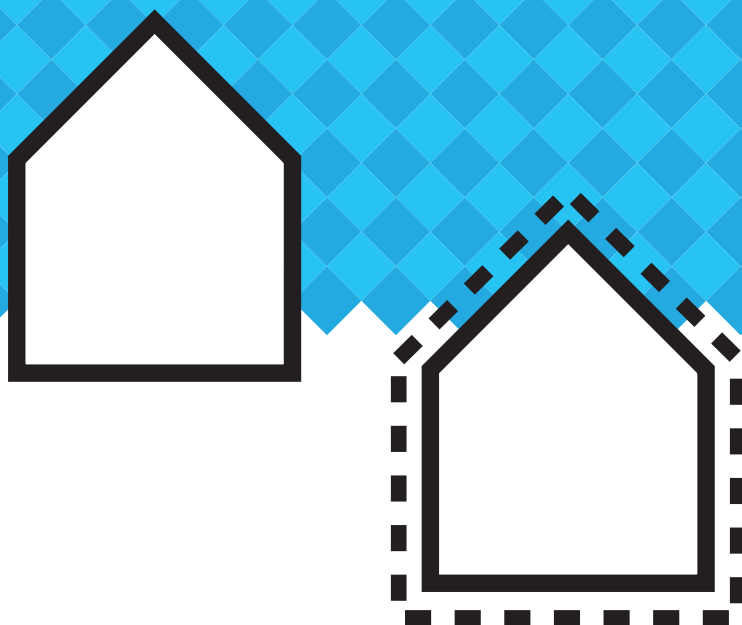


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Still behind bars

**Report on the Monitoring of Guarded Centres for Foreigners
by the Helsinki Foundation for Human Rights and the
Association for Legal Intervention**

HR HELSINKSKA FUNDACJA
PRAW CZŁOWIEKA

Stowarzyszenie
Interwencji
Prawnej

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Warsaw 2014

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I.

INTRODUCTION

This report is a result of the monitoring by the following two non-governmental organisations in January and February 2014: the Helsinki Foundation for Human Rights (HFHR) and the Association for Legal Intervention (ALI) in all guarded centres for foreigners in Poland¹. It was performed simultaneously with the controlling activities of the Ministry of the Interior and the Border Guard Headquarters.

A similar inspection was carried out more than a year ago, at the end of 2012. It was a result of protests that took place in four out of six guarded centres for foreigners in Poland. The monitoring of 2012 resulted in the report “Migration Is Not a Crime” published in Polish and English by HFHR and ALI². Following controlling activities performed at the same time, the Ministry of the Interior published a document entitled “Informacja o stanie realizacji praw osób osadzonych w strzeżonych ośrodkach dla cudzoziemców prowadzonych przez Straż Graniczną” (“Information on the progress of the enforcement of rights of people detained in guarded centres for foreigners maintained by the Border Guard”)³.

The report of non-governmental organisations of 2012 stated that the then guarded centres’ regime combined with their architecture and furnishings ought to have been deemed oppressive. The monitoring has not confirmed cases of serious law infringement by officers of the Border Guard, such as foreigners being beaten up or harassed. However, it was necessary for both non-governmental organisations to introduce many changes to too restrictive principles governing the functioning of those facilities.

The report of both organisations indicated the necessity to introduce system changes in guarded centres (withdrawing from a “prison-like” design) as well as a range of legal changes - above all provisions according to which a foreigner would be deprived of freedom only as a measure of last resort and for a period as short as possible. It was also pointed out that there was no legal grounds for applying a penalty for breach of order, such as e.g. a shopping or private telephone ban.

The Ministry of the Interior’s document stated, however, that it is necessary to review, unify and possibly reject some internal regulations of centres as well as order pro-

¹ The centres are maintained by the Border Guard. The stay in the centres is related to the migration status of foreigners. It secures the execution of the decision on deportation (e.g. if a foreigner stays in Poland without a visa or a required permit). Furthermore, asylum seekers are put there for several reasons (e.g. if it is necessary to establish their identity). The stay in the centres is in no way associated with criminal proceedings.

² The Polish version was published on the following websites: <http://www.hfhr.pl/raport-migracja-to-nie-zbrodnia/> and <http://interwencjaprawna.pl/18-grudnia-sip-i-hfpc-opublikowaly-raport-z-monitoringu-osrodkow-strzezonych-dla-cudzoziemcow-migracja-to-nie-zbrodnia/>, the English version was published on the following websites: <http://www.hfhr.pl/en/raport-migracja-to-nie-zbrodnia/> and <http://interwencjaprawna.pl/raport-z-monitoringu-osrodkow-po-angielsku/> [accessed on: 23.04.2014].

³ The document is available on the website: <http://bip.msw.gov.pl/bip/komunikaty/21835.dok.html> [accessed on: 23.04.2014]

visions and practices relating to disciplinary measures. The value of informing foreigners about their legal situation was also indicated. It was emphasised that it was necessary to reliably document personal inspections or apply measures of restraint, mitigate the approach of the Border Guard officers to the duration of visitations with foreigners' attorneys, including representatives of non-governmental organisations, increase the number of trainings and raise language skills of officers. The Ministry of the Interior expressly pointed out the improper progress of meeting the obligations of schooling underage foreigners in guarded centres. In order to minimise negative effects of minors' detention, the Ministry of the Interior also stressed the need to grant a high priority to proceedings against people staying in guarded centres and the highest priority to proceedings that underage foreigners or families with children are parties to. The Ministry's report indicated the need to place all families with children and underage children without caretakers in one or two specialised centres adjusted to that purpose which should be combined with efforts aimed at providing the best conditions possible.

The public debate relating to the protests of 2012 and recommendations included in the report of non-governmental organisations and in the Ministry of the Interior's information resulted in representatives of the Republic of Poland's authorities making a public promise to both change the law and improve the situation in guarded centres. The changes included but were not limited to implementing a ban of detaining children under the age of 15 in guarded centres and adopting provisions that require the court examining the issue of detaining minors in guarded centres to take children's interests into account. The representatives of the Ministry of the Interior also claimed that detaining children in guarded centres should constitute an absolute exception. Moreover, a possible detention in such a facility should be as short as possible. Two centres were designated to be prepared for accepting children and families: in Kętrzyn and Biała Podlaska (and additionally, the centre in Przemyśl as a reserve). Moreover, the planned closure and general renovation of the centre in Lesznowola were confirmed. It was also proposed to change the design of the centres, e.g. remove bars from the windows and inside the centres (only some zones were to be closed), employ cleaners for common rooms in the centres and allocate special financial resources to purchase televisions, computers and equip libraries⁴.

The monitoring aimed above all at verifying how the situation in guarded centres changed and how promises made by authorities were fulfilled. To some extent, we also refer to changes that occurred last year in the provisions of law; however, the full scope of changes included e.g. in the Act of 12 December 2013 on Foreigners⁵ and regarding detention of foreigners exceeds the framework of this report. The monitoring also consisted in verifying whether the conditions of stay of foreigners in guarded centres were compliant with the applicable law, including international law. Detention

⁴ See i.a. <https://emn.gov.pl/esm/aktualnosci/9933,Propozycje-zmian-w-osrodkach-strzezonych-dla-cudzoziemcow.html>, <https://msw.gov.pl/pl/aktualnosci/10559,Beda-zmiany-w-osrodkach-strzezonych-dla-cudzoziemcow.html> and <https://emn.gov.pl/esm/aktualnosci/10515,Stan-i-sposoby-wdrazania-zmian-w-regulacjach-dotyczacych-detencji-cudzoziemcow.html> [accessed on: 21.05.2014].

⁵ Dz.U. [JoL] of 2013 Item 1650, amendment: Dz.U. [JoL] of 2014 Item 463.

centres for the purpose of deportation were not monitored; however, details regarding such centres have been included in statistics.⁶

This time, in contrast to the monitoring of 2012, earlier arrangements were made with the Ministry of the Interior and the Border Guard Headquarters with regard to the role and authorisations of representatives of HFHR and ALI during the monitoring at the initiative of non-governmental organisations. On that basis the representatives gained access to documentation in guarded centres (documentation relating to applying measures of restraint, personal inspections and inspections of rooms, the internal order of centres, with a foreigner's consent - to the foreigner's medical records, in the case of family centres - documentation relating to meeting obligations of schooling), free access to common rooms and foreigners' rooms (with their consent) as well as obtained a permit for taking pictures of common rooms. The arrangements were provided to all guarded centres by the Border Guard Headquarters even before the monitoring started.

>>> 2

Methodology of the monitoring

As referred to above, the monitoring activities were carried out by lawyers of HFHR and ALI simultaneously to controlling activities of the Ministry of the Interior. The guarded centres were monitored on the following days: 21-23 January in Przemysł, 27-29 January in Białystok, 30-31 January in Biała Podlaska, 5-7 February in Kętrzyn, 11-12 February in Krosno Odrzańskie and 17-18 February in Lesznowola. Each monitoring involved two people, one from each organisations. The monitoring teams were composed of: Jacek Białas (HFHR), Dawid Cegiełka (ALI), Adam Chmura (ALI), Marta Górczyńska (HFHR), Ewa Ostaszewska-Żuk (HFHR), Karolina Rusiłowicz (HFHR), Katarzyna Słubik (ALI), Anna Trylińska (ALI) and Daniel Witko (HFHR).

Similar to 2012, non-governmental organisations carried out monitoring activities based on a uniform, common methodology so that it was possible to compare activities and practices of various centres. A survey including a detailed description of issues verified in each centre, instructions relating to interviews with foreigners and officers as well as a statistical questionnaire to be completed by the management of guarded centres. The time scope of the monitoring extended from 01 January 2013 until the monitoring day.

⁶ A detention centre for the purpose of deportation (*areszt w celu wydalenia*) is a different facility than a guarded centre. Foreigners who do not observe rules in guarded centres are placed in detention centres for the purpose of deportation. It may also be necessary for reasons of defence or national security or the protection of public safety and order.

The following activities were undertaken in order to collect necessary data in each centre:

- Interviews with the management of a guarded centre – the head or head's deputies;
- Interviews with foreigners staying in a centre who declared the willingness to participate;
- Interviews with the Border Guard officers or employees of the centre, e.g. a psychologist, a doctor, educational team members, a nurse;
- Verification of documentation related to applying measures of restraint and personal inspection to foreigners and performing inspections of rooms;
- Verification whether the internal order of centres is accessible and translated into languages that foreigners can understand.

