REPORT OF THE NATIONAL MECHANISM FOR THE PREVENTION OF TORTURE

Monitoring of the treatment of prisoners with physical and sensory disabilities

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Foreword by the Commissioner for Human Rights

Prisoners with disabilities are a particularly vulnerable group whose situation and special needs have not yet been subject to an extensive analysis. The treatment of convicts and remand prisoners with dysfunctions is, however, an important indicator of humanitarian thinking of and approach to penitentiary practice, and may thus be of use to all those responsible for the operation of the penitentiary system in Poland.

This publication is focused on research carried out by the National Mechanism for the Prevention of Torture (hereinafter: the NMPT) with regard to persons with motor and sensory disabilities. It should be noted, however, that in Polish prisons there are also prisoners with reduced ability levels. The increase in such reduction, that may result from diseases that are not immediately visible or from old age, leads to serious difficulties in those people's functioning in Polish penitentiary establishments.

Disability can have many reasons, including physical violence or poverty in the form of lack of funds for medical treatment. The practice shows that a significant number of prisoners come from groups in which such problems exist.

Disability hinders social reintegration. Prisoners with disabilities, due to their poor physical condition, are particularly vulnerable to abuse and violence. The closed environment in which they live, as well as stress and lack of appropriate medical care or physical rehabilitation make imprisonment a disproportionately severe punishment for the offences they have committed.

The situation of prisoners with disabilities and the awareness that the aging of the population may result in their increased number should encourage decision-makers to develop an appropriate strategy for dealing with this group of prisoners. Efforts should be taken to ensure the protection of human rights in prisons, and to take particular account of the needs of persons with disabilities.

This publication of the National Mechanism for the Prevention of Torture has been written in the hope that the issues presented in it will be reflected upon by relevant authorities which will take decisive actions with regard to the situation of persons with disabilities placed in prisons and remand facilities.

Adam Bodnar, *Commissioner for Human Rights*

Introduction

The National Mechanism for the Prevention of Torture and the rights of persons with disabilities

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[1] together with its Optional Protocol (hereinafter: the OPCAT)[2] provided a basis for the establishment, in 2008, of the National Mechanism for the Prevention of Torture that operates within the Office of the Commissioner for Human Rights in Poland. The Mechanism is a group of specialists who monitor the situation in places where people are deprived of their liberty irrespective of their will. There are over 3000 such places in Poland. They include not only prisons or remand facilities but also police emergency centre for children, sobering-up stations, psychiatric hospitals, youth reformatory facilities, juvenile detention centres, nursing homes and social care homes. During the 10 years of their work, representatives of the NMPT conducted over 1000 preventive visits to such facilities, including ones where persons with disabilities are placed.

The key task of the National Mechanism is to verify how persons deprived of liberty are treated, and if needed, to strengthen their protection against torture or inhuman or degrading treatment or punishment. The NMPT has a preventive function which is of great significance in the context of people with disabilities. They are a particularly vulnerable group whose representatives are not always able (due to their health or other restrictions) to report themselves that they have become victims of violence or other ill-treatment.

During its preventive visits, the NMPT refers to relevant international standards. Their implementation directly improves conditions and methods of treatment of persons deprived of liberty. Yet, in this area a lot also depends on the readiness of representatives of visited establishments and their supervising institutions to engage in dialogue with the NMPT.

This publication is a result of visits to remand facilities and prisons, conducted in order to assess how the rights of persons with disabilities were respected there. In some cases, the visiting teams also included experts from non-governmental organizations working in the area in question.

[1] Journal of Laws of 1989, No. 63, item 378.
[2] Journal of Laws of 2007, No. 30, item 192.

In 2015-2016, the NMPT conducted, in total, 17 thematic visits to penitentiary establishments. They focused primarily on examining the situation of prisoners with physical disabilities and sensory (vision or hearing) disabilities. As the practice has shown, the conclusions of those visits are still valid in the light of the Mechanism's experiences during the visits in the subsequent years.

At the end of the publication there is a questionnaire prepared by representatives of the *Polska bez barier* [Poland without barriers] foundation for the needs of the NMPT's thematic visits regarding persons with physical and sensory disabilities. It contains many practical suggestions, among others on how to ensure, at the planning stage, the accessibility of rooms for persons using wheelchairs or crutches. These recommendations are of general nature and may be used also for other types of buildings, as a valuable source of knowledge which should be applied in Poland to a greater extent.

The Equal Treatment Team

The Commissioner for Human Rights implements the tasks of Poland's independent mechanism for promoting, protecting and monitoring the implementation of the Convention on the Rights of Persons with Disabilities (hereinafter: the CRPD) adopted by the United Nations General Assembly on 13 December 2006. The Convention was signed by the Polish government on 20 March 2007 and was ratified by Poland on 6 September 2012, which means that the instrument has been part of the Polish legal system already for 6 years.

The implementation of this mission has been one of the reasons for which the Commissioner for Human Rights established the Equal Treatment Team which is an organizational unit of the CHR Office. Its tasks include e.g. the examination of individuals' complaints regarding the protection of the rights of persons with disabilities, drawing up the Commissioner's general intervention letters to public authorities and institutions with regard to the implementation of the rights of persons with disabilities, as well as joining court proceedings concerning failure to meet the state's obligations under the Convention. The Commissioner also conducts social research on the situation of persons with disabilities and on the practice of applying related legislation. This makes it possible to effectively identify problems faced by persons with disabilities. Within the CHR Office there is also the Expert Committee on Persons with Disabilities and the Expert Committee on Deaf Persons, which are composed of representatives of non-governmental organizations that work for people with disabilities as well as representatives of scientific institutions engaged in the protecting of their rights.

By ratifying the Convention Poland has undertaken to regularly submit to the Committee on the Rights of Persons with Disabilities detailed reports on measures taken to implement the provisions of the Convention and on progress made in this field. The responsibility for drawing up these reports lies with the Government of the Republic of Poland. However, the Commissioner for Human Rights draws up his own reports on the implementation of the obligations under the Convention[3]. In those reports, the Commissioner, who takes the perspective of an authority responsible for human rights protection but

[3] The publication *Implementation by Poland of its obligations under the Convention on the Rights of Persons with Disabilities: report by the Ccommissioner for Human Rights* is available in the electronic form at: https://www.rpo.gov.pl/pl/content/realizacja-przez-polsk%C4%99-zobowi%C4%85za%C5%84-wynikaj%C4%85cych-z-konwencji-o-prawach-os%C3%B3b-niepe%C5%82nosprawnych

independent of the government structures, assesses the progress and successes, as well as the failures and obstacles in the implementation of the specific rights provided for under the Convention.

The body responsible for monitoring the compliance with the Convention on the international arena is the Committee on the Rights of Persons with Disabilities, established under Article 34 of the CRPD. In addition to its main functions, the Committee, pursuant to Article 1(1) of the Optional Protocol to the Convention on the Rights of Persons with Disabilities, may receive and consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction, who claim to be victims of a violation by the State Party of the provisions of the Convention. As a result, the Committee may recommend appropriate remedial actions or legislative changes to be taken by the authorities of the State concerned. The right to submit individual complaints may not, however, be exercised by Polish citizens or other persons who have suffered damages as a result of an act or omission of Polish public institutions, because to date, Poland has not signed or ratified the Optional Protocol to the Convention.

By the end of April 2017, the Optional Protocol had been ratified by 92 member countries of the United Nations, including 21 European Union states. In its recommendations addressed to the European Union which has been a party to the Convention since December 2010, the Committee called the EU to ratify the Optional Protocol. As regards its ratification by Poland, it has been sought by the country's former Commissioners for Human Rights: Janusz Kochanowski, PhD, Professor Irena Lipowicz and Adam Bodnar, PhD.

Under the current legislation, persons with disabilities who have exhausted the legal remedies provided for in the national law may not use the international instrument to seek protection of their rights. This is of concern given that the views adopted by the Committee relate primarily to grave violations of people's rights arising from the Convention. For example, in its views adopted in connection with the communication of *Mr X against Argentina*[4] the Committee drew attention to the obligation to ensure, to disabled persons in prison, adequate living conditions as well as access to rehabilitation necessary to maintain good health.

[4] The views of the Committee on the Rights of Persons with Disabilities adopted on 11 April 2014 on the case *Mr X. v. Argentina* (CRPD/C/11/D/8/2012).

In view of the above, the Commissioner will continue to seek a change of the government's decision concerning the ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities, as he is of the opinion that it is an important instrument that strengthens the effectiveness of the system of human rights protection

The NMPT's cooperation with the Polska bez barier [Poland without barriers] foundation and the Integracja [Integration] foundation

The Commissioner for Human Rights' activities in support of persons with disabilities include cooperation with non-governmental organizations which gather such persons and work for them.

Representatives of the *Polska bez barier* [Poland without barriers] foundation and the *Integracja* foundation actively participated in the thematic visits conducted by the NMPT. They are also the authors of the standards which are referred to in the NMPT's reports and which concern the planning of rooms and buildings accessibility, but which are not yet included in legal regulations. The *Polska bez barier* foundation also prepared the NMPT employees for examining the observance of the rights of persons with disabilities.

Given the contribution of the two organizations to those preparations and to the NMPT's work on this report, we have considered it important for their representatives to be able to describe their work themselves. Below is what they have said:

Polska Bez Barier [Poland without barriers] **Foundation**. We started our work in 2012. Since then, we have been building our strength, experience and sensitivity. We cooperate with many institutions, but cooperation with the Office of the Commissioner for Human Rights is of special importance to us. We are very proud of it as it confirms the quality of our work, as well as the trust in us.

Our foundation has been established because of our disagreement to discrimination. Discrimination is not always an obvious phenomenon. It is often reflected in small things we come across. Every ramp with a too big inclination angle (built this way in order to save place; because the few degrees do not matter to most people; because the building inspector did not agree; or because the architect had simply such a vision) may cause the exclusion of someone. Every facility in which translation into Polish sign language is not available is a place where any person, a person like you, cannot communicate as easily as you can. Every elevator, wheelchair lift or platform that is out of order, as well as the lack of sufficiently contrasting signs or of an induction loop for persons with hearing impairment, and numbers of other things can be excluding and discriminating people. No trained staff able to operate a

platform in a staircase, the platform's key kept on the first floor up the stairs, or even unsecured space under the staircase where a running child can get hit on the head. A toilet that has been closed and turned into a storage space. No lower part of a reception desk, or such a lower part used for keeping leaflets, flowers, a printer or a decoration item like a big plastic green apple.

