

REPORT

OF THE HUMAN RIGHTS DEFENDER
ON THE ACTIVITIES
OF THE NATIONAL
PREVENTIVE MECHANISM
IN POLAND IN 2014

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Report of the Human Rights Defender (Ombudsman) on the Activities of the National Preventive Mechanism in Poland in 2014 (Synthesis)

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Abbreviations:

PTDC	– Pre-Trial Detention Centre
PIB	– Public Information Bulletin
OHRD	– Office of the Human Rights Defender
CPT	– European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CBPS	– Central Board of the Prison Service
SCC	– Social Care Centre
EAW	– European Arrest Warrant
EPR	– European Prison Rules
ECHR	– European Court of Human Rights in Strasbourg
HFHR	– Helsinki Foundation for Human Rights
ISPs	– Individual Support Plans
SS	– Sobering-up Station
EPC	– Act of 6 June 1997 – Executive Penal Code (Dz.U. No 90, item 557, as amended)
FGC	– Act of 25 February 1964 – Family and Guardianship Code (Dz.U. of 2012, item 788, as amended)
NPM	– National Preventive Mechanism
MNE	– Ministry of National Education
MSCC	– Municipal Social Care Centre
YCC	– Youth Care Centre
MJ	– Ministry of Justice
SAC	– Supreme Administrative Court
OPCAT	– Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Dz.U. of 2007, No 30, item 192)
SLPs	– Separate Living Premises
EW	– External Ward
PDRs	– Rooms for detained persons or persons brought to sober up within Police organisational units

- BGDRs** – Border Guard rooms for detained persons or persons brought to sober up
- PECC** – Police Emergency Centre for Children
- JS** – Juvenile Shelter
- RC** – Regional Court
- SPT** – UN Subcommittee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Subcommittee for Prevention)
- DC** – District Court
- PS** – Prison Service
- CMs** – Coercive Measures
- HRD** – Human Rights Defender
- EU** – European Union
- APMH** – Act of 19 August 1994 on the protection of mental health (Dz.U. of 2011, No 231, item 1375, as amended)
- AJDP** – Act of 26 October 1982 on juvenile delinquency proceedings (Dz.U. of 2014, item 382)
- Pr** – Prison
- JDC** – Juvenile Detention Centre

Introduction

A ban on torture is absolute, thus no circumstances justify its use. The ban results from both international law¹ and the Constitution of the Republic of Poland. It proves that nations undergo moral progress. Violation of freedom from torture, inhuman and degrading treatment or punishment represents also violation of human dignity. In accordance with the case law of the European Court of Human Rights in Strasbourg, any state, irrespective of a complainant's conduct, cannot shirk compliance with this ban, even in time of war or other emergency threatening the life of a nation². This should be repeated and emphasised in the light of recent discussions³.

The reason for introducing permanent monitoring of places of detention is the fact that persons staying in such places, which are by definition closed to the outside world, are more at risk of various malpractices. They can result from, among others, state criminal policy, lack of funds to ensure suitable conditions, inappropriately trained personnel or lack of an appropriate monitoring system. The mechanism of regular visits to places of detention is therefore well-founded and is considered one of the most effective measures to prevent torture and other unlawful forms of treatment of persons deprived of their liberty. It complements the judicial mechanism implemented in this respect by the European Court of Human Rights in Strasbourg.

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) establishes a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty. The UN Subcommittee for the

¹ Both the UN system for the protection of human rights and the European system prohibit torture and inhuman or degrading treatment or punishment.

² Case *Ireland v the United Kingdom*, Judgment of 18 January 1978.

³ On 24 July 2014, the Judgment of the European Court of Human Rights in Case No 28761/11 was announced. It found that CIA prisoners were held in Poland, and Poland itself violated, among others, the ban on torture and inhuman treatment. It raised alarming voices in Polish media and society about legitimacy of using torture in the event of a terrorist threat.

Prevention of Torture and Inhuman or Degrading Treatment or Punishment was established at the international level. However, at the domestic level, each State Party shall set up a national preventive mechanism.

The Government of the Republic of Poland fulfils numerous recommendations of the Human Rights Defender. However, despite the OPCAT's provisions and contrary to the Paris Principles⁴, from the very beginning of performance of the tasks of the national preventive mechanism by the Human Rights Defender, the Ombudsman receives insufficient funds for their implementation. Despite the adversity, my representatives performed 122 preventive visits in 2014. They enabled us to draw conclusions on observing the rights of persons deprived of their liberty.

The present Report is the seventh report on the activities of the National Preventive Mechanism in Poland, which the Republic of Poland is obliged to prepare and publish, pursuant to Article 23 of the OPCAT. It was drawn up in two languages in order to disseminate it also among international institutions and national preventive mechanisms in other countries. Just like in previous years, the Report was divided into two parts. The first one discusses organisational issues, cooperation with other entities, both at the national and international level, and presents a catalogue of legal acts on which the representatives of the National Preventive Mechanism have given their opinion. However, the second part describes the applied methodology of work and conclusions from visits held in 2014, broken down by specific types of places of detention. I encourage you to thoroughly analyse those conclusions. Despite the fact that no instances of torture were found by the National Preventive Mechanism in the Republic of Poland, there are still situations in various places of detention that may be considered degrading or inhuman treatment and they have to be fought. In 2014, there were several judgments indicating torture.

I welcome the fact that numerous recommendations of my representatives issued in 2014 as a result of undertaken activities were implemented by the authorities of individual facilities immediately after visiting them. This fosters cooperation in a spirit of dialogue and understanding. The implementation of specific recommendations that require significant financial outlays and systemic changes is monitored by NPM personnel on an ongoing basis.

⁴ The Paris Principles are requirements for human rights institutions. They were adopted by the UN in 1993. The main features which these institutions should have are: independence and pluralism.

I hope that the authorities of the Republic of Poland and civil society representatives will appreciate the need to comprehensively support the institution which protects the rights of persons deprived of their liberty against prohibited forms of treatment. The experience proves that the NPM visits have their own profound significance.

Part I.

1. Organisation of the activities of the National Preventive Mechanism

Pursuant to the Statute of the Office of the Human Rights Defender, one of the Departments of the Office of the Human Rights Defender constitutes the National Preventive Mechanism⁵. The NPM Department is also supported by the personnel of the Offices of Local Representatives of the HRD in Gdańsk, Wrocław and Katowice.

The NPM Department is responsible for visiting all types of places of detention within the meaning of Article 4 of the OPCAT⁶. Appropriate assessment of the treatment of persons deprived of their liberty requires information from various sources which, in many cases, is impossible without the support and knowledge of experts. Therefore, visits are carried out together with external experts – doctors: psychiatrists, geriatricians and clinical psychologists⁷.

2. Financing

In accordance with the *Annual Report on the Implementation of Expenditures of the State Budget and the Budget of European Funds Broken Down by Task*, the Office of the Human Rights Defender disbursed PLN 3,030,816.31 in 2014 for implementing the measure of *Performing the Function of the National Preventive Mechanism*, including PLN 214,679.99 for capital expenditures and the remaining PLN 2,816,136.32. In 2014, the tasks of the National Preventive Mechanism were carried out by 12

⁵ § 6 of the Annex to Order No 25/2014 of the Human Rights Defender of 12 September 2014 on the Statute of the Office of the Human Rights Defender.

⁶ "Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in Articles 2 and 3 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as "places of detention").

⁷ List of experts: cf. Part II.

professional personnel members. The Human Rights Defender repeatedly stressed that the Department's staffing prevents the HRD from having its preventive obligations fully implemented.

3. Cooperation with state bodies and NGOs

Cooperation with NGOs plays an important role in the activities of the NPM. In 2014, there was, among others, a meeting with the representatives of the Coalition for the *"Agreement for the Implementation of the OPCAT"*. The meeting was devoted to analysing reports on visits made to juvenile shelters and juvenile detention centres. Its purpose was to assess whether the applied methodology of preventive visits to these facilities allows for collecting complete information, drawing correct conclusions and issuing appropriate recommendations. It was found during the meeting that irregularities observed by the representatives of the Helsinki Foundation for Human Rights, i.e. a member of the Coalition, in the facilities referred to above, are in line with findings made by the representatives of the National Preventive Mechanism.

In October 2014, during the seminar, entitled "Conscious Readaptation of Charges Leaving Juvenile Detention Centres – Mechanisms, Standards, Challenges", held by the "Po Drugie" Foundation, the "Familia" Association of Family Judges and the Polish Association of Legal Education, a representative of the NPM presented the findings of preventive visits made to youth care centres, juvenile shelters and juvenile detention centres. She emphasised the strengths of these facilities and drew attention to identified irregularities and unresolved systemic problems.

As part of activities undertaken by the representatives of the NPM, attention should be paid to participation in meetings, conferences and seminars during which issues of the NPM Department's interest are discussed.

In 2014, the representatives of the National Preventive Mechanism devoted much attention to the situation of juvenile mothers being charges of care, educational and social rehabilitation centres. They attended several working meetings held by the Ministry of: National Education⁸, Justice⁹ as well as Labour and Social Policy¹⁰. They were aimed at establishing a common position on both necessary

⁸ <https://www.rpo.gov.pl/sites/default/files/Notatka%20ze%20spotkania%20w%20MEN%2018%20lutego%202014%20r.pdf>

⁹ <https://www.rpo.gov.pl/pl/content/zast%C4%99pca-dyrektora-zespo%C5%82u-krajowy-mechanizm-prewencji-marcin-mazur-wzi%C4%85%C5%82-udzia%C5%82-w-spotkaniu>

¹⁰ <https://www.rpo.gov.pl/pl/content/przedstawicielki-kmp-wzi%C4%99%C5%82y-udzia%C5%82-w-kolejnym-spotkaniu-zorganizowanym-w-siedzibie-mpis>

legislative amendments and organisational changes to enable a juvenile mother to take care of her child in a facility in which she resides.

In June 2014, a representative of the NPM took part in the conference, entitled *"Deprivation of Liberty is not Deprivation of Rights"*, which was organised by: the Human Rights Commission of the Polish Bar Council and the Regional Bar Council in Bydgoszcz. The representative presented information on respecting the rights of persons deprived of their liberty.

In September 2014, during the seminar, entitled *"Deinstitutionalisation – An Opportunity and New Challenges in Providing Services for Dependent Persons by Social Care Centres"*, the representatives of the NPM presented the findings of preventive visits made to social care centres, with special emphasis on such issues as: leaving SCCs by residents on their own, using CCTV surveillance or the scope of intervention of directors and personnel of facilities in different spheres of a resident's life¹¹.

In October 2014, two meetings were held between the representatives of the National Preventive Mechanism and police officers. The first one was attended by a wider group of stakeholders, involving police officers from units subordinated to the Voivodeship Police Headquarters in Łódź. The meeting was held to familiarise the officers with the methodology of work of the NPM and recommendations issued as a result of preventive visits to police detention places. The issues discussed included the practical implementation of the NPM's recommendations and difficulties in this respect. The second meeting, i.e. with the representatives of the Chief Police Headquarters, was intended for establishing a common position on, among others, necessary legislative amendments regarding such issues as: searching detained persons, conducting medical examination at PDRs, taking underwear from detained women or exercising the right to defence by detained persons.

On 3 October 2014, a representative of the NPM attended the international conference, entitled *"Social Sciences for Internal Security"*, presenting a paper on the activities of the NPM and major irregularities detected in Police rooms for detained persons. However, on 9 October 2014, a representative of the NPM met with directors of social care centres in the Zachodniopomorskie Voivodeship. During the meeting, the representative discussed issues related to visits made to these establishments.

In November 2014, the representatives of the NPM took part in four events. The first one was a meeting with representatives of trade unions of employees of

¹¹ <https://www.rpo.gov.pl/pl/content/przedstawiciele-krajowego-mechanizmu-prewencji-justyna-j%C3%B3%C5%Bawiak-i-przemys%C5%82aw-kazimirski>

juvenile detention centres and juvenile shelters, representatives of academia and the Ombudsman for Children as well as the Helsinki Foundation for Human Rights. The meeting was aimed at discussing the most frequent recommendations issued as a result of visits carried out by bodies and organisations which are qualified to do so.

Another one was a conference held by the Helsinki Foundation for Human Rights. During the conference, findings of two-year work of HFHR experts were presented. It was aimed at identifying problems in the functioning of juvenile facilities. It should be noted that numerous irregularities coincided with findings made by OHRD employees during preventive visits.

A representative of the NPM gave a lecture at another conference organised by the HFHR, entitled *“Good Prison Practices. Symptomatic Treatment?”*, presenting prison practises which were identified during preventive visits and which are worth following.

The last event was the 7th seminar on *“Security Measures in Psychiatry”*, entitled *“Social and Societal Status of an Interned Patient in View of the Threat of Committing Offenses of Significant Social Harm”*, held by the Institute of Psychiatry and Neurology in Warsaw¹².

4. International activity

The Human Rights Defender’s activity in the capacity of the National Preventive Mechanism is one of the areas of international cooperation of the Defender. The representatives of the National Preventive Mechanism participated in numerous conferences, training courses and workshops held, among others, in Trier¹³, Brno¹⁴, Tashkent¹⁵, Vilnius¹⁶, Banja Luka¹⁷, Brčko¹⁸,

¹² <https://www.rpo.gov.pl/pl/content/przedstawicielki-zespo%C5%82u-krajowy-mechanizm-prewencji-wzi%C4%99%C5%82y-udzia%C5%82-w-seminarium-pt-%E2%80%9Estatus>

¹³ <https://www.rpo.gov.pl/pl/content/dyrektor-zespo%C5%82u-krajowy-mechanizm-prewencji-justyna-r%C3%B3%C5%BCa-lewandowska-wzi%C4%99%C5%82-udzia%C5%82-w>

¹⁴ <https://www.rpo.gov.pl/pl/content/pracownicy-krajowego-mechanizmu-prewencji-wzi%C4%99li-udzia%C5%82-w-dwudniowym-spotkaniu>

¹⁵ <https://www.rpo.gov.pl/pl/content/marcin-kusy-%E2%80%93-przedstawiciel-krajowego-mechanizmu-prewencji-uczestniczy%C5%82-jako-ekspert-w>

¹⁶ <https://www.rpo.gov.pl/pl/content/przedstawicielka-kmp-magdalena-filipiak-wzi%C4%99%C5%82-udzia%C5%82-w-mi%C4%99dzynarodowej-konferencji>

¹⁷ <https://www.rpo.gov.pl/pl/content/przedstawiciel-zespo%C5%82u-krajowego-mechanizmu-prewencji-wojciech-sadownik-wzi%C4%85%C5%82-udzia%C5%82-w>

¹⁸ <https://www.rpo.gov.pl/pl/content/przedstawiciel-zespo%C5%82u-krajowego-mechanizmu-prewencji-wojciech-sadownik-wzi%C4%85%C5%82-udzia%C5%82-w-0>

Belgrade¹⁹, Vienna²⁰, Bristol, Lviv²¹ by ombudsmen of individual states, the Council of Europe or the OSCE which were devoted to issues of prevention of torture as well as organisation and operation of national preventive mechanisms in different states. The representatives of the NPM informed of the Polish NPM's activities, while exchanging knowledge and experience with representatives of other preventive mechanisms or international organisations.

5. Thematic report

In last year, the activities of the representatives of the National Preventive Mechanism were not limited only to conducting visits to places of detention. In 2014, a report was drawn up on the situation of remand prisoners and persons placed in therapeutic wards for convicts with non-psychotic mental disorders²². Its conclusions and observations summarise thematic visits to penitentiary establishments in 2012-2013. With regard to the situation of the remand prisoners, the representatives of the National Preventive Mechanism drew attention to, among others, issues related to providing inmates of this category with the possibility to call their defence attorneys or attorneys, the possibility of prompt notification of their closest family and friends of being placed in a given penitentiary establishment, the need to increase the number of cultural and educational activities offered for the remand prisoners, facilitate access to religious services and employment. In turn, findings made during thematic visits to wards for convicts with non-psychotic mental disorders allowed for presenting the following problem areas in the report, e.g.: organisation of therapeutic wards, categories of inmates sent to the wards, conducting therapeutic activities, the wards' personnel and living conditions of inmates.

¹⁹ <https://www.rpo.gov.pl/pl/content/przedstawicielka-zespo%C5%82u-krajowy-mechanizm-prewencji-dr-aleksandra-iwanowska-wzi%C4%99%C5%82-udzia%C5%82-w>

²⁰ <https://www.rpo.gov.pl/pl/content/dyrektor-zespo%C5%82u-krajowy-mechanizm-prewencji-justyna-r%C3%B3%C5%B3Ca-lewandowska-wzi%C4%99%C5%82-udzia%C5%82-w-0>

²¹ <https://www.rpo.gov.pl/pl/content/przedstawiciel-zespo%C5%82u-krajowy-mechanizm-prewencji-marcin-kusy-uczestniczy%C5%82-w-pi%C4%85tej>

²² https://www.rpo.gov.pl/sites/default/files/Raport_z_wizytacji_KMP_0.pdf

6. Assessment of legal acts

The obligation to issue opinions about legal acts, both applicable legal acts and draft legislation, by the entity acting as a national preventive mechanism stems from Article 19(c) of the OPCAT.

In 2014, the representatives of the NPM received 12 draft legal acts for assessment and proposed amendments to the following six legal acts:

- assumptions for the draft Act amending the Juvenile Justice Act;
- Ordinance of the Minister of Health on the National Centre for the Prevention of Dissocial Behaviour;
- Ordinance of the Minister of Health on the manner of documentation of coercive action;
- Act amending the Act – Penal Code and certain other acts;
- assumptions for the draft Act on video surveillance;
- Ordinance of the Minister of Health amending the Ordinance on detailed rules for referring, admitting, transferring, releasing and holding juveniles in public health care facilities.

All opinions on draft legal acts were published on the website of the Human Rights Defender in the “National Preventive Mechanism” tab.

Furthermore, a representative of the National Preventive Mechanism Department attended a meeting of the Senate Committee on Human Rights, Rule of Law and Petitions on 23 September 2014, during which amendments to the draft Act amending the Act – Executive Penal Code (Senate paper No 706), were discussed.

Part II.

1. Methodology

In all the establishments visited, the National Preventive Mechanism operates based on the same methodology. The first stage is to establish the composition of the visiting group. In accordance with the OPCAT, experts of national preventive mechanisms should have the required capabilities and expertise. The visiting team usually consists of several persons, with one person performing the role of the group coordinator. Two persons, including the team coordinator responsible for drawing up the report from the visit, perform the inspection of the premises and buildings of the establishment, while others conduct individual conversations with prisoners. In order for groups to be interdisciplinary, the visits are also performed by experts in general medicine, psychiatry, psychology and geriatrics. They draw up an expert opinion which is incorporated in the visit report. The duration of a visit depends on both the size of the visited establishment and problems encountered there. It usually lasts one to three days.

Visits of the National Preventive Mechanism comprise the following stages:

- conversation with the management;
- inspection of all rooms;
- individual and group conversations with detainees;
- conversations with personnel;
- analysis of documents;
- formulation of post-visit recommendations during the conversation summing up the visit, and receiving explanations from the management.

During the visits, the representatives of the National Preventive Mechanism use the following measuring and recording devices: a CEM DT-8820 multimeter, a Makita LD060P laser distance meter and a camera.

