



**Optional Protocol to the
Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**Subcommittee on Prevention of Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment**

**Visit to Poland undertaken from 9 to 18 July 2018:
recommendations and observations addressed
to the State party**

Report of the Subcommittee*, **

* In accordance with article 16 (1) of the Optional Protocol, the present report was transmitted confidentially to the State party on 25 June 2019. On 9 January 2020, the State party requested the Subcommittee to publish the report, in accordance with article 16 (2) of the Optional Protocol.

** The annexes to the present document are being circulated as received, in the language of submission only.

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I. Introduction

1. In accordance with its mandate under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment carried out its first visit to Poland from 8 to 19 July 2018. Poland ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 26 July 1989 and the Optional Protocol on 14 September 2005.
2. The Subcommittee members conducting the visit were: Aisha Shujune Muhammad (head of delegation), Mari Amos, Marija Definis-Gojanović, Daniel Fink, Petros Michaelides and Zdenka Perović. The Subcommittee was assisted by three human rights officers from the Office of the United Nations High Commissioner for Human Rights, two United Nations security officers and four interpreters.
3. The principal objectives of the visit were (a) to visit a range of places of deprivation of liberty in order to assist the State party in fully implementing its obligations under the Optional Protocol to strengthen the protection of persons deprived of their liberty from the risk of torture and ill-treatment, and (b) to provide advice and technical assistance to the national preventive mechanism and to consider the extent to which the national authorities are supporting its work and responding to its recommendations, taking account of the Subcommittee's guidelines on national preventive mechanisms.¹
4. The Subcommittee held meetings with officials and other persons (see annex I) and visited places of deprivation of liberty (see annex II). Interviews were conducted with persons deprived of their liberty, law enforcement and detention officers, medical personnel and others. Meetings were held with members of the national preventive mechanism, which permitted the Subcommittee to examine the mechanism's mandate and working methods and to consider how best to improve its effectiveness. In order to better understand how the mechanism works in practice, the Subcommittee also visited, together with the mechanism, two places of deprivation of liberty, which had been chosen by the mechanism (see annex III). The first visit was led by a representative of the mechanism, with the members of the Subcommittee as observers, and the second visit was led by the Subcommittee, with the representatives of the mechanism observing for the most part.
5. At the end of the visit, the delegation presented its confidential preliminary observations orally to government authorities and the representatives of the national preventive mechanism.
6. In the present report, the Subcommittee sets out its observations, findings and recommendations relevant to the prevention of torture and ill-treatment² of persons deprived of their liberty under the jurisdiction of Poland.
7. The Subcommittee reserves the right to comment further on any place visited, whether or not it is mentioned in the present report, in its discussions with Poland that arise from the report. The absence of any comment in the present report relating to a specific facility or place of detention visited by the Subcommittee does not imply that it has a positive or negative opinion of it.
8. **The Subcommittee recommends that the present report be distributed to all relevant authorities, departments and institutions, including but not limited to those to which it specifically refers.**
9. The present report will remain confidential until such time as Poland decides to make it public in accordance with article 16 (2) of the Optional Protocol. The Subcommittee firmly believes that the publication of the present report would contribute positively to the prevention of torture and ill-treatment in Poland.
10. **The Subcommittee recommends that Poland request the publication of the present report in accordance with article 16 (2) of the Optional Protocol.**

¹ CAT/OP/12/5.

² The present report uses the generic term "ill-treatment" to refer to any form of cruel, inhuman or degrading treatment or punishment, in accordance with article 16 of the Convention against Torture.

11. The Subcommittee draws the attention of Poland and the national preventive mechanism to the Special Fund established under article 26 of the Optional Protocol. Only recommendations contained in those Subcommittee visit reports that have been made public can form the basis of applications to the Fund, in accordance with its published criteria.

12. The Subcommittee wishes to express its gratitude to the authorities and to the liaison officer for their help and assistance relating to the planning and undertaking of the visit. While the Subcommittee regrets that it was not provided with complete information on places of deprivation of liberty from the outset, it appreciates that the issue was rapidly resolved with the intervention of the government focal point.

II. Implementation of the Optional Protocol: the national preventive mechanism

13. Poland ratified the Optional Protocol on 14 September 2005, and it designated its national preventive mechanism three years later. On 14 January 2009, the Subcommittee was notified that as at 18 January 2008, the Commissioner for Civil Rights Protection (the ombudsperson) was designated as the national preventive mechanism of Poland.³

14. During the first year of its operation the representatives of the newly designated national preventive mechanism carried out preventive visits in 76 types of detention facilities. They included penal institutions, remand centres, police detention centres, police emergency centres for children, emergency detoxification centres, places for the care or social rehabilitation of young people, juvenile detention centres, juvenile reform schools, military disciplinary detention centres, psychiatric hospitals, guarded centres for foreigners and deportation centres.⁴

15. According to the information provided to the Subcommittee in 2009, some 30 staff members of the office of the ombudsperson were involved in discharging the mandate of the national preventive mechanism.⁵ However, according to the annual report of the national preventive mechanism for 2009, the tasks of the mechanism were performed mainly by six employees of the office of the ombudsperson, delegated to carry out the tasks of the mechanism. Other members of the office (eight persons, including the director) participate in the preventive visits of the mechanism where necessary.⁶ Since 2011, the mechanism's activities have been carried out by a visiting team comprised of eight persons, including the director and a secretary. According to the annual report of the mechanism, in 2016 the composition of the mechanism team decreased by 2.5 full-time positions, and the actual number of employees of the mechanism visiting team was reduced to seven. The ombudsperson has repeatedly emphasized that the small size of the team made it impossible to perform the tasks arising from the Optional Protocol to the full extent.⁷

16. Expenditures for the activities of the mechanism are covered from the State budget allocation received by the ombudsperson. The designation of the office of the ombudsperson as the national preventive mechanism of Poland was not followed by the allocation of the appropriate additional resources necessary to allow the office to undertake this additional role. Since its first year of operation in Poland, the mechanism has experienced financial problems, which have prevented it from implementing the assigned tasks properly. Despite entrusting the office of the ombudsperson with the tasks of the mechanism, the Government

³ Notification letter available at www.ohchr.org/Documents/HRBodies/OPCAT/NPM/Poland.pdf.

⁴ Commissioner for Civil Rights Protection, "Report of the Commissioner for Civil Rights Protection on the activities of the national preventive mechanism in Poland in 2008", Bulletin of the Commissioner for Civil Rights Protection 2009, No. 5 (Warsaw, 2009), pp. 18–19. Available at www.ohchr.org/Documents/HRBodies/OPCAT/NPM/Poland_2008FirstAnnualReport.pdf.

⁵ Notification letter available at www.ohchr.org/Documents/HRBodies/OPCAT/NPM/Poland.pdf.

⁶ Human Rights Defender, "Report of the human rights defender on the activities of the national preventive mechanism in Poland in 2009", Bulletin of the Human Rights Defender 2010, No. 4 (Warsaw, 2010), p. 105. Available at www.ohchr.org/Documents/HRBodies/OPCAT/NPM/NPM_Poland_AnnualReport2009.pdf.

