

**Responses of the Polish Government
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to Poland
from 30 June to 12 July 1996**

The Polish Government has requested the publication of the CPT's report on the visit to Poland from 30 June to 12 July 1996 (see CPT/Inf (98) 13) and of its responses. The responses of the Polish Government are set out in this document.

Strasbourg, 24 September 1998

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**INTERIM REPORT OF THE POLISH AUTHORITIES IN RESPONSE
TO THE REPORT OF THE EUROPEAN COMMITTEE FOR THE
PREVENTION OF TORTURE AND INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT (CPT) ON ITS VISIT TO POLAND**

FROM 30 JUNE TO 12 JULY 1996



INTERIM REPORT OF THE POLISH AUTHORITIES
TO THE EUROPEAN COMMITTEE FOR
THE PREVENTION OF TORTURE AND INHUMAN
OR DEGRADING TREATMENT OR PUNISHMENT
IN STRASBOURG (*)

The report of Polish authorities adopts the form of the Appendix I to the report of CPT of December 1996.

A. Police and Border Guard

1. Introduction

required information:

- legal provisions which make possible an extension of police custody beyond 48 hours (paragraph 12).

It appears from the paragraph 12 of the report of the CPT that the information of the mentioned police officer referred not to the time of police custody but to the period of time the person already under temporary arrest can stay, in exceptional circumstances, in police custody (premises) for detained persons. During the visit of the CPT, and also currently, the maximum period of police custody cannot be longer than 48 hours. If during 48 hours a decision of temporary arrest is not issued, the detained person must be released. Law in force, in principle, does not allow either that a person already under temporary arrest stay in the police custody (premises). Only exceptionally, and not longer than 5 days, persons charged or sentenced can be detained at the police premises (police custody for



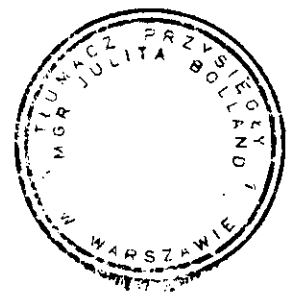
a period indispensable to execute specified procedure. It is allowed on the grounds of the Article 215 3 of the Penal Executory Code. The General Police Command has supervised the Bydgoszcz-Wyżyny District Police Command and examined whole documentation of apprehensions in this unit since 1 January 1996 to 9 July 1996 (the date of the visit). According to documents these provisions of the Penal Executory Code were applied to 8 persons who stayed at the police premises for a period longer than 48 hours, but before the end of this period a decision of their temporary arrest had been issued.

2. Torture and other form of physical ill-treatment

recommendations:

- *appropriate steps should be taken to ensure that:*
- *any items held on police premises as pieces of evidence are properly labelled and held in a secure and centralised location;*
- *no other non-standard issue items are held on police premises (paragraph 18).*

The General Police Commander in a letter of 20 November 1996 to all commanders of Provincial Police Commands ordered to supervise all police establishments where proceedings take place and to remove items which can rise suspicions that prohibited methods of questioning are used. In his letter the General Police Commander reminded to commanders at the Provincial level that superiors have an obligation to make subordinate officers act according to law. He reminded as well the rules applied to items which are evidences in a case. The letter emphasised also that it is necessary to consider this subject in the process of professional education and training of police officers at all levels and the official safeguard (19-20).



This subject is included into a training programme of all police schools.

- a very high priority should be given to professional training and human rights education for police officers at all levels (paragraph 19).

The subject of human rights is included in education programmes of all police schools. In practice, the police superiors of all levels and also public prosecutors while conducting proceedings pay attention to the fact that it is necessary to keep guarantees against ill-treatment of detained and questioned persons.

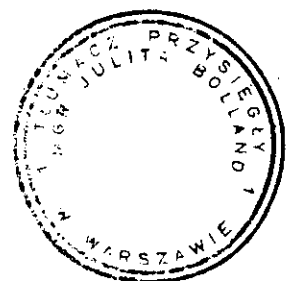
- an aptitude for interpersonal communication should be a major factor in the process of recruiting police officers and during the training of such officers considerable emphasis should be placed on acquiring and developing such skills (19).

Police officers being recruited must pass certain tests including psychological tests. During professional training they are taught how to communicate and get in touch with questioned persons.

It applies considerably to trainings when methods avoiding tensions and conflicts between questioned and questioning party are promoted and at the same time methods humiliating a questioned person are disapproved.

- the police officers should be reminded that no more force than is reasonably necessary should be used when apprehending a person, further, once the person apprehended has been brought under control, there can be no justification for striking or other rough treatment or humiliation (20).

In the course of trainings at police schools of all levels and as well as during recurring training the rules stated by the CPT in the



paragraph 20 are consistently taught and reminded.

- record drawn up following a medical examination of a newly-arrived prisoner should contain: (i) a full account of statement made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) a full account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii) (paragraph 22).

The current legal situation and the current legal practice correspond with recommendations of the CPT stated here and resulting from the paragraph 22 of the report referring to persons under temporary arrest and sentenced.

On the grounds of the statutory authorization resulting from the Penal Executive Code, the Minister of Justice has issued the decree concerning the regulations of temporary arrest and the regulations of depriving of liberty.

According to these regulations a health certificate must be taken from a person newly arrived to remand prison or to prison. In both case a person stays for a period to 14 days in transit places in order to be medically examined and treated.

The regulations provide health care as it is recommended by the CPT in the paragraph 22.

As regards persons detained by the police, according to current rules, a health certificate of a detained person must be received, and it must be stated in an apprehension record whether a detained person requested a medical examination and whether the request was met. The detailed method of medical examination of persons apprehended by the police is specified by the order of the Minister of Home Affairs and Administration and the Minister of Health and Welfare issued on 24 June 1997 on the grounds of the Article 15 paragraph



9 of the Law on Police.

- whenever a public prosecutor or judge receives an allegation of ill-treatment, he should immediately request a forensic medical examination of the person concerned and bring the matter to the attention of the relevant public prosecutor (23).

The above recommendation is fully respected in practice by public prosecutors who receive complaints from detained persons, under arrest and sentenced, as well as from judges having contact with those persons. The applied rules result from the current legal system, including the Code of Criminal Procedure and legal acts binding to judges and public prosecutors.

- Polish authorities should encourage public prosecutors to undertake on-the-spot supervision of the work of the police in criminal cases (24).

Pursuant to the law on public prosecutors and the code of criminal procedure public prosecutors are obliged to supervise work of the police in the course of investigation and inquiry.

The public prosecutors are also obliged to pay visits to the police custody establishments and to supervise conditions of detention of persons deprived of liberty.

It is advisable to public prosecutors that part of their work to supervise investigation is executed directly at the police command. However, it is not permissible for a prosecutor or a court to question a suspected person at the police establishment. It is necessary to ensure a questioned person circumstances for unconstrained expression.

required information:

- results of the inquiry in the case of the Warsaw-Praga Północ



Police Command (17).

The investigation in a matter No Ds 695/96/Z instituted by the District Public Prosecutor Office in Warszawa-Praga Północ on 6 November 1996 was transferred by the Provincial Prosecutor Office to the District Prosecutor Office in Warszawa-Śródmieście in order to avoid charges of lack of objectivity if the investigation is conducted by the prosecutor office directly supervising work of the police unit in question.

Undertaken legal measures to explain thoroughly charges of the complaints did not enable to collect sufficient materials to make accusation against definite persons. On 19 February 1997 this investigation was discontinued in the District Prosecutor Office in Warszawa-Śródmieście. The results of its work were analysed in the Provincial Prosecutor Office in Warszawa and in the Appellate Prosecutor Office in Warszawa. The both above mentioned prosecutor offices approved the decision to discontinue.

- *information for the years 1995 and 1996:*
- *the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which were instituted as a result;*
- *an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment by the police (21).*

Statistics of the General Police Command do not present a separate category of disciplinary cases concerning direct illegal use of force. Every case of this kind is submitted to the Prosecutor Office in order to institute criminal procedure. Often the procedure does not find reason to make an accusation, the date from the police statistics is presented below. Prosecutors, however, consider it necessary to



institute investigation in such cases, usually conducted by themselves, as the procedural explanation of such cases may limit them. The data concerns all kinds of behaviour connected with transgressing powers or not meet one's obligations.

	1995	1996
number of instituted criminal procedures	610	691
number of completed criminal procedures	424	404
number of sentences	82	81

On the other hand, the categories of extraordinary events concerning direct illegal use of force during intervention and investigation, especially during questioning, and the number of instituted criminal procedures and police officers concerned registered by the Police are as follow:

first row:

- (i) number of events,
- (ii) numer of police officers,
- (iii) number of instituted criminal procedures,
- (iv) number of police officers concerned

second row

I. beating or other infringement

1. during coercion

years 1995: 12; 1996: 9; 1995: 26; 1996: 16; 1995: 12; 1996: 9; 1995: 28; 1996: 14;

2. during intervention

years 1995: 37; 1996: 58; 1995: 54; 1996: 66; 1995: 39; 1996: 49; 1995: 51; 1996: 64;



3. Conditions of detention

a. detention facilities for criminal suspects

recommendations:

- *Polish authorities should take stock of the contents of the detention area close to the cells used by the Opole District Police Command at the earliest opportunity (28).*

Items found during the visit at the police establishment of the District Police Command close to cells for detainees were removed. After refurbishing detained persons stay in this area.

remarks:

- *ventilation left something to be desired in at least certain cells at the Wałbrzych District Police Command as well as in the cells at the Wrocław-Śródmieście District Police Command (27).*

- *the state of cleanliness of some cells at the District Police Command at Opole was not entirely satisfactory and the sanitary facilities at the Wrocław-Śródmieście District Police Command were in a dirty condition (27).*

Remarks of the CPT stated in the paragraph 27 have been handed over to appropriate management of the police units in order to eliminate incorrectness found during the visit.

required information:

- *to clarify to what use the detention area close to the cells used by the Opole District Police Command might be put in the future (28).*

As it appears from the explanation of the General Police Commander, in this area after renovation the detained persons will stay.

b. police establishments for children



recommendations:

- the Polish authorities should take appropriate steps to ensure that all new arrivals at police establishments for children are medically screen without delay (34).

Time of medical examination of persons detained by the police is regulated by the already mentioned decree of the Ministers of Home Affairs and Administration and Health and Welfare of 24 June 1997. Irrespective of this decree the management of establishments for children directly accepts this order and its execution will be supervised by the units of higher level.

remarks:

- the authorised occupancy rate in certain of the dormitories at the police establishment for children in Warsaw was rather high (29),

- Polish authorities are invited to ensure that persons detained at police establishments for children are provided with appropriate day-time clothing,

- Polish authorities are invited to ensure that the quantity and variety of food offered at the police establishment for children in Warsaw is satisfactory (31),

- Polish authorities are invited to explore the possibilities of equipping exercise yards with some form of shelter (thereby enabling outdoor exercise to be taken even in inclement weather) and to ensure that children can engage in suitable games during outdoor exercise (32).

The remarks have been handed over to the General Police Commander. Comments to the remarks will be included into a report presented at the beginning of 1998.

c. detention facilities for foreigners awaiting deportation



recommendations:

- *immediate steps should be taken to ensure that foreign nationals awaiting deportation held at Wrocław Provincial Police Command:*
- *are offered at least one hour of outdoor exercise every day,*
- *are given access to appropriate reading material (38),*
- *the possibility of offering foreign nationals awaiting deportation held at Wrocław Provincial Police Command access during the day to a communal room where they can associate and engage in recreational activities (television, etc.) should be explored (38),*
- *the arrangements should be made so that foreigners awaiting deportation held at Wrocław Provincial Police Command have ready access to a telephone and are able to receive visits on a regular basis from relatives, friends, lawyers, consular representatives, etc. (39).*

The General Police Command has checked and recognized that the foreign nationals awaiting deportation at the Provincial Police Command in Wrocław have possibilities to go for a walk (paragraph 38). The instruction of the General Police Commander to ensure at least one hour of outdoor activity per day (order number 10/95) is carried out in a proper way.

Conditions of detention of foreign nationals awaiting deportation are in fact insufficient and furniture of rooms is very poor. This state of affairs is caused by a short period of time this deportation detention establishment exists and also by limited financial sources. Deportation detention establishments were opened 6 months before the CPT visit (at the beginning of 1996) and until now Asian newspapers, which are difficult to obtain in Poland, are not provided. Taking under consideration the fact that foreign nationals who left the guarded centres without permission or who did not accept rules



of the guarded centre are directed to the deportation establishment, therefore there is no such possibilities to ensure conditions like in the guarded centre for foreign nationals.

It should be noted here that other judgements have been issued concerning those foreign nationals, namely a different place with more strict deportation rules than in guarded centres.

In addition, efforts are made to improve standards of the deportation establishments up to European level.

remarks:

- *the Polish authorities are requested to verify that sufficient food is being provided to foreigners awaiting deportation held at Wrocław Provincial Police Command, and to take into account as far as possible the usual dietary practices of such persons (37),*
- *the laundry arrangements at the establishment for detained foreigners held at the Wrocław Provincial Police Command should be reviewed (37),*
- *ordinary police detention facilities will rarely be in a position to offer adequate conditions of detention to persons deprived of their liberty under Aliens' legislation. It would be far preferable to set up specific centres for such persons, offering material conditions of detention and a regime appropriate to their legal situation and possessing suitably qualified staff (42).*

The Polish authorities regard as an obligation to provide food in sufficient amount, diversified and healthy to all persons awaiting deportation or staying in the guarded centres. To take into account the usual dietary practices can be regarded as a demand which can be met when there are suitable possibilities.

The remark on laundry arrangements for foreigners held at the Wrocław Provincial Police Command has been, as the others, handed



over to the appropriate police management.

The Polish authorities long ago took steps to set up a special centre for foreigners. In spite of real difficulties necessary measures have been found and at the end of 1996 the guarded centre for foreigners was set up in Lesznawola.

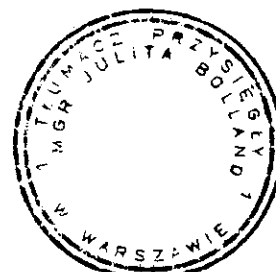
required information:

- *detailed information on regime applicable to persons held at the police detention facility for foreigners awaiting deportation in Ragisa St, Warsaw (outdoor exercise, association and recreative activities, contact with the outside world, etc. (41),*
- *detailed information concerning a new centre to be set up at Lesznawola for foreigners detained under the Aliens' legislation (capacity, material conditions of detention, regime, staffing arrangements, etc.) (42).*

The Polish authorities would like to inform that the detention facility for foreigners awaiting deportation at Ragisa Street in Warszawa was closed to be renovated, since the detention conditions were insufficient, low standard of material conditions.

