

# Prison conditions in Poland

*Piotr Kładoczny, Marcin Wolny*

European Prison Observatory. Detention conditions in the European Union



With financial support from the  
Criminal Justice Programme of  
the European Union







# Prison conditions in Poland

*Piotr Kładoczny, Marcin Wolny*

**European Prison Observatory. Detention conditions in the European Union**



With financial support from the  
Criminal Justice Programme of  
the European Union



ANTIGONE  
EDIZIONI

**PRISON CONDITIONS IN POLAND**

Piotr Kłodoczny, Marcin Wolny  
Antigone Edizioni  
Rome, September 2013

ISBN 978-88-98688-03-6



Prison conditions in Poland by Piotr Kłodoczny and Marcin Wolny is licensed under a [Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Unported License](https://creativecommons.org/licenses/by-nc-nd/3.0/).

**Associazione Antigone Onlus**

Legal residence: Via della Dogana Vecchia, 5 – 00186 Roma  
Tel. +39 064511304, Fax +39 06233215489  
segreteria@associazioneantigone.it  
[www.associazioneantigone.it](http://www.associazioneantigone.it)

**European Prison Observatory**

Project Director: Mauro Palma  
Project Manager: Alessio Scandurra  
Scientific Coordinator: Francesca Vianello  
Unit coordinators: Susanna Marietti, Alessandro Maculan, Barbara Liaras, Sophie Vidali, Anhelita Kamenska, Maria Ejchart, Antonio Pedro Does, José Ignacio Rivera Beiras, Will McMahon  
Workgroup: Roberta Bartolozzi, Patrizio Gonnella, Luigi Menna, Emiliano Nieri, Michele Miravalle, Daniela Ronco, Giovanni Torrente, Giuseppe Mosconi, Marie Crétenot, Sarah Dindo, Jean-Luc Untereiner, William Aloskofis, Nikolaos Koulouris, Athanassia Mavromati, Olga Themeli, Ilvija Pūce, Kristine Laganovska, Katarzyna Wiśniewska, Marcin Wolny, Ricardo Loureiro, Nuno Pontes, Monica Aranda Ocaña, Josep Maria Garcia Borés, Tammy MCGloughlin, Arianna Silvestri  
[www.prisonobservatory.org](http://www.prisonobservatory.org)



With financial support from the  
Criminal Justice Programme of  
the European Union

This publication reflects the views only of the author, and the European Commission cannot be held responsible for any use which may be made of the information contained therein.

# INDEX

The European Prison Observatory.....	p. 8
Prison conditions in Europe.....	p. 8
General data.....	p. 10
General description of the Polish penitentiary system.....	p. 14
Conditions of imprisonment.....	p. 16
Admission.....	p. 16
Allocation and accommodation.....	p. 18
Hygiene.....	p. 20
Clothing and bedding.....	p. 20
Nutrition.....	p. 21
Legal advice.....	p. 21
Contacts with the outside world.....	p. 22
Prison regime.....	p. 24
Work.....	p. 25
Exercise and recreation.....	p. 26
Education.....	p. 27
Freedom of thought, conscience and religion.....	p. 28
Information.....	p. 28
Prisoners' property.....	p. 28
Release of prisoners.....	p. 29
Women.....	p. 30
Juvenile penitentiary system.....	p. 30
Infants.....	p. 30
Foreign nationals.....	p. 31
Ethnic minorities.....	p. 32
Health.....	p. 32
Order.....	p. 35
Security.....	p. 35
Searching and controls.....	p. 35
Discipline and punishment.....	p. 36
Instruments of restraint.....	p. 36
Weapons.....	p. 37
Use of force.....	p. 37
Requests and complaints.....	p. 38
Management and staff.....	p. 38
Sentenced prisoners.....	p. 39
Life sentence.....	p. 40
Alternative measures.....	p. 41
Inspection and monitoring.....	p. 42
Ill-treatment.....	p. 43
Effects of the economic crisis.....	p. 43
Piotr Kłodoczny, Marcin Wolny.....	p. 45
Helsinki Foundation For Human Rights.....	p. 45



## THE EUROPEAN PRISON OBSERVATORY

The European Prison Observatory is a project coordinated by the Italian Ngo Antigone, and developed with financial support from the Criminal Justice Programme of the European Union. The partner organizations are:

Università degli Studi di Padova - Italy

Observatoire international des prisons - section française - France

Special Account of Democritus University of Thrace Department of Social Administration (EL DUTH) - Greece

Latvian Centre for Human Rights - Latvia

Helsinki Foundation for Human Rights - Poland

ISCTE - Instituto Universitário de Lisboa - Portugal

Observatory of the Penal System and Human Rights - Universidad de Barcelona - Spain

Centre for Crime and Justice Studies – United Kingdom

The European Prison Observatory studies, through quantitative and qualitative analysis, the condition of the national prison systems and the related systems of alternatives to detention, comparing these conditions to the international norms and standards relevant for the protections of detainees' fundamental rights.

The European Prison Observatory highlights to European experts and practitioners 'good practices' existing in the different countries, both for prison management and for the protection of prisoners' fundamental rights.

Finally it promotes the adoption of the CPT standards and of the other international legal instruments on detention as a fundamental reference for the activities of the available national monitoring bodies.

[www.prisonobservatory.org](http://www.prisonobservatory.org)

## PRISON CONDITIONS IN EUROPE

The collection and organization of available data on the penitentiary systems of each country has been coordinated by the Università degli Studi di Padova, that developed and tested a comprehensive data collection grid to collect the information required to describe the different national penitentiary systems. The data collection grid has been developed having in mind as main reference the European Prison Rules (Council of Europe. Recommendation Rec(2006)2. Adopted on 11 January 2006), and the informations collected in every country monitored by the Observatory, and presented in these Reports on prison conditions, describe every national penitentiary system, focusing in particular on its compliance with the European Prison Rules.

The research activities have been carried out by the project partners, that drafted a report on prison conditions in their country. Further information and all the national reports can be found on the project website.



## GENERAL DATA\*

\*updated to December 2012 for daily data and to the entire 2012 for flow data

1. **Total population of the country:** 38.511,8 thousand people (31 March 2011)
2. **Total prison population rate per 100,000 inhabitants:** 222

### Adult prisons<sup>1</sup>

3. **Number of prisoners (including pre-trial detainees):** 84.156 prisoners. As of 14 June 2013 it was 84.494 prisoners.
4. **Number (and % of the total number of inmates) of detainees serving a final sentence (i.e. excluding pre-trial detainees):** 74.586 - 89%
5. **Total capacity of penal institutions (with reference to legal criteria. If legal criteria are not available explain the reasons for this lack of information):** 86.906 places, including 83.380 in the residential wards. Not only does this data include the capacity of residential units but also the hospital wards and those wards that are being renovated. According to an ordinance of the General Director of Prison Services, in certain cases, the cell's surface should be measured and calculated (e.g. in new prisons, after cell renovation). Cell capacity is determined by dividing its surface area by the standard of 3 square meters.
6. **M<sup>2</sup> provided per prisoner (legal criteria):** the space for one prisoner should be at least three square meters. However, in certain circumstances, the Executive Penal Code allows putting a prisoner in a smaller cell, as long as there is not less than two square meters per prisoner. A prisoner might be kept in such a cell no longer than 14 days. However, this period might be, with the consent of the penitentiary judge, extended up to 28 days. Additionally, in exceptional circumstances (a state of emergency, state of epidemics or other serious threat to life or health of prisoners), the prison director may place prisoners in such conditions up to 90 days. According to a 2011 amendment to the Executive Penal Code, in a situation where the number of prisoners in prisons and detention centers is higher than the country-wide capacity level, the courts are able to postpone the execution of a sentence. This provision does not apply to sexual

---

<sup>1</sup> Data from Central Statistical Office [*Główny Urząd Statystyczny*] ([www.stat.gov.pl/gus/5840\\_13164\\_PLK\\_HTML.htm](http://www.stat.gov.pl/gus/5840_13164_PLK_HTML.htm)) and official statistical book of Central Board of Prison Service [*Centralny Zarząd Służby Więziennej*], <http://sw.gov.pl/Data/Files/001c169lidz/rok-2012.pdf>.

offenders, recidivists and those prisoners who committed a violent crime. [Executive Penal Code, *Kodeks Karny Wykonawczy*, hereinafter: EPC].

Therefore, the Prison Service has an obligation every two weeks to publish a report on the number of inmates in prisons and the general density rate.

7. **Actual surface for prisoner (m<sup>2</sup>) (i.e. m<sup>2</sup> available divided per total number of prisoners):** no data available.
8. **Prison density – total number of prisoners in relation to capacity (%):** as of 28 December 2012 the prison density rate was 98,1%. Currently (as of 14 June 2013) the prison density rate is 98,6.
9. **Number of foreign prisoners (and % of the total number of inmates):** 566 – 0,7%
10. **Number of foreign pre-trial detainees (and % of the total number of inmates):** 253 – 0,3%
11. **Number (and % of the total number of inmates) of female detainees:** 2.695 – 3,2%
12. **Number of female foreign inmates:** no data available.
13. **% of female foreign prisoners of the total number of female prisoners:** no data available.
14. **% of female foreign prisoners of the total number of foreign prisoners:** no data available.
15. **Number of prisoners (including pre-trial detainees) between 18 and 20 (inclusive) years of age (and % of total prison population):** 4.106 prisoners aged from 18 to 21 years old (4,9% of total prison population)
16. **Total number of entries to prison facilities:** 95.580 prisoners entered into the records in 2012.
17. **Total number of deaths in penal institutions (specify if this datum includes only the detainees who died inside the prisons or if it also includes those who died outside the prisons – for example, in ambulances, in hospitals etc.):** in 2012 there were 107 deaths (28 in the treatment facilities outside the penitentiary units, 89 from natural causes, and 18 as a result of self-harm). The data includes prisoners who have died in prisons, prison hospitals and during medical transport.
18. **Total number of suicides in penal institutions (specify if this datum includes only the detainees who died – from suicide – inside the prisons or if it also includes those who died outside the prisons – for example in ambulances, in hospitals etc.):** in 2012 there were 18 deaths caused by self-harm and 143 suicide attempts. This data includes prisoners who have died in prisons, hospitals and during the medical transport.