⁷ Commissioner for Human Rights, "Report of the Polish Commissioner for Human Rights on the Activities of the National Mechanism for the Prevention of Torture in 2016", Bulletin of the Commissioner for Human Rights 2017, No. 4 (Warsaw, 2017), p. 12. Available at www.ohchr.org/Documents/HRBodies/OPCAT/NPM/Poland2016.pdf.

of Poland did not allocate the resources necessary for the execution of tasks related to the proper implementation of the Optional Protocol.⁸

17. The Subcommittee further notes that the mandate of the mechanism is not clearly separated from the rest of the mandate in the office of the ombudsperson. The mechanism is a department of the office of the ombudsperson; as a result, it does not have a dedicated separate budget for its work. The Subcommittee observes that there are no explicit provisions in the mechanism legislation regarding earmarked funding. It is not clear whether the mechanism can accept earmarked donations from external donors.

18. The Subcommittee is concerned that a lack of financial resources presents a major obstacle to the effective and efficient functioning of the mechanism. The Subcommittee is further concerned that the failure to allocate necessary resources seems to be due to the fact that government authorities do not feel that the mechanism needs additional support to carry out its mandate effectively. This is a serious misconception, which needs to be addressed urgently.

19. The Subcommittee reminds the State party that, pursuant to the Optional Protocol, States parties are required to make available the necessary resources for the functioning of the national preventive mechanism. Without proper resources, including for staffing and wider professional competence and expertise, the mechanism cannot fulfil its preventive mandate properly and adequately.

20. **The Subcommittee recommends that the State party allocate, as a matter of priority, the financial resources needed by the mechanism, as required by article 18 (3) of the Optional Protocol and the Subcommittee's guidelines on national preventive mechanisms.⁹ If the mechanism is to have functional independence, it must have full control over its staff and not be dependent on the decisions of other bodies.**

21. **The Subcommittee recommends that this funding be provided through a separate line in the national annual budget referring specifically to the mechanism, as advised by the Subcommittee in its response to mechanism requests.¹⁰ It also recommends that this funding be at such a level as to allow the mechanism to carry out its visiting programme, hire its own human resources, engage outside experts and regularly participate in training programmes, as well as other preventive activities. In this regard the funding should not be tied to the number of visits carried out by the mechanism because the mechanism is expected to undertake other preventive activities as mentioned in paragraph 28 below.**

22. The Subcommittee emphasizes that the mechanism should complement rather than replace existing systems of oversight and its establishment should not preclude the creation or operation of other such complementary systems.¹¹ **In this connection the Subcommittee recommends the State party in close cooperation with the mechanism to review the legal framework in which the mechanism operates and bring it into full conformity with all relevant international norms and guidelines with a view to solving existing or potential issues that may hinder the mechanism in carrying out its mandate effectively and independently.**

23. The Subcommittee reminds the State party that, in order for the mechanism to fulfil its mandate effectively, it should have a separate secretariat and its own staff. In addition, the mechanism should have recourse to external experts, including medical experts, as necessary, when such expertise is not available internally.

24. In order to ensure the functional and operational independence of the mechanism and with a view to clearly identifying the nature and extent of these additional needs, the State party should consult the mechanism directly, in order to ascertain what the mechanism needs to permit it to properly fulfil its mandate in accordance with the provisions of the Optional Protocol.

⁸ Commissioner for Civil Rights Protection, "Report of the Commissioner for Civil Rights Protection on the activities of the national preventive mechanism in Poland in 2008", p. 16.

⁹ CAT/OP/12/5, para. 11.

¹⁰ CAT/C/57/4, annex, paras. 11–14.

¹¹ CAT/OP/12/5, para. 5.

25. It was brought to the Subcommittee's attention that the mechanism did not visit all the places of deprivation of liberty as prescribed by the Optional Protocol. In this connection, the Subcommittee emphasizes that, according to article 4 of the Optional Protocol, the State shall allow visits to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue or with its consent or acquiescence. Therefore, any place in which a person is deprived of liberty (in the sense of not being free to leave), or where a person might be deprived of liberty, should fall within the scope of the mechanism.

26. In determining what constitutes detention and a place of deprivation of liberty, the Subcommittee recommends that the State party adopt an expansive approach that maximizes the preventive impact of the national preventive mechanism.¹² In addition, the Subcommittee recommends that the State party ensure that the mechanism has the legal authority and practical capacity to access any place where it believes that people are or may be deprived of liberty, in accordance with article 4, as well as articles 19 and 20, of the Optional Protocol.

27. The Subcommittee also notes that the mechanism has mainly been focusing on detention monitoring activities during its first 10 years of operation, having carried out around 1,000 monitoring visits in that period. However, the activities of the mechanism should not be limited only to visiting places of detention. Among other functions, the mechanism needs to have the legal competence to submit proposals and observations concerning relevant draft legislation.

28. The Subcommittee recommends that the State party ensure through legal and financial measures that the mechanism focuses not only on visiting places of deprivation of liberty but also on other preventive activities, such as commenting on draft legislation, awareness-raising and training activities, in accordance with articles 4 and 19 of the Optional Protocol.

29. During the joint visits with the mechanism, the Subcommittee noted that the staff members of the office of the ombudsperson were well perceived by the police officers and they had access to all the premises and information they requested.

30. The meetings held by the Subcommittee with some of the relevant authorities revealed, however, that the mechanism lacked visibility and a lack of understanding of its role vis-à-vis the office of the ombudsperson. The Subcommittee also notes that there is very little knowledge of the mechanism among relevant stakeholders, including persons deprived of their liberty, public authorities and other State monitoring bodies, civil society actors and the general public.

31. In addition, the Subcommittee observed a general lack of awareness of the reports produced by the mechanism, particularly with regard to the implementation recommendations contained in the mechanism reports by the authorities.

32. In this connection, the Subcommittee recommends that the State party enter into a continuous dialogue with the mechanism, with a view to implementing the recommendations of the mechanism to improve the treatment and the conditions of persons deprived of their liberty, and to prevent torture and other ill-treatment or punishment. The recommendations should be thoroughly discussed and addressed with relevant stakeholders in accordance with article 19 of the Optional Protocol.

33. The Subcommittee further recommends that the State party take immediate initiatives to increase the visibility of the mechanism, including through activities that raise awareness of the Optional Protocol and the mechanism's mandate. The State party must include the mechanism in the legislative processes and advocacy, which mechanisms are encouraged to undertake under article 19 of the Optional Protocol. Doing so improves prevention of torture and increases the overall visibility of the mechanism. The Subcommittee further recommends that the State party: (a) take steps to assist the mechanism in making its mandate and its work better known, and thus more visible to the general public; (b) ensure that the mechanism is recognized as a key component of the country's system for preventing torture and ill-treatment; (c) contribute to making the work of the mechanism more visible by, for example, organizing awareness-raising campaigns and other promotional activities, including the

¹² CAT/C/57/4, annex, paras. 1–3.

production and distribution of materials on the mandate and the activities of the mechanism to persons deprived of their liberty, public authorities, civil society organizations, lawyers, members of the judiciary and the general public; and (d) include the mechanism in training programmes for law enforcement bodies.