In Lesznawola near Warszawa at the end of 1996 the guarded centre was set up for foreigners who according to the issued judgement must be held in a place of compulsory stay. The centre was set up in the buildings of a former military unit. The rules and regulations of stay of foreigners in the guarded centres is enclosed to this report as an enclosure No 1, and it is an enclosure to the decree of the Minister of Home Affairs of 9 July 1993 (Journal of Law No 66, paragraph 317) enclosed herewith as well.

The centre in question is furnished according to standards specified by UNO and also the standards of treatment of persons deprived of liberty specified by UNO are ensured here. The foreigners staying



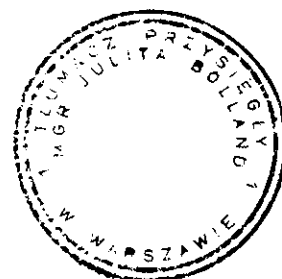
in this place can move around. The police co-operates with the Helsinki Foundation for Human Rights, and its representatives have permanent access to all police establishments (rooms) also to the detention for foreigners awaiting deportation and to the guarded centre for foreigners in Lesznawola.

d. Border Guard detention facilities at Warsaw International Airport

required information:

- *confirmation that immediate steps to provide persons held overnight in the holding room with mattresses and to disconnect the public-address system in the room and to improve arrangements concerning access to drinking water (44),*
- *whether new facilities at the Warsaw International Airport have now entered into service and, in the affirmative, to be given a detailed description of the situation of persons held within them (material conditions of detention, access to a telephone, vending machines, access to medical care, outdoor exercise, etc.) (44).*

The Polish authorities inform that as a result of measures taken by the Border Guard Commander at the Warszawa-Okęcie International Airport the room for persons who are refused entry to Poland has been moved from the level of departures to the area of arrivals. This change allowed to avoid discomfort such like public-address system. The new room has the surface of 61 m², is equipped with two bathroom, sanitary facilities and air conditioned. The place is directly connected with a canteen and equipped with telephones. There are benches in this room and it is possible to put camp-beds and mattresses if necessary. Unfortunately, there is no possibility to arrange a separate place for outdoor activities. In this room male



foreigners are held. Women with children are directed to the hotel of the Airport. If necessary it is possible to provide medical care. Measures have been taken to set up a centre for foreigners who are refused entry to Poland. The new centre will be situated in a separate building at the Airport, it has surface of 495 m².

4. Safeguards against the ill-treatment of persons deprived of their liberty

recommendations:

- *steps to be taken in order to ensure that:*
- *persons detained by the police have, as from the very outset of their deprivation of liberty, a right of access to a lawyer as defined in the paragraph 50,*
- *persons taken into police custody are promptly informed of their right to have access to a lawyer (51),*
- *the right of persons deprived of their liberty by the police to have access to a doctor include the right – if the person concerned so wish – to be medically examined by a doctor of their choice (53),*
- *persons taken into police custody are promptly informed of their right of access to a doctor (53),*
- *a form setting out rights in a straightforward manner should be systematically given to such persons at the very outset of their deprivation of liberty. The form should be available in an appropriate range of languages (55),*
- *persons concerned should be asked to sign a statement attesting that they have been informed of their rights (55),*
- *the Polish authorities should draw up a code of practice for police*



interrogations, (57)

- persons detained under the Aliens' legislation should be provided with a document explaining the procedure applicable to them and setting out their rights; the document should be available in the languages most commonly spoken by those concerned and, if necessary, the service of an interpreter should be made available (62).

In connection with the above recommendations of the CPT the General Police Command informs that the right to an access of detained person to a lawyer and a doctor is certainly observed, and if it happens it is an occasional negligence of obligation.

The police has serious problems when an apprehended group of foreigners who arrived to Poland illegally speaks a very exotic language. It is not always possible to find an interpreter (in certain cases even departments of oriental studies are not able to provide an interpreter). To solve this problem needs time necessary to get a native-speaker interpreter among the legal immigrants. Until now the forms with legal information on rights of an apprehended person and on the asylum procedure (paragraph 62) in 6 languages have been worked out and sent to all police units in the country.

As regards persons apprehended under the Aliens' legislation of 29 March 1963 who should be deported from the territory of Poland, according to rules of the Code of administrative procedure all circumstances connected with the case are explained. A foreigner being a party in the proceedings has rights to make applications and to submit evidences. In this stage of proceedings, a foreigner can inform the institution conducting proceedings on a risk of being subjected to danger while returned to his country. The institution conducting proceedings (President of a Province) is obliged to explain all circumstances before the issue of a decision of deportation.

Irrespective of explanation of the above circumstances by the ad-

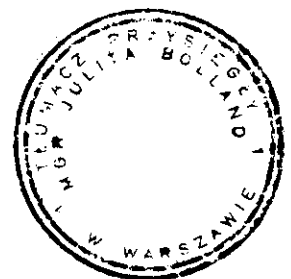


ministrative body, there is a procedure to grant a foreigner, on his application, a status of a refugee. When a foreigner uses this right, the deportation procedure is suspended until the appropriate state administrative body (Ministry of Home Affairs and Administration) assume attitude toward the case. In case of a negative decision, a foreigner has right to apply for reconsideration of his case by the same state administration body. In a case of negative decision, a foreigner can ask a court to check it by bringing a complaint to the Supreme Administrative Court. In case the former decision is valid, the administrative proceedings concerning deportation are re-instituted. Foreigner, as it is mentioned above, are advised of these rights.

New Aliens' legislation passed by the Parliament on 25 June 1997 enforces guarantees of persons apprehended on the territory of Poland. It stipulates among other that a decision to held a foreigner in a guarded centre or a detention establishment to be deported should be issued by a appropriate district court with regard to the Provincial government appropriate to issue a decision of deportation on motion of the Provincial president or of the Police or of the Border Guard. A compalint for this decision can be brought to an appropriate provincial court. A public prosecutor supervises measures taken by the court. The regulations of the quoted law will come into force after 3 months since its publication (the law is to be signed by the President of Republic of Poland).

remarks:

- *all medical examinations should be conducted out of the hearing and – unless the doctor requests otherwise – out of the sight of police officers (54),*
- *the results of every examinatin, as well as any relevant statement*



by the detainee and the doctor's conclusions, should be formally recorded by the doctor and made available to the detainee and his lawyer (54),

- the fundamental safeguards offered to persons in police custody would be reinforced if a single and comprehensive custody record were to be kept for each person detained, in which would be recorded all aspects of his custody and all the action taken in connection with it (time of and reason(s) for the apprehension; when informed of rights; signs of injury, mental disorder, etc.; contact with and/or visits by a relative, lawyer, doctor or consular officer; when offered food; when questioned; when brought before a judge; when released, etc.) (60),

- the recommendations concerning safeguards against ill-treatment apply to all detained persons, including those deprived of their liberty under the Aliens' legislation (61).

As it was explained above, the executive act to the law on police and prison staff has been worked out in connection with the paragraphs 22 and 34 which solves problem of medical examination of apprehended persons. In practice, police and prison staff observe rules mentioned in remarks of the paragraph 54, negligence is quite incidental.

The remark concerning a single and comprehensive record for each detained person is commented by the appendix to the Regulation of the Council of Ministers of 17 September 1990 on identity control and the detention of persons, personal searching and luggage searching by the police (Journal of Law No 70, paragraph 409), that is a record of apprehension. The order of actions taken and advises given to a detained person is presented by the content of this record (enclosure No 2).



required information

- *whether there is any possibility in law to delay the exercise of the right concerning notification of apprehension (48),*
- *a copy of any existing regulations concerning procedure of performing medical examinations of persons detained by the police (54),*
- *concerning provisions for the use of audio or video equipment for electronic recording of police interrogations and keeping the information – whether a circular describing with provisions has been issued, in the affirmative, to give information of its contents (58),*
- *the extent to which the provisions of electronic recording of police interrogations are implemented in practice (58),*
- *detailed account of the precise practical steps taken by the Polish authorities to ensure that foreign nationals are not to be returned to a country where they run a risk of being subjected to torture or inhuman or degrading treatment or punishment (63).*

According to the rules in force it is not possible to delay to notify a close relative of apprehension of a detained person. The rules do not allow either to delay informing a detained person of this right. In connection with the information required by the paragraph 54, please refer to the appendix No 2 to this report which is the Regulation of the Ministers of Home Affairs and Administration and Health and Welfare of 24 June 19997 concerning medical examination of persons detained by the police, and to the appendix No 3 (record of apprehension) which contains obligations of a police officer such like information on a right of a detained person to have access to a doctor.

As regards electronic recording of police interrogations, the detailed provisions specifying equipment in use, the procedure for recording



and keeping the information and the appropriate safeguards have not been issued.

The issue of these provisions is intended after the new Code of Criminal Procedure will come into force, that is after 1 January 1998.

B. Prison establishments

1. Tortures and other forms of ill-treatment

recommendations:

- the management of Strzelce Opolskie Prison No 2 monitor carefully the treatment of persons placed in the establishment's restraint cells (paragraph 66).

According to the information of the Central Administration of the Prison Service at the Strzelce Opolskie Prison No 2 there was not and there is no such system as "unofficial system of disciplining troublesome inmates" (paragraph 66). In case of applying disciplinary sanctions to a sentenced person legal procedures specific for each case are observed. Since the visit of the CPT in this establishment in June 1996 any sentenced prisoner has not been disciplined by isolation cell for a period to one month.

required information:

- comments of the Polish authorities concerning very limited use of a disciplinary sanction of solitary confinement in the Strzelce Opolskie Prison No 2 (paragraph 66),

- the following information for 1995 and 1996 in respect of all prisons in Poland:



- the number of complaints of ill-treatment lodged against prison staff;
- an account of the sanctions imposed following complaints of ill-treatment by prison staff (67),
- confirmation that recent prisoner transport vehicles do not contain cubicles saw by the CPT delegation in older vehicles and are not longer used to hold prisoners (68).

In years 1995 and 1996 at Strzelce Opolskie Prison No 2 in 37 recorded cases justified direct compulsion measures (physical force) and placing in restraint cells were applied to inmates. In case of situations dangerous for establishment peace, intervening police officers are equipped with helmets, shields, protecting jackets, knee-pads to protect themselves against aggressive prisoners.

In year 1995 the Central Administration of the Prison Service did not receive any complaint on ill-treatment from inmates of this establishment. In year 1996 one complaint of this sort was recognized as groundless.

In years 1995-1996 the Central Administration of the Prison Service heard two kinds of complaints included in the report of the CPT:

- staff attitude towards inmates,
- use of force and disciplinary sanctions.

Statistics on the scale of the whole country are as follow:

Year	kind of complaint	number : justifiabl
1995	attitude to inmates	1496 : 26
	use of force	127 : 3
1996	attitude to inmates	1462 : 11
	use of force	78 : 4



The above-mentioned complaints cover 14-15 % of all complaints.

In 1995 a junior officer of the Prison Service was punished with a notice of incomplete serviceableness. In 1996 8 punishments were imposed (4 monitions, 1 reprimand, 2 severe reprimands, 1 unse-rviceableness to 1 officer, 1 ensign, 6 junior officers). The case of one officer was brought to the court. Further, official sanctions were applied (reduce or dispossession of a reward).

According to the Letter of the General Director of the Prison Service of 20 May 1997, cubicles in old prisoner transport vehicles (Star) are not used any longer (paragraph 68).

2. Conditions of detention

recommendations:

- *the efforts to modernise the Polish prison infrastructure continue to be accorded a high priority (69),*
- *the standards for male prisoners be aligned on that for female prisoners, namely 4 m² per prisoner (70),*
- *the current practice of placing adult and juvenile prisoners in the same cell found in the Warszawa-Białoleka Remand Prison should be discontinued.*

Juveniles should be held in a quite distinct detention facility; the staff assigned to such units should be carefully chosen and, more specifically, be persons capable of guiding and motivating young people (79),

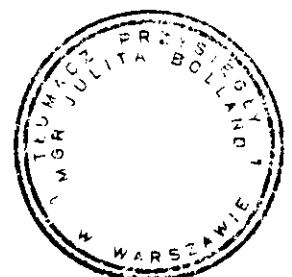
- *no more than four prisoners should be held in the establishment's standard cells in the Warszawa-Białoleka Remand Prison and no more than one prisoner in its 6.7 m² cells (save in exceptional cases when it would be inadvisable for a prisoner to be left alone) (79),*



- efforts should be made to reduce further the occupancy rate of the establishment's cells in the Warszawa-Białotłęka Remand Prison (taking into account the recommendations made in paragraph 70) (79),
- steps should be taken to ensure that all in-cell sanitary facilities in the Warszawa-Białotłęka Remand Prison are suitably partitioned from the rest of the cell (79),
- a thorough examination of the means of improving the activities offered to prisoners at Warszawa-Białotłęka Remand Prison should be conducted. The aim should be to ensure that all prisoners (including those on remand) spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities – work, preferably with vocational value, education, sport, recreation/association. Juvenile prisoners should be offered a full programme of educational, recreational and other purposeful activities; physical education should constitute an important part of that programme (84),
- the outdoor exercise facilities for prisoners held in Block 4 of the Warszawa-Białotłęka Remand Prison establishment should be improved (84),
- a high priority should be given to the completion of the refurbishment programme at Grudziądz Prison No 1 (91),
- the remarks made in paragraph 70 should be taken into account when transferring the male sentenced prisoners from Block 1 to Block 3 in Grudziądz Prison No 1 (91),
- the shower facilities in the Mother-and-Child Unit in Grudziądz Prison No 1 should be improved (91),
- efforts should be made to ensure that more prisoners are provided with paid work, preferably of vocational value (96),



- steps should be taken to enhance the programme of training activities for prisoners in Grudziądz Prison No 1 and to encourage more prisoners to take part in this activities (96),
- a high priority should be given to the cell refurbishment programme at Strzelce Opolskie Prison No 2 (105),
- immediate steps should be taken to verify the safety of the electrical wiring in prisoner accommodation at Strzelce Opolskie Prison No 2 (105),
- no more than one prisoner should be held in the establishment's 6.5m² cells at Strzelce Opolskie Prison No 2 (save in exceptional cases when it would be inadvisable for a prisoner to be left alone) (105),
- efforts should be made to reduce the cell occupancy rates in general at Strzelce Opolskie Prison No 2 (taking into account the recommendations made in paragraph 70) (105),
- conditions in the main kitchen should be improved, in the light of the remarks in paragraph 103 (105),
- ventilation in the restraint cells should be improved and anyone held overnight in such a cell should be provided with a mattress (105),
- steps should be taken as a matter of urgency to enhance the programme of activities for sentenced prisoners at Strzelce Opolskie Prison No 2; above all, more prisoners must be provided with paid work, preferably of vocational value (110),
- the outdoor exercise facilities for remand prisoners held in the establishment should be improved and that efforts should be made to diversify out-of-cell for prisoners at Strzelce Opolskie No 2 (110).



remarks:

- *the Polish authorities are requested to pursue plans to give prisoners at Warszawa-Białoleka Remand Prison more frequent access to showers, and that the laundry arrangements for prisoners' clothes should be reviewed (79),*
- *the Polish authorities are invited to review the laundry arrangements for prisoners' clothes at Grudziądz Prison No 1 (91),*
- *the Polish authorities are invited to revise the timetable for the use of the prison dining room at Grudziądz Prison No 1 in order to augment the time allowed to prisoners between entering and leaving the room (91),*
- *the park at Grudziądz Prison No 1 should be more useful for prisoners (96).*

As regards the recommendation mentioned in the paragraph 69 it should be noted that in 1994 the Central Administration of the Prison Service worked out "Investment and modernisation programme of prison establishments to 2000 year". The programme included practical activities aimed at improvement of the technical state of prisons. The programme could have been accomplished under a condition that financial means for investment and renovation would be increased 2.5-3 times per year since 1995. Actually, the amount of financial means has not been changed, and the prison establishments receive the same amount which is compensated every year to the rate of inflation. In this situation it is possible to make emergency repairs only and in establishments whose state is catastrophic (repairs of sewage system, central heating in cells, electric installation, etc.).