- 19. Budget for the Justice System and % of Gross Domestic Product:** € 2.542.706.750, 0,97% of the Gross Domestic Product in 2012  
<http://bip.ms.gov.pl/pl/dzialalnosc/budzet/download,1834,0.html>
- 20. Specific budget aimed at penal institutions and % of the previous:** in 2012 budget aimed at penal institutions (prisons and remand centers) was € 602.423.500 which was 23,69% of the budget for justice system.
- 21. Specific budget for staff and % of budget for penal institutions:** € 376.207.500, 62,45% of the budget designed for prison system.
- 22. Specific budget for prison facilities and % of budget for penal institutions:** in 2012 the cost of investments in prison facilities was € 2.446.805,79 which was 0,41% of the budget for penal institutions.
- 23. Specific budget for inmates (support, activities, etc.) and % of budget for penal institutions:**  
N/A

### Juvenile prisons<sup>2</sup>

- 24. Number of juvenile prisoners (including pre-trial detainees):** 958 juveniles in Correctional Facilities (prisons for juveniles) and 358 in Shelters for Juveniles (remand centres).
- 25. Number (and % of all juvenile inmates) of juvenile detainees serving a final sentence (i.e. excluding pre-trial detainees):** 958 – 73%
- 26. Total capacity of juvenile penal institutions (with reference to legal criteria):** In Polish correctional facilities and remand centres for juveniles, there are 1.769 places (492 places in remand centres and 1.277 in prisons for juveniles).
- 27. M<sup>2</sup> provided per juvenile prisoner (legal criteria):** there are no legal provisions requiring a certain amount of space for each juvenile prisoner.
- 28. Actual surface available per juvenile prisoner (m<sup>2</sup>) (i.e. m<sup>2</sup> available divided per total number of prisoners):** no data available (uncollectible).
- 29. Prison density – total number of juvenile prisoners in relation to capacity (%):** 74%

---

<sup>2</sup> Data obtained from Ministry of Justice.

- 30. Number of foreign juvenile prisoners (and % of the total number of juvenile inmates):** as of 31 December 2012 there were no foreign juvenile prisoners in Houses of Correction (juvenile prisons).
- 31. Number of foreign juvenile pre-trial detainees (and % of the total number of juvenile inmates):** 5 – 0,3%
- 32. Number (and % of the total number of juvenile inmates) of female juvenile detainees:** 149 – 11%
- 33. Number of female juvenile foreign inmates:** no data available (uncollectible).
- 34. % of female juvenile foreign prisoners of the number of all female juvenile prisoners:** no data available (uncollectible).
- 35. % of female juvenile foreign prisoners of the total number of juvenile foreign prisoners:** no data available (uncollectible).
- 36. Number of prisoners (including pre-trial detainees) between 18 and 20 (inclusive) years of age (and % of total juvenile prison population):** 923 prisoners aged from 18 to 21 years old, which represents 71% of the total juvenile penal institution population.
- 37. Total number of entries to juvenile prison facilities:** no data available (uncollectible).
- 38. Total number of deaths in juvenile penal institutions (specify if this datum includes only the detainees who died inside the prisons or if it also includes those who died outside the prisons – for example, in ambulances, in hospitals, etc.):** between 2008 – 2010 there were no deaths in penal institutions for juveniles. In 2011 and 2012 one death per year occurred. We were not provided with the information necessary to determine if the data includes prisoners who died outside the prison.
- 39. Total number of suicides in juvenile penal institutions (specify if this datum includes only the detainees who died inside the prisons or if it also includes those who died outside the prisons – for example in ambulances, in hospitals, etc.):** in 2012 there were no suicides in penal institutions for juveniles. Since 2009 only two suicides have occurred. We were not provided with enough information to determine if this data includes suicides occurring outside of the prison.

## GENERAL DESCRIPTION OF THE POLISH PENITENTIARY SYSTEM

The basic document that organizes functioning of Polish penitentiary system in matters of rights and duties of prisoners is Criminal Executive Penal Code (ustawa z dnia 6 czerwca 1997 r. Kodeks Karny Wykonawczy). However, the basic act that regulates duties and structure of prison authorities is the act of 9th of April 2010 on Prison Service (ustawa z dnia 9 kwietnia 2010 r. o Służbie Więziennej). Elaboration and complementation of provisions of Criminal Executive Code can be found in Minister of Justice's Ordinance on the organizational rules of the execution of imprisonment and in Ordinance on the organizational rules of pre-trial detention]. More precise rules of conditions of serving a sentence are delivered by directors of prison units in special internal provisions of the penitentiary unit (known as "Porządki wewnętrzne Zakładu Karnego").

Polish penitentiary system is governed by Minister of Justice. It is responsible for Prison Service – an uniformed and armed formation – governed by General Director of Prison Service (Dyrektor Generalny Służby Więziennej). General Director of Prison Service is nominated by Prime Minister on application by Minister of Justice. General Director of Prison Service leads a Central Board of Prison Service. He is responsible for 15 Circuit Inspectors of Prisons Service who are in charge of Penitentiary Units on their jurisdiction. Penitentiary Units are run by directors who are nominated (and dismissed) by General Director of Prison Service on application by proper Circuit Director. The scope of activities of Director of Penitentiary Unit makes him obliged in particular to:

- 1) coordination of penitentiary actions carried inside Penitentiary Unit and supervising them
- 2) assuring proper and lawful execution of prison sentence and preliminary detention and assuring security and order in Penitentiary Unit
- 3) supervising schools and medical units running inside Penitentiary Unit
- 4) rational using financial resources
- 5) assuring appropriate staff and developing their qualifications
- 6) determine amount of worksites in Penitentiary Unit
- 7) realization of duties presented in other acts

In Poland there is 156 Penitentiary Units (prisons and remand centers). The biggest one has 1.620 places (Areszt Śledczy Warszawa – Białołęka), the smallest one has 56 (Areszt Śledczy in Świnoujście). Buildings in Penitentiary Units came from various time periods. Most of them were built in XIX and XX century. However, some of them came even from medieval (Kronowo, Nowogard, Barczewo) and from XVII and XVIII century (Nowy Wiślicz, Kamień Pomorski). Most of prison built in XIX were designed to be a penitentiary unit. Earlier units were mostly transformed from religious facilities (monasteries). However penitentiary units built in XIX century were planned to be outside of the cities nowadays they are often in their centers (Siedlce).

The latest penitentiary unit was set up in 2009 (Opole Lubelskie). This unit is closed-type unit for men serving prison sentences for the first time and for young perpetrators with two separate divisions for pretrial detainees. It has 623 places. In our opinion, in future the newly emerging prisons will be probably based on solution used in Opole Lubelskie.

Inmates in Poland are in following types of units:

- 1) for young offenders
- 2) for people serving sentence for the first time
- 3) for penitentiary recidivists

This units can be organized as:

- 1) closed-type units
- 2) semi open- type units
- 3) open-type units

The most important differences between those types are: the level of security, level of isolation of inmates and their rights and duties connected with their opportunities to move inside and outside the Unit. These matters are regulated by criminal execution code.

Prison Service Officers and civilian employees are working in the prisons. However, for some positions only Prison Service Officers might be employed. According to article 38 of Prison Service Act Prison Service Officer's duty can be performed only by person:

- 1) who has Polish citizenship
- 2) whose military duty status is regulated
- 3) who has all civil rights
- 4) who guarantees proper performance of entrusted duties
- 5) who was not finally sentenced for intentional crime or intentional tax crime or who was not finally judged for conditional discontinuation of criminal procedure and is not subject of criminal procedure for such crime
- 6) who guarantees to keep secret according to provision about protection secret information
- 7) who passed at least secondary school
- 8) who is physically and mentally able to serve duty

Prison Service Officers can develop qualifications in centers of development and improvement qualifications which are managed by Prison Service. The most important center is situated in Kalisz.

# CONDITIONS OF IMPRISONMENT<sup>3</sup>

## ADMISSION

**a. At admission many details concerning the prisoner shall be immediately recorded (for example, the identity of the prisoner, the reason for commitment, etc.). What kinds of data are recorded? Among the information collected are any visible injuries and complaints about prior ill-treatment also recorded?**

Data recorded upon admission includes:

- the registration number;
- the date and hour of admission of an prisoner;
- prisoner name (first name and surname) , date of birth, and place of residence;
- prior criminal history;
- health status;
- prisoners duty to alimony;
- whether the prisoner has been transported to the prison from another prison, was brought by the police, or has reported to the prison on his own;
- information about the coercive measures executed against the prisoner;
- the name of the authority that ordered the detention, and the case reference number;
- information about whether the prisoner is in the pre-trial detention

The prisoners can also be photographed and subjected to an external examination of their body. Furthermore, prison authorities are able to collect fingerprints from the prisoners.

**b. At admission all prisoners shall be informed in writing and orally, and in a language they understand, of the regulations governing prison discipline as well as of their rights and duties within prison. Do the institutions in Poland follow this rule?**

According to the provisions of the Executive Penal Code, immediately after admission, the prisoners shall be informed of their rights and obligations. They shall be allowed to become familiar with the provisions of the Executive Penal Code and the Rules of the Execution of Custodial Sentences. Moreover, the prisoner is also subjected to an appropriate medical examination and sanitary

---

<sup>3</sup> Most of the answers were based on the provisions of Executive Penal Code [*Kodeks Karny Wykonawczy*], Ministry of Justice ordinances and Central Board's of Prison Service internal regulations. While working on the report HFHR has used its large experience on prisoners' rights stemming from prison monitoring, prisoners complaints and European Court of Human Rights judgments in Polish cases.

treatment. Failure to provide a prisoner with information on his rights and obligations or providing misleading instruction has negative effects on the prisoner and, therefore, should not occur.

In practice, the prisoners are informed mainly in writing. According to the website of the Prison Service, written information for foreigners is available only in Arabic, English, French, Russian, Bulgarian, Romanian, and German. (<http://www.sw.gov.pl/pl/rzecznik-prasowy/informator-dla-cudzoziemcow>)

**c. Upon admission to prison, in the event of a prisoner's death, serious illness, serious injury, or the transfer to a hospital, the authorities shall, unless that prisoner expressly requested them not to do so, immediately inform the spouse or partner of the prisoner, or, if the prisoner is single, the nearest relative or any other person previously designated by the prisoner. Do the institutions in Poland follow this rule?**

There is no legal obligation for prison authorities to do so. HFHR has not encountered such practice during our work.

**d. As soon as possible after admission, the information about the health of the prisoner on admission shall be supplemented by a medical examination (in accordance with rule 42 of EPR). Does this examination really happen in Poland? How long does it take for the medical examination to be accomplished?**

Immediately after admission to the prison, but no later than within 3 working days from the day of admission, a doctor shall examine the prisoner. Within 14 days from the date of admission he should be examined with an X-Ray. An examination of his teeth should also be conducted.