This report ends with a conclusion indicating what promises made by representatives of Polish authorities with regard to improving the situation of foreigners in guarded centres were fulfilled. It also includes recommendations related to changes to be introduced in guarded centres in Poland so that the rights of detainees are secured more fully.

Statistical information

3 <<<

Until 01 February 2014, organisations carrying out monitoring activities received completed statistical questionnaires from the management of guarded centres and the Management for Foreigners of the Border Guard Headquarters. The following information has been drawn up based on the questionnaire answers. Data included in returned questionnaires reflect the status at the end of January 2014.

According to the data provided, the total of 1738 people were detained in guarded centres and detention centres for the purpose of deportation in 2013.

When monitoring activities were carried out, there were 347 people detained in all six guarded centres. Men constituted 61% (213 people), whereas female constituted 14% (50 people) of the total number of detainees. 84 minors stayed in the centres and they constituted 24% of all population (including 1 underage child without care-takers in the guarded centre in Kętrzyn).

Table No. 1 The number of foreigners detained in guarded centres or detention centres for the purpose of deportation, broken down by persons of full age by sex and underage children.

Centre	Foreigners detained in guarded centres or detention centres for the purpose of deportation	Men	Women	Underage
Guarded centre in Kętrzyn	70	13	19	38
Guarded centre and detention centre for the purpose of deportation in Białystok	78	78	0	0
Guarded centre in Biała Podlaska	77	16	20	41
Guarded centre and detention centre for the purpose of deportation in Przemyśl	80	64	11	5
Guarded centre in Krosno Odrzańskie	21	21	0	0
Guarded centre in Lesznowola	21	21	0	0
TOTAL	347	213	50	84
Percentage	100%	61%	14%	24%

Asylum seekers constituted 64% (1119 people) of foreigners detained in guarded centres in 2013. 71% (799 people) of the above number of detainees applied to the Head of the Office for Foreigners for international protection even before they were detained in a guarded centre.

Table No. 2 The number of foreigners detained in guarded centres or detention centres for the purpose of deportation in 2013, indicating asylum seekers.

Centre	Foreigners detained in guarded centres or detention centres for the purpose of deportation	Asylum seekers	Foreigner who applied for refugee status before they were detained in a guarded centre or a detention centre for the purpose of deportation
Guarded centre in Kętrzyn	451	356	316
Guarded centre and detention centre for the purpose of deportation in Białystok	255	176	119

Guarded centre in Biała Podlaska	291	165	58
Guarded centre and detention centre for the purpose of deportation in Przemyśl	466	274	189
Guarded centre in Krosno Odrzańskie	181	93	73
Guarded centre in Lesznowola	94	55	44
TOTAL	1738	1119	799

Nearly half of foreigners detained in guarded centres in 2013 (49%) were citizens of the Russian Federation, whereas almost every fifth detainee was a citizen of Georgia (18%). In addition, many citizens of Ukraine (6%), Vietnam (5%), Armenia and Pakistan (2% respectively) as well as Bangladesh (1%). Other detainees of guarded centres and detention centres for the purpose of deportation in 2013 (268 people - 15 % of the population) were citizens of 39 other countries: Afghanistan, Albania, Algeria, Azerbaijan, Belarus, Brazil, Croatia, Chile, China, Democratic Republic of Congo, Egypt, Eritrea, Gambia, Guinea, India, Iraq, Iran, Jordan, Cameroon, Kazakhstan, Kosovo, Cuba, Lebanon, Libya, Latvia, Mali, Morocco, Moldova, Mongolia, Germany, Nigeria, Somalia, Sri Lanka, Syria, Tajikistan, Tanzania, Turkey, Uzbekistan, Zambia. There also were 10 stateless persons in the centres.

Table No. 3 The number of foreigners detained in guarded centres and detention centres for the purpose of deportation in 2013 by citizenship and type of centre

Centre	Foreigners detained in guarded centres or detention centres for the purpose of deportation							
	Russia	Georgia	Ukraine	Vietnam	Armenia	Pakistan	Bangladesh	Other
Guarded centre in Kętrzyn	371	48	0	3	8	0	0	21
Guarded centre and detention centre for the purpose of deportation in Białystok	68	58	1	36	9	6	4	73
Guarded centre in Biała Podlaska	163	75	6	3	6	2	4	32

Guarded centre and detention centre for the purpose of deportation in Przemyśl	152	77	92	25	9	18	12	81
Guarded centre in Krosno Odrzańskie	78	28	4	9	5	10	2	45
Guarded centre in Lesznowola	22	22	6	10	2	3	3	26
TOTAL	854	308	109	86	39	39	25	278
Percentage	49%	18%	6%	5%	2%	2%	1%	16%

There are some regularities in the distribution of citizens of individual countries in the centres:

- 82% of the foreigners detained in the centre in Kętrzyn were citizens of the Russian Federation;
- citizens of Ukraine were mostly detained in the centre in Przemyśl (the proximity of the Polish-Ukrainian border was certainly relevant
- as it reduced the time needed to enforce the decision on deportation from the territory of the Republic of Poland or the decision on the obligation to leave the territory of the Republic of Poland);
- the most diversified group of foreigners by nationality as well as language are the centres in Przemyśl and Białystok.

The maximum period of stay of foreigners in guarded centres in 2013 extended from 360 to 363 depending on the centre. A foreigner staying in Lesznowola spent 367 days in total in different guarded centres, i.e. longer than provided for by the law (12 months⁷. The maximum period of stay in the guarded centre in Kętrzyn was 267 days and in Biała Podlaska 167 days.

In turn, the minimum period of a foreigner's stay in a guarded centre in all detention facilities was more than two weeks (from two days in Krosno Odrzańskie to 12 days in Lesznowola).

⁷ A comparative case was described in the previous report of 2012. It was already then that lack of corresponding instruments to prevent such situations was indicated.

II.

MONITORING RESULTS

One of the most important recommendations of non-governmental organisations from the report of 2012 was to change the design of guarded centres by removing elements pointing to their closed, prison-like nature (no bars in windows, special type of windows instead, no bars isolating individual internal units inside the buildings). Representatives of the Ministry of the Interior made promises as a result of the monitoring and declared the removal of elements associated with prison-like design, i.a. the number of bars in the centres should be decreased.

During the monitoring activities this year, it was established that there still are bars in the windows of all centres. Only in some facilities (Kętrzyn, Białystok, Krosno Odrzańskie), the windows are installed in a manner that makes it possible to open them more widely. There are no bars in the centre in Lesznowola on the ground floor of a residential unit intended as a computer room and a recreation room for children in Kętrzyn. During the monitoring activities, the administration of the centres provided information that bars removal is planned “in the near future”.

The monitoring activities in the centre in Krosno Odrzańskie revealed that doors to foreigners’ rooms were still prison-like - heavy, thick, bolted. However, according to the administration of the centre, new doors were to be installed soon.

The general technical condition of most centres is good. Unfortunately, the centre in Lesznowola is still in the worst condition although according to the authorities it was supposed to be renovated or closed for the renovation period. At present, foreigners are staying in the unit where only common rooms were renovated. In 2013, the centres in Biała Podlaska and Kętrzyn (renovation works in the latter ended just before the monitoring activities) were partially renovated. Renovation works in Krosno Odrzańskie were still in progress during the monitoring activities.

All centres are surrounded by high walls or fences with a barbed wire. Some are additionally secured with a so-called concertina wire, i.e. a loose spiral wire with razors instead of sharp edges. The wire causes serious injuries in case of attempts of crossing it. No such wire has been used in the guarded centres in Kętrzyn and Białystok among others.

Visual surveillance (cameras) of common rooms inside the buildings of the centres was implemented in all guarded centres. The centre in Lesznowola is an exception; however, the installation of cameras is planned as part of the renovation. Whereas there is no surveillance of the area around the centre in Krosno Odrzańskie only.



1.2

Foreigners' rooms and common rooms

Similarly to the previous monitoring, the current condition and design of rooms where foreigners live have not raised any reservations. The centre in Lesznowola, where rooms require immediate renovation, walls are crappy and have not been painted for a long time, is an exception. According to the information obtained, foreigners are to be transferred to another building, which is currently not used due to renovation, no sooner than in June 2015.

Rooms in all centres are intended for more than one person (mostly two to five people). In Krosno Odrzańskie, there are rooms intended for the largest number of foreigners (eight people). The rooms are equipped in basic furniture: metal beds, tables and cabinets. In Krosno Odrzańskie, there is also a television in each room.

Rooms in the centres are open and they do not lock. Foreigners claimed that officers look into rooms at night time but do not switch the light on (it is a change in comparison to the results of the monitoring of 2012 which was called for then).

Some foreigners in the centre in Przemyśl complained about the cold temperature in rooms - at the unit for men, the heating was to be turned off for the night. One family complained that their members were sick all winter long due to the low temperature in the rooms. Some foreigners complained that mattresses were too thin, particularly for pregnant women and a foreigner with spine problems.

In the buildings where the centres are located, there are common rooms: corridors, kitchens, bathrooms, recreation rooms and other in addition to foreigners' rooms and administration rooms. Common rooms are not cleaned by foreigners - it is done by people employed by the administration of the centres. The requirement to clean those rooms by the foreigners was one of reasons for their protests in 2012 and the demand to waive that principle was among the recommendations of non-governmental organisations. At present, foreigners only clean their rooms.

Kitchens located upstairs, where foreigners can prepare meals themselves, are very popular in the guarded centres. They are usually equipped with a cooker, a fridge, a microwave, kettles, pots. Officers working in the centre in Krosno Odrzańskie and Lesznowola pointed out, however, that foreigners do not take care of the equipment and sometimes cause damage to it.



1.3

Profiles of the centres

Representatives of the Ministry of the Interior declared at the beginning of 2013 that the centres will be assigned profiles corresponding to the special needs of foreigners staying there. Children were supposed to be put only in two centres adapted par-

ticularly for that purpose: in Kętrzyn and Biała Podlaska. Unless there was no place in the above mentioned centres, children were to be sent to the centre in Przemyśl.

During the monitoring activities, it was found that such profiles were indeed developed - only families stayed in the centres in Kętrzyn and Biała Podlaska. Children with no caretakers were only sent to the centre in Kętrzyn. In the centre in Przemyśl, families with children only stayed in the common unit intended for them and for single mothers. Furthermore, the centre also included another unit for men. The centres in Białystok, Krosno Odrzańskie and Lesznowola accommodated exclusively men.