An eight-year-old boy having to act as an interpreter of the Polish sign language during a court hearing held in connection with his parents' divorce proceedings. A father in a wheelchair who has no possibility to get into his child's preschool or school to attend a parents' meeting. Women with physical disabilities who have to choose a gynaecologist not according to the professionalism criterion, but to the presence of sufficiently strong personnel (as gynaecologist offices are not required to be accessible for the disabled). Offices of Polish Members of Parliament located in non-accessible places. A separate entrance for disabled persons, behind the corner of the building, in the Museum of the History of Polish Jews (which is not the only fault there). The walking area along the Wisła river in Warsaw with so many architectural obstacles that it would even be difficult to list them here. The Szczecin Philharmonic Hall with a wardrobe's counter so tall that a person who is very short or in a wheelchair can be hardly seen. So many new buildings and structures that meet formal requirements but, in practice, are useless. Missing translations into the sign language or audio descriptions in television programmes. Remand facilities and prisons that are not adjusted for prisoners with disabilities who therefore suffer an additional "penalty" because of their disability. The lack of emergency evacuation plans for persons with disabilities. We seek to bring change in such situations.

We like to think that every day we our activities make the world better and more accessible. We want to be attentive and open, not to miss anything important. Over the years of our activities we have managed to develop our own working methods (that have been verified many times, are continuously improved and effective, as has been confirmed by evaluations). We have an excellent although not typical team, and a lot of training equipment; we keep investing in our development. We are more interested in the whole process of changes than in one-off actions, so there is still a lot of hard work ahead of us.

The name of our foundation is also a reflection of our vision and goal. What we do is removing barriers. We believe that both architectural barriers and those that are in people's

minds should be removed every day. We promote changes in order to engage people with disabilities in all areas of life. We believe that everyone has the right to equal treatment. We build connections and cooperate with people and organizations that believe in our goals. In our opinion, partnership and cooperation are a reason to be proud. Together, we can do more and in a better way.

We support the idea that different people have different needs. That is why we are not speaking about people's disabilities but about people's needs. We promote design for all people, or, if you prefer, universal design. We believe that well-designed services, products, space are designed for everyone.

Our cooperation with the Office of the Commissioner for Human Rights began with training for experts of the National Mechanism for the Prevention of Torture. We spoke about accessibility, needs of people with disabilities, universal design, challenges and solutions suggested. Over the past several months, we conducted a number of thematic visits concerning, among others, persons with disabilities in prisons and remand facilities. This resulted in the development of reports, change suggestions and closer cooperation with the National Mechanism and the Prison Service.

The latest results of our cooperation are documents developed by us on architectural accessibility of the CHR Warsaw Office buildings.

The surrounding realities are not always easy. In order to ensure accessibility, a lot of attention, changes, commitment and funding are required. Regulations are important but we must look more broadly, to make sure the solutions implemented by people are of practical use. The UN Convention on the Rights of Persons with Disabilities is a clear sign for us. Professionally prepared personnel as well as accessibility solutions may have a real impact on the activation and social inclusion of a larger number of persons with disabilities. They should be more aware e.g. of the existing possibilities in the fields of activation, rehabilitation, professional work as well as architectural design solutions that enhance their independence. These are the changes that we seek and for which we keep our fingers crossed.

Maciej Augustyniak, Chairman, Polska Bez Barier Foundation

Integracja [Integration] **Foundation** is a nationwide non-governmental organization that for over 20 years has been actively working for the improvement of the situation of over 5 million people with various types of disabilities. It seeks to increase public awareness, ensure equal opportunities, set out national standards and systemic solutions. Ii is a strategic partner to public and private institutions in solving problems concerning persons with various types of disabilities.

The organization's mission is to improve the situation of people with disabilities, increase accessibility, build social awareness and ensure social integration.

The *Integracja* foundation is a leader in the provision of information on disabilities. Its greatest power is its contacts with the media. The foundation operates the largest information platform in the country. Since 1994, it has published the *Integracja* magazine, the most popular magazine in Poland focused on people with disabilities but addressed not only to them. Since 1997 it has also broadcast its television programme (over 600 parts), and since 2003 has operated the largest disabilities-related web portal in the country, Niepelnosprawni.pl.

The foundation also contributes to the creation of friendly jobs by connecting disabled persons who seek employment with potential employers. This can be done thanks to the *Integration Centres* operating in several cities, the *Sprawniwpracy.pl* recruitment portal with a large number of job offers, as well as knowledge about employment of persons with disabilities.

Integracja is also active in all areas of social life concerning persons with disabilities. It supports HR departments in professional activation and human resources management regarding such persons. It provides training to customer service departments to make them more sensitive to people's disability. It seeks architectural and digital accessibility. It helps institutions and companies that want to adapt their products, websites and facilities to the needs of people with disabilities. Our experts draw up specialist opinions, conduct audits and trainings. We have already audited several hundred websites with regard to WCAG 2.0 standards. Our efforts towards eliminating architectural barriers have made it easier for people with disabilities to access many train stations, airports, public and private buildings including post offices and banks. The buildings and websites accessible for persons with disabilities are certified and labelled for quality as *building/structure without barriers* and *web service without barriers*, respectively.

The foundation conducts large-scale social campaigns, of which the best known are: *Lack of imagination is a disability*, *Do you really want to take our place*, *Why do you treat us differently* and the most recent one that won many prizes in the country and abroad, *I don't want to be a fireman*, promoting the www.sprawniwpracy.pl recruitment portal for people with disabilities, that connects employers and candidates.

Integracja also organizes the *People without barriers* competition which, since 2003, has been promoting persons with disabilities whose professional careers, social activity, commitment and attitudes are a source of motivation for others to break barriers in their lives. Since 1996, we have also been the organizer of the *Grand Gala for Integration* whose patron of honour is the President of the Republic of Poland. The event is held on the International Day of People with Disability, and is the largest event of this type in Poland, attended by over 3,000 participants.

Monika Rzepkowska, Representative, Integracja Foundation

I. Standards regarding persons with disabilities

What is disability?

There is no single, commonly recognized definition of disability. Its definitions have evolved over the years. In 1980, the World Health Organization (WHO) stated that *a disability is any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being*.

However, in 1994 the European Disabilities Forum of the European Parliament defined disabled persons *as individuals who enjoy their full rights but are in a disadvantageous situation resulting from environmental, economic or social barriers which they are unable to overcome, due to their impairment, in the same way as other people. These obstacles, known as barriers, are often reinforced by depreciating attitudes of the society*.

The 2006 United Nations Convention on the Rights of Persons with Disabilities[5] states that *persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others*.

Differences between the definitions exist also between Polish normative acts:

Disability *is a permanent or temporary inability to perform social roles due to perpetual or long-term limitations of the abilities of the body, which result, in particular, in the inability to work* (Article 2(10) of the Act of 27 August 1997 *on occupational and social rehabilitation and employment of disabled persons*[6]).

Disabled persons, i.e. persons whose physical, psychological or mental condition impedes, restricts or makes impossible, either permanently or periodically, their everyday life, education, work or performance of social roles (resolution of the Sejm of the Republic of Poland of 1 August 1997: the Charter of the Rights of Disabled Persons[7]).

Individual Polish legislative instruments use various terms to describe disability, also ones that are outdated or pejorative, such as: handicap, mental handicap, mental retardation or

[5] Journal of Laws of 2012, item 1169.
[6] Consolidated text: Journal of Laws of 2018, item 511.
[7] Monitor Polski of 1997, items 50 and 475.

helplessness[8]. The term disability may also not be the best but no better alternative can be found, and the term has replaced several words used before, including handicap.

The problem of people with disabilities has existed since the beginning of human civilization, and very approach to disability has evolved over time, resulting in different models of disability.

An important element of the UN Convention on the Rights of Persons with Disabilities is the conclusion that it is not disability itself that is the real barrier to the functioning of people with disabilities, but the existing barriers result in their disability. However, Polish normative acts remain focused on the medical model of disability that deals with dysfunctions and that does not take into account disabled people's interactions with barriers in their environment, contrary to the standards set out in the Convention. As a consequence, this approach disregards the potential that people with disabilities and, furthermore, leads to restriction of their right to perform social roles on equal terms with fully-abled people.

In the medical model of disability it is perceived in a strictly medical way i.e. from the point of view of illness and deficits[9]. It is assumed that disability can be subject to medical treatment (maybe, in the near future there will be treatment options thanks to the development of medicine), and that persons with disabilities have some "defects" and therefore must be "repaired" in some way. The medical model focuses on the patient's health deficits and not on the potential of the person with a disability. In this model, no account is taken of the necessity to introduce changes in the society, and if support is provided to a person with a disability, the lack of his/her possibilities to take full part in the society's life on equal grounds is not perceived as discrimination.

The chronologically oldest approach to disability, dating back to Antiquity, was called the moral model and recognized disability as a penalty for actions of the person concerned or of his/her parents. A variation of this model was the system of negative eugenics that

[8] See for example: Article 11(2) of the Act of 21 January 1999 on the parliamentary committees of inquiry (consolidated text: Journal of Laws of 2016, item 1024); the Regulation of the Minister of Economy, Labour and Social Policy of 15 July 2003 on the certification of disability and on the assignment of disability categories (consolidated text: Journal of Laws of 2015, item 1110); Article 359 of the Regulation of 7 April 2016 on the internal work procedures for organizational units of prosecutors' office (consolidated text: Journal of Laws of 2017, item 1206).

[9] Model promoted at the beginning of the 18th century.

considered the parents of disabled children to be guilty of their condition. The result of such approach was segregation practices, sterilizing and killing people with disabilities, e.g. by fascists during World War II. At present, science demonstrates there exist no grounds whatsoever for this model.

A very different approach, compared to the medical and the moral model, was offered by the social model developed in 1970. According to it, disability entails people's isolation and makes their full social inclusion and activity impossible due to oppression on the side of the society[10].

The International Classification of Functioning, Disability and Health (ICF) announced by the WHO in 2001 supports a holistic approach to disability, which combines the two earlier scientific models (the medical one and the social one). *It covers dependencies between impairment, limitation of activity and hindrance or limitation of participation in social life, conditioned by individual factors and environmental factors. (...) A disabled person is therefore perceived not only as an individual with health problems, who requires appropriate medical care, but also as a community member to whom human rights apply equally, just like to the rest of the society*[11].

According to the European Health Interview Survey (EHIS)[12] of 2014, 7.7 million people (precisely, 7, 689,800) have some type of disabilities in Poland[13]. It is worth noting that the problem of disability is found in every social group, including prisoners.

Prisons are places where people with motor and sensory disabilities have been placed since the beginning of the existence of such facilities. In the past, the reasons for disability often included poor diet, incurable diseases or injuries suffered during wars. At present, disability is in many cases connected with senior age of prisoners. According to Statistics

[10] More on the subject can be found in: *Diagnoza potrzeb i modele pomocy dla osób z ograniczeniem sprawności* [Diagnosis of needs and models of support of people with reduced abilities], edited by Anna I. Brzezińska, Radosław Kaczan and Karolina Smoczyńska, SCHOLAR Publishing House, Warsaw, 2010.

