carefully chosen and, more specifically, be persons capable of guiding and motivating young people (paragraph 79);
- no more than four prisoners to be held in Warszawa-Białoleka Remand Prison's standard cells, and no more than one prisoner in its 6.7m<sup>2</sup> cells (save in exceptional cases when it would be inadvisable for a prisoner to be left alone) (paragraph 79);
- efforts to be made to reduce further the occupancy rate of the cells at Warszawa-Białoleka Remand Prison (taking into account the recommendations made in paragraph 70) (paragraph 79);
- steps to be taken to ensure that all in-cell sanitary facilities at Warszawa-Białoleka Remand Prison are suitably partitioned from the rest of the cell (paragraph 79);

- a thorough examination of the means of improving the activities offered to prisoners at Warszawa-Białoleka Remand Prison to be conducted. The aim should be to ensure that all prisoners (including those on remand) spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities - work, preferably with vocational value, education, sport, recreation/association. Juvenile prisoners should be offered a full programme of educational, recreational and other purposeful activities; physical education should constitute an important part of that programme (paragraph 84);
- the outdoor exercise facilities for prisoners held in Block 4 of Warszawa-Białoleka Remand Prison to be improved (paragraph 84);
- a high priority to be given to the completion of the refurbishment programme at Grudziądz Prison No 1 (paragraph 91);
- the remarks made in paragraph 70 to be taken into account when transferring the male sentenced prisoners from Block 1 to Block 3 of Grudziądz Prison No 1 (paragraph 91);
- the shower facilities in the Mother-and-Child Unit of Grudziądz Prison No 1 to be improved (paragraph 91);
- efforts to be made to provide more prisoners at Grudziądz Prison No 1 with paid work, preferably of vocational value (paragraph 96);
- steps to be taken to diversify the training courses available to prisoners at Grudziądz Prison No 1 and to encourage more prisoners to take part in them (paragraph 96);
- a high priority to be given to the cell refurbishment programme at Strzelce Opolskie Prison No 2 (paragraph 105);
- immediate steps to be taken to verify the safety of the electrical wiring in prisoner accommodation at Strzelce Opolskie Prison No 2 (paragraph 105);
- no more than one prisoner to be held in the 6.5m<sup>2</sup> cells at Strzelce Opolskie Prison No 2 (save in exceptional cases when it would be inadvisable for a prisoner to be left alone) (paragraph 105);
- efforts to be made to reduce the cell occupancy rates in general at Strzelce Opolskie Prison No 2 (taking into account the recommendations made in paragraph 70) (paragraph 105);
- conditions in the main kitchen at Strzelce Opolskie Prison No 2 to be improved, in the light of the remarks in paragraph 103 (paragraph 105);
- ventilation in the restraint cells at Strzelce Opolskie Prison No 2 to be improved and anyone held overnight in such a cell to be provided with a mattress (paragraph 105);
- steps to be taken as a matter of urgency to enhance the programme of activities for sentenced prisoners at Strzelce Opolskie Prison No 2; above all, more prisoners must be provided with paid work, preferably of vocational value (paragraph 110);
- the outdoor exercise facilities for remand prisoners held at Strzelce Opolskie Prison No 2 to be improved and efforts to be made to diversify out-of-cell activities for those prisoners (paragraph 110).

comments

- the Polish authorities are requested to pursue plans to give prisoners held at Warszawa-Białoleka Remand Prison more frequent access to showers, and to review the laundry arrangements for prisoners' clothes (paragraph 79);
- the Polish authorities are invited to review the laundry arrangements for prisoners' clothes at Grudziądz Prison No 1 (paragraph 91);
- the Polish authorities are invited to revise the timetable for the use of the prison dining room at Grudziądz Prison No 1 in order to augment the time allowed to prisoners between entering and leaving the room (paragraph 91);
- the open garden at Grudziądz Prison No 1 could be used more extensively for the benefit of prisoners (paragraph 96).

requests for information

- further information on the measures currently being considered by the Polish authorities with a view to improving the employment situation for prisoners (paragraph 71);
- further information on the number of prisoners involved in cultural activities at Strzelce Opolskie Prison No 2 (paragraph 109).