Families placed in the centres received rooms in which no other people were staying. Single men and women were put in common rooms - for a few people. Single men were usually accommodated in rooms according to their ethnic origin (e.g. in Przemyśl, one part of the corridor only accommodated foreigners from Caucasus, the other side - other nationalities) and safety reasons. In the centre in Białystok, it was indicated that the criteria adopted by the management for placing foreigners in rooms were language and religion. It was also possible to submit a request to be paired in a room with another roommate and the request was usually honoured.

2

Rules for foreigners' stay in a guarded centre

2.1

Internal order of the centres

The organisations stated in the report on the monitoring of 2012 that there was the need to provide foreigners with a free access to documents setting out rules for their stay in a guarded centre. In addition to laws and regulations, the "Internal Order" is the document that governs the rules for foreigners' stay in a guarded centre. It provides for, without limitation, daily schedules, visitations, receiving and sending letters, filing complaints and requests etc. In the previous monitoring, the non-governmental organisations indicated that entitlements of foreigners staying in individual guarded centres were differentiated. It resulted i.a. from the fact that there were different internal orders in the centres.

In 2012, the Ministry of the Internal committed to standardise rules for stay of people placed in different centres by means of developing a central, uniform and clear internal order.

It results from the monitoring that the internal order drawn up by the Management for Foreigners of the Border Guard Headquarters is in force in all centres. It was translated into 16 languages by the Border Guard Headquarters. All language versions are available in the centres in corridors, recreation rooms etc. The foreigners are also introduced to the order after they have been admitted to a centre. It was not found that the access to the order for foreigners were limited.

It resulted from conversations with the administration of the guarded centres and foreigners that the foreigners were generally aware of the rules for stay in a facility and of the rights that they are entitled to. In case of any doubts as to the rules for stay in a centre, the doubts are explained during conversations with employees of the facilities or during an appointment with a head of a guarded centre. Moreover, foreigners who reside in a centre for a longer period of time usually inform newcomers about the rules and show them places where additional information can be found.

2.2 Daily schedule and freedom of movement within the centre

During the last monitoring, it was established that foreigners staying in guarded centres had only access to a designated area of a centre (mostly including bedrooms, a corridor and common rooms). The other area was closed to them (this also includes the outdoors where they only could take an hour-long walk). The organisations recommended in 2012 to introduce the possibility to move freely within the centres, including unlimited walks. The Ministry of the Interior declared that foreigners will be provided the freedom to move within the centre.

During the last monitoring, it was found that in principle foreigners can fairly freely use common rooms and move within the facility (except for rooms intended for the administration of the centre) during the day between meals.

Restrictions in freedom of movement within the centres were justified by the personnel on grounds of safety. Foreigners informed that before they can go to another floor (e.g. to the library), they are required to report the need and purpose to the officers of the Border Guard. In the centre in Białystok, foreigners have to report the intention to go to the recreation and sports field. Foreigners in Lesznowola can only enter the renovated building, in which there are a library, a doctor's office and a visitation room, escorted by officers of the Border Guard (it is located outside the zone in which foreigners can move more freely). In the centre in Krosno Odrzańskie, it is only possible to go for a walk after 6 p.m. with the consent of an officer because no surveillance system has been installed outside yet and the designated officer needs to supervise such a walk personally. The personnel of the centres do not prevent foreigners from using common rooms, e.g. watch television, at night time if they do not disturb the sleep of other people.

In the report of 2012, the organisations stated that there is no reason for early wake up calls or morning and evening assembly calls. The obligation to appear at meals was considered unreasonable interference. In response to the recommendations, the Ministry of the Interior declared that morning and evening assembly call as well as audio warning signals (e.g. whistles) to notify foreigners i.e. about assembly, wake up time or night time were to be abolished.

The last monitoring revealed an improvement within that scope. Officers of the Border Guard enter rooms in the morning and announce wake up time or assembly for breakfast. Some foreigners from the unit for men in Przemyśl pointed out, however, that the officers sometimes do that by tugging beds.

Morning and evening assembly calls are no longer taking place. Instead, officers of the Border Guard verify the presence of foreigners in the morning and in the evening. Basically, foreigners should stay in their rooms during such procedures, but they are actually not required to do so - they can be e.g. in recreation rooms.

There is no requirement to appear at meals in any centre. Officers of the Border Guard only inform them about the time for breakfast, dinner or supper.

2.3 Cultural and educational activities, sports and free time

In the report from the last monitoring, the organisations indicated the boredom and lack of activities in the centres. It was recommended to increase the number of sports, cultural or educational activities. The Ministry of the Interior promised to provide additional equipment for recreation rooms, recreation and sports fields and libraries as well as living rooms in some centres. A varied programme of free time activities was supposed to be developed.

It results from the monitoring this year that the authorities have taken some steps in order to diversify foreigners' free time. Additional equipment has been provided for recreation rooms and libraries. It is also planned to create computer rooms with Internet access (computer have already been purchased in some centres; however, no Internet connection has been set up yet). There is an educational team in each guarded centre. Its objective is to organise free time for foreigners.

The educational team in the centre in Biała Podlaska organises events for foreigners with the participation of external teams and community centres. It results from the photographs presented to the monitoring team that concerts, performances, festivals, open-air contests, sports competitions etc. took place in the past in the centre. Students and volunteers as well as employees of non-governmental organisations also took part in organising the above mentioned events. On average, cultural events are organised once in two months in Białystok. During conversations with the monitoring team, foreigners stated that they enjoyed the concert of the band "Bracia

i siostry” (“Brothers & Sisters) in January 2014. In Kętrzyn, the educational team organises cultural events for children but also adults multiple times in a month.

There are Polish lessons (one and a half hour per day), arts and music classes in the centre in Krosno Odrzańskie. Foreigners willingly participate in such activities. Some foreigners indicated the willingness to attend additional Polish classes. Concerts with children from a music school performing are also held in the centre. The centre also established cooperation with the Cultural Centre “Zamek” (CK Zamek) in Krosno Odrzańskie. Due to the fact that foreigners sleep late, the work schedule of officers employed in independent positions (former educational team) so that activities last longer. The number of full-time positions was increased from two to four.

A timesheet for Polish lessons and music classes was developed in the centre in Lesznowola. Furthermore, the administration of the centre also organises other events. According to the personnel of the centre, foreigners are not interested in such activities, whereas it resulted from interviews with foreigners that some of them were not aware that such activities take place or could be held. In addition, there is a renovated room in the centre intended for educational classes; however, some foreigners did not know that they could use it (some claimed that they were not allowed to use it).

Films in the centre in Przemyśl are displayed on a screen in English and Hindi. A theatre performance was held in the centre in 2013. Arts, reading and library classes (including bookbinding) are also held for adults. Polish, English and Russian classes also take place in the centre. The classes last one hour, although they are not held regularly.

Libraries in guarded centres are basically well equipped with publications in foreign languages (mainly in Russian and English, but also Arabic, French, Chinese, Vietnamese), including belles-lettres and crime fiction. Magazines, dictionaries and books to learn foreign languages are also available. It is worth noting that the centre in Kętrzyn has acquired Russian dailies from the Kaliningrad Oblast (the dailies come to the guarded centre after about a week from the date of issue). New books in such languages as English or Vietnamese have been recently bought in Krosno Odrzańskie. It should be pointed out that some foreigners in Lesznowola did not know about the library and the possibility to check out books.

Each centre is also equipped with televisions that usually are in recreation rooms. Foreigners in the centre in Białystok complained that there were too few televisions upstairs and no foreign channels. It is possible to watch foreign channels (BBC, Al Jazeera and other) on TV in the recreation room in Lesznowola, but there were not enough chairs (foreigners claimed that many chairs has been put there just before the monitoring). In the centre in Przemyśl, a shift system for watching TV has been introduced (for foreigners from Caucasus and others). Whereas, there is a TV in each room in the centre in Krosno Odrzańskie. There are many channels (even foreign ones) available. Foreigner can also purchase an additional package of television

channels. Foreigners staying in the centre can also use a game console (similarly to the centres for children).

In principle, there is a quite large area developed for recreation and sports purposes in the centres. Appliances for strength and capacity activities have been installed in some centres (Biała Podlaska, Białystok, Kętrzyn, Lesznowola). In the centre in Krosno Odrzańskie, a set of garden furniture has been purchased (wooden furniture and umbrellas). It is also planned to build a beach ball and basketball field as well as purchase gym equipment. Some centres also include football or volleyball fields (Białystok, Biała Podlaska, Lesznowola, Przemyśl). In the centres for children, there also are sandboxes and playgrounds. Sports appliances are also installed inside buildings (ping-pong table, gyms). A recreation wing with strength and aerobic training equipment is planned in Biała Podlaska.

2.4 Board

According to the report from the last monitoring, the quality of food did not cause any serious problems. However, some situations were mentioned in which foreigners complained about the low quality of meals delivered by catering companies (in Lesznowola and Krosno Odrzańskie).

Generally, meals in guarded centres are prepared in the kitchen within the Division of the Border Guard. It is still only in Krosno Odrzańskie and Lesznowola that meals are delivered by a catering company. Following the previous monitoring and audit by the Ministry of the Interior, catering companies were switched in both centres.

The administration of the centres emphasised that cultural differences are taken into account when planning meals; no pork is served.

Foreigners in the centre in Białystok are informed that it is possible to get an additional meal portions. In principle, foreigners cannot take food away from the canteen, unless it is fruit or sweets served to dinner. A foreigner who currently is pregnant complained that there was no diet suitable for her, e.g. no fresh fruit.

The quality of meals in Krosno Odrzańskie has been deemed satisfactory, although some foreigners complained about monotonous meals.

In the centre in Lesznowola, meals are prepared taking into account three diets: basic, diabetic and vegetarian. The administration of the centre stated that meals were differentiated and of high quality as well as that cultural differences were taken into account when planning meals. However, foreigners complained about the quality of meals. In their opinion, potatoes, dumplings and bread dominate the menu which does not suit foreigners from Asia and Africa. It is only possible to take

meals away from the canteen if there are reasons for it (e.g. medical recommendations) or during Ramadan.

Foreigners in the centre in Przemyśl complained about breakfast and supper - they emphasises the bad quality, insufficient portions and no warm meals (this was the most common problem reported to members of the monitoring team by foreigners). Just before the monitoring of this centre, some foreigners refused to eat meals exactly due to their bad quality. It is allowed in this centre to take food away from the canteen in special plastic containers that the centre is equipped with, e.g. if a family member does not come for breakfast.

