



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Chair: Mr. Modvig

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Seventh periodic report of Poland (continued) (CAT/C/POL/7 and CAT/C/POL/QPR/7)

1. *At the invitation of the Chair, the delegation of Poland took places at the Committee table.*
2. **Ms. Naszczyńska** (Poland), replying to questions regarding the status of the Convention in the national legal order, said that duly ratified international conventions were binding under the Constitution. The Convention was therefore incorporated into domestic legislation and applied directly. Where there were discrepancies between international agreements and national law, international instruments prevailed. The view that the Government had not established efficient anti-torture legislation was misplaced since article 40 of the Constitution set forth a clear prohibition of torture and cruel, inhuman, or degrading treatment or punishment. The Government thus fulfilled its international obligations, as the Convention did not set out any obligation to establish a stand-alone definition of torture. Torture was defined on a case-by-case basis under the Criminal Code and was thus effectively prevented and repressed. The possibility of including a definition of torture in the Criminal Code was nevertheless being considered by the Ministry of Justice. While the Convention could not constitute grounds for a conviction, as charges had to be based on provisions of the Criminal Code, it had been evoked in around 550 court rulings.
3. **Mr. Domagała** (Poland) said that international crimes within the meaning of the Rome Statute of the International Criminal Court and serious offences such as homicide or grievous bodily harm committed by a public servant when performing official duties were not subject to a statute of limitations. Exceptionally, however, criminal proceedings for acts of torture that took a form other than that defined in article 1 of the Convention were subject to a statute of limitations. The term of limitation was long and proportionate to the seriousness of the offence. The statute of limitations for offences committed by or on the order of public officials that had gone unpunished for political reasons was extended for the period during which such reasons had existed or for the time that formal provisions had prohibited instituting or continuing criminal proceedings.
4. **Ms. Krasuska** (Poland) said that the use of electric discharge weapons was regulated by law. The police force, border guard agency and intelligence agency were among the bodies lawfully entitled to employ such weapons. They were used, inter alia, in cases of direct assault on an official and when necessary to provide protection during arrests and prison escapes. Police officers who used the weapons to limit risk to a person's life or physical integrity were bound by the principle of minimum harm. Ethical guidelines were in place to ensure the safe use of electric discharge weapons, which could only be used by a qualified official, and police officers were required to notify their superiors of their deployment and any associated accidents. Use of the weapons had decreased from around 800 incidents in 2016 to around 200 in 2018.
5. **Ms. Kaczmarska** (Poland) said that the provisions of the Code of Criminal Procedure that regulated the use of force under the "dangerous detainee" regime had been either amended or repealed following a 2015 ruling of the European Court of Human Rights (ECHR). The final judgment had been transmitted to the Committee of Ministers of the Council of Europe in 2016 for supervision of its execution. The Government could not comment on the May 2019 ECHR ruling in the case of *Kanciał v. Poland* as it was not yet final, but the case had been analysed by several national authorities including the Office of the Commissioner for Human Rights and the Ministry of Justice.
6. **Ms. Sobieraj-Skonieczna** (Poland) said that article 168 (a) of the Code of Criminal Procedure prohibited the courts from admitting evidence obtained through the use of force or torture as defined in the Convention. Attempting to influence the statement of persons undergoing questioning, using questioning techniques likely to affect their psychological processes and using statements obtained in circumstances in which they were unable to

express themselves freely were also prohibited under the Code. Persons in positions of authority could be prosecuted for failure to act or abuse of power. Although no data were available on reported cases of unlawfully obtained evidence, under article 304 of the Code of Criminal Procedure, any person who learned of such a case was under a legal obligation to inform the public prosecution service or the police. The value and legitimacy of evidence was assessed by the courts.

7. **Mr. Jaros** (Poland) said that the independence of the Office of the Commissioner for Human Rights was established by law. The Commissioner was appointed by parliament and, as grounds for his or her removal from office were limited, that eventuality had never arisen since 1989. The Commissioner's term of office was five years and was not aligned with that of the parliament, meaning that the incumbent had no reason to give his or her backing for Government policies. The Commissioner enjoyed immunity from arrest or prosecution and was required to submit an annual activity report to parliament for information purposes. The Office of the Commissioner was funded from the parliamentary budget and in 2018 had been allocated PLN 39 million, around PLN 1 million of which had not been spent. For 2019, the Office had requested over PLN 8 million more than the previous year's budget owing to funding needs for renovation purposes. When considering the funding request, parliament had taken account of the reduction in the Commissioner's substantive activities: the number of cases submitted to the Commissioner had fallen from around 70,000 in 2013 to around 52,000 in 2015. The accuracy of reports of a decrease in funding were therefore questionable.