If an inmate reports an unlawful event, he/she has the opportunity to lodge an official complaint which is referred to a competent complaint department of the OHRD. Yet, if the person does not consent to addressing the issue officially, visitors consider the information as a report to be investigated in a way that prevents identifying the source. If the unlawful event is confirmed, the members of the

visiting team report their findings to the director of the visited establishment and the complainant remains anonymous if he/she does not file an official complaint. If the visitors are unable to confirm the complainant's charges, these are reported during the summarising conversation as unverified reports, and it is the duty of the establishment's director to investigate them.

When the visit is completed, a report is drawn up which describes all the findings and conclusions, as well as recommendations for the body managing the visited establishment and for its supervisory bodies. If the establishment's management does not agree with the recommendations, the representatives of the NPM request the supervisory bodies to issue their opinion and position on the matter.

If the visitors reveal torture or inhuman, degrading treatment or punishment, the visitors file a notification of a suspicion of a crime following the visit. In each case, the victim must consent to having his/her personal data revealed and to referring the case to law enforcement bodies. Only drastic cases justify deviations from the rule. If so, the decision is made personally by the Human Rights Defender who signs the notifications of a suspicion of a crime. If the victim does not consent to report the case to the law enforcement bodies and, in the opinion of the visiting team, the possible inappropriate behaviour is not drastic, the visiting team treats the information obtained as reports which may point to inappropriate treatment of detainees and requests the directors of the establishments to explain the situation and present their conclusions.

The situation is different when information about torture, inhuman or degrading treatment or punishment is derived from documents or CCTV footage, rather than directly from the victims. In such case, the visitors do not have to request consent for passing the case to law enforcement bodies and each time file a notification of a suspicion of a crime.

2. Prisons and pre-trial detention centres

2.1. Introduction

According to the annual schedule, a total of 21 penitentiary establishments were visited in 2014, including nine prisons²³, 11 pre-trial detention centres²⁴ and one external ward²⁵. Two visits were follow-up visits²⁶.

2.2. Systemic problems

The visits allowed for identifying general problems resulting from imperfections of the law that regulates the rights and obligations of people deprived of their liberty which, compared to 2013, are still valid. The major imperfections are as follows:

1. Lack of the possibility on the part of remand prisoners to call their defence attorneys or attorneys

On 15 November 2013, the Human Rights Defender filed a request with the Constitutional Court to declare Article 217c of the Executive Penal Code incompatible with the Constitution of the Republic of Poland²⁷. In the statement of reasons for her request, the Defender stated that imprecise formulation of the contested provision resulted in its established interpretation being inconsistent with the Constitution in terms of the right of remand prisoners to defence. On 25 November 2014, the Court ruled that Article 217c of the Executive Penal Code (Ref. K54/13) is unconstitutional insofar as it strictly forbids a remand prisoner to call his/her defence attorney, thus breaching Article 42(2) in conjunction with Article 31(3) of the Constitution of the Republic of Poland. The contested provision is to be repealed from the legal system following 6 months of the date of publication of the judgment of the Court²⁸, i.e. on 4 June 2015.

2. Absence or a poor offer of cultural and educational activities for remand prisoners and convicts

The representatives of the National Preventive Mechanism assessed that organisation and diversification of this type of classes and access to them by remand

²³ Prs in: Łowicz, Strzelce Opolskie (No 1), Potulice, Zamość, Opole Lubelskie, Kamińsk, Lubliniec, Brzeg, Siedlce (follow-up visits).

²⁴ PTDCs in: Łódź, Warsaw-Białoleka, Kraków-Podgórze, Warsaw-Służewiec, Międzyrzecz, Zabrze, Sosnowiec, Częstochowa (revisit), Bielsko-Biała, Kamień Pomorski, Tarnowskie Góry.

²⁵ Prison in Warsaw-Białoleka.

²⁶ Findings of the visit were discussed in a separate chapter.

²⁷ <http://www.rpo.gov.pl/pl/content/wniosek-do-trybuna%C5%82u-konstytucyjnego-w-sprawie-braku-mo%C5%Bcliwo%C5%9Bci-telefonicznego>

²⁸ Dz.U. of 2014, item 1707.

prisoners have not improved substantially. Visits carried out by the representatives of the Mechanism in 2014 proved that day rooms provided with table tennis and televisions are a fundamental base of cultural and educational activities. Besides the foregoing, there are actually no other activities that would be offered for remand prisoners outside their residential cells.

3. Frequency of showers for men

The issue of insufficient frequency of showers was indicated in reports of the HRD on the activities of the NPM in 2012 and 2013. Due to the unsatisfactory position of the Ministry of Justice in this respect, the HRD filed a request²⁹ with the Constitutional Court on 3 July 2014 to declare unconstitutionality of the first sentence of § 32(4) of the Ordinance of the Minister of Justice of 25 August 2003 on organisational and order regulations for serving prison sentences³⁰ and the first sentence of § 30(3) of the Ordinance of the Minister of Justice of 25 August 2003 on organisational and order regulations for serving prison sentences³¹ in relation to Article 4 § 1, Article 102(1) and Article 249 § 1 of the Executive Penal Code, Article 40 in conjunction with Article 41(4) and the first sentence of Article 92(1) of the Constitution of the Republic of Poland.

The Defender is of the opinion that the standard of one shower a week for men cannot be assessed as suitable for maintaining health. Moreover, in the light of international regulations and national cultural and social standards, such low frequency of showers cannot also be considered fully humane treatment. As a matter of fact, the adopted regulation does not respect, as recognised by the HRD, the minimum needs of every human being defined by reference to average standards of living in Polish society.

It is also worth pointing out that, upon filing the request with the Court, the number of penitentiary establishments, which ensured two showers a week to men deprived of their liberty, has substantially increased. Data contained in the letter of the Director General of the Prison Service of 16 December 2014 reveal that only five establishments at the end of last year did not ensure the second shower.

On 31 March 2015, the Constitutional Court ruled that the provisions contested by the Defender comply with the cited constitutional models.

²⁹ <https://www.rpo.gov.pl/pl/content/wniosek-do-trybuna%C5%82u-konstytucyjnego-w-sprawie-cz%C4%99stotliwosc%C5%9Bci-k%C4%85pieli-m%C4%99%C5%BCczyn>

³⁰ Dz.U. No 152, item 1494.

³¹ Dz.U. No 152, item 1493.

4. Access of prisoners to public information

After many years of efforts of the HRD to ensure access to public information to prisoners³², convicts serving imprisonment were given the opportunity in 2014 to access public information contained in the Public Information Bulletin³³ (hereinafter referred to as the “PIB”). However, it should be noted that the solution adopted in this respect cannot be regarded as satisfactory, as the scope of information made available to prisoners is limited. Currently, convicts have access only to the PIB of the Prison Service, the Ministry of Justice, the Human Rights Defender and websites of the Government Legislation Centre and e-court.

The right of persons deprived of their liberty to public information should cover access to all PIB websites or should be ensured in other – specified by statute – way. The HRD is considering filing a request with the Constitutional Court on this matter.

5. Non-adjustment of penitentiary establishments to the needs of persons with disabilities

The issue of adjustment of penitentiary establishments to the needs of the disabled remains unresolved systemically³⁴. The Defendant requested the Minister of Justice³⁵ to provide each establishment with at least one residential cell adjusted to the needs of persons with disabilities and to adjust its immediate infrastructure to enable such persons to enjoy their rights as persons deprived of liberty. In his reply of 5 June 2014, the Secretary of State of the MJ stressed that the demand to adjust each establishment to the needs of persons with disabilities should be considered through the prism of the total number of such persons serving imprisonment³⁶. At the same time, he added that 58 penitentiary establishments comprise 91 cells for persons with disabilities, offering space for 270 persons in total. Considering the reply referred to above, it was decided to carry out thematic visits in 2015 in relation to observance of the rights of the disabled at penitentiary establishments.

³² Cf. *Report of the HRD on the activities of the NPM in 2012* [hereinafter referred to as the “Report of 2012”], pp. 33-34, *Report of the HRD on the activities of the NPM in 2013* [hereinafter referred to as the “Report of 2013”], pp. 42-43.

³³ The Public Information Bulletin is an official ICT gazette created to provide the public with access to public information, in the form of a unified website system in the ICT network (cf. Article 8(1) of the Act of 6 September 2001 on access to public information).

³⁴ Cf. *Report of 2013*, pp. 43-46.

³⁵ <https://www.rpo.gov.pl/pl/content/wyst%C4%85pienie-generalne-z-dnia-14052014-r-doministra-sprawiedliwo%C5%9Bci-w-sprawie-dostosowania>

³⁶ In accordance with the reply, there were 59 persons in wheelchairs.

6. Personal searches

During preventive visits, the problem of legitimacy and frequency of personal searches was identified. It should be noted that no information on carrying out a personal search, its causes and persons conducting it is recorded in any documentation of the Prison Service. The issue was raised in a letter³⁷ to the Director General of the Prison Service who, however, concluded that the current manner of conducting personal searches has worked well in practice and should not be changed. Nevertheless, this practice may violate Article 78 of the Constitution of the Republic of Poland, according to which each party shall have the right to appeal against judgments and decisions made at first instance, while exceptions to this principle and a procedure for such appeals shall be specified by statute. Assuming that carrying out the personal search of an inmate is a decision, this decision is not open to challenge. The Defender believes that the circumstances of personal searches set forth in the Executive Penal Code should be clarified, in particular by specifying that the decision in this regard is open to challenge. At the same time, in the light of the case law of the ECHR, the compulsory nature of personal searches of so-called dangerous inmates, whenever they leave their cells and return to them, requires urgent consideration. With this in mind, the Defender requested³⁸ the Minister of Justice to state his position on the matter.

The Minister informed³⁹ that the existing provisions on how to carry out personal searches are worded too broadly and may give rise to breaching the standards laid down in the *European Convention on Human Rights*. A new draft Ordinance on means of protection of organisational units of the Prison Service, which is under development, provides for a method of carrying out personal searches. Referring to the situation of dangerous inmates, the Minister pointed out that following the amendments, under which inmates from this group will be placed only in a cell situated in the ward intended for inmates of this category, efforts will be taken to amend laws under which Prison Service officers have to perform a personal search of inmates whenever they leave their residential cells and return to them.

³⁷ HRD's annual information of 2012, p. 205.

³⁸ KMP.571.83.2014 of 23 December 2014. <https://www.rpo.gov.pl/pl/content/wyst%C4%85pienie-generalne-z-dnia-23122014-r-do-ministra-sprawiedliwo%C5%9Bci-w-sprawie-kontroli>

³⁹ Letter of 19 January 2015.

2.3. Good practices (enable contact via Skype)

The representatives of the National Preventive Mechanism highly appreciate possibilities of maintaining additional contacts by convicts with their family and friends via Skype – a peer-to-peer application. Since April 2014, a programme to introduce this additional form of contact with the outside world has been implemented on a pilot basis at more than a dozen penitentiary establishments and is now available at all establishments. Under the programme, preference regarding the use of Skype is given to foreigners staying at Polish penitentiary establishments and those whose families reside in Poland or abroad at a distance which prevents direct contact with inmates. As this form of communication is highly functional, the representatives of the NPM support its development so as to make it available for groups of convicts other than those specified.

2.4. Areas requiring improvement

1. Treatment

Just like last year, the representatives of the National Preventive Mechanism received signals from prisoners in four penitentiary establishments⁴⁰ indicating violations of their bodily integrity by Prison Service officers. In one of them, remand prisoners and juvenile prisoners informed OHRD employees during the interviews of violations of bodily integrity by wards. None of the inmates, however, decided to make an official complaint or a notification of a suspicion of a crime by PS officers. In another visited establishment, the representatives of the NPM received information from one of the prisoners who claimed to be beaten by a ward in a day room. Moreover, the inmate added that the officer covered him with a mattress not to leave traces of beating. At the request of the convict, the Deputy Human Rights Defender filed a notification of a suspicion of a crime with a relevant local prosecution unit. The prosecutor's office refused to initiate investigation into the submitted notification⁴¹. In the latter two cases, allegations of violation of bodily integrity were related to the situation where claimants were unable to prove the allegations to the Human Rights Defender to make her submit notifications of a suspicion of a crime by PS officers. In the referred situations, the representatives of the Mechanism presented these worrying signals, which had been received from

⁴⁰ PTDC in Łódź, Pr No 1 in Strzelce Opolskie, PTDC in Zabrze, PTDC in Warsaw-Białogłoka.

⁴¹ Having analysed material on the case, a body conducting pre-trial proceedings refused to initiate investigation in the absence of sufficient evidence of committing the offense. Having analysed a statement of reasons for the decision issued as a result of the proceedings, the HRD did not appeal against it.

prisoners, to the authorities of the establishments and, at the same time, obliged them to pay closer attention to issues of treatment of persons deprived of their liberty by PS officers in their subordinate establishments.

The representatives of the Mechanism continue to reveal cases related to misconduct of the authorities of the establishments in relation to persons with disabilities. In several of the establishments visited in 2014, employees of the Office revealed cases of ill-treatment of such persons which involved, among others: lack of sufficient space for an inmate in a wheelchair in a cell adjusted to the needs of persons with disabilities, lack of properly adjusted bath space⁴², placing a person moving with crutches on an upper bed and those with reduced physical capabilities in cells located on higher floors of the building⁴³.

2. Access of prisoners to medical care

In comparison with the previous year, having reviewed the exercise of the right of prisoners to medical care in terms of broadly defined treatment by medical personnel, it can be concluded that the situation in this regard has significantly improved. Only in two establishments, persons deprived of their liberty complained of brusqueness of a doctor⁴⁴. Their assessment of access to specialist medical examination and waiting time for a medical appointment was positive as well⁴⁵.

3. Right to information

The HRD succeeded in her efforts to provide new inmates with guides. It seems that the right to information will become increasingly important, so that it will be possible one day to provide all inmates with guides, not only for viewing. In fact, international standards give consideration to written instructions and repeating them for prisoners reporting such a need, while national standards are mainly based on verbal instructions in the course of enforcement proceedings.

The representatives of the NPM noted cases of violation of legal rules as regards executing the right to information by foreigners placed in Polish penitentiary establishments. They involved: lack of information on the language in which initial interviews were held, not indicating in records thereof that foreigners do not speak Polish and thus contact with them is difficult⁴⁶; making foreigners who do not speak

⁴² PTDC in Międzyrzecz.

⁴³ PTDC in Łódź.

⁴⁴ PTDCs in Łódź and Sosnowiec.

⁴⁵ Prisoners of PTDCs in Warsaw-Białołęka, Łódź and Międzyrzecz alleged that waiting time for a medical appointment and specialist consultations was long.

⁴⁶ PTDC in Warsaw-Białołęka, EW in Bemowo, PTDC in Bielsko-Biała, PTDC in Międzyrzecz, Pr No 1 in Strzelce Opolskie.

Polish sign statements drawn up in that language⁴⁷; lack of guides for foreigners on the rights of persons deprived of their liberty⁴⁸.

4. Right to file complaints, requests, applications

In general, the opinion of the representatives of the Mechanism on providing prisoners with the possibility to exercise one of their basic rights was positive. During the visit in 2014, the representatives of the NPM continued to verify the way the prisoners were informed of the result of their requests and applications. Unfortunately, the Ordinance of the Minister of Justice was still commonly breached. The breach consisted in providing oral rather than written replies to requests and applications which were not considered immediately after being filed⁴⁹.

5. Right to contact with the outside world

During the visits, the representatives of the NPM found that seven establishments lacked separate rooms where the reward stipulated in Article 138 § 1(3) of the Executive Penal Code, i.e. a visit in a separate room without any supervising person present, could be provided⁵⁰. The lack of such a room in an establishment means that this reward cannot be granted, even if inmates meet criteria for obtaining it. A recommendation was made to assign such rooms in all places lacking them.

6. Living conditions

Adjustment of establishments to the needs of persons with disabilities was a key issue when verifying living conditions in pre-trial detention centres and prisons last year. Since such persons may also serve imprisonment in penitentiary establishments, the representatives of the NPM recommend adjusting at least one residential cell (in particular for a person in a wheelchair). Only four establishments of those visited in 2014 were provided with cells and bath space adjusted to the needs of persons with disabilities⁵¹. Unfortunately, the adjustment of the identified establishments amounted only to a residential cell itself. However, their infrastructure outside cells lacked necessary adjustments to enable persons with disabilities to exercise their rights as prisoners (right to visits, right to a walk, right to religious practices, right to cultural and educational classes).

⁴⁷ PTDC in Warsaw-Białoleka, Pr in Potulice, PTDC in Międzyrzecz, Pr No 1 in Strzelce Opolskie.

⁴⁸ PTDC in Warsaw-Białoleka, PTDC in Łódź, EW in Bemowo.

⁴⁹ PTDC in Warsaw-Białoleka, PTDC in Bielsko-Biała, EW in Bemowo, PTDC in Tarnowskie Góry, PTDC in Kraków-Podgórze, Pr in Lubliniec, Pr in Kamiński, Pr in Łowicz.

⁵⁰ PTDC in Bielsko-Biała, PTDC in Sosnowiec, EW in Bemowo, PTDC in Zabrze, PTDC in Tarnowskie Góry, Pr in Zamość, Pr in Potulice, PTDC in Międzyrzecz, PTDC in Łódź.

⁵¹ Pr in Potulice (two cells), PTDC in Międzyrzecz (one cell), PTDC in Warsaw-Służewiec (five cells), Pr No 1 in Strzelce Opolskie (one cell).

Last year, the employees of the OHRD noted that there was a significant increase in the number of bunk beds with ladders and safety rails. They were available in each establishment, while the number of cells equipped with them was steadily increasing.

The representatives of the Mechanism found that infirmary premises in four penitentiary establishments were not adjusted to the needs of persons with disabilities⁵².

3. Juvenile establishments

3.1. Necessity to draw up a new Act on juvenile delinquency proceedings

The representatives of the NPM uphold their position on the necessity to draw up a new Act on juvenile delinquency proceedings. The problem was described in the *Report of 2013*, indicating issues that need to be urgently regulated in a legal act of statutory rank, i.e. access of juveniles to medical care (including access to specialist care as regards pregnant juveniles), their contact with parents/legal guardians and an attorney (including telephone contact), performing personal searches in juvenile detention centres, using CCTV surveillance in places of detention for juveniles⁵³.

3.2. Testing for the presence of alcohol and drugs in the organism

One systemic problem is testing charges of youth care centres, juvenile detention centres and juvenile shelters for the presence of alcohol and drugs in the organism⁵⁴.

Personnel of these institutions, under their social rehabilitation activity, is responsible for, among others, preventing and counteracting the purchase and consumption of alcoholic beverages, drugs and psychotropic substances by charges. In the course of the visits of the NPM, it was found that, for this purpose, educators or nurses in certain establishments carry out testing for the presence of alcohol, drugs or psychotropic substances in the organism of the juveniles.

Not undermining the legitimacy of diagnostic testing in case of suspicion that persons placed in these establishments are under the influence of alcohol or other substances, it should be noted that no testing, regardless of its complexity, should be carried out when those performing it are not explicitly authorised by law

⁵² PTDCs in Łódź and Warsaw-Białołęka, Prs in Łowicz and Potulice.

⁵³ Cf. *Report of 2013*, pp. 64-69.