III. Overarching issues

Legal and institutional framework for the prevention of torture

1. Definition and criminalization of torture

34. The Subcommittee takes note of the statement of the authorities that the Convention is directly applicable in Poland. While noting the general prohibition of torture contained in article 40 of the Constitution adopted in 1997, and also noting that articles 246 (on unlawful duress to obtain a statement) and 247 (on the use of physical or mental cruelty on a prisoner) of the Criminal Code criminalize actions that would amount to torture, the Subcommittee expresses concern that the crime of torture is not specifically defined and fully criminalized in the State party's legal system. The Subcommittee has taken note of the political commitment of Poland, made during its third universal periodic review, to consider incorporating in its legal order the definition of torture according to international standards.¹³ The Subcommittee notes that the Ministry of Justice started an analysis of whether torture should be included in the Penal Code.¹⁴ The Subcommittee notes as positive that in April 2018 the Deputy Commissioner for Human Rights requested the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe to review the State party's domestic legislation in relation to the definition of torture.¹⁵

35. The Subcommittee recommends that torture be made a distinct criminal offence, defined in accordance with articles 1, 2 and 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and that acts of torture and ill-treatment be made punishable by penalties commensurate with their gravity.

36. In addition, the Subcommittee recommends that the State party provide specific training to judges and prosecutors on the provisions of the Convention and its Optional Protocol.

2. Disconnect between the law and implementation

37. The Subcommittee notes the comprehensive legal framework in the field of torture prevention, which is largely adequate. The existing legal safeguards against torture and ill-treatment and the legal protection of the rights of persons deprived of their liberty generally correspond to international standards. However, the Subcommittee is concerned about the significant gap between the legal framework and its application in practice, as many legal protections did not appear to be implemented consistently, both in prisons and in police stations.

3. Separation of categories

38. The Subcommittee is concerned that sentenced inmates and persons awaiting trial are sometimes placed in the same ward (e.g. in Kielce Remand Prison and Krakow Remand Prison), or even housed in the same cell (e.g. in Wrocław Prison 1). In addition, in Wrocław Prison 1, the delegation witnessed that women detained for civil offences were kept in the same cell with those detained for criminal offences.

39. In line with rule 11 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), the Subcommittee recommends that the State party ensure that different categories of inmates are kept in separate parts of an institution, in particular that:

¹³ A/HRC/36/14/Add.1, recommendation 120.81.

¹⁴ CAT/C/POL/7, para. 3.

¹⁵ OSCE Office of Democratic Institutions and Human Rights. "Opinion on definition of torture and its absolute prohibition in Polish legislation". Opinion-Nr.: CRIM-POL/325/2018. Available at www.osce.org.

(a) **Remand detainees be kept separate from convicted prisoners, with reference also to article 10 (2) of the International Covenant on Civil and Political Rights;**

(b) **Persons detained for civil offences be kept separate from persons detained for criminal offences.**

4. Alternatives to detention

40. The delegation learned that the police were required to detain persons when there was a warrant issued in relation to the non-payment of fines. The monetary burden on the State in such cases is higher than using non-custodial or alternative measures to deal with conflicts with the law.

41. **The Subcommittee recommends that the State party consider the application of non-custodial or alternative measures to the detention of persons for the non-payment of fines.**

5. Staff-related issues

42. The Subcommittee is concerned at the noted staff shortage affecting both police and penitentiary institutions. The number of vacancies may not be in reasonable proportion to the number of staff required. Salaries are low, which contributes to the difficulties in the recruitment of new staff.

43. **The Subcommittee recommends that the State party conduct an evaluation on the number of staff required in the professional service of the police and penitentiary institutions. The Subcommittee further recommends that the State party ensure that salaries are commensurate with the qualifications required and responsibilities entrusted to these occupational groups, in order to ensure that they are properly motivated, as an overall preventive measure.**

IV. Situation of persons deprived of their liberty

A. Police

1. Ill-treatment

44. The Subcommittee notes as positive the approval, as indicated by the Ministry of the Interior and Administration, of a strategy of actions targeting the prevention of human rights violations by police officers by the State party. Of those persons interviewed by the delegation, who were or had recently been in police custody, the great majority stated that they had not been mistreated by the police. However, the delegation heard several allegations of ill-treatment inflicted during the initial phases of arrest and investigation by police in certain police stations, the credibility of which were consistent with the delegation's own observations. For example, at a police station in Krakow, the delegation interviewed a detainee who alleged he had been beaten during interrogation. Upon examination by a medical member of the delegation, the detainee was found to display a violent dark-blue haematoma on the outer corner of the right eye, with bluish discoloration under the eye and small red excoriation above the right eyelid; a reddish-blue haematoma, 3 x 2 cm in size, in the middle of the outer side of the left thigh. The injuries observed were consistent with the allegations of the detainee and typically produced by hitting with a blunt force object.

45. Such ill-treatment involved excessive use of force not only during the course of apprehension, but also after the person was brought under control, as well as in the form of beatings during interrogation in custody. The Subcommittee is concerned that the initial questioning, during which ill-treatment is most likely to occur, tends to take place in the administrative offices of the police interrogators, which do not have recording equipment available.

46. **The Subcommittee recalls that any type of violence against persons deprived of liberty must be strictly prohibited as it constitutes a form of ill-treatment. Allegations should trigger prompt and impartial investigations by an independent national**

authority and, where there are sufficient grounds, the persons responsible should be prosecuted and adequately sanctioned.

47. **The State party should make mandatory the audio and video recording of interviews in relation to criminal investigations as a basic safeguard and as part of its efforts to prevent torture and ill-treatment, as well as to protect law enforcement personnel against unsubstantiated allegations. Recordings should be kept in centralized secure facilities for a period sufficient for them to be used as evidence and should be made available to investigators, detainees and lawyers, upon request. The use of bodycams is recommended, if possible.**

2. Fundamental legal safeguards

48. The Subcommittee observes the initial hours of arrest as a crucial period for the arrested person and that, without the proper safeguards, arrested and detained persons are under serious risk of being arbitrarily deprived of their liberty and ill-treated.

(a) Information about rights

49. Even though the delegation observed that paper sheets with information about rights were taped in cells in many police stations (sometimes also in languages other than Polish) and learned that detainees were also asked to sign a sheet with information about their rights, the Subcommittee is concerned that the detainees interviewed in police stations and in penitentiary institutions consistently reported that they had not been informed about their rights. In addition, the delegation spoke to a number of persons in police custody who were not aware of the reason for their apprehension, owing to the fact that, when acting upon a warrant to detain, police do not always have information on the charge, the length of detention required or the fine imposed.

50. **The Subcommittee recommends that the State party adopt the necessary legislative and administrative measures to ensure that all persons deprived of their liberty are informed of all their rights and of the reasons for their arrest at the outset of the deprivation of liberty and, as soon as possible thereafter, of the charges against them.** Such information should be provided orally at first, in clear language and in a language that the person understands, with the assistance of an interpreter if necessary, and should then be provided in writing to the persons concerned.

(b) Access to a lawyer

51. According to article 245 of the Code of Criminal Procedure, detained persons, upon their request, should be given the opportunity to contact a lawyer by any means available and to talk directly with him or her. The Subcommittee is, however, concerned that many detainees the delegation spoke to had not had the chance to consult a lawyer, especially in the first stage of proceedings. The Subcommittee is further concerned at the lack of an appropriate system of legal aid in Poland for those who could not afford a private lawyer.