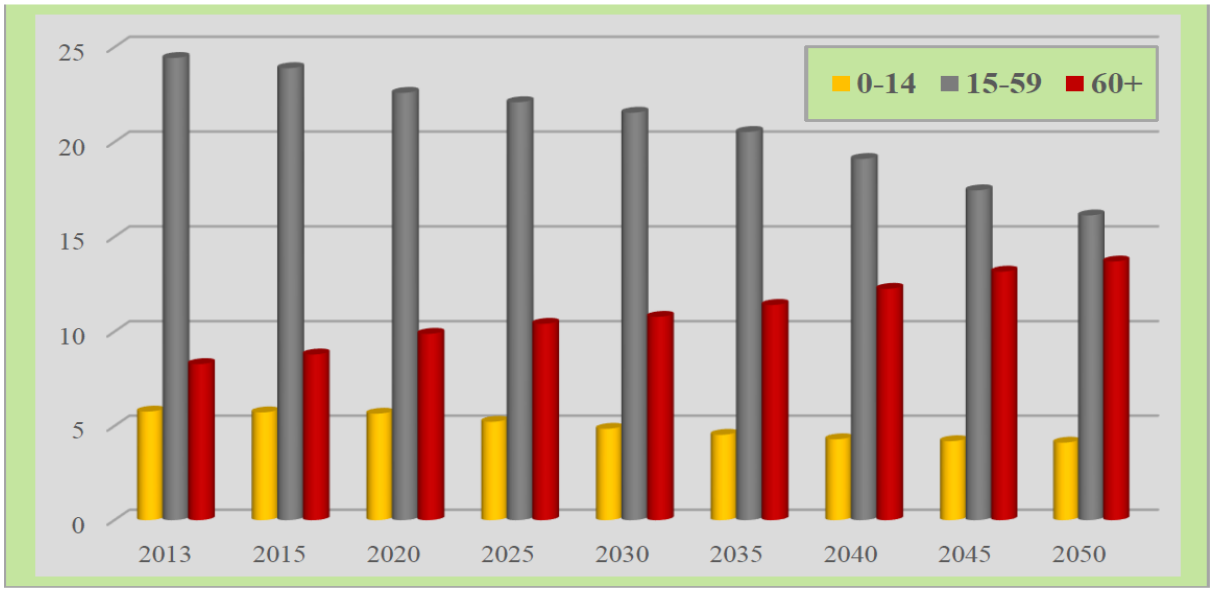
[11] More on the subject can be found in the article *O potrzebie rehabilitacji kompleksowej [*On the need for comprehensive rehabilitation] by Krzysztof Czechowski and Anna Wilmowska-Pietruszyńska in: *Niepełnosprawność – zagadnienie, problem, rozwiązania* [Disability: issues, problems, solutions], No. II/2016(19).

[12] Data from the second edition of the survey on *Health and health-related behaviours of Polish residents, according to the European Health Interview Survey (EHIS) of 2014*. The first edition of the survey was conducted in 2009.

[13] Source: http://www.niepelnosprawni.gov.pl/p,78,dane-demograficzne

Poland's[14] demographic forecasts for the period until 2050, the number of children (aged 0-14 years) and adults aged 15-59 will decrease significantly, and the number of persons aged 60+ will increase. Consequently, the share of older people in the Polish population will increase up to 40.4% (13.7 million) in the last year covered by the forecast.

Population size forecast by age groups (in million)[15].



The use of detention on remand and imprisonment with regard to senior prisoners, as a complex and increasingly severe problem, has been the subject of the Commissioner for Human Rights' publication entitled *Imprisonment of senior persons in remand facilities and prisons*[16].

The large share of people with disabilities and illnesses in the overall number of prisoners also results from their unhealthy lifestyle before imprisonment and the lack of good dietary habits, as well as addictions, including previously unknown addictive substances that are increasingly harmful (e.g. so-called boosters).

[14] *Population size forecast for 2014-2050, Studies and analyses*, Statistics Poland, 2014.

[15] The chart comes from the Statistics Poland's document of 19 February 2016 for a meeting of the Polish Sejm's Committee on Policy for Seniors, regarding the *Minister of Health information on the impact of demographic changes and aging of the society on the organization of the health care system and on the National Health Programme*.
Source:*http://stat.gov.pl/files/gfx/portalinformacyjny/pl/defaultaktualnosci/5468/24/1/1/ludnosc_w_wieku_60._struktura_demograficzna_i_zdrowie.pdf*

[16] https://www.rpo.gov.pl/pl/content/rpo-sprawdzil-w-jakich-warunkach-seniorzy-odbywaja-kare-pozbawienia-wolnosci

Attention should also be paid to aggression, including self-aggression that is, in many cases, determined by the community in which the person was brought up, and by his/her traumatic experiences. The number of self-injuries in prisoners in Polish penitentiary establishments is decreasing systematically (e.g. in 2009 there were 818 cases, in 2014 - 433 cases, and in the last two years the numbers of self-injuries, including suicide attempts, were 215 and 220, respectively[17]). Some of those injuries, however, resulted in serious health problems[18] and disabilities that may turn out to be permanent[19].

It is also worth noting that according to some researchers who examine the situation of people with disabilities, their increasing number in penitentiary facilities is caused by the rising number of crimes committed by such people. In addition to offences such as theft or fraud, committed by people irrespective of their health condition, now there are also persons with disabilities among perpetrators of more severe crimes such as leadership of organized criminal groups[20].

The experience of the NMPT confirms that the above conclusions are correct. Apart from the case of a severely paralyzed person who had been temporarily arrested on suspicion of leadership of a drug dealers group, the NMPT visiting team also spoke to a convict who lost his legs as a result of a bomb attack against him, that was organized by another criminal group. Yet, after serving the penalty, healing his wounds and undergoing physiotherapy in prison, he received a pair of prosthetic legs. He then found the attacker in another prison and tried to kill him by stabbing him on the neck with a pen.

Of course, among disabled prisoners there are also those whose disability results from an illness or accident. The NMPT representatives spoke to a number of convicts in wheelchairs who got paralyzed as a result of jumping into shallow water, or a traffic accident.

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[17] Sources: Statistical information by the Ministry of Justice on cases proceeded and judgments issued by common courts, and on the system of prisons https://bip.ms.gov.pl/pl/dzialalnosc/statystyki/statystyki-2011/download,1721,7.html and annual statistics of the Prison Service http://www.sw.gov.pl/strona/statystyka-roczna

[18] The Prison Service statistics mention 45 such cases in the last 2 years.

[19] Official statistics do not cover such cases but failed suicide attempts and self-aggression caused by emotional reasons should be taken into account as their effects can be very serious.

[20] Piotr Braun *Osoba niepełnosprawna w izolacji penitencjarnej* [Disabled persons in penitentiary isolation] in: *Niepełnosprawność – zagadnienie, problem, rozwiązania* [Disability: issues, problems, solutions], No. II/2013(7).

It is not possible to determine, however, the exact number of prisoners with physical and sensory disabilities currently held in Polish prisons. The Prison Service only provides information on prisoners with motor disabilities: at the beginning of 2016, there were 48 prisoners in wheelchairs and 294 prisoners using crutches on permanent basis. At that time, the overall number of prisoners was 71,764. The proportion of disabled persons therefore did not seem significant, yet the statistics are not precise[21]. As regards the questionnaire regarding new prisoners, that is filled in by a correction officer at the time of the prisoner's placement, it contains only questions regarding visible disabilities, and very general questions about the health condition. Moreover, the number of people with physical disabilities is still growing. According to the information by the National Prison Service Headquarters of 24 January 2018, there were 90 prisoners in wheelchairs and 570 prisoners using crutches on permanent basis in penitentiary establishments in Poland[22]. As of 31 December 2018, the overall number of prisoners was 72,204.[23]

Some research materials indicate that there are several thousand prisoners with disabilities[24]. A confirmation of this opinion can be found in the publicly available statistics of the Information and Statistics Department of the National Prison Service Headquarters for 2012, according to which there were 2499: prisoners with physical disabilities: 1063 with motor disabilities, 339 with visual impairment, 155 with hearing impairment, and 158 with speech impairment[25]. The statistics are important and reflect the sensitivity of those who compiled them, as in addition to the above-mentioned numbers they also take into account people with disabilities that are not readily visible (609 persons), i.e. with body organ dysfunctions that deteriorate the persons' health as strongly as a visible disability. The studies also confirmed that one prisoner may have several disabilities (2499 persons had a total of 2647 disabilities).

According to the information on disabled prisoners in 2013 (there is no data for 2012 to allow a precise comparison), the number of prisoners who never sought a disability certificate was high as the certificates had been issued only to 1,257 people. Interestingly, a large

[21] During the NMPT visits it happened many times that the visiting team members actually identified the accurate numbers of people with disabilities i.e. with amputated limbs, with loss of hearing or vision impairment.
[22] Reply of the Ministry of Justice of 14 April 2018, ref. no. DWMPC-III-850-2/18.
[23] The data comes from the annual statistics for 2018, prepared by the Ministry of Justice, BIS.0332.17.2018.AP.
[24] Piotr Stanisławski, *Cela bez taryfy ulgowej* [Cells without preferential treatment], Magazyn Integracja, 2/2008.
[25] http://www.bip.sw.gov.pl/SiteCollectionDocuments/CZSW/statystyka/Niepelnosprawni.pdf

number of prisoners applied for such certificates only after their imprisonment (428 persons)[26] (which may indicate that the Prison Service provided assistance to persons with disabilities in dealing with the relevant formalities).

According to the provided data, the largest number of prisoners (641) had a moderate degree of disability, 384 had a low degree, and 142 had severe disability; no data on other categories was available. This means there were 800 prisoners with significant disability, who required special treatment in accordance with the international standards.

[26] http://www.bip.sw.gov.pl/SiteCollectionDocuments/CZSW/statystyka/stopien_niepelnosprawnosci_2013.pdf

International standards of protection of people with disabilities

According to Article 1 of the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948, *All human beings are born free and equal in dignity and rights*[27]. For almost 70 years, the international society was slowly beginning to understand that women and men as well as people of different race and origin have equal rights. However, this turned out not enough for the actual elimination of discrimination and for the mobilization of mechanisms leading to truly equal rights of all people, including those who, due to their disability, require support in exercising those rights.

Since the time of the adoption of the declaration, more international documents on human rights documents have been developed. However, even among the fundamental legislative instruments, may do not directly relate to people with disabilities at all, or relate to them only very briefly. This is due to the fact that people with disabilities have all the rights of fully-abled people, and therefore there is no need to declare separately e.g. their right to life.

Over the years, the authors of such legislative instruments concluded that in order for them to be effective, they need to be binding for the countries that ratify them, and that in addition to general standards they should also include specific regulations.