⁵⁴ The issue was also addressed in previous Reports – not as a systemic problem, but in chapters on areas requiring improvement in YCCs and JDCs.

to do so. In turn, implementing provisions should specify how this testing is documented and whether its results, which legally guarantee that a juvenile's interests are protected, can be verified.

In accordance with the Ministry of Justice, § 3(1) of the Ordinance of the Minister of Justice of 17 May 2007 *on detailed conditions and course of treatment, rehabilitation and reintegration as regards the addicted placed in remand homes and shelters for minors* gives grounds to test for the presence of drugs in juvenile detention centres and juvenile shelters⁵⁵. The referred provision of the ordinance does not specify entities authorised to perform diagnostic testing and provides no procedure for verifying its results.

Accordingly, it should be noted that, under current regulations, employees of YCCs and JDCs/JSS are not authorised to conduct testing for the presence of alcohol and drugs in the organism. The regulations define no procedure of testing and no possibility of verifying the result of a breathalyser test or a panel test.

3A. Youth care centres

3A.1. Introduction

In 2014, the representatives of the National Preventive Mechanism performed visits to 15 youth care centres, of which one was a follow-up visits⁵⁶.

3A.2. Systemic problems

1. Standardisation

Visits to YCCs, which have been performed for several years, show that no uniform standards of care and equipment of youth care centres have been implemented. During the visits, the representatives of the NPM noted that issues being a standard in one establishment are ignored in another one (e.g. prevention programmes, self-empowerment programmes, voluntary work). The representatives of the NPM, as part of raising standards, identified many of them in their *Reports*⁵⁷ as good practices.

The lack of standardisation was also identified by certain directors of establishments. Therefore, developing minimum standards in organisational, infrastructural, pedagogical, care and social terms is advisable. The representatives of the NPM were informed that a team at the Office of the Ombudsman for Children

⁵⁵ Dz.U. No 93, item 627.

⁵⁶ YCCs in: Herby, Skarżysko-Kamienna, Węgrzynów, Kraków – Górka Narodowa (follow-up visits), Rembów, Łañcut, Warsaw (No 4), Krzepice, Namysłów, Zawieść, Leśnica, Rewal, Goździków, Wojnów, Gołotczyzna.

⁵⁷ *Report of 2012*, p. 47, *Report of 2013*, pp. 71-73.

along with a representative of the MNE and representatives of social rehabilitation centres developed *Standards of Stay of Children in Youth Care Centres and Youth Psychotherapy Centres in the field of Education, Care and Behaviour*. The HRD will monitor the situation in this respect.

3A.3. Strengths of establishments and good practices

The representatives of the NPM uphold their opinion on the strengths of youth care centres from last year, i.e. they still praise the offer of social rehabilitation, sports, cultural or therapeutic activities organised in YCCs, including numerous innovative behavioural programmes, and implementation of the right to education. In many establishments, preparation and training of their personnel can be seen a strength.

3A.4. Areas requiring improvement

1. Treatment

In most visited establishments, the representatives of the NPM received no reports from juveniles indicating the use of violence against them. On the contrary, charges often praised employees, indicated those whom they consider trustworthy, stressed their commitment to help juveniles.

In two establishments⁵⁸, the visitors were informed of aggressive behaviour of their personnel towards charges: boys complained that their educator yells at them, kicks and hits them. Directors of both establishments were obliged by the visitors to investigate these reports and to counteract any abuse of charges.

Additionally, individual interviews with juveniles in three centres⁵⁹ revealed cases of on-site bullying, ill-treatment of younger or weaker juveniles by older ones. Numerous instances of beating were reported in the YCC in Rembów. The visitors recommended taking appropriate measures to ensure security of charges. For example, the YCC in Krzepice calls the Police in case of any beating and carries out sociometric testing twice a year in relation to group relationships and a sense of security. The YCC in Skarżysko-Kamienna performs room-to-room transfers of boys to prevent those with strong personality from forming a group.

Performing personal searches of juveniles is common practice in YCCs⁶⁰. It is a significant intrusion into the intimate sphere of charges and employees of youth

⁵⁸ YCCs in: Łańcut, Kraków-Górka Narodowa; irregularities found during follow-up visits are described in Chapter: *Follow-up visits*.

⁵⁹ YCCs in: Krzepice, Rembów, Skarżysko-Kamienna.

⁶⁰ YCCs in: Łańcut, Zawiesz, Rembów, Namysłów, Wojnów, Warsaw (No 4).

care centres are not authorised to carry out such searches. The representatives of the NPM recommended putting an end to these measures.

Putting handcuffs on juveniles is unacceptable as well. Such cases were identified in two establishments⁶¹. Pursuant to Article 95a § 1 of the AJDP, out of all coercive measures, only physical strength can be used against charges of youth care centres. One of the YCCs⁶² in its document, i.e. a coercive action protocol, provides for using, in addition to physical strength, an isolation room, a body belt and a straitjacket.

2. Disciplinary procedure

Reservations concerning disciplining juveniles are analogous to those reported in previous years. The visitors most often undermined non-statutory penalties, including additional work or standby duty and physical exercise as a punishment⁶³. Moreover, YCCs developed a grading system which often contained elements of the so-called *double punishment*, i.e. for one offense, a charge faced several consequences⁶⁴. Catalogues of penalties still include a disciplinary measure in the form of a transfer to another establishment⁶⁵. What is more, interviews with juveniles revealed that applying collective responsibility⁶⁶ is common practice. The abovementioned penalties must not be used pursuant to international standards, e.g. Rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty⁶⁷ (hereinafter referred to as “Resolution 45/113” or “Havana Rules”): *Labour cannot be a disciplinary penalty. (...) Collective sanctions have to be prohibited (...) No juvenile cannot be punished more than once for the same offense*, Rule 97 of Recommendations CM/Rec(2008)11: *Juveniles cannot be transferred as part of a disciplinary measure* and Rule 95.6.: *Disciplinary punishment shall not include a restriction on family contacts or visits unless the offense relates to such contacts or visits*.

⁶¹ YCCs in: Wojnów, Rewal.

⁶² YCC in Skarżysko-Kamienna. The director of the establishment was recommended to adapt the document to legal regulations in place.

⁶³ YCCs in: Rembów, Rewal, Skarżysko-Kamienna, Namysłów, Łańcut, Warsaw (No 4), Zawieść, Węgrzynów, Krzepice, Herby, Leśnica.

⁶⁴ YCCs in: Rewal, Skarżysko-Kamienna, Łańcut, Leśnica, Wojnów.

⁶⁵ YCCs in: Rembów, Skarżysko-Kamienna, Łańcut, Wojnów, Goździków.

⁶⁶ YCCs in: Skarżysko-Kamienna, Warsaw (No 4), Węgrzynów, Herby, Leśnica.

⁶⁷ adopted by General Assembly Resolution 45/113 on 14 December 1990.

3. Right to information

The right to information on rights and obligations of juveniles in the establishments was respected⁶⁸. Despite this fact, the representatives of the NPM advised to supplement information available on notice boards to include the establishment's rules of procedure, a procedure for filing complaints and addresses of institutions protecting human rights⁶⁹. Single recommendations concerned introducing changes to the wording of internal documents of the establishments visited, among others, unifying the catalogue of rights and obligations and punishments and rewards, expanding the list of rights to include the right to outdoor activities, freedom of religion or supplementing the statute to include a procedure for filing complaints⁷⁰.

4. Right to contact with the outside world

All the establishments visited were criticised for violating the right of juveniles to contact with the outside world. In several centres, remarks mainly concerned provisions of internal documents on juveniles' contact with persons from outside their facility⁷¹. In most cases⁷², however, apart from unlawful internal regulations, improper practice was also identified. At this point, a supposition expressed in the *Report of 2013* should be repeated, i.e. the foregoing is due to the fact that the Act on juvenile delinquency proceedings lacks specific provisions on charges' contacts with persons from outside the establishments. The provision of the AJDP on contacts with persons who are not family members provides for situations in which this contact may be limited, but it applies to individual cases, rather than general principles introduced in the establishments.

⁶⁸ Pursuant to § 4(1) of the Ordinance of the Minister of National Education of 27 December 2011 on detailed rules for referring, admitting, transferring, releasing and holding juveniles in a youth care centre (Dz.U. No 296, item 1755), *immediately after a juvenile arrives to a centre, its director – in the presence of an educator or other employee of the centre – interviews the juvenile to acquaint him/her with his/her rights, obligations and rules of stay in the centre. Furthermore, the juvenile confirms awareness of his/her rights, responsibilities and rules of stay in the centre with his/her own signature.* If the juvenile refuses to place his/her signature, the director of the centre makes a note in the juvenile's documentation that he/she refuses to confirm awareness of his/her rights, obligations and rules of stay in the centre (§ 4(2) of the Ordinance).

⁶⁹ YCCs in: Namysłów, Rewal, Skarżysko-Kamienna, Wojnów, Leśnica, Goździków.

⁷⁰ YCCs in: Rembów, Skarżysko-Kamienna, Zawisć, Łañcut, Goździków.

⁷¹ YCCs in: Warsaw (No 4), Herby, Wojnów, Krzepice, Węgrzynów.

⁷² YCCs in: Skarżysko-Kamienna, Łañcut, Rewal, Namysłów, Zawisć, Rembów, Leśnica, Goździków.

Undoubtedly, maintaining close family or peer ties is part of the right to maintain contact with the outside world. Besides, in line with the recommendation formulated in the Havana Rules, *juveniles should be provided with any opportunity to contact with the outside world, because contact of this kind is an integral element of fair and humane treatment and is essential for preparing them to return to the bosom of society* (Rule 59). This issue is similarly addressed in European rules for enforcement of sanctions and measures adopted in relation to juvenile perpetrators of criminal acts (adopted by the Committee of Ministers of the Council of Europe on 5 November 2008) which stress the principle of diverse and unlimited, as much as possible, contacts of a juvenile with the outside world.

5. Right to religious practices

It was found that four⁷³ care centres do not fully respect the right to religious practices. This was due to the fact that it was possible to go to a church only if an appropriate number of charges wanted to go. Individual persons were not allowed to go out. Moreover, there was one centre⁷⁴ in which only up to eight boys were allowed to participate in Sunday Mass, because the YCC's vehicle had not enough seats. In the opinion of the representatives of the NPM, if a juvenile wishes to attend Mass, he/she should be given such a possibility. Providing everyone with freedom of conscience and religion, which covers freedom to profess or adopt religion of personal choice, is a fundamental right of every person referred to in Article 53 of the Constitution of the Republic of Poland.

6. Personnel

The representatives of the NPM attach great importance to the issue of appropriate and regular training of personnel, because – according to the position of the CPT⁷⁵ – it is one of the forms to prevent inhuman treatment. Therefore, they recommended holding training for employees on, e.g.: children's rights in international and national law, stress management, prevention of occupational burnout, interpersonal communication, dealing with aggression from a charge, introducing creative methods of social rehabilitation, working with trauma, etc. Furthermore, it would be beneficial to supervise YCC specialists as regards deepening their existing knowledge, skills and behaviour, as well as protection against excessive stress and, consequently, against occupational burnout.

7. Living conditions

⁷³ YCCs in: Rewal, Namysłów, Zawiszc, Skarżysko-Kamienna.

⁷⁴ YCC in Wojnów.

⁷⁵ Fragment of the Second General Report [CPT/Inf (92) 3].

Due to poor living conditions, the visitors recommended to carry out repairs, especially of rooms and sanitary facilities, in three establishments⁷⁶. Moreover, certain centres were advised to change worn-out furniture in rooms of charges and provide necessary additional equipment⁷⁷.

Despite the fact that NPM reports repeatedly raised the issue of installing monitoring in, among others, bedrooms of juveniles and sanitary facilities, the situation has not changed. Each time⁷⁸, the visitors recognised this practice as deeply interfering with the right to privacy and unacceptable as well as unregulated in any generally applicable provisions. There were also allegations of barring of windows⁷⁹ which, in the case of care establishments, should not occur and conditions in bathrooms which do not provide intimacy due to lack of or transparent curtains between showers⁸⁰.

8a. Situation of persons with disabilities

Only one⁸¹ of the establishments visited was partly adjusted to the needs of persons with physical disabilities. Lack of suitably adjusted sanitary facilities was the only reservation. However, other establishments were not at all adjusted to admitting a charge in a wheelchair. Due to the fact that the rights of persons with disabilities are of particular interest to the Defender, the representatives of the NPM reiterate that, in accordance with the *Charter of the Rights of Persons with Disabilities* adopted on 1 August 1997 by the Sejm of the Republic of Poland, persons with disabilities have the right to live in an environment free of functional barriers, while the *Convention on the Rights of Persons with Disabilities* ratified by Poland requires that persons with disabilities should be enabled to live their life independently and fully participate in all its spheres. All state institutions should therefore take action aimed at giving real effect to the rights of persons with disabilities.

3B. Juvenile detention centres and juvenile shelters

3B.1. Introduction

In 2014, the representatives of the National Preventive Mechanism performed visits to five juvenile detention centres and two juvenile shelters⁸².

⁷⁶ YCCs in: Leśnica, Namysłów, Rewal.

⁷⁷ YCCs in: Łańcut, Wojnów, Rembów.

⁷⁸ YCCs in: Łańcut, Wojnów.

⁷⁹ YCCs in: Łańcut, Warsaw (No 4), Rewal.

⁸⁰ YCCs in: Łańcut, Leśnica.

⁸¹ YCC in Rembów.

⁸² Juvenile Detention Centres in: Poznań, Grodzisk Wielkopolski, Tarnów, Sadowice, Jerzmanice Zdrój; Juvenile Shelters in: Gacki, Szczecin.

3B.2. Systemic issues

1. Placing charges in transition rooms and separate living premises (SLPs)

The problem of placing charges in transition rooms and separate living premises still persists. Currently, the representatives of the NPM are awaiting this matter to be resolved by the Constitutional Court⁸³. Additionally, grounds for placing juveniles in SLPs/transition rooms, the period of isolation as well as rules of such stay were checked during the visits. Irregularities in this area were found in most establishments, e.g.: a duty to wear pyjamas⁸⁴, long periods of isolation of juveniles⁸⁵, placing them in SLPs at the request of the Police⁸⁶, obligations to stand at attention⁸⁷, to submit reports to employees⁸⁸, a ban on telephone contacts⁸⁹.

2. Non-adjustment of JDCs/JSs to the needs of persons with disabilities

The problem of non-adjustment of juvenile detention centres and juvenile shelters to the needs of persons with disabilities remains unresolved in the normative sense, but – in practice – measures were taken to adjust two social rehabilitation establishments in this respect.

3B.3. Strengths

Just as in the *Report of 2013*, the following strengths of juvenile detention centres and juvenile shelters should be mentioned: workshop and school facilities (rooms provided with necessary educational materials, equipment, machinery, multimedia devices), a wide range of extracurricular activities, including special interest groups (e.g. IT, climbing, music, drama, sports groups), first aid courses, social rehabilitation programmes (e.g. dogotherapy, “*And I will be a dad*”, career counselling, workshops to prevent HIV/AIDS infection, classes on correct family relationships), trips (e.g. tourist, sports, cinema, museum, theatre, bowling trips), cooperation with external entities (e.g. cooperation with Franciscans’ Charity Kitchen – assistance in preparing meals for the homeless, the Polish Social and Sports Association, the Centre for Education and Youth Work of the Voluntary Labour Corps).

⁸³ <https://www.rpo.gov.pl/pl/content/wniosek-do-trybuna%C5%82u-konstytucyjnego-w-sprawie-systemu-izolacji-nieletnich-ze-wzgl%C4%99du-na>

⁸⁴ JDC in Jerzmanice Zdrój; JSs in: Szczecin, Gacki.

⁸⁵ JS in Gacki; JDC in Sadowice.

⁸⁶ JDC in Grodzisk Wielkopolski.

⁸⁷ JC in Szczecin.

⁸⁸ JDC in Grodzisk Wielkopolski.

⁸⁹ JC in Szczecin.

3B.4. Areas requiring improvement

1. Treatment

During individual interviews with charges on the atmosphere in establishments and the way they are treated by their personnel, a great deal of positive information was found as regards personnel, its commitment to help charges and good relations in establishments. There were, however, reports on using foul language⁹⁰ as well as psychological and physical violence⁹¹ by employees in relation to charges.

Another reservation regarding treatment of juveniles, i.e. the use of handcuffs on juveniles as a coercive measure, was made in relation to two facilities⁹². The measure referred to above cannot be used in juvenile detention centres and juvenile shelters. Pursuant to Article 95a § 1 and 2 of the AJDP, physical strength, a straitjacket, a body belt and an isolation room can be used with respect to charges of juvenile detention centres and juvenile shelters in cases strictly regulated by law. The representatives of the NPM advised to cease the use of handcuffs immediately.

Each time, the representatives of the NPM recognised personal searches and tests for the presence of drugs in the organism by employees of juvenile detention centres as improper practice. The foregoing has already been discussed.

2. Disciplining

The issue of disciplining often raises a lot of controversy. Although the AJDP contains an exhaustive catalogue of disciplinary measures and rewards, the visitors frequently found, both in internal procedures and in practice, that the catalogue was expanded to include additional penalties, e.g.: additional standby duty, an application for transfer to another establishment, no phone calls allowed, isolation of charges, lowering their pocket money, suspension of passes and leaves for an indefinite period⁹³.

The visitors had the most serious reservation about a conditional stay group, i.e. a penalty group, in one of the visited facilities⁹⁴. It is worth noting that the time of functioning in this group was not clearly defined and depended on a subjective assessment of personnel. Apart from isolation from other charges, boys in this group were more severely treated, among others: they could not wear their

⁹⁰ JDC in Tarnów.

⁹¹ JS in Gacki and JDC in Sadowice.

⁹² JDCs in: Poznań, Grodzisk Wielkopolski.

⁹³ JDC in Grodzisk Wielkopolski; JSs in: Szczecin, Gacki.

⁹⁴ JDC in Sadowice.

own clothes and use the facility's equipment to which charges functioning in other groups had access, their living conditions were worse and they were not given passes or leaves, except for random cases. There were also no reports indicating that they were allowed to go outdoors. The boys did not participate in workshops and spent their time carrying out cleanup work within the dormitory or peeling potatoes in the kitchen. Restrictions were also made as regards the financial sphere, since the boys could not freely manage their savings and contact their entire family and friends. Only visits by immediate family members were allowed. It should be stressed that the so-called *penalty groups* are not envisaged in the social rehabilitation methodology, as there should be no excessive repression, and are not provided for by applicable legal standards governing the operation of juvenile detention centres. Therefore, the representatives of the NPM recommended rearranging the principles of stay in this group.

3. Contacts with the outside world

The situation with regard to contacts with the outside world remains unchanged. The representatives of the NPM continuously found that these contacts were limited in breach of Article 66 of the AJDP. This situation was observed in each of the visited establishments. Deficiencies included: limiting visits to only immediate family, telephone contact with non-family members as a privilege, telephone calls allowed for charges only in the presence of an employee, withholding juveniles' correspondence without notifying a family judge of this fact, controlling such correspondence, violating the right to privacy by the constant presence of a guard when juveniles were visited, no visits allowed for juveniles in transition rooms, the establishment's hallway as a visit place.