52. **The Subcommittee recommends that the State party take effective measures to guarantee that all persons deprived of their liberty are afforded, in law and in practice, from the time they are arrested, the right to have prompt access to an independent lawyer and, if necessary, to legal aid in accordance with international standards. Poland should take measures to introduce the list of legal counsellors to all police stations.**

(c) Preliminary medical check-ups

53. The Subcommittee notes that, with the exception of two police stations visited by the delegation, medical check-ups are not routinely conducted upon arrival, but only on the request of the detainee or if there are visible injuries. The delegation is concerned that medical examinations are carried out in the presence of police officers, are very superficial and are improperly documented. In addition, the Subcommittee is concerned that, upon visiting certain police stations, the delegation observed that the medical records of persons with visible signs of injuries did not contain any information on those injuries, although they had been examined by a doctor while in police custody.

54. **The Subcommittee recommends that the State party put a system into place to ensure that persons in police custody who are in need of medical treatment, including mental health care services, have rapid access to such treatment free of charge.**

55. **In addition, the Subcommittee recommends that the State party take appropriate steps to ensure that all persons who are arrested are promptly examined free of charge by a medical specialist who is able to work independently without a police officer present. In line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), such medical specialists should be trained in how to examine people who may have been subjected to torture or ill-treatment and on how to document such cases.**

(d) Right to contact a family member or other third party

56. The delegation observed that persons in police detention do not have the right to directly contact a family member or other third party to inform them on the reason of their detention. Some detainees who had requested an officer to contact family on their behalf had not received feedback on whether this had been done.

57. **The Subcommittee recommends that all persons deprived of their liberty must be able to inform a family member or other third party of their detention without delay, and receive feedback on whether this has been done. The exercise of this right must not be dependent upon the goodwill or decision-making of the detaining authorities, prosecutor or investigator or the administration of the detention facility.**

(e) Diplomatic assistance and translation

58. Although welcoming the fact that at some police stations protocols were translated into several languages, the Subcommittee noted that detained foreigners often did not understand the procedure in Polish, nor were they offered the possibility to contact their family, consulate or embassy.

59. **The Subcommittee recommends that the State party ensure that detained foreigners have the right to communicate with the diplomatic and consular representatives of the State to which they belong, as soon as possible after arrest. The Subcommittee further recommends that the State party take measures to provide means of translation to all facilities and have all procedural issues translated for them.**

3. Conditions of detention at police stations

(a) Material conditions

60. The Subcommittee notes as positive that the police detention centres visited generally had acceptable material conditions, with cells that were of a sufficient size and not overcrowded. They were clean and generally in a good state of repair. The Subcommittee is concerned, however, that most of the visited cells were located underground and were poorly lit and ventilated.

61. **The Subcommittee recommends that the State party continue implementing measures to ensure adequate lighting and ventilation in police detention cells.**

62. At night, detained persons received mattresses, blankets and pillows, which were then removed from the cells in the early morning. Detained persons reported receiving three meals per day and water was available upon request. The Subcommittee, notes, however, that no special diets were available for detained persons with special dietary requirements.

63. **The Subcommittee recommends that the State party ensure that detainees in police detention are offered dietary options, including one warm meal and unrestricted access to drinking water.**

64. While noting that toilets and washrooms were clean, in a good state of repair and available upon request, the Subcommittee is concerned that in some police stations there were facilities exclusively allocated for detainees with infectious conditions such as HIV/AIDS or hepatitis.

65. **The Subcommittee notes that the designation of separate toilets and showers is not medically necessary and constitutes segregation as a form of discriminatory**

treatment. The Subcommittee recommends that the State party take measures to eliminate this and any other similar practices in its police stations.

66. In addition, the Subcommittee is concerned that persons in police detention do not have the chance to spend any time outdoors and that none of the police establishments visited possessed an exercise yard.

67. The Subcommittee recommends that the State party ensure that all persons in police detention are afforded time outside their cells, including for exercise and to breathe fresh air, for a minimum of one hour daily.

(b) Transportation standards

68. Upon examining police vehicles at one police station, the delegation found them to be too hot for transportation, while observing that not all police vehicles were equipped with air-conditioning and seatbelts. Several detainees interviewed by the delegation complained that during transportation, they were handcuffed behind their backs or the cuffs were too tight. Upon examining the wrists of several detainees, the delegation observed red linear, parallel excoriations, consistent with their allegations. At one police station, the delegation observed that a detainee who was being prepared for a transfer was put in ankle cuffs.

69. The Subcommittee recommends that the State party ensure the safe transportation of arrested or detained persons, in accordance with traffic safety rules and regulations.

B. Prisons

70. The Subcommittee observed that although Poland's correctional system nominally differentiates between prisons and remand facilities, in reality, a mixture of convicted inmates and remand detainees can be found in both types of facilities. In the course of the visit, the delegation visited a total of seven correctional facilities: four were formally designated as prisons, and three as remand prisons (see annex I).

1. Ill-treatment

71. The delegation did not discover corroborated evidence of ill-treatment at correctional institutions in Poland. However, the Subcommittee is concerned at allegations that in some penitentiary institutions prison officers use violence to mould first-time offenders into submissiveness. The delegation also heard several allegations of verbal abuse and rude behaviour against inmates.

72. In addition, the delegation heard an allegation of collective punishment at Wrocław Prison 1 in the form of solitary confinement administered to a group of 10 inmates belonging to the "subculture" – an informal association of inmates with historic roots in prisons across Poland that maintains its own rules and norms. Reportedly, a fight had broken out between two of the inmates; however, all the inmates were sanctioned because they refused to give testimony in relation to the incident.

73. The Subcommittee recommends that the State party prohibit the use of collective punishment in its detention facilities through law and in practice, in line with rule 43 of the Nelson Mandela Rules.

74. In addition, the Subcommittee is concerned by several allegations of racially motivated harassment and discrimination against inmates who are foreign or appear to be. At one facility, a national of Ukraine reported that money sent by his family was not reaching his prison account, in addition to his working without pay at the prison.

75. At the same facility, female inmates complained that only half the money deposited by their families was reaching their accounts. Numerous complaints were heard by the delegation at the women's section (Ward K) of Wrocław Prison 1 concerning food of a low nutritional or hygienic quality, reprisals against inmates who complained, verbal harassment, poor heating in winter and no access to laundry service. On the basis of those complaints, the Subcommittee is concerned that the conditions of detention result in de facto discriminatory treatment of women in that facility. Women also claimed that at night, their building was locked and the key was kept in the main administrative building of the prison, meaning that

in the event of an emergency, the building would not be unlocked immediately. Although the prison director stated that the key remained with the night guard and that there was a set of emergency keys at the gate, the guards who were interviewed were not aware of this, since they confirmed the information provided by the female inmates. Given that a sexual exploitation scandal involving prison guards and female inmates had affected the same facility in the past, one can imagine that such a measure may have been introduced in an attempt to better control movements at night; however, the Subcommittee is concerned that the arrangement represents a safety risk.

76. The Subcommittee recommends that the State party take measures to ensure that foreign inmates and female inmates do not experience de facto discrimination in its prison system.

77. Specifically with regard to the women's section (Ward K) in Wrocław Prison 1, the Subcommittee recommends that the State party take urgent measures to review and improve the regime, conditions and treatment of women, as well as the security measures put in place by the prison authority.

2. Excessive length of detention on remand

78. Although the Criminal Procedure Code prescribes the maximum legal durations for pretrial detention, a number of detainees interviewed by the delegation complained that the length of their detention on remand lasted for excessive amounts of time, in some cases more than one year. The Subcommittee recalls that detention in custody of persons awaiting trial should be the exception rather than the rule, as stipulated in international human rights law.¹⁶

79. The Subcommittee recommends that the State party take measures to ensure that pretrial detention policy meets international standards, namely that the recourse to detention is always the measure of last resort. It further recommends that the State party consider further increasing the use of alternative measures to pretrial detention and ensure that the mechanism for reviewing detention decisions is effective.