2.5 Shopping outside the centre

Foreigners in guarded centres have the possibility to shop in stores located outside. During the previous monitoring, a shopping ban applied in some centres as an informal disciplinary measure raised concerns of the organisations. This monitoring revealed no instances of this measure being applied.

Foreigners shop with their own money kept in the depository. They report product they wish to purchase into the list maintained by the centre's administration. Officers of the Border Guard pointed out that foreigners cannot purchase dangerous items, the possession of which is prohibited, or perishable foods. For instance, the centre in Kętrzyn does not allow to buy unprocessed food, especially in large quantities (e.g. 10 kg). Employees of this centre do not buy medications for foreigners. Foreigners in the centre in Lesznowola complained about restrictions relating to purchasing animal products (cold meats and eggs), especially as some of them were not satisfied with meals prepared by a catering company.

As a matter of principle, shopping is done once or twice a week. In Krosno Odrzańskie, a shopping list can be submitted every day. It is also possible to make small purchases every day (e.g. cigarettes). In Kętrzyn, shopping before holidays or so-called "long weekends" are done also on days other than provided for by rules and regulations. Officers inform foreigners about an approaching period of time during which shopping will not be possible.

Foreigners receive a receipt after shopping. During the monitoring, it was not indicated that foreigners reported any problems in that matter.

3.1 Officers' attitude towards foreigners

Organisations indicated in the report from the previous monitoring that it was crucial for proper operation of the centres to ensure an appropriate attitude of officers of the Border Guard towards foreigners, most of all in terms of communication. The report pointed out i.a. an unacceptable practise of calling foreigners by numbers. The Ministry of the Interior promised that additional training sessions for officers and employees of the Border Guard would be organised in relation to cultural communication, crisis management in inter-cultural environment based on negotiations techniques in order to improve communication with foreigners.

It results from this monitoring that foreigners did not in principle complain about the attitude of officers of the Border Guard towards them. For instance, foreigners in the centre in Białystok unanimously stated that the relations improved. They attributed that change with a change in the position of the head of the guarded centre. Significantly, they were able to state the date (20 December 2013) on which the position was assumed by another person. According to the foreigners, the new head regularly comes to the residential part of the centre and talk to migrants. Apart from that, if needed, it is possible to talk to the head at any time. Whereas in Lesznowola, foreigners emphasise no support from the educational team.

It results from talks with the personnel of the centres and most of the foreigners that officers address them by their names preceded by "Mr/Ms" or - if they do not remember the names - only by polite forms of address. Some foreigners stated, however, that officers address them by reference numbers preceded by polite forms, such as "Mr/Ms".

In Przemyśl, officers of the Border Guard still address some foreigners by reference numbers. According to the officers, it is supposed to make work more effective, especially if it is difficult to memorise a foreigner's name. One foreigners with whom the monitoring team spoke, attributed this practise with concentration camps. During the monitoring, the monitoring team was presented with a complaint signed by a group of 18 foreigners in relation to a complete lack of information about their legal status as well as "unprofessional conduct of officers" as put by foreigners.

3.2

Uniforms and clothing of officers and employees of guarded centres

The report from the previous monitoring included recommendations of the organisations that officers of the Border Guard should work in civilian clothing. Similar promises were made by the Ministry of the Interior.

In each centre, only security officers still serve in uniforms. Other officers as well as civil employees perform their duties in civil clothing. It was indicated in the centres in Biała Podlaska, Kętrzyn and Białystok that in case it is necessary to hold a disciplinary conversation with a given foreigner (e.g. if the foreigner ignores requests or instructions), officers of other sections hold such conversations in uniforms.

3.3

Knowledge of foreign languages among officers and employees of the centres

It was stated in the report of non-governmental organisations from the previous monitoring that the poor language skills among the personnel are among the main problems of guarded centres. Therefore, the necessity to continuously improve language competencies of people employed in the centres was indicated. The need to introduce the requirement of languages skills as a criterion for recruiting people for work in guarded centres was mentioned as well. The Ministry of the Interior declared that additional languages courses for personnel of guarded centres be organised (in addition to English and Russian, intensive courses in Vietnamese, Georgian and Urdu were to begin).

It results from this monitoring that language skills among people serving and employed in guarded centres was still too weak. Many officers state that they know Russian, but not many of them hold a certificate in Russian (most of them point to the fact they learnt it at school). Foreigners reported problems concerning communication with the officers in Russian. Due to some similarities between Polish and Russian, officers and foreigners are mostly able to communicate with regard to everyday activities. However, when it comes to more complicated matters, communication is difficult or impossible. Contrary to what the Border Guard state, foreigners still complain about difficulties communicating in English, too.

For instance, according to some foreigners in the centre in Przemyśl, officers answer all questions asked in English with: "I don't know". Moreover, foreigners said that there were situations in which officers said: "You are in Poland, you all have to speak Polish".

When it comes to exotic languages, a civilian employee of the centre in Krosno Odrzańskie knows Arabic and Urdu. In Lesznowola, one person has been learning Vietnamese. According to information provided by officers in the centre in Przemyśl,

they also speak German, French, Urdu and Farsi. Moreover, one person participates in a course of the Vietnamese language.

The medical personnel of guarded centres also need to develop their knowledge of foreign languages. In Biała Podlaska, the administration of the centre claimed that doctors speak English and Russian, but the monitoring team notices a situation in which a foreigner spoke Russian and a doctor replied in Polish. Doctors in Przemyśl and Krosno Odrzańskie mime with foreigners who speak exotic languages. Foreigners in Lesznowola assessed English and Russian language skills of doctor as basic. The language barrier in contacts with a doctor was also emphasised by foreigners in Białystok.

3.4 Translation and interpretation

If the personnel of a centre do not speak the language of a given foreigner, it is necessary to provide interpretation, especially in special situations, such as providing information about the rule of stay in a centre or getting medical assistance. In the first instance, interpretation for foreigners in guarded centres is provided by employees (not in the position of an interpreter). If no employee speaks a language that a foreigner can understand, an accepted practise is to seek help from other foreigners staying in the centre. Services of external interpreters are a measure of last resort for the administration of a guarded centre. In Białystok and Krosno Odrzańskie, interpretation services are provided also via telephone.

It was stated in the centre in Biała Podlaska, that a health care institution is responsible for arranging interpretation services when a foreigner is transported to a hospital. This is a unique situation compared to other guarded centres. In the centre in Kętrzyn, interpretation services are available for foreigners in circumstances that require such services. However, the Google Translate tool was used during a conversation with a psychologist. An officer employed in the centre in Przemyśl acts as an interpreter of Russian. She also interprets during doctor's or psychologist's appointments. A foreigner stated, however, that he was not able to communicate with a psychologist and even the officer who was present at the appointment could not interpret the conversation. In that centre, the town's resident from Vietnam interprets Vietnamese if needed.

Taking into account, the specific features of guarded centres, a relevant level of communication between the personnel and foreigners should be ensured. It is crucial to guarantee a professional interpreter whenever needed, especially in case of medical and psychological assistance or informing foreigners about their legal situation.

4.1

Information about the legal situation provided to foreigners by the administration of a centre

Non-governmental organisations indicated in the report from the previous monitoring that it was necessary to provide foreigners with information about their legal situation. This consists in explaining the content and consequences of official documents delivered to them etc. The necessity to undertake other steps, such as organising appointments so that foreigners could obtain information about the pending proceedings with regard to them or in order to appoint a “carer” who would seek information about the legal situation of a given foreigner and notify the foreigner in this respect on an ongoing basis.

It results from this monitoring that rules for informing foreigners about their legal situation by the personnel as well as foreigners’ awareness in this matter differed depending on the centre.

The administration of the centres in Biała Podlaska, Lesznowola and Przemyśl provides foreigners only with basic information regarding the content of documents delivered to them. They do not receive information about the reasons for their stay in a guarded centre, the possibility to appeal against the decision to detain them in a guarded centre or to file an application for a release. In the opinion of the administration of the centres, the content of instructions that foreigners receive in a court or letters delivered to them is sufficient. Members of monitoring teams noticed that foreigners in Lesznowola and Przemyśl were quite often not aware of their legal situation.

Whereas in the centres in Białystok, Kętrzyn and Krosno Odrzańskie, the personnel explain the content and consequences of letters delivered to foreigners. Moreover, a so-called reference meeting takes place every week in Krosno Odrzańskie. At the meeting, foreigners can obtain information from officers that relate to their case and steps to be undertaken by the Border Guard in relation to them. Foreigners’ awareness of their legal situation in those centres was higher than in other facilities. This is a good practise that should be implemented in all centres.

4.2

Contact with non-governmental organisations and access to legal assistance

As non-governmental organisations in the report from the monitoring of 2012 indicated the necessity to provide foreigners with information about their legal situation, they emphasised that foreigners ought to be provided with updated address lists of institutions and organisations that protect human rights and provide legal assistance. In particular, it was stressed that a system of free-of-charge legal counselling covered by public funds should be established.

It is necessary to distinguish between informing foreigners about their legal situation (i.e. providing information about provisions of law or the content and consequences of a decision to detain in a guarded centre) and counselling and legal assistance which consists in individual consultations with regard to possible legal actions and drawing up procedural letters for foreigners. Legal assistance also involves situations in which foreigners are sometimes represented by attorneys of non-governmental organisations or, against payment, by private attorneys.

Until present, the system of common, free-of-charge legal assistance covered by public funds has not been established. In 2012, the Office for Foreigners planned to implement such a system; however, after one meeting no further works are performed. There are few private attorney who render their services against payment (after all, not all foreigners have resources to take advantage of that assistance). This is why it is above all non-governmental organisations that provide foreigners with legal assistance.

Current contact details of non-governmental organisations are available in the corridors of guarded centres. The information is mostly provided to the centres by the organisations; however, in Krosno Odrzańskie, it is the administration of the centre that draws up the list. Contact details are available in foreign languages, i.a.: English, Russian, French, Vietnamese or Arabic. The information that it is possible to contact a non-governmental organisation is also included in the information provided to foreigners when they are accepted into the centre.

However, it resulted from conversations with foreigners in Lesznowola and Przemysł that many of them do not associate the contact details in the corridors with the possibility to receive free-of-charge legal assistance. The personnel of the centre in Krosno Odrzańskie often persuades foreigners to contact a non-governmental organisation. They sometimes even point their fingers to the board on which contact details are available.

Foreigners can contact non-governmental organisations by phone or fax as well as the centre's e-mail box. It is also planned in all centres to arrange rooms with computers and Internet connection as well as scanners. Thereby foreigners will be able to contact lawyers directly. As correctly noted by employees of the centre in Przemysł, there are doubts as to the confidentiality of information provided by foreigners when they communicate with lawyers through the administration of the centre.