**e. In Polish prison are there measures in place aimed at the prevention of prisoner self-injury and suicide?**

In 2010 prison authorities, in an attempt to reduce the number of suicide attempts after a scandal in which several prisoners in an important criminal case committed suicide and the Minister of Justice lost his position, developed new suicide-prevention measures.

According the website of the prison services, the measures for the prevention of prisoner self-injury and suicide includes:

- increased observation of prisoners who are at risk of suicide;
- increased psychological care;
- placement in a cell equipped with CCTV (instructions imply that CCTV system should be also installed in toilets; in this case prisoners intimate zones are automatically blurred);
- placement in a cell with another prisoner;
- avoiding leaving the prisoner alone in a cell;
- incorporating the prisoner into a group of special protection prisoners, which includes:
  - frequent personal control and searches of prisoner cells;
  - censorship of correspondence;
  - monitoring of telephone conversations and visits;
  - drug therapy;
- developing technical barriers to reduce the possibility of suicide.

**f. In Polish detention facilities are there some sections used for solitary confinement of the prisoners? What is it used for (for example, punishment, protection etc.)? Are there different kinds of solitary confinement?**

Solitary confinement is one of the disciplinary measures used in Polish prisons. It can be applied to the prisoners for up to 14 days (pre-trial detainees) or 28 days (prisoners). It may be imposed on a prisoner who seriously violated prison orders or discipline.

During solitary confinement the prisoner is deprived of the possibility to:

- contact other prisoners and his or her family
- participate with other prisoners in religious events
- take part in cultural and educational activities
- work
- purchase food or tobacco products
- receive food parcels
- use his own clothing or footwear.

The cells for solitary confinement have to be placed in the part of the prison where the prisoner's movement is limited, and in an area adjacent to the supervision room. Cell furnishings are limited to only a bed, cabinet, stool and table. The furniture shall be firmly affixed to the floor.

## ALLOCATION AND ACCOMMODATION

**a. Prisoners shall be allocated, as far as possible, to prisons close to their homes or places of social rehabilitation. Allocation shall also take into account the requirements of continuing criminal investigations, safety and security and the need to provide appropriate regimes for all prisoners. Does this happen in Poland?**

According to one of the last amendments to the Executive Penal Code, there is no obligation for prison authorities to allocate the prisoners close to their homes (such provisions existed prior to the amendment). Prisoners have to be allocated closely, as close as possible, only in the period of 6 months before the end of their sentence. Only those who have permanent custody of their children (who stay in residential care facilities) shall be, if possible, allocated in the closest prison to their children's whereabouts during the entire time of their imprisonment.

HFHR has to admit, however, that the prison authorities attempt to allocate the prisoners in the area nearest to their homes.

There is also no obligation to place detainees in the closest detention center to the place where he or she has been arrested. Although, normally, pre-trial detainees are allocated to a prison close to the area where the investigation is pending.

**b. As far as possible, prisoners shall be consulted about their initial allocation and any subsequent transfers from one prison to another. Does this happen in Poland?**

No rule requires the authorities to take the prisoner's opinion into consideration when deciding on the prisoner's initial location assignment. What is more, prisoners are not consulted about their transfer from one prison to another. However, HFHR is aware of situations where a prisoner's transfer for

educational or health reasons was initiated by the prisoner. Sometimes such requests were dealt with positively.

**c. Do the accommodations of penitentiary institutions respect human dignity and, as far as possible, privacy, as well as meet the requirements of health and hygiene, with due regard being given to climatic conditions and especially to floor space, cubic air space, lighting, heating and ventilation?**

The standards of accommodation vary depending upon the prison. Older prisons often feature about a dozen large cells with small windows, high humidity and fungus on the walls. Plastic curtains on the windows significantly reduce the amount of sunlight. Moreover, cells lack adequate space for recreation. Common overcrowding aggravates the situation, which has been recognized by the European Court of Human Rights in the judgment *Orchowski and Sikorski v. Poland* (no. 17885/04) as a systemic problem. The standard of living in modern or renovated prisons should be considered the proper standard.

**d. In all buildings where prisoners are required to live, work or congregate, are there alarm systems that enable prisoners to contact the staff without delay?**

According to an ordinance of the General Director of Prison Service, an alarm system is required in each cell, as well as in the prisoners' work place.

**e. Prisoners shall normally be accommodated in individual cells during the night, except where it is preferable for them to share sleeping accommodations. Does this happen in Poland?**

Due to overcrowding and facility availability, individual cells are not often used in Poland. Their use depends on the prison authorities. In some prisons the possibility of keeping a prisoner in a single cell is excluded due to the fact that the solitary confinement may threaten his or her life. In other prisons, individual cells are treated as a form of reward for prisoners.

**f. Are untried prisoners separated from sentenced prisoners?**

Yes, untried prisoners are separated from those who have been sentenced. This rule applies also to prisoners serving sentence who are also in pre – trial detention in another case.

**g. Are male prisoners separated from females prisoners?**

Yes, male prisoners are kept separately from female prisoners. However, some prisons have both male and female wards (e.g. Grudziądz Prison no. 2). In those prisons, prisoners are kept separately but they can meet while walking on nearby walking fields.

**h. Are young adults prisoners separated from older prisoners?**

As a rule, young prisoners are being kept separately from the older ones. However, if there is an educational reason, the Executive Penal Code permits the placement of a young prisoner with an adult one.

## HYGIENE

**a. When prisoners are admitted to prison, the cells or other accommodation to which they are allocated shall be clean. Does this happen in Poland?**

Due to overcrowding, prisoners who are admitted to the prison shall be placed in a cell already occupied by other prisoners. Its cleanliness depends on the prisoners living in it.

**b. Prisoners shall have ready access to sanitary facilities that are hygienic and respect privacy. Does this happen in Poland?**

HFHR had some complaints about the cleanliness of sanitary facilities. The degree of privacy varies from one prison to another. HFHR has noted that there are some institutions that have common baths without curtains. Such a situation leads to a lack of privacy. In the cells there is usually only a washbasin and a toilet. In old prisons they are separated from the other part of cell by only a small curtain. In our opinion, it violates prisoners' right to privacy.

**c. Do prisoners have access to a bath or shower, at a temperature suitable to the climate, daily, if possible, but at least twice a week (or more frequently if necessary) in the interest of general hygiene?**

Male prisoners have a right to have a hot bath at least once a week. More frequent baths are allowed, if the prisoner is engaged in manual labor. Female prisoners have a hot bath at least twice a week and daily access to hot water.

In practice, prisoners do not have more frequent baths, even if they are engaged in manual labor. The shower facilities are common and of average standard. They are not provided with curtains, so the prisoners may experience a lack of privacy. There are no standardized rules on the length of showers. In some of the prisons the bath may last up to 15 minutes, in others, only 5 minutes. In addition, in some prisons, due to obsolete water installations, hot water is available only after several minutes of waiting.

While monitoring Grudziądz Prison, prisoners complained that the bathroom area of their cells were too small. To wash themselves, they had to open the door to the toilet.

**d. Do prison authorities provide inmates with the necessary means to maintain personal hygiene and sanitation, including toiletries and general cleaning implements and materials?**

The prison authorities provide measures, which are necessary to maintain personal hygiene. Prisoners receive toiletries (washing powder, shaving kit, toothbrush, toothpaste, and toilet paper) to preserve cleanliness. These supplies are generally of poor quality.

## CLOTHING AND BEDDING

**a. Prisoners who do not have adequate clothing of their own shall be provided with clothing suitable for the climate. Does this happen in Poland?**

If the prisoner does not have his own clothes, the prison administration is obligated to provide him or her with appropriate clothing for each season, including underwear and shoes. (EPC) We heard no complaints about the quality of the prisoners clothing.

**b. Is this clothing degrading and humiliating?**

In our opinion the clothing is not humiliating. In low- and medium-security prisons, the prisoners can use their own clothes. Prisoners who are in prison of high security can wear their own clothes only if granted permission by the prison director.

Prisoners who have been assigned the status of “dangerous detainee” complained to HFHR about their clothing (which is bright orange). They argued that these clothing is stigmatizing and it attracts everyone’s attention during court hearings, for example.

## NUTRITION

**a. Prisoners shall be provided with a nutritious diet that takes into account their age, health, physical condition, religion, culture and the nature of their work. Does this happen in Poland?**

The meals should have adequate nutrition and correspond with prisoner’s age, employment and, if possible, his or her religious or cultural requirements. For these reasons, in some prisons a dozen different menus are being prepared. The daily feeding costs might be considered small. Costs do not exceed € 1,1 per prisoner. 40% of this amount is spent on lunch (breakfast – 30%, supper – 30%). Prison administration should also provide liquids so the prisoner’s could satisfy their thirst.

However, we have faced several cases in which prison authorities pointed out that they do not have ability to prepare food to meet the special dietary needs of Jewish or Buddhist prisoners. What is also important, during our last prison monitoring we received many complaints about the quality and quantity of food. In last years the ECtHR has delivered a judgment in the case of Jakóbski v. Poland. In this case the ECtHR has stated that, due to the prison authorities’ refusal to prepare meatless meals for a prisoner who was a Buddhist, Poland has violated art. 9 of the Convention.

**b. How many meals a day are prisoners served? How many of those are warm meals?**

Prisoners have a right to get a meal three times a day, including at least one hot meal. The prison director determines mealtimes. The interval between the meals should not be longer than six hours.

**c. How are the requirements of a nutritious diet decided?**

The prison doctor may develop a special diet for prisoners whose health requires it. The food standards and types of diets are determined in a ordinance of the Ministry of Justice.

## LEGAL ADVICE

**a. Is there a recognized scheme of free legal aid?**

Prisoners have access to a legal aid system on the same ground as people who are outside the prison. If they need free legal aid, they have to prove that they are unable to bear the costs of legal representation without prejudice to themselves or to their families. In practice most of the prisoners have no problem in obtaining legal assistance to claim compensation for improper prison conditions. On the other hand, in our opinion, it is not easy for prisoners to obtain legal aid when he or she is trying, for example, to get parole.

**b. Where there is a recognized scheme of free legal aid, do the authorities bring it to the attention of all prisoners?**

In our opinion, information about the system of free legal aid is well known among those prisoners who had previously benefitted from legal aid services.