4. Medical care

Juveniles in juvenile detention centres and juvenile shelters are provided with basic and specialist health care. In most centres and shelters, the representatives of the NPM assessed that the right of juveniles to health care is fulfilled.

5. Right to religious practices

As to the right to religious practices, it was found that Masses are compulsory for all charges only in one visited establishment⁹⁵. It was therefore advised to take into account the will of parents and charges themselves as regards participation in religious practices. The visitors voiced no reservations for other centres and shelters in this respect.

⁹⁵ JDC in Sadowice.

6. Right to information

The visitors found individual deficiencies as regards fulfilling charges' right to information which consisted in lack of a charge's signature of a statement of knowledge of the establishment's rules and advocated completing an address list of institutions protecting human rights to include data of the Helsinki Foundation for Human Rights and the HRD hotline⁹⁶. Two establishments⁹⁷ were found to use notice boards to display charges' personal data, i.e. their weight, height and biography. However, one shelter⁹⁸ ordered not to send complaints to external institutions through its personnel. It was advised to address these deficiencies.

Despite these reservations of the representatives of the Mechanism, it should be noted that the right to information in the visited centres and shelters was generally observed.

7. Living conditions

Most visited centres and shelters ensured good living conditions to their charges.

8. Personnel

Following international recommendations and the position of the CPT, ensuring systematic training to personnel working with persons deprived of their liberty is essential to prevent ill-treatment. In this respect, recommendations were identical as to the employees of YCCs.

4. Rooms for detained persons (PDRs)

4.1. Introduction

In 2014, the representatives of the National Preventive Mechanism carried out visits to 20 rooms for detained persons or persons brought to sober up⁹⁹ within Police organisational units (hereinafter referred to as the "PDR", the "centre").

⁹⁶ JDC in Grodzisk Wielkopolski; JS in Gacki.

⁹⁷ JS in Szczecin and JDC in Sadowice.

⁹⁸ JS in Szczecin.

⁹⁹ PDRs in: Łowicz, Łódź-Wschód (establishment under renovation), Szydłowiec, Złotoryja, Warsaw II (Ursynów), Staszów, Warsaw I (Warsaw Police Headquarters), Lipsk, Namysłów, Oświęcim, Mońki, Sucha Beskidzka, Nowy Tomyśl, Chrzanów, Kraśnik, Nidzica, Skierniewice, Gryfice (establishment under renovation), Kamień Pomorski, Myszków.

4.2. Systemic problems

1. Delegating the responsibility for care of intoxicated persons to the Police

The problem of delegating the responsibility for care of intoxicated persons to the Police, which was highlighted in previous *Reports*¹⁰⁰, remains topical. In the absence of the obligation to employ medical personnel in the centre, these establishments are not adequately prepared to care for intoxicated persons.

2. Medical examination of detained persons

Compared to previous years, the issue of medical examination of PDR detainees in 2014 remained the same. All detained persons or persons brought to sober up were examined in only one of the visited establishments¹⁰¹. Other establishments provided medical services to, among others, persons detained to sober up, persons having visible bodily injuries and those that requested such examination¹⁰².

Based on the recommendations of the CPT, General Assembly Resolutions and conclusions made by the representatives of the NPM as a result of preventive visits, examining all detainees by the Police would play a very important function. On the one hand, it would make it possible to early detect medical contraindications to being placed in PDRs, while on the other hand, a detailed description of detainees' health condition – before being placed in PDRs – would effectively protect police officers on duty in PDRs from any charges.

3. Insufficient staffing of PDRs

In 2014, § 2(2) of Order No 130 of the Police Commander-in-Chief of 7 August 2012 on methods and forms of performing tasks in a room for detained persons or persons brought to sober up, which stipulates that the establishment's director organises service in such a way that there is always a police officer in the PDR, was still not amended.

As in previous years, visiting teams find that there are instances where one police officer is on duty in the PDR and, being also a deputy duty officer at the Police headquarters, he/she has to perform certain duties ordered by his/her superior. Cases where police officers serve their duty outside the PDR should be considered particularly dangerous. In such a situation, it may take too long to react to an adverse event, because of the time needed to reach such a detention room from the

¹⁰⁰Cf. *Report of 2012*, pp. 64 and 72, *Report of 2013*, p. 112.

¹⁰¹PDR in Lipsko.

¹⁰²Cf. § 1(3) of the Ordinance of the Minister of the Interior of 13 September 2012 on medical examination of persons detained by the Police (Dz.U. of 2012, item 1102).

place of service. Moreover, it is impossible for one police officer to ensure safety and control in the centre.

4. Personal searches of detainees

During the visits, the representatives of the NPM face situations in which police officers understand detailed examination – provided for in the Ordinance of the Minister of Justice – as a personal search. However, applicable provisions neither define nor specify how a detained person should be controlled.

4.3. Good practices

Similarly to previous years, good practice was to perform medical examination of all detainees, regardless of the grounds for their detention. This is all the more important, because – as already indicated – the provisions in place do not impose such an obligation¹⁰³.

4.4. Areas requiring improvement

1. Legality of stay

As in previous years, the representatives of the NPM found no major violations in this respect. Having analysed protocols of detention, admission/release orders and duty log books, it can be concluded that, compared to previous years, there was a significant improvement in keeping these documents. The irregularities found included one case of a release order which lacked the time of release¹⁰⁴.

2. Treatment

During interviews with the representatives of the Mechanism, the vast majority of persons deprived of their liberty voiced no reservations related to their treatment by police officers on duty in PDRs.

Not content with the interviews with detained persons or persons brought to sober up, the representatives of the NPM, having analysed CCTV recordings, found a very worrying situation¹⁰⁵. One recording presents a police officer talking to a detainee. The camera recording shows that the detained was pushed by the police officer and, as a result, fell to the floor. The representatives of the NPM assessed that such behaviour is unacceptable and recommended the commander to investigate the case and to present investigation findings.

¹⁰³PDR in Lipsko.

¹⁰⁴PDR in Kraśnik.

¹⁰⁵PDR in Chrzanów.

3. Right to medical care

Another area related to medical care and not concerning the already mentioned systemic error, which still requires improvement, is documentation of health care services provided to detainees and persons brought to sober up. Frequent errors identified in log books of medical appointments¹⁰⁶ included: lack of the time and date of examination or a notification whether a detainee can be held in the centre¹⁰⁷. In one of the establishments¹⁰⁸, there was a medical certificate with a doctor's note saying that there were no contraindications to stay in the centre and, at the same time, that *examination cannot be performed (...)*. The representatives of the NPM expressed their doubts concerning grounds for issuing the opinion that the detainee can stay in the centre, as his/her state of health was not checked.

It is important to eliminate the deficiencies identified, as assessing whether persons deprived of their liberty were provided with proper medical care is possible largely based on medical records. Therefore, its correct and accurate completion is so critical. Despite the fact that the way of keeping documentation depends on an examining doctor, it should be noted that these are police officers who administrate detainees' medical records. Consequently, the representatives of the Mechanism recommend paying attention to the correctness of completing documentation by persons providing medical services, i.e. specifying the date and time of examination, providing an accurate description of a PDR detainee's health condition. In case of emergency, such a solution would make it possible to precisely specify the time and scope of a provided medical service which is relevant in the context of any responsibility for a person deprived of his/her liberty.

Another persistent problem identified by the visitors in some visited establishments is the provision of medical services to detained persons or persons brought to sober up in the presence of a police officer¹⁰⁹. On each occasion, the

¹⁰⁶ PDRs in: Kamień Pomorski, Lipsko, Nidzica, Oświęcim, Sucha Beskidzka, Szydłowiec, Złotoryja.

¹⁰⁷ PDRs in: Chrzanów, Namysłów.

¹⁰⁸ PDR in Chrzanów.

¹⁰⁹ On 15 September 2014 (II.517.4689.2014.ED, <http://www.sprawy-generalne.brpo.gov.pl/szczegoly.php?pismo=219343>), the HRD referred the case to the Minister of the Interior, pointing out that medical examination is performed in the presence of police officers and other uniformed services, since conditions for this presence are unregulated by statute, thus limiting constitutionally protected values, such as privacy and medical confidentiality, during examination. In the reply of 20 October 2014, the Minister explained that the Ministry of the Interior is working on draft assumptions for the draft Act amending the Police Act and certain other acts which aim at regulating the issue of performing medical examination of persons detained by the Police in the said Act. The Minister believes that it also seems advisable to provide the legal system with a solution that would clearly regulate the

employees of the NPM recommend limiting the presence of police officers (who have to be of the same sex as the detained person) during the provision of medical services to detainees to situations of justified concern about the safety of medical personnel, or to places of providing medical services not equipped with appropriate technical safeguards, thus raising concerns that such a detainee might escape. In this respect, it is therefore necessary to develop, as soon as possible, precise rules for the presence of a police officer during examination.

4. Right to information about the legal rights

The representatives of the NPM noticed a significant improvement in compliance with § 16(2) of the Ordinance of 4 June 2012, according to which copies of PDR rules and the list of institutions protecting human rights are placed in the rooms for detained persons or persons brought to sober up so as to prevent their destruction or their use to make an attempt on human health. During the visits, the representatives of the Mechanism found no establishment whose premises lacked these rules. There were several cases where it was necessary to replace destroyed copies with new ones or add addresses of institutions protecting human rights.

Although the representatives of the NPM found that only one visited Police establishment lacks translated PDR rules¹¹⁰ or certain language versions are outdated¹¹¹, other irregularities related to detained foreigners were identified. In one of the establishments¹¹², protocols of detention on foreigners placed in the PDR as a result of riots after a football match revealed irregularities related to ensuring an interpreter, such as: lack of the translated protocol, as a result of which a detainee denied to sign it, as he/she did not speak Polish, lack of a translator's signature under the statement "*Translated*" in rules of stay of PDR detainees and – in its outdated version of 2003 – lack of information whether detainees' demand to notify a consul was met, as well as providing a citizen of the Czech Republic with an interpreter of Italian rather than Czech¹¹³. In view of the foregoing, the representatives of the NPM asked the establishment's commander for clarification.

issue of performing medical examination of a detained person in the presence of officers of the Government Protection Bureau and the Border Guard, by introducing appropriate amendments to the Border Guard Act and the Government Protection Bureau Act.

¹¹⁰PDR in Chrzanów.

¹¹¹PDR in Szydłowiec.

¹¹²PDR in Warsaw I (Warsaw Police Headquarters).

¹¹³The PDR's documentation lacked information that the citizen of the Czech Republic was an Italian speaker.

The representatives of the Mechanism welcome the fact that certain establishments are provided with lists of attorneys. However, the vast majority of the centres¹¹⁴ did not provide their detainees with access to them. It should be noted that access to the list of attorneys should be regarded as one of the guarantees to prevent ill-treatment. The CPT stated that access to an attorney is a disincentive for persons prone to ill-treatment of those deprived of their liberty¹¹⁵. It is also important not to neglect Article 245 § 1 of the Code of Criminal Procedure, under which a detainee is entitled to immediately contact, in accessible form, an attorney and establish a direct conversation with him/her. If the detainee does not have information necessary to contact the attorney, exercising this right will only be fiction.

5. Living conditions

As in previous years, the representatives of the NPM voiced no reservations about living conditions in most visited establishments.

Living conditions found by the representatives of the NPM in one of the establishments¹¹⁶ were so bad that further stay of both persons deprived of their liberty and police officers on duty under such conditions could be described as degrading treatment.

On the day of the visit, all PDR premises showed signs of long-term neglect, including damage that has not seen any repair. They looked as if they had not been cleaned up for many days and they lacked fresh air. Apart from littering the floor as well as wall and window recesses, inmates' rooms and sanitary facilities were marred with stains of unknown origin, inscriptions, cobwebs, plaster and paint loss and wall cracks. This also applies to other premises.

In view of this situation, by letter of 14 November 2014, the Director of the National Preventive Mechanism Department requested the Director of the Office of Prevention and Road Traffic of the National Police Headquarters to take urgent action to prevent further ill-treatment of persons deprived of their liberty by placing them in inhumane conditions and immediately stop new admissions to the

¹¹⁴PDRs in: Lipsko, Kraśnik, Mońki, Namysłów, Nidzica, Oświęcim, Skierniewice, Staszów, Szydłowiec, Warsaw I (Warsaw Police Headquarters), Warsaw II (Ursynów), Złotoryja.

¹¹⁵Paragraph 18 of the CPT General Report [CPT/Inf (2011) 28]. Also, the ECHR pointed out that "access to an attorney at an early stage is part of procedural safeguards to which the Court will pay particular attention when examining whether the essence of the privilege against self-incrimination was violated in proceedings" (*Salduz v Turkey*, Application No 36391/02).

¹¹⁶PDR in Myszków.

establishment. In response to the letter referred to above, the centre has been out of use since 25 November 2014.

In other centres, the representatives of the NPM found exploited equipment or damaged walls that were covered with numerous inscriptions¹¹⁷.

Adjustment of establishments to the needs of the disabled was one of the issues raised at the meeting of the representatives of the NPM with representatives of the National Police Headquarters. As a result, it was found that the Police will analyse the situation and select (up to several) PDRs in each voivodeship to be fully adjusted to the needs of persons with disabilities, while police officers working there will undergo proper training. Other PDRs will not be adjusted. Disabled persons will then have to be placed in suitably adjusted PDRs. The employees of the NPM believe that having this solution implemented is of utmost importance, given that none of the PDRs visited was adjusted to the needs of the disabled¹¹⁸. Reference should be made in this respect to the Judgment of the ECHR of 10 July 2001 in Case *Price v the United Kingdom* (Application No 33394/96) in which it was found that Article 3 of the Convention on the Protection of Human Rights and Fundamental Freedoms was violated by placing a woman in a wheelchair in a police cell completely unsuited to her needs. Due to detention conditions, the complainant suffered from feeling cold, she had to sleep in a wheelchair, she could not use the toilet as it was installed too high and other hygiene practices were very hard for her to do. Furthermore, the complainant found it difficult to call for help as a paging system button was located out of her reach.

6. Personnel

In almost all the visited establishments, personnel were trained only on issues related to methods and forms of performing tasks in the rooms for detained persons or persons brought to sober up. Due to the fact that police officers on duty in PDRs must have not only theoretical knowledge, but also a high level of interpersonal competence, there is no doubt that it is insufficient to expand only the knowledge on the methods and forms of performing duties in the rooms. In fact, the recommendation contained in § 60 of the CPT Second General Report specifies that: *"(...) aptitude for interpersonal communication should be a major factor in the process of recruiting law enforcement personnel and that, during training, considerable*

¹¹⁷PDRs in: Oświęcim, Skierniewice, Sucha Beskidzka.

¹¹⁸PDRs in: Skierniewice, Nowy Tomyśl, Mońki, Lipsk, Warsaw II (Ursynów), Złotoryja, Oświęcim, Stołeczna, Nidzica, Szydłowiec, Staszów, Chrzanów, Kraśnik, Namysłów, Łowicz, Kamień Pomorski, Sucha Beskidzka.

*emphasis should be placed on developing interpersonal communication skills, based on respect for human dignity. The possession of such skills will often enable a police or prison officer to defuse a situation which could otherwise turn into violence, and more generally, will lead to a lowering of tension, and raising of the quality of life, in police and prison establishments, to the benefit of all concerned*¹¹⁹. The CPT places special emphasis on the need to develop interpersonal communication skills.

In the opinion of the representatives of the NPM, the training offer should be extended to include additional issues so that PDR personnel know how to work with difficult persons without hurting them, how to provide first aid to persons in various physical or mental states, how to deal with stress and aggression, etc.

5. Border Guard rooms for detained persons

5.1. Introduction

In 2014, the representatives of the Mechanism performed visits to six Border Guard rooms for detained persons¹²⁰ (hereinafter referred to as the “BGDR”, the “centre”).

5.2. Systemic problems

1. Personal search of detained persons

A detained person is subject to detailed examination. Detailed examination of a foreigner, which consists in visual body inspection, check of clothes, underwear and shoes, as well as objects owned by such a foreigner or belonging to him/her, is stipulated in Article 412(2) of the Act of 12 December 2013 on *foreigners*¹²¹ *only in relation to such establishments as a guarded centre or a detention centre for foreigners and it can only be carried out in such places, not in the rooms for detained persons.*

2. Medical examination of detained persons

The Ordinance of the Minister of the Interior and Administration of 27 June 2002 on the course of examining persons detained by officers of the Border Guard (hereinafter referred to as the “Ordinance of 27 June 2002”)¹²² and the Ordinance of 20 June 2011 are legal acts governing medical examination of detained persons.

As an activity deeply interfering with the right to privacy, the issue of performing medical examination (mandatory for certain persons) should be regulated by

¹¹⁹CPT/Inf (92)3.

¹²⁰BGDRs in: Białystok, Bobrowniki, Gdańsk, Hrubieszów, Michałowo, Warsaw.

¹²¹Dz.U. of 2013, item 1650, as amended.

¹²²Dz.U. No 98, item 893.

statute. The obligation in question stems from Article 31(3) of the Constitution of the Republic of Poland, as medical examination interferes with personal inviolability and privacy. The legislator must therefore decide (if it is considered necessary) to what extent the said rights are limited in the context of medical examination of persons detained by the officers of the Border Guard.

3. Storage of CCTV recordings

The representatives of the NPM believe that current regulations on video surveillance of BDDRs are far from being satisfactory (§ 7 of the Ordinance of 20 June 2011), because they do not set forth any procedure for storing and destroying CCTV recordings from BGDRs, making them available to authorised parties and any conditions to properly protect the footage from loss, distortion or unauthorised disclosure. In this respect, it seems necessary to take legislative measures.

5.3. Good practices

A wide offer of internal training.

Each time, the visitors verify a training offer addressed to DGDR officers, since training is one of the basic measures to prevent ill-treatment.

5.4. Areas requiring improvement

1. Treatment

The representatives of the NPM assessed that persons placed in the centres visited were treated well.

In one of the institutions¹²³, detained men were checked in the centre's monitored duty office whether they did not carry any prohibited items. The representatives of the NPM were played back a recording of admission of a detained man which revealed that the person checked had been visible only from the waist up, but the duty room's door had been open at this time, thus enabling officers passing down the centre's hallway to see the detainee undergoing the procedure. Moreover, the detained person is not aware that the lower part of the room is not monitored. He sees only that the duty office is equipped with a camera. In the opinion of the representatives of the Mechanism, all detained persons should be checked in a room that provides them with more intimacy.

2. Personnel

In relation to most establishments (except for those mentioned in good practices), the visitors voiced reservations about the scope of training of officers

¹²³BGDR in Gdańsk.

on duty in BGDRs¹²⁴. The representatives of the NPM are of the opinion that officers appointed to serve in the centre should be trained how to work with difficult persons without hurting them, how to provide first aid to persons in various physical or mental states, how to deal with stress and aggression, as well as update knowledge and improve skills in these areas. As the CPT¹²⁵ states in its documents, *there is no better guarantee against ill-treatment of a person deprived of his/her liberty, than a properly trained officer.*

3. Right to medical care

An area for improvement in relation to compliance with the said right is documentation of medical services provided to persons placed in BGDRs. The irregularities identified involved: using forms incompatible with the specimen set out in the Ordinance of 27 June 2002¹²⁶, no log book of medical appointments¹²⁷, a log book of medical appointments including only information on detainees' examination before admission to the centre¹²⁸.