Some of them, such as declarations and resolutions, set out the general direction towards introducing specific legal norms by way of detailed regulations. Those general documents can be a reference point for national regulations that should follow them.

Others documents, however, such as conventions (*the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of Persons with Disabilities*) provide grounds for the exercise of specific rights, although standards set out therein usually require more specific explanations in lower-level legislation.

The key documents adopted by the UN with regard to people with disabilities include the above-mentioned *Universal Declaration of Human Rights,* the *International Covenant on*

[27]Universal Declaration of Human Rights, [online]: http://libr.sejm.gov.pl/tek01/txt/onz/1948.html

Civil and Political Rights and the *International Covenant on Economic, Social and Cultural Rights*, that were all adopted in 1966. Poland ratified those instruments on 3 March 1977.[28]

The key European-level instruments of importance for persons with disabilities are, in particular:

- *The European Convention for the Protection of Human Rights and Fundamental Freedoms* that entered into force on 3 September 1953, after its ratification by 10 countries. Poland ratified the Convention on 19 January 1993[29]. Disability as such is not mentioned in its text or in its optional protocols as a potential reason for discrimination, but it is covered by the content of Article 14 of the Convention and by other provisions such as those of Protocol 12 on the prohibition of discrimination, which, however, has not been ratified by Poland.

The European Court of Human Rights, based in Strasbourg, assesses the implementation of the provisions of the Convention by the Council of Europe member states. The Court may require a state which has ratified the Convention to cease violations of law and may impose an obligation on it to provide financial compensation to the victims. It may also apply general measures with regard to States-parties and require them, for example, to introduce specific legal regulations. Anyone under the jurisdiction of any State party to the Convention may lodge a complaint with the Court if he/she finds that a public authority has violated his/her rights guaranteed by the Convention. Yet, this can be done only if the domestic remedies have been exhausted or in certain circumstances where the applicant is not entitled to such national-level remedies. Admissibility of complaints is governed by Article 35 of the Convention.

- *The European Social Charter (ESC)*, in force since 1965, ratified by Poland on 10 June 1997 within the scope specified by it, with the exclusion of certain provisions[30]. In 1996, an agreement was reached on the adoption of the *Revised European Social Charter (RESC)*, which, in addition to rewording certain ESC provisions, introduced 8 new ones, including on the right to protection against poverty and social exclusion, or on the right to housing. RESC is the most progressive and modern international agreement in the field of second-generation human rights. Poland signed the RESC in 2005 but has not yet taken the decision to ratify it.

[28] Journal of Laws of 1977, No. 38, items 167 and 169.
[29] Journal of Laws of 1993, No. 61, item 284.
[30] Journal of Laws of 1999, No. 8, item 67, as amended.

The European Social Charter is of particular importance for people with disabilities as it regulates social rights by referring to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The first part of the Charter contains a list of rights. The second part sets out the states' obligations with regard to their implementation. The Charter lays down standards that apply directly to people with disabilities. Disability is referred to e.g. in Article 15: *the right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement*, regardless of the type of disability. Compliance with the obligations set out in the Charter is subject to international supervision, as States-parties are required to submit reports on the fulfilment of their obligations. The reports should contain very specific data allowing to assess the actual degree of their fulfilment.

- *The Charter of Fundamental Rights of the European Union*, which entered into force in 2009, as a result of its revision. The Charter of Fundamental Rights contains an extensive list of rights of EU citizens, and many of its provisions relate directly to people with disabilities.

Below are selected principles that arise from general international legislative instruments relating, directly or indirectly, to persons with disabilities (those principles are supplemented by specific standards set out, in particular, in the Convention on the Rights of Persons with Disabilities):

> ***Prohibition of discrimination in broadly understood political, social and economic life, and the right of persons with disabilities to independent and active life*** *(Article 21 (1) of the Charter of Fundamental Rights of the European Union, Article 7 of the Universal Declaration of Human Rights, Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 1 of Protocol 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 2(1) and Article 26 of the International Covenant on Civil and Political Rights, Article 2(2) and Article 10(3) of the International Covenant on Economic, Social and Cultural Rights).*
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> ***The right to physical and mental integrity of people with disabilities, which results, inter alia, in the prohibition of any eugenic practices[31], in particular those aimed at the selection of such persons*** *(Article 3 of the Charter of Fundamental Rights of the European Union).*

[31] This should be understood as practices such as isolation from the society, forced sterilization, or extermination of people with disabilities.

The possibility to take part in social life (including artistic and sporting life), in the form of access to all goods and services *(Articles 20-27 of the Universal Declaration of Human Rights, Article 11 and Article 15(1) of the International Covenant on Economic, Social and Cultural Rights, Article 26 of the Charter of Fundamental Rights of the European Union).*

Access to medical treatment and physical rehabilitation, which in the case of people with disabilities means, among others, access to diagnostics and physical therapy procedures, orthopaedic aids, other aids and physical therapy equipment *(Article 25 of the Universal Declaration of Human Rights, Article 12 of the International Covenant on Economic, Social and Cultural Rights).*

Access to education at all levels *(Article 26 of the Universal Declaration of Human Rights, Article 13 of the International Covenant on Economic, Social and Cultural Rights).*

The right to work, both in the open labour market and in environments adapted to the needs of people with disabilities *(Article 23 of the Universal Declaration of Human Rights, Article 6 and Article 15(1) of the International Covenant on Economic, Social and Cultural Rights).*

The right to social security, implying the obligation for public authorities to take special measures to secure adequate conditions for persons with disabilities *(Article 25(1) 1 of the Universal Declaration of Human Rights, Articles 9 and 11 of the International Covenant on Economic, Social and Cultural Rights).*

From the point of view of the content of this publication, of specific importance are also: the right to life, freedom and security (Article 3 of the Universal Declaration of Human Rights, Articles 2, 5 and 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Articles 6(1) and 9(1) of the International Covenant on Civil and Political Rights, and Article 6 of the Charter of Fundamental Rights of the European Union); the right to dignity (Article 1 of the Universal Declaration of Human Rights, Article 1 of the Charter of Fundamental Rights of the European Union, and Article 10 of the International Covenant on Civil and Political Rights); and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (Article 5 of the Universal Declaration of Human Rights, Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 7 of the International Covenant on Civil and Political Rights, and Article 4 of the Charter of Fundamental Rights of the European Union). Persons with

disabilities who are deprived of their liberty are prisoners particularly vulnerable to violations in the above areas. The prohibition of such violations is included in the separate UN Convention on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment[32] as well as its Optional Protocol[33].

There are also numerous specific international legislative instruments that regulate the status of persons with disabilities and guarantee special protection to them so as to secure the exercise by them of the rights that are, as a rule, universal and equal for all people. These instruments are of very different types: they include general guidelines as well as specific rules that constitute the requirements for funding specific projects, or directly affect the exercise of specific general principles. Some of those instruments are devoted to persons with specific types of disability, e.g. deaf people or people with intellectual disabilities. All those documents seek to change people's thinking about disabilities, and increase their sensitivity to the issue, e.g. by establishing the International Day of People with Disability.

1. Legislation and other European Union documents[34]

a) Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 *concerning the rights of disabled persons and persons with reduced mobility when travelling by air;*

b) Council Directive 2000/78/EC of 27 November 2000 *establishing a general framework for equal treatment in employment and occupation;*

c) Council Decision on the conclusion, on behalf of the European Union, of the Marrakesh Treaty *to facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled*;

d) Council Decision of 26 November 2009 concerning the conclusion, by the European Community, of the *United Nations Convention on the Rights of Persons with Disabilities*;

[32] Journal of Laws of 1989, No. 63, item 378.
[33] Journal of Laws of 2007, No. 30, item 192.
[34] Source: http://www.niepelnosprawni.gov.pl/art,48,dokumenty-unii-europejskiej

e) European Parliament resolution of 11 December 2013 *on women with disabilities* [2013/2065 (INI)];

f) Resolution of the Council of the European Union and the Representatives of the Governments of the Member States, meeting within the Council, *on a new European disability framework* (2010 / C 316/01) published on 20 November 2010;

g) Resolution of the Council of the European Union and the representatives of the Governments of the Member States, meeting within the Council of 17 March 2008 *on the situation of persons with disabilities in the European Union*;

h) Council Conclusions (adopted by the Council on 21 June 2012) on the support of the implementation of the European Disability Strategy 2010-2020;

i) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: European Disability Strategy 2010-2020: a renewed commitment to a barrier-free Europe.

1.1. Documents of the Council of Europe[35,36]

a) Recommendation 2064(2015) of the Committee of Ministers of the Council of Europe to member states: *Equality and inclusion for people with disabilities*;

b) Recommendation CM/Rec(2013)3 of the Committee of Ministers of the Council of Europe to member states *on ensuring full, equal and effective participation of persons with disabilities in culture, sports, tourism and leisure activities*;

c) Recommendation CM/Rec(2011)14 of the Committee of Ministers of the Council of Europe to member states *on the participation of persons with disabilities in political and public life*;

d) Recommendation CM/Rec(2009)8 of the Committee of Ministers of the Council of Europe to member states *on achieving full participation through universal design*;

[35] http://www.niepelnosprawni.gov.pl/art,50,dokumenty-rady-europy

[36] https://bip.ms.gov.pl/pl/prawa-czlowieka/europejski-trybunal-praw-czlowieka/zalecenia-komitetu-ministrow-rady-europy-majace-na-celu-zapewnienie-efektywnosci-wdrazania-europejskiej-konwencji-praw-czlowieka/

e) Recommendation No. R(98)7 of the Committee of Ministers to Member States *concerning the ethical and organisational aspects of health care in prison*, which addresses important aspects of detention of prisoners with disabilities:

> ***Prisoners with serious physical handicaps and those of advanced age should be accommodated in such a way as to allow as normal a life as possible and should not be segregated from the general prison population. Structural alterations should be effected to assist the wheelchair-bound and handicapped on lines similar to those in the outside environment (point 50 of the Recommendation).***
>
> ***The decision as to when patients subject to short term fatal prognosis should be transferred to outside hospital units should be taken on medical grounds. While awaiting such transfer, these patients should receive optimum nursing care during the terminal phase of their illness within the prison health care centre. In such cases provision should be made for periodic respite care in an outside hospice. The possibility of a pardon for medical reasons or early release should be examined (point 51 of the Recommendation).***

The recommendations quoted above are of great importance from the point of view of the results of the monitoring conducted by the NMPT in prisons and remand facilities, as described herein below.

f) Resolution of the Parliamentary Assembly of the Council of Europe No. 2039(2015) *Equality and inclusion for people with disabilities*;

g) Resolution of the Committee of Ministers of the Council of Europe ResAP(2001)3 *Towards full citizenship of persons with disabilities through inclusive new technologies*;

h) Recommendation Rec(2006)2 of the Committee of Ministers to Member *States on the European Prison Rules*: although it does not use the term "disability", the principles laid down therein apply also to prisoners with disabilities. Moreover, the European Prison Rules refer to *prisoners with special needs or require specialist treatment*, which should be understood as a reference also to prisoners with disabilities:

> ***Particular attention shall be paid to the education of young prisoners and those with special needs (Rule 28.3).***

The medical practitioner shall have the care of the physical and mental health of the prisoners and shall see, under the conditions and with a frequency consistent with health care standards in the community, all sick prisoners, all who report illness or injury and any prisoner to whom attention is specially directed (Rule 43.1).