**c. Are the consultations and other communications (including correspondence about legal matters) between prisoners and their legal advisers confidential?**

Communication between prisoner and their lawyers is confidential and cannot be controlled by the Prison Service. This applies both to telephones and letters. However, OPCAT reports from 2010 and 2011 show that many remand center prisoners do not have the possibility to contact their lawyers. According to the Ombudsman, current regulations of this matter in the Executive Penal Code it is not sufficient and should be regulated more precisely in internal prisons regulations.

**d. Do prisoners have access to, or are allowed to keep in their possession, documents relating to their legal proceedings?**

Prisoners are allowed to keep in their possession copies of documents related to their case. It appears from our observations that it is a significant difficulty for prisoners to make copies of the documents. In such situations, they must depend on the courtesy of prison staff or risk sending the originals of documents.

## CONTACTS WITH THE OUTSIDE WORLD

**a. How many phone calls can a prisoner make per week? Is there a limit to the number of letters that can be sent out? Are there other forms of communication that prisoners can use?**

A prisoner must be allowed to preserve bonds *i.a.* with his family and other relatives, by means of visits, correspondence, packages, phone calls and money transfers, and, in special circumstances, also by other means of communication, upon consent of the prison director. Recently, the Ombudsman pointed out that some of the prisons' internal regulations could significantly limit the prisoner's right to family visits.

There are no provisions concerning the duration and frequency of phone calls per week that can be made by a prisoner. A prisoner has a right to use a coin-box telephone set at his own expense. Exact times of these calls, their duration and location are determined separately in each prison by prison directors, within internal legal framework of a prison. A person held in pre-trial detention has no right to make phone calls. In practice, the prison regulation of prisoner phone calls is diverse. In some

prisons, prisoners are allowed to make calls just for 5 minutes per week. In others, the possibility of using a telephone set only depends upon possessing appropriate funds to cover phone expenses.

There is no limitation as to the number of letters that can be sent by a prisoner. A prisoner has to cover all costs by himself. However, if a prisoner has no funds, he receives paper, envelopes and stamps from the prison administration for two letters per month. In the event that special circumstances occur, he can also receive means for further letters.

On the 9<sup>th</sup> of April 2013, the ECtHR has delivered a judgment in the case *Kurkowski v. Poland*. In this ruling the ECtHR stated that Poland has violated detainees' right to privacy by unjustly refusing family visits.

**b. How many visits can a prisoner receive per week? Do the arrangements for visits allow prisoners to maintain and develop family relationships?**

The length of a visit is 60 minutes. Frequency of visits depends on the type of prison. A low security prison has no limitations as to the number of visits; medium security prisons allow 3 visits per month, which, upon consent of a prison director, can be used consecutively; high security prison allow 2 visits per month, which, upon consent of a prison director, can be used jointly as well. Consent of a prison director is also necessary if a visitor is not a relative or other close person to the prisoner. A prison guard does not restrict direct contact between the prisoner and visitor, but supervises all visits. A person held in pre-trial detention can also be granted permission for a visitor if the institution of detainee residence consents.

Prisoners who are holding a permanent custody of their children are allowed to have an additional visit with their children. Moreover, during our monitoring visit we witnessed a practice of setting up special rooms or playgrounds for prisoners and their families. Also, prisoners, who are held in low and medium security prisons and are under 21 years old, are entitled to one additional visit per month. Standard visits take place in rooms where dozens of tables and chairs are placed. They are typically supervised by one guard and a video surveillance system. In the opinion of HFRH, such conditions allow prisoners to maintain only the minimum amount of privacy.

Prisoners who were designated as dangerous detainees might only be able to visit through glass. In this case, they communicate with the visitor via telephones, which are controlled by guards. Prison authorities may penalize normally classified prisoners by ordering his visits to be conducted in this manner.

A prisoner can also be rewarded with the right to additional or longer visits, the right to a visit without supervision, or the right to visit in a separate, more private compartment without supervision. HFHR recently brought written comments to ECtHR in *Wojcik v. Poland* (66424/09), which criticized the frequent practice of denying additional visits, without any justification. Another problem, which appears in prisoner complaints, is that prison authorities often refuse visits by unrelated persons.

Notably, according to the OPCAT reports, not all prisons possess facilities for unsupervised visits. Therefore prisoners in such prisons are not capable of being granted that particular award. Facilities for unsupervised visits consist mainly of table, chairs, bed and bathroom.

**c. Whenever circumstances allow, can prisoners be authorized to leave prison, either under escort or alone, in order to visit a sick relative, attend a funeral or for other humanitarian reasons?**

A prison director can grant permission to a prisoner to leave the prison, either under escort or on his own. This permission may be granted for certain reasons, e.g. visiting an ill family member, attendance

of a funeral of a family member or other important circumstances. This special leave cannot exceed 5 days. If a person is held in pre-trial detention, the institution housing the detainee remains has to give. HFHR has received several letters in which prisoners complained that the prison authorities ordered that they should remain handcuffed during the funeral.

**d. Can prisoners keep themselves regularly informed of public affairs by subscribing to and reading newspapers, periodicals and other publications, and by listening to radio or television transmissions?**

A prisoner has a right to be in possession of books and newspapers. A prison director can allow a prisoner to keep in his cell audiovisual devices and other items connected with the cultural interests of a prisoner.

Each prison determines the exact number of things that can be kept inside a cell, autonomously. Book and newspaper rental institutions also operate in each prison. Pre-trial detainees right to books and other press is regulated by each prison director.

In practice, prisoners' access to the newest press materials is strongly hampered.

In all prisons that we have monitored prisoners possessed one game console and TV in their cells. Prisoners do not have the possibility to obtain them from prison authorities. After receiving the consent of the prison director, they may buy them their own or get them from family members. The rules of TV use greatly varies between prisons. In some prisons, it is forbidden to use TV after a certain hour, while in the other it is allowed to use TV all day long. Regardless of these regulations, prison authorities typically allow prisoners to watch sports events and famous movies, even if they last late in the night.

**e. Can prisoners communicate with the media (unless there are compelling reasons to forbid this for the maintenance of safety and security, in the public interest or in order to protect the integrity of victims, other prisoners or staff)?**

A journalist may visit a prisoner only with the consent of the prison director. A prisoner's phone calls and correspondence might be controlled.

**f. Can prisoners participate in elections and referenda?**

According to Polish law, prisoners do not lose their voting rights, unless they are deprived of such right by the court, if they commit a particularly serious crime. A prison director notifies them that they are present in the electoral register created specifically for a prison facility. On election day, the prisoners are asked about whether they wish to participate in the elections. Then in the groups, cell after cell, they are led to rooms where elections are held. During the last election the voting turnout in prisons was almost 58%.

## PRISON REGIME

**a. Does the prison regime offers a programme of activities?**

According to the Executive Penal Code, prisoners should be provided with various activities, referring to work, education and socio-cultural activities, and family bonding activities. In practice, prisoners rarely have the possibility to participate in such activities.

**b. How many hours a day do prisoners spend outside their cells to improve human and social interaction?**

There is no single common standard provided in Polish law. Every prison, in their internal regulations, determines the time allowed for cultural and sport activities.

In practice, in those prisons visited by HFHR, prisoners very rarely had access to cultural and sport activities. The amount of these activities was insufficient to warrant proper development of social skills and physical stamina. Due to the lack of activities available in most closed prisons, prisoners typically leave their cells for only one hour of walking. Those who are working might be outside their cell for no more than 10 hours a day. In semi-closed or open prisons, prisoners are permitted to move during the day between the cells.

**c. Is there any particular attention given to the needs of prisoners who have experienced physical, mental or sexual abuses?**

There are no specific provisions related to prisoners who have been victims of physical, mental or sexual abuse. These prisoners take advantage of services provided to all prisoners, i.e. classification of prisoners into specific subgroups, separation of perpetrators from victims, and psychological care.

## WORK

**a. Do prison authorities provide work opportunities (either on their own or in co-operation with private contractors, inside or outside prison)?**

All institutions provide limited opportunities to do volunteer work (unpaid work) for the benefit of the unit. Prisoners can dispense meals, work in the kitchen or help with cleaning. Some prisons cooperate with local businesses and offer work opportunities inside the prison by those companies. However, a judgment of Constitutional Tribunal (no. P 20/09), which guaranteed minimum wage for prison labourers, has significantly reduced the occurrence of this kind of activity, as, for some employers, this kind of activity is no longer profitable.

It is a common practice among local communities to offer employment to small groups of prisoners. Furthermore, upon the consent of prisoners, they can work in educational facilities for youth, health centres, social assistance foundations, and other social charity organizations.

In 2012 no more than 30% of prisoners were given the opportunity to work (including paid and unpaid). CPT, during its last visit to Poland, noted an insufficient number of working prisoners.

**b. Are work opportunities encompassing vocational training provided for prisoners able to benefit from them (especially for young prisoners)?**

Work as a part of vocational training is not provided for prisoners. However, improving practical skills is an important element of training. (<http://sw.gov.pl/pl/o-sluzbie-wieziennej/edukacja-skazanych/>)

**c. The organization and methods of work in the institutions shall resemble as closely as possible those of similar work in the community in order to prepare prisoners for the conditions of normal occupational life. Does this happen in Poland?**

Prisoners can be hired for a fee by Prison Service facilities, cleaning works and by outside entrepreneurs. At the request of the prisoner, the prison director determines the employment conditions, which then have to be accepted by the prisoner.

An outside employer is obligated to provide the prisoner's remuneration to the prison authorities. The prison authorities deposit a certain amount of the prisoner's salary, but not more than 4% of the minimum wage rate. The prisoner receives these funds when he or she leaves the prison.

The prisoner has a right to be compensated for overtime work. When performing night work, he or she is entitled to additional pay for each hour of overtime, in the amount of 20% of the normal rate. After one year of continuous work (the law permits break intervals which cannot be longer than 60 days), the prisoner obtains the right for 14 days of leave with compensation.

**d. Are prisoners remunerated fairly in relation to the outside world? Are there some restrictions in the use of remuneration?**

As a result of a Constitutional Court judgment (P 20/09), prisoners are guaranteed to get at least minimum wage. In the case of part-time employment, the salary is calculated as the corresponding proportion with minimum wage. However, service work for the prison or the benefit of the local community is unpaid, but can be no more than 90 hours a month.

**e. Are there any health and safety precautions for prisoner workers in order to protect them adequately? Are these the same precautions that are applied to workers outside?**

The health and safety precautions for prisoners are the same as for those who work outside. Regulations on occupational health and safety are also applied to prisoners.