Although applicable national provisions on functioning of the rooms for detained persons do not provide for such an obligation, the representatives of the National Preventive Mechanism are of the opinion that everyone, before being placed in the centre, should be subject to examination, as this would allow for diagnosing any medical contraindications to placing in the centre. Moreover, the possibility to identify any bodily injuries and their detailed description in medical records protect Border Guard officers on duty in BGDRs from any ill-treatment charges.

4. Right to information

During the visits to BGDRs, the visitors always verify whether an establishment ensures an interpreter during administrative procedures. Activities involving a detainee must be carried out in the presence of the interpreter, unless the detainee declares that he/she understands Polish. This information should be included in a protocol of detention. The representatives of the NPM also believe that foreigners who do not speak Polish should have all documents that they are required to sign interpreted into a language they understand or, if possible, drawn up in their language, signed by them and then translated into Polish.

Having analysed protocols of detention and depositary receipts, it can be

¹²⁴BGDRs in: Białystok, Bobrowniki, Hrubieszów, Michałowo.

¹²⁵Cf. Fragment of the Second General Report [CPT/Inf (92) 3] on training of law enforcement officers.

¹²⁶BGDR in Białystok.

¹²⁷BGDR in Gdańsk.

¹²⁸BGDR in Hrubieszów.

concluded that there were individual cases where no information was provided on ensuring a sworn translator during the activities¹²⁹.

5. Living conditions

Living conditions in all the visited BGDRs were assessed as positive. In two cases, the visitors raised reservations about lack of intimacy when taking a bath¹³⁰.

5a. Adjustment to the needs of persons with disabilities

BGDRs are not adjusted to the needs of persons with both disabilities and reduced physical capabilities (e.g. the elderly). Under the legislation in force, i.e. the *Charter of the Rights of Persons with Disabilities* or the *Convention on the Rights of Persons with Disabilities*, persons with disabilities must be enabled to live their life independently and fully participate in all its spheres. Both of these documents also apply to persons deprived of their liberty and their detention environment. All state institutions should therefore take action aimed at giving real effect to the rights of persons with disabilities.

6. Detention Centres of Military Gendarmerie

6.1. Introduction

In 2014, the representatives of the Mechanism performed visits to two detention centres¹³¹ (hereinafter referred to as the “DCMG”, the “centre”). Admission to any Detention Centre of Military Gendarmerie is only possible upon a personal search of an inmate.

Nevertheless, principles of such a personal search should be precisely and completely regulated by statute. The legislator should define to what extent public authorities should interfere with human integrity. The legislator should also provide for adequate remedies in relation to actions taken by persons authorised to perform them, both as regards the way these actions are carried out as well as their legality and legitimacy. This provision is, however, included in the Ordinance of the Minister of National Defence.

¹²⁹BGDRs in: Białystok, Gdańsk, Hrubieszów.

¹³⁰BGDRs in: Białystok, Bobrowniki.

¹³¹Detention Centre of the Military Gendarmerie Branch in Poznań, Detention Centre of the Masovian Military Gendarmerie Division in Warsaw.

6.2. Areas requiring improvement

1. Legality of stay

Having analysed documentation in both centres, no irregularities concerning the legality of detention were detected.

2. Treatment

During the visits to DCMG premises, no inmates stayed there.

3. Personnel

In both visited centres, personnel underwent training on issues related to detention in establishments, but the training did not include issues of so-called soft skills (such as communication, stress management, conflict resolution, etc.) that raise the level of interpersonal skills and can help in performing, without aggression, tasks which require contact with difficult people. The visitors recommended conducting such training and training on human rights. In the opinion of the representatives of the NPM, this will allow for recognising that Military Gendarmerie officers are trained to work in the centre in line with CPT standards¹³².

4. Right to information

In the establishments visited, every single inmate was informed of legal grounds and reasons for his/her detention, the right to appeal, the possibility to request contact, in any accessible form, with an attorney and direct conversation with him/her as well as notification of detention to the closest person or any other person.

Given that certain persons are under the influence of alcohol at the time of admission to an establishment, it was recommended, in order to enable them to clearly understand their rights and obligations, to provide inmates' rooms with information in this respect, so that they can read it when disturbance of consciousness ceases. Following police establishments of this type, it was also recommended to provide detainees with access to the telephone and address list of institutions protecting human rights¹³³ (including the Human Rights Defender and the Helsinki Foundation for Human Rights).

5. Right to medical care

In line with information obtained during the visits, all persons placed in the centres were examined by a doctor. Comments on the right to medical care are indicated in the part on systemic problems.

¹³²Cf. Fragment of the Second General Report [CPT/Inf (92) 3] on training of law enforcement officers.

¹³³Detention Centre in Poznań.

6. Living conditions

When assessing living conditions in both centres, it should be noted that they are varied. Furthermore, sanitary facilities in both DCMGs were in need of renovation to ensure adequate bathing conditions.

6a. Adjustment to the needs of persons with disabilities

During their inspection, the visitors found that establishments were not adjusted to the needs of persons with physical disabilities.

7. Social care centres

7.1. Introduction

In 2014, the representatives of the National Preventive Mechanism performed visits to 36 social care centres¹³⁴ (hereinafter referred to as the “SCC”, the “centre”).

7.2. Systemic problems

1. Contact with the outside world

During their visits in 2013, the representatives of the NPM continued to point out the problem of residents’ leaves from the SCC. Restrictions in this respect were imposed particularly on incapacitated persons and took the following forms: a resident may leave the centre only under the care of guardians¹³⁵; as regards

¹³⁴SCC in Łódź (No 4), SCC in Skarżysko-Kamienna, “Etoła” SCC in Ruda Pilczycka (hereinafter referred to as the “SCC in Ruda Pilczycka”), “Cichy Zakątek” SCC in Końskie (hereinafter referred to as the “SCC in Końskie”), SCC in Poznań at 11/13 Konarskiego St and 142a Zamenhoffa St (hereinafter referred to as the “SCC in Poznań”), SCC in Pińczów, SCC in Słupia Pacanowska, “Pod Brzożami” SCC in Warsaw (hereinafter referred to as the “SCC in Warsaw”), SCC in Peławice Górne, SCC in Zamość (centre together with its branch), SCC in Rzeszów, SCC in Wrocław at 3 Farna St, SCC in Gdańsk, SCC in Białystok, SCC in Wadowice, SCC in Płaza, SCC in Poznań at Sielska St and 14 Mińska St (hereinafter referred to as the “SCC in Poznań together with its branch”), SCC in Maków Podhalański, SCC in Gościeradów, “Leśna Oaza” in Słupsk (hereinafter referred to as the “SCC in Słupsk”), SCC in Łębork (No 2), SCC in Bartoszyce, SCC in Jarosław, SCC in Częstochowa, “Dom Nauczyciela” SCC in Bielsko-Biała (hereinafter referred to as the “SCC in Bielsko-Biała”), SCC in Świecie, “Jesień Życia” SCC in Bydgoszcz (hereinafter referred to as the “SCC in Bydgoszcz”), “Przyjaznych Serc” SCC in Płock (hereinafter referred to as the “SCC in Płock”), “Nad Jarem” SCC in Nowe Miszewo (hereinafter referred to as the “SCC in Nowe Miszewo”), Holy Family SCC in Wrocław, SCC in Wrocław at 8 Kaletnicza St, SCC in Siedlce, SCC in Anielin, SCC in Żyrardów, St. Casimir SCC in Radom (hereinafter referred to as the “SCC in Radom”).

¹³⁵SCCs in: Łódź, Ruda Pilczycka, Łębork (No 2), Gdańsk, Świecie, Żyrardów, Płaza, Bielsko-Biała, Bartoszyce.

leaves involving a city centre trip, an incapacitated resident provides SCC employees with consent of his/her legal guardian or probation officer to leave the centre alone¹³⁶; in accordance with a leaving procedure, an initial decision to go out alone is taken by a legal guardian who submits a personally signed statement¹³⁷; any external contacts and leaves depend on the will of legal guardians¹³⁸; upon consent of a legal guardian¹³⁹; a legal guardian is asked for permission, although cognitive abilities and health are assessed by a psychiatrist¹⁴⁰.

It should be stressed that the current legal framework lacks regulations which would impose any restrictions on residents' leaves from SCC buildings and premises. Therefore, solutions introduced in the visited centres must now be considered to illegally limit residents' personal freedom. However, taking account of the need to ensure their safety, the representatives of the NPM recognise the need to have this problem regulated by statute¹⁴¹. It is appropriate to let residents leave on their own if their cognitive abilities and health so permit. The foregoing should be confirmed by a psychiatrist's or a psychologist's opinion.

2. Psychological/psychiatric care

The issue of psychological-psychiatric care provided for residents of the care centres visited remains in the interest of the representatives of the NPM. Pursuant to § 6(2) (2) of the Ordinance of the Minister of Labour and Social Policy of 23 August 2012 on social care centres¹⁴² (hereinafter referred to as the "Ordinance of the Minister of Labour and Social Policy of 23 August 2012"), residents must be provided with contact with a psychologist, while persons staying in a centre for the chronically mentally ill – also with contact with a psychiatrist. This regulation specifies no standard which should be met to recognise that the centre complies with the provision referred to above. This leads to a situation where directors of these centres have some leeway in interpretation and, consequently, contact of

¹³⁶SCC in Białystok.

¹³⁷SCC in Jarosław.

¹³⁸SCCs in: Warsaw, Poznań.

¹³⁹SCCs in: Końskie, Częstochowa, Słupsk.

¹⁴⁰SCC in Wadowice.

¹⁴¹In her reply of 21 January 2014, the Undersecretary of State in the Ministry of Labour and Social Policy pointed out that „at present, it is hard to determine whether matters of residents' leaves from SCC premises will be governed by separate laws, or whether applying solutions in practice is a better option not violating the law in force, without introducing additional provisions. The way how the matter of residents' leaves will be settled has not yet been decided”.

¹⁴²Dz.U. of 2012, item 964.

residents with a psychologist is ensured through ad hoc and incidental assistance under a contract of mandate, e.g.: once a month¹⁴³, on call¹⁴⁴, on a quarter-time basis¹⁴⁵, or pursuant to an agreement with an external clinic¹⁴⁶. However, certain establishments did not comply with § 6(2) (2) of the Ordinance at all, as they had no psychologist among personnel¹⁴⁷. In the opinion of the representatives of the NPM, it is reasonable to employ a psychologist on a full-time basis, so he/she can conduct both individual activities, i.e. in the form of support conversations or therapy, and group activities, e.g. in the form of cognitive or relaxation training. The representatives of the Mechanism believe that this would also help integrate the community of residents and could help encourage them to participate in activities offered by the centre.

3. Employees of the centre acting as legal guardians

It must be noted that some employees of the centres visited act as legal guardians of incapacitated persons. The situation raises doubts of the representatives of the NPM, as one of the tasks of a legal guardian should be monitoring whether a charge is provided with adequate care in an establishment and whether conditions he/she is held in do not violate his/her dignity. However, SCC employees may happen not to be objective in assessing the centre's care offer. Moreover, as a result of this dual role, SCC personnel are provided, *de facto*, with additional obligations at the expense of their free or private time, without additional compensation. As a result, they can lack adequate motivation to properly and reliably perform their duties.

4. Installing a CCTV system in SCCs

The visitors found that some centres were equipped with a monitoring system. Cameras were installed mainly in passageways, hallways, near SCC exits and in a parking lot¹⁴⁸. The existing legal framework lacks regulations governing monitoring in social care centres. At present, legislative work in this respect is ongoing.

5. Lack of regulations on persons drinking alcohol in SCCs

On 11 May 2013, Article 56 of the Act of 12 March 2004 on social assistance¹⁴⁹ was provided with item 7, stipulating a new type of a centre for persons ad-

¹⁴³SCCs in: Słupia Pacanowska, Świecie.

¹⁴⁴SCC in Bartoszyce.

¹⁴⁵SCC in Płaza.

¹⁴⁶SCCs in: Pęcławice Górne, Skarżysko-Kamienna.

¹⁴⁷SCCs in: Pińczów, Poznań together with its branch, Słupsk.

¹⁴⁸SCCs in: Bielsko-Biała, Warsaw, Nowy Miszew.

¹⁴⁹Dz.U. of 2015, item 163, as amended.

dicted to alcohol. What is more, the referred amendment also covered Article 59(6) and (7) of the Act on social assistance¹⁵⁰ providing for a mode of referring to such a centre and the time of a resident's stay in this establishment. It should be noted that persons abusing alcohol and "risky drinkers" are placed in other centres throughout Poland, because nationally, there are only a few such centres as referred to in Article 56(7) of the Act.

Lack of legal regulations on possessing alcohol or controlling premises to detect and seize alcohol raises certain problems and may lead to violation of residents' rights. At the same time, it does not protect other persons placed in SCCs.

During the visits, the representatives of the Mechanism expressed their doubts as to the way persons drinking or bringing alcohol into SCCs were treated: controlling purchases made by residents¹⁵¹ (searching items brought by visitors¹⁵²) if they are suspected of bringing alcohol into their SCC or taking items out of the centre¹⁵³; controlling personal belongings and room equipment if a SCC resident is suspected of possessing alcohol¹⁵⁴; confiscating alcohol¹⁵⁵. The aforementioned forms of supervision (controlling residents, their personal belongings and rooms) involve a restriction of the constitutionally protected right to private life referred to in Article 47 of the Constitution of the Republic of Poland and Article 8 of the Convention on the Protection of Human Rights and Fundamental Freedoms. This restriction can only be introduced upon meeting the conditions set out in the said Article 31(3) of the Constitution of the Republic of Poland. It must be indicated that any restrictions should be limited to a necessary minimum and proportionate to a legitimate objective for which they are imposed. The current legal framework does not allow for carrying out personal controls of residents of social care centres, their belongings and rooms. Therefore, undertaking such actions by SCC personnel is unacceptable and is in breach of the aforementioned rights.

¹⁵⁰Article 59(6). *As regards the regional social care centre referred to in Article 56(7), the decision on referral to the social care centre and the decision on the fee for stay in the social care centre shall be made by a municipal body competent for the person on the date of his/her referral to the social care centre. The decision on placement in the regional social care centre shall be made by a voivodeship marshal.*

Article 59(7). *The decision on referral and placement in the social care centre referred to in Article 56(7) shall be made for a fixed period of no longer than 12 months, extendable to up to 18 months in justified cases.*

¹⁵¹SCC in Łódź (No 4).

¹⁵²SCC in Peławice Górne.

¹⁵³SCCs in: Łódź, Maków Podhalański, Wrocław (Kaletnicza St), Peławice Górne.

¹⁵⁴SCCs in: Słupia Pacanowska and Wrocław (Kaletnicza St).

¹⁵⁵SCC in Warsaw.

Furthermore, the representatives of the NPM voiced reservations about testing sobriety of persons in their room as well as depositing any alcohol found and destroying it in the presence of a commission¹⁵⁶. The representatives of the Mechanism stressed that testing breath alcohol content falls beyond the competence of SCC personnel. It should also be noted that the practice of taking alcohol away from residents is questionable in the context of the constitutional protection of the right to ownership (Article 64(1) and (3) of the Constitution of the Republic of Poland).

7.3. Strengths and good practices

In 2014, as in the previous year, the representatives of the Mechanism identified the following strengths of the centres: living conditions ensured to residents, personnel's commitment to care for them and a cultural and educational offer. What is more, specific centres implemented numerous noteworthy projects and practices.

7.4. Areas requiring improvement

1. Legality of stay

Performing their visits to social care centres, the representatives of the NPM found some of them overpopulated¹⁵⁷. They stress that SCC directors cannot decide on their own to increase the capacity of their establishments, which was specified by statute.

In certain centres, personal files of incapacitated residents lacked a judicial decision on placement in the SCC¹⁵⁸.

In one of the centres for the elderly and the chronically somatically ill, there was an aggressive resident who hit others with a stick, threw items at them, made threats against their life, insulted and abused them, and also attacked a nurse with a knife¹⁵⁹. When such aggressive behaviour intensified, he had a psychiatric consultation. He was diagnosed with organic personality disorders. Moreover, the centre filed two notifications of a suspicion of a crime. In view of the fact that the establishment has no isolation room and no physical restraints in place, the situation seriously threatens the safety of other SCC residents. The representatives of the Mechanism recommended taking immediate action to place the resident in a social care centre for the chronically mentally ill.

¹⁵⁶SCC in Słupia Pacanowska.

¹⁵⁷SCCs in: Bartoszyce, Pińczów, Rzeszów, Płaza.

¹⁵⁸SCCs in: Białystok, Pińczów, Poznań, Rzeszów and Łódź (No 4).

¹⁵⁹SCC in Bartoszyce.

Three centres were found to hold a resident who should have been placed in other establishment: In one SCC for the mentally ill, there was a resident who was diagnosed with personality and behavioural disorders which originate from organic central nervous system damage, moderate mental retardation, adaptation problems, tendency to set fire to SCC rooms¹⁶⁰; in one SCC for the elderly and the chronically somatically ill, there were three persons referred to the establishment with a diagnosis of mental illness¹⁶¹; in one SCC for the elderly, there were numerous persons with mental health problems (such as schizophrenia or bipolar affective disorder), and several – with intellectual disabilities (including one with significant intellectual disabilities)¹⁶².

2. Treatment

The representatives of the Mechanism assessed that the prevailing atmosphere in the establishments visited was very good. Interviewed residents commented on the way they are addressed by personnel who treated them with respect and demonstrated commitment to ensure their well-being. Nevertheless, the representatives of the NPM received individual reports indicating ill-treatment of residents by SCC employees.

3. Disciplining

Following interviews with residents and having analysed documentation kept by SCC personnel as well as SCC operational rules and procedures, the representatives of the Mechanism revealed that some centres take disciplinary measures against their residents.

Consequences borne by residents in several centres concerned, among others, leaves from the establishments: a ban on leaving SCC premises¹⁶³, restrictions in this respect¹⁶⁴, no guests allowed in rooms¹⁶⁵; a ban on trips and cultural events¹⁶⁶.

The representatives of the NPM had the biggest reservations about penalties involving transfer to another room¹⁶⁷, especially of lower standard¹⁶⁸, another

¹⁶⁰ SCC in Wrocław (Kaletnicza St).

¹⁶¹ SCC in Słupsk.

¹⁶² SCC in Warsaw.

¹⁶³ SCC in Jarosław.

¹⁶⁴ SCCs in: Pęcławice Górne, Maków Podhalański, Wrocław (Kaletnicza St), Wadowice.

¹⁶⁵ SCC in Pęcławice Górne.

¹⁶⁶ SCCs in: Słupia Pacanowska, Pińczów, Słupsk.

¹⁶⁷ SCCs in: Poznań, Ruda Pilczycka, Słupia Pacanowska.

¹⁶⁸ SCCs in: Bielsko-Biała, Jarosław, Rzeszów, Siedlce, Wrocław (Kaletnicza St).

ward¹⁶⁹ or centre¹⁷⁰. All residents should be provided with similar living conditions that meet the requirements of the Ordinance of 23 August 2012 on social care centres. However, the employees of the Mechanism once again indicate that residents may be transferred to another room or ward only upon their consent.