Staff who is to work with specific groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, etc., shall be given specific training for their specialised work (Rule 81.3).

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2. **Documents of the United Nations**[37]

a) *Declaration on the Rights of Disabled Persons* of 1975, confirming that disabled persons have the same civil and political rights as other human beings, and that states are responsible for care provision to them and for ensuring the feelings of security and membership in the society to them[38];

b) *Declaration on the Rights of Deaf-Blind Persons* of 1979, that lays down the following rights of persons with the said sensory disabilities: the right to physical therapy, to work, to social security, and to the participation in cultural and social life;

c) *General Assembly Resolution* of 1976, that proclaimed 1981 as *the International Year of Disabled Persons.* In that year, international, regional and national action plans for people with disabilities were developed which provided for actions to be taken to ensure equal opportunities, treatment, physical therapy and prevention of disability;

d) *General Assembly Resolution* of 3 December 1982 establishing *the World Program of Action concerning disabled persons* (the day of the Resolution's publication has been recognized by the UN as the International Day of People with Disability). The main objectives of the program are: preventive measures and protection of people with disabilities, supporting their full participation in social life, and ensuring effective physical therapy as well as equal opportunities for them;

e) Tallinn Guidelines adopted in 1898, regarding education and employment of persons with disabilities by government agencies and by public authorities at all levels;

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[37] Source: http://www.unic.un.org.pl/niepelnosprawnosc/

[38] Source: http://www.niepelnosprawni.pl/ledge/x/7720

f) *Standard Rules on the equalization of opportunities for persons with disabilities* adopted in 1993, which determine directions of solutions regarding persons with disabilities, and provide a basis for developing disability-related policies and programmes;

g) *Convention on the Rights of Persons with Disabilities*[39], adopted by the United Nations General Assembly on 13 December 2006. The reason for adopting the Convention was the need to set out, in one normative act, the various rights of persons with disabilities and to make them binding for the states. The Convention is an important instrument of international law, and refers directly also to people with disabilities in places of detention, in Articles 14 and 15:

Article14

Liberty and security of person

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:

(a) Enjoy the right to liberty and security of person;

(b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation.

Article 15

Freedom from torture or cruel, inhuman or degrading treatment or punishment

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.

[39] Source: https://www.rpo.gov.pl/pl/konwencja-o-prawach-osob-niepelnosprawnych

2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

More information on the Convention can be found in the Commissioner for Human Rights' publication entitled *Convention on the Rights of Persons with Disabilities – the CHR's guidebook*[40].

The main successes and problems regarding the implementation of the rights of persons with disabilities have been described in the *Report of the Commissioner for Human Rights on the implementation by Poland of its obligations under the Convention in 2012-2014*[41].

As regards the UN documents of significance for prisoners with disabilities, it is worth noting that, as in the case of the Council of Europe documents, the specific instruments regarding prisoners apply also to prisoners with disabilities. Among them, the key documents are *the UN Standard Minimum Rules for the Treatment of Prisoners* translated in the Office of the Commissioner for Human Rights[42]. Nelson Mandela, who was a prisoner for almost 30 years[43] did not forget about people with disabilities and considered them as prisoners with special needs:

Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation (Rule 25.1).

Prison administrations shall make all reasonable accommodation and adjustments to ensure that prisoners with physical, mental or other disabilities have full and effective access to prison life on an equitable basis (Rule 5.2).

Prisoners with sensory disabilities should be provided with information **(***regarding the rules in force in the establishment and the rights and obligations of prisoners – comment by D.K.***) *in accordance with their needs (a part of Rule 55).***

[40] Source: https://www.rpo.gov.pl/pl/content/konwencja-o-prawach-os%C3%B3b-niepe%C5%82nosprawnych
[41] Source: https://www.rpo.gov.pl/sites/default/files/Sprawozdanie%20KPON%202015.pdf
[42] Source: https://www.rpo.gov.pl/pl/content/reguly-nelsona-mandeli
[43] Nelson Rolihlahla Mandela (1918 - 2013) was a South African politician, president of South Africa from 1994 to 1999, one of the anti-apartheid movement leaders, a human rights activist, and a Nobel Peace Prize winner. For his political activities he was convicted and spent 27 years in prison.

Prison staff who are in charge of working with certain categories of prisoners, or who are assigned other specialized functions, shall receive training that has a corresponding focus (a part of Rule 76).

The Nelson Mandela standards are still valid, although they are not always taken into account, as confirmed by the problems identified by the NMPT and discussed later in the report. It should also be added that on the initiative of the Office of Democratic Institutions and Human Rights, in 2018 a guidebook was published on Nelson Mandela Rules and their implementation in dealing with prisoners.

3. Documents of the International Labour Organization[44]

Managing disability in the workplace: *ILO code of practice*, published on 13 February 2002, is a guiding document for employers on how to recruit people with disabilities and how to retain employees who have become disabled during their employment. This document is also addressed to authorities, employee organizations and individual persons with disabilities. It increases the awareness that many difficulties encountered by people with dysfunctions when seeking a job or at workplace result from social barriers rather than from those people's inability to work.

Convention No. 159 of the International Labour Organization on vocational rehabilitation and employment of disabled persons, adopted in Geneva on 20 June 1983. Its objective is to enable social inclusion or reintegration of people with disabilities by creating appropriate conditions for their vocational education and finding employment. It also applies to prisoners with disabilities and to the Prison Service's obligation to ensure appropriate vocational rehabilitation measures.

The earlier reference to the *European Convention for the Protection of Human Rights and Fundamental Freedoms* indicated that to effectively enforce its provisions, the **European Court of Human Rights (hereinafter: ECHR) in Strasbourg** was established. Its jurisprudence significantly impacts the States-parties to the Convention. Firstly, because the judgments on individual cases pertain to specific violations and facilitate better understanding

[44] Source: http://www.niepelnosprawni.gov.pl/art,51,dokumenty-miedzynarodowej-organizacji-pracy

of the content of the Convention. Secondly, the amounts of adjudicated damages payable to the applicants constitute obligations for the States-parties and have to be paid. Notably, the given State in question is also required to take general measures to change its law or practice. National courts of States-parties to the Convention should follow, in their jurisprudence, the standards arising from the ECHR judgments regarding prisoners with disabilities.

The jurisprudence of the ECHR is very extensive but this publication is focused only on selected **cases against Poland, that concern prisoners with disabilities or prisoners who are chronically ill**.

Dzieciak v. Poland, judgment of 9 December 2008 (application no. 77766/01)

The man with a severe heart disease was arrested in 1997. His remand detention period was extended several times despite his poor health condition and the need for laser heart surgery. From the beginning of his detention period, the prison authorities claimed that they provided good medical care to the detainee but he was placed for some time in a penitentiary establishment without a hospital care facility he required, and was not transported for the surgery that was scheduled for him. In 2001, when the man lost his consciousness during a court hearing, actions were taken to transport him to the hospital where another date for the surgery was set. Yet, before that date, the patient died. The cause of his death was a heart attack caused by his severe heart disease. The prosecutor discontinued the investigation into the detainee's death, and considered that the gathered evidence did not prove it had resulted from any act of negligent or omission of third parties. The decision was upheld by the court.

The ECHR noted that since his arrest in September 1997 until his death in October 2001, the patient had a heart disease and his health condition was continuously deteriorating over the period of detention. The Court also found many irregularities in the activities of the prison authorities and the national court which, when issuing subsequent decisions to extend the remand detention, failed to take into account the detainee's state of health. The Court also ruled that the national authorities had failed to effectively investigate the case of the man's death. The incomplete and inadequate manner of conducting the investigation was reflected by the failure to precisely determine the course of events on the date of the man's death. This

constituted a violation of Article 2 of the Convention. The court adjudicated that the widow should receive compensation in the amount of 20,000 euro.

The judgment refers to the fundamental standards that should be followed in the case of severely ill prisoners:

> ***The Court reiterates that the first sentence of Article 2(1) enjoins the State not only to refrain from the intentional and unlawful taking of life, but also to take appropriate steps to safeguard the lives of those within its jurisdiction.***
>
> ***The Court also reminded that, in line with earlier judgments, where an individual is taken into police custody in good health and is found to be injured on release, it is incumbent on the State to provide a plausible explanation of how those injuries were caused. The obligation on the authorities to account for the treatment of an individual in custody is particularly stringent where that individual dies.***
>
> ***The Court has also emphasized the right of all prisoners to conditions of detention which are compatible with human dignity***
>
> ***The Court also emphasized that the Convention cannot be construed as laying down a general obligation to release detainees on health grounds, yet the State is required to protect the physical well-being of persons deprived of their liberty, for example by providing them with the requisite medical assistance.***

Rokosz v. Poland, judgment of 27 July 2010 (application no. 15952/09)

The man was convicted in several criminal cases (the earliest judgment was issued in 2001). He was assigned several leaves from serving the penalty of imprisonment, which were assigned on the grounds of his health condition. The court made decisions on them based on expert opinions, despite the prison physician's opinion that the man could be treated within the penitentiary system. The applicant had atherosclerosis of the lower limbs, as well as hypertension, diabetes and hyperlipidaemia. He was considered a person with a severe disability who needed constant care provision by another person. Despite the leaves from serving the penalty, due to health reasons, his health did not improve, and in 2007 he had a heart attack. The experts stated that he required health resort treatment, and considered that the applicant's illness was incurable, progressive and posing a serious risk to his health and

life. The opinion of an expert cardiologist, issued on 12 November 2007 at the request of the court, stated that *it would be a serious risk for the applicant to continue to serve the penalty it the prison conditions, because this could endanger his life*. According to the expert, no prison was able to provide adequate medical care to the man, that would be appropriate from the point of view of his health condition, in particular because was a patient at high risk of sudden death. The risk was impossible to be eliminated even in conditions other than those in the prison. The expert requested a suspension of the penalty of imprisonment for the applicant, and classified his diseases as advanced and serious. The expert also considered that the further leaves from serving the penalty would have been justified only if his health condition prospects had been good, whereas in the expert's opinion they were poor.

The convict applied for suspension of the penalty in 2008 but the application was rejected despite a similar expert opinion then issued on his health. In 2009, the convict's complaint in the matter was also dismissed although it highlighted the lack of proper medical care in the prison including, among others, no supply of insulin and no access to specialist doctors. The court considered that the applicant's health could deteriorate regardless of whether he would be serving the sentence or staying outside the prison. Furthermore, it concluded that the inability to serve the sentence does not have to be permanent and that could not be assumed that treatment would be successful. The court also refused to assign a legal representative ex officio to the complainant.