There also are service hours of lawyers of non-governmental organisations in all centres. Lawyers meet foreigners without the participation of the personnel of the centres in visitation rooms or special rooms prepared for that purpose. The services hours are too rare (sometimes once a month). Lack of regularity and differences between the centres also pose problems. Taking into account, the period of stay of foreigners in a guarded centre, many of them had no chance to meet with a lawyer and receive direct counselling. Foreigners in Przemyśl stated that the service hours are too short and not everyone interested is able to obtain assistance with their matters.

Foreigners' rights to contact with the outside world

5 <<<

5.1 Using landline and mobile phones

It was stated in the report from the monitoring of 2012 that it was extremely important to provide foreigners detained in guarded centres with a broad access to the outside world, i.a. by ensuring them the possibility to use mobile phone freely. The Ministry of the Interior also promised such a change by allowing the use of private mobile phones with video recording functionalities if camera lenses are covered by special stickers.

Foreigners in all centres can use generally available card telephones installed in the corridors. It is also possible to receive incoming calls by foreigners. The conversations are held without witnesses, they are not eavesdropped, registered or recorded. In principle, you can use telephones without limitations if right of other foreigners are respected. Near a telephone in Krosno Odrzańskie, there is a request to limit the time of conversations to 30 minutes.

At present, foreigners use telephones placed in the corridors not too often since personal mobile phones are generally available. Foreigners have to keep a phone with the video and audio recording functionality in a depository. This is justified with concerns about the safety of officers working in centres and other foreigners and about spreading their pictures. If it is necessary to keep a telephone in a depository, foreigners can borrow mobile phones without the recording functionality that are property of the centre. The consent to issue a replacement telephone is given to a foreigner at a written request which is in principle reviewed immediately. However, a foreigner in Lesznowola complained that he had already been waiting four days to have his request for a phone reviewed.

Foreigners in Kętrzyn can obtain the consent to use their own phones with the recording functionality if they agree to cover camera lenses with stickers. Foreigners has concerns about the differences with regard to access to their own mobile phones with the recording functionality. According to them, some people had access to their phones all the time. Others were given their phones only for three or four hours a day. Foreigners also claimed that some people removed the stickers from their phones and use the recording functionality.

Foreigners can hold mobile phones without any time restrictions. It is only in Przemyśl that phones are handed out only between 9 a.m. and 9 p.m. They are taken into a depository for the night.

With the consent of the head, a foreigner can use the centre's phone in case they have no financial resources and there are urgent circumstances. A foreigner in Przemyśl can use the phone at the cost of the centre only to call a diplomatic mission.

5.2 Right to written communication

Foreigners have the right to send official communication by post and by the centre's fax machine or by e-mail. The foreigners' use of own laptops or tablets is restricted in some centres (in Krosno Odrzańskie, Lesznowola, Kętrzyn and, on a trial basis, in Białystok). The appliances are provided from a depository for a specified time. One can use their own appliances in Krosno Odrzańskie only in a room that serves this particular purpose.

Sending official communication by post is usually at the expense of the administration of the centres. It is only in Biała Podlaska and Przemyśl that a foreigner bears the cost of each communication if they have enough money in the depository. It resulted from interviews with foreigners in Przemyśl that they are not informed about the possibility to file an request to sent a letter at the centre's expense if they do not have the financial means to do so. An interviewee was even concerned about the fact that he could not file a complaint with regard to the decision to prolong his stay in the centre. According to the centre's personnel, foreigners were aware of the fact that they can submit such a request.

Sending a fax or an e-mail with documents requires a prior written application to the head (Białystok, Lesznowola, Przemyśl) or orally report the need to do so to the educational team or the shift supervisor (Biała Podlaska, Kętrzyn, Krosno Odrzańskie).

Despite the statements of the personnel of the centre in Lesznowola that communication is sent not later than on the second day of filing a request with the head of the centre, the foreigners complained that it is sent only after a few days of submitting it to the centre's administration. A foreigner gave an example of his friend - the deadline for filing communication was exceeded because of the delay in sending the letter

by the centre. Another foreigner informed the monitoring team that he filed a request to sent a letter on 23 January, but it was actually sent by fax only on 29 January. In Białystok, some foreigner indicated that they have to wait for too long a time for a letter to be sent by fax (sometimes a day, other times - at weekends - even a few days). In Kętrzyn and Biała Podlaska, communication is sent by fax nearly immediately after a relevant request of a foreigner has been submitted, which is considered a good practise. Compared to 2012, the frequency of sending communication in Przemyśl improved - documents are sent on the same day (unless submitted after 11 a.m.) or the next day. The personnel of the centre stated that they quite often receive letters from lawyers for foreigners at the last minute (before the end of the work day of records team officers) with a request to send them to a relevant institution on the same day,

As already indicated, there are computer rooms in all facilities. The rooms are equipped with computers with Internet connection and a scanner. Thanks to that foreigners will be able to communicate with people from outside of the centre, hence delays in delivering letters will be eliminated. However, in case of people who have difficulties using a computer or e-mail, it will be necessary for the centre's employees to help them.

In principle, it is the foreigner who bears the cost of sending private letters. Under extraordinary circumstances, a letter may be sent also at the cost of a given centre if requested by a foreigner (this is true of all facilities for foreigners). Officers do not control the letters, they can be submitted in a sealed envelope. There are exceptions: in the centres in Przemyśl, an employee seals an open envelope with a letter, while in Krosno Odrzańskie, a letter without an envelope is dropped into a box in the corridor, although it is also possible to hand a sealed letter to the centre's employees.

Incoming letters are examined manually or scanned - the content is not verified. Incoming parcels are opened by an officer of the Border Guard in the presence of a foreigner. Objects or products that a foreigner cannot hold pursuant to the rules and regulations are not given to them.

5.3 Right to visitation

In the report from the monitoring of 2012, the organisations recommended that rules regarding visitations be extended and informalised. The Ministry of the Interior promised to prolong the time and increase the number of visitations,

Foreigners are guaranteed the right to visitations in each centre. In principle, one is granted an opportunity to see a certain person at a written request to the head of the centre. The consent for a visitation is given following consultations with the Border Guard unit which originally detained a given foreigner. In principle, only a foreigner detained in the centre can submit such a request. However, it can also be submitted

by a visitor in Lesznowola and Biała Podlaska. Furthermore in Biała Podlaska, it is not required to submit a written request. It is enough that a person who wishes to visit a foreigner reports to the guardroom and gives necessary information.

A foreigner is given the consent for a visitation fairly quickly, even within ten minutes or more. Foreigners in Białystok stated that they used to wait longer for the consent - up to two weeks, although the waiting time was largely reduced in January 2014. A foreigner in Lesznowola has to submit a request at least three days before a planned day of visitation.

In principle, a visitation lasts up to 60 minutes in each centre. It is also possible to prolong the visitation at a foreigner's request. It is only in Przemyśl and Białystok that a visitation may last no longer than two hours. Visitations may involve up to two adults and an unlimited number of children.

Visitations take place in designated rooms that are surveilled with a camera that does not record audio or glass through which an officer of the Border Guard, who is outside the room during the meeting, can watch a visitation. Such a control system was also implemented in Lesznowola where visitations used to take place in the presence of an officer in 2012. Foreigners also complained that any physical contact with a visitor is prohibited (even a hug, an embrace) which they found hard especially in the case of the closest relatives.

There are three rooms reserved for visitations in Biała Podlaska. Centres in Krosno Odrzańskie and Lesznowola only include one small room for that purpose which foreigners find insufficient.

6

Medical and psychological assistance

6.1 Access to medical assistance

In the report of 2012, non-governmental organisations indicated the necessity to increase the standard access to medical assistance. This can be achieved i.a. by increasing language competencies of the medical personnel and introducing mandatory screening tests for infectious diseases.

In all centres, foreigners undergo medical exams following the acceptance to a centre. Exams include: medical history, blood collection etc. In addition, foreigners are scanned in outside medical facilities. However, as pointed out by the personnel of the centre in Przemyśl, it is necessary to perform exams before a court issues a decision

to detain a foreigner in a guarded centre so that there are no situations in which people are accepted and immediately released as their health condition does not allow them to be detained in the centre but this fact comes to light only following the acceptance to the centre.

Foreigners indicated that they know about the possibility to use medical assistance and did not complain that they had no access to doctor's services. Dates and times of doctor's office hours match the size of the centres. Doctors in large centres (Biała Podlaska, Białystok, Przemysł) see foreigners Monday to Friday. In other centres - two or three days a week.

There is at least one nurse on duty every day in each centre. Nurses can be employed by a division of the Border Guard or the centre itself. Nurses are sometimes also officers of the Border Guard.

There are single cases in which foreigners obtain medical services against payment. For instance, foreigners in Białystok and Krosno Odrzańskie visited an ophthalmologist, and there was a dentist's appointment in Kętrzyn.

6.2 Specialisations and gender of employed doctors

During the monitoring, there was no uniform instructions relating to gender and specialisations of doctors employed in the centres. It appears that doctors' specialisations and gender depend on the local market of medical services and not on foreigners' needs.

The centre in Biała Podlaska employs a paediatrician, an internist and a family doctor. A specialist of infectious diseases and doctors with two specialisations: internist-allergologist and internist-rheumatologist work in Białystok. There are an ophthalmologist and a general doctor in Krosno Odrzańskie, a paediatrician and a surgeon in Lesznowola as well as a surgeon and a family doctor in Przemysł.

At first sight, taking into account the special features of individual centres, a paediatrician is needed in Kętrzyn. In turn, such a doctor works in the centre in Lesznowola where only men are currently detained (it results from the fact that there were also children in the centre in the past).

It is not everywhere that a doctor of a certain gender can be chosen. This may be significant due to cultural differences of foreigners who are detained in guarded centres. There are only male doctors in Kętrzyn and Lesznowola. According to the information provided to the monitoring team in Kętrzyn, there was a situation in which a foreign woman refused to visit a doctor employed in the centre and was transported to a female doctor outside the centre.

6.3

Access to specialist medical assistance and transport to external healthcare facilities

There were no specific problems with an access to specialist medical assistance. It is usually provided by external facilities.

It poses problems to get a psychiatrist's appointment in Kętrzyn because there is no such doctor in the town. The paediatricians who provide their services there are not interested in continuous cooperation with the centre. This raises concerns as it is a centre in which underage people are detained.