3. Conditions of detention

(a) Material conditions

80. While noting that the statistics provided by the authorities and prison management would indicate that there is no overcrowding in prisons, the Subcommittee notes that the official capacity of the detention cells is not calculated in accordance with the European minimum standard of living space of at least four square metres per person.¹⁷ In reality, the delegation observed that in most of the cells it visited, less than four square metres per person were available. This issue is further compounded by the fact that prisoners who do not work or are not involved in training or education programmes are generally allowed to spend only the minimum of one hour per day outdoors. The situation of new arrivals at prison may be even worse, as the delegation learned that in at least one facility (Płock Prison), during the initial quarantine period of 14 days, inmates were not allowed any time outside their cells.

81. In line with repeated recommendations by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to this end, the Subcommittee recommends that the State party raise the minimum standard of living space per prisoner to at least four square metres in multi-occupancy cells (not counting the area taken up by any in-cell sanitary facility) and six square metres in single-occupancy cells; and review the official capacity of all correctional facilities accordingly.

82. The Subcommittee notes that differences in terms of the material conditions were observed across the visited facilities and some had clearly undertaken measures to renovate buildings, replace infrastructure or provide new furniture. The Subcommittee is, nevertheless, concerned that in many facilities the material conditions are poor, electricity and water installations in some facilities are dated, and the limited furniture provided is usually old and

¹⁶ International Covenant on Civil and Political Rights, art. 9 (3); see also general comment No. 35 (2014) on liberty and security of person, para. 38.

¹⁷ At least four square metres of living space per prisoner in multi-occupancy cells, sanitary annex excluded, and at least six square metres in single-occupancy cells, sanitary annex excluded.

sometimes inadequate (e.g. small bed frames that can barely accommodate taller or larger inmates). The delegation heard complaints that, since no furniture was provided for storing personal effects, inmates in shared cells were forced to keep their belongings either in a plastic container or on the floor under the bed. The Subcommittee is further concerned that inmates did not have access to fresh air or direct sunlight in a few cells.

83. The Subcommittee recommends that the State party continue renovating, improving and modernizing the material base of its correctional facilities, with the aim of ensuring that prison conditions are at least in keeping with the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules).

(b) Different classification

84. The Subcommittee is concerned that the classification of inmates into different detention regimes does not appear to be based on a risk assessment, but rather on the length of prison term and affiliations. In one facility, a member of staff raised a concern that violent and non-violent inmates are sometimes placed in the same cell. In addition, despite the availability in the corrections system of prison councillors, who act as case workers for inmates, the delegation is concerned that the individual needs of prisoners are not always taken into account in the matching of inmates who are to share cells. As a result, a person diagnosed with asthma, for example, may be placed in a cell with a smoker.

85. The Subcommittee recommends that the State party review and strengthen the application of its system of classifying convicted detainees into different regimes, with a view to taking into consideration all relevant aspects of a prisoner's personality in addition to the type of crime committed and the length of the sentence.

(c) Regime: work, education and other recreational activities

86. The Subcommittee appreciates the significant improvement in increasing work opportunities and remuneration for inmates achieved through the "Work for inmates" programme, alongside with increasing the proportion of inmates classified as fit for employment. In reality, the Subcommittee observed that work programmes were available in all visited prisons. The Subcommittee is, however, concerned that in some facilities, a significant proportion of the prison population remains idle, while work opportunities are almost never available to detainees on remand, who require the permission of the prosecutor or the court. The Subcommittee further notes that a large proportion of the work available to inmates is not remunerated. The Subcommittee is also concerned about allegations that inmates have been forced to work in some facilities.

87. The Subcommittee recommends that the State party take measures to further increase the availability of work programmes in penitentiary institutions, ensure that fairly remunerated work opportunities are available to all detainees, including those on remand, while making sure that no inmate is forced to work against his or her will.

88. The delegation observed that, in general, educational programmes were available in all visited facilities. At Wrocław Prison 1, the education and vocational training programmes are particularly well developed, although the delegation learned that they were not available throughout the summer, owing to the summer holiday for the education system. The Subcommittee is of the opinion that this cannot be a reason for discontinuing the education and vocational training programme in prisons.

89. The Subcommittee recommends that the State party ensure the continuity of educational and vocational training programmes throughout the year, as the aim of such programmes is to promote rehabilitation and to provide inmates with meaningful activities.

90. The delegation commended the dog therapy programme at Wrocław Prison 1 and understands that similar programmes are in place in a couple of other prisons across Poland. Since this programme had only been introduced recently at the facility, the inmates with whom the delegation spoke were not aware of its existence.

91. The Subcommittee recommends that the State party continue developing innovative programmes such as the dog therapy programme with the aim of promoting the well-being and rehabilitation of inmates across the corrections system.

(d) Disciplinary and restraint cells

92. The delegation noted that all facilities featured two types of isolation cells: disciplinary and restraint cells (equipped with restraining belts); however, the latter were largely unused in the facilities visited. Disciplinary proceedings are initiated in cases of offences under the Penal Code or internal regulations including addressing officials without respect, disobedience, disrespect of the rules, fights between prisoners or attacks on the officials.

93. The Subcommittee is concerned that solitary confinement is not imposed through a proper procedure, but usually simply on the decision of the director of the facility. Inmates are not systematically heard prior to the imposition of a sanction, are generally not informed about the possibility to appeal and do not receive a copy of the disciplinary decision. Although noting that solitary confinement is generally limited to 14 days, the Subcommittee is concerned that in special circumstances it may be extended up to 28 days with the permission of a judge.

94. The Subcommittee recommends that the State party review its laws and regulations to clearly define the procedure for imposing solitary confinement, ensuring that it is transparent and includes the possibility to appeal the decision. Isolation cells should only be used when strictly necessary. In addition, the Subcommittee recommends that measures be put in place to allow detainees to appeal against the imposition of disciplinary sanctions.

95. The Subcommittee recommends that solitary confinement be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and that such periods must not be imposed consecutively or in rapid succession. Time spent in isolation cells awaiting the decision on the sanction should count towards the period of disciplinary sanction.

96. The Subcommittee is concerned that in some facilities disciplinary cells are used for the purpose of medical isolation (e.g. in cases of scabies) – including isolation related to mental health issues (depression, anxiety disorder and personality disorder) – which has an adverse effect on those inmates. In one such case, the delegation was informed that the decision on the placement was actually taken by the doctor.

97. The Subcommittee recommends that the State party ensure that the imposition of solitary confinement be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. Instead, such inmates should be offered appropriate medical assistance.

98. In addition, the Subcommittee noted that there is no uniform understanding on the role of medical professionals vis-à-vis inmates placed in solitary confinement. The Subcommittee is concerned that in many prisons medical professionals reported that they had no responsibilities vis-à-vis persons in disciplinary cells (in some cases, only an obligation to visit persons in restraint cells). Furthermore, in one facility the delegation was informed that medical professionals had to examine inmates to certify that they were fit to be placed in solitary confinement.