In the same year, the convict's application for another suspension of the penalty was dismissed. The appellate court noted that the applicant's situation should be subjected to a more thorough analysis, and it overruled the decision dismissing the prisoner's application, but no steps were taken in connection with the ruling.

The Court found that the fear and uncertainty that the seriously ill prisoner must have felt in his situation, being aware of his inability to serve his sentence, and his awareness that according to specialist doctors, he was a patient at a high risk of death, combined with the suffering caused by his diseases, constituted treatment exceeding the severity provided for by Article 3 of the Convention. The court awarded compensation in the amount of 10,000 Euro to the applicant for non-material loss.

When considering the case, the ECHR pointed out, inter alia to the following standards:

Article 3 of the Convention, that prohibits torture and inhuman treatment, imposes on State-Parties the positive obligation to ensure to persons deprived of their liberty conditions sufficient to respect their human dignity in a manner that does not cause suffering or inconvenience in excess of the inevitable level of suffering that is connected with deprivation of liberty, and to ensure adequate protection of their health and well-being, especially through the required medical assistance and care.

The lack of proper medical care and the imprisonment of an ill person in inappropriate conditions may, in principle, be equivalent to treatment that is contrary to the provisions of Article 3. Furthermore, not only the health of the prisoner but also his wellbeing should be ensured.

Article 3 of the Convention cannot be interpreted as laying down a general obligation to release a detainee on health grounds or to transfer him to a civil hospital, even if he is suffering from an illness that is particularly difficult to treat. Yet, the Court admits that the quality of medical care in a penitentiary establishment may in some cases differ from the medical care offered in public healthcare institutions. Thus, Article 3 of the Convention imposes on the State the obligation to protect the physical integrity of persons deprived of their liberty, in particular by providing them with adequate medical care. The Court recognizes that in the event a court takes a decision to place an ill person in a prison, the Court is also required to monitor with particular care whether the conditions of serving the sentence are appropriate for meeting the special needs of the ill person.

The Court cannot exclude that in a situation when particularly difficult conditions are faced, considerations relating to proper administration of justice may require humanitarian response in order to resolve them.

D. G. v. Poland, judgment of 12 February 2013 (application no. 45705/07)

The applicant with motor disability (two-sided paralysis) claimed that the conditions of his detention were not adjusted to his disability. He used a wheelchair and had severe disorders of the urethral and anal sphincter and other disorders. In the initial period of imprisonment (starting from 2001) his penalty was suspended several times due to his health condition.

After one of the suspension periods, the applicant did not return to prison and was subsequently detained. In prison, he did not get diaper pants for adults and new catheters he needed.

It should be noted that this prisoner, despite his disability and poor health, was regularly transported from the prison to a hospital by a prison van that had no proper attachment belts, and only few times he was transported by an ambulance. During the transportation he was sitting a wheelchair, leaning against the back of the vehicle. To maintain stability, the he had to be holding a handrail. During one of the travels the catheter he had been using since his detention broke and started leaking.

The cells where he was imprisoned did not meet the accessibility standards for people with motor disabilities. At first, he was placed in a dirty cell with an area of 7.5 square meters with two bunk beds and a toilet that was not in a separate room. Then, he was placed in a cell with a separate toilet, but in using it he had to be dependent on the help of the other prisoners. When taking a shower the applicant had to be sitting on an ordinary stool placed under it. He claimed that once he fell off it, and had to continue to take the shower while lying on the floor, without anyone’s help. During his imprisonment, the applicant developed pressure sores.

On 11 September 2003, the applicant was taken to the hospital ward of the penitentiary establishment for the treatment of pressure sores. The broken skin was stitched up but, in the applicant's opinion, the wounds quickly reopened. He also developed tinea pedis. The prisoner was soon transported to another prison where he was placed in a 12-person cell where smoking was permitted, although he was a non-smoker. The other prisoners helped him with daily hygiene routines but he often stayed in soaked diaper pants, especially at night-time.

The neurosurgeon who examined the applicant concluded that the patient required physiotherapy on daily basis. The medical certificate issued on 16 January 2004 stated that such therapy was not available in the prison.

The convict was awarded another penalty suspension period to undergo hospital treatment, thanks to which his overall health condition improved. The hospital discharge statement included the indications for the applicant to continue the physiotherapy in

accordance with the hospital procedure, to remain under medical supervision and to undergo physical rehabilitation periodically. Indications regarding the catheter were also included in the certificate. The penalty suspension period was extended two more times, after which, in 2005, the court refused another extension.

This time, again, the convict did not return to the prison so he was detained and placed there. The conditions in the prison were similarly difficult as the establishment was not adapted to the needs of people with motor disabilities. The toilet door in the cell was too narrow for his wheelchair; he was not able get there without the help of the other prisoners. They also had to carry him to a bathroom with showers, located on another floor. The bathtub was not adapted to his needs. He had to be sitting there on an ordinary chair. The applicant, over time, was moved to other cells but none of them ensured conditions better adjusted to his health. In November 2005, he fell and hurt himself when trying to move from the wheelchair to the bed.

The applicant's treatment did not change either. During the first days, he got no adult diaper pants and no catheters, and had to use the ones he took with him at the time of his detention. Later, he got new diaper pants but their number was so small that the prisoner stopped to eat and drink enough. He had not enough new catheters provided either.

In 2006, he required medical treatment due to severe inflammation of the urethra. He refused treatment in the prison hospital ward as there was no specialist urology treatment. He applied for another penalty suspension period but was refused on the grounds that the treatment was possible in the prison.

Soon, he developed urethral obstruction and stones in the bladder, the removal of which required surgery. Muscular dystrophy, contractures in the hips and knees, and general deterioration of his health were also diagnosed. The applicant thus required advanced physiotherapy which could not be offered in the penitentiary establishment. He developed pressure sores too, again. Only then, in 2006, the applicant was transported to a prison where he was placed in a cell adapted to his needs. He underwent physiotherapy and treatment of pressure sores. After the improvement of his health, the convict was transported to another establishment where, in his opinion, he was mistreated. He refused pressure sores surgery.

Only in 2007, when he was placed in more adjusted conditions again, he agreed to the surgery.

Then, once again, he was transported to another prison with poorer conditions. The prisoner again applied for a penalty suspension period but the court refused, considering that, according to the latest available medical opinions, he could undergo the treatment within the penitentiary establishment. The court also referred to the fact that the applicant failed to return to the prison before, and that, although he was a wheelchair user, he committed theft while out of the prison.

The following year, the prisoner's health deteriorated again because he also developed spine problems. In 2008, he underwent medical examinations and a date for the surgery was set, after which he was again placed in a dirty cell, not adapted to his needs, with smokers. Eventually, he was awarded a penalty suspension period which was extended several times.

The Court considered that the applicant had suffered non-material loss and awarded to him compensation in the amount of EUR 8,000.

When examining the case, the ECHR pointed out, among others to the following:

> ***Mindful of all the above considerations, the Court finds that while keeping the detention measure in place was not, in itself, incompatible with the applicant's state of health, detaining him for eighteen months in a prison that was unsuitable for the incarceration of persons with physical disabilities and not making sufficient efforts to reasonably accommodate his special needs raises a serious issue under the Convention.***
>
> ***The Court has already criticised schemes whereby a prisoner with a physical disability is provided routine assistance by his fellow inmates, and considered that that must have given rise to considerable anxiety on the applicant's part and placed him in a position of inferiority*** **vis-à-vis** ***the other prisoners.***
>
> ***The Court has already held that detaining persons suffering from a serious physical disability in conditions inappropriate to their state of health, or leaving such persons in the hands of their cellmates for help with relieving themselves, bathing and getting dressed or undressed, amounted to degrading treatment.***
>
> ***The Court finds particularly regrettable the practice of leaving the applicant unfastened in a moving vehicle, even if his wheelchair was immobilised.***

There is no evidence in this case of any positive intention to humiliate or debase the applicant. The Court holds, nevertheless, that to detain a person who is confined to a wheelchair and suffering from paraplegia and serious malfunctions of the urethral and anal sphincters in conditions where he does not have an unlimited and continuous supply of incontinence pads and catheters and unrestricted access to a shower, where he is left in the hands of his cellmates for the necessary assistance, and where he is unable to keep clean without the greatest of difficulty, reaches the threshold of severity required under Article 3 of the Convention and constitutes degrading and inhuman treatment contrary to that provision. The Court therefore finds a violation of this provision in the present case.

Kaprykowski v. Poland, judgment of 3 February 2009 (application no. 23052/05)

The applicant had epilepsy of which he had frequent attacks, he also had encephalopathy, dementia, gastric ulcers and syphilis. He was formally considered as a person with a disability that made him fully unable to work.

He was imprisoned many times for committed crimes. He was kept in many penitentiary establishments since 1998, either in common cells or in hospital ward cells. He was often transported to various penitentiary establishments of which only few provided medical care required in his health condition.

In one of the remand facilities where he was serving his penalty he was placed in a regular cell instead of one in the hospital ward. He shared the cell with healthy prisoners who, as he stated, ignored his epilepsy seizures and did not help him in the routine daily activities. The applicant also pointed out that he was humiliated by the other prisoners because, as a result of epilepsy seizures, he was often unconscious and had urinary incontinence. At the end of 2007 his epilepsy was still serious but the number of seizures decreased. However, he developed personality disorders such as hallucinations, as well as severe memory loss.

The applicant, in his complaint to the ECHR, claimed that that he required specialist medical care and regular assistance of another person in his daily routines, but he did not get it in the remand facility. The other inmates humiliated him. He also reported that the facility's managing staff did not provide to him the possibility to take a foreign medicine prescribed to him in the past by a doctor from outside the facility. Instead, the prison doctor prescribed a

cheaper Polish equivalent medicine to him; the doctor did not provide appropriate medical support, either. The change of the medicine used for the treatment was ordered by an internal medicine doctor who was not a specialist in neurology. The therapy was not a result of a medical indication but rather of the intention to reduce the cost of the treatment. The replacement of the medicine led to an increase in the number of serious seizures connected with loss of consciousness and urinary incontinence.

The applicant considered that his serious health condition precluded the possibility of his long-term imprisonment as he had no access to medical personnel qualified in treating neurological diseases. The prison authorities had been fully aware of his health condition, as well as of the medical indications issued by the court experts and the specialist in neurology from the hospital ward of the previous prison. Despite those indications, the applicant spent most of the time in an ordinary cell, and only for short periods he was hospitalized in the only competent, in his opinion, medical facility in Poland, i.e. the neurology ward of the prison hospital.