Some foreigners detained in the centre in Przemyśl complained that there was no efficient help in case of hepatitis or orthopaedic problems. A foreigner claimed to have requested a soft mattress because of spine problems but there was no reply. Moreover, a pregnant foreigner in the centre was feeling bad, and the bed and a mattress received were uncomfortable.

Foreigners seeking assistance of a specialist outside the centre are usually transported with a prison van with bars in the back of the vehicle. A regular minibus is used to transport families and children in Kętrzyn and Biała Podlaska only.

There are situations in which foreigners are transported on a back seat, in the passenger side without any bars. However, in practise it is different depending on the centre, e.g. it is common in Krosno Odrzańskie, but in Przemyśl are always transported in the part with bars.

There is no homogeneous practice as to whether handcuffs are to be used during transport and bringing foreigners to a doctor's office. In principle, it was pointed out that it depends on a given situation - whether the foreigner poses problems earlier. Some foreigners detained in Przemyśl claimed that they felt humiliated when they were escorted to a doctor's office in handcuffs and in the presence of other patients - they felt like criminals.

The presence of officers during an appointment with a doctor outside the centre is included in the provisions. However, officers of the Border Guard from the centre in Lesznowola are present during exams of a foreigner only at the request of a doctor.

6.4

Psychological assistance

In the report of 2012, non-governmental organisations stated that psychologists employed in guarded centres should not simultaneously be officers of the Border Guard. It was also emphasised that it was necessary to improve their language competences.

It was established in the last monitoring that a psychologist who is also a civilian employee is employed in Biała Podlaska only. In other centres, officers of the Border Guard are employed at a given division of the Border Guard,

Information about the possibility to contact a psychologist are usually available in the corridors of guarded centres; however, not all foreigners to whom monitoring teams talked knew that they could establish such contacts.

They can talk to a psychologist in Biała Podlaska immediately after such a need is reported. Most foreigners in Białystok have not been informed about the possibility to use a psychologist's assistance; however, those foreigners, who reported such a need at their own initiative, had their appointment with a psychologist arranged within one or two days. Two psychologists provide assistance in Kętrzyn (there is no male psychologist in the town). Foreigners in the centre report the need to consult a psychologist to the centre's personnel or are referred by a doctor. Officers of the Border Guard and employee of the educational team observe and designate persons who may need the help of a psychologist. If needed, a psychologist comes to the centre. A psychologist in Krosno Odrzańskie was supposed to be employed full time in the centre only from May 2014.

One employee of the educational team in Lesznowola is also a psychologist and, as assured by the management, has been trained within the scope of recognising PTSD and trauma victims. The employee provides emergency psychological assistance but foreigners have not taken advantage of that assistance. In order to get a psychologist's appointment in the centre in Przemyśl, such a necessity should be reported to a doctor or the head of the centre. In the opinion of foreigners staying in the centre, assistance of a psychologist is not very effective and one foreigner, who has reported the need to get it, did not receive it yet after four days.

6.5 Trauma or torture victim identification

In the report from the previous monitoring, the organisations indicated the necessity to implement a system of identifying foreigners who are violence, torture, PTSD victims etc. According to the law, such people should not be detained in guarded centres at all or released immediately.

Until the present day, such a system has not been created and a system of identifying such people depends of the centre. Only psychologists in some centres have the ability to identify and provide therapy to traumatised people. The monitoring team in Biała Podlaska was informed that the psychologist has the right knowledge, is always present during conversations with accepted foreigners and makes PTSD diagnosis, diagnoses torture and human trafficking victims. The personnel pointed out that there are training courses within the scope of PTSD and other psychological disorder diagnosis in the centre. Such a diagnosis is also made in the centre in

Białystok. In addition, some officers have been trained within the scope of identifying violence and human trafficking victims.

In other centres, traumatised persons are not diagnosed systemically. If a given foreigner is suspected to be traumatised, they are simply referred to a psychiatrist. The Border Guard Headquarters undertakes measures to implement an identification system, but no results were noticeable yet during the monitoring.

>>> 7

Situation of children detained in the centres

The suggestion to withdraw from detaining underage people in guarded centres was one of the most recommendations in the report from the monitoring of 2012. It was pointed out that a stay in a guarded centre is never compliant with the principle of a child's well-being and negatively impacts the child's psyche and development.

Polish authorities do not share the view on introducing a ban to detain children in guarded centres. A new act on foreigners adopted the rule, according to which migrants in return procedures who are at the age below 15 and unaccompanied are not to be detained in the centres. The Ministry of the Interior also found that children should be detained in guarded centres as an absolute exception. The new act on foreigners also includes the requirement to review a child's well-being every time a court should issue a decision concerning a child's detention in a guarded centre. Furthermore, the Ministry of the Interior promised to reduce the period of a child's detention in guarded centres to the strict minimum. This is why proceedings concerning families with children are to be treated as a priority so that a decision with regard to the foreigners' status can be issued as quickly as possible.

Above all, it should be stated that children constituted nearly one fourth of foreigners detained in guarded centres (84 out of the total of 347 people). This results in that a declaration to use that measure with regard to children as a last resort has not been fulfilled. Moreover, the percentage of children detained in guarded centres significantly increased since the previous monitoring in which they constituted less than 9% of the population in guarded centres (34 children out of the total of 391 people).

This measure is generally used with regard to children which is suggested by the fact that they were detained in a backup centre in Przemyśl during the previous monitoring. It can be concluded that all spots for underage people in other two centres were taken.

It should be emphasised that the promised ban to detain children at the age of up to 15 years old in guarded centres only applied to underage people without caretakers who stay on the territory of the Republic of Poland without the required documents. Irrespectively of the age, underage asylum seekers are not detained in a guarded centre if they stay in Poland without caretakers. However, underage people with families (both asylum seekers and persons residing in Poland without the required documents) can be detained in guarded centres without any age restrictions.

HFHR and ALI are also concerned about the fulfilment of the promise to give priority to proceedings concerning families with children so that the time of their stay in guarded centres is reduced to the minimum. HFHR and ALI are aware of a few cases in which such a promise practically meant aiming at deporting foreigners as quickly as possible and not guaranteeing them their rights. Foreigners were deported or attempts were made to deport them without the right to have the decisions controlled by courts or in situations threatening the health of children⁸. A broader analysis of that matter was not within the framework of this report.

7.1 Conditions of accommodation

As indicated earlier, three guarded centres have been specially adapted for children's stay. Two of them (Biała Podlaska and Kętrzyn) are intended only for families. The centre in Przemyśl is considered a backup centre in case there are no spots left for children in the other two centres. Conditions of accommodation for children with families are basically the same as for adults. Families live in joint rooms. There still are bars in the windows in centres in Biała Podlaska and Przemyśl. It is only in recreation rooms in the centre in Kętrzyn that there are no bars in windows - there are window stops instead.

The centre in Kętrzyn is the only centre adapted for children without caretakers. A separate floor is intended for them. Apart from living rooms, there are also recreation rooms on the floor. Those children have contact with other children during walks and in a recreation room. During that time, they can also have contact with adults. The management of the centre views that total isolation of such children would be harmful to them.

⁸ See: http://wiadomosci.gazeta.pl/wiadomosci/1,114871,15910725,Dramat_czeczenskiej_rodziny_Dziecko_chore_na_padaczke_.html [accessed on: 21.05.2014].

7.2 Right to education

The organisations found in the report from the monitoring of 2012 that the right to education of children staying in guarded centres was not exercised. The report of the Ministry of the Interior included a similar statement. The proposals made by the Minister of the Interior included a promise to provide children detained in guarded centres an extensive range of educational classes run by qualified staff who know relevant foreign languages.

It was established in the last monitoring that the centres in Biała Podlaska and Kętrzyn concluded agreements with local authorities in order to meet the obligation of schooling with regard to such children.

The administration of the centre in Biała Podlaska pointed out that it is the responsibility of local schools and not the centre to meet the obligation. Therefore employees were not able to inform the monitoring team about the type and number of classes, the methods of choosing the level of teaching for the children's development state or cultural and language competencies of teachers for the centres. A foreigner staying in the centre in Biała Podlaska (a citizen of Georgia) stated during the conversation with the monitoring team that her daughter had difficulties participating in classes as they are in Russian and the daughter could not speak the language.

It was emphasised in Kętrzyn that there is a greater focus on learning Polish as well as Mathematics and Geography. Teachers keep a class register that includes information about attendance or absence of participants. Children's achievements are documented for example in form of a school certificate. This is difficult because the child's stay in a guarded centre usually differs from a school year. When this is the case, children are issued certificates about the type and number of attended classes. Employees of the centre in Kętrzyn stated that parents sometimes limit their children's access to classes. Such an attitude usually changes after a week's stay in a guarded centre. Talks with the centre's personnel also contribute to the change of heart.

Educational classes in both centres last between 1 and 1.5 hours a day on average and are run for all children in the centre irrespective of their age and language skills. According to the information obtained, classes in the centre in Kętrzyn are to last 12 hours a week starting from the next school year (September 2012).

Children without the obligation of schooling stay in the centre in Przemyśl. Employees of the centre's educational team developed their own educational programme. On that programme, they have based preschool classes: manual, general development, rhythmic etc.

The results of the monitoring show that the obligation of schooling is not fully met in guarded centres. Classes are held in groups that are differentiated by age and language and their number is significantly lower than at schools. No additional Polish lessons or catch-up classes are held. Pursuant to the Act on the Educational System,

foreign children have a right to assistance of a person who knows the language of their country of origin, who can be employed as a teacher's assistant by the headmaster of the school⁹. Such classes can be regarded as continuation of education of children who attended Polish schools (often even for a few years) before being detained in a guarded centre.

7.3 Sports and recreation activities, free time

It was found during the monitoring that in all centres, in which children are detained, classes for children are held. Employees of educational teams in the centres work in civilian clothes. In all such centres children can take advantage of a library and games in recreation rooms as well as play table tennis or table football. Recreation rooms in Kętrzyn and Biała Podlaska are equipped with game consoles. There are playgrounds and sandboxes outside of the centres. There also are football or volleyball fields at the centres in Biała Podlaska and Przemyśl.

The educational team in Kętrzyn runs additional classes for children. Cultural events and celebrations are organised in the centre on a regular basis. The centre cooperated with a higher education institution in Olsztyn. Students of pedagogy conduct classes both for adults and children, i.a. Polish lessons. The centre also cooperated with the First Degree State Music School in Kętrzyn that organises frequent visits for pupils in the centre or sometimes concerts.

