

## Executive summary

The main objective of the visit was to review the measures taken by the Polish authorities in response to the recommendations made by the Committee after previous visits. In this connection, particular attention was paid to the treatment and conditions of detention of persons in police custody, foreign nationals detained in Border Guard establishments, remand prisoners, and forensic psychiatric patients.

The CPT deplores yet again the very poor level of cooperation from the Polish authorities at central level. The delegation was again unable, despite requests reiterated several times, to present its preliminary observations to the Ministers of Internal Affairs and Administration, Justice and Health. Moreover, the Committee is very concerned to note that, after its seventh periodic visit to Poland, no real action has been taken to implement its long-standing recommendations as regards the practical operation of fundamental legal safeguards for persons in police custody, as well as on some other issues such as remand prisoners' restrictions on contact with the outside world and the inadequate screening for injuries on arrival to remand prisons (including the recording and reporting mechanisms).

The Committee must stress that if no progress is made by the Polish authorities to fundamentally improve the level of their cooperation with the Committee, including as regards the implementation of the CPT's long-standing recommendations, the Committee is likely to be obliged to have recourse to Article 10, paragraph 2, of the Convention.<sup>1</sup> The CPT expects that urgent and decisive action by the Polish authorities will render such action unnecessary.

### Police establishments

Most persons interviewed by the delegation, who were or had recently been in police custody, stated that they had been treated by the police in a correct manner. Nonetheless, the delegation received several complaints regarding excessive use of force during apprehension.

Throughout their dialogue with the Polish authorities, the CPT has repeatedly emphasised that three fundamental rights (the rights of detained persons to notify a third party of their detention and to have access to both a lawyer and a doctor) should apply from the very outset of a person's deprivation of liberty. However, the delegation's findings from the 2022 visit suggest that, as in the past, these safeguards usually do not become effective from the outset of deprivation of liberty.

As regards material conditions in the police establishments visited, they were generally acceptable for the periods of custody foreseen by the law.

### Foreign nationals held under aliens' legislation

The CPT delegation carried out follow-up visits to the Guarded Centres for Foreigners in Biała Podlaska and Białystok, and a first-time visit to the temporary Guarded Centre for Foreigners in Wędrzyn.

The delegation heard no allegations of ill-treatment or verbal abuse of foreign nationals by staff at the centres visited. On the contrary, in Biała Podlaska and Białystok, many detainees spoke positively about staff and interactions with them, and the delegation observed that staff displayed a generally positive attitude vis-à-vis the detained foreign nationals.

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<sup>1</sup> "If the Party fails to co-operate or refuses to improve the situation in light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

The material conditions at the centres visited were generally acceptable, in terms of the general state of repair, the furnishing and equipment of the rooms and levels of hygiene.

There was, however, a near total lack of any constructive purposeful activities for adults in the centres visited except for some ad hoc, unstructured group events once or twice per month. The delegation noted staff efforts to provide activities for pre-school age children but those similarly lacked structure and were not offered daily.

Access to specialist medical care (including dental and gynaecological) was problematic in all the centres visited. For specialist consultations, foreigners were taken to an external hospital or to relevant specialists, but many complained of long delays in this respect.

As regards psychiatric and psychological care, the Committee is concerned about possible mental health issues remaining undetected and/or not being addressed adequately, mainly due to a lack of mental health care specialists.

As found during previous CPT visits, the issue of legal assistance was left almost entirely to various non-governmental organisations, whose representatives could visit the guarded centres and assist detained foreign nationals with their immigration and asylum procedures on a *pro bono* basis. The Committee reiterates its recommendation that the Polish authorities take steps to ensure that immigration detainees can effectively benefit from the services of a lawyer in all phases of the legal procedures.

Furthermore, the CPT expressed serious misgivings regarding the presence and use of restraint beds in detention facilities for foreigners and recommended that the Polish authorities put an immediate end to their use and remove them from all such facilities in the country.

## **Prison establishments**

The delegation's visits to two penitentiary establishments (Białystok Remand Prison and Prison No. 1 in Grudziądz) were of a targeted nature, primarily focused on interviews with newly arrived remand prisoners on the way they had been treated by the police. However, in the report, the CPT mentions a few issues of concern that the delegation has noted and where it is clear that no progress has been made since the Committee's previous visits.