In this state of affairs it will be difficult to carry out the recommen-



dation to give a high priority to modernize infrastructure of Polish prison establishments.

As regards the recommendation mentioned in the paragraph 70 the Polish authorities inform that according to rules and regulations of temporary arrest and deprivation of liberty the minimal living surface for a male sentenced prisoner amounts to $3m^2$ and for a female prisoner amounts to $4m^2$. The same standard of $3m^2$ per one inmate is provided also by the new Penal Executory Code passed by the Polish Parliament. In the situation of a significant occupancy rate, which is 87.2% for the country (remand prisons and prison establishments of closed regime – 87.7%, half open regime – 91.6%) and lack of financial means for building or renovation of new blocks for prisoners to use, it is impossible to implement standards recommended by the CPT. The increase to $4m^2$ of a surface provided for one inmate could happen if the total number of detained persons in prison establishments were reduced.

In the light of the new standards provided by the Code and the current situation of a serious occupancy rate in prison establishments, the recommendation to withdraw from use cells measuring less than $6m^2$ cannot be carried out. It should be noted that these cells comply with standards necessary to accommodate people, that is, they are suitably equipped with living and sanitary facilities, and have proper lighting. Withdrawing these cells from use will mean that detained person who stay in single cells may suffer from psychic disturbances, at present, in the prison establishments there are 887 cells where only one person is held.

The occupancy rate of the Warszawa-Białołęka Remand Prison does not exceed 100% and therefore there are no such cases as accommodating more than 4 people in common cells. Extra beds (fifth and sixth) have been removed from these cells (paragraph 79).

In cells measuring $6.7m^2$ only one person is held. In exceptional cases,



when it is not advisable for a detained person to stay alone and according to orders of a psychologist or a psychiatrist, two persons are held.

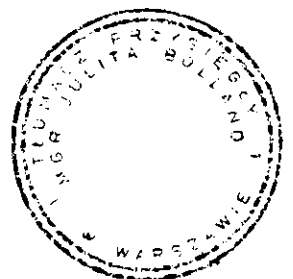
In the Strzelce Opolskie Prison No 2 cells measuring less than $6m^2$ accommodate only one person. In cells measuring $6.5m^2$ two persons are accommodated, this complies with the regulations. The surface of these cells was measured excluding the sanitary annexe.

The management of the Warszawa-Białołęka Remand Prison attempts to accommodate detained juveniles in distinct cells not with adult prisoners according to the suggestion of the CPT. However, this practice from the education point of view is not quite adequate as allows mutual demoralization. Taking under consideration the fact of high rate of occupancy, high number of juveniles and necessity to separate them from co-perpetrators of a crime, and also lack of educators staff, at the moment it is not possible to accommodate juveniles in detention facilities supposed only for this category of detained persons.

At present, in the Warszawa-Białołęka Remand Prison sanitary annexes are separated from the living part of the cell with a door or a curtain. In due course when financial means are granted it is planned to build walls to separate them from the rest of the cells.

As regards paragraphs 84, 96 and 110.

In the Warszawa-Białołęka Remand Prison steps have been taken to offer to prisoners activities, according to the recommendation of the CPT the outdoor exercise facilities near the Block 4 have been improved, the common rooms have been redecorated and the recreational and cultural activities programme have been improved. The Remand Prison cannot provide sport rooms, however there are plans to open sport room in renovated adopted premises. Special recreation/sport "Programme of penitentiary influences" has been



worked out for the use of detained juveniles, two qualified educators and a psychologist take part in this programme.

In the Grudziądz Prison No 1 rate of employment of prisoners depends on orders from contractors of the clothes industry, one half of the employed work in administration units. The management of the prison makes efforts to employ prisoner in different factories, also in Gdynia. In connection with interest of sentenced women and men in vocational courses, different courses have been organized: catering, building and central heating control, 60 people took part in these courses.

As regards paragraph 91.

The recommendation of the CPT concerning completing modernisation of the Grudziądz Prison No 1 is implemented on the basis of the plans worked out by the Central Administration of the Prison Service and the prison itself. However, limited financial sources influence the work. Since the visit of the CPT several renovations have been completed:

- refurbishment of the block III has been finished and men who left the block I with lower standard have been accommodated in this new place,
- bathroom in the Mother-and-Child Unit has been thoroughly rebuilt, and according to the suggestion of the CPT, the number of showers has been trippled,
- two playrooms for children have been overhauled,
- in near future the pipe system and central heating pipe system will be changed, the guardhouse will be overhauled.

However, it was impossible to implement the recommendation of the CPT and provide 4m² to sentenced men moved from the block I to the block III. The adopted living standard results from the regulations of imposing punishment of deprivation of liberty. The



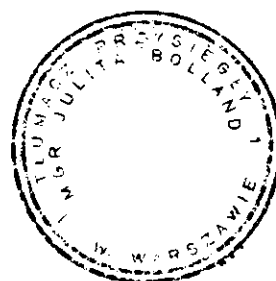
block III where men are accommodated is full and it is not possible in any way to make the living standard higher.

Referring to the paragraph 105: the overhaul of blocks II and III in the Strzelce Opolskie Prison No 2 has been finished, and in June of this year the block ? I "S" is to be repaired, then in 1998 the kitchen will be reconditioned. Most of mattresses have been changed. As regards the recommendation of the CPT to verify safety of electric wiring, it is repaired successively to cells vacancy. Unit officers are responsible for supervising whether inmates use home-made electric wiring. Further, since 1997 an officer responsible for fire-control makes inspections of electric installation once a month and removes home-made and dangerous electric wiring.

required information:

- *further information concerning measures considered by the Polish authorities designed to improve the employment situation for prisoners (71),*
- *further information concerning number of prisoners engaged in recreational activities at Strzelce Opolskie Prison No 2 (109).*

As regards information required in the paragraph 71 it should be noted that on 1 January 1998 the new Penal Executory Code will come into force. The new code suggests new kinds of employment. Besides the current practice of directing to work on the basis of agreements to employ prisoners, inmates will have possibility to work as free lancers and on the basis of employment agreement. In addition, the Code provides a possibility to employ sentenced persons outside the prison establishment, regardless of the type of the establishment (the only difference is the way of transporting prisoners). It is also provided that the Council of Ministers can specify



in regulations procedure and rules the companies, institutions or organizations implement certain tasks like employing prisoners, and the range of tax exemption granted to these companies, institutions or organizations, as well as procedure for these companies to receive orders for products and services. The law on employment of persons deprived of liberty will be worked out in near future. Currently the draft of this law is at the Parliament to decide its final structure. The draft of the law includes several solutions to reduce costs of production and affect increase of production and employment of detained persons.

Prison service officers for employment of detained persons take actions to keep employment of the same level and even to increase it in workshops outside prison establishments, they also look for new places of work.

Promotion fairs of products from the prison establishments workshops are organized in order to find new markets and to increase production and employment.

At the Strzelce Opolskie Prison No 2 approximately 75% of inmates take part in recreational activities (paragraph 109). The range of activities is quite wide as it includes 16 kinds (like editing a newspaper, history set, theatrical set, music group, body building club, competitions and sport tournaments). In 150 cells (for total 220) sentenced persons have private TV sets, and 10 among them use private computers. In the unit for temporary arrested persons there are three walking fields, 2 community rooms, a library, and inmates can also attend religious meetings. The management of this establishment takes steps to look for diverse possibilities to increase employment of inmates. In comparison with the period of the CPT visit, 24 persons more have been employed (in total 225 persons that is 35.3%).



3. Medical issues

recommendations:

- *steps should be taken to fill the vacancy post for a head doctor at Strzelce Opolskie Prison No 2 (120),*
- *access to outside specialists for prisoners at Strzelce Opolskie Prison No 2 should be reviewed (120),*
- *the Polish authorities should review the material facilities of the health-care service at Strzelce Opolskie Prison No 2, and, more specifically, improve conditions in the dentist's room (123),*
- *the recommendation made in paragraph 22 concerning medical examination of newly arrived prisoners should be observed whenever a prisoner is medically examined following a violent episode in the prison. Further, if so requested by the prisoner, the doctor should provide him with a certificate describing his injuries (126),*
- *the Polish authorities should ensure that precepts described in paragraph 127 are fully in practice (127),*
- *the Polish authorities should persevere in their efforts to put an end to the practice of segregating HIV-positive prisoners (129),*
- *the Polish authorities should devise a policy for combatting transmissible diseases (in particular hepatitis, ADIS, tuberculosis and skin diseases) in places of detention, based upon a programme of education and information – for both prison staff and inmates – about methods of transmission and means of protection, as well as the application of adequate preventive measures (130),*
- *the Polish authorities should be active in implementing renovation plans for the Psychiatric Hospital at Wrocław Remand Prison; it is important to change a penitentiary atmosphere by creating a proper*



inmates. Currently, HIV-positive detained persons are accommodated in common cells.

As regards policy for combatting transmissible diseases (hepatitis, AIDS, tuberculosis and skin diseases) based upon a programme of education and information (paragraph 130), the penitentiary establishments with regional sanitary and epidemiological centres and non-governmental organization for health promotion carry out educational and information events on combatting transmissible diseases (lectures, meetings, reading materials, trainings, competitions). The Central Administration of the Prison Service has planned for the end of this year to make a thorough evaluation of these actions in order to get conclusions which will allow to improve health education and spread of health information among prisoners, also on transmissional diseases.

As regards the recommendation of the CPT to pursue actively the ongoing of refurbishment of the Psychiatric Hospital at Wrocław Remand Prison and to transform "its character to a therapeutical" (paragraph 134-135) it should be noted that it is continued to improve therapeutic psychiatric care for persons deprived of liberty. The progress of undertaken measures depends mainly on financial sources which can be granted this year and on progress of modernization works. The visit of the CPT took place at the beginning of modernisation works based on the programme worked out in 1995. Since May 1997 the establishment has been granted means to carry out modernisation of the part of the hospital provided for patients, therefore the refurbishment works have been intensified (occupancy rate has been reduced) in 5 patient rooms and one bathroom. The standard of renovated rooms (average surface for one patient is above $4.5m^2$ in rooms accommodating several patients), walls are coloured, rooms are well equipped, thus the penitentiary atmosphere has been neutralised. Currently, the new conditions will



allow to broder a range of therapeutic treatment and not limit it to pharmacotherapy and individual therapy. Candidates to organize musicotherapy, artetherapy (drawing, painting, sculpture) and motion therapy have been interviewed. This kind of therapy courses are planned to start for the end of 1997.

remarks:

- *prisoners should be able to communicate with the health-care service of their establishments on a confidential basis, for example by means of a message in a sealed envelope (120),*

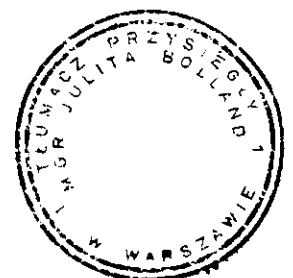
- *prison officers assigned to the Psychiatric Hospital at Wrocław Remand Prison should be placed under the direct authority of the establishment's Head doctor insofar as their work within the Hospital is concerned, and that medical staff on duty should have unrestricted access to patients, including those held in an isolation room (137).*

Information referring to the recommendations of the CPT mentioned in the paragraphs 127 and 129 points to actions taken in order to ensure confidentiality in contacts of prisoners with doctors and to protect medical information.

As regards the paragraph 137, to implement the recommendation of the CPT a regulation placing prison officers assigned to the Hospital under the direct authority of the establishment's Head doctor has been issued (the Head doctor must agree for assigning non-medical staff to work at the Hospital). Medical staff is provided with unrestricted access to all patients at any time of the day (at night they are accompanied by a commander of a shift).

required information:

- *comments of the Polish authorities concerning the case of a woman and her 3 year old child both suffering for chronic viral hepatitis and*



accommodated in a separate room at the Mother-and-Child Unit at Grudziądz Prison (131).

According to the required information it should be noted that the woman and her child suffering from chronic viral hepatitis B and C, and accommodated in a separate room at the Mother-and-Child Unit at Grudziądz Prison No 1 is not HBS-positive. The sanitary regime is applied only to the child respecting the order of a doctor the pediatricist. The mother and the child in the separate room have very good accommodation conditions. Contact of the child with other children because of the virus C (as there is no vaccine against it) has been decided to be dangerous, especially as the mother did not obey necessary hygienic prescriptions, what might have caused transmission of disease.

Problem of isolating children during meals will be soon reconsidered together with an epidemiologist and a psychologist.