99. The Subcommittee recommends that the State party review the relevant legislation and regulations to ensure that health-care personnel do not have any role in the imposition of disciplinary sanctions or other restrictive measures. On the other hand, health-care staff should be very attentive to the situation of prisoners placed in disciplinary cells. Health-care staff should be informed immediately of every such placement and should visit the prisoner without delay after placement and thereafter on a regular basis, at least once per day, and provide him or her with prompt medical assistance and treatment as required. In addition, health-care personnel should report to the director any adverse effect of disciplinary sanctions or other restrictive measures on the physical or mental health of a prisoner and shall advise if they consider it necessary to terminate or alter them for physical or mental health reasons.¹⁸

¹⁸ Nelson Mandela Rules, rule 46. See also Council of Europe, “Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 11 to 22 May 2017”. CPT/Inf(2018) 39, para. 90.

(e) Food

100. Although the quality of food varied across facilities visited by the delegation, the Subcommittee is concerned that in some prisons food was of notably poor nutritional and hygienic quality. In relation to this, the Subcommittee is concerned that the resources allocated for the provision of food across the penitentiary system may be insufficient and that expenditures may be rather low: between 4 and 6 zloty per person per day (approximately \$1 to \$1.60), depending on whether they are placed on a special dietary regime. In addition, although in some facilities inmates could receive food parcels from families, the delegation heard many complaints of late deliveries, sometimes past the expiration date of food items.

101. The Subcommittee recommends that the State party check on food hygiene and the nutritional value, variety and quality of the food served in prisons on a regular basis, and consider increasing the resources allocated accordingly.

(f) Health care

102. The Subcommittee learned that the State party had closed a number of prison hospitals in the past years. A few prison hospitals remain across Poland, with a catchment area of several regions each. The Subcommittee is of the opinion that the new arrangements do not represent the most efficient and cost-effective manner of ensuring the health care of inmates. For example, in the Warszawa district, the Subcommittee noted that the lack of a prison hospital resulted in a significant cost for the provision of services in civilian hospitals, including accompanying the inmates for treatment.

103. Indeed, the delegation observed that the health-care services in prisons were insufficient, lacking in specialized personnel, medical equipment and possibly in follow-up procedures. As a result, medical personnel are forced to focus on attending to urgent matters, to the detriment of prevention and treatment. The delegation heard numerous complaints on delayed access to medical assistance. For example, a female inmate told the delegation that, following a Pap smear test performed on 10 October 2017, she had been diagnosed in group IIIB but had not been informed of the results. She only found out in January 2018 when she went to see a gynaecologist. The inmate had taken a follow-up Pap smear test on 28 June 2018 and was still awaiting the results on 16 July 2018, when the delegation interviewed her in Wrocław Prison 1.

104. The Subcommittee recommends that the State party guarantee effective, round-the-clock, professional medical assistance in all prisons, seven days a week. Any medical examination, including examinations upon admission to prison, should strictly observe the right to privacy and confidentiality.

105. The Subcommittee is further concerned that in most of the visited facilities, new inmates do not undergo medical screening, as health professionals simply ask them questions and check a box, without conducting a physical examination.

106. The Subcommittee recommends that the examination of all inmates on admission to prison must be carried out in accordance with a standard questionnaire which, in addition to general health questions, should include an account of any recent acts of violence against them. The medical practitioner should also conduct a complete medical check-up, including a full body examination. If a patient shows signs of having been subjected to acts of violence, the doctor must assess whether their account is consistent with the results of the medical examination. If the doctor has reason to believe that torture or ill-treatment has taken place, he or she must inform the competent authorities immediately. The same is valid for injuries sustained in the prison. All places of deprivation of liberty should have records containing detailed information on injuries, including the date of the incident, where it took place, the suspected cause and the findings of the medical examination.

107. In addition, the Subcommittee reiterates the recommendation¹⁹ of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment that procedures be put in place to ensure that whenever injuries are

¹⁹ Council of Europe, "Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 11 to 22 May 2017", para. 80.

recorded that are consistent with allegations of ill-treatment made by the prisoner concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the competent prosecuting authorities, regardless of the wishes of the person concerned. The results of the examination should also be made available to the prisoner concerned and his or her lawyer.

108. In addition, the Subcommittee is concerned that methadone substitution therapy is only accessible as continuing treatment for those who were participating in such programmes before entering the prison.

109. **The Subcommittee recommends that the State party develop and implement a comprehensive strategy for the provision of assistance to prisoners with drug-related problems, as part of a wider national drug prevention strategy.**

(g) Strip search

110. While noting that the two-step body search procedure is widely implemented in the prison system, the Subcommittee remains concerned at the extensive use of strip search, including cavity search, across the visited prisons of the State party. The Subcommittee is further concerned that in some prisons visitors, even infants, are routinely subjected to strip search.

111. **The Subcommittee recommends that the State party limit to exceptional cases the practice of strip-searching persons deprived of liberty and visitors and ensure that, if such searches are carried out, the criteria of necessity, reasonableness and proportionality are met. In any case, with regard to visitors, body cavity searches should be avoided and should not be applied to children, in line with rule 60.2 of the Nelson Mandela Rules.**

(h) Complaint mechanisms

112. The Subcommittee notes that a range of complaints mechanisms and related information is available to inmates. However, there are numerous allegations of reprisals against inmates who addressed a complaint to the prison director, including for issues relating to basic needs, such as access to health care. With regard to the possibility to contact the ombudsperson or international or regional human rights mechanisms, in one penitentiary institution the delegation observed that the dedicated mailbox had been left unlocked and had clearly not been used for a long time as it was dusty. In one facility, inmates complained that there was no possibility to call the toll-free hotline of the ombudsperson, since they were only allowed to dial the numbers of already-designated family members and loved ones.

113. **The Subcommittee recommends that the State party take measures to ensure that complaints are properly addressed and any allegations of reprisals against those submitting complaints are followed up. Inmates should be able to confidentially contact the ombudsperson, as well as international and regional human rights mechanisms, including the possibility to dial the ombudsperson institution hotline from any prison phone, without having to seek special permission.**

(i) Contact with the outside world

114. The Subcommittee observed that in the visited prisons, payphones were installed and inmates had the authorization to make a 5- or 10-minute phone call, provided that they had money to make the call; in some facilities, it was noted that there were specially equipped rooms for conversations over Skype. The Subcommittee is concerned, however, that for persons in pretrial detention, visits by family members and others, as well as phone calls, are only allowed with the express permission of the prosecutor. In practice, such permissions are rarely granted, resulting in the detainees' isolation from the outside world. In addition, the Subcommittee is concerned that in some facilities inmates are not able to conduct their phone calls out of the earshot of prison officers. The Subcommittee also notes that, owing to difficulties in receiving money from their families abroad, foreign inmates experience even greater barriers to maintaining contact with the outside world, in particular during pretrial detention.

115. **The Subcommittee recommends that the State party take measures to ensure in practice that pretrial detainees, including foreigners, can receive visits from and make phone calls to family members and others. Restrictions on contacts may be imposed only in exceptional circumstances.**

116. The Subcommittee was concerned that the prison authorities reserve the right to be present at all meetings between the detainee and his or her defence counsel, and to monitor their telephone communications and correspondence. The Subcommittee is further concerned that the access to defence counsel is itself subject to permission from the prosecutor. In the case of foreigners, the Subcommittee was concerned that the language barrier and lack of documents in languages other than Polish made the access to legal aid unsatisfying.