**3. Medical issues**

recommendations

- steps to be taken to fill the vacant post for a head doctor at Strzelce Opolskie Prison No 2 (paragraph 120);
- access to outside specialists for prisoners at Strzelce Opolskie Prison No 2 to be reviewed (paragraph 120);
- the Polish authorities to review the material facilities of the health-care service at Strzelce Opolskie Prison No 2, and, more specifically, improve the conditions in the dentist room (paragraph 123);
- the approach recommended (cf. paragraph 22) as regards the medical examination of newly-arrived prisoners should also be followed whenever a prisoner is medically examined following a violent episode in the prison. Further, if so requested by the prisoner, the doctor should provide him with a certificate describing his injuries (paragraph 126);
- the Polish authorities to ensure that the precepts set out in paragraph 127 are fully respected in practice (paragraph 127);
- the Polish authorities to persevere in their efforts to put an end to the practice of segregating HIV-positive prisoners (paragraph 129);

- the Polish authorities to devise a policy for combatting transmissible diseases (in particular hepatitis, AIDS, tuberculosis and skin diseases) in places of detention, based upon a programme of education and information - for both prison staff and inmates -about methods of transmission and means of protection, as well as the application of adequate preventive measures (paragraph 130);
- the Polish authorities to pursue actively the refurbishment of the Psychiatric Hospital at Wrocław Remand Prison; the underlying objective should be to replace the current prison-like atmosphere by a material environment of a varied and therapeutic nature (paragraph 134);
- a broader range of therapeutic activities to be introduced at the Psychiatric Hospital at Wrocław Remand Prison, particularly for patients who remain there for extended periods (paragraph 135).

#### comments

- prisoners should be able to communicate with the health-care service of their establishment on a confidential basis, for example by means of a message in a sealed envelope (paragraph 120);
- prison officers assigned to the Psychiatric Hospital at Wrocław Remand Prison should be placed under the direct authority of the establishment's Head doctor insofar as their work within the Hospital is concerned, and medical staff on duty should have unrestricted access to patients, including those held in an isolation room (paragraph 137).

#### requests for information

- the Polish authorities' comments on the specific measures taken in respect of a woman and her 3 year old child, affected by chronic viral hepatitis and held separately at the Mother-and-Child Unit of Grudziądz Prison No 1 (paragraph 131).

#### **4. Other issues**

##### recommendations

- the remarks set out in paragraph 145 to be taken fully into account in the design of the regimes to be applied within any special units set up for prisoners classified as "dangerous" (paragraph 145);
- the Polish authorities to give a high priority to modernising the fleet of prison transport vehicles (paragraph 156).

comments

- staffing levels in detention areas tended to be low, which impeded the development of a constructive dialogue between staff and prisoners and had an adverse impact on the provision of a satisfactory programme of activities (paragraph 139);
- it would be desirable for the educators to also encourage uniformed prison officers working in detention areas to see their role as going beyond merely supervising and controlling prisoners (paragraph 140);
- authorities with powers of inspection should make themselves "visible" not only to the prison management and staff, but also to the prisoners themselves. They should not limit their activities to seeing persons who have expressly requested to meet them, but should take the initiative and visit the establishments' detention areas (including units in which inmates under special regimes may be placed) and enter into contact with prisoners (paragraph 149);
- the CPT trusts that care will be taken to ensure that remand prisoners are only denied physical contact with their visitors in cases when this is strictly necessary (paragraph 152).

requests for information

- detailed information on the duration and content of prison staff training, both initial and in service (paragraph 138);
- the comments of the Polish authorities on the impact of the censorship of prisoners' correspondence on staff resources (paragraph 141);
- confirmation as to whether prisoners can appeal to the penitentiary judge against disciplinary sanctions (paragraph 142);
- confirmation that the safeguards referred to in paragraph 146 exist in Poland (paragraph 146);
- the comments of the Polish authorities on the alleged refusal of visits to remand prisoners at Warszawa-Białoleka Remand Prison for lengthy periods of time (paragraph 151);
- information on the possibilities for remand prisoners to make telephone calls (paragraph 153);
- the comments of the Polish authorities on the granting of home leave to female prisoners at Grudziądz Prison No 1 (paragraph 154);
- a copy of any regulations which might exist concerning the characteristics of vehicles used for transporting prisoners (paragraph 156).