4. Other issues

recommendations:

- *remarks mentioned in paragraph 145 should be taken fully into account in the design of the regimes to be applied within any special units set up for prisoners classified as "dangerous" (paragraph 145),*
- *the Polish authorities should give a high priority to modernising the fleet of prison transport vehicles (paragraph 156).*

Referring to the recommendation mentioned in the paragraph 145 of the CPT report it should be noted that rules of classification of a prisoner as dangerous are specified in the Regulation 53 of the Minister of Justice of 30 December 1995 on classification of sentenced persons and organization, range actions and their procedure of the



penitentiary commission. The decision in writing is made by the penitentiary commission after having heard the sentenced person and in his presence. The penitentiary commission informs the sentenced person on reasons to classify him as dangerous and on conditions of detention which result from this decision. He is also advised of possibilities to bring a complaint to the penitentiary court against this decision (Article 14 of the Penal Executory Code). The sentenced person has right to bring a complaint against the decision of the penitentiary court. In addition, according to the regulation mentioned above, the procedure of classification needs to be verified: a remand prisoner is verified at least once for 3 months, a sentenced prisoner is verified at least once for 6 months on the basis of the personal documentation including medical and psychological opinion.

In the light of paragraph 121 and 48 of the Regulation on imposing punishment of deprivation of liberty and temporary arrest, dangerous prisoners are subject to intensified penitentiary actions according to individual programme, and the measures applied are adequate to threat.

As regards the recommendation of the paragraph 156 concerning regulation on vehicles used for transporting prisoners, it should be noted that the establishments visited by the CPT use for transporting prisoners vehicles of older generation that is produced before 1990 on the technical basis of cars Żuk and Star which have been currently withdrawn from use in prisons. The Central Administration of the Prison Service has worked out new constructions for vehicles used for transporting prisoners which are supposed to provide suitable conditions, the vehicles of latter model are not bought any more. Since 1992 a car of new model for transporting 17 inmates is used, it is produced on the technical basis of the bus Autosan H6 and is equipped with lighting, ventilation, heating, chemical toilet and separated space for luggage of transported prisoners. This car

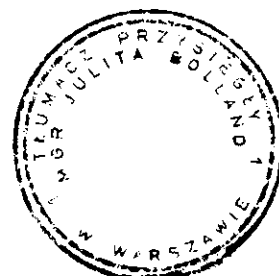


provides suitable conditions for travels. At present, the total number of cars amounts to 57 large vehicles for transporting prisoners, 15 of them are of the new model. Financial means granted for 1997 allow buying by the end of September 10 more cars of this model to replace withdrawn vehicles. In addition a new model of a multifunctional vehicle with a single section for transporting 6-7 inmates has been designed. This car previously was produced on the technical basis of a Żuk car, since 1996 they are produced on the technical basis of a Lublin car. These vehicles provide suitable conditions for travel. In 1997 the fleet will consist of 25% of vehicles of this new model.

The Central Administration of the Prison Service on the grounds of the detailed Report on the technical state of the fleet and number of vehicles worked in 1995 and 1996 suggested to purchase more than 300 vehicles of this new type, however, because of lack of financial means the plan has not been carried out. In 1997 in comparison with previous years, the Central Administration granted more financial means, therefore 46 vehicles of the new model have been purchased.

remarks:

- *staffing levels in detention areas tended to be low, which impeded the development of a constructive dialogue between staff and prisoners and had an adverse impact on the provisions of a satisfactory programme of activities (paragraph 139),*
- *it would be desirable for the educators to encourage uniformed prison officers working in detention areas to see their role as going beyond merely supervising and controlling prisoners (paragraph 140),*
- *the authorities with powers of inspection should make themselves "visible" not only to the prison management and staff, but also to the prisoners themselves. They should not limit their activities to seeing*



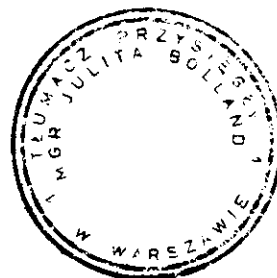
persons who have expressly requested to meet them, but should take the initiative and visit the establishments' detention areas (including units in which inmates under special regimes may be placed) and enter into contact with prisoners (paragraph 149),

- The CPT trusts that care will be taken to ensure that remand prisoners are only denied physical contact with their visitors in cases when this is strictly necessary (paragraph 152).

The remarks mentioned in paragraphs 139, 140, 149 and 152 have been handed over to the Central Administration of the Prison Service. However, it should be noted that suggestions resulting from this remarks have been carried out in current work of the prison service and in methods of supervising these units by persons who have appropriate powers (judges, prosecutors, prison inspectors). It is a rule that remand prisoners are granted visits of relatives in the course of preliminary procedure. Limitations in this aspect are exceptional and are caused by strict necessity.

required informations:

- detailed information on the duration and content of prison staff training, both initial and in service (paragraph 138),*
- the comments of the Polish authorities on censorship of the correspondence and its influence on staff work (paragraph 141),*
- confirmation whether prisoners can appeal to the penitentiary judge against disciplinary sanctions (paragraph 142),*
- confirmation whether the safeguards mentioned in the paragraph 146 exist in Poland (paragraph 146),*
- the comments of the Polish authorities concerning allegations of denying remand prisoners held at Warszawa-Białoleka Remand Pri-*



son visits for a longer period of time (paragraph 151),

- information on the possibilities for remand prisoners to make telephone calls (paragraph 153),

- the comments of the Polish authorities on granting home leaves for female prisoners in Grudziądz Prison No 1 (paragraph 154),

- copies of any regulations which might exist concerning the characteristics of vehicles used for transporting prisoners (paragraph 156).

Professional training of the officers of the Prison Service in Poland since 1 September 1997 (paragraph 138) will take place in three basic stages:

1) initial training

- performed during two years of preparatory service and carried out in two stages:

a) residential training of 21 days preparatory course consisting of 112 hours in total. Students are taught chosen subjects: legal problems, pragmatics of official service, professional and penitentiary ethics, basic regulations of service work, communicative training, physical training ended with a fitness test and drills, principles of writing reports and official documents,

b) minimum 3 months of professional practice in their own unit directed by a manager ended with a qualification examination before the issue of the first opinion on serviceableness, that is during the first year.

The initial professional training is aimed to prepare officers and non-uniformed employees to service in the prison establishments, and in particular to learn about their future tasks, obligations and rights;

2) basic training in schools of the Prison Service:



a) Officers School of the Prison Service

According to the new programme which will be carried out since 1 September 1997, the programme of the Officers School is to be accomplished during 10 months in a form of 10 meetings of 1 to 3 weeks each. It will include 460 hours of lectures in total. The Officers School is supposed to be residential and non-residential. The officials who graduated from high schools (state and private) employed as officers can participate in this training.

The training will be carried out as a specialisation appropriate for different departments of the prison service, such as: penitentiary (for educators and psychologists), safeguards, human resources, legal and administration, employment and safety of work, quartermastering, financial, health-care (for doctor and higher medical staff).

The purpose of professional training in the Officers School is to prepare the graduated students for their future work, to provide them with general knowledge on penitentiary problems and to create human and righteous attitudes needed in the procedure of apprehension and while imposing punishment of deprivation of liberty. In the course of this training officials participate in sensitivity and situational workshops;

b) Junior (ensign) Officers Schools of the Prison Service

These schools are organized for the junior officers outstanding in service, proving to be self-dependent and responsible, with a few years work experience. The programme of the school is accomplished in the extern system, ended with the examination for the rank of ensign. Education system consists of specialisation programmes suitable for different departments of the Prison service where officials are employed. The students take part in 2-3 consulting sessions consisting of 30 hours of lectures in total;



c) Junior Officers School of the Prison Service

According to the new programme which will be carried out since 1 September 1997 the Junior Officers School will be accomplished with regard to specialisation (residential studies):

- 103 days (460 hours of lectures) including one week professional practice in the prison establishment. Officials who are employed as junior officers will participate in this training, other staff like nurses, human resources officials, secretaries, technicians and drivers are excluded,

- 62 days (265 hours of lectures). Officials employed as junior officers in the quartermasters department, that is telecommunication technicians and drivers will participate in this training;

improving trainings accomplished within the framework of:

a) **Postgraduated studies** for the students graduated from the Officers School of the Prison Service (since the beginning of 1998), studies will consist of 250 hours of lectures in total, and will be carried out by a higher school according to a programme designed with the Central Administration of the Prison Service.

The postgraduated studies will be divided into 4 specialisations: penitentiary (prison psychologists excluded), administration, human resources and financial. This kind of studies will be also available to individual officials in different fields and universities.

b) **professional courses** for officials on certain specified posts. Courses take 5 to 70 days (as residential courses) with regard to the held post and range of duty.

c) **conferences, training meetings, seminars**, usually taking 3 days as residential courses, also professional practices and self-education.



The purpose of the improving training is to bring up to date theoretical knowledge referring to tasks of different departments of the Prison Service. Further, taking part in professional training and accomplishment of appropriate form of education is a condition of work promotion.

As regards information required in the paragraph 141, it should be noted that according to the paragraph 31 of the Regulation in force on imposition of deprivation of liberty, only correspondence of sentenced persons classified for staying in prisons of closed regime is subject to censorship of the management of this establishment. The correspondence to the Citizens Rights Ombudsman and to the International Institutions for Human Rights acting in Poland on the basis of ratified agreements are excluded from censorship.

In this state of affairs the range of censorship is limited and does not take much time. On the other hand, it gives an educator insight into personal life of a sentenced person and allows to understand his social environment, interpersonal relations, etc. It helps in making more adequate decision important for a sentenced person and for the society as well, like granting home leaves.

As regards the paragraph 142 according to the paragraph 71 item 2 of the Order of the Minister of Justice of 2 May 1989 on regulation of imposition of deprivation of liberty and the paragraph 44 item 2 of the order on remand apprehension, an inmate has a right to be heard before a disciplinary sanction is imposed.

The Article 58 of the Penal Executory Code states that a penitentiary judge or a prosecutor can suspend imposition of a disciplinary sanction for a period of time necessary to explain circumstances substantiating imposition of sanctions. A sentenced person himself on the grounds of the Article 14 of this Code can bring an appeal to a penitentiary court against a decision to impose a disciplinary



sanction.

The detailed information required in the paragraph 146 has been given in connection with presenting how the recommendations mentioned by the CPT in the paragraph 145 are put into practice.

As regards the paragraph 151 and 153 according to the Article 89 paragraph 2 of the Penal Executory Code a visit granted to a remand prisoner depends on a permission of the body conducting criminal procedure and in such case the prison management has no legal means to change a decision. The regulation of remand apprehension does not provide possibility of telephone contact for remand prisoners.

As regards the paragraph 154, it should be noted that according to the paragraph 62 item 1 point 15 of the regulation of imposition of deprivation of liberty a home leave is one form of a reward, and it is not a right granted without any condition. While granting home leaves certain factor are taken into consideration like: behaviour of a sentenced person, purpose of leaving prison (the reason to keep family relations is favoured), a way of using a home leave and expected coming back to the establishment.

In order to clear this issue it should be said that at the beginning of 1997 in the Grudziądz Prison No 1 eight home leaves were granted by chance and 140 as a reward (for 24 hours and up to 5 days). In that period 3 of inmates did not come back to prison on time.

The control of the management actions taken in this establishment did not reveal any incorrectness in this aspect, therefore allegation that refuse of granting a home leave is an unofficial disciplinary sanction has been found groundless.

With regard to the request in the paragraph 156 for information, the Polish authorities enclose as an appendix documents of approved technical data (drafts) for a car Lublin 3302 adopted as a vehicle



for special purposes – multifunctional vehicle.

C. Juvenile establishments

recommendations:

- *the steps to be taken immediately:*
- *to improve the ventilation and lighting in the transit cells at the Correctional establishment and Home for detained juveniles in Świdnica, and to equip all of them with a means of rest,*
- *to provide all juveniles held overnight in the transit cells of that establishment with both mattresses and blankets (paragraph 165),*
- *all newly arrived juveniles should be held separately from juveniles isolated after an escape or for disciplinary reasons, in a facility offering an appropriate environment for boys being admitted to a juvenile establishment (possibly for the first time in their lives) (paragraph 165),*
- *sanctions involving the isolation of a juvenile should be served in a suitably equipped cells (containing at least a bed with a mattress, a table and a chair, if necessary fixed to the floor) (paragraph 167),*
- *juveniles undergoing a measure of isolation as a sanction should be provided with reading matter and guaranteed at least one hour of outdoor exercise every day (paragraph 167),*
- *the maximum possible duration of such a measure should be formally laid down and that the measure never be applied for longer than is strictly necessary (paragraph 167),*
- *appropriate measures should be taken to ensure that information on HIV test results is protected by strict medical confidentiality (paragraph 174),*



- a complete medical file should be compiled for each juvenile, containing diagnostic information as well as an ongoing record of his evolution and of any special examinations he has undergone. In the event of a transfer, the file should be forwarded to the doctors in the receiving establishment (paragraph 175).

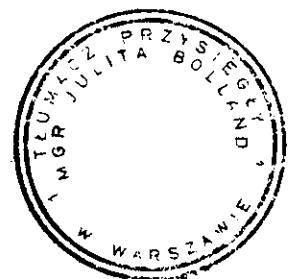
The Department for Family and Juveniles in the Ministry of Justice has immediately accepted the recommendations included in the report of the CPT concerning incorrectness in ensuring human rights for detained juveniles in correctional establishments and homes for detained juveniles as the basis for actions to guarantee them human rights in all aspects, and special meetings with employees of these establishments have been organized.

It should be explained that according to the law of 26 October 1982 on procedure in cases of juveniles, a juvenile is a person who:

- has been demoralized before age of 18 years,
- committed an offence at the age between 13 and 17,
- education or correctional means have been imposed on but carried out not longer than to age of 21 years.

In the light of rules of the Order of the Minister of Justice of 7 May 1983 concerning arrangement of juveniles staying in correctional establishments and homes for detained juveniles, a correctional establishment is a special educational centre with a character of social rehabilitation which is supposed to provide vocational training and to teach how to come back to society. A home for detained juveniles is a special centre which provides care of a diagnostic and social rehabilitation character. In this centre a juvenile is subject to a body which directed him to the home.

The CPT Committee have visited two establishments, that is the



Correctional establishment and Home for detained juveniles in Świdnica and the Correctional establishment with intensified educational supervision in Trzemeszno. Referring to the paragraph 165 it should be emphasised that rooms have been improved with regard to the recommendations of the report. In the Correctional establishment and Home for detained juveniles in Świdnica ventilation has been installed, lighting in the transit cells has been changed. Rooms have been equipped with additional means of rest. The management of the establishment has been put under obligation to provide reading matters every day to juveniles held in transit rooms. In order to accommodate separately all newly arrived juveniles from juveniles isolated after an escape or for disciplinary reasons, one of the transit cells in the Home in Świdnica has been transformed into a room for juveniles admitted to the establishment for the first time, and decorated in a special way. The isolation rooms visited by the Committee have been properly equipped with means fixed to the floor.