117. **The Subcommittee recommends that the State party take the necessary measures to ensure the confidentiality of lawyer-client communications in person, as well as via telephone and written correspondence. The Subcommittee further recommends that the State party remove all barriers to pretrial detainees' access to and communication with a defence counsel of their choice. In the case of foreigners, the Subcommittee recommends that the State party take steps to ensure that they are provided with appropriate translation services and access to legal aid.**

C. Juveniles

118. There is a complex system of juvenile facilities in Poland depending on the administrative links to the Ministry of Interior, Ministry of Education, Ministry of Justice or Ministry of Health. With the exception of juvenile facilities under the Ministry of Education, which had released their wards on summer break, the delegation visited two facilities of each type.

1. Police-operated detention facilities for minors

119. Police-operated detention facilities for minors, under the Ministry of Interior, serve as temporary detention centres for different categories of minors: child offenders under the age of 18 years, during the initial 24 to 48 hours of arrest; children awaiting placement in a shelter upon a decision of the court; and children awaiting return to a shelter or a youth education centre from which they have absconded. The delegation visited two such facilities: one in Warsaw and one in Krakow. The juvenile facility in Warsaw did not have any juvenile detainees at the time of the visit.

120. The delegation found the material conditions in both visited police-operated detention facilities for minors to be adequate, with rooms and other premises in a satisfactory state of repair and cleanliness. The regime of activities on offer was acceptable and included a variety of education classes.

121. Upon visiting the police-operated detention facility for minors in Krakow, the delegation found three minors in situ, whom it sought to interview. Although the children declined to be interviewed, the delegation understood that they had the possibility to spend time outdoors, upon request and weather permitting.

2. Juvenile correctional facilities

122. The delegation understood that children and young people up to the age of 21 years who have committed different types of crimes are placed in juvenile correctional facilities, operated by the Ministry of Justice, upon decision of the family courts. If they demonstrate good behaviour, children placed in these facilities may leave on holiday to visit their families. They also have the possibility of an early release under supervision.

123. The delegation visited two facilities of this type: one in Trzemeszno and in Sadowice, the latter being a specialized facility for children and young people with light to mild mental disabilities. In both, the material conditions were more than satisfactory, with child-friendly environments and access to outdoor sports facilities. A variety of activities were on offer, both educational and recreational activities, although at the Sadowice facility the children and young people who were interviewed claimed that they did not do much in class. Young people in both facilities had the opportunity to do some light work such as cleaning, painting

and artwork, which allowed them to gain some remuneration. The delegation also noted that incidents were correctly recorded, even minor ones.

124. The Subcommittee recommends that the State party ensure that educational classes offered at juvenile correctional facilities are subject to the same quality control as classes in the regular education system.

125. The Subcommittee is nevertheless concerned that both facilities had solitary confinement rooms, which are still in use, although not frequently or extensively, and not recorded in a register. At the facility in Sadowice, in particular, the delegation noted a disconnect between the statements made by the management and by young people themselves with regard to the length of application of solitary confinement.

126. With reference to rule 45 of the Nelson Mandela Rules and rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the Subcommittee recommends that the State party ensure that children under the age of 18 years are never subject to solitary confinement, as this constitutes a form of ill-treatment.

127. The Subcommittee is further concerned that councillors regularly supervise the phone calls made by young people at these facilities.

128. The Subcommittee recommends that the State party ensure that children and juveniles placed in the juvenile correctional facilities enjoy a right to privacy in maintaining contact with the outside world.

3. Juvenile psychiatric facilities

129. The delegation visited two psychiatric institutions housing juveniles operated by the Ministry of Health, one in Warsaw and in Garwolin. The latter is a forensic psychiatric facility for wards coming from other juvenile facilities, owing to being considered as aggressive or posing a danger. Both facilities are well equipped, with a dedicated and professional staff. The material conditions are adequate.

130. The delegation noted that both facilities had available mechanical (belts and strait jackets) and chemical restraints; however, at the facility in Garwolin, the delegation observed that such measures were frequently used, which was well recorded. On the other hand, the facility in Warsaw did not have a register for restraints. At the latter facility, while acknowledging that a patient who does not consent to treatment may be observed without therapy for up to 10 days, the delegation nevertheless notes that there is no system for recording that a patient consents to the treatment administered.

131. The Subcommittee recommends that the State party review the use of mechanical and chemical restraints at the National Centre for Juvenile Forensic Psychiatry in Garwolin. The Subcommittee further recommends that all psychiatric institutions across Poland maintain registers for recording the application of restraint measures, and for obligatory signature of consent, not only for hospitalization, but also for treatment purposes.

132. The delegation notes as positive that children at the facility in Warsaw have access to the garden and can go home on weekends, if stable. At the facility in Garwolin, however, juveniles have the possibility to walk outside just for one hour, and only when the weather permits, because the facility does not have a covered yard. The Subcommittee is concerned that at the facility in Garwolin, the food provided is of low nutritional quality, with insufficient fruits and vegetables, and no dietary alternatives. The Subcommittee is also concerned that juveniles do not learn necessary skills to live independently after they leave the institution at the age of 18.

133. The Subcommittee recommends that the State party provide resources to the National Centre for Juvenile Forensic Psychiatry in Garwolin, enabling it to ensure that juveniles can go outdoors even in bad weather, to offer food of adequate nutritional quality and to establish a system for follow-up with juveniles leaving the institution.

4. Lack of support systems

134. The Subcommittee notes difficulties in ensuring systematic follow-up to interventions initiated in the facilities, especially in the juvenile correctional facilities. Although a post-

release mentoring system is in place, the Subcommittee was informed that on many occasions it is formalistic and cannot provide sufficient support services upon release. Given that many juveniles who end up in the correctional educational establishments were previously placed in State care institutions, they often have no place to which they can return. Therefore, they are committed to stay in the establishment after serving their sentence. Another major challenge is ensuring employment to the juveniles upon their release.

135. **The Subcommittee recommends that the State party ensure community-based support and follow-up for released juveniles, including incentives encouraging employers to employ such juveniles upon their release from the correctional educational establishments in order to facilitate further their reintegration into society.**

136. **In general, the Subcommittee recommends that the State party invest more in community-based support and follow-up for juveniles to facilitate their reintegration into society.**

V. Next steps

137. **The Subcommittee requests that the State party submit a reply to the present report within six months from the date of its transmission to the Permanent Mission.** The reply should respond directly to all recommendations and requests for further information made in the report, giving a full account of action already taken or action that is planned (including timescales), in order to implement them. The reply should include details concerning the implementation of institution-specific recommendations as well as more general policy and practice, and it should conform to the guidelines concerning documentation to be submitted to United Nations human rights treaty bodies established by the General Assembly.