The employees of the NPM believe that internal regulations of social care centres may not introduce provisions on punishing residents, including those abusing alcohol. Imposed punishments, including those referred to above, are related to an individual's personal liberty protected under Article 41(1) of the Constitution of the Republic of Poland, which says that explicit statutory grounds must exist for any regulation on personal liberty. The current legal framework specifies no such grounds, as the Act on social assistance, under which social care centres are established, provides for no regulation on this matter.

4. Right to information

The representatives of the NPM stress the importance of knowledge of rights and obligations by residents of social care centres. The biggest reservations concerned an establishment whose rules were not made available to its residents. The residents themselves did not know that the centre had such a document in place (although they were acquainted with it at admission)¹⁷¹.

During inspection, the visitors found that most of the visited centres lack the address list of institutions protecting human rights which should be exhibited in a public place¹⁷².

The centres visited tend to take personal identity cards away from residents without relevant declarations of consent given by them in this regard¹⁷³.

It should be noted in this context that, pursuant to the Act of 6 August 2010 on personal identity cards¹⁷⁴, a personal identity card shall not be held by any person other than its owner without any foundation in law. If personal identity cards are held by e.g. a social worker without a written declaration of will of their owners,

¹⁶⁹SCCs in: Bielsko-Biała and Słupia Pacanowska.

¹⁷⁰SCCs in: Pińczów, Wrocław (Holy Family SCC at Kaletnicza St), Ruda Piłczycka.

¹⁷¹SCC in Bartoszyce.

¹⁷²SCCs in: Bartoszyce, Bielsko-Biała, Łódź (No 4), Słupia Pacanowska, Pińczów, Płock, Warsaw, Poznań (both centres), Wrocław (Holy Family SCC), Skarżysko-Kamienna, Peławice Górne, Ruda Piłczycka, Końskie, Lębork (No 2), Słupsk, Świecie, Zamość, Żyrardów, Wadowice, Gościeradów, Płaza, Poznań together with its branch.

¹⁷³SCCs in: Bartoszyce, Białystok, Jarosław, Płock, Siedlce, Wrocław (both centres), Słupsk, Maków Podhalański, Rzeszów, Końskie, Zamość, Świecie, Żyrardów, Częstochowa, Gościeradów, Nowy Miszew, Płaza.

¹⁷⁴Dz.U. No 167, item 1131, as amended.

it is the offense referred to in Article 79(2) of the Act. Given the foregoing, the representatives of the NPM recommend that the foregoing procedure be carried out, every time, upon consent of a resident or his/her legal guardian.

The representatives of the NPM found that some establishments lacked residents' declarations of consent to use their image¹⁷⁵. It must be noted that the image is a good to which everyone is entitled, constituting his/her personal good under Article 23 of the Act of 23 April 1964 – Civil Code¹⁷⁶, and a value protected under the Act of 4 February 1994 on copyright and related rights¹⁷⁷, hereinafter referred to as the "Copyright Act". As a personal good, the image is specially protected by law. Therefore, Article 81 of the Copyright Act lays down that, as a rule, the image may be disseminated upon consent of the person presented in it (or his/her legal guardian). In Case *Reklos and Davourlis v Greece* (Ref. 1234-1205) on photographing a child without parental knowledge or consent, the ECHR ruled that even the mere fact of taking a picture of someone and not publishing it can breach the right to privacy, thus effective protection of the person requires obtaining his/her consent at the time of taking the picture.

Additionally, two centres did not take residents' declarations of consent to process their personal data¹⁷⁸. Pursuant to Article 1(1) of the Act of 29 August 1997 on personal data protection¹⁷⁹, *any person has a right to have his/her personal data protected*.

5. Living conditions

The visitors assessed living conditions ensured to residents of social care centres as positive. Their rooms were equipped with basic furniture and appliances, including those belonging to the residents, decorated so as to add a personal touch and make the residents feel just like home. Some centres were found to have defects¹⁸⁰, involving peeling wall paint or furniture showing signs of wear.

The visitors voiced their reservations about transition rooms in three establishments¹⁸¹. In the opinion of the representatives of the NPM, such accommodation does not ensure sufficient resting conditions and privacy to their residents.

¹⁷⁵SCCs in: Bielsko-Biała, Jarosław, Siedlce, Wrocław (Holy Family SCC), Ruda Piłczycka, Częstochowa, Płaza.

¹⁷⁶Dz.U. of 2014, item 121, as amended.

¹⁷⁷Dz.U. of 2006, No 90, item 631, as amended.

¹⁷⁸SCCs in: Jarosław and Ruda Piłczycka.

¹⁷⁹Dz.U. of 2014, item 1182, as amended.

¹⁸⁰SCCs in: Maków Podhalański, Jarosław, Warsaw, Rzeszów, Wrocław (Holy Family SCC), Łęborg (No 2), Wadowice, Częstochowa, Gościeradów, Płaza, Skarżysko-Kamienna.

¹⁸¹SCCs in: Słupia Pacanowska, Wadowice and Gościeradów (palace).

Therefore, it was advised to consider providing each of the rooms with separate entrance during future renovation.

The visitors pointed to the possibility of calling personnel for help using a paging system. Some centres did not provide their residents with access to such a system, since alarm buttons in rooms were placed too far away from beds or too high¹⁸² and, in toilets, out of reach of persons in wheelchairs¹⁸³.

5a. Adjustment to the needs of persons with disabilities

Performing their visits to social care centres, the representatives of the NPM always pay attention to their adjustment to the needs of persons with disabilities. Although all of them are of a standard recognised by voivodeship governors, the visitors found irregularities in terms of toilet equipment, adaptation of passageways and organisation of residents' living space.

In terms of limited freedom of movement within SCC premises, the visitors found the following irregularities: hallways were not provided with rails¹⁸⁴; garden space can only be accessed via narrow, steep stairs¹⁸⁵; stairs leading to the main entrance are equipped with a platform for persons with physical disabilities, however, the platform can only be used with personnel's assistance¹⁸⁶; garden space and occupational therapy rooms can only be accessed via a laundry room or a passage around the building, outside its fencing¹⁸⁷; placement of room furniture prevents persons in wheelchairs from free movement¹⁸⁸.

The representatives of the NPM draw attention to the need to adjust social care centres not only to the needs of persons with physical disabilities, but also those visually-impaired and with hearing disabilities¹⁸⁹. To make their functioning in the establishment fully independent, devices and an appropriate space arrangement need to be ensured.

6. Personnel

Two of the establishments visited in 2014¹⁹⁰ were found to be in breach of § 6(2) (3) (c) of the Ordinance of the Minister of Labour and Social Policy of 23 August

¹⁸²SCCs in: Bartoszyce, Słupia Pacanowska, Maków Podhalański, Płock, Siedlce, Słupsk, Gościeradów, Wadowice.

¹⁸³SCC in Rzeszów.

¹⁸⁴SCC in Słupia Pacanowska.

¹⁸⁵SCC in Bartoszyce.

¹⁸⁶SCC in Lębork (No 2).

¹⁸⁷SCC in Wadowice.

¹⁸⁸SCC in Gościeradów.

¹⁸⁹SCCs in: Pińczów and Świecie.

¹⁹⁰SCCs in: Pińczów, Lębork (No 2).

2012 determining the full-time employment rate of therapeutic and care teams' personnel, because the team included service employees (including laundresses, drivers).

In certain visited SCCs, the representatives of the NPM paid attention also to feminisation of care and treatment personnel¹⁹¹. Assuming that the centres' residents are also men, efforts should be made to increase the number of men in care personnel to fully respect the right of residents to privacy and intimacy.

Many centres did not provide regular training for their personnel, especially on using coercive measures, giving first aid in health emergencies, preventing occupational burnout or solving interpersonal conflicts, carried out by qualified and experienced personnel in a relevant field¹⁹². The representatives of the Mechanism pointed out that not every establishment respected the obligation to provide their therapeutic and care team's employees, at least once every two years, with training held by the director on the rights of SCC residents, therapy directions and methods of work with residents, which is set out in § 6(2) (4) of the Ordinance of the Minister of Labour and Social Policy of 23 August 2012¹⁹³.

7. Health care

The biggest reservations concerned the fact that residents were given medications hidden in food¹⁹⁴. As a matter of fact, this practice may violate their right to know what medications they take and when. At the same time, this can lead to a situation where residents, who are given medications by deceit, refuse to take them when given openly as e.g. they may feel good and suffer no disorders due to medications regularly taken without their knowledge. On the other hand, cognitive abilities of some of them also call into question the degree of awareness about taken medications and their impact on health. In these circumstances, it is also necessary to make a choice between individual goods protected by law, i.e. to protect health of residents or respect their right to know what medications they take. Undoubtedly, this matter should be regulated by law.

¹⁹¹ SCCs in: Bartoszyce, Bielsko-Biała, Łódź (No 4), Warsaw, Poznań, Siedlce, Pęcławice Górne, Słupsk, Gościeradów, Nowy Miszew, Płaza.

¹⁹² SCCs in: Warsaw, Pińców, Wrocław (Kaletnicza St), Żyrardów, Częstochowa, Gościeradów, Nowy Miszew, Płaza, Ruda Pilczycka, Gdańsk, Lębork (No 2), Końskie and Zamość.

¹⁹³ SCCs in: Częstochowa, Wrocław (Holy Family SCC).

¹⁹⁴ SCCs in: Maków Podhalański and Zamość.

and restrictions on telephone calls, the Human Rights Defender filed the request of 22 September 2014 with the Constitutional Court¹⁹⁹.

However, the Undersecretary of State of the Ministry of Justice recognised that amendments are, to some extent, necessary. In 2014, the Undersecretary notified²⁰⁰ the Human Rights Defender of undertaking legislative work to supplement the Executive Penal Code with issues related to passes (if justified by therapeutic reasons or important family reasons) of patients placed in psychiatric hospitals as part of a preventive measure²⁰¹.

8.3. Areas requiring improvement

1. Legality of stay

The representatives of the NPM found shortcomings as regards the legality of stay of patients in the establishments visited, involving hospital documentation lacking judicial decisions which form a legal basis for detention. This applied to two cases: a patient admitted to a psychiatric hospital without his/her consent²⁰² and a person against whom a preventive measure was applied²⁰³.

2. Treatment

The interviewed patients of the psychiatric hospitals visited in 2014 did not report incidents of ill-treatment on the part of hospital personnel, such as physical

composition, appointment procedure and tasks of psychiatric commission for preventive measures (Dz.U. of 2014, item 599), hereinafter referred to as the Ordinance of 10 August 2004.

¹⁹⁹Cf. <http://www.sprawy-generalne.brpo.gov.pl/szczegoly.php?pismo=223516>

In its judgment of 21 April 2015, the Constitutional Court ruled that the provisions challenged by the HRD are in breach with the Constitution of the Republic of Poland, cf. <http://trybunal.gov.pl/rozprawy/komunikaty-prasowe/komunikaty-po/art/7582-postanowieni-a-regulaminu-organizacyjno-porzadkowego-dla-zakladow-psychiatrycznych-i-zakladow-le/>

²⁰⁰Cf. Letter of the Undersecretary of State of the Ministry of Justice of 27 February 2014 (Ref. DWMPK-III -070 -17/13/53), <https://www.rpo.gov.pl/sites/default/files/odp.%2BMS%2Bz%2Bdnia%2B27%2Blutego%2B2014%2Br.pdf>

²⁰¹The solution referred to by the Undersecretary of State of the Ministry of Justice was introduced to the Executive Penal Code by the Act of 20 February 2015 amending the Act – Penal Code and certain other acts (Article 4(93)), and will enter into force on 1 July 2015 (Dz.U. of 2015, item 396).

²⁰²Hospital in Łódź. Having analysed the situation of the patient admitted without his/her consent, it can be concluded that the issue raised in the general letter of the HRD of 31 May 2012 to the Minister of Health, pointing to doubts about the constitutional right to have the fact of depriving these persons of their liberty immediately referred to the court for review, remains valid. Cf. <http://www.sprawy-generalne.brpo.gov.pl/szczegoly.php?pismo=1648411>

²⁰³Hospital in Bolesławiec.

or verbal aggression. The exception was patients complaining about certain employees that addressed them in a loud voice²⁰⁴. In all hospitals, during individual interviews and conversations with patients in the course of inspecting the establishments, the interviewed patients stressed that both doctors and nurses are interested in their daily affairs and help them with great enthusiasm.

Additionally, the visitors found two cases²⁰⁵ where hospital rules permitted hospital personnel to conduct testing for the presence of medications, including one case of applying the principle that *Refusal to undergo the examination is viewed as breaking abstinence*. However, within the meaning of Article 32 of the Act of 5 December 1996 on the professions of doctor and dentist²⁰⁶, a doctor may perform examination or provide other health services, subject to the exceptions provided for in the Act, only upon consent of his/her patient.

Despite no legal basis for punishing patients in psychiatric hospitals by personnel, one of the establishments used a ban on shopping as a punishment²⁰⁷.

3. Coercive measures

As in previous years, the visitors encountered irregularities concerning the use of CMs. It should be stressed that all the visited establishments were found to be in breach in this respect.

There were cases identified where no prerequisites for applying a coercive measure in the form of immobilisation (tying a patient with belts to a chair in a day room, as she frequently slumped out of it²⁰⁸) and no legal basis for doing so existed (tying patients with straps to employees' hands who escorted them outside their ward²⁰⁹).

Moreover, the irregularities consisted in immobilising a person in the presence of other patients e.g. in multi-occupational general rooms or in hallways and often the person tied with belts was placed behind no screen or curtain²¹⁰. At the same time, such a person often had to do his/her hygiene in plain sight²¹¹.

4. Right to information

The establishments visited informed admitted patients of their rights and obligations, including rules of their ward, the Patients' Rights Charter, the possi-

²⁰⁴Hospital in Choroszcz.

²⁰⁵Hospitals in: Katowice, Choroszcz.

²⁰⁶Dz.U. of 2011, No 277, item 1634, as amended.

²⁰⁷Hospital in Choroszcz

²⁰⁸Hospital in Łódź.

²⁰⁹Hospital in Choroszcz. Lack of regulations on escorting patients outside the establishment was raised in the *Report of 2013*, pp. 161-162.

²¹⁰Hospitals in: Katowice, Łódź, Bolesławiec, Choroszcz.

²¹¹Hospital in Bolesławiec.

lity of contact with the Ombudsman for Psychiatric Hospital Patients' Rights. Only in one hospital, patients – who were able to do so – could not sign statements of knowledge of the rights referred to above²¹².

In one hospital²¹³, the representatives of the Mechanism interviewed a foreigner (U.S. citizen) who did not know anything about his/her psychiatric and judicial opinion, because he/she was not informed about it in a language he/she understood. The representatives of the NPM find such a situation unacceptable, so it was advised to inform patients of their rights in a language they understand.

5. Right to health care and therapy

In the hospitals visited, each newly admitted patient was examined by a psychiatrist. Patients had full access to medical personnel in wards. Meetings with doctors took place in a planned way (medical appointments, individual periodic examination), as well as on a patient's request or in emergencies (mental deterioration, somatic illness occurrence, etc.). Outside working hours of medical personnel, any patient in need of urgent care could be examined by a duty doctor.

In addition to psychiatric treatment, persons treated in the hospitals visited received necessary assistance regarding their somatic condition. The representatives of the NPM voiced their reservations on the matter in relation to only one establishment²¹⁴. It was found to refrain from performing thorough diagnostics of patients' somatic condition, as it lacked follow-up results for laboratory results deviating from normal ranges.

Patients interviewed by the representatives of the Mechanism did not report any reservations or complaints regarding the medical (psychiatric or somatic) coverage. They knew what they were diagnosed with and what medications they took. At their own request, they had access to information and medical records. In one hospital, some patients argued that information they were provided with was incomprehensible and voluntarily desisted from going into much detail on it²¹⁵.

In the opinion of the representatives of the NPM, the goal should be to provide each patient with information, according to his/her capacity of understanding, about the state of his/her health and the method of treatment. Since patients' condition varies depending on what they suffer from, the information in question should be adjusted accordingly to their cognitive abilities.

²¹²Hospital in Katowice.

²¹³Hospital in Choroszcz.

²¹⁴Hospital in Choroszcz.

²¹⁵Hospital in Choroszcz.

Each of the hospitals visited in 2014 offered a broad range of pharmacological treatment, including latest-generation psychotropic medications. The availability of medications to treat somatic illnesses raised no reservations as well. Medications prescribed by ward doctors or by other specialist doctors were available after being ordered at a hospital pharmacy.

Unfortunately, having analysed psychiatric treatment records made available to the representatives of the NPM, it can be concluded that four visited establishments kept the records inappropriately²¹⁶.

The hospitals visited did not apply high-risk procedures (insulin coma, atropine coma and electroconvulsive therapy).

All the establishments led various forms of therapy, besides pharmacological therapy, as well as cultural and educational activities. The visitors found no serious deficiencies in this respect with one exception, i.e. overlapping of patients' walking time and group psychotherapy activities²¹⁷.

6. Right to contact with the outside world

During their stay in hospital, all patients should be allowed to contact the outside world by uncensored mail (also by electronic means, using their own devices with access to the mobile Internet), unsupervised talks by phone (also using their own mobile phones) and visits without the presence of hospital personnel.

Pursuant to Article 33 of the Act of 6 November 2008 on patients' rights and the Ombudsman for Patients' Rights²¹⁸, any patient of a health care institution running health care activity in the form of stationary and 24-hour health services, within the meaning of provisions on health care activity, has the right to contact others in person, by telephone or by mail²¹⁹.

Of course, one should understand that, in exceptional circumstances, contacts of patients with persons from outside the establishment must be limited temporarily due to health reasons. Under no circumstances, however, this limitation cannot be imposed freely and without considering an individual approach.

²¹⁶Hospitals in: Katowice, Łódź, Jarosław, Choroszcz.

²¹⁷Hospital in Jarosław.

²¹⁸Dz.U. of 2012, item 159, as amended.

²¹⁹Except for remand prisoners staying in a psychiatric hospital whose conditions of placement, pursuant to Article 213 § 1 of the Executive Penal Code, are determined by a body under whose jurisdiction they are and whose conditions of communication with other persons and institutions are laid down in the Code of Penal Procedure and the Executive Penal Code.

As regards visits, the visitors expressed their reservations about limiting the group of visitors in four visited hospitals, contrary to the abovementioned laws. In three of them, with respect to individual wards, there were restrictions as regards visits of children who are under 15 years of age²²⁰. However, in another establishment, patients unable to express their will could be visited only by their immediate family. Reservations regarding persons visiting incapacitated patients, who are kept in the establishment, could also be voiced by their legal guardians, which – as the representatives of the NPM assess – is in excess of the powers of the persons concerned²²¹. Visits should be allowed only based on patients' mental state and a situation in a specific ward. Moreover, no rule of law provides for an age limit of persons visiting patients. In addition to protecting private life and strengthening social bonds, the child's best interest is a special value that needs to be protected. Therefore, arbitrary rules on the age of visitors must be eliminated and the issue must be addressed individually, depending on individual circumstances. It is also worth noting that, if visiting conditions in the ward are inadequate and may expose a juvenile visiting a psychiatric hospital to traumatic experiences, proper conditions should be created outside the ward to enable juveniles to meet patients.