A recommendation to observe time juveniles spend in transit and isolation cells has been issued. The pedagogical inspectors have been asked to pay attention to schedule of outdoor activities and to provide reading matters, literature books.

As regards the paragraph 175 concerning health care the remarks of the CPT Committee have been adopted and carried out by the directors of establishments and medical staff, in particular with regard to compiling medical files, nurses and doctors being always present. It should be mentioned that in all establishments and homes there are special separated wards situated near doctors' rooms and laboratories where juveniles with transmissible diseases can be isolated or can stay when they need intensive medical care.

remarks:



- the CPT trusts that it has been made clear to staff at the Świdnica institution that the ill-treatment of juveniles in their custody is unacceptable and, if it occurs, shall be the subject of severe sanctions (paragraph 161),
- a cell measuring 7.5m² even if used only at night should accommodate one person,
- it is important to ensure that someone qualified to provide first aid, preferably with a recognised nursing qualification, is always present on the premises, including at night and weekends (paragraph 172),
- appropriate counselling both before and – if appropriate – after an HIV test is very important (paragraph 174).

The above-mentioned remarks of the CPT have been accepted and carried out like the recommendations included in the report of the CPT concerning incorrectness in ensuring human rights for detained juveniles in correctional establishments and homes for detained juveniles. However, it should be explained that in the case of applying force in the Correctional establishment in Świdnica (paragraph 161), it has been discovered that injuries on the body of the juvenile were not made by the educator. The concerned juvenile was on leave on the previous day, and intoxicated with alcohol took part in fighting. The police had to intervene.

In order to exclude from correctional establishments situations of uncontrolled use of force by employees and educators a special regulation has been issued. With the law of 29 June 1995 on transformation of the Code of Criminal Procedure, on law of military courts, law on criminal cases fee and law on procedure in juvenile cases, the regulations concerning use of direct compulsion measures (stated below) in juvenile establishments came into force:

- use of physical force



- holding in an isolation cell
- putting a strait jacket and belt.

The Regulation of the Ministers' Council of 11 December 1996 on detailed conditions of applying direct compulsion measures against juveniles held in correctional establishments and home for detained juveniles specifies clearly situations when an educator can use physical force against a juvenile.

It specifies as well the procedure of appeal against this decision, and further provides a detailed procedure of documenting all taken actions (beginning with a notion and ending with a result of medical examination after applying compulsion means). The Regulation allows a wider control over applying compulsion in the work with demoralized juveniles.

In connection with more frequent situation of accommodating in correctional establishments HIV-positive juveniles (paragraph 174), the Department for Family and Juveniles in the Ministry of Justice set up a **special** therapeutical and social rehabilitaion establishment for this category of juveniles. The actions taken in this establishment are adopted to individual needs of the HIV-positive juveniles.

Tests for HIV are performed only with the consent of a juvenile concerned. According to the National Programme on HIV prevention approved by the Polish Parliament, HIV tests are voluntary.

required information;

- *have the plans to create a watertight separation between the two parts of the establishment in Świdnica been implemented (paragraph 163),*
- *information on the current Polish legislation and any existing public health regulations concerning this subject (paragraph 174).*



In connection with the required information concerning separation of the Correctional establishment and the Home for detained juveniles in Świdnica (paragraph 163), the plans of separation and following suggestions of the CPT Committee have been worked out. Since it is necessary to build complete infrastructure (school, workshops, sport facilities) in both parts of the establishment significant financial means must be provided for this investment. The separation of the establishment in Świdnica is supposed to be completed in 1998-1999. Currently it is attempted to make changes in the work of the establishment in order to limit contacts between juveniles from the correctional and home part.

On 19 May 1997 the Minister of Justice issued the Regulation concerning kinds and organization of correctional establishments and homes for detained juveniles and in order to create a more integrated model of detained juveniles education within the framework of Justice institutions.

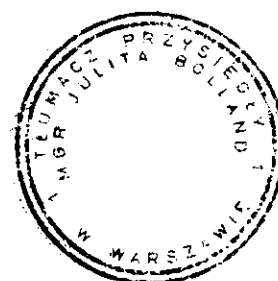
Regulations concerning problems of HIV tests (paragraph 174) have been described while discussing recommendations and remarks of paragraphs 127, 129, 130 and 174.

D. Military arrest facilities.

recommendations:

- the maximum capacity of the military arrest facility at Toruń Garrison Command should be reduced (paragraph 180).

As regards the recommendation mentioned in the paragraph 180 to reduce the maximum capacity of the military arrest facility at Toruń Garrison Command, it has been thoroughly implemented. The Toruń Garrison arrest facility consists of 9 cells measuring 8m² each. According to accounts since the beginning of 1997 there was



never more than one person accommodated in a cell.

E. Sobering-up Centres.

recommendations:

- *spraying intoxicated persons with cold water should not be in practice any longer (paragraph 187),*
- *any resort of isolation or physical restraint in a sobering-up centre should be recorded in a central register established for this purpose, with an indication of the times at which the measure began and ended as well as the circumstances of the case and the reasons for resorting to such means (paragraph 193).*

Referring to the recommendation of the paragraph 187 it should be pointed that legal regulations concerning activities of Sobering-up Centres are specified in the Regulation of the Minister of Health and Welfare of 23 October 1996 on procedure of delivery of intoxicated persons, administration of sobering-up centres, range of medical health-care and rules of fixing payment for delivery and stay in a sobering-up centre. The regulation was issued after the visit of the CPT.

The regulation contains detailed recommendations on methods of treating clients in sobering-up centres and on medical treatment. Applying direct compulsion is subject to the Article 18 of the law of 19 August 1994 on protection of mental health.

Cases of ill-treatment of clients in sobering-up centres in Wałbrzych and Toruń mentioned in the report should be regarded as illegal single cases of abuse which will be subject to interventions of the health departments of Provincial governments. Such cases should not decide about the image of whole legal and administrative system. The recommendation of the CPT to record in a central register any



resort of isolation or physical restraint applied to clients of sobering-up centres and in personal cards for admitted person (paragraph 193) it not possible to carry out in near future.

remarks:

- the isolation room in the Grudziądz Centre was not entirely satisfactory facility, in particular, it was very small (4.5m²) and was not equipped with a call system (paragraph 189).

To make changes in the technical state of rooms and to improve conditions of accommodation of intoxicated persons is quite difficult as most of the sobering-up centres have serious financial problems.

required information:

- the comments of the Polish authorities on the divergence of approach to violent intoxicated persons, as well as details of any medical guidelines issued on this subject (paragraph 194),

- the views of the Polish authorities on adverse legal consequences to refusal to give a sample required by law (paragraph 195).

In connection with questions of the CPT on differences of the methods applied to violent intoxicated persons, on explanation of details of medical guidelines on this subject (paragraph 194) and forcible taking of blood or other samples (paragraph 195), the State Agency for Solving Alcoholic Problems has been designing a professional training for doctors co-operating with sobering-up centres concerning procedure and medical treatment for clients of these centres.

It should be emphasised that persons suspected to commit a crime while intoxicated are frequently delivered to sobering-up centres. In such cases, according to the criminal procedure, a suspected person is obliged to provide blood samples.



**LETTER FROM THE PRESIDENT OF THE CPT,
DATED 23 DECEMBER 1997,
TO THE POLISH AUTHORITIES**

EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE
AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

The President

Strasbourg, 23 December 1997

Dear Sirs,

Subject: Interim report of the Polish authorities in reply to the report drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Poland from 29 June to 12 July 1996

1. I refer to the letter of 30 July 1997 from the Minister of Justice, Mr Leszek Kubicki, by which he provided the interim report of the Polish authorities in reply to the report drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to Poland from 29 June to 12 July 1996.

The CPT examined the interim report at its 34th meeting (3 to 7 November 1997), and noted the constructive spirit in which the Polish authorities have reacted to many of its recommendations, comments and requests for information. The CPT felt that it would be useful to draw the attention of the Polish authorities to certain issues about which the Committee remains concerned and which it would like to have addressed in the follow-up report.

Police and Border Guard establishments

2. The interim report contains a brief response to the recommendation made in paragraph 19 of the CPT's report. Nevertheless, the Committee trusts that the Polish authorities can provide more detailed information on professional training and human rights education for police officers at all levels. The CPT would also like to receive an account of the concrete measures taken to implement the recommendation set out in paragraph 20 of its visit report, concerning the use of force at the moment of apprehension.

./.

Ministry of Justice
National Prosecutor's Office
Al. Ujazdowskie 11
00-950 WARSZAWA
Poland

3. As regard material conditions in police detention facilities for criminal suspects, the CPT would like to be informed of whether the comments made in paragraph 27 of its report have been acted upon. Further, the Committee trusts that the follow-up report will provide answers to the comments made in respect of police establishments for children (cf. paragraphs 29, 30, 31 and 32 of the CPT's report).

4. The CPT wishes to be informed of any developments since the interim report concerning conditions of detention for foreigners awaiting deportation at Wrocław Provincial Police Command (cf. the recommendations and comments made in paragraphs 37, 38 and 39 of the CPT' report).

The Polish authorities have already provided a copy of the Ministry of the Interior Order of 9 July 1993 on the regulations in force in centres for foreigners detained under the Aliens' legislation. In addition, the Committee trusts that the follow-up report will contain detailed information on the Centre for foreigners in Lesznowolo: capacity, material conditions of detention, regime, staffing arrangements, etc.

The CPT would also like to receive further details on the progress made towards the setting up of a centre for foreigners who have been refused entry into Poland, in a separate building at Warsaw Airport.

5. As regards safeguards against the ill-treatment of persons detained by the police, it is stated in the interim report that the right of a person in police custody to have access to a lawyer and a doctor is observed, and that any exceptions which may have been encountered were due to negligence. It is also indicated that under Polish law there is no possibility to delay the exercise of the right concerning notification of apprehension, or to delay the provision of information about this right. Nevertheless, the CPT would like to be informed of the concrete steps taken by the Polish authorities to ensure that the rights which exist under Polish law are applied in practice, in the light of the recommendations made in paragraphs 51 and 53 of the Committee's report.

The CPT also trusts that the follow-up report will contain responses to its recommendations concerning the issuing of a form setting out in a straightforward manner the rights of persons in police custody (cf. paragraph 55 of the Committee's report) and the drawing up of a code of practice for police interrogations (cf. paragraph 57 of the Committee's report).

Prison establishments

6. The CPT has noted that a shortage of financial resources is hampering efforts to modernise the Polish prison infrastructure and to implement some of the Committee's recommendations. Nevertheless, the Committee would like to be informed of the progress made since the interim report as regards conditions of detention in the prisons visited (in particular, in respect of the recommendations made in paragraphs 69, 79, 84, 96, 105 and 110). Further, the CPT trusts that the follow-up report will provide reactions to the comments made in paragraphs 79 and 91 of the visit report.

7. The Committee has noted that more flexible forms of prisoners' employment are provided by the new Penal Executory Code, and that specific regulations on the issue will be contained in a forthcoming Law on the employment of persons deprived of their liberty. The CPT hopes that the Polish authorities will provide more details on this new legislation in their follow-up report.

8. The Minister of Justice Decree on temporary arrest and imprisonment is said to contain regulations corresponding to the CPT's recommendation in paragraph 22 concerning medical examinations of newly-arrived prisoners, to the extent that all such prisoners are issued with a health certificate. However, the actual procedure for establishing - and the contents of - this health certificate are not clear from the interim report; the Committee would like additional information to be provided in the follow-up report. Further, the CPT trusts that the Polish authorities will provide a copy of the 1997 Regulations on health-care for detained persons referred to in the interim report.

9. The Committee also hopes that the Polish authorities will be in a position to provide further reactions to the comments made in paragraphs 139, 140, 149 and 152 of the CPT's report, concerning prison staff, inspection procedures and facilities for visits.

Juvenile establishments

10. According to the interim report, practically all the CPT's recommendations and comments have been taken into consideration and acted upon. However, it is not clear from the interim report whether juveniles undergoing a measure of isolation as a sanction are now guaranteed at least one hour of outdoor exercise every day.

Further, the CPT trusts that the follow-up report will provide more details on the May 1997 Regulations on correctional establishments and homes for juveniles issued by the Minister of Justice.

Sobering-up centres

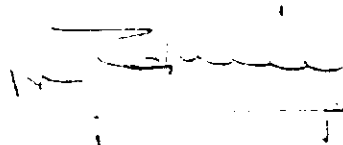
11. It is stated in the interim report that in October 1996, the Minister of Health issued comprehensive regulations on the work of the sobering-up centres. The CPT would like the follow-up report to contain more details on these regulations.

The Committee has also noted that the State Agency for Solving Alcohol Problems offers special training to doctors working at sobering-up centres, including on issues such as the methods to be applied to violent intoxicated persons, the forcible taking of blood and other samples, etc. The CPT trusts that the Polish authorities will provide more information on the actual contents of this training.

* * *

12. The CPT looks forward to receiving the follow-up report of the Polish authorities. The Committee intends in due course to provide detailed comments on both the interim and follow-up reports in response to its visit report.

Yours faithfully,



Ivan ZAKINE

Cc: Mr Marcin RYBICKI, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Poland to the Council of Europe.
Mr Czesław JAROSZEK, Public Prosecutor, National Prosecutor's Office, Warsaw.

**FOLLOW-UP REPORT OF THE POLISH AUTHORITIES IN RESPONSE
TO THE REPORT OF THE EUROPEAN COMMITTEE FOR THE
PREVENTION OF TORTURE AND INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT (CPT) ON ITS VISIT TO POLAND**

FROM 30 JUNE TO 12 JULY 1996

FOLLOW-UP REPORT OF THE POLISH AUTHORITIES
TO THE EUROPEAN COMMITTEE FOR
THE PREVENTION OF TORTURE AND INHUMAN
OR DEGRADING TREATMENT OR PUNISHMENT
IN STRASBOURG (π)

The report of Polish authorities adopts the form of the letter of CPT of 23 December 1997 (according to included recommendations).