In the opinion of the Court, the lack of adequate medical care in the detention facility and the placement of the applicant in a situation of full dependence on the other prisoners from the cell, who were healthy, violated his personal dignity and exposed him to hardships which caused his anxiety and suffering beyond the level inevitably related to imprisonment. The applicant's continued imprisonment without proper medical care and assistance constituted inhumane treatment, in violation of Article 3, within the meaning of the Convention. The applicant was awarded a compensation in the amount of EUR 3,000 for non-material loss suffered.

In the issued judgment, the ECHR made observations of significance for persons with disabilities that are caused by diseases:

> ***Article 3 of the Convention cannot be interpreted as laying down a general obligation to release a detainee on health grounds or to transfer him to a civil hospital, even if he is suffering from an illness that is particularly difficult to treat. However, this provision does require the State to ensure that prisoners are detained in conditions which are compatible with respect for human dignity, that the manner and method of the execution of the measure do not subject them to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands***

of imprisonment, their health and well-being are adequately secured by, among other things, providing them with the requisite medical assistance.

The Court wishes to stress its disapproval of a situation in which the staff of a remand centre feels relieved of its duty to provide security and care to more vulnerable detainees by making their cellmates responsible for providing them with daily assistance or, if necessary, with first aid.

The Court takes note of the Government's submission that, at the relevant time, the applicant had been examined twice by a neurologist and sixteen times by a prison in-house doctor.

The applicant was often transported long distances and transferred about eighteen times between different detention facilities. In this connection, the Court considers that such a frequent change of environment must have produced unnecessary negative effects on the applicant who was, at the relevant time, a person of a fragile mental state.

The Convention does not guarantee a right to receive medical care which would exceed the standard level of health care available to the population generally. Nevertheless, it takes note of the applicant's submission, which was not contested by the Government, that the change to generic drugs resulted in an increase in the number of his daily seizures and made their effects more severe and as such contributed to the applicant's increased feeling of anguish and physical suffering.

Finally, it is also worth reminding of the case of a person with a disability whose claim was not sustained by the ECHR. The case is considered controversial, which is reflected in the dissenting opinion of two judges of the Court.

Adam Zarzycki v. Poland, judgment of 12 March 2013 (application no. 15351/03)

In 1996 the applicant lost both forearms in an accident. He was recognized as a person with severe disability, who needs the assistance of other people. The man was arrested in 2002. The authorities took into account the applicant's severe disability and a medical certificate issued by his doctor on 15 March 2002 regarding his inability to live independently, but they disagreed that he may not be placed in a prison.

On 7 July 2003 the applicant's penalty was suspended for the purpose of orthopaedic treatment outside the penitentiary system. Before and after the suspension period, the applicant was held in two different remand facilities.

The conditions in them were not adapted to his specific needs resulting from his disability, and the staff of the remand facility did not ensure specialist care to him, which made his life in detention very difficult. The applicant was not able to perform many daily routines, such as eating meals, making the bed, cutting his nails, washing, shaving, dressing, as well as hygiene after using the toilet. He was forced to ask the other prisoners for help, which made him dependent on them. In his opinion, the prison authorities did not support him in his efforts to obtain forearm prostheses, and the medical care provided during the remand detention was insufficient. Thus, he lodged numerous complaints with the national authorities.

The prison in-house doctor filed an official application for the prosthesis, on behalf of the applicant, but he refused to use the ones offered to him. He stated that he would only use biomechanical prostheses. The prison authorities filed an application for biomechanical prostheses for him but their cost was very high and was only partly covered by the National Health Fund. According to the applicable legislation, a patient seeking to use biomechanical prostheses had to cover part of the cost himself, which the applicant refused.

The prison psychiatrist found the applicant to have a form of depression, which in the doctor's opinion could have been caused by the applicant's fear that he would not get the forearm prostheses.

During his penalty suspension, that lasted until 2004, the applicant received two ordinary mechanical forearm prostheses and underwent the necessary physiotherapy (physical rehabilitation). In addition, it was again concluded that the applicant could not be self-dependent and required assistance of third persons, and that he could not be held in a prison. This was confirmed in 2005 by a prison doctor.

Subsequently, two experts in the fields of cardiology and of orthopaedics issued an opinion stating that the prostheses proved to be useful but the applicant still required assistance in performing many daily activities, because the mechanical prostheses did not allow precise movements. It was also concluded that the applicant intended to get more advanced biomechanical prostheses. The experts considered that he was able to serve the

penalty of imprisonment because it was possible for him to live in the conditions of imprisonment. They also stated that he should receive some assistance in his daily routines from the remand facility staff.

The applicant was eventually released on parole. The Court did not find a violation of the Convention in the case.

In the judgment issued, the ECHR pointed out, inter alia to the following issues in connection with which the prisoner's complaint was considered ungrounded:

> ***Persons in custody are in a vulnerable position and the authorities are under a duty to protect them. Where the authorities decide to place and maintain in detention a person with disabilities, they should demonstrate special care in guaranteeing such conditions as correspond to his special needs resulting from his disability.***
>
> ***In this type of cases, the Court must take account of three factors in particular in assessing whether the continued detention of an applicant is compatible with his or her state of health where the latter is giving cause for concern. These are: (a) the prisoner's condition, (b) the quality of care provided and (c) whether or not the applicant should continue to be detained in view of his or her state of health.***
>
> ***In applying these principles, the Court has already held that detaining persons suffering from a serious physical disability in conditions inappropriate to their state of health or leaving such persons to rely on their cellmates in receiving assistance to relieve themselves, bathe and get dressed or undressed, amounted to degrading treatment. In the specific circumstances of the present case, however, the Court does not see any reason to condemn the solutions implemented by the authorities in order to provide the applicant with the necessary and necessary assistance.***
>
> ***The Court is satisfied that by allowing the applicant to use a shower room six times per week, the authorities adequately responded to his special needs.***
>
> ***The existence of typical architectural or technical barriers did not affect the situation of the applicant, who had amputated forearms, but did not suffer from mobility difficulties and had the option of using medical care and other prison facilities, outdoor activities and fresh air.***

Pursuant to the provisions of Polish law, a patient applying for the implementation of biomechanical prostheses could only claim reimbursement to a very limited extent and had to cover the difference from his own funds.

Consequently, given that the basic mechanical prostheses were available and the applicant received them free of charge, and that it was also possible to reimburse a small part of the cost of biomechanical prostheses, the Court considers that it cannot be concluded that the respondent State, in the circumstances of the case, failed obligations under Article 3, without fully covering the costs of advanced type prostheses.

Furthermore, in the present case there is no evidence of any events or intentions to humiliate or humiliate the applicant. The Court therefore concludes that, despite the fact that a prisoner with amputated forearms is much more vulnerable to detention, in the circumstances of the present case the applicant's treatment did not reach the threshold of ailment required to determine degrading treatment contrary to Article 3 of the Convention.

National standards for the protection of the rights of persons with disabilities

The international legislative instruments ratified by Poland and relating to persons with disabilities have become part of the country's domestic legislative system. Also, in general, Polish legal regulations applicable to prisoners and people with disabilities comply with the international standards.

The Polish Constitution provides that *everyone is equal before the law*. Everyone, including people with disabilities. The Constitution also contains a prohibition of discrimination on any grounds, including on grounds of disability (Article 32). It sets out an unconditional standard of humane treatment of people, ensuring that *no one may be subjected to torture or cruel, inhuman, or degrading treatment or punishment. The application of corporal punishment shall be prohibited* (Article 40).

Certain provisions of the Polish Constitution refer directly to persons with disabilities. They provide for social welfare benefits for those persons in the event of their incapacity to work due to *disability* (Article 67(1)); guarantee specialist health care for persons with disabilities (Article 68(3)) as well as *aid to ensure their subsistence, adaptation to work and social communication (A*rticle 69).

Bearing in mind the *Charter of Disabled Person's Rights* adopted on 1 August 1997 by the Sejm of the Republic of Poland[45] and the *Convention on the Rights of Persons with Disabilities*[46], ratified on 6 September 2012 and adopted on 13 December 2016 by the United Nations General Assembly, people with disabilities should enjoy independent living and full inclusion and participation in all aspects of life. The two documents also apply to persons deprived of their liberty and their conditions in the place of their detention.

Therefore, the fact of deprivation of liberty of persons with disabilities does not annul the state authorities' obligation to ensure that they have specialist health care (Article 68(3) of the Polish Constitution), social welfare (Article 67 of the Polish Constitution) and other rights provided for under the general provisions of the Constitution (e.g. access to education, under Article 70 thereof).

The individual provisions contained in the Polish Sejm's resolution containing the Charter of Disabled Person's Rights set out programming standards and emphasize the need to ensure the implementation of the postulates adopted in the Constitution of the Republic of Poland. For example, the right to an environment free of functional barriers, e.g. in access to public authorities' offices, polling stations and public access facilities, that implies the State's obligation to take positive action (Article 69 of the Polish Constitution) entails the right to free movement, to information and to interpersonal communication (Article 1(8) of the Charter).

However, the programing standards are not binding but only set out the general direction. This means that the Charter does not constitute legal grounds for seeking the protection by relevant state authorities, e.g. public administration bodies or courts, in the event of violation of the rights of disabled persons. Yet, it indicates the obligations of the authorities, both the national and local ones, to take action to comply with those rights. Therefore, the NMPT recommendations are often supported by the standards set out in the Charter.

In addition to general legal guarantees, the situation of prisoners with disabilities falls within the scope of Polish disability-related regulations, including the Act of 27 August 1997

[45] Monitor Polski of 1997, No. 50, item 475.
[46] Journal of Laws of 2012, item 1169.

on occupational and social rehabilitation and employment of disabled persons[47] and the *Building Law* of 7 July 1994.[48] The latter contains a provision on *ensuring the conditions necessary for building objects to be used by disabled persons, in particular persons using wheelchairs – with respect to public utility buildings and multifamily residential buildings* (Article 5(1)(4)).

In this context, however, it should be noted that prisons and other places of detention generally do not fall within the definitions of *public utility building* and of *residential buildings.* They are classified as *collective housing buildings*. This makes it impossible not to consider them covered by the necessity of adaptations to the needs of persons with disabilities. This will be discussed in detail in the chapter on the systemic problems identified by the NMPT and relating to prisoners with disabilities.

As regards significant elements of legislation applicable to prisoners with disabilities, among the national instruments attention should be paid to the provisions of the Executive Penal Code[49] (EPC). Article 96 of the Code relates to the *therapy system* applicable to persons with a physical or mental disability who are deprived of liberty and require specialist treatment, in particular psychological or medical care or physical rehabilitation.