8. **Ms. Naszczyńska** (Poland) said that the provisions of the Code of Criminal Procedure were in line with Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings. Under the Code of Criminal Procedure, persons deprived of their liberty were notified of the grounds of their arrest and their right to legal assistance immediately. They were entitled to a copy of the arrest statement, access to a lawyer and communication with their next of kin or third persons. During interrogations, detainees were also entitled to access to legal counsel, including free legal assistance where needed. Police officials were held accountable and were liable for prosecution for any abuses of power or failure to act. Such situations arose rarely, however, and there had been only a small number of individual prosecutions.

9. **Ms. Krasuska** (Poland) said that medical examinations were conducted wherever a person deprived of their liberty was a minor, reported a medical condition, required ongoing treatment, displayed visible signs of trauma, was pregnant or breastfeeding, had an infectious disease or was substance-dependent or under the influence of alcohol. The examinations were carried out at local health centres or police facilities by general practitioners. The doctors provided copies of the medical reports to police officers and the national preventive mechanism, among others, and also to the detainees themselves where requested. Doctors could also refer detainees for further psychological support and treatment where deemed necessary. Prison officers received training ranging from first aid workshops to sessions aimed at preventing discrimination against minority groups.

10. **Ms. Kozłowska** (Poland) said that there were health facilities, hospital wards and diagnostic centres in all prisons. The prison authorities worked with medical professionals to ensure high-quality and specialized health care. While over 1,000 physicians, 170 dentists and 960 nurses were assigned to detention facilities, of those, only around 120 nurses and 100 physicians were actually employed by the Prison Service. In 2019, training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) had been provided to over 950 persons, including around 50 high-ranking officers. In addition, a manual on the prevention of torture had been issued for doctors working in prisons and continuous training in torture prevention was provided to legal counsels and regional physicians, nurses and midwives.

11. **Ms. Krasuska** (Poland) said that all police detention facilities were equipped with video surveillance, though steps had been taken to ensure that there were no recordings in toilet and shower stalls. A project to equip police officers with body-worn cameras had been launched in December 2017 to increase the transparency of policing, protect the

public and shield police officers from false accusations. Recordings from such cameras were being used as evidence in criminal and disciplinary proceedings. Owing to its success, the project was being expanded and the number of cameras would be doubled to 4,000 in 2019, subject to budget considerations.

12. **Mr. Gospodarowicz** (Poland) said that shift commanders in prisons had also been equipped with body-worn cameras and that video surveillance equipment was gradually being installed in prisoner transport vehicles as well. The deletion of video footage was considered a breach of professional duties and was subject to disciplinary sanctions. Non-penetrating ammunition had been introduced wherever possible. Although they had not been used for a few years, weapons of that kind were considered much safer than conventional bullets and more appropriate for the protection of prison guards. Such ammunition was subject to special licencing and had been cleared for use by the Prison Service.

13. **Mr. Leńczuk** (Poland) said that there were currently some 74,455 prisoners. There was no overcrowding, and the standard of 3 m² of space per prisoner was respected. A significant number of detention places had been lost owing to the closure of substandard facilities but the shortfall would be made up by the construction of several new modern prisons and additions to existing prisons. Those construction projects illustrated the authorities' commitment to providing 4 m² of space per prisoner in future. Under the prison modernization programme, PLN 1.5 million had been earmarked for improving detention conditions, including for prisoners with disabilities, enhancing the remuneration of prison guards, recruiting more medical practitioners and modernizing facilities and equipment. For example, thousands of cells had been plumbed for hot water and 6,000 cells had been equipped with adjoining toilets. Currently, prisoners had the opportunity to take a bath once a week, unless they engaged in work that required more rigorous personal hygiene. An instruction had been issued whereby window blinds, which were designed to prevent illegal communication and the circulation of contraband, had to be made from materials that did not obstruct the passage of daylight and fresh air.