To begin with, the CPT regrets to note yet again that, despite its long-standing previous recommendations, the official minimum standard of 3 m<sup>2</sup> of living space per prisoner (excluding sanitary facilities) has remained unchanged.

Further, the Committee regrets to note that the regime for remand prisoners has remained extremely impoverished despite the CPT's repeated recommendations on the subject. Indeed, the vast majority of remand prisoners still spent days and months on end in a state of idleness, with no meaningful activities, locked up in their cells for up to 23 hours per day.

The CPT also notes the lack of progress as regards medical examination of newly arrived prisoners. As during previous visits, the initial examination in the prisons visited was cursory and superficial, usually limited to a few general questions about the state of health and in most cases not including a full physical examination. Furthermore, due to the insufficient health-care staffing levels and attendance patterns, newly arrived prisoners were sometimes medically examined with a significant delay.

Despite legislative amendments introduced several years ago concerning remand prisoners' contacts with the outside world, the practice remained the same as in the past, that is, newly arrived remand prisoners continued to be routinely subjected to restrictions on visits and telephone calls, frequently during their first month (but sometimes for longer, up to two months and exceptionally even three months) of their imprisonment.

The CPT is even more concerned by the persistence of the negative practice already observed during the 2019 ad hoc visit, namely that the aforementioned restrictions applied quasi-systematically also to remand prisoners' contacts with their lawyers (whether in person or via telephone). The situation was particularly paradoxical (and somewhat absurd) in the case of remand prisoners who had requested to be granted free legal aid (and whose requests had been accepted) but who were in fact incapable of receiving such aid because of the impossibility of contacting their *ex officio* lawyer.

### **National Centre for the Prevention of Dissocial Behaviour**

The delegation carried out a follow up visit to the National Centre for the Prevention of Dissocial Behaviour in Gostynin and, for the first time, to the branch of the National Centre for the Prevention of Dissocial Behaviour in Czersk.

The delegation heard no credible allegations of ill-treatment of patients by staff, who generally appeared to treat the patients in a calm and respectful manner. This is to be welcomed, particularly given the challenging behaviour of some of the patients and (at the National Centre in Gostynin) the additional stress and tension caused by overcrowding.

Both at the National Centre in Gostynin and at the Czersk branch, the delegation observed a very high level of security which did not appear individualised and adapted to the level of risk posed by a particular patient inside the Centre. This applied to the privacy during consultations and treatment interventions, the handcuffing during outside medical consultations (including dental and gynaecological) but, first and foremost, to the CCTV coverage of absolutely every area where patients lived, including the toilets and showers.

The Committee considers the aforementioned approach to be excessive and unacceptable, even more so in the case of female patients who could be watched by male security guards as they were moving into and from the toilet/shower areas in their room. While the picture was partially pixelised (covering the genitals) inside the toilet and shower area, this was not true of the adjoining areas used by the patients to dress and undress. In the CPT's view, this could be considered as amounting to degrading treatment.

Living conditions could, in principle, have been described as acceptable at the National Centre in Gostynin, however, it was severely overcrowded. The premises in the branch in Czersk were still undergoing refurbishment, although the part of the building already in use seemed to offer generally adequate conditions.

Both sites of the National Centre for the Prevention of Dissocial Behaviour had satisfactory numbers of care staff, who appeared duly trained and highly motivated. Patients were offered (exclusively on a voluntary basis) a range of both medical (somatic and psychiatric) and psycho-social treatments. Seclusion, mechanical and chemical restraint were applied at both sites in accordance with the relevant provisions in force, and no indications of excessive recourse to them were found by the delegation.

The CPT delegation was informed by the Director of the National Centre that work was ongoing at the Ministry of Health on draft amendments to the Act on Procedure vis-à-vis Persons with Mental Disorders who represent a Danger to Life, Health or Sexual Freedom of Other Persons. The Committee is of the view that the ongoing work on amendments should be the opportunity to fundamentally alter the Centre's purpose from one based on security to one based on rehabilitation, implying proper preparation for release in cooperation with the relevant structures in the outside community.