138. Article 15 of the Optional Protocol prohibits any form of sanction or reprisal, from any source, against anyone who has been, or who has sought to be, in contact with the Subcommittee. **The Subcommittee reminds Poland of its obligation to ensure that no such sanctions or reprisals take place and requests that in its reply, it provide detailed information concerning the steps it has taken to ensure that this obligation is fulfilled.**

139. The Subcommittee recalls that the prevention of torture is a continuing and wide-ranging obligation. **It therefore requests that it be informed of any legislative, regulatory, policy or other relevant developments relating to both the treatment of persons deprived of their liberty and regarding the work of the national preventive mechanism, in order to enable the Subcommittee to continue to assist Poland in fulfilling its obligations under the Optional Protocol.**

140. The Subcommittee considers both its visit and the present report to form part of an ongoing process of dialogue. The Subcommittee looks forward to assisting Poland in fulfilling its obligations under the Optional Protocol by providing further advice and technical assistance, in order to achieve their common goal of preventing torture and ill-treatment in places of deprivation of liberty. The Subcommittee believes that the most efficient and effective way of developing this dialogue would be for it to meet with the national authorities responsible for the implementation of the Subcommittee's recommendations within six months of its receiving the reply to the present report. **The Subcommittee recommends that, in accordance with article 11 of the Optional Protocol, a dialogue between the Subcommittee and the national authorities focused on providing advice and assistance concerning the implementation of the Subcommittee's recommendations be held within six months of the receipt of the reply to the present report. The Subcommittee further recommends that Poland initiate discussions with it on the arrangements for such a dialogue at the time of the submission of its reply to this report.**²⁰

²⁰ Poland is encouraged to consider approaching the treaty body capacity-building programme of the Office of the United Nations High Commissioner for Human Rights (hrimplementation@ohchr.org) for assistance in facilitating the dialogue.

Annex I

List of officials and other persons with whom the Subcommittee met

Ministry of Foreign Affairs

Piotr Wawrzyk, Undersecretary of State for Parliamentary, Legal and Treaty Affairs, the United Nations and Human Rights

Daria Wołoskiuk, Deputy Director, Department of the United Nations and Human Rights

Karina Węgrzynowska, Department of the United Nations and Human Rights

Karolina Kasprzak, Department of the United Nations and Human Rights

Magdalena Smenda, Department of the United Nations and Human Rights

Ministry of Justice

Łukasz Piebiak, Undersecretary of State

Krzysztof Masło, Director of Department of International Cooperation and Human Rights

Paweł Kaczor, Department of International Cooperation and Human Rights

Piotr Charkiewicz, Department of International Cooperation and Human Rights

Ministry of the Interior and Administration

Renata Szczech, Undersecretary of State

Dariusz Minkiewicz, Deputy Director, Department for Public Order

Marek Stodolny, Deputy Director, Department for Analysis and Migration Policy

Joanna Sosnowska, Department for Analysis and Migration Policy

Milena Tomczak, Department for Public Order

Joanna Długołęcka, Department for International Affairs

Ministry of Health

Dariusz Poznański, Deputy Director, Department for Public Health

Dagmara Lebiecka, Department for Public Health

Ministry of Family, Labour and Social Policy

Anna Prekurant, Department for Social Assistance and Integration

Zofia Puchlerska, Department for Social Assistance and Integration

Marzena Bartosiewicz, Department for Social Assistance and Integration

Ministry of National Defence

Aneta Ślusarczyk, Department for Military Foreign Affairs

Maria Derecka, Department for Military Foreign Affairs

Ministry of National Education

Katarzyna Tyczka, Department for Inclusive Education

Bureau of the Commissioner for Patients' Rights

Grzegorz Saj, Director, Department for Mental Health

Martyna Bagińska, Commissioner for Psychiatric Hospital Patients' Rights

Jarosław Malik, Commissioner for Psychiatric Hospital Patients' Rights

Central Board of Prison Service

ppłk Zbigniew Gospodarowicz, Director of Defence Office

ppłk dr n. med. Alicja Kozłowska, Director of Health Care Office

plk Andrzej Leńczuk, Director of Prison Office

Piotr Gomułka, Prison Office

plk Roman Wiśniewski, Director of Information and Statistics Office

Michał Zoń, Director of Legal Office

mjr Anna Świtek-Bąk, Senior Specialist in the Office of General Director of Prison Service

Office for Foreigners

Marlena Orzeł, Senior Specialist in the Department for Social Care

Agnieszka Iwaćkowska, Department for Refugee Proceedings

General Police Headquarters

nadkom. Wiesław Pietrzak, Head of the Transport Division of the Prevention Office

kom. Anna Karpińska-Ciepieniak, Counsel in the Transport Division of the Prevention Office

Polish Border Guard Headquarters

plk SG Andrzej Jakubaszek, Director of the Board for Foreigners

plk SG Tomasz Lipski, Representative for Human Rights Protection and Equal Treatment

ppłk SG Iwona Przybyłowicz, Counsel in the Board for Foreigners

Military Gendarmerie Headquarters

Roman Wykurz, Head of Prevention Division

Regional Court

Katarzyna Capałowska, Judge, VIII Criminal Division, Regional Court in Warsaw

Jana Kruckowska, Civil Department

President of the regional court for Wola and Warsaw

National Public Prosecutor's Office

Grzegorz Kulon, Prosecutor

Krzysztof Lipiński, Prosecutor

Cezary Kłos, Prosecutor, Bureau of International Cooperation

National Preventive Mechanism, Office of the Commissioner for Human Rights

Dr Adam Bodnar, Commissioner for Human Rights

Dr Hanna Machińska, Deputy Commissioner for Human Rights

Stanisław Trociuk, Deputy Commissioner for Human Rights

Przemysław Kazimierski, Head of National Preventive Mechanism

Justyna Józwiak, Senior Specialist

Marcin Kusy, Senior Specialist

Justyna Zarecka, Senior Adviser

Rafał Kulas, Senior Adviser

Klaudia Kamińska, Adviser

Tomasz Górecki, Adviser

Aleksandra Osińska, Adviser

Grażyna Kalisiewicz, Secretary

United Nations

UNHCR Representation in Poland

Civil Society

Association for Legal Intervention

International Humanitarian Initiative Foundation

Helsinki Foundation for Human Rights

Polish Centre for Rehabilitation of Victims of Torture

Warsaw Bar Association

Annex II

List of places of deprivation of liberty visited by the Subcommittee

Correctional institutions

Płock Prison

Wrocław Prison 1

Wronki Prison

Kielce Remand Prison

Krakow Remand Prison

Piotrków Trybunalski Remand Prison

Warszawa-Białołęka Remand Prison

Police detention

Regional Police Command (KRP), Warsaw II - KP Ursynów

Regional Police Command (KRP), Warsaw IV, District Police Headquarters

Regional Police Command (KRP), Warsaw VI, District Police Headquarters

Regional Police Command (KRP), Warsaw VII, District Police Headquarters

Regional Police Command (KRP), Warsaw VII, District Police Headquarters

Regional Police Headquarters (KWP), Krakow

District Police Command (KPP), Garwolin

District Police Command (KPP), Otwock

District Police Command (KPP), Piaseczno

District Police Command (KPP), Sieradz

Police Department (KP) Poznań - Nowe Miasto, Poznan

City Police Command (KMP), Kalisz

City Police Command (KMP) in Opole

City Police Command (KMP) in Wrocław

Police-operated detention facility for minors in Krakow

Police-operated detention facility for minors in Warsaw

Juveniles

Youth correctional center, Sadowice

Youth correctional center, Trzemeszno

Institute of Psychiatry and Neurology, Forensic psychiatry unit, Warsaw

National Centre for Juvenile Forensic Psychiatry, Garwolin

Annex III

List of places of deprivation of liberty visited jointly by the national preventive mechanism and the Subcommittee

Metropolitan Police Command (KSP) Wydz. Konwojowy, Warsaw

Regional Police Command (KRP), Warsaw I