14. There were nearly 450 people serving life sentences, all of whom were eligible to apply for conditional early release after 25 years. Between 2017 and 2018, over 320 prisoners, including 5 women, had died in custody. The suicide rate among prisoners stood at 3.37 per 10,000 inmates, lower than the rate in a number of other European countries. Every inmate death was thoroughly investigated by the prison authorities and subject to review by the judiciary and the Commissioner for Human Rights. Measures to reduce the number of inmate suicides included work programmes for prisoners to develop their skills and boost their resilience for once they were released. Some 10,000 prisoners worked outside prison facilities each day and travelled to and from their place of employment without escort. The Prison Service worked closely with non-governmental organizations (NGOs) to provide social rehabilitation services and improve mental health. Furthermore, it met with the Commissioner for Human Rights on a quarterly basis to discuss major issues.

15. **Mr. Wierzbicki** (Poland) said that the law provided a complaints mechanism for detainees that was clear, simple and transparent. The number of complaints remained stable, though the number related to detention conditions or verbal and physical abuse was trending downward. When an investigation initiated following a complaint raised suspicions of a criminal offence, the investigators were legally required to notify the prosecution authorities. Officials suspected of involvement in acts at the origin of a complaint were removed from duty pending an investigation.

16. **Mr. Domagala** (Poland) said that the President had challenged the constitutionality of an amendment to the Criminal Code that would introduce the sentence of life without parole. The entry into force of the amendment was suspended pending the decision of the Constitutional Court. The Rome Statute of the International Criminal Court, including articles 7 and 8 relating to torture, had been fully incorporated into domestic legislation, as reflected in articles 118 and 123 of the Criminal Code. It was not necessary to transpose the definition of torture because provisions of international law, including the Convention, were directly applicable by the courts.

17. **Mr. Cytrynowicz** (Poland) said that Poland had seen a significant drop in the number of applications for international protection or asylum in recent years. Approximately 65 per cent of applications were filed by nationals of the Russian Federation, primarily from the North Caucasus. Some 3,000 individuals had been granted various forms of international protection since 2014. No data were collected on whether applicants were victims of torture. Such information appeared only in a person's medical documentation or in records of asylum proceedings. Nevertheless, victims of torture were considered a vulnerable group and were therefore entitled to tailored social and medical assistance as part of the asylum procedure. The determination was made by a medical doctor following an examination conducted at the reception centre either during the asylum procedure or on the basis of new information that arose subsequently. The relevant European regulations were followed. As at May 2019, more than 65 such medical consultations had been ordered. Poland respected European Union law on free legal assistance for asylum seekers and had no plans to introduce any further legislative measures in that domain.

18. **Ms. Przybyłowicz** (Poland) said that the border guard agency was the authority with competence for the detention of foreign nationals. Foreign nationals held in guarded centres were free to move about the centres and their surroundings and access to sanitary facilities was in no way restricted. European Union funding had been allocated to improving conditions at guarded centres, and a coordinator had been appointed to harmonize relevant rules. Pursuant to recent changes to the procedures for handling vulnerable foreign nationals, medical examinations conducted at guarded centres included electrocardiograms, basic laboratory testing, chest X-rays, contagious disease screening and pregnancy tests. The persons concerned were provided with a copy of their medical reports upon release from the centre, and vaccination records were kept for children. It was the doctor's prerogative to decide whether or not a guard should be present during a medical examination. Considerable effort had been made to ensure that guarded centres had a doctor on site on weekdays and a nurse every day. In keeping with European Union regulations, foreign minors were detained as a last resort only and, if detained, were the subject of special procedures to detect signs of abuse. Alternatives to detention were considered, especially in the case of families with children. Appeals against asylum decisions and expulsion orders had a suspensive effect. The Convention was a component of basic and junior officer training for border officials, and sessions on intercultural awareness were also held. Further training on the Istanbul Protocol, organized in cooperation with the Office of the United Nations High Commissioner for Refugees, was planned for October 2019.

19. **Mr. Grochowski** (Poland) said that the amendments to the law on protection for foreign nationals had gone through ministerial and external consultations and the Ministry of the Interior and Administration was currently analysing the observations received.

20. **Ms. Salapa** (Poland) said that the Ministry of Justice had introduced a number of measures to protect victims of domestic violence. For instance, article 169 of the Criminal Code had been amended to limit the application of suspended prison sentences for perpetrators of domestic violence, especially repeat offenders. Court officials and probation officers were required to cooperate with all institutions that assisted victims of domestic violence. The Ministry had put forward amendments to five laws with the aim of introducing comprehensive new measures to promptly isolate perpetrators of violent offences, especially where the health or life of the victim was in jeopardy. The measures included restraining orders and removal from shared accommodation, and failure to comply with such measures had been made an offence. The amendments had been favourably received by victims' organizations.