A. Police and Border Guard Establishments

2. The interim report contains a brief response to the recommendations made in paragraph 19 of the CPT's report. Nevertheless, the Committee trusts that the Polish authorities can provide more detailed information on professional training and human rights education for police officers at all levels. The CPT would also like to receive an account of the concrete measures taken to implement the recommendation set out in paragraph 20 of its visit report, concerning the use of force at the moment of apprehension.

According to the decision nr 74/95 of the Police Chief Commander of 16 June 1995 on introducing an additional thematic bloc on the domain of human rights protection to specialistic programmes in police schools, Police professional training officers within the framework of training of policemen of all levels organize courses on human rights.

The aim of courses on human rights within the framework of professional training of policemen of all levels is to make them aware



of the fact that Poland has ratified the European Convention on Human Rights and of the subsequent legal consequences.

In the course of a training it is stressed to teach policemen proper professional habits and to give them knowledge on human rights resulting from the Polish and international law alike. It is indispensable that every policeman understands how important is to observe the above-mentioned regulations in cases of checking identity papers, apprehending, using direct coercion means or carrying out other police actions. In everybody's interest is to protect human rights of any individual, and a policeman is obliged to by his service in the state of law that creates democratic society. Courses are intended to make a policeman accept the rules of law order as his own which oblige him to respect human dignity, to use force only in case of absolute necessity, to keep secret when he gets information on citizens, not to use torture, and to protect life and health of apprehended persons.

This is a minimum of requirements included in a programme that must be mastered by any trained policeman in simulated and staged examples of real situations. Elements of ethics referring to work of an law order officer are included in the programme since the catalogue of the human rights is inherently connected with ethical subjects. Professional behaviour, proper ethical attitude should force policemen to create by themselves and to promote a model of "a good policeman".

In the course of practical training, policemen teachers must show to trained policemen what possible restrictions on human rights impose by apprehension, arrest, search and use of means of direct coercion. The above-mentioned actions are not a goal in themselves but necessary radical measures which can be taken though with considerable restraint. A policeman, who is a guardian of the basic laws and freedom as well, cannot breach these laws only by



the reason he is given an appropriate power.

Since 1995, the 4th Division – the General Centre of Methodology of Training for Human Resources Office and Training for General Police Command emphasizes particularly real aims of the training, according to the Regulation of the Chief Commander No 32/96 on detailed principles of policemen training. In connection with this fact, in order to reach the main aim of the human rights programme, every policeman must “specify” the basic rights and must learn how to apply them in work through 4 intermediate detailed aims such as:

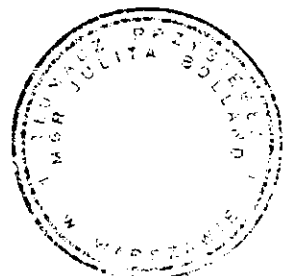
1. to learn the origin of the human rights,
2. to reproduce the catalogue of the human rights and to know how to describe the rights included in the catalogue,
3. to know how to apply regulations of certain selected rights,
4. to know how to name and describe the basic principles of behaviour of a Police officer.

In order to attain the 3d detailed aim trained policeman must know the minimum of the standard programme which consists of:

1. Application of the direct coercion and the right of immunity,
2. Apprehension and the right of freedom,
3. community inquiry and the right to privacy
4. Arrest of driving licence and the right of property.

The programme is carried out with the methods and techniques that make students to be active, including an interactive lecture, work in groups, case analysis, simulation and stage. The results of training are continuously supervised and evaluated, the special attention is paid to individual learning. Each policeman is responsible for making progress in attaining aims of the training.

In order to reach the requested European standards in the domain of the human rights, all trained policemen are obliged to get



to know selected documents edited by prof. dr Andrzej Rzepliński, a member of the Helsinki Committee in Poland, in the book "Human Rights and Police", the selection of the documents of the European Council and OUN, CSP publishing house, Legionowo, 1992.

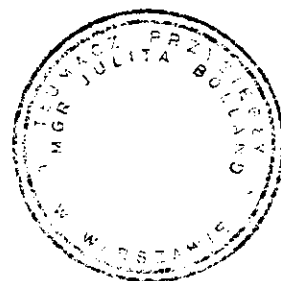
Other books edited by prof Rzepliński such as "Human Rights and Police. Problems of Theory and Practice", CSP publishing house in Legionowo, 1994, and "Human Rights and Police – John Anderson "Policeman in law state", CSP publishing house in Legionowo, 1993, form a set of compulsory literature.

Instructing films on Human Rights such as "Everybody has the Right", "Dignity, Equality, Liberty", "Limits of Power", "Rules of Game", obtained from the Helsinki Fund for Human Rights are also the essential aid for the programme. All Police teachers carrying out this programme have completed the course for lecturers on human rights and after having passed the examination they have been recommended by the Helsinki Fund for Human Rights to propagate knowledge on human rights.

It should be clearly stressed that other measures taken by the training division of the Police to enhance the priority of professional training of policemen lead to further modernization of skills programmes and to put a standard performance in all files with scores of tests on performance of practical tasks connected with the subject in question, that is application of adequate and related to existing situation means of coercion in the perspective of the human rights.

The above-described criterion of evaluation of a professional policeman behaviour is to become the so called "critical element" which will result in failing to credit a course or failing to pass the qualification examination in cases this standard is breached in visible way by trained policemen.

It should be noted that the Chief Police Commander just after the visit of the CPT in Poland influenced by the recommendations



of the Committee reminded the duty of all superiors in a letter of 20 November 1996 to all provincial Police commanders:

- supervising subordinates carrying out official tasks (official work) in a way not breaching any human and citizen rights, including persons subject to criminal procedure;
- taking under consideration these problems within the framework of professional training of all policemen.

The Police makes all efforts facilities where persons deprived of liberty stay are prepared (met demands of) according to European standards.

The current cooperation between the Police and the Helsinki Fund for Human Rights is a clear evidence of (attaching importance to) the importance of observing the human rights and social supervising. The representatives of the Fund have long term (regular) permits to all police facilities (also deportation ones).

It should be noted that from 1996 to 1997, representatives of the Police participated in works on preparing new penal codes which will guarantee comprehensive observing of human rights (the codes come into force since 1 September 1998).

As regards the principles and circumstances of using (among others at the moment of apprehending a person) means of direct coercion, they are settled by the Police Act of 6 April 1990 and by the Regulation of Council of Ministers on specifying cases, conditions and ways of using means of direct coercion by policemen (attachement No 1).

The rules and regulations state that policemen can use means of direct coercion that correspond with needs of an existing situation and are indispensable to make a person observe the policemen orders, commands (to submit to). They should be used in such a way that observing legal orders causes as small pain as possible. A policemen transgressing his competence is subject to disciplinary



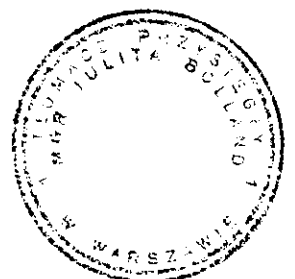
responsibility (liability) or criminal (penal) if the appropriate rules of the Criminal Code are breached.

In this state of affairs it should be assumed that the legal norms concerning the problem in question, and also the wide spectrum of possibilities to undertake legal actions by a wronged person against policemen, protect sufficiently personal property.

3. As regard material conditions in police detention facilities for criminal suspects, the CPT would like to be informed of whether the comments made in paragraph 27 of its report have been acted upon. Further, the Committee trusts that the follow-up report will provide answers to the comments made in respect of police establishments for children (cf. paragraph 29-32 of the CPT's report).

In order to repair ventilation in the police cells for detained persons at the Wałbrzych District Police Command, the elements of gravitational ventilation have been installed, and in the police cells at the Wrocław-Śródmieście District Police Command ventilation pipes has been cleaned.

As regards the high occupancy rate at the police establishment for children in Warsaw, it should be explained that the accommodation capacity of this place, considering high rate of juvenile crime, has been adapted for 50 beds. According to recent years statistical data, the number of juvenile criminals, including children staying in this establishment continuously decreases, and the period of staying in this place is limited to necessary minimum. Data of 1997 and 1998 indicate that one day "detained children rate" amounts to 25 persons. This means that the place uses 50% of its capacity and it is not overcrowded. In view of this fact, 10 beds have been removed from the dormitory which increased space for 1 detained child. Regardless of the above situation, it is planned to adapt the activity



room for an additional dormitory during the nearest refurbishment of the establishment.

In the light of the current legal regulation it should be assumed that clothing and food provided for children are sufficient. Each child admitted to this establishment is given a set of clean underwear, sheets, clothing (sportswear), shoes, and also pyjamas, a towel and soap from the store. The stored clothing is of considerable amount. The juveniles are also provided with proper and varied food. The current one day price rate for food amounts to 5,60 PLN (on a holiday it is 8,70 PLN) and is higher if compared to food price rate in open establishment for children. Furthermore, quantity and quality of meals for detained children is checked by employees of the civil health-care service. Untill now the supervising employees do not notify any objections in this matter.

Since the visit of the CPT the exercise yard of the establishment for children in Warsaw has been equipped with sport facilities to play basket ball. The refurbishment plans of the establishment include a possibility to instal some form of shelter to enable outdoor exercise to be taken in inclement weather.

4. The CPT wishes to be informed of any developments since the interim report concerning conditions of detention for foreigners awaiting deportation at Wrocław Provincial Police Command (cf. the recommendations and comments made in paragraphs 37, 38 and 39 of the CPT's report).

The Polish authorities have already provided a copy of the Ministry of the Interior Order of 9 July 1993 on the regulations in force in centres for foreigners detained under the Aliens' legislation. In addition, the Committee trusts that the follow-up report will contain detailed information on the Centre for foreigners in Lesznów: capacity, material conditions of detention, regime, staffing arrange-



ments, etc.

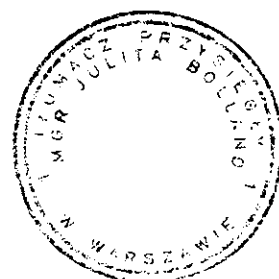
The CPT would also like to receive further details on the progress made towards the setting up of a centre for foreigners who have been refused entry into Poland, in a separate building at Warsaw Airport.

The deportation detention place of the Provincial Police Command in Wrocław is not used any more and at present is has been being refurbished.

The remarks concerning verifying food and taking into accounts the "usual dietary practice of foreigners" in other deportation detention places and in the centre for detained foreigners are considered as far as possible. The one day food rate for one person according to the decision of the Minister of Interior and Administration amounts to 4,78 PLN (5, 89 PLN for children and pregnant women). Detained foreigners are given soaps and if necessary, proper clothing for changing seasons. In detention establishments and in the centre, brochures of the Helsinki Fund for Human Rights in several languages with information on certain Aliens' rights are provided.

Radio and television equipment is not installed in cells of foreigners who breached with their former behaviour the general norms of life in detention establishments, on the other hand, it is possible to take part in recreative activities, use audio-visual equipment, stay in social room or play on the play-ground for children in the centre for foreigners detained under the Aliens' legislation.

The centre for foreigner in Lesznów is situated in establishment of the former army unit, it consists of 2 flats blocks of total accommodation capacity of 131 beds (1 block for families with children and for women has 31 beds and one block for men has 100 beds), according to UNO standards, 30 staff members are employed



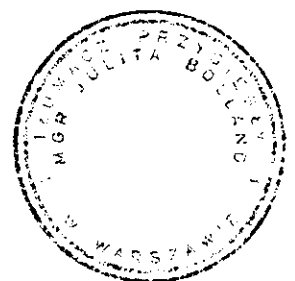
including 2 physicians (paediatrician and GP) and 7 policemen. The centre is guarded by unarmed soldiers of the Nadwiślański Army Units of the Ministry of Interior and Administration.

Foreigners can stay 5 hours out door and can use a special room for religious practices. A permit to see families and lawyers is issued by the Provincial Police Commander as it happens in police detention establishments. Foreigners have free access to telephone. The health-care is free. At the places of detention there are appropriately equipped ambulant rooms, and in case special medical examination is necessary, foreigners are transported to local hospital. Persons who must stay at hospital are released from the centre without delay.

As regards facilities at Warsaw International Airport for persons refused entry to Poland and awaiting deportation, the Border Guard has taken proper measures to open a separate centre. The centre is supposed to be situated in a separate building at the Airport. The building will be taken by the Ministry of Interior and Administration from the Ministry of State Defence and handed over to the Border Guard. Legal formalities connected with taking the building into possession can be accomplished in March 1998 at the earliest, since the procedure is quite complicated.

Modernization of the building and adapting it to required conditions will be carried out in the forth term of 1998. The Border Guard has found financial means in this year budget for adapting the building to the European standards.

Rooms used at present for foreigner refused entry to Poland have been repaired in the following way: the whole sanitary facility has been installed, rooms have been equipped with beds, mattresses and blankets, telephone has been installed, foreigners are provided with free reading materials (papers) and the rooms are noise isolated.



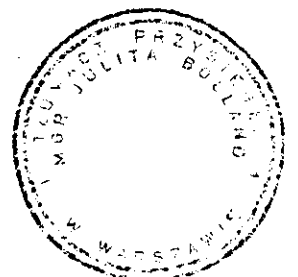
Foreigners can move freely around the place, use sanitary facilities and are provided regular meals taking into accounts their religious habits. Women and children are placed at the hotel of the airport.

5. As regards safeguards against the ill-treatment of persons detained by the police, it is stated in the interim report that the right of a person in police custody to have access to a lawyer and a doctor is observed, and that any exceptions which may have been encountered were due to negligence. It is also indicated that under Polish law there is no possibility to delay the exercise of the right concerning notification of apprehension, or to delay the provision of information about this right. Nevertheless, the CPT would like to be informed of the concrete steps taken by the Polish authorities to ensure that the rights which exist under Polish law are applied in practice, in the lights of the recommendations made in paragraphs 51 and 53 of the Committee's report.

The CPT also trusts that the follow-up report will contain responses to its recommendations concerning the issuing of a form setting out in a straightforward manner the rights of persons in police custody (cf. paragraph 55 of the Committee's report) and the drawing up of a code of practice for police interrogations (cf. paragraph 57 of the Committee's report).

The current criminal procedure does not contain the legal obligation to enable a detained person access to a lawyer (such obligation refers to a suspected), however, acknowledging the actual right of access to a lawyer, in practice a detained person has a possibility to the access on any requirments.