**f. Are prisoners who work included in the national social security system?**

Prisoners who work are enrolled in the national social security system on the same grounds as normal citizens. The scope and type of their social insurance depends on the type of contract they have with their employer. However, they cannot make full use of privileges connected with insurance, e.g. healthcare. Despite the fact that they are paying for this insurance, they are deprived the possibility of using public medical healthcare system.

## EXERCISE AND RECREATION

**a. Does every prisoner have opportunity for at least one hour of exercise every day in the open air, weather permitting?**

The prisoner has a right to exercise one hour per day. A prisoner who is pregnant, nursing or staying in the penitentiary with a child has a right to have a longer walk.

In practice, in most of prisons a one-hour walk is the only form of prisoner exercise. However, in some prisons, prisoners have a possibility to use the gym or fitness room for a few hours per week. In others, beyond walks, they are allowed to use external sports facilities, such as volleyball courts or basketball courts.

**b. Are there appropriate installations and equipment, in order to facilitate such activities?**

It varies from one prison to another. New units have large walking fields, which are usually well equipped. In older facilities, walking fields are usually small, neglected and poorly equipped. They typically lack sports facilities.

During its last visit to Poland, CPT criticised the outdoor exercise program for dangerous detainees. For example, in Poznan Remand Centre five small yards of a very oppressive design were used for exercise; these yards were surrounded by high walls, topped with metal wiring and covered with plastic panes, and there was no direct access to sunlight.

## EDUCATION

### a. What kind of educational programmes are there in Polish institutions?

Schools operating in prisons include all levels of education up to the university level. However, in some prisons, there is the possibility to acquire a university degree. Currently, the network of prison schools includes three elementary schools, nine middle schools, nine secondary schools, twenty eight vocational schools and two vocational colleges.

Vocational schools include training to become a wall painter, cook, tiler, mechanic, locksmith, electrician and many others. (<http://sw.gov.pl/pl/o-sluzbie-wieziennej/edukacja-skazanych/>)

### b. How many prisoners are attending an educational programme (for each kind of educational program)?

Primary School (Szkoła Podstawowa):	16
Middle School (Gimnazjum):	310
Secondary School (Liceum Ogólnokształcące):	633
Supplementary Secondary School (Uzupełniające Liceum Ogólnokształcące):	162
Vocational School (Szkoła Zawodowa):	757
Post Secondary School (Szkoła Policealna):	84
Technical Secondary School:	283
Vocational Courses (Kwalifikacyjne Kursy Zawodowe):	901
In all:	3.146

### c. Do these educational programmes take place under the auspices of external educational institutions?

Prison schools operate on the same grounds as schools outside the prison walls. What is more, they have to meet the same requirements. (<http://sw.gov.pl/pl/o-sluzbie-wieziennej/edukacja-skazanych/>)

### d. Does every institution have a library? Is it adequately stocked with a wide range of both recreational and educational resources, books and other media? Are books available in different languages? Is it connected with public libraries in the outside community?

Each penitentiary unit in Poland is equipped with a library. Depending upon the prison size, the libraries typically contain about several thousand volumes. The books are usually a gift from liquidated public libraries. Therefore, their condition is mostly average and prisoners do not have the opportunity to procure new titles. As far as we know, not every prison library is equipped with a reading room; in

some libraries, the prisoners has access to books only via a librarian. A positive development has been the increased number of professionally trained library staff, who organize projects to promote reading (book exhibitions, meetings with authors, trivia contests, the broadcast of audio books, and book clubs).

According to information obtained from the Prison Service, the libraries provide, as far as possible, multimedia resources. In prisons with schools, teaching aids are provided. According to law, books in foreign languages should also be provided (prisoners who are learning a foreign language in school are equipped with handbooks for language learning). However, due to the fact that prison libraries obtain books from public Polish libraries, they do not typically possess many books in foreign languages. According to the information obtained from the Prison Service, prison libraries cooperate with public libraries to promote reading and sharing books.

## FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

**a. Is the prison regime organized so far as is practicable to allow prisoners to practice their religions and follow their beliefs, to attend services or meetings led by approved representatives of such religions or beliefs, to receive visits in private from such representatives of their religions or beliefs and to have in their possession books or literature relating to their religions or beliefs?**

HFHR has rarely encountered the problem of restrictions on prisoners' freedom of religion. In our opinion, the prison authorities provide prisoners with contact information of chaplains of various religious faiths. However, the ECtHR has recently communicated to the Polish government the case of *Wojciechowski v. Poland*, in which the applicant, who was a detainee, was denied participation in a Catholic service due to safety precautions.

## INFORMATION

**a. Are all prisoners informed about any legal proceedings in which they are involved and, if they are sentenced, the time to be served and the possibilities of early release?**

Prisoners are informed of the calculated period of the penalty's execution. Moreover, they are able to obtain information about any legal proceedings they are involved in and about the possibilities of early release. However, HFHR must note that there are no specific provisions on the release of information.

## PRISONERS' PROPERTY

**a. Are prisoners entitled to purchase or obtain goods, including food and drink for personal use? Are the prices of these goods similar to those charged for comparable goods in free society? Is the quality of these goods the same as that of comparable goods in free society?**

Prisoners are under obligation to submit all of their cash and valuables to the prison upon incarceration. Cash left in a deposit is not subject to interest accumulation. Notwithstanding this, a convict can dispose of the cash left (after a fulfilment of his financial liabilities – e.g. alimony). However, a part of those means cannot be retained until the end of the sentence.

Prisoner has a right to purchase food, tobacco or other articles available in the prison's cantina, three times per month, using the cash from their prison account. Prisoners who are pregnant, nursing or staying in the penitentiary with a child have a right to make purchases more often. We have found that the prices of goods in penitentiaries are generally higher (but no more than 10%) than outside the prison. However, the quality of these products are comparable. In our opinion, the main source of high quality food, drink and hygiene products are parcels from the prisoner families (one for a quarter, not exceeding 5 kg).

## RELEASE OF PRISONERS

**a. Are released prisoners provided with immediate means of subsistence; are they suitably and adequately clothed with regard to the climate and season, and are they afforded sufficient means to reach their destination?**

Yes. If the released prisoner does not possess sufficient means of subsistence on their own, the director of the prison may provide the prisoner with financial aid at the moment of release, equal to 1/3 of an average monthly workers' salary or, alternatively, material aid of equal value that consists of clothing, underwear, footwear (adequate to the climatic conditions), ticket to reach their destination and food sufficient for the time of the travel. Decisions in that matter lie within the competence of the prison director.

**b. Are released prisoners assisted in finding suitable accommodations and work?**

During a six-month period preceding the release, a prisoner may be allowed a 14-day discharge to find accommodation and work. During this period, the prisoner shall be placed in a prison that is situated as close as possible to their domicile. The prisoner is also entitled to information concerning acquiring essential help, especially addresses and competences of social institutions and organizations dealing with the provision of medical and material aid, finding work and accommodations, and legal advice. The prison director should make this information available to the prisoner.

In 2012 Prison Service had a budget of 2.5 million euros for post-penitentiary help. These financial capabilities are obtained from the salaries of working prisoners (up to 10% of their remuneration) and criminal penalty fines adjudicated by criminal courts. These measures are, inter alia, spent for the accommodation of former prisoner in centers for the homeless (24 persons), subsidies for rental rates (304), legal counseling and current employment promotion (3.462), skills enhancement courses (1.373), countering criminal characteristics of aggression and violence (27.439), covering the costs associated with the specialized treatment and rehabilitation (1.566), acquisition of identification documents (9.253), material support (34.968), and grants to NGOs for post-penitentiary help programs.

## WOMEN

### **a. Are special provisions made for the sanitary needs of female prisoners?**

A convicted woman is allowed to enjoy warm water at least once a day, as well as warm bath twice a week. She is also given a set of personal hygiene products every month from the administration, and she has the right to receive garment and hygiene packages when needed. Hygiene products are also available for purchase in the prison canteen three times a month. Personal hygiene products (cosmetics) may be kept inside cells and be used regularly by women. Hairdresser services are also available for prisoners, at least once a month.

### **b. Are prisoners allowed to give birth outside prison?**

No. According to the website of Prison Service women must give birth in prison hospitals. Only in cases when a prison hospital is not able to deliver a baby on location, the woman is allowed to give birth in an outside hospital. Two months before the predicted birth date, convicted women are transferred to the prison in Grudziądz, where the gynaecology and obstetrics hospital is located. If the child's or the mother's health is endangered, births are delivered outside the prison.

## JUVENILE PENITENTIARY SYSTEM

### **a. Are minors (aged less than 18) detained in establishments specially designed for the purpose?**

In Polish law, minors are criminally responsible after they turn 17. They can be held responsible when they turn 15 only in cases of committing most serious crimes. Therefore, as a general rule, there are no people younger than 17 in Polish prison facilities. Juveniles who committed a crime while being between 13 and 17 can be placed in a so-called House of Correction, which is a type of a juvenile prison. Houses of Corrections are institutions that are entirely independent from adult prison facilities.

### **b. Does every prisoner young enough to yet be subject to compulsory education have access to such education?**

Yes. Every minor prisoner enjoys the right to education. According to the website of Prison Service priority in gaining access to education in a secondary school and in vocational courses is given to prisoners below the age of 21.

## INFANTS

### **a. How many infants are there in Polish detention facilities?**

In 2012, 85 infants remained in Polish prisons. As of 9 April 2013, 47 children were kept in Polish prisons.

### **b. How many years after birth can the infants stay in the institution?**

A general rule provides that infants can stay in prison before turning 3. In cases where valid upbringing or health reasons exist, confirmed by a medical or psychological opinion, the period mentioned above might be shortened or extended. Father's consent is needed to place child in prison.

**c. Are there nurseries, staffed by qualified personnel, where the infants may be placed when the parents are involved in activities which do not permit for the infants to be present?**

Yes. The personnel of prison in Grudziądz, which is trained on the requirements of maternity and childcare, consists of a paediatrician, psychologist, nurse, tutor and dietician. Prison guards do not wear uniforms. In case of mother's temporary inability to exercise permanent and direct care for the child, the child is placed under supervision of both tutor and nurse.

In the "House of the Mother and Child" in Grudziądz Prison there are not many cases concerning the mother who has to leave her child (because of the fact that children are mainly not older than 1 year old). However, whenever such situation occurs, the infant is left in the care of another mother who has to give consent. The care is supervised by a nurse or other non-medical staff.