21. In addition, a set of 43 guidelines had been issued, detailing the procedure to be followed by judicial staff dealing with domestic violence cases. For example, in cases where the perpetrator and victim shared a residence but there were no grounds for detention, an order prohibiting the perpetrator from entering the shared home should be issued. Another guideline established that, in cases where the perpetrator had threatened the victim's next of kin or a minor, the court should be notified and had the authority to issue an injunction. Issues relating to combating domestic violence were also taught as part of the training provided at the Polish National School of the Judiciary and Public Prosecution.

22. Many victims of domestic violence received assistance from the Justice Fund, a fund for victims of crime that was financed from court-ordered damage payments and other allowances. In 2017, the Justice Fund had granted NGOs around PLN 16 million, an annual figure that was set to increase to over PLN 100 million in 2021. Many of the NGOs involved were dedicated to supporting victims of domestic violence. Following recent changes to the Justice Fund's programme, a wider range of free support services were now offered to victims and their next of kin, including legal aid, interpretation, psychological and psychiatric care, medical assistance, childcare and clothing.

23. **Mr. Kubacki** (Poland) said that 1,076 abortions had been performed over the previous year in application of article 4 (a) of the law on family planning, protection of the human foetus and conditions of permissibility of abortion. The vast majority of those procedures had been carried out because the foetus had been found to be damaged or diseased. NGO reports of excessive numbers of illegal abortions in Poland were based purely on estimates. The numbers cited were hypothetical in nature and more representative of the number of pregnant women who might have considered abortion had they been eligible under the aforementioned domestic legislation. It had also been suggested that the number of abortions conducted in cases where the pregnancy had resulted from a prohibited act was strikingly low relative to the number of sexual offences reported in Poland. However, the number of sexual offences recorded included offences of any sexual nature and not just non-consensual intercourse. It would therefore be wrong to assume that all those incidents had led to a pregnancy.

24. The clause of conscience, which allowed doctors to refuse to provide medical treatment, including abortions, if it was counter to their beliefs, had recently been declared admissible by the Constitutional Court. The Court had also ruled that it was unconstitutional to expect doctors to inform patients of their right to invoke the law on family planning and to refer them to other health-care practitioners. The burden of responsibility had thus been transferred to the health-care entity in which the doctor practised. A national helpline had been set up in collaboration with the Ombudsman for Patients' Rights to provide advice on all health-care services available to patients.

25. **Mr. Piebiak** (Poland) said that, although it had a duty to protect conceived life, the Government's stance was that abortion was justified in exceptional cases. It would therefore continue to adhere to domestic legislation and respect the jurisdiction of the Constitutional Court on that matter.

26. **Ms. Racu** said that she had not received a satisfactory response to her questions concerning the funding of the national preventive mechanism. She understood that the distribution of funds for national human rights activities was very strict and she therefore wished to know exactly what budget was allocated to the mechanism to enable it to recruit professional experts and carry out visits to places of detention. It was also still unclear whether NGO representatives were permitted to carry out their own independent monitoring at detention facilities and, if so, how much access they enjoyed.

27. With regard to the provision of State-funded legal aid, the Committee had received reports that lawyers often found it difficult to locate clients who had just been arrested. It would therefore be useful to know of any plans to introduce a system for recording details of all individuals apprehended by the police that might help lawyers in their task of providing prompt legal assistance to detainees. On a related matter, she again invited the delegation to comment on concerns about the restrictions placed on the confidentiality of conversations between detainees and defence lawyers and the fact that such restrictions were not subject to judicial control. The Committee would also appreciate further information on whether, in practice, detainees were given the opportunity to contact their defence lawyer by telephone prior to interrogations and whether the units used for interrogation were fitted with audio or video recording equipment.

28. She was grateful for the information provided on the medical care received by detainees but remained concerned about the confidentiality of medical treatment administered in police stations. She would appreciate confirmation as to whether detainees were given a copy of their medical report and police personnel were authorized to remain present during examinations. Furthermore, regarding the identification and documentation

of signs of torture, it would be useful to know how many medical reports detailing evidence of violence or torture had been submitted to prosecutors in recent years. Specific information on the number of investigations that had been conducted and the number of sentences that had been imposed as a result of those reports would be of particular interest. She also wished to know how many cases of suspicious deaths in custody there had been over the previous three years. Lastly, the Committee would be interested to hear the delegation's thoughts on the possible link between the number of suicides at places of detention and the insufficient access that detainees were granted to psychiatric care.

