



Warsaw, November 8, 2023

**OFFICE OF THE COMMISSIONER
FOR HUMAN RIGHTS**

Deputy Commissioner for Human Rights

Wojciech Brzozowski

KMP.0720.2.2023.MK

Dr. Alice Jill Edwards

**UN Special Rapporteur on Torture and
Other Cruel, Inhuman or Degrading
Treatment or Punishment**

Dear Madam Rapporteur,

Since 2008, the Commissioner for Human Rights has been performing the role of the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the United Nations General Assembly in New York on 18 December 2002 (OPCAT). The related tasks of the Commissioner for Human Rights are carried out by the Department of the National Mechanism for the Prevention of Torture (NPM), which operates within the Office of the Commissioner for Human Rights.

Following your invitation, I am pleased to present to you the systemic problems identified by the NPM in the penitentiary institutions in Poland.

1. Small living space in prison cells

For years, the National Mechanism for the Prevention of Torture has been calling on the authorities to introduce relevant legislative changes to increase the amount of living space per prisoner in a cell.

According to the regulations applicable in Poland, a prisoner is guaranteed a minimum of 3 m² of living space. The legislation also provides for the possibility of reducing the 3 m² standard in specific circumstances. The Polish standard, however, is contrary to international standards in this respect.

The problem of the so-called multiple-occupancy cells has not yet been solved. There are still cells for more than ten inmates. In 2022, the NPM visited the establishment with twenty two 16-person cells.

2. Medical examination of persons placed in penitentiary establishments and the absence of procedures to document injuries in cases of reported torture

Not every person placed in a penitentiary establishment undergoes a medical examination. Only “newly detained” persons are examined, not those who are transferred between penitentiary establishments. Although they are initially interviewed by a nurse, who refers them to a doctor if necessary, there is no provision for a mandatory physical examination of all detainees on admission, including body examination. This practice causes a major gap in the system of preventing torture and ill-treatment. Even if a prisoner has undergone a medical examination before being transferred to another facility, the lack of such an examination upon arrival at the facility makes it impossible to detect signs of possible violence used against the prisoner during the transfer.

In addition, the NPM’s experience shows that the doctor’s examination is often superficial and limited to questioning the patient without examining the body (physical examination). The fact that medical personnel limit themselves to interviewing the patient without examining his or her body makes it impossible to detect signs of violence and thus renders this minimum safeguard against torture largely ineffective.

The method of documenting injuries also needs to be improved. In most cases, prisoners’ injuries are described in their health records or in prison officers’ notes. Penitentiary establishments’ personnel do not take photographs of prisoners’ injuries and do not mark them on a special form (body chart) with the outline of a human body, which is recommended by the CPT for recording prisoners’ injuries.

3. Standard applicable to the number of penitentiary psychologists

In accordance with the currently applicable standard, one psychologist may conduct psychological examinations, provide psychological support and conduct correctional activities for a maximum of 200 prisoners. In the opinion of the National Mechanism for the Prevention of Torture, this number is too high to provide adequate support to persons deprived of their liberty. This problem has been brought to the attention of the Director General of the Prison Service at several occasions. He shared the view of the NPM that a change in the provision of psychological support to prisoners was necessary. However, he pointed out that without new job positions being made available to the penitentiary system, any changes in this area would only be gradual and dependent on the availability of funding. Unfortunately, the actions taken so far have not produced any tangible results. The problem of excessive workload for forensic psychologists continues to be monitored by the NPM.

4. Situation of inmates with reduced physical capacity, chronic somatic illnesses or old age

Inmates with reduced physical abilities are a group at risk of torture or inhuman or degrading treatment. Despite the fact that inmates who are dependent on other persons do not receive adequate support in penitentiary institutions, the establishments are formally obliged to admit as inmates even individuals who require immediate hospitalisation due to an imminent threat to their life or health, or women who are 28 weeks or more pregnant.

Within the Polish prison system, there is only one prison hospital ward for such inmates, i.e. the Ward for Chronically Ill Prisoners in the prison in Czarne. Due to the limited number of places in this facility, inmates sometimes wait more than a year for admission. Somaticallly ill inmates placed in other penitentiary establishments require regular assistance from other prisoners in order to carry out their basic life functions.

