**Information in response to a letter from The Special Rapporteur on extrajudicial, summary or arbitrary executions, concerning a call for inputs on deaths in custody**

1. **Existing practices for data gathering, analysis and reporting of deaths in custody, including the use of statistics and the disaggregation of data (e.g. by different categories and causes of deaths in custody; place of occurrence (e.g. on remand, in prison, in hospital, etc.); types and legal status of affected populations, etc.), including figures of deaths in custody documented in recent years:**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Deaths of all categories of inmates[[1]](#footnote-1)** | | | | | |
| **Year** | **Category** | **Due to natural cause** | **Due to auto-aggression** | **Other[[2]](#footnote-2)** | **Total** |
| **2019** | Found in the penitentiary unit | 90 | 20 | 4 | **114** |
| Found outside the penitentiary unit | 39 | 4 | 2 | **45** |
| **2020** | Found in the penitentiary unit | 96 | 25 | 1 | **122** |
| Found outside the penitentiary unit | 49 | 2 | 1 | **52** |
| **2021** | Found in the penitentiary unit | 101 | 21 | 5 | **127** |
| Found outside the penitentiary unit | 54 | 6 | 1 | **61** |
| **2022** | Found in the penitentiary unit | 96 | 14 | 4 | **114** |
| Found outside the penitentiary unit | 70 | 1 | 7 | **78** |

1. **Measures in place, including policies and good practices for investigating, documenting and preventing deaths in custody:**

Referring to the second question, it should be emphasized that the Polish law does not distinguish between separate categories of death outside the penitentiary unit, or on the premises of penitentiaries, during pretrial detention or serving a prison sentence. The initiation of criminal proceedings is always decided by the prosecutor based on all of circumstances of the death of the person.

All decisions in the course of criminal proceedings are made by prosecutor on the basis of the provisions of the Code of Criminal Procedure. The provisions of the Law of January 31, 1959 on cemeteries and burial of the deceased as well as the regulations of the Decree of the Minister of Justice of July 07, 2010 on the manner of handling the remains of persons deprived of liberty who died in penitentiary institutions and detention centres are applicable in the case of the occurrence of death of the person on the premises of a penitentiary or detention centre.

During the pre-trial investigation, the inspection and opening of the of the corpse is regulated by the norms included in Article 209 of the Code of Criminal Procedure. According to § 4 of this article, the opening of a corpse is always carried out by an expert, if possible in the field of forensic medicine, in the presence of the prosecutor or the court. The procedural examination of the corpse combined with its opening, depending on the circumstances of the discovery of the corpse, injuries, traces revealed, statements of direct witnesses etc. often require securing appropriate samples /e.g. blood/ for possible later examination and the need to obtain additional expert opinions before determining the cause and mechanism of the death. In the criminal process, at the pre-trial stage, this type of activities are decided by the prosecutor.

It should be also indicated that Polish criminal procedure provides appropriate solutions in cases involving the death of a person in connection with committing a crime, which guarantee the possibility of realization of the rights of the victim by the next of kin or dependents of the deceased.

These persons, in pretrial proceedings may exercise all the rights that a victim would have had under the rules of a party. This includes the possibility of appeals and remedies, which remains the Special Rapporteur's area of interest. At the stage of the jurisdictional hearing of the case, the right to act as a party by the victim, and thus consequently also by the above-mentioned circle of persons, depends on the expression of their intent to act before the court as a subsidiary prosecutor. The statement could be express until the commencement of the trial proceedings at the main hearing, as determined by the procedure included in Articles 53-54 of the Code of Criminal Procedure.

1. The compilation also includes numbers from the Polish prisons [↑](#footnote-ref-1)
2. Deaths due to natural cause are also included in this category due to the inability to determine the cause of death in a reporting year (ongoing investigations) [↑](#footnote-ref-2)