29. With respect to conditions of detention, she invited the delegation to comment on concerns about the inadequate size of prison cells and the negative impact that recent amendments to the Criminal Code, which had included an increase in the maximum term of imprisonment, might have on the prison population. In that regard, an indication of the extent to which courts used non-custodial measures as an alternative to detention would be helpful.

30. She encouraged the State party to pursue its efforts to develop a formal procedure to identify refugees and migrants who had been subjected to violence or torture. The Committee would welcome further information on reports of asylum seekers of Chechen and Tajik origin being refused entry to the State party in Terespol and Medyka. Had any procedures been introduced to prevent excessive use of force against those migrants and to improve their general situation? She also wondered whether the Government intended to amend legislation to allow migrants and refugees to appeal against deportation orders and to ensure that appeals on the grounds that the person faced a risk of torture had a suspensive effect.

31. Although efforts had been made to improve the situation of victims of domestic violence, the Committee was concerned to note that all the support available to them appeared to be provided by NGOs. It would be helpful to know whether the Government had taken any steps to introduce a separate offence of domestic violence in the Criminal Code and to deal with the underreporting of such offences.

32. With regard to the investigation of acts of torture, the Committee would welcome further information about the powers granted to the designated coordinators at regional public prosecutor's offices who were responsible for monitoring criminal offences committed by police officers. Additional information on the nature of their monitoring activities would be of particular interest, as would specific details about the exceptional circumstances under which police officers might end up being investigated by fellow police personnel or other competent services. She also urged the delegation to provide data on any disciplinary or criminal penalties that had already been handed down to police officers found guilty of such offences.

33. **Mr. Tuzmukhamedov** said that he would welcome the delegation's comments on the amendments to the Executive Criminal Code that were reportedly scheduled to be debated in the Polish parliament during the following week. In particular, he invited the delegation to share their thoughts on the proposed amendments that would limit detainees' ability to consult a lawyer and allow manual searches of prisoners by members of the opposite sex.

34. The Convention required States parties to establish a separate, specific definition of the criminal offence of torture that encompassed all its elements, rather than to have those diverse elements spread throughout domestic legislation. That was not the case in Poland and there seemed to be a difference of opinion among the delegation as to whether the Convention could be applied directly in Polish courts under the Constitution. One member of the delegation had appeared to suggest that it could not, since the Convention did not provide for specific penalties to be applied by the courts. Since the Convention had nonetheless apparently been invoked by the State party's courts in an impressive 550 cases, he would welcome further information on cases in which its provisions had indeed been applied directly.

35. In accordance with article 91 of the Constitution, all treaties ratified by the State party constituted part of the domestic legal order. However, in his opinion, the formulation of article 87 suggested that both the Constitution and statutes took precedence over ratified

international agreements. New domestic legislation also took precedence over any laws that had preceded it, meaning that a situation might arise in which the Polish courts chose to invoke a more recent domestic law rather than the provisions of the Convention. Moreover, since there was no specific definition of torture in domestic legislation, statutes of limitations or inappropriately lenient punishments could conceivably be applied to torture offences.

36. He still wished to receive information about the nature, use and effect on the human body of the restraints described in the State party report as “non-penetrating missiles”. Notwithstanding the delegation’s replies regarding the use of evidence obtained by torture, the country rapporteurs’ statements had been corroborated by sources available to the Committee. In addition, the Office for Democratic Institutions and Human Rights had expressed similar concerns in its Opinion on the Definition of Torture and its Absolute Prohibition in Polish Legislation, issued on 22 May 2018, in which it had recommended the introduction of provisions to expressly prohibit the use of evidence obtained through torture. The delegation had not yet responded to the observations made regarding the political and psychological environment in which the Office of the Commissioner for Human Rights was operating. The question raised by the Committee in its list of issues concerning training on the application of the Istanbul Protocol was also still pending, since the answer given in the State party report related to the European Convention on Human Rights.