The Code of Criminal Procedure coming into force since 1 September 1998 states that a detained person, on request, should have



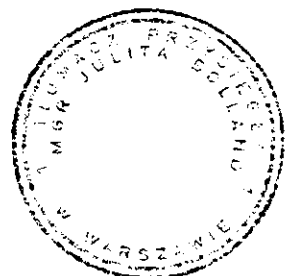
an access to a lawyer without delay and also should have a possibility of a direct contact with a lawyer (Article 245 par 1 of the Code of Criminal Procedure). The Article 244 par 3 of this Code states that a detained person should be informed on his rights which is to be noted in records of a detained person. A form of the records contains rights of a detained person (complaints to a court, notifications of a close relatives, an employer and a school), the copy is served on a detained person. In this situation writing a separate form on rights of a detained person is redundant.

The General Police Command admits that the current norms concerning interrogations and also the system of policemen training, official supervision of superiors make the special Code (rules and regulations) related to a method of conducting interrogations unnecessary. Possible cases of breaching the law while conducting interrogations will be certainly and without fail prosecuted.

On the grounds of the Regulation of the Council of Ministers of 17 September 1990 on identity control, luggage searching and checking cargo by policemen, a detained person should have access to a doctor and a medical care provided, especially when a person lost consciousness or has visible body injuries. A policeman is responsible for applying first-aid (within his means), when a detained person asks for help, says that suffers from a disease needing continuous or periodic treatment which while discontinued may endanger life or health, and when it appears from the police information or apprehension circumstances that a detained person suffers from a transmissible disease. A form of apprehension signed by a detained person contains a space on application for medical examination made by a detained person or a policeman.

Prison establishments

6. The CPT has noted that a shortage of financial resources is



hampering efforts to modernise the Polish prison infrastructure and to implement some of the Committee's recommendations. Nevertheless, the Committee would like to be informed of the progress made since the interim report as regards conditions of detention in the prisons visited (in particular, in respect of recommendations made in paragraphs 69, 79, 84, 96, 105 and 110). Further, the CPT trusts that the follow-up report will provide reactions to the comments made in paragraphs 79 and 91 of the visit report.

In the period of the last 6 months, still insufficient financial resources, described in detail in the interim report, assigned for the prison infrastructure determined the range of expenditure for modernisation and renovation, and in result the improvement of accommodation conditions of prisoners in visited establishments. Nevertheless, in this period many measures have been undertaken to address the problem.

Warszawa-Białołęka Remand Prison cells in the units 1-2 in the block 1, social rooms in the blocks 1-4, the corridor in the basement of the block 4 and a part of cell in the block 3 have been painted. The ambulant room in the block 1 has been also renovated, the library in the block 3 has been modernised. Benches and sport facilities on exercise yards near the blocks 1, 2 and 3 have been repaired to offer better recreational conditions.

As regards the par 79 of the CPT report, the authorities of the prison has informed that in all blocks of the remand prison there are common shower facilities that enable prisoners to take showers according to the regulations as well as additional showers ordered by a doctor. These facilities are renovated and mentained constantly. At present all shower facilities are in proper state of repair.

Furthermore, the shower facilities in the blocks 1 and 4 have been refurbished and in the block 2 have been renovated. Rooms



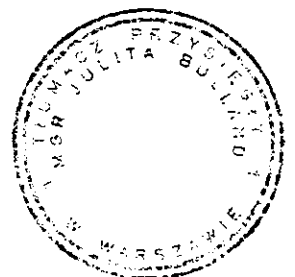
in the cell units have been adapting for units' shower facilities to place them on each level of the building (accommodation block). This kind of shower facilities are at use in the units of the block 2 and currently rooms in the block 1 are being adapted.

At the end of 1996 the laundry of the prison was modernized, the repair work is a thorough refurbishment of the laundry and its equipment. At present, quality of washed clothes and underwear is acceptable since there are no more complaints of prisoners.

Strzelce Opolskie Prison No 2. Since 6 June 1997 in the block 1 electric installation of lighting, electric sockets, telephone installation, call system, fire-control and radion and television installation have been replaced. The cells of the unit 8 in the block 3 and the central social room have been painted. All cells in the units of the block 1 have been painted and all sanitary facilities have been replaced. The roofs of the block 3, the kitchen building, the laundry of the store and the workshops have been maintained. The central heating installation in the workshop and the store has been replaced. Currently, refurbishment works of the social events building (meeting rooms) are continued, it is planned to be completed in this year.

Grudziądz Prison No 1. Since 6 June 1997 rooms in the Mother-and-Child Unit have been thoroughly renovated. The infirmary rooms have been refurbished what considerably improved conditions of medical examination. Since accommodation conditions in the block 1 i.e. the one at the lowest standard, were very poor, it has been excluded from use. The part of central heating system has been modernized what improved heating conditions and provided prisoners with hot water. Additional rooms have been prepared to be used as drying rooms, and now they are in each of cellular unit.

As regards the par 91 of the CPT report, it should be noticed that all cellular units have been provided with washing machines



and the drying rooms what improved quality of washing prisoners' clothes. Also, the most used clothes are replaced with new ones.

Last year, inspections made by the local inspectors did not find and incorrectness and did not receive any complaints from prisoners.

7. The Committee has noted that more flexible forms of prisoners' employment are provided by the new Penal Executory Code, and that specific regulations on the issue will be contained in a forthcoming Law on the employment of persons deprived of their liberty. The CPT hopes that the Polish authorities will provide more details on this new legislation in their follow-up report.

The Act on employment of persons deprived of liberty was passed by the Parliament of RP on 28 August 1997 coming into force on 1 January 1998. The Act comprises regulations concerning factories within prisons as well as employment in factories not connected with prisons. Tax allowances and exemptions for factories within prisons depend on the rate of employment of sentenced prisoners, this kind of solution is aimed at increasing their employment. A part of financial means obtained from tax allowances and exemptions factories will transfer to the Fund of Development which will finance activities connected with social rehabilitation such as: creating new job paces, organizing professional education and training, modernizing factories within prisons and their production, creating prison infrastructure indispensable for social rehabilitation activities.

Outside contractors not connected with prison service can benefit of allowances of legal persons and persons income tax under condition that sentenced persons are employed. The regulations of the Act on employing sentenced persons provide a possibility to specify an amount for social insurance of persons deprived of liberty who are employed while serving a sentence by the Regulation



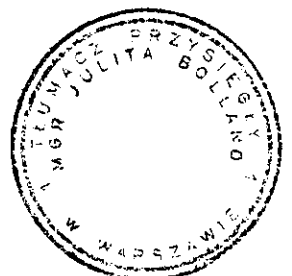
of the Council of Ministers. The draft of this regulation is being consulted in the Ministry of Justice.

It should be forecasted that solutions passed in the Act on employment of persons deprived of liberty will enhance the increase of their employment. In view of the fact that the Act came into force scarcely on 1 January 1998, evaluation of its results can be made after at least a few months since it was announced.

Regulations of the new Executory Penal Code, which will come into force on 1 September 1998, will also provide more possibilities of employing persons deprived of liberty, this concerns remunerated work as well as unpaid work.

Except for up to the present form of a note directing sentenced persons to work on the basis of employment contracts concluded between an employer and a director of a prison, a prisoner has a possibility to work on his own or on the basis of a work contract. A sentenced persons will be able to be employed outside prison regardless the type of the prison establishment. Only transport method will depend on the type of the prison. Sentenced persons serving in half open and open prisons will be able to be employed outside the establishment also without a guard, also on single work places. The thorough guard system is intended only in prisons of a closed type. It is significant that most of factories connected with the prison service operate within prisons of closed type. The regulations of the Executory Penal Code and the Act on employment of persons deprived of liberty give the possibility to remunerated work for all categories of sentenced persons.

According to regulations of the Executory Penal Code currently in use, a sentenced person can be employed without payment for cleaning jobs or administration and managing jobs done for the prison establishment for a period not longer than 60 hours per month, and furthermore, on written agreement of a prisoner for public works



on behalf of a local government. The new Executory Penal Code assumed similar concept with a wider range of unpaid jobs done on written agreement of a sentenced person, such as welfare jobs and cleaning jobs for the prison. These ideas on unpaid job will enable to organize properly activities of prisoners who have no remunerated work.

Efforts to create as many as possible independant places of work for prisoners in prison establishments have been still made. Trainings on employment of persons deprived of their liberty are organized, and attention is paid mainly to spreading the new legal regulations and looking for new jobs for prisoners. Promotions event of prison factories products are organized to find contractors, to increase the market and production. Increase of the market for goods produced by prisoners and greater demand for them should result in increase of employment of persons deprived of liberty.

To sum up, it should be stated that considering a specific transition period related to coming into force the set of regulations on criminal law and executory criminal law, also on employment of persons deprived of liberty, the evaluation of a practical meaning of new solutions and measures taken to increase employment of prisoners will be able in suitable time perspective.

8. The Minister of Justice Decree on temporary arrest and imprisonment is said to contain regulations corresponding to the CPT's recommendations in paragraph 22 concerning medical examinations of newly-arrived prisoners, to the extent that all such prisoners are issued with a health certificate. However, the actual procedure for establishing - and the contents of - this health certificate are not clear from the interim report; the Committee would like additional information to be provided in the follow-up report. Further, the CPT trusts that the Polish authorities will provide a copy of the



1997 Regulations on health-care for detained persons referred to in the interim report.

Newly arrived prisoners are examined by a doctor according to the regulation of the Minister of Justice of 11 May 1967 on organization and principles of work of the prison service and on rules and regulations of execution of imprisonment penalty and on rules and regulations of execution of temporary arrest.

Newly arrived prisoners in a period of 14 days are examined medically and paraclinically. Examinations consist of anamnesis and medical examination. Then prisoners are checked by a dentist, they are X-rayed, the Bordet-Wassermann test is done, and women undergo a gynaecological examination.

A prison doctor can order other medical analyses if it is justified by a health state of a prisoner. All medical data is recorded in a **health book** of a prisoner, and results of additional examinations are included to the book.

The regulations on medical care of persons deprived of liberty are following:

1. The order of the Minister of Justice of 11 May 1967 on organization and principles of work of prison medical service.

2. The regulation of the Minister of Justice of 20 March 1992 on establishing, organizing and supervising of health-care establishments for persons deprived of liberty, sorts of medical documentation and procedure of recording medical data, and on detailed conditions of access to medical files.

3. The regulation of the Minister of Justice of 23 April 1993 on types of pharmacies within prison establishments, on specifying premises conditions and equipment of pharmacies, principles of dispensation of medicines and medical materials and on retail trade of medicines and medical materials outside pharmacies.



4. The order No 1/97 of the General Director of Administration of the Prison Service of 22 January 1997 on specifying internal organization and tasks of pharmacies within prison establishments and remand prisons.

5. The order of the Minister of Health and Welfare of 11 November 1985 on principles of inspection tasks carried out by the state health (sanitary) inspectors in certain establishments subject to the Minister of Justice.

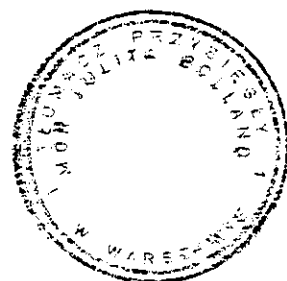
Enclosed please find the above-listed legal regulations concerning health-care of persons deprived of liberty (attachements No 2-6).

As it has been stated in the interim report, according to regulations of execution of imprisonment penalty and temporary arrest, free of charge health-care service is provided.

9. The Committee also hopes that the Polish authorities will be in a position to provide further reactions to the comments made in paragraphs 139, 140, 149 and 152 of the CPT's report, concerning prison staff, inspection procedures and facilities for visits.

The Prison Service staff is recruited according to the following principles:

1) a candidate makes an application together with a diploma of graduating from a middle or high school. Candidates who graduated from high schools (minimum is 3-years professional school or 5-years M.A. studies, 6-years medical studies) can be recruited for officers staff. Candidates for the penitentiary units are preferable recruited from among graduates of pedagogical or humanistic studies like: psychology, social sciences, social rehabilitation sciences of different types of universities in Poland. Programmes of the high schools are worked out by schools themselves and ratified by the Ministry



of State Education. Candidates have rights granted by other state regulations to work according to the subject of their studies.

2) a candidate undergoes medical and psychological examination with regard to their psycho-physical ability to the service,

3) personnel offices of organizational units of the Prison Service check a candidate with regard to their penalty records,

4) candidates are interviewed (depending on what post a candidate is to be accepted) with a director of a prison establishment or a remand prison, accompanied by a manager of a prison service and personnel office employee. A candidate is informed on a range of duty on a post he is to be accepted, and on a system of training, especially during 2-year preparatory (initial) service.

5) positive opinions of interviews, medical examination, unpunished police records and confirmation of proper education are the basis for a candidate to be accepted to the Prison Service.

Referring to paragraph 138 of the CPT's report.

A professional training of officers of the Prison Service in Poland since 1 September 1997 is divided into three basic stages described in details in the interim report.

The main rule of the training process of officers of the Prison Service in Poland considers the proper training of staff to be vital for creating ability of correct attitude towards prisoners and better condition for positive influence on prisoners going beyond supervising and controlling.

The new Act on Prison Service entered into force on 1 September 1996 has changed the former organizational structure of the prison service, the direct supervision of prison establishments and remand prisons is executed by 15 district inspectors of the Prison Service (formerly: district remand prisons and district prison establishments), implementation of tasks of organizational prison units



is supervised by the Central Administration of the Prison Service.

The principles of inspection of penitentiary units by the Central Administration of the Prison Service and the district inspectors of the Prison Service comply with the recommendations of the Committee.

Inspections of prison establishments and remand prisons are carried out on the basis of an amended in October 1996 Order No 2 of the Minister of Justice of 22 January 1992 on rules and procedure of supervising organizational prison units. The Order specifies supervisions as thoroughful, thematic and summary (emergency). Opinions are collected through visiting cells and talks with persons deprived of their liberty.

The thoroughful supervision comprises inspections of all aspects of life in a prison executed in every prison establishment and remand prison not less than once in three years. With regard to a type and size of the establishment, a supervising team consists of 10 to 14 officers and the Prison Service staff, also a doctor, with proper qualifications and practical knowledge on functioning of prison establishments and remand prisons.

The main principle during the thoroughful supervision is to inspect the whole penitentiary object, a special attention is paid to conversations with prisoners. The team inspects all blocks and units, cells are visited, also the ones where prisoners under a special regime are placed and cells for solitary confinement disciplinary sanction, prevention cells and other rooms of visiting establishment. Prisoners in cells have a possibility to personal contact with inspecting team and to present their problems with being accompanied by a representative of the administration staff, and to bring their complaints, requests and motions.