5. Inadequate provision of cultural and educational activities for the inmates in remand prisons

Remand prisoners spend most of their time (on average, 23 hours a day) in their cells. They are allowed to go out for a walk for one hour a day and spend some time in the recreation room (on average, about one hour once or twice a week). They can also borrow books from the library. Although the visited establishments took attempts to organize some additional cultural or educational activities aimed at developing civic and

patriotic attitudes (e.g. exhibitions or knowledge quizzes), such activities were only incidental. In the opinion of the NPM, the availability of activities is not sufficient and an improvement in this area is necessary.

6. Transport of prisoners who require specialist medical care

In 2022, the NPM visited a prison in which there is a prison with the only general surgery department in prison in Poland. According to the information received during the visit, the waiting time for admission to the department was approximately 5 months.

The NPM staff were informed that, despite the existing list of surgical procedures performed in the department, there were cases of prisoners with moderate to severe health conditions, who were brought to that prison hospital from other prisons, sometimes very distant ones, without prior arrangement. Such persons often required urgent treatment in specialist non-prison health care facilities and were thus referred to those hospitals.

According to Article 115(4) of the Executive Penal Code, health care services for convicted prisoners are provided primarily by medical facilities designated for persons deprived of their liberty. However, taking into account, in the first place, the welfare of prisoner patients and the need to provide them with adequate medical care as soon as possible, the NPM believes that medical care for prisoners in emergency cases should be provided by medical facilities located closest to the penitentiary establishment where the prisoner is held. It should also be noted that convoys, especially from distant prisons and remand prisons, generate significant costs covered from public funds, and place an additional burden on prison staff.

7. LGBT+ prisoners

The Prison Service officers are not prepared to take into account the needs of LGBT+ persons held Polish penitentiary establishments. The NPM believes that there is a need for systemic solutions in dealing with such persons.

8. Alleged use of torture (under investigation)

In Barczewo Prison, the NPM visiting team were informed, during the interviews with prisoners, of several acts of violence by certain officers against prisoners that allegedly took place there. The alleged acts were said to include torture and inhuman and degrading treatment. The prisoners reported being taken from their cells to

unmonitored rooms where, according to their information, they were beaten, insulted, intimidated, choked and even waterboarded. In some cases, officers allegedly placed a black bag or a wet towel on the prisoners' heads.

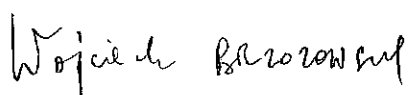
According to the material collected by the NPM representatives, a paramedic was also present during the alleged torture that took place a few days before the visit. One of the prisoners from the ward for so-called dangerous prisoners decided to file an official complaint through the NPM representative. The prisoner alleged that he had been taken to an unmonitored medical room where he was tortured by waterboarding. He had been forced to lie down on the floor, his face was covered with a towel and water was poured over it. The video recordings showed the man being brought to his cell after that and taking off his wet jacket, T-shirt, and underwear.

During the visit to another place of detention in Poland, a member of the NPM was also informed by an ex-prisoner in a confidential interview about the use of torture in Barczewo Prison. The interviewed ex-prisoner filed an official complaint through the representative of the NPM. The man said that he was tortured in June 2022. As he described it, he was first pushed against a wall and made to stand facing it. His arms were then twisted behind his back. Two officers pulled his legs, causing him to fall to the ground. He was dragged along and his arms were again twisted behind his back. As he lay face down on the floor, one of the officers allegedly pressed his knee against his neck and hit him several times on the head. The prisoner said that the officers then poured water into a black garbage bag and put his head in it, causing him to suffocate and lose consciousness. When he regained consciousness, the officers turned his head to the side and started pouring water on it.

The Office of the Commissioner for Human Rights has received 41 complaints regarding the treatment in Barczewo Prison; 35 of them have been forwarded to the Prosecutor's Office for investigation.

I hope you find the above information helpful, and I remain at your disposal should you require any further details.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Wojciech Barczewski". The signature is written in a cursive, slightly slanted style.