**C. Juvenile establishments**

recommendations

- steps to be taken immediately:
  - to improve the ventilation and lighting in the transit cells at the Correctional establishment and Home for detained juveniles in Świdnica, and to equip all of them with a means of rest;
  - to provide all juveniles held overnight in the transit cells of that establishment with both mattresses and blankets (paragraph 165);
- all newly arrived juveniles at Świdnica to be held separately from juveniles isolated after an escape or for disciplinary reasons, in a facility offering an appropriate environment for boys being admitted to a juvenile establishment (possibly for the first time in their lives) (paragraph 165);
- sanctions involving the isolation of juveniles to be served in suitably equipped cells (containing at least a bed with a mattress, a table and a chair, if necessary fixed to the floor) (paragraph 167);
- juveniles undergoing a measure of isolation as a sanction to be provided with reading matter and guaranteed at least one hour of outdoor exercise every day (paragraph 167);
- the maximum possible duration of a measure of isolation to be formally laid down and the measure never to be applied for longer than is strictly necessary (paragraph 167);
- appropriate measures to be taken to ensure that information on HIV test results is protected by strict medical confidentiality (paragraph 174);
- a complete medical file to be compiled for each juvenile, containing diagnostic information as well as an ongoing record of his evolution and of any special examinations he has undergone. In the event of a transfer, the file should be forwarded to the doctors in the receiving establishment (paragraph 175).

comments

- the CPT trusts that it has been made clear to staff at the Świdnica institution that the ill-treatment of juveniles in their custody is unacceptable and, if it occurs, shall be the subject of severe sanctions (paragraph 161);
- a room of 7.5m<sup>2</sup> - even if only used for sleeping purposes - should ideally only be occupied by one person (paragraph 169);
- it is important to ensure that someone qualified to provide first aid, preferably with a recognised nursing qualification, is always present on the premises, including at night and weekends (paragraph 172);
- it is important to provide appropriate counselling both before and - if appropriate - after an HIV test (paragraph 174).

requests for information

- whether the plans to create a watertight separation between the two parts of the establishment in Świdnica have now been implemented (paragraph 163);
- information on the current Polish legislation and any existing public health regulations concerning screening for HIV infection (paragraph 174).

**D. Military arrest facilities**

recommendations

- the maximum capacity of the military arrest facility at Toruń Garrison Command to be reduced (paragraph 180).

**E. Sobering-up centres**

recommendations

- resort no longer to be had to the practice of spraying intoxicated persons with cold water (paragraph 187);
- any resort to isolation or physical restraint in a sobering-up centre to be recorded in a central register established for this purpose, with an indication of the times at which the measure began and ended as well as the circumstances of the case and the reasons for resorting to such means (paragraph 193).

comments

- the isolation room in the Grudziądz Centre was not an entirely satisfactory facility; in particular, it was very small (4.5m<sup>2</sup>) and was not equipped with a call system (paragraph 189).

requests for information

- the comments of the Polish authorities on the divergence of methods applied to violent intoxicated persons, as well as details of any medical guidelines issued on this subject (paragraph 194);
- the views of the Polish authorities on the possible alternatives to the forcible taking of blood or other samples required by law (paragraph 195).

## APPENDIX II

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

#### National authorities

##### Ministry of National Defence

Andrzej ZAŁUDSKI	Under-secretary for Social and Parliamentary Affairs
Józef ZDERKOWSKI	Deputy Military Prosecutor General
Zygmunt STEFANEK	Vice-President of the Military Chamber of the Supreme Court
Zbigniew ŚPIEWAK	Deputy Head of the Legal Department
Tomasz ULIŃSKI	Director of the Cabinet of the Under-secretary
Tadeusz SOKOŁOWSKI	Inspector, Parliamentary Bureau