Hospital personnel must not control or monitor visits to patients, as was the case in one of the establishments²²². Pursuant to Article 47 of the Constitution of the Republic of Poland, everyone has the right to protection of his/her private life. Under the provision, patients must be provided with a sense of privacy during their meetings with persons from outside the establishment.

Another restriction on patients' rights was a condition that patients may use their mobile phones if they cannot take photographs with them or that they are not allowed to use them at all for fear of using them to record and take photographs of others²²³. The representatives of the NPM believe that the restriction referred to above has no basis in current legislation. It should also be noted that most new mobile phones have built-in cameras and limiting the scope of their models may expose patients to additional costs. Patients wishing to use their own cameras may e.g. cover the lens with a piece of security tape (if the tape is removed, it cannot be used once again, which makes it possible for hospital personnel to detect any attempts of recording or photographing).

²²⁰Hospitals in: Łódź, Jarosław, Choroszcz.

²²¹Hospital in Bolesławiec.

²²²Hospital in Choroszcz.

²²³Hospitals in: Bolesławiec, Jarosław, Choroszcz.

Patients in psychiatric hospitals should be allowed, as far as possible, to contacts with the outside world, including temporary stays outside the establishment. During the visits, no passes were allowed in two hospitals. In one of them, passes were not issued to patients treated under enhanced security conditions²²⁴, while in the other – also to patients kept under basic security conditions²²⁵. It must be pointed out that the regulation under the Amendment of 20 February 2015 applies only to hospital patients kept under basic security conditions.

7. Living conditions

Half of the hospitals visited in 2014 did not ensure proper living conditions to patients, as their rooms were overpopulated²²⁶ which is in breach of § 18 and 19 of the Ordinance of the Minister of Health of 26 June 2012 on specific requirements to be met by rooms and facilities of the entity providing medical treatment²²⁷. Due to lack of free places in psychiatric wards, one of the visited establishments²²⁸ placed some of its patients in hallways. In other establishments, the problem resulted in, besides the aforesaid lack of space, failure to ensure adequate space around beds, including access to them from three sides.

Moreover, patients in some hospitals were not provided with favourable conditions for storing their personal belongings, as bedside cabinets had not enough space²²⁹ or were not lockable²³⁰.

7a. Rights of persons with disabilities

Out of the establishments visited in 2014, one hospital was not adjusted to the needs of persons with physical disabilities²³¹.

8. Personnel

Certain establishments²³² were found by the representatives of the NPM to be understaffed. In order to guarantee adequate care to patients, three hospitals²³³ should expand their personnel training offer to include, among others, issues concerning coercive measures, first aid and occupational burnout.

²²⁴Hospital in Jarosław.

²²⁵Hospital in Choroszcz.

²²⁶Hospitals in: Jarosław, Choroszcz, Łódź.

²²⁷Dz.U. item 739.

²²⁸Hospital in Łódź.

²²⁹Hospitals in: Jarosław, Bolesławiec.

²³⁰Hospital in Choroszcz.

²³¹Hospital in Choroszcz.

²³²Hospitals in: Łódź, Jarosław.

²³³Hospitals in: Łódź, Choroszcz, Katowice.

9. Follow-up visits

Authorities of the establishments visited by the representatives of the NPM must take a position with regard to recommendations contained in the visit report. The information thus obtained is used by the representatives of the NPM to verify to what degree their recommendations were complied with. If the authorities of the visited establishment find any such recommendation to be illegitimate, the issue is further discussed beyond the arguments put forward in the report to make these authorities comply with the recommendation and to determine a possible way of doing so that suits both parties.

Constructive dialogue with the authorities is not the only tool at the disposal of the representatives of the NPM. Follow-up visits are another form of monitoring how and to what extent their recommendations were fulfilled. During them, information communicated to employees of the Office of the Human Rights Defender is brought face to face with the realities on the ground. In this way, the representatives of the Mechanism verify on the spot whether recommended actions were undertaken or improper practices – eliminated, and whether the recommendation should be reiterated or changed due to identified irregularities.

Furthermore, during their follow-up visits, the representatives of the NPM interview on-site personnel and persons deprived of their liberty whether they suffered any sanctions and consequences on the part of their authorities as a result of giving consent to being interviewed by the visitors (this is ensured under Article 21(1) of the OPCAT).

9.1. Sobering-up stations

1. Treatment

During the visits, the following recommendations about treatment were voiced, among others: coercive measures must be used legitimately and properly, persons against whom a coercive measure is applied must be subject to sufficiently frequent checks. The employees of the OHRD also noted that the use of coercive measures may not lead to degrading or inhuman treatment. It was further recommended that appropriate conditions be ensured to guarantee intimacy where such a need can be seen and that patients not be forced to wear replacement clothing if not necessary. It was also found necessary to recommend that documentation be kept correctly, especially coercive action records.

During their revisit, the representatives of the Mechanism found that the recommendations made during the visit were largely implemented, except for re-

curing cases of illegitimate use of coercive measures. The recommendation to strictly observe provisions on the use of coercive measures had to be reiterated. The recommendation not to force wearing replacement clothing was also not complied with. Therefore, the recommendation was reiterated. It should be noted that, by virtue of § 10 of the Ordinance of the Minister of Health of 4 February 2004 on the methods of escorting, accepting and discharging inebriated individuals and on organisation of sobering-up stations and other establishments created or indicated by a local government unit, persons admitted to a station or an establishment can be given replacement clothing for their stay. Therefore, no provision allows for forcing anyone admitted to the station to change his/her clothes.

The representatives of the NPM also expressed their doubts with regard to checking the condition of patients in the station, which often involved only looking into the room through the window in the door.

Due to activities undertaken in the course of follow-up visits, the representatives of the NPM often identify irregularities that did not occur in an establishment during the first visit. In response to the spotted shortcomings, new recommendations are made. It was found necessary to recommend that ill-treatment of patients by personnel, i.e. admission activities carried out with excessive physical force, be eliminated and proper intimacy be ensured during medical examination as well as when patients change their clothes, wash themselves and satisfy their physiological needs.

Failure to subject newly admitted persons to a breathalyser test is a new problem which the representatives of the NPM have never had to deal with before. In one of the stations, only nine out of 116 admitted persons were tested. The level of alcohol intoxication may indicate that life or health of those brought is in imminent danger and may provide a basis for refusing their admission to the station and referring them to a health care establishment, thus it is important to have as many patients as possible tested with a breathalyser.

2. Right to information

During the visits, it was recommended – as regards the right to information – that persons brought to sober up be properly informed of the station's rules, their rights and obligations and the list of institutions protecting human rights. These recommendations were implemented, although not in all the stations.

The representatives of the NPM stress how important it is to comply with the right to information. Full transparency of both procedures and data relating to the rights of persons brought to sober up and the fact that they are entitled to file a complaint if any of their rights is breached in the establishment are one of the conditions for proper treatment.

3. Right to medical care

Stressing that all intoxicated persons admitted to the station and released from it must be submitted to medical examination was the most important recommendation about medical care in the stations. It was further recommended that all medical personnel be in place to avoid any temporary closure of the station.

All the recommendations referred to above were implemented, except for one, i.e. having all medical personnel in place.

As the representatives of the NPM found during their follow-up visits that the stations lack necessary medical supplies, they recommended that needed pharmaceuticals be provided and their validity date be observed, and also appropriate diagnostic equipment be ensured.

Moreover, in the course of their operations, the representatives of the NPM revealed numerous irregularities concerning medical records, complaining about their brevity and illegibility. They recommended that the records be kept accurately and legibly, as they – after all – provide information on, among others, patients' condition and whether they need to be closely monitored.

4. Living conditions

Recommendations issued by the representatives of the NPM about living conditions related in particular to improving these conditions and adjusting the stations to the needs of persons with physical disabilities. These recommendations were implemented partially, as none of the stations complied with the recommendation to adjust the facility to the needs of persons with disabilities. Another problem was adjusting the room area to legal standards. Therefore, the recommendations were reiterated.

During their operations, the representatives of the NPM check in what condition a paging system is, since it makes it possible for on-site personnel to react to any adverse events that may result in a threat to health or life of patients in the establishments. Not all of the stations, despite being legally required to do so, had such a system in place. Accordingly, the representatives of the NPM recommended that the establishments be unconditionally equipped with the paging system.

5. Personnel

As a result of the follow-up visits, it was necessary to make recommendations on personnel training. The representatives of the Mechanism pointed out the need for mandatory training of on-site personnel and training to improve their interpersonal skills.

9.2. Police emergency centre for children

During their preventive visits to the PECC in Warsaw, the representatives of the NPM recommended, among others, renovating a playground and increasing the number of sports activities, ensuring intimacy to juveniles when they take off their clothes and go to the bathroom, reorganising school classes in such a way that juveniles have breaks during their classes, providing replacement clothing, ensuring that visits with parents and guardians are held appropriately in a separate room, considering that juveniles in trauma may need psychological assistance, familiarising juveniles – appropriately to their age – with their rights and obligations, placing addresses of the centre’s supervisory judge, the Human Rights Defender and the Ombudsman for Children in common areas.

In 2012, the playground was renovated, including replacement of damaged surface and decoration of the surrounding wall with mural and signatures of famous athletes. The playground was also equipped with necessary football, volleyball and basketball equipment. Furthermore, intimacy was ensured when taking off clothes and showering.

Outstanding recommendations include holding visits with parents and guardians in a separate room. Visits to juveniles are held in a duty room in the presence of police officers on duty. The representatives of the NPM find this practice to be in breach of the right to protection of communication secrecy.

9.3. Social care centre

As a result of the visit to the Social Care Centre in Kraków at Łanowa St, the following recommendations were issued, among others: cease punishment of residents, use coercive measures in accordance with the provisions, any restrictions on the SCC residents’ rights should be framed in line with national law, acquaint newly admitted SCC residents with their rights and obligations, which arise out of rules for residents and other normative acts, in a manner appropriate to their level of functioning and taking account of hearing or/and vision disabilities, place information on the residents’ rights and obligations together with addresses of institutions protecting human rights and other information relevant to residents in common areas, expand SCC personnel training plans to include issues related to protection of children’s rights in international and national law.

The recommendations made by the representatives of the Mechanism led to eliminating malpractice in the establishment. Punishment was eliminated from the establishment’s practices. The procedure for applying coercive measures was

changed to comply with applicable law. Moreover, the training on issues related to protection of children's rights in international and national law was held.

9.4. Prison

Recommendations made by the representatives of the NPM during their visit to the Prison in Siedlce mostly concerned ill-treatment of persons deprived of their liberty by PS officers and were designed to remedy this situation. It was also recommended to improve living conditions, e.g.: to wall off sanitary facilities, exchange used cell equipment or increase frequency of bathing per week.

It was found during the revisit that, upon implementation of the recommendations, relations between PS officers and inmates significantly improved. Cases of ill-treatment of persons deprived of their liberty were eliminated.

However, as individual inmates complained of their treatment, the representatives of the NPM pointed out that efforts to eliminate violence and abuse of power by officials through e.g. training, psychological testing, anti-stress workshops, supervisions, etc. should be continued.

As regards the recommendation of the representatives of the NPM to continue renovations, it should be noted that cells are renovated gradually, within available resources and in line with current needs. All bathrooms were provided with partitions between showers and the second bath was introduced for inmates. Moreover, training recommended by the representatives of the NPM was held, including the following classes: "Humane and Lawful Treatment of Persons Deprived of their Liberty and Remand Prisoners", "European Convention on the Protection of Human Rights and Fundamental Freedoms", "Convention against Torture and Inhuman or Degrading Treatment", "International Standards of Imprisonment" and classes on interpersonal relationships. Used cell equipment is replaced within available financial resources, thus only some residential cells were provided with new equipment. In many cells, it was still badly worn. The representatives of the NPM reiterated their recommendation to replace used and damaged cell equipment, including provision of cells with beds with appropriate mattresses, ladders and upper safety rails as well as containers for personal belongings of inmates.

9.5. Pre-trial detention centre

Recommendations made during the visit to the Pre-Trial Detention Centre in Częstochowa concerned, among others, ensuring adequate living conditions or, if not possible, putting premises, which do not meet even minimal national stan-

dards, out of use, increasing frequency of bathing per week and training officers on stress management as well as fundamental rights and obligations of inmates.

The representatives of the NPM found during their revisit that the recommendation to improve living conditions was fulfilled, but only partially. Nevertheless, it is worth noting that renovation work was in progress as part of the recommendations. Additionally, the second bath in a week was introduced and appropriate training for PS officers was held

10. Cases of torture in police establishments identified by a court

In accordance with Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly of the United Nations on 10 December 1984²³⁴, *the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession, punishing him/her for an act he/she or a third person has committed or is suspected of having committed, or intimidating or coercing him/her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.*

While visiting different types of places of detention, the representatives of the NPM found no evidence for torture against inmates. However, this does not mean that such incidents do not take place in Poland. This conclusion stems from the analysis of court judgments issued in cases concerning the crime referred to in Article 246 of the Penal Code, which stipulates that *a public official or anyone acting under his/her orders for the purpose of obtaining specific testimony, explanations, information or a statement, uses force, unlawful threat, or otherwise torments another person either physically or psychologically shall be subject to the penalty of deprivation of liberty for a term of between 1 and 10 years.* The representatives of the NPM analysed the information on persons finally sentenced under this Article of the Penal Code which was provided by the Information Office of the National Criminal Register.

²³⁴Dz.U. of 1989, No 63, item 378; encl.

The analysis referred to above shows that three police officers were sentenced in 2013-2014 in two court cases²³⁵ related to the use of violence to extort information from detainees or physical or mental abuse of a person deprived of his/her liberty. It should be emphasised that, in these cases, torture was used, because the police officers, acting in cooperation and consultation with other officers to extort testimony, confession to a crime or obtain information, intentionally inflicted physical and mental pain on detainees.

It is also worth noting that sentences in the above cases usually fluctuated around the lower threshold provided for in the Penal Code. In two cases, these were sentences of one-year imprisonment suspended for a trial period of 5 years. In one case, a court ruled imprisonment for three years and six months and a prohibition to exercise the profession of police officer for 10 years.

All incidents of torture took place outside the rooms for detained persons or persons brought to sober up which were visited by the employees of the National Preventive Mechanism. They occurred in personnel rooms at police stations.

11. NPM visiting team (alphabetical order)

Magdalena Filipiak – a lawyer and a psychologist, a graduate of the Faculty of Law and Administration and the Faculty of Social Sciences at the Adam Mickiewicz University in Poznań, currently a student of Interdisciplinary PhD Studies at the University of Social Sciences and Humanities in Warsaw. She has been an employee of the National Preventive Mechanism Department in the Office of the Human Rights Defender since 2012.

Karolina Goral – a special pedagogue (specialisation: social rehabilitation and family support) and a psychotherapist, a graduate of the Maria Grzegorzewska University of Special Pedagogy in Warsaw and a third-year student of the Professional School of Psychotherapy of the Institute of Health Psychology of the Polish Psychological Association. In 2010-2013, she served as a social probation officer of the District Court for Warsaw-Praga Północ. Since 2010, she has been employed at the Office of the Human Rights Defender, an employee of the National Preventive Mechanism. A volunteer hotline consultant to persons in emotional crisis and behaviourally addicted persons at the Institute of Health Psychology.

Aleksandra Iwanowska – a doctor of law, a graduate of the Faculty of Law and the Faculty of Philology at the University of Białystok. She authored publica-

²³⁵District Court in Płock (X K 9/13), District Court for Warsaw-Żoliborz in Warsaw (III K 71/10).

tions on executive criminal law. In 2008-2012, she worked as a lecturer at the Faculty of Law of the University of Białystok. In 2011, she assisted in the “Development and Implementation of a Curriculum of Teaching Legal English with the Use of Innovative Teaching Materials” project implemented at the Faculty of Law. In 2011, she completed a scientific internship at the Alexander Pushkin State Russian Language Institute in Moscow. Since 2012, she has cooperated with the University Legal Clinics Foundation under the “Development of Sustainable and Comprehensive Support Mechanisms for Legal and Civic Consultancy Services in Poland” project. Since 2012, she has been an employee of the National Preventive Mechanism Department in the Office of the Human Rights Defender.

Justyna Józwiak – a doctor of sociology of the Institute of Sociology at the University of Warsaw and a graduate of the Institute of Social Prevention and Re-socialisation at the University of Warsaw. Since 2008, she has been an employee of the National Preventive Mechanism in the Office of the Human Rights Defender.

Przemysław Kazimirski – a lawyer, a graduate of the Catholic University of Lublin. Since 2002, he has been employed in the Office of the Human Rights Defender – initially in the Executive Criminal Law Department, while since 2008 – he has been an employee of the National Preventive Mechanism. He represents the NPM in the EU Eastern Partnership Countries’ Ombudsman Cooperation Programme 2009-2013. In 2013, President of the Republic of Poland Bronisław Komorowski awarded him the Bronze Medal for Long Service.

Michał Kleszcz – a lawyer, a graduate of both the University of Silesia and Postgraduate Studies in Economic and Commercial Law. A trainee solicitor since 2011. Since 2007, he has been employed in the Office of the HRD, while since 2008 – he has participated in the visits of the National Preventive Mechanism within the jurisdiction of the Field Plenipotentiary of the Human Rights Defender in Katowice.

Natalia Kłączyńska – a doctor of legal sciences of the University of Wrocław and a university teacher. She has been employed in the Office of the HRD since 2005. She has participated in the visits of the National Preventive Mechanism within the jurisdiction of the Field Plenipotentiary of the Human Rights Defender in Wrocław.

Dorota Krzysztoń – a criminologist, a graduate of the University of Warsaw. A long-time civil servant involved in the protection of civil rights and a mediator in criminal cases. In 1991-1996, she cooperated with, among others, the Senate Committee on Human Rights and the Rule of Law and the Intervention Office of the Senate Chancellery (interventions and systemic activities related to persons deprived of their liberty and for the benefit of the Roma community in Poland).

In 1997-2001, she was a parliamentary affairs advisor to successive ministers in Prime Minister Jerzy Buzek's cabinet. Furthermore, she cooperated with the Polish Agency for Enterprise Development and Comartin – a training company. She has worked in the Office of the Human Rights Defender for over a decade, during which she has served as, among others, the Plenipotentiary of the HRD for Crime Victims. She currently works for the National Preventive Mechanism. A member of several non-governmental organisations, including the Polish-Ukrainian Forum, the Polish Mediation Centre, the Polish Association for Legal Education.

Marcin Kusy – a lawyer, a graduate of both the Catholic University of Lublin and the School of Human Rights and Freedoms at the Institute of Legal Sciences of the Polish Academy of Sciences. He graduated from the Centre for American Law at the Catholic University of Lublin and received a certificate of the Chicago Kent College of Law. His fields of interests are the case law of the European Court of Human Rights in Strasbourg and anti-discrimination law. Since 2008, he has been an employee of the National Preventive Mechanism in the Office of the Human Rights Defender. Currently, he studies at the European Academy of Diplomacy.

Justyna Lewandowska – Director of the National Preventive Mechanism Department in the Office of the Human Rights Defender. A lawyer, a graduate of the University of Warsaw. In 2007, she completed the prosecutor's apprenticeship in Warsaw, while since 2010 – she has been a member of the Warsaw Bar Association. A long-time employee of the Helsinki Foundation for Human Rights. When at the Foundation, she focused on the rights of persons deprived of their liberty, of persons using psychoactive drugs and of those living with HIV/AIDS. In 2007 and 2008, she was a member of the team working to amend the Act on Counteracting Drug Addiction and certain other acts. The team was appointed by the Minister of Justice.