The second "House of the Mother and Child" operates in Krzywaniec Prison. Mainly older children reside there. Currently a program called "House Kindergarten" is being established in that prison. Mothers with experience and knowledge are being employed as leaders of prison kindergarten. The prisoners are employed as nannies after attending child-care training. Such training is conducted by educational personnel.

**d. Are there special accommodations in the prison to protect the welfare of the infants?**

All child-care specific premises should be retrofitted to seem like normal domestic conditions are present. There should be at least sleeping rooms for mother and children, facilities for grooming and education classes, premises for health benefits, cooking premises, sanitary premises, utility rooms, personnel rooms and infirmary premises.

During our visit last year to Grudziądz Prison we noticed that the building where prisoners with children are kept was isolated from the other parts of the prison. Furthermore, in the adjacent area, a medium-sized playground was set up.

## FOREIGN NATIONALS

**a. Can prisoners who are foreign nationals request contact, and be granted reasonable means to communicate with the diplomatic or consular representatives of their state?**

Convicted foreigners are allowed to communicate with the competent consular representative of their state, and, in case there was no such person, with the proper diplomatic representative. They are also allowed to be visited by consular representatives or diplomatic workers fulfilling consular duties. Detained suspects also have a right to inform the proper consular body, and, if there were no competent department, the proper diplomatic representation. Prisoner's correspondence with consular or diplomatic representative might be controlled only when the prisoner is held in medium or high security prison. In the latter, prison authorities are obligated to control correspondence.

**b. Are prisoners who are foreign nationals informed of the possibility of requesting that the execution of their sentence be transferred to another country?**

Foreign prisoners are not informed of the possibility of requesting transfer of their sentence to another country. According to the information from the Prison Service in Poland, there is no obligation to inform prisoners of such opportunities.

**c. Are prisoners who are foreign nationals divided by country of origin within the sections of each institution?**

There are no specific provisions pertaining to this matter. Prisoners who are foreign nationals are not divided by country of origin in the sections of the institution.

**d. Are interpreting services available to foreign nationals?**

Interpreting services for prisoners are available only during their proceedings before court. In other cases they have to rely upon the languages skills of the prison staff and other prisoners.

## ETHNIC MINORITIES

**a. Are there any particular ethnic minorities among the prison population? What is their percentage of the total prison population?**

There is no official data pertaining to this matter.

## HEALTH

**a. Are medical services in prison organized in close relation with the general health services of the community or nation?**

No. Prison health care is organized in a different way than public health care. It is under the control of the Ministry of Justice. Medical services for prisoners are provided mainly by the prison healthcare system. It consists of 57 outpatient clinics and 17 hospitals. Public healthcare facilities cooperate with penitentiary units in providing medical services, especially in cases that endanger the life or health of the prisoner, conducting specialist physical examinations, treatment and rehabilitation and also providing health care services for prisoners that are temporarily discharged or benefiting from a temporary pass. The prisoners are provided with free of charge healthcare services. They also have access to free dental care. Prosthetics, orthopaedic equipment are being provided without cost, if their absence would worsen the prisoner's condition or prevent them from serving the sentence. In other cases, prisoners have to be charged for any orthopaedic aid.

Recently, the Polish Supreme Audit Office (*Najwyższa Izba Kontroli*) has pointed out that the condition of penitentiary health care is not bad because prisoners have access to medical specialists. (<http://www.nik.gov.pl/plik/id,4619,vp,6181.pdf>) According to the report, prisoners expected specialist medical advice for about 14 days (longer if the advice was given in public healthcare entity). Audit

findings show that every prisoner in 2010 gained, on average, 14 medical advices of primary healthcare and no more than 21 in 2011.

However, not all the prison facilities respect statutory deadlines for performing preliminary examination of the prisoners. Auditors found several cases in which preventive radiological examinations were made with significant delay or were even neglected. This is alarming, especially in the context of the increasing incidence of tuberculosis: in 2010, 388 new cases were detected; in 2011, 445 new cases were detected.

What is more, a careful reading of the report indicates that it analyses the prison healthcare system only with regard to numbers. It analyses the system only quantitatively, not qualitatively. HFHR findings, after conducting a 2-year program, "Healthcare in Polish Prison," are completely different. HFHR notes that, among others, prisoner examinations are only cursorily the superficially; there is a lack of trust between prisoners and medical personnel and all medical problems are being solved with one solution, a "magical pill" for all of diseases. Another major problem is that examinations of prisoners are carried out in the presence of a prison officer. Their presence can be regarded as an unreasonable intrusion of privacy. A major problem is the situation of disabled prisoners. Even if their cell has been adapted to their needs, they are frequently deprived of the possibility to use rooms that are situated on upper floors (libraries, common rooms). A common practice of Prison Service is to shift the responsibility of taking care of disabled prisoners to cell mates. Their caretaking is not always proper.

**b. Are all necessary medical, surgical and psychiatric services (including those available in the community) provided to the prisoners?**

No. Prisoners lack in appropriate psychiatric care, possibility of rehabilitation and appropriate diagnostic examination. According to the report of Supreme Audit Office most of the diagnostic equipment being used is technologically outdated. On the other hand, one of the disabled prisoners complained to HFHR that he has had to wait for transfer to specialist hospital, where he would be provided with proper rehabilitation, for 2 years.

**c. Is there at least one qualified general medical practitioner in every institution?**

Yes. In every facility there should be at least one qualified general medical practitioner. However, according to our knowledge, most of the medical practitioners do not fulfil their statutory requirement of continuing education.

**d. Are the services of qualified dentists and opticians available to every prisoner?**

Yes. Services of qualified dentists and opticians should be available to every prisoners. According to the report of Supreme Audit Office, prisoners have access to dentists. In 2012 every prisoner got on average 3 visits from a dentist.

**e. Are prisoners suspected of infectious or contagious diseases isolated for the period of infection and provided with proper treatment?**

Yes. Doctors suspecting or identifying a contagious and dangerous disease, which poses a threat to public health, or announcing death caused by such an illness are obliged to take actions preventing the spread of the disease; this may include directing the suspected host or ill prisoner to a specialist hospital, which can provide isolation and adequate treatment.

In July 2013 there was an epidemic of salmonellosis in Barczewo Prison. 68 people (prisoners and wards) were sick. According to the data obtained from prison authorities several steps were taken to block the disease spread. Phone calls, walks, cultural activities and transports were suspended. Outside visitors were informed on the risks connected with their visit to prison. Diet meals were applied throughout whole facility. Prison kitchen, laundry and toilets in cells were regularly disinfected. What is more, training on avoiding similar situations in future and cleanliness in prison was conducted among staff and prisoners.

**f. Are sick prisoners who require specialised treatment transferred to specialty institutions or to civil hospitals, when such treatment is not available in prison?**

Yes. Public health care facilities cooperate with penitentiary units when there is an immediate need of services for cases endangering the life or health of the prisoner, and for conducting specialized examinations, treatment or rehabilitation.

If special circumstances arise, the prison director (after consulting a prison doctor) may give permission to the prisoner to choose another doctor, unit or medicine, at the prisoner's expense. However, in our opinion, this regulation does not function at all.

**g. Are persons who are suffering from mental illness and whose state of mental health is incompatible with detention in a prison detained in an establishment specially designed for the purpose?**

Prisoners mentally ill or disabled are detained in a closed penitentiary institution with conditions adjusted to their needs (therapeutic units). They can serve their sentence following a specially designed program.

According to the data provided by Central Board of Prison Service as of 31 December 2012, 3.044 prisoners were serving their sentence in therapeutic units (including 184 women), which is 4% of total prison population. This number consists of 1.497 prisoners suffering from mental illness or psychiatric disease, 220 with disorders of sexual preference, 472 prisoners addicted to drugs and 1.075 addicted to the alcohol. An additional 689 prisoners were placed in therapeutic units but remained beyond its structure. However, it has to be emphasized that, in last year, prison authorities have increased the number of staff working in therapeutic units.

**h. What is the treatment available for drug users and for drug addicts in prison? Are there harm reduction programmes?**

Treatment for people addicted to drugs or alcohol are conducted within a network of therapeutic units. It consists of 46 units (including 31 for prisoners addicted to alcohol and 15 for drug addicts). About 7.000 prisoners per year are included in the program. For every 10 prisoners there is at least one member of the therapeutic team. Treatment takes 3 to 6 months. Prisoners participate in meetings where they have an opportunity to learn about addiction, develop their motivation to maintain abstinence, as well as acquire specific skills to prevent the reoccurrence to addiction.

According to the response from the Prison Service in the penitentiary units, several health programs based on the reduction of harm can be found. Those are:

- National Programme of Combating AIDS and Preventing HIV Infection
- Antiretroviral Therapy for People with HIV
- National Programme of Combating Drug Addiction

- Programme of Reducing the Tobacco's Effects on Population Health
- National Program for the Prevention And Solving of Alcohol-Related Problems

## ORDER

### **a. Are there any special commissions composed of prisoners with the aim of discussing issues related to detention conditions? How are they constituted?**

Prisoners do not possess right to assembly. Therefore the only body who officially discuss the situation in Polish penitentiary units is the Prison Policy Council (*Rada Polityki Penitencjarnej*). It consists of Ministry of Justice representatives, members of the prison authorities, academics and representatives of non-governmental organizations.

## SECURITY

### **a. What are the main security measures applied to individual prisoners? How are they applied?**

The main security measures are: placing the prisoner in a high security prison unit, applying a "dangerous prisoner" regime, and using CCTV to monitor his or her cell. If special circumstances concerning security or safety measures arise, the prisoner may be subjected to personal supervision. Due to the same circumstances, prison cells and other rooms where the prisoner dwells, objects placed in those rooms, as well as items delivered to or handed over by the prisoner might be controlled. Rooms are reviewed and searched while the prisoner is absent. Strip searches consist of examining prisoner's body, clothes, underwear, footwear and possessed objects. During the examination, which is conducted by a person of the same gender, third parties and persons of other gender should be absent.

### **b. According to the training course of the prison staff, how should security measures be applied?**

All prison facilities are obligated to organize training for prison staff on how security measures should be applied. According to the response of the Prison Service, the training program shall highlight the issues of appropriate use of the security measures, safety and prisoners' dignity while using them.

## SEARCHING AND CONTROLS

### **a. How are visitors (such as legal representatives, social workers, volunteers, etc.) controlled by the prison staff? Is special equipment, such as metal detectors, used?**

Prison Staff is authorized to identify visitors and distribute identification. They can also demand submission of dangerous or prohibited objects, conduct body searches, and examine clothing, footwear, luggage, any vehicle incoming or outgoing, possibly with the use of technical devices and

dogs trained in the detection of explosives or stupefacients. Bags and backpacks should be submitted. Metal detectors are in everyday use.