37. Contrary to paragraph 96 of the State party report, the delegation had appeared to confirm that prison guards were among the 23 entities authorized by law to use electric shock projectile weapons such as Tasers. It would have been useful to receive, as requested, a copy of the relevant provisions of the corresponding legislation. The delegation had asserted that the Rome Statute of the International Criminal Court had been implemented in the Criminal Code. However, chapter 16 of the Code, which criminalized crimes against humanity, crimes against peace and war crimes, had been enacted in 1997 when the new Code had been published. Those provisions, therefore, were not specifically related to the implementation of the Rome Statute, which Poland had ratified in 2001. It would be useful to know whether the provisions could be used to prosecute those government agents found in ECHR judgments to have been complicit in acts of torture in “grey sites” used by the United States Criminal Intelligence Agency in Poland. He also still wished to receive information on the status of the Police Act and any recent amendments thereto, and on the status of the Ordinance on the Use of Coercive Measures by the Police. In particular, he wished to know whether the Ordinance was still in force or had been superseded by the Act on Coercive Measures and Firearms of 24 May 2013. He would be interested to know whether Poland was planning to apply to have the ECHR judgment in *Kancial v. Poland* of 23 May 2019 referred to the Grand Chamber. It was regrettable that no information had been provided on diplomatic assurances and renditions.

38. **Ms. Belmir** said that she had asked an important question about the primacy of law in Poland and the principles to which the State party subscribed that was of relevance to the crisis affecting the Constitutional Court. The delegation had not answered that question in sufficient detail, the purpose of the interactive dialogue being to obtain a clearer understanding of the State party’s views.

39. **Ms. Gaer** said that she had not yet had a reply to her question regarding investigations into trafficking in persons, including nationals of the Democratic People’s Republic of Korea. Similarly, her questions about ill-treatment, victims of physical attacks, and mistrust of local police – particularly by minority communities – had not yet been answered. With regard to the issue of statistics on access to abortion, she had been troubled by the apparent lack of effective regulation of conscience-based refusals. She still wished to know if, and how, such refusals were monitored nationwide. She would likewise appreciate a reply to her question relating to article 18 of the International Covenant on Civil and Political Rights, on the limitation of the freedom to manifest one’s religion or beliefs when necessary to protect, inter alia, the fundamental rights and freedoms of others.

40. **Mr. Hani** said that he had not received answers to his questions about the situation in psychiatric hospitals, the frequent use of coercive measures and the lack of judicial oversight of internment orders. He had likewise received no information in response to his

questions about the unregulated use of chemical restraints, the excessive length of detention and the use of solitary confinement in psychiatric hospitals. Similarly, his questions regarding prison inmates with physical and sensory disabilities, prison inmates with mental disabilities, and the forced sterilization of women with disabilities had gone unanswered. He also wished to know whether the State party intended to foster support for, or contribute to, the United Nations Voluntary Fund for Victims of Torture.

41. **Mr. Rodríguez-Pinzón** said that he had not heard any replies to his questions about the right of victims of torture to redress and compensation. While the delegation had provided information on rehabilitation measures available to victims of gender-based violence, he wished to know whether rehabilitation measures were available to all victims of torture.

The meeting was suspended at 5.30 p.m. and resumed at 5.40 p.m.

42. **Ms. Goździk** (Poland) said that proceedings conducted by regional public prosecutor's offices were supervised by the National Public Prosecutor's Office. The proceedings, including the examination of witnesses and evidence, were confidential. Victims' plenipotentiaries and legal counsel, however, had access to all material. Extorting confessions and abuse of power were defined as offences in the Criminal Code. Proceedings in cases related to the use of torture were always conducted in line with the Prosecutor General's guidelines of 27 June 2014 for public prosecutors involved in criminal proceedings related to deprivation of life and inhuman or degrading treatment or punishment perpetrated by police officers or other public officials. The proceedings took the form of an investigation by a public prosecutor based outside the victim's place of residence in order to ensure impartiality of proceedings. The prosecutor was required to notify the designated officer at the regional or district prosecutor's office responsible for coordinating and monitoring cases involving offences committed by police officers. The officer reviewed the proceedings, including the merits of the case, and intervened if any irregularities were identified. The officer's review notes were then sent to the National Public Prosecutor's Office. Monitoring of such cases was ongoing. An indictment had been filed, for example, against three officers at Ryki police station for abuse of power and ill-treatment against persons deprived of their liberty. A date for the criminal proceedings had not yet been set.