Małgorzata Molak – a social rehabilitation pedagogue, a graduate of the Maria Grzegorzewska University of Special Pedagogy in Warsaw. She completed postgraduate studies in the field of psychological, pedagogical and legal preparation for work with difficult young people at the Alcide De Gasperi University of Euroregional Economy in Józefów. In 2009-2011, she served as a social probation officer in the 6th Service Team of Judicial Probation Officers for enforcement of judgments in family and juvenile cases at the District Court for Warsaw-Żoliborz. Since September 2011, she has been employed in the National Preventive Mechanism Department. While working in the Office of the Human Rights Defender, she completed a social sign language course – Level 3. Moreover, she works as a volunteer consultant at the Telephone Counselling Centre for Persons in Emotional Crisis 116123.

Marcin Mazur – a doctor of law of the School of Law and Public Administration in Rzeszów, Deputy Director of the National Preventive Mechanism Department in the Office of the Human Rights Defender. A graduate of the Catholic University of Lublin. In 2011, he passed his solicitor’s exam and was accepted as a member of the Circuit Chamber of Legal Counsel in Warsaw. In 2003-2008, he pursued PhD studies at the Faculty of Law, Canon Law and Administration in the area of legal science – criminal law at the John Paul II Catholic University of Lublin. In 2005-2006, he completed his postgraduate studies in the area of pedagogical preparation. Since 2004, he has been employed in the Office of the Human Rights Defender – initially in the Executive Criminal Law Department, later in the National Preventive Mechanism Department. He authored articles on criminal law and executive criminal law.

Wojciech Sadownik – a lawyer, a graduate of the Maria Curie-Skłodowska University in Lublin and Foreign Policy Studies at the Polish Institute of International Affairs. Previously, he worked at, among others, the Ministry of Science and Higher Education and the Office of Competition and Consumer Protection. Since 2010, he has been an employee of the National Preventive Mechanism in the Office of the Human Rights Defender.

Estera Tarnowska – a lawyer and a psychologist. She graduated from the University of Gdańsk. In 2011, she completed her solicitor’s apprenticeship in Gdańsk. She has been employed in the Office of the Human Rights Defender since 2007. Since 2008, she has participated in the visits of the National Preventive Mechanism within the jurisdiction of the Field Plenipotentiary of the Human Rights Defender in Gdańsk.

Joanna Klara Żuchowska – a doctor of medical sciences, a second degree specialist in internal medicine. Practicing physician in 1961-2011. She co-authored the book, entitled “Heart Attack”, and 12 papers published in specialist Polish and foreign journals. A graduate of the School of Human Rights at the HFHR. She co-authored the publication, entitled “Human Rights in Psychiatric Hospitals and Social Care Institutions” (Reports, Expert Opinions, Opinions of the HFHR No 17/1996). In 1996-2001, she was involved in monitoring activities for the HFHR. Since 2009, she has cooperated with the Office of the HRD (since April 2012, she has been employed on a quarter-time basis).

12. Experts of the National Preventive Mechanism

Psychiatrists

Leszek Asman – a psychiatrist. Currently, he is employed at the Mental Health Centre in Zabrze as a medical manager, as well as the head of the day psychiatric ward and the head of the outpatient clinic complex (mental health clinic, neurotic disorders clinic, home treatment team). For many years, he worked as the head of psychiatric wards (Olkusz, Rybnik). For a year, he was employed at the control department within the Silesian Branch of the National Health Fund. He has many years' experience as an expert witness in the field of psychiatry. He finished a postgraduate school in the field of health protection management. He runs his private medical practice in Żory.

Jolanta Paszko – a psychiatrist. A graduate of the Medical University of Lublin. She gained her professional experience at the Psychiatric Hospital in Gniezno, and later – at the Bródnowski Hospital and the Bielański Hospital in Warsaw. In 1992-2008, she was a scientific assistant at the 4th Clinic of the Institute of Psychiatry and Neurology in Warsaw. She authored research publications in the area of environmental and clinical psychiatry. Currently, she is working on her PhD thesis. She completed a psychodynamic psychotherapy course in Kraków.

Kama Katarasińska-Pierzgalska – a psychiatrist. A graduate of the Medical University of Łódź. She gained her professional experience at the Psychiatric Hospital of the Ministry of the Interior and Administration in Łódź and the Łódź-Bałuty Health Care Centre. Since 2001, she has worked at the Institute of Psychiatry and Neurology in Warsaw, and since 2008 – she has also run her private medical practice. For several years, she has been working for the Helsinki Foundation for Human Rights, i.e. she delivers lectures, workshops and participates in educational projects. She is a psychologist as well.

Anna Rusek – a doctor of medical sciences, a graduate of the Faculty of Medicine at the Medical University of Silesia, a second degree specialist in psychiatry. In 1989, she received the title of the doctor of medical sciences for her thesis on mental disorders in the burn disease. She completed her postgraduate studies in the field of HR management, entrepreneurship and career counselling – organisation of health care centres. In 1978-1992, she was employed at the Psychiatric Clinic of the Medical University of Silesia in Tarnowskie Góry. Since 1992, she has been employed at the Psychiatric Hospital in Toszek. An expert witness at both the Regional Court in Gliwice and the Episcopal Court in Gliwice.

Agnieszka Szaniawska-Bartnicka – a psychiatrist (second degree specialist since 1999). A graduate of the Medical University of Warsaw. She has gained

her professional experience at the 3rd Psychiatric Clinic of the Institute of Psychiatry and Neurology in Warsaw, where she has been the head of the general psychiatric ward since 1 January 2013. She finished postgraduate studies in medical rights and bioethics at the Faculty of Law of the University of Warsaw.

Maria Załuska – Associate Professor Doctor Habilitatus. A psychiatrist. She received her medical diploma in 1973 at the Medical University of Warsaw. The head of the ward and of the 4th Psychiatric Clinic of the Institute of Psychiatry and Neurology at the Bielański Hospital. A lecturer at the Faculty of Family Studies at the Cardinal Stefan Wyszyński University in Warsaw.

Psychologist

Paweł Jeziernski – a psychotherapist working in the field of psychodynamics. A graduate of the University of Social Sciences and Humanities. He is at the last year of Individual and Group Psychotherapy Studies – trainings held by the Psychoeducation Laboratory. He gained his clinical experience at the Psychiatric Ward of the Voivodeship Hospital in Łomża. He worked at the Psychiatric Hospital in Choroszcz at the Forensic Psychiatry Ward with enhanced security. He cooperated with the Psychological and Pedagogical Centre No 6 in Warsaw. He is a co-organiser of a therapeutic group in the Psyche Clinic. Since 2011, he has been employed at the Nowowiejski Hospital, initially at the Psychogeriatric Ward, and currently at both the 13th Ward for Neurotic Disorders Treatment and the Neuroses Treatment Clinic. He has experience in diagnosing, consultancy, short- and long-term individual therapy as well as group therapy of therapeutic, interpersonal and training nature. Moreover, he completed a one-year ISTDP (Intensive Short-Term Dynamic Psychotherapy) seminar. He also runs his private practice.

Geriatrician

Jerzy Foerster – a doctor of medical sciences. A graduate of the Medical University of Gdańsk (Faculty of Medicine, completed in 1977). Since 1985, he has been a specialist in internal medicine, while since 1990 – a specialist in geriatrics. In 1980-1993, he worked in a social care centre for the elderly and the chronically mentally ill as the head of the treatment ward. In 1989-1991, in turn, he was the Head of the Geriatrics Ward at the Voivodeship Gerontology Centre in Gdynia. In 1992-2001, he was the Head of the Voivodeship Gerontology Clinic in Gdańsk and the Head of the University of the Third Age in Gdańsk and Gdynia. Since 2006, he has been the Head of the Department of Social and Clinical Gerontology at the Medical University of Gdańsk. He also runs his private practice at the Geriatric Clinic.

Experts dealing with issues concerning persons with disabilities

Izabela Sopalska – the author of the “Kulawa Warszawa” project (Kulawa-Warszawa.pl) which is aimed at raising public awareness in Warsaw of disability issues, architectural barriers and facilities for mainly persons with physical disabilities. She cooperates with the “Polska Bez Barrier” Foundation and also other organisations, such as: “Kultury Bez Barrier” Foundation, SISKOM, the “MaMa” Foundation and the Society of the Friendship of Mad Wheelchairman. The “Kulawa Warszawa” project was a partner of the Warsaw Cultural Week without Barriers in 2013. She co-organises training for employees of various institutions on, among others, professional services for persons with disabilities, performs architectural audits and assists in designing new buildings and space. In 2014, she was awarded the Prize of the Capital City of Warsaw for her contribution to the city.

Maciej Augustyński – a co-founder and the President of the “Polska Bez Barrier” Foundation. He is a pedagogue and a coach. He provides training on, among others, adjustment of cultural events to the needs of persons with various disabilities, professional services for customers with disabilities, accessible architecture. He actively works for adjusting space and services to the needs of persons with various disabilities. He cooperates with organisations acting in favour of combating discrimination as well as social and cultural inclusion. For six years, he coordinated projects for the Association of Friends of Integration and the “Integracja” Foundation. He worked on the “Obsługa Bez Barrier” programme for Bank Zachodni WBK S.A. He trained, among others, Citi Bank specialists. He specialises in physical disability. He closely cooperates with the Warsaw Association of Wheelchair Rugby, coordinates the “Kultura Włączenia” project for the Masovian Centre of Culture and Art. He acts as a volunteer for the Foundation for Active Rehabilitation during matches of the Polish Wheelchair Rugby League. He actively participates in training and rehabilitation of players of the “Four Kings” Warsaw Wheelchair Rugby Team.

13. Visits under the National Preventive Mechanism – table by establishments

Prisons	
Place	Date
Łowicz	23-24.01.2014
Strzelce Opolskie No 1	05-07.02.2014
Potulice	19-21.02.2014
Zamość	21-22.05.2014
Opole Lubelskie	20-22.08.2014
Kamińsk	03-05.09.2014
Lubliniec	06-07.11.2014
Brzeg	17-18.11.2014
Siedlice – revisit	24-25.11.2014
In total: 9	

Pre-trial detention centres	
Place	Date
Łódź	13-15.01.2014
Warsaw-Białoleka	20-22.01.2014
Kraków-Podgórze	17-18.03.2014
Warsaw-Służewiec	07-09.04.2014
Międzyrzecz	08-09.05.2014
Zabrze	13-14.05.2014
Sosnowiec	15-16.05.2014
Częstochowa – revisit	18-19.09.2014
Bielsko-Biała	08-10.10.2014
Kamień Pomorski	15-17.10.2014
Tarnowskie Góry	03-05.11.2014
In total: 11	

External wards of penitentiary establishments	
Place	Date
External Ward of the PTDC in Warsaw-Białoleka	16-17.06.2014
In total: 1	

Youth care centres	
Place	Date
Herby	04.02.2014
Skarżysko-Kamienna	12.02.2014
Węgrzynów	13-14.02.2014
Kraków-Górka Narodowa – revisit	19.03.2014
Rembów	16-17.04.2014
Łańcut	28.05.2014
Warsaw (19 Dolna St)	18.06.2014
Krzepice	15.09.2014
Namysłów	22-23.09.2014
Zawiść	24.09.2014
Leśnica	25.09.2014
Rewal	14.10.2014
Goździków	03-04.12.2014
Wojnów	08.12.2014
Gołotczyzna	11.12.2014
In total: 15	

Rooms for detained persons or persons brought to sober up within Police organisational units	
Place	Date
Powiat Police Headquarters in Łowicz	23.01.2014
Municipal Police Headquarters in Łódź-Wschód – establishment under renovation	28.02.2014
Powiat Police Headquarters in Szydłowiec	28.02.2014
Złotoryja	01.04.2014
Warsaw II District Police Headquarters	11.04.2014
Powiat Police Headquarters in Staszów	14.04.2014
Warsaw Police Headquarters	25.04.2014
Powiat Police Headquarters in Lipsko	27.05.2014
Powiat Police Headquarters in Namysłów	02.06.2014
Powiat Police Headquarters in Oświęcim	24.06.2014
Powiat Police Headquarters in Mońki	03.07.2014
Powiat Police Headquarters in Sucha Beskidzka	14.07.2014
Powiat Police Headquarters in Nowy Tomyśl	23.07.2014
Powiat Police Headquarters in Chrzanów	28.07.2014
Powiat Police Headquarters in Kraśnik	18.08.2014
Powiat Police Headquarters in Nidzica	01.09.2014
Skiernewice	02.10.2014
Powiat Police Headquarters in Gryfice – establishment under renovation	13.10.2014
Powiat Police Headquarters in Kamień Pomorski	15.10.2014
Powiat Police Headquarters in Myszków	05.11.2014
In total: 20	

Juvenile detention centres	
Place	Date
Poznań	03-04.03.2014
Grodzisk Wielkopolski	05.03.2014
Tarnów	20-21.03.2014
Jerzmanice Zdrój	01-02.04.2014
Sadowice	03-04.06.2014
In total: 5	

Sobering-up stations	
Place	Date
Łódź – revisit	13.01.2014
Częstochowa – revisit	03.02.2014
Szczecin – revisit	05-06.05.2014
Gdańsk – revisit	09.06.2014
Jaworzno – revisit	26-27.06.2014
Słupsk – revisit	25.08.2014
Przemysł – revisit	08.09.2014
Bielsko-Biała – revisit	06.10.2014
Toruń – revisit	20.10.2014
Płock – revisit	27.10.2014
In total: 10	

Police emergency centres for children	
Place	Date
Warsaw – revisit	20.04.2014
In total: 1	

Psychiatric hospitals	
Place	Date
Choroszcz	26-27.03.2014
Bolesławiec	03-04.04.2014
Gostynin	05.02.2014
Katowice	25-26.06.2014
Jarosław	10-12.09.2014
Łódź	30.09-01.10.2014
In total: 6	

Social care centres	
Place	Date
Łódź (No 4)	16-17.01.2014
Skarżysko-Kamienna (6 Sporna St)	10-11.02.2014
“Etola” SCC in Ruda Pilczycka	24-25.02.2014
“Cichy Zakątek” SCC in Końskie	26-27.02.2014
Poznań (11/13 Konarskiego St)	06-07.03.2014
Pińczów (Wesoła St)	11-12.03.2014
Słupia Pacanowska	13-14.03.2014
“Pod Brzozami” SCC in Warsaw	10.04.2014
Pęcławice Górne	15.04.2014
Zamość (3 Żdanowska St, branch at 7 Radziecka St)	20-21,23.05.2014
Rzeszów (7a Załęska St)	29-30.05.2014
Wrocław (3 Farna St)	05-06.2014
Gdańsk (24 Fromborska St)	11-12.06.2014
Białystok (203 Baranowicka St)	01-02.07.2014
St. Father Raphael Kalinowski SCC in Wadowice	15-16.07.2014
Płaz (4 Wiosny Ludów St)	17-18.07.2014
Poznań (Sielska St, 14 Mińska St)	24-25.07.2014
Maków Podhalański (17 Żeromskiego St)	29-30.07.2014
Kraków – revisit (43 Łanowa St)	31.07-01.08.2014
Gościeradów	19-20.08.2014
“Leśna Oaza” SCC in Słupsk	26-27.08.2014
Lębork No 2	27-28.08.2014
Bartoszyce	02.09.2014
Jarosław	09-10.09.2014
Częstochowa (2 Kontkiewicza St)	16-17.09.2014
“Dom Nauczyciela” SCC in Bielsko-Biała	07-08.10.2014
Świecie (125 Wojska Polskiego St)	21-22.10.2014

Social care centres	
Place	Date
"Jesień Życia" SCC in Bydgoszcz	23-24.10.2014
"Przyjaznych Serc" SCC in Płock	28-29.10.2014
"Nad Jarem" SCC in Nowe Miszewo	30-31.10.2014
Wrocław (10 Św. Marcina St)	19.11.2014
Wrocław (8 Kaletnicza St)	19-21.11.2014
Siedlce (32 Poniatowskiego St)	26-27.11.2014
Anielin	01.12.2014
Żyrardów (23 Sosabowskiego St)	02.12.2014
St. Kazimierz SCC in Radom (35 Garbarska St)	04-05.12.2014
In total: 36	

Border Guard rooms for detained persons	
Place	Date
Bobrowniki	25.03.2014
Białystok	28.03.2014
Warsaw-Okęcie	23.04.2014
Hrubieszów	19.05.2014
Gdańsk Maritime Regional Unit of the Border Guard	10.06.2014
Michałowó	30.06.2014
In total: 6	

Juvenile shelters	
Place	Date
Gacki	10-11.03.2014
Szczecin	06-07.05.2014
In total: 2	

Detention Centres of Military Gendarmerie	
Place	Date
Poznań (24 Bukowska St)	22.07.2014
Warsaw (Żwirki i Wigury St)	28.11.2014
In total: 2	

15. Photos (examples)

I. Conditions of deprivation of liberty in places of detention that were evaluated as positive by the representatives of the National Preventive Mechanism



One of the residents' rooms (SCC in Poznań)



Bathroom (SCC in Poznań)



Dining room (SCC in Poznań)



Table in the dining room adjusted to the needs of persons in wheelchairs (SCC in Częstochowa)



Day room (SCC in Częstochowa)



One of the charges' bedrooms (YCC in Węgrzynów)



Charges' bathroom (YCC in Węgrzynów)



One of the charges' bedrooms (JDC in Tarnów)



Children's corner in the visiting room (PTDC in Tarnowskie Góry)



Residential cell (Pr in Opole Lubelskie)



Interior of one of the shower cabins for convicts (Pr in Lubliniec)

II. Conditions of deprivation of liberty in places of detention that were evaluated as negative by the representatives of the National Preventive Mechanism



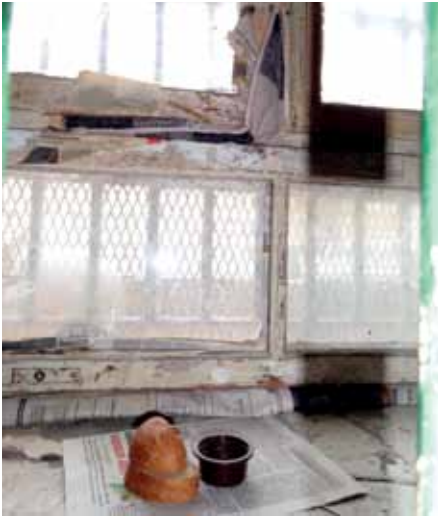
Window bars (YCC in Łańcut)



Transition room (YCC in Łańcut)



One of the charges' bedrooms (JS in Szczecin)



One of the ways to protect against frost in a residential cell (PTDC in Warsaw-Białołęka)



Residential cell (PTDC in Warsaw-Białołęka)



One of the multi-occupational residential cells (Pr in Łowicz)



No partitions between the showers
(EW in Buniewice)



Sanitary facilities in one of the cells (PTDR
in Łódź)



One of the residential cells (PTDC in Łódź)



Toilet for detainees (PDR in Myszków)



Level of cleanliness in one of the rooms for detainees (PDR in Myszków)