## DISCIPLINE AND PUNISHMENT

### **a. Are disciplinary procedures used as a mechanism of last resort?**

There is no rule which obliges Prison Service to apply disciplinary measures as a mechanism of last resort.

### **b. What are the main types of punishment of prisoners? How are they applied?**

Polish law provides several different disciplinary sanctions. Those include the following: reprimands; withholding rewards; refusal to participate in any cultural, educational or sport event (for up to 3 months); prohibition of food parcels or shopping in a canteen (for up to 3 months); refusal of direct contact during visits (for up to 3 months); work remuneration reduction (for up to 3 months); and placement in solitary confinement (for 28 days).

No statistic has been provided by prison authorities, but, in our opinion, punishments that are most commonly applied are: reprimand, and the prohibition of food packages or shopping in the canteen for up to 3 months (not applied to pregnant or feeding). The authorities also often only sanction visits without direct contact.

Disciplinary punishment must take into consideration in light of individual circumstances, type of guilt, character traits, attitude, current state of health and educational purposes. Before sentencing, the blamed prisoner should give his or her statement, along with witnesses and the person calling for punishment.

### **c. Can a prisoner who is found guilty of a disciplinary offence appeal to a competent and independent higher authority?**

Yes. A prisoner can appeal to the penitentiary court. The judge who analyses the case can withhold execution of the punishment for the period of time essential to elucidate the circumstances, waive the decision or redirect the case to the prison director to be readdressed. However, in our opinion this measure has to be considered as an ineffective one.

## INSTRUMENTS OF RESTRAINT

### **a. What are the main instruments of restraint used in prison? How are they used?**

The most important coercive measures are the use of straitjackets and restraining belts. They are applied to immobilize the prisoner completely and are used only in a special, soundproof room. They can be used only if no other coercive measure will be effective. The procedure of their use is governed by strict rules concerning, for example, the place where the belts are attached. The prisoner cannot be immobilized in a way that would hinder breathing or blood flow, or squeeze excessively.

In order to ensure safety, the prisoner might be placed in a soundproof room, and monitored by closed circuit cameras that are supervised internally. The cell's foyer is equipped with a permanently attached table, chair, sink and toilet. Before placing a prisoner in such cell he or she has to be subjected to personal control.

## WEAPONS

### **a. Can prison staff hold and use lethal weapons within the prison perimeter?**

In general, in Poland, prison staff may not hold or use lethal weapons within the prison perimeter. However, it is allowed that the commander of the shift in the following premises may hold weapons: guardhouse, sluice of prison entry and safety zone. Prison officers serving on the perimeter security may also hold weapons.

The equipment of Prison Service, among others, consists of: firearms, hand grenades, chemical weapons, tear gas and missile launchers. Weapons that incapacitate with electrical current are not available.

If it is necessary to use measures of direct coercion, appointed prison officers may hold firearms during a specific time and at a specific place in order to apply measures mentioned above.

## USE OF FORCE

### **a. Under which conditions can prison staff use force against prisoners?**

According to the Use of Coercive Measures and Firearm Act, prison staff may use force in a large range of situations. First of all, it can be used to enforce required behaviour, repel unlawful attacks on the health or life of a person, to prevent any action leading directly to an attempt on a person's life or health, to protect public safety, to prevent damage to property, to ensure safety of the convoy, to overcome active or passive resistance or any action leading to self-aggression. The law states that using physical force should not entail beating, unless it is needed to repel an attempt on someone's life or health. Only physical force might be used towards pregnant women, people whose appearance indicates their age is under 13 years old, and persons with visible disability. The Act mentioned above came into force on 6th June 2013. Therefore, it is not easy to describe the practice of using coercive measures based on that measure.

### **b. Can other law enforcement agencies be involved in dealing with prisoners inside prison? If so, under which circumstances?**

In case of a threat or violation of security concerning entity of prison service or escort, Prison Service cooperates with the Police provided that Prison Service's own forces and measures cannot guarantee security.

Police may be summoned in case of threat or violation of security concerning entity of prison service or escort, particularly concerning the following: preparing, attempting or carrying out a terrorist attack; assault; revolt; collective escape of prisoners; assault by a crowd; fire; or natural disaster.

Depending on the extent or type of the threat mentioned above, cooperation of the Police may consist in:

- giving information, which can have be important for the security of Prison Service's facility or prisoners
- securing the area on which the facility is located or securing the escort
- bringing forces of Police to the area of Prison Service's facility
- restoring order within the area of Prison Service's facility
- repulsing the assault
- supporting the forces of Prison Service
- organizing pursuit
- apprehending of prisoners or evacuating them

## REQUESTS AND COMPLAINTS

### a. Do prisoners (and their families) have the opportunity to make requests or complaints to the director of the prison or to any other competent authority?

Prisoners have the right to complain, especially to human rights organizations, NGO's, courts, the Ombudsman and other institutions. However, the common practice of prison authorities is to repress those prisoners that complain. During our monitoring, one of the prisoners complained to us about detention conditions. On the same day he was transferred to another cell.

Some conclusion might also be made if we consider the number of prisoner evaluations that have been considered positive by prison authorities. In 2011 from 36.288 of recognized evaluations only 428 were considered positive (1%). The prisoners complained mainly about the way they are treated by prison officers (7.682 complaints – 21% of complaints' total number), healthcare (5.867 – 16%), and living conditions (5.275 – 14%). Complaints also concerned visits, the way the last complaint was addressed, and correspondence. (<http://bip.ms.gov.pl/pl/kontakt/informacja-o-sposobach-przyjmowania-i-zalatwiania-spraw/download,1876,0.html>)

## MANAGEMENT AND STAFF

### a. Give number of administrative staff, prison officers, and educational staff (per prisoner) that work inside prison facilities.

According to a response from Prison Service, the prison staff consists of 30.475 officers and civil workers (6.293 women, which is 21%), as follows:

Department	Number of staff	Number of women	% of women
Administration	8.429	2.874	34%
Prison Schools	345	134	39%
Health Service	2.364	1.634	69%
Penitentiary Departments	2.732	932	34%

Diagnostic Units	48	41	85%
Therapeutic Departments	382	228	60%
Security Departments	16.313	487	3%

**b. Give percentage of staff gender per function (i.e. administrative, officers, educational).**

See above.

**c. Are there some special units among prison officers?**

No. Prison Service has a uniform structure.

## SENTENCED PRISONERS

**a. Are there individual sentence plans for sentenced prisoners (including work, education, other activities, and preparation for release)?**

Yes, there is such a possibility. A prisoner in cooperation with his tutor maps out a plan. Then, the plan is submitted for approval to a penitentiary commission.

The program included in this plan is based on results of conversations carried out between the prisoner and his or her personal examiner.

A program of interaction (concerning the prisoner) specifies, in particular:

- types of employment and education available for convicted persons
- ways of communication between convicted persons and other persons, in particular their family and other people nearest to them
- ways of spending the time reserved for work
- possibilities of fulfilling duties of the prisoner
- other undertakings necessary to prepare prisoners to return to the society

Performance of programs of interaction is subjected to periodical assessments. Programs may be altered in case of progress in the behaviour and work of the prisoner.

According to our experience the performance of the program depends mostly on the tutor. Some tutors put their best efforts to create individual plans for the prisoners and to take care of performance of these plans. However, other tutors tend to be less creative – they give convicts tasks that are not useful for their personal development and they do not supervise or assess the progress of the prisoner.

**b. Are sentenced prisoners encouraged to participate in drawing up their individual sentence plans (that should include work, education, other activities, and preparation for release)?**

Yes. Personal programs of interaction are formulated in cooperation with convicted persons.

**c. Is there a system of prison leave as an integral part of the overall regime for sentenced prisoners?**

Penitentiary Court may order a break in executing the penalty of imprisonment, when it is justified by important family or personal reasons. A break cannot be ordered before the lapse of one year from the last day of the previous break, unless there exists the following circumstances: mental disease or any other serious disease of the prisoner, or another casualty.

The break may be ordered multiple times, but its total length may not exceed the period of a year.

While ordering the break the court may oblige the prisoner to:

- make effort to find employment
- turn up in an appointed Police entity at specific intervals
- undergo an appropriate treatment or rehabilitation, therapy or participation in educational and corrective programs.

Also a director of the prison might file a motion for a break in executing penalty of imprisonment. In such cases, the prisoner's chance of getting a break increases significantly.

**d. Can prisoners be involved in programmes of restorative justice and in making reparations for their offences?**

There is no such practice.

**e. How many prisoners are serving sentences of more than 10 years of imprisonment?**

As of 31 December 2012 there were 2.721 (3% of total prison population) prisoners serving a sentence from 10 to 15 years (including 137 women). 1.538 prisoners (1,8%) were serving a sentence of 25 years of imprisonment (28 women). There were also 301 (0,3%) prisoners with life imprisonment (9 women).

## LIFE SENTENCE

**a. Is the sentence of "life in prison" available the penal code?**

A life sentence is provided for in the Polish criminal justice system.

**b. Are there any alternative measures for prisoners serving life sentence provided in the criminal justice system?**

No, there are no alternative measures for prisoners serving life sentence.

**c. Are there prisoners serving *actual life sentence* (i.e. a life sentence without any possibility of reduction or admission to leaves or any measure alternative to life imprisonment)?**

In Poland life prisoners have a possibility of a parole after serving 25 years of their sentence. However, the court may push back the possibility of a parole past 25 years. For example, the HFHR has come across judgments where the convicts were given the possibility of a parole after serving 45 years of their sentence. For this reason, it could be said that some of the prisoners are serving actual life sentence and will not have a possibility to leave prison.

**d. How many inmates with life sentence are there (and their percentage of the total prison population)?**

There are 301 life prisoners in Poland, which is 0,3 % of total prison population.

**e. Are special sentence plans (regarding work, education and other activities) provided for prisoners serving life sentence? Are these sentence plans drawn up individually, taking into account the needs of each inmate serving such a sentence?**

Life prisoners are treated in the same way as the other prisoners. They are not treated in a special way and have a possibility (like other prisoners) to participate in drafting their sentence plan. It can include both their working and education plans, and contact with family members. During last year's monitoring many life prisoners said that no one is speaking with them about their sentence and their plans for the future.