43. **Mr. Kaczor** (Poland) said that the introductory training provided to trainee judges included a module on the European Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, which prohibited the extradition of persons to a State where there was a serious risk that they would be subjected to torture or other inhuman or degrading treatment or punishment. Training was also provided on article 3 of the European Convention on Human Rights and relevant ECHR jurisprudence. Training aimed at increasing public prosecutors' and judges' awareness of intercultural issues, including those related to perpetrators' backgrounds, had recently been developed and would be provided to some 80 judges and public prosecutors before the end of 2019.

44. **Mr. Maslo** (Poland), referring to the subject of diplomatic assurances in extradition procedures, said that in all cases where Poland was asked to extradite a person to a State where there was a serious risk of the imposition of the death penalty or the use of torture or ill-treatment in prisons, the Ministry of Justice requested assurances to ensure the compatibility of extradition with international norms. The scope of the assurances requested differed from case to case. The Ministry of Justice examined the credibility of the assurances, taking into account various considerations, including whether the offence committed was political in nature. The Ministry also examined the grounds of objection raised by the person to be extradited, including whether he or she or their next of kin had been subjected to torture in the country requesting extradition.

45. **Ms. Stachurska** (Poland) said that, in accordance with article 14 of the Convention, victims of torture had the right to redress and compensation under Polish law. In the event of the victim's death from torture, that right was inherited by his or her dependents. Victims of torture could engage in criminal proceedings, under article 46 of the Criminal Code, to request compensation – in part or in full – for the harm caused to them. Applications to that

end were filed either by the victim or his or her next of kin, or by the public prosecutor. Alternatively, the court could act on an ex officio basis. Victims of torture could also file a civil suit for redress and compensation. Under article 11 of the Code of Civil Procedure, convictions handed down by a criminal court automatically gave rise to civil proceedings. However, in the event of civil proceedings being conducted at the same time as criminal proceedings, the court could decide to stay the proceedings of its own motion, in accordance with article 177, paragraph 1, of the Code of Civil Procedure.

46. **Mr. Kubacki** (Poland) said that health care was provided to all victims of torture free of charge. It was a punishable offence to perform a sterilization without the person's consent. As the Federation for Women and Family Planning had reported, since 2016 there had been five cases of forced sterilization. Some of those, however, had been performed illegally. On the subject of psychiatric hospitals, monitoring of the admission of patients had improved in recent years. Direct coercion measures were used only when advised or approved by doctors. Reviews of patients' stays in psychiatric hospitals were carried out every six months when related to criminal cases, or every year in the case of patients admitted under the ordinary psychiatric health system.

47. **Ms. Goździk** (Poland) said that the offence of trafficking of persons was defined in article 115 of the Criminal Code. In cases of forced labour, proceedings were conducted by public prosecutors on the basis of international law and court jurisprudence. Work was currently under way to incorporate a definition of forced labour into the Criminal Code, after reviewing the definitions established in a number of other countries. Forced labour often involved citizens of Ukraine and was most prevalent in the construction and agriculture sectors. The proceedings relating to the forced labour of citizens of the Democratic People's Republic of Korea were being conducted by the organized crime and corruption unit of the National Public Prosecutor's Office. Information on those proceedings, which had involved more than 100 citizens of the Democratic People's Republic of Korea, could not be made public.

48. **Mr. Jaros** (Poland) said that it was incorrect to talk of underfunding of the Office of the Commissioner for Human Rights; in fact, funds had been increased. There was no reason – financial or otherwise – for the Commissioner not to be able to hire specialists as and when he or she saw fit.

49. **Mr. Gospodarowicz** (Poland) said that NGOs, the Office of the Commissioner for Human Rights and the national preventive mechanism were authorized to access prisons at any time of the day or night for monitoring purposes. Telephone communication with defence lawyers was regulated by the Code of Criminal Procedure. The Prison Service did not make video recordings of interrogations. Non-medical personnel supported medical staff in the provision of health care to detainees in closed prisons in order to ensure their security. In semi-open prisons, that practice only took place when requested by medical staff. Non-penetrating missiles were used in strict accordance with the Act on Coercive Measures and Firearms, and officers received relevant training. The Prison Service did not use electric discharge weapons, as specified in article 19 of the Prison Service Act.

50. **Mr. Piebiak** (Poland), thanking the Committee members for their input, said that the Government of Poland was open to all comments and suggestions and would endeavour to respond to all outstanding questions in writing.

51. **The Chair**, reminding the delegation that its written answers should be received within 48 hours if they were to be reflected in the concluding observations, said that the Committee was grateful for its diligent work.

The meeting rose at 6.05 p.m.