Safety and disciplinary measures applied in guarded centres

8 <<<

8.1 Measures of restraint

It was stated in the report from the last monitoring that information about an excessive use of power against foreigners was not confirmed. In the last monitoring it turned out that measures of restraint were undertaken in all centres. Members of the monitoring team were given access to documentation relating to the use of such measures in each centre. The analysis of such materials as well as conversations

⁹ Act of 7 September 1991 on the Educational System (uniform wording Dz. U. [JoL] of 2004, No. 256 Item 2572 as amended).

held with the management and officers of guarded centres and foreigners did not indicate any mismanagement.

It results from the documentation shown that measures of restraint had to be used in most cases because of the necessity to ensure safety of other foreigners in the centre (breaking up a fight between foreigners) or prevent further self-mutilation of a given person. Physical strength was mostly applied in form of an incapacitating hold. Handcuffs, a straitjacket, shackles and an isolation room were also used. However, it is worth pointing out that there are differences in applying such measures and the fact that they have been used particularly often by officers of the centre in Krosno Odrzańskie.

Table No. 4 Number of instances where measures of restraint were applied in guarded centres and detention centres in 2013

Centre	Number of instances where measures of restraint were applied
Guarded centre in Kętrzyn	11
Guarded centre and detention centre for the purpose of deportation in Białystok	17
Guarded centre in Biała Podlaska	4
Guarded centre and detention centre for the purpose of deportation in Przemyśl	10
Guarded centre in Krosno Odrzańskie	57
Guarded centre in Lesznowola	2
TOTAL	101

8.2 Personal search

The previous report from the monitoring indicated the necessity to limit the large number of personal searches. It was found during the last monitoring that they were indeed reduced.

Personal search involves a search with a metal detector as well as examining both clothes and a naked body. In all centres, officers of the same sex as the searched person perform the personal search in a locked room. Personal search in all monitored centres was always performed when a foreigner was accepted into a centre. The practise in other cases differed depending on a centre. In Kętrzyn and Lesznowola, a personal search was performed when it could be reasonably assumed that a foreigner could get hold of a prohibited object or substance (without regard to the circumstances that could give grounds to such an assumption). In the centre in Biała Podlaska, every foreigner underwent a personal search after a visitation and

following a return to the guarded centre from a stay outside, e.g. in a hospital. Personal searches in the centres in Krosno Odrzańskie, Białystok and Przemyśl were performed when a foreigner was transported outside the centre (e.g. to a specialist doctor) or if an officer of a transportation team was absent from a medical consultation. The personnel of the centre in Przemyśl also stated that children do not undergo personal searches there. Some foreigners in the centres informed the monitoring team that searches were not too thorough.

8.3 Room search

In the report from the monitoring of 2012, non-governmental organisations recommended to abolish the practise of routine searches of foreigners' rooms. The searches should only be performed if there is a suspicion that there are prohibited objects in a given room (e.g. dangerous tools, narcotic drugs etc.).

It results from the monitoring performed this year that rooms in the centres in Kętrzyn, Krosno Odrzańskie and Przemyśl are searched in exceptional cases if a foreigner is suspected to hold prohibited objects (e.g. when a knife disappeared from a canteen). The last rooms search in the centre in Przemyśl was performed in 2012. No planned (preventive) searches take place in the centres. The information obtained from the management and officers of individual guarded centres were confirmed by representatives of non-governmental organisations in direct interviews with foreigners.

Foreigners' rooms are searched once a week in the centres in Biała Podlaska, Białystok and Lesznowola. If the search result is positive (a prohibited object is found), officers draw up a report. If the result is negative, they only draw up an official note. It results from information obtained by the monitoring team from foreigners in the centre in Biała Podlaska, a foreigner who lives in a given room observes the officers during the search.

III.

**CONCLUSIONS AND
RECOMMENDATIONS**

The monitoring revealed significant changes, in particular to the regime in guarded centres. There is a uniform internal order in all guarded centres. In addition to that:

- Foreigners are allowed to move freely within the centre and walking time restrictions were dropped;
- There are no informal disciplinary measures, such as a ban on walking or restricting access to a phone;
- There are less restrictions on the use of phones by foreigners;
- Morning and evening assembly calls are no longer taking place;
- Foreigners do not have to appear at meals;
- Personal searches and searches in foreigners' rooms have been reduced;
- Shopping is done more frequently;
- Foreigners do not have to clean common rooms anymore;
- The facilities have been equipped with recreation appliances (gyms, game consoles etc.);
- There are separate rooms ensured for families staying in a guarded centre;
- Foreigners accepted into guarded centres undergo screening for infectious diseases;
- Works related to providing access to the Internet in guarded centres have commenced.

Therefore, it must be said that promises of the Ministry of the Interior as regards actual conditions of stay have been met to a large extent.

When it comes to changes of law concerning detention of foreigners, the new Act of 12 December 2013 on Foreigners introduced (without limitation) the following solutions:

- A foreigner shall be placed in a guarded centre or in a detention centre for foreigners for the shortest possible period;
- It is possible to apply alternative measures instead of detaining in a guarded centre, e.g. regular reporting to a Border Guard authority, bail, obligation to surrender travel documents or the requirement to stay in a designated place of residence;
- A court is required to consider the interest of a child when deciding in the matter of placing the child in a guarded centre;
- A minor migrant in return procedures residing in Poland without caretakers may not be placed in guarded facility, unless they reached the age of 15 years old;

- A penitentiary judge exercises supervision over the legality and correctness of foreigners' stay in guarded centres;
- Disciplinary penalties for foreigners have been regulated;
- If a foreigner has filed a complaint to the administrative court against the return decision with a request to withhold the execution of the decision, the execution of the decision is suspended automatically.

It must be pointed out that the new Act on Foreigners introduced the possibility to extend the stay of migrants in return procedures in guarded centres to 18 months. This applies if a foreigner has filed a complaint to the administrative court against the decision on imposing the return obligation. The period of stay in a guarded centre for a foreigner obligated to return shall not include the period of stay in the guarded centre in connection with the application for refugee status submitted by the foreigner. This constituted a change that is unfavourable to foreigners because pursuant to hitherto regulations the maximum period of stay in a guarded centre irrespectively of a foreigner's status was 12 months in any situation.

There are still a number of matters that raise concerns and need to be improved. Some of them was indicated in the report from the previous monitoring.

1. Children (both in return procedures and refugees, unaccompanied and with families) should not be places in guarded centres. Until such a ban is introduced, they should only be placed in the centres as a measure of last resort.

As mentioned above, nearly one fourth of people detained in guarded centres at the time of the monitoring were children. The large number of minor foreigners staying in guarded centres leads to the conclusion that children are placed in guarded centres not just as a measure of last resort. For that reasons, promises of the authorities in this respect have not been fulfilled.

The situation raises great concern, taking into account the serious impact of detention on a child's development and mind as the child is in detention due to decisions made by its parents. This opinion is even shared by some employees of guarded centres who told the monitoring teams that they are not a place for children.

The situation raises serious doubts for legal reasons, too. The Convention on the Rights of the Child¹⁰ provides that in all actions concerning children undertaken by the authorities, the best interests of the child shall be a primary consideration (Art. 3 para. 1). Furthermore, pursuant to the Convention, detention of a child shall be used only as a measure of last resort and for the shortest possible period of time (Art. 37b). According to recommendations of the United Nations Committee on the

¹⁰ Convention on the Rights of the Child adopted by the United Nations General Assembly resolution on 20 November 1989 (Dz. U. [JoL] of 1991 No. 120 Item 526 as amended) constitutes a part of Polish legislation.

Rights of the Child, detaining children due to their or their parents' migration status constitutes a violation of the child's rights and is always in conflict with the principle of the best interest of the child. The EU Return Directive¹¹ also states that unaccompanied minors and families with minors shall only be detained as a measure of last resort and for the

shortest appropriate period of time (Art. 17). According to the case law of the European Court of Human Rights, the mere fact of placing a child in a guarded centre (irrespective of its conditions) may cause anxiety and humiliation as well as compromise its development. For that reason it constitutes inhuman or degrading treatment pursuant to the provisions of Art. 3 of the Convention. The Court also found that a child's well-being within the meaning of Art. 3 of the Convention on the Rights of the Child takes precedence over the necessities resulting from the deportation proceedings¹². It should be stressed that in the opinion of the European Committee for the Prevention of Torture, detention of children has hardly any grounds and can certainly not be justified only with lack of permit for stay¹³. The United Nations Committee against Torture recommended Poland to stop detaining children¹⁴.

The new Act on Foreigners effective from 1 May 2014 provides for the requirement to consider a child's well-being every time a court should issue a decision concerning a child's detention. It is necessary to implement such provisions effectively as well as monitor how they are applied in practise. However, even effective implementation of the provisions will not prevent children from being placed in guarded centres.

Furthermore, it should be pointed out that the obligation of schooling children in guarded centres is not met in accordance with the provisions of law. In particular, there are no additional Polish lessons or catch-up classes. The assistance of a person who knows the language of the country of origin of children detained in guarded centres is not taken advantage of, either.

2. It is necessary to implement a system of identifying torture victims, people suffering from PTSD and other person who should not be detained in a guarded centre.

The level of identification of torture, violence victims, people suffering from PTSD and other mental health problems, which make it unaccep-

¹¹ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (Official Journal of the European Union L 2008.348.98).

¹² Case of Kanagaratnam v. Belgium, application no. 15297/09, judgement of 13.12.2011, para. 67, 68.

¹³ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 26 November to 8 December 2009, available at the website: http://www.cpt.coe.int/documents/pol/2011-20-inf-eng.htm#_Toc298153908 [accessed on: 21 May 2014]

¹⁴ Committee against Torture. Concluding observations on the combined fifth and sixth periodic reports of Poland. 23 December 2013.

table to detain such people in a guarded centre, has not improved since the monitoring of 2012.

It is urgent to implement a system of identifying persons whose stay in a guarded centre is not acceptable. The system should involve the requirement to examine all people who should be placed in a guarded centre. Such an examination should be performed before a court has issued the relevant decision. It needs to be emphasised that even the personnel of guarded centres indicated that examinations should be performed as early as when a court considers whether a person should be detained in a guarded centre.

It should also be pointed out that according to the law, a foreigner is not placed in a guarded centre if it could endanger his/her life or health¹⁵. Moreover, if the mental and health condition of an asylum seeker suggests that he/she might have been a victim of violence or is disabled, the he/she cannot be detained in a guarded centre¹⁶. In the report concerning Poland, the United Nations Committee against Torture recommended to undertake any and all possible steps to properly identify victims of torture and provide care for them.