All critical remarks on observing rights and on work of the establishment made by prisoners, and also their complaints are checked



and cleared up in the course of inspection.

In cells members of the team pay attention to material conditions (accommodation rate with regard to obligatory norms, lighting, equipment, technical state of repair, hygienic state, etc.). Also other rooms are inspected, such as: school rooms (classes, laboratories, libraries), social rooms (canteens), medical rooms (examination rooms, infirmaries, hospitals), shower facilities, kitchens, store rooms, laundries, boiler rooms, workshops and other like visits rooms. Outdoor facilities like exercise yards, walking fields, recreational equipment. Facilities are inspected whether they provide proper condition to be used and whether they are used according to their purpose.

Opinions drawn by the team during inspection of an establishment, results of conversations with prisoners and staff, also results of checking documents of the prison administration are used to evaluate activity of the establishment concerned. In 1996 and 1997 this kind of inspections were carried out in 103 penitentiary establishments (29 in 1996 and 74 in 1997).

Records with detailed results of an inspection are given to a manager of an inspected unit, also a director of the district Prison Service and the General Director of the Prison Service. Recommendations given during the visit are to implemented, and after a fixed term their implementation is supervised by the body that inspected the establishment.

In the period between the successive thoroughful inspections, other kinds of supervision like thematic inspections are carried out in prison establishments. The thematic inspection is addressed to check one or several chosen issues concerning activity of an establishment, or they are **ad hoc** inspections. These inspections are carried out by the district inspection offices of the Prison Service and by the Central Administration of the Prison Service. During



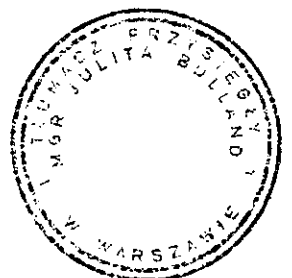
these inspections cells are visited and prisoners are talked to, however, especially in establishments with high accommodation capacity, inspections are not so complex as the thoroughful ones.

It should be noted that except of the inspection conducted by the above-mentioned prison organizational units, prison establishments and remand prisons are subject to inspections conduct by the penitentiary supervision. Intense monitoring checking whether rights of prisoners are observed is conducted by the Office of the Citizens Rights Ombudsman and by extragovernment organizations and societies such as Helsinki Committee, Penitentiary Society "Patronat", etc. Referring to paragraph 152 of the CPT's report, it should be noted that the current Executory Criminal Code Art. 89 par 2 and the new Executory Criminal Code Art. 217 par 1 ascertain that a person under temporary arrest receives a visit on agreement of the authority at whose disposal he remains. According to par 34 item 2 and 3 of the Rules of execution of the temporary arrest, visits should not disturb criminal procedure and a detained person should not have a physical contact with a visitor. The authorities at whose disposal a detained person remains can allow for another kind of a visit. The project of the new Rules on executing of temporary arrest, which is the executory law to the new Executory Criminal Code, consist of the same rules.

As it was mentioned in the interim report, in the course of preliminary procedure persons under temporary arrest can receive visits. Limitations are exceptional and caused by absolute necessity connected with particular benefits for the conducted procedure.

Establishments for Juveniles

10. According to the interim report, practically all the CPT's recommendations and comments have been taken into consideration



and acted upon. However, it is not clear from the interim report whether juveniles undergoing a measure of isolation as a sanction are now guaranteed at least one hour of outdoor exercise every day.

Further, the CPT trusts that the follow-up report will provide more details on the May 1997 Regulations on correctional establishments and homes for juveniles issued by the Minister of Justice.

The interim report comprised the information from the Department of Family Affairs and Juveniles in the Ministry of Justice on implementation of the CPT recommendations, during special meetings with staff of establishments, on thoroughful guarantee of juveniles rights in all aspects of their staying in these establishments, so that also at least 1 hour of outdoor excercises when they stay in an isolation room.

Furthermore, in order to observe the principles of staying in isolation rooms, the information on a committment of inspectors of pedagogical supervision to execute the principle of organizing outdoor recreational activities has been given.

At present it has been confirmed in the above-mentioned department that the principle that juveniles staying in isolation rooms for disciplinary reasons have access to at least 1 hour of outdoor activity.

The new Regulation of the Ministry of Justice of 9 may 1997 on types and organization of correctional establishments and principles of staying in them is an executory act to the law on procedure in cases of juveniles. The new Regulation replaced the former one of 1983. Working out the new regulation has been justified by adapting legal regulations to present and future requirements for social rehabilitation influence (tasks of correctional establishments) what is inherently linked with increase in juveniles' crimes and their new appearances.



Opinions included in the pronouncements of the Senate Office Intervention Bureau and the Citizens Rights Ombudsman affected the evaluation of the legal state of carrying out punishment such as staying in a correctional establishment and of undertaking measures to improve it.

The amendments to two laws passed in 1995 were caused by the necessity to ammend and to complete the regulation of the Minister of Justice on organization and principles of juveniles' staying in correctional establishments. The amendments concerned safety in conduct in cases of juveniles, use of direct means of coercion and the law on education system on the grounds of which the Minister of Justice has been empowered to pedagogical supervision over correctional establishments.

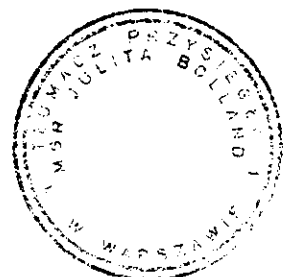
The important incentive to changes in regulation concerning correctional establishments was also the ratification of International Acts and conventions on protection of human rights and child rights by Poland.

The most significant practical issues for the new, currently in force Regulation of the Minister of Justice on types and organization of **correctional establishments** and on principles of staying in them, are the following:

1. new division of correctional establishments (according to a profile) on open, half-open and closed with a stricter supervision regime;

2. more rights granted to a director and a pedagogical board of an establishment to make decisions on certain problems concerning conditions and organization of staying of juveniles and tasks of the establishment; the rights have a form of a "statutes of the establishment";

3. specified conditions and principles of managing establishments, principles of directing juveniles to proper types of correctio-



nal establishment and transferring them to other places with regard to individual progress in social rehabilitation;

4. introduction of the catalogue of rights and obligations of a juvenile according to the international agreements (European standards) ratified by Poland;

5. smaller number of juveniles in groups and school units, specified in the regulation of the Minister of Justice being in force up to now, rights granted to a director to make decisions on increasing or decreasing the number of juveniles in groups and classes in justified cases, like danger caused by unusual events;

6. confirmation of the right of a director to apply particular safety measures (means of direct coercion) towards juveniles, which is granted on the grounds of the law on procedure in juvenile cases;

7. re-vested rights of presidents of provincial courts to administrative supervision over these establishments, rights to pedagogical supervision vested to them by the Minister of Justice, the right is executed by visitators with pedagogical qualifications.

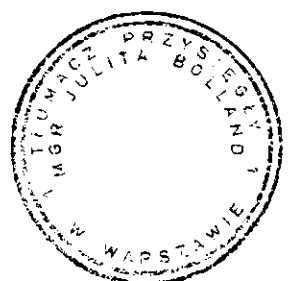
The same significant issues as listed above justified the new Regulation of the Minister of Justice on types and organization of **homes for detained juveniles** and on principles of staying in them to be prepared.

The most significant issues addressed in the new Regulation are the following:

1. managing homes for detained juveniles as separate organizational units,

2. except for homes for juveniles in general, creating homes for juveniles aggressive towards their inmates and employees who stay in other homes, for juveniles who often escape or disorganize work of these establishments (so called intervention homes),

3. defining the range of homes for juveniles in general conside-



ring the educational level,

4. granting more rights to a director and a pedagogical board of a home to make decisions on certain problems concerning conditions and organization of staying of juveniles and educational, diagnostic, school tasks; the rights have a form of a "statutes of the establishment";

5. granting more rights to juveniles staying in homes (in comparison to the present state) to comply with requirements of international agreements ratified by Poland,

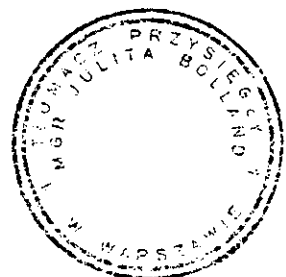
6. decreasing the number, specified in the regulation of the Minister of Justice, of juveniles in groups and classes by 15% and granting a director the rights to make decisions on increasing or decreasing the number of juveniles in groups and classes in justified cases, like danger caused by unusual events;

7. confirming the right of a director to apply particular safety measures (means of direct coercion) towards juveniles, which is granted on the grounds of the law on procedure in juvenile cases, if it is necessary for safety of juveniles, employees and property; in case of a danger, a director can also call in the Police for help,

8. revesting rights of presidents of provincial courts to administrative supervision over these establishments, rights to pedagogical supervision vested to them by the Minister of Justice, the right is executed by visitators with pedagogical qualifications.

As regards implementation of the above-listed regulations of the Minister of Justice, the Department of the Family and Juveniles has undertaken certain measures:

I. The order of the Minister of Justice of 19 August 1997 on creating homes for juveniles and correctional establishments and specifying their types, which enabled to define the range of homes and establishments according to criteria in the mentioned regulations.



Since 1 September 1997 the following establishments are managed:

- 18 homes for detained juveniles:

15 common homes (3 for girls) and 3 intervention homes (in Chojnice, Warszawa-Okęcie and in Łańcut),

- 26 correctional establishments:

- 5 open (social adaptation centres for juveniles)

- 12 half-open (3 for girls),

- 1 for escapees for open and half-open establishments,

- 3 of a more restricted educational regime for boy of high degree of demoralization,

- 3 for boys with mental disorder

- 1 (social rehabilitation and therapeutic) for boy, drug addicts and for HIV-positive,

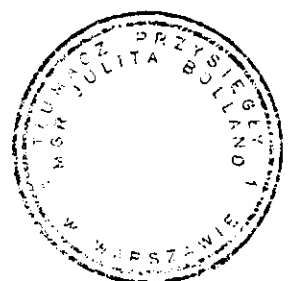
- 1 (social rehabilitation and therapeutic) for boy with mental disorder and other disorders of personality.

Furthermore, it is considered to establish a correctional centre for social rehabilitation and therapeutic purposes for boys at normal IQ level with personality disorders, mainly for psychopaths. The similar establishment, a small one, should be opened for girls, but at the moment there are no appropriate buildings.

II. The order issued by the Minister of Justice on 20 August 1997 on creating district teams of pedagogical supervision over correctional establishments, homes for detained juveniles and diagnostic-consulting family centres.

This legal order creates new possibilities for pedagogical supervision to influence thoroughful implementation of the regulations, since inspections becomes closer to establishments and can help in carrying out tasks of the establishments.

III. The order of the Minister of Justice of 29 September 1997 on appointing teams of specialists to gives opinions on directing and



transferring juveniles to appropriate correctional establishments.

In connection with the fact that the range of correctional establishments has been defined, this legal order solves the problem of directing and transferring juveniles on the basis of professional pedagogical and psychological diagnosis to an appropriate establishment (as regards educational methods).

IV. Since 1 September 1997 the number of juveniles in groups in all correctional establishments and homes for detained juveniles has been reduced according to regulations. To carry out this decision was related to increase of the number of educational groups in the establishments and to increase of employment of new educators.

V. On the day the new regulations came into force, certain correctional establishments were separated from homes for detained juveniles. At the moment there are 26 correctional establishments, among them 16 are managed separately and 10 together with homes for detained juveniles. At present, there are 18 homes for detained juveniles, among them 10 are managed together with correctional establishments and 8 as separated units. The further work on separating correctional establishments and homes will be possible when new buildings are prepared.

VI. In connection with the above described situation, the new buildings are being looked for; these buildings must meet functional and architectural requirements (like for example Gacki in Radom Province).

VII. The detailed measures aimed at thorough implementation of regulations have been undertaken in the correctional establishments and homes for detained juveniles, such as:

- work on statutes of establishments,



- work out safety plans for establishments in cooperation with the Police on the grounds of the Ministry of Justice's regulation of 9 December 1996 on the range and procedure of cooperation between correctional establishments, homes for detained juveniles and the Police in cases these establishment are in danger,

- undertake refurbishment and modernization works, provide proper technical, alarm and signalling security measures in isolation cells,

- undertake measures in order to carry out detailed tasks which are results of the mentioned regulations, e.g.: advising juveniles of their rights, supervising and evaluating work of educators and other pedagogical staff members, creating new units or groups in an establishment.

To sum up, it should be admitted that the range of undertaken implementation works is quite wide. Further plans will be related to organizational, investment and renovation decisions directed to development and improvement of establishments for juveniles.

11. It is stated in the interim report that in October 1996, the Minister of Health issued comprehensive regulations on the work of the sobering-up centres. The CPT would like the follow-up report to contain more details on these regulations.

The Committee has also noted that the State Agency for Solving Alcohol Problems offers special training to doctors working at sobering-up centres, including on issues such as the methods to be applied to violent intoxicated persons, the forcible taking of blood and other samples, etc. The CPT trusts that the Polish authorities will provide more information on the actual contents of this training.

In connection with interest of the CPT in detailed regulations



concerning work of sobering-up centres, I present as an enclosure No 7 the Regulation of the Minister of Health and Welfare of 23 October 1996 on the procedure of delivering intoxicated persons, organizing sobering-up centres, the range of health-care and principles of fixing payments for delivering and staying in a sobering-up centre.

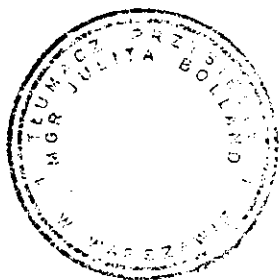
Considering the too short period of carrying out this regulation, the above-mentioned Agency does not have evaluation of up to now experiences resulting from practical application of this regulation.

The Agency mentioned above cannot present a professional training programme for physicians employed in sobering-up centres as the group of experts working on it has not yet completed the programme. Furthermore, sobering-up centres do not seem to be interested in long term training for physicians, since they are usually employed on contract basis. Their main places of work are health-care institutions not connected with sobering-up centres and it is a main difficulty to send a physician for a two or three-day training. For such reason it is necessary to reconsider the range of a professional training and the way of organizing it.

7 enclosures

Worked out in
the State Public Prosecutor Office

Mgr Julita Bolland, tłumacz przysięgły przy Sądzie Wojewódzkim w Warszawie stwierdza, że niniejsze tłumaczenie jest zgodne z oryginałem dokumentu sporządzonym w języku polskim.



Julita Bolland
Julita Bolland