Furthermore, Article 97(1) of the EPC states that with regard to convicts serving an imprisonment sentence and covered by the therapy system, the authorities should focus, inter alia, on preparing such prisoners for independent living. Article 97(2) provides that an imprisonment sentence must be adjusted to the prisoner's needs in the fields of medical treatment, hygiene and sanitary conditions. Article 97(3) provides that convicts who no longer require specialist medical treatment should be transferred to serve the penalty within another appropriate system.

In addition to the above indications, Article 110(4)(4) of the EPC states precisely that when a convict is placed in a prison cell, the medical indications, as well as psychological and physiotherapy-related recommendations relating to him/her should be taken into account.

Of importance in this area are also two regulations of the Minister of Justice: the regulation of 21 December 2016 on *the rules and regulations on serving the penalties of*

[47] Journal of Laws of 1997, No. 123, item 776, as amended.
[48] Journal of Laws of 1994, No. 89, item 414, as amended.
[49] Journal of Laws of 1997, No.90, item 557, as amended.

imprisonment[50] and the regulation of 22 December 2016 *the rules and regulations on serving the penalties of detention on remand*[51].

Pursuant to Article 32(2) of the regulation on remand detention, and to Article 27(2) of the regulation on imprisonment, the head of a remand facility or prison may, upon a request of a doctor or after consulting a doctor, make the necessary adjustments in the conditions in which the person is deprived of liberty, to the extent justified by the person's health condition.

As regards detention on remand in a healthcare facility appropriate for the detainee's health condition, such a possibility is provided for in Article 260(1) of the Code of Criminal Procedure, according to which *if so required by the health condition of the detained person, he/she may be detained on remand only be carried in an appropriate medical establishment, including a psychiatric facility.*

Guidelines drawn up by the community of persons with disabilities on accessibility of penitentiary establishments for prisoners and visitors [52]

The guidelines relate to the needs of people with reduced mobility including, in particular:

- persons with various types of motor disabilities (including those who use wheelchairs, crutches, walking stick or other aids, and persons with manual disabilities),
- persons with vision impairment (including blind and visually impaired persons),
- persons with hearing impairment (including deaf and hearing impaired persons),
- persons with other disabilities,
- persons temporarily disabled,
- pregnant women,
- people with prams,
- older people and children,
- foreigners who do not speak the local language and may have problems in obtaining information and in communicating.

The guidelines are based on the 7 principles of *Universal Design*[53] developed at the University of North Carolina in the United States of America, and included in the UN *Convention on the Rights of Persons with Disabilities*:

[50] Journal of Laws of 2016, item 2231.
[51] Journal of Laws of 2016, item 2290.
[52] The guidelines developed by the Integracja Foundation.

- **Equitable use** - the design is useful and marketable to people with diverse abilities.
- **Flexibility in use** - the design accommodates a wide range of individual preferences and abilities. Examples: table with adjustable top height; taking into account the possibility of operating the device by right and left persons.
- **Simple and intuitive use** – use of the design is easy to understand, regardless of the user's experience, knowledge, language skills, or current concentration level. Examples: simple picture instructions; intuitive menu of electronic devices.
- **Perceptible information** – the design communicates necessary information effectively to the user, regardless of ambient conditions or the user's sensory abilities. Examples: colour distinction or giving symbols to individual building zones; information that can be read using min. 2 senses, e.g. sight and touch, sight and hearing.
- **Tolerance for error** – the design minimizes hazards and the adverse consequences of accidental or unintended actions. Example: the ability to undo recently performed actions in the application; on subway platforms, use of gates synchronized with the doors of the wagons, determining the location of the entrances and preventing fall from the platform.
- **Low physical effort** – the design can be used efficiently and comfortably and with a minimum of fatigue. Example: large and contrasting markings that do not require focus; buttons and panels placed at a height that does not require excessive stretching of the hands; automatically opened door.
- **Size and space for approach and use** – appropriate size and space is provided for approach, reach, manipulation, and use regardless of user's body size, posture, or mobility. Examples: providing wider access control gates for wheelchair users; in urban transport, providing low-floor vehicles with seats for people with disabilities.

Adaptation of existing buildings

To existing buildings, the principle of "reasonable accommodation" should apply[54], according to which exceptions are permitted due to:

- building construction;
- lack of space;
- costs that significantly exceed the achieved benefit.

The exceptions may apply only to building parts where important reasons exist, and the use of an exception does not annul the obligation to ensure the required solutions in the other parts of the building. When using an exception, other adequate solutions should be provided to make it possible for people with reduced mobility to use the building. The use of an exception may not make it impossible to use the building, its part or function, by any group of people.

[53] The principles of universal design, NC State University, The Center for Universal Design, 1997.
[54] Pursuant to Article 2 of the Convention on the Rights of Persons with Disabilities.

Glossary

LRV (*Light Reflectance Value*) – represents the quantity of visible and usable light reflected by all directions and all wavelengths when a surface is illuminated. The LRV is also determined as the CIE Y factor or value.

LRV is measured on a scale that ranges from zero (absolute black, absorbing all light and heat) to 100 percent (pure white, reflecting all light). In nature, the values of 0 and 100 are not present. The LRV contrast is calculated by subtracting the LRV values for the two surfaces assessed (LRV1 - LRV2).

Lowered kerb – a lowered border between two surfaces, e.g. a pavement and a roadway, at a pedestrian crossing or other place important for moving between such surfaces. A lowered curb is not considered as a ramp.

Person with reduced mobility[55] –any person who has a permanent or temporary physical, mental, intellectual or sensory impairment which, in interaction with various barriers, may hinder their full and effective use of transport on an equal basis with other passengers or whose mobility when using transport is reduced due to age.

People with reduced mobility include e.g.:

- people in wheelchairs,
- other people with mobility problems, including people with limb disabilities, people with walking difficulties, people with young children, people with heavy or bulky luggage, older people, pregnant women,
- visually impaired people,
- blind people,
- hearing impaired people,
- deaf people,
- people with limited communication abilities (who have problems in communicating in, or understanding, a written or spoken language, including people from other countries who do not know the local language, people with communication difficulties, people with reduced sensory, mental or intellectual functions),
- short people (including children).

[55] Definition based on: Commission Regulation (EU) No. 1300/2014, item 2.2 and Commission Regulation No. 2008/164/EC, item 2.2.

Ramp – an inclined surface for pedestrians, that makes it possible for them to cross between two height levels. A surface with an inclination of less than 5% may not be considered as a ramp**.**

Space for changing direction – a space for changing the direction of movement or the position. In the applicable standards, the term is most often used in relation to people in wheelchairs. The space may not have any obstacles up to a height of 210 cm, unless otherwise stated in the guidelines**.**

Stair lift – a mobile device for transporting persons with reduced mobility upstairs or downstairs. Due to the difficulties in using such devices, they should not be used.

Technical requirements for buildings –regulation of the Minister of Infrastructure of 12 April 2002 on technical requirements to be met by buildings and their locations[56].

Technical requirements for public roads –regulation of the Minister of Transport and Maritime Economy of 2 March 1999 on technical requirements to be met by public roads[57].

TRANSPORT ACCESSIBILITY

It is recommended that penitentiary establishments be located in places that can be reached by car and by public transport. This is especially important for visitors and staff members.

At least one route leading from a public transport stop, car park and the main pedestrian route to the establishment has to be accessible to people with reduced mobility. Such access routes should go along routes designed for other people. At some points, such routes may be separated if there are significant obstacles, e.g. stairs.

There may be no stairs or steps on access routes for people with reduced mobility.

- **Accessibility within penitentiary establishments**

Accessibility should be ensured to persons with reduced mobility, for them to be able to move between individual buildings and other important places such as walking areas or sports grounds.

Such pedestrian routes should meet the width requirements as in the table below[58]

[56] Consolidated text: Journal of Laws of 2015, item 1422.
[57] Consolidated text: Journal of Laws of 2016, item 2231.

Location of pedestrian route		Minimum width of route	Minimum width of reconstructed route *only in exceptional cases*
Along a road or car parking lane		200 cm	125 cm
Off a road or car parking lane	**main pedestrian route**	180 cm	100 cm
	secondary pedestrian route	150 cm	100 cm

The width of pedestrian routes does not include space taken by the so-called small architectural structures, greenery, etc.

If such small architecture or greenery is to be built and may constitute a barrier, it should be placed outside the main route. If this is not possible, it should be placed so as not to create a significant obstacle in moving, and not to lead to the need to change the movement direction several times to avoid obstacles.

If the movement direction has to change by over 45°, a space of at least 150 x 150 cm should be ensured for changing direction. Pedestrian routes with a width below 180 cm should have wheelchair moving spaces that are at least 200 cm long and 180 cm wide, and are located every 25 m or less. Wheelchair moving spaces are not necessary on pedestrian routes no longer than 50 m.

Longitudinal inclination of a pedestrian route has to be less than 5%[59]. In existing buildings, an increase of up to 6% is allowed. If the slope is greater, a ramp is required. Transversal inclination of a pedestrian route may not exceed 3%[60] and is recommended not to exceed 2%.

The height of a pedestrian route has to be at least 220 cm (measured with architectural elements, information/road signs, etc.).

[58] Based on: Technical requirements for public roads, Article 44(2) and (4) and ISO 21542: 2011, point 7.4.
[59] ISO 21542:2011, point 7.3.
[60] Technical requirements for public roads, Article 45(8).

Along such routes, tree branches and shrubs should be cut so as not to reduce the height of the access route. Up to the height of 220 cm there may not be any sharp protruding or hanging items that pose a risk to people, in particular those with visual impairment[61].

- **Pedestrian routes' surfaces**

Non-slip surfaces have to be ensured, also when the surface is wet. Pedestrian route surfaces have to be made of material not hindering movement, including in a wheelchair. Such surfaces may be made of concrete, stone or bituminous products. In existing penitentiary establishments, the use of concrete paving blocks is permitted, in particular ones with a smooth surface, and phaseless blocks are preferred.

The covers of manhole shafts and catch pits in pedestrian routes may have spaces or holes with diameters of no more than 2 cm[62]. Elongated holes should be located transversely to the route direction.

- **Walking areas**

In a penitentiary establishment, at least one walking area must be accessible to people with reduced mobility. If separate walking spaces are provided for individual buildings with different prisoner supervision systems, the rule should apply to each building.

Such walking areas have to be accessible to people with reduced mobility by a route that meets the aforementioned parameters. The entrance has to be at least 90 cm wide, and there may be no steps higher than 2 cm.

If special functions (e.g. a gym) are provided within a given walking area, and do not exist in the other areas, the area with the functions has to be accessible to persons with reduced mobility.

At least one bench per walking area should be ensured. At least 1 bench (and at least 1/3 of the benches) have to have backrests and armrests.

Sports pitches have to be accessible to persons with reduced mobility, unless the function of the pitch is in itself not suitable for people with certain disabilities, e.g. a

[61] Based on: ISO 21542: 2011, point 7.14 and ADA Standards, point 307.3.

[62] Technical requirements for buildings, Article 