##### Ministry of Justice

Leszek KUBICKI	Minister for Justice
Grzegorz CIECIERSKI	State Secretary for Justice
Marek CZECHAROWSKI	Under-secretary for Justice
Edmund ŁÓJ	Deputy Head of the Family and Juveniles Department
Igor DZIALUK	Deputy Head of the International Co-operation and European Law Department
Telesfor NOWAK	Head of Cabinet

##### Ministry of Internal Affairs

Jerzy ZIMOWSKI	Deputy Minister for Internal Affairs
Jerzy STAŃCZYK	Chief of the Central Police Headquarters
Bogusław STEFAŃSKI	Director of the Investigation Bureau of the Border Guards
Tomasz KUBA-KOZŁOWSKI	Director of the Bureau of Migrants and Refugees
Kinga STAWIKOWSKA	Senior Specialist in the Bureau of Migrants and Refugees
Władysław NAJA	Director of the Investigation Office at the Police Headquarters
Piotr MIERECKI	Head of Cabinet

Janusz STAŃCZYK	Director General at the Ministry of Foreign Affairs
Andrzej ZBONIKOWSKI	Head of Health-care Policy and Service Department at the Ministry of Health and Welfare

Senate of the Polish Republic

Grzegorz KURCZUK	Deputy Speaker
Lech CZERWIŃSKI	Chairman of the Human Rights and the Rule of Law Committee

Sejm of the Polish Republic

Aleksander BENTKOWSKI	Chairman of the Justice and Human Rights Committee
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Office of the Citizens Rights Ombudsman

Prof. Adam ZIELIŃSKI	Citizens Rights Ombudsman
Mirosława BRAMSKA	Senior Expert
Barbara KURACH	International Relations Desk Officer

Central Administration of the Prison Service

Grzegorz SZKOPEK	Acting Director of the Prison Service
Jan PYRCAK	Deputy Director of the Prison Service
Krzysztof FILIPOWSKI	Deputy Director of the Prison Service
Marek SZOSTEK	Acting Deputy Director of the Prison Service
Maria KĘDZIERSKA-TOMCZAK	Head of the Financial Department
Jarosław PRZYGOŃSKI	Head of the Personnel Department
Waldemar ŚLEDZIK	Head of the Legal Department
Zbigniew KUŻMA	Head of the Security Department
Zdzisław BĄKOWSKI	Head of the Files Department
Mirosław NOWAK	Head of the International Division
Cezary WILEMAJTYS	Inspector, International Division
Magda BROL	Inspector, International Division
Maciej PAPROCKI	Specialist, Health Department
Witold GŁOWIAK	Trade Union representative
Adam KACZMAREK	Director of the Prison Staff Training Centre, Kalisz
Wacław EILMES	Director of Białystok Regional Remand Prison
Stanisław SPYCHAŁA	Director of Bydgoszcz Regional Remand Prison
Henryk BIEGALSKI	Director of Gdańsk Regional Remand Prison
Ryszard KURNIK	Director of Katowice Regional Remand Prison
Antoni KĘDZIERSKI	Director of Koszalin Regional Remand Prison
Jan DZIEWOŃSKI	Director of Kraków Regional Remand Prison
Krzysztof MAZUR	Deputy Director of Łódź Regional Remand Prison
Andrzej MALINGA	Director of Lublin Regional Remand Prison
Jerzy BORKOWSKI	Director of Olsztyn Regional Remand Prison
Józef BOGACZ	Director of Opole Regional Remand Prison
Bolesław MUSIELAK	Director of Poznań Regional Remand Prison
Stanisław KOWALEWSKI	Director of Rzeszów Regional Prison
Witold CZAJKA	Director of Szczecin Regional Remand Prison
Grzegorz DOBRAŃSKI	Director of Warsaw Regional Remand Prison
Ryszard GODYLA	Director of Wrocław Regional Prison
Wiktor GOS	Director of Grudziądz Prison No 1
Stanisław KRAWIEC	Director of Strzelce Opolskie Prison No 2

**Non-governmental and other organisations**

Helsinki Foundation for Human Rights

Patronat

Polish Bar Association

Polish Section of the International Commission of Jurists

Polska Akcja Humanitarna

Warsaw Liaison Office of the United Nations High Commissioner for Refugees