**f. Do prisoners serving life sentence stay in a single cell or share it with other inmates?**

It varies from prison to prison. For example, in Sieradz Prison life prisoners might get their own cell. The completely different practice is held in Sztum Prison where they were treated as a members of suicide high risk group and do not have any opportunity to reside alone in a cell. On the other hand, the authorities of Kaminsk Prison allow prisoners to possess a single cell for up to 3 months as a method of therapy.

## ALTERNATIVE MEASURES

**a. How is the notion of “alternative” to detention defined?**

The notion “alternatives” is defined as a substitute to imprisonment. This term brings together all punitive and non-custodial measures.

In Poland, if statutory law allows a possibility to choose the type of a penalty, the court rules custodial sentence only in cases where other types of penalties (not involving loss of liberty) cannot fulfil the goals of the penalty. Of course, the court has also the possibility to suspend the execution of imprisonment and connect it with probation. In such cases the court is able to impose on a convict certain obligations for a period of time. A convict might be, for example, obligated to find a job or refrain from alcohol abuse. However, in such cases, if he commits another offense or does not apply to the duties, the court has a power to cancel his punishment suspension. The convict's duties during the time of probation is supervised by a probation officer.

**b. What are the main alternative measures to detention being used (give absolute numbers)?**

Penalties considered to be alternatives to imprisonment include the following: fines and restriction of liberty (community service or salary deduction). Recently, custodial sentence can be also served in non-insulating system of electronic surveillance. Every person convicted to prison without the chance for appeal for a period between 1 month and 1 year (excluding multiple recidivists) may apply to serve a penalty in non-insulating system of electronic surveillance.

In 2011, 423.464 people in Poland were convicted of a crime. 40.947 of them were sentenced to imprisonment, 93.571 were fined, 49.611 received a restriction of liberty. Additionally imprisonment of 239.076 convicts was conditionally suspended. At the end of 2011, 1.626 prisoners were subjected to the system of electronic surveillance. However, in the middle of 2012, this figure reached 4.015 people.

**c. Are they imposed before (as alternative to punishment) or during conviction (as alternative to prison)?**

Fines and the restriction of liberty are sentenced at the same stage of proceedings. Serving a penalty in non-insulating system of electronic supervision may be ruled at a later stage of the proceedings.

## INSPECTION AND MONITORING

**a. Has Poland signed/ratified/acceded the OPCAT? If yes - when?**

Poland has ratified OPCAT in 2005.

**b. Is the National Preventive Mechanism (NPM) set up, designated or maintained? If yes - when?**

National Preventive Mechanism was established in Poland in 2008.

**c. If the NPM exist, which type of the NPM is it (a separate body; a separate department within the National Human Rights Institution (NHRI)/Ombudsman's Office; NHRI or Ombudsman's Office itself; NHRI or Ombudsman's Office together with non-governmental organisations/experts; several separate bodies etc.)?**

NPM is operating as one of departments of Ombudsman bureau.

**d. Are the mandate and powers of the NPM clearly set out in a constitutional or legislative text?**

OPCAT is the only source of NPM's mandate and powers.

**e. Is the visiting mandate of the NPM extended to all places of deprivation of liberty?**

The mandate of the NPM is extended to all places of deprivation of liberty. For example in 2012 NPM visited several prisons, remand centres, juvenile correctional facilities, police facilities for detained persons, detoxification detention centres, welfare houses and psychiatric hospitals.

**f. Does the NPM have its own budget? If yes - please, indicate its annual amount. If not - please, specify how the NPM is financed.**

Polish NPM doesn't have its own budget. It's financed from the budget of Ombudsman bureau.

**g. Does the NPM have its own staff? If yes, how many people are employed there, and what is their professional background? If not, please, specify who fulfils the duties of the NPM?**

Currently 14 persons is employed in the National Preventive Mechanism department. During inspections they are supported by employees of Ombudsman bureau agencies.

**h. Are there any other inspection and monitoring bodies dedicated to prisons, and if so what are they?**

Supervision over legitimacy and accurateness of carrying out the prison sentence or remand (pre-trial detention) is being conducted by the penitentiary judge by visiting prisons and convicts in custody and other places where prisoners are detained. The judge has full access to those places at any time, without any restrictions, including revision of documents and possibility of demanding an explanation if deemed necessary. The judge also has the right to interview the prisoners, in the absence of third parties, examine their complaints, and request or waiver any decision of prison director by announcing it illegitimate.

Also, a very important role in Polish legal system is entrusted to the Ombudsman. This person has the authority to examine any case at any time, without notice, and demand documents and explanations

concerning files of any case. Other organs taking part in oversight of the penitentiary system include the Supreme Audit Office and various non-governmental organizations.

## ILL-TREATMENT

**a. Who investigates prisoners' complaints of ill-treatment by prison staff or by other prisoners (inter-prisoner violence) in Poland (internal investigative body of the prison; external investigative body; prosecutor's office, etc.)?**

Prisoners' complaints of ill-treatment are being investigated by prosecutors office. They might be also examined by disciplinary prosecutors (there should be at least one prosecutor in every prison facility) and penitentiary judges, who shall ensure the legality of the detention.

**b. Is it possible for a prisoner to appeal the decision of the investigative body? If yes - to whom?**

Prisoner have a possibility to appeal the decision of the prosecutor to the district court. The court may uphold prosecutors decision or repeal it. In case of prosecutor again decide on the refusal to institute proceedings or discontinuation of the proceedings the prisoner has a right, within one month from the date of notification of such decision, file indictment to the court.

**c. Are statistics available on the number of prisoner complaints of ill-treatment by the prison staff and by other prisoners (inter-prisoner violence)? If yes, please provide the numbers.**

In 2012 prisoners filled 54.197 complaints to prison authorities. 540 of these concerned the treatment of inmates by inmates (in 2011 there were 421 complaints on this matter). Only 1 of these was considered positive (0 in 2011). In addition, prisoners filed 8.415 complaints on treatment by Prison Service employees (7.682 complaints in 2011). Only 20 of these, were considered positive (23 in 2011).

**d. Are statistics available on disciplinary/criminal proceedings initiated with regard to ill-treatment by the prison staff and by prisoners (inter-prisoner violence)? If yes, please provide the numbers.**

N/A

**e. Are statistics available on the outcome of disciplinary/criminal proceedings with regard to ill-treatment by the prison staff and by prisoners (inter-prisoner violence)? If yes, please provide how many proceedings have resulted in disciplinary/criminal sanctions. If possible, please specify which kinds of sanctions (fines, suspended sentence, imprisonment, etc.) are most applied.**

N/A

## EFFECTS OF THE ECONOMIC CRISIS

The economic crisis in 2008 mildly affected Polish prison service. Over the years 2008 - 2012 the prison population decreased from 85.920 inmates to 84.399 (in the same time general prison capacity was

increased). However, combating overcrowding should be considered as main reason of this trend. The consequence of these actions was an increase in general number of prison officers.

The impact of the economic crisis is reflected in budgetary position of the prison service. In the years 2008 – 2012 expenditures on prisons fell by 175 million euros. This affected primarily investments in improving the living conditions of prisoners. Some of the investments were delayed or even canceled. During HFHR's monitoring visits in prisons, prison authorities complained about lack of money, even for the most urgent repair expenses.

Undoubtedly, other expenses of penitentiary system were also restricted. For example, significant reductions on post-penitentiary assistance might be spotted. In 2008, prison authorities spent on that issue over 3.8 million euro. In 2012, it reached only 1,95 million. Furthermore, despite the increase in the overall capacity of penal institutions, prison authorities did not provide the new workplaces for the employees of the prison health care. This had a direct impact on the availability of medical care given to prisoners. Unfortunately, there is no data concerning the availability of cultural activities for prisoners. In the opinion of HFHR, economic crisis had a negative influence also on that issue.

Over the years 2008 – 2012, the number of employed prisoners decreased by more than half (from 20.083 in 2008 to 9.426 in 2012). However, the reasons of this situation can be sought only indirectly in economic crisis. A judgment of Constitutional Court from 23 February 2010 (P 20/09) had greater influence on that issue. As a result of that ruling remuneration of working prisoners was equalized to the minimum wage level. This caused a significant increase of labor costs which led to a huge reduction in the number of companies interested in providing work for prisoners. The economic crisis enhanced that trend.

## PIOTR KŁADOCZNY, MARCIN WOLNY

Piotr Kładoczny – holder of Ph.D. in Law. Expert and specialist in the area of criminal law, criminal procedure and the Polish penitentiary system. Since 1990 he has been working in the Institute of Criminal Law at the Faculty of Law and Administration at the University of Warsaw.

In the Helsinki Foundation for Human Rights he coordinates the Program of Legal Intervention which deals with the provision of legal advice and assistance to victims of human rights violations in Poland, in particular to persons who are incarcerated. He is an author of numerous legal opinions presented before Polish and international courts as well as opinions on the legislative drafts.

Marcin Wolny – specialist in the area of criminal procedure and juvenile justice system. In Helsinki Foundation for Human Rights he works in Law Clinic “Innocence” which deals with problem of wrongful convictions. He is an author of numerous opinions and articles on legal matters. In 2012 he participated in the monitoring of life sentence in Poland.

## HELSINKI FOUNDATION FOR HUMAN RIGHTS

The Helsinki Foundation for Human Rights (HFHR) is a non-governmental organization established in 1989 in order to promote human rights and the rule of law as well as to contribute to the development of an open society in Poland. Its creation was preceded by seven years of activity of the Helsinki Committee in Poland which existed in the underground since 1982. Nowadays, HFHR is one of the most experienced and professional non-governmental organizations operating in the field of human rights in Poland and Europe. Since its beginnings HFHR has been involved in various actions related to prisoners’ rights. It was monitoring detention facilities and representing parties or preparing legal submissions to national and international courts and tribunals which dealt with cases concerning prisoners’ rights. The aim of such submissions was to influence court decisions on laws and practices that HFHR find contrary to European standards of human rights protection. In recent years HFHR have carried out number of seminars on the various issues related to penitentiary system in Poland. They were focused on the problem of healthcare in Prison, dangerous detainee regime and overcrowding in Polish penitentiary institutions.

 HELSINKI FOUNDATION  
for HUMAN RIGHTS

**Helsinki Foundation for Human Rights**  
11 Zgoda St., 00-018 Warsaw  
Tel. +48 22 556 44 40, Fax +48 22 556 44 50  
hfhr@hfhr.org.pl  
[www.hfhr.pl](http://www.hfhr.pl)



With financial support from the  
Criminal Justice Programme of  
the European Union