3. It is necessary to increase and standardise the level of psychological and psychiatric assistance for foreigners in guarded centres.

It is crucial to guarantee foreigners in guarded centres an effective and generally available access to psychological and psychiatric assistance. Psychologists and psychiatrists employed in guarded centres should be able to diagnose and provide assistance to people suffering from PTSD, victims of violence or torture etc. A proper level of psychological and psychiatric assistance is of great importance as it is very often people with traumatic experiences and, as stated above, children who are detained in guarded centres.

Such requirements, too, result from the provisions of law. Art. 16 para. 3 of the EU Return Directive stipulates that particular attention shall be paid to the situation of vulnerable persons. Art. 11 para. 1 of the so-called Reception Directive stipulates that the Member States take into account especially a health condition, including a mental state, of applicants who requires particular care¹⁷. According to the European Prison Rules, as far as possible, the staff shall include a sufficient number of specialists such as psychiatrists, psychologists (rule 89.1), and medical services in prison shall seek to detect and treat physical

¹⁵ Art. 103 of the Act of 13 June 2003 on the Foreigners (Dz. U. [JoL] of 2011, No. 264 Item 1573 as amended).

¹⁶ Art. 88 of the Act of 13 June 2003 on Granting Protection to Foreigners within the Territory of the Republic of Poland (Dz. U. [JoL] of 2012 Item 680 as amended).

¹⁷ Directive of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast) (Official Journal of the European Union L 180/96).

or mental illnesses or defects from which prisoners may suffer (rule 40.4)¹⁸. According to the Guidelines on Forced Return, some of the staff should be able to recognise possible symptoms of stress reactions and take appropriate action¹⁹.

Furthermore, it is still true that a significant number of psychologists working in guarded centres are officers of the Border Guard. Psychological assistance should be provided by psychologists who are civilian employees independent of the Border Guard. This will allow them to remain independent of the management of guarded centres.

It also resulted from the monitoring that there is a significant disproportion as to the level of psychological and psychiatric assistance depending on the centre. Therefore, it is crucial to develop uniform standards relating to qualifications (professional and linguistic) of psychologists and psychiatrists employed in all centres as well as a standard of such assistance.

4. Language skills among the personnel of guarded centres needs to be improved.

Despite the promise of additional courses (including language courses) by the authorities in order to improve the communication with foreigners, language skills of the personnel of guarded centres are still too poor. Therefore, intensive courses within that scope for personnel are necessary. The courses should be provided for people who work directly with foreigners: employees and officers of the following teams: records, education and security, as well as medical personnel and psychologists. The courses should include in particular languages that are mostly used by foreigners in guarded centres (English and Russian). The language skills requirement should also constitute one of the primary criteria when recruiting officers and other personnel to work in a guarded centre.

Moreover, a qualified interpreter should be present in a relevant situation (especially during doctor's appointments, psychological consultations, when accepting a foreigner in a guarded centre etc.).

It must be indicated that according to the European Prison Rules, the director, management and the majority of the other personnel of the prison shall be able to speak the language of the greatest number of prisoners, or a language understood by the majority of them (rule 87.2). In the opinion of the European Committee for the Prevention of Tor-

¹⁸ Council of Europe. Committee of Ministers. Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules. Polish version available on the following website: http://www.coe.int/t/DGHL/STANDARDSETTING/PRISONS/EPR/the%20European%20Prison%20Rules_Polish.pdf [accessed on: 21.05.2014].

¹⁹ Council of Europe. Ad hoc Committee of Experts on the Legal Aspects of Territorial Asylum, Refugees and Stateless Persons (CAHAR) - Twenty Guidelines on Forced Return, 4 May 2005. Available on the following website: <https://wcd.coe.int/ViewDoc.jsp?id=858071&Site=COE> [accessed on: 21.05.2014].

ture, whenever members of the medical personnel are unable to make a proper diagnostic evaluation because of no language skills, they should be able to benefit from the services of a qualified interpreter²⁰.

It should also be considered whether language competencies of the personnel of a given centre are to be adopted as a criterion for referring foreigners there. In light of the small number of officers speaking rare languages (e.g. Arabic, Hindi, Urdu), their potential should be used as much as possible. Foreigners communicating in those languages should be placed in relevant centres that employ the highly qualified staff.

5. Foreigners need to be better informed about their legal situation.

It results from the monitoring that not all foreigners are fully aware of their legal situation. They should also be provided with effective access to legal assistance.

Taking into account that assistance provided by non-governmental organisations and paid attorneys is not sufficient, it is crucial that information about the current legal situation as well as the content and consequences of official documents received by foreigners be translated by the personnel of the centres, It is worth emphasising that it is possible as well as there are good practises in some facilities in this respect (meetings during which one can obtain information about their legal situation, the designation of an employee of a given centre who obtains updated information about the legal situation of a foreigner).

Art. 15 para. 5 of the Return Directive stipulates that third-country nationals kept in detention shall be systematically provided with information which sets out their rights and obligations. In compliance with the European Rules Governing Minimum Standards of Conditions of Detention for Migrants and Asylum Seekers, all foreigners must be informed promptly in simple, non-technical language that they can understand, of the essential legal and factual grounds for their detention (rule 3)²¹.

Taking into account that the new Act on Foreigners imposes on the Border Guard an obligation to carry out proceedings in matters of return, it is expected that employees of guarded centres will provide foreigners with complete information in this respect.

The recommendation to ensure foreigners access to free-of-charge legal assistance covered by public funds is still relevant. Once again, it is important to ensure that lawyers are independent of the Border Guard.

²⁰ Safeguards for irregular migrants deprived of their liberty, Extract from the 19th General Report on the CPT's activities covering the period 1 August 2008 to 31 July 2009 [CPT/Inf (2009) 2

²¹ European Rules Governing Minimum Standards of Conditions in Detention Centres for Migrants and Asylum Seekers, Report Doc. 12105, 11 January 2010.

6. Safety measures applied to foreigners shall be limited.

In most centres, there are still bars in windows - they should be removed as soon as possible.

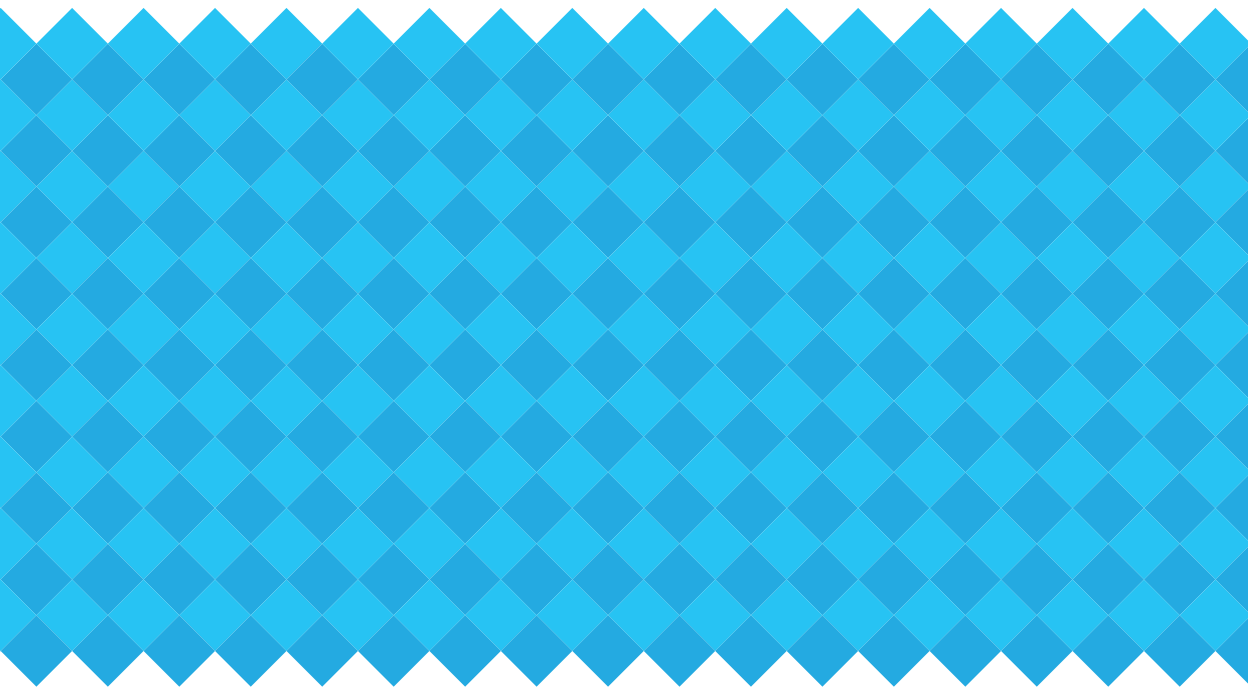
What should be limited to the absolute minimum is the use of conveying cars to transport foreigners as they resemble cars for prisoner convoys. They seem oppressive and are uncomfortable for passengers. They are also potentially dangerous - there are no safety belts in the part intended for transportation of foreigners. Transport of foreigners in the locked part should be limited and used only in reasonable cases. There should be a ban on transporting pregnant women, children and traumatised persons in that part of the vehicle. The use of handcuffs and situations in which a handcuffed foreigner is publicly brought for a doctor's appointment outside of the centre ought to be limited to necessary and extraordinary circumstances.

According to the European Prison Rules, while prisoners are being moved to places such as court or hospital, they shall be exposed to public view as little as possible and proper safeguards shall be adopted to ensure their anonymity (rule 32.1). Furthermore, the transport of prisoners in vehicles with inadequate ventilation or light, or which would subject them in any way to unnecessary physical hardship or indignity, shall be prohibited (rule 32.2).

In addition to the above, rules for room searches shall be standardised. The weekly, routine search should be abolished, and the rule for conducting searches only in reasonable cases shall be introduced. No such controlling measures are applied in a half of such facilities. It has not caused the increase in the number of situations in which safety in the centre or of people inside the centre were in danger.

7. The rules of visitation should be standardised and liberalised

Both a foreigner detained in a guarded centre and a person who intends to visit the foreigner should be entitled to submit a request for visitation (the visitation should obviously take place upon prior consent of the detained foreigner). The deadline for submitting such a request should also be standardised. It should be as short as possible (e.g. a few hours - depending on the feasibility to obtain the consent of a detaining centre). The same applies with regard to the time for visitation which, in principle, should be extended to at least two hours (especially taking into account the location of most centres - away from cities and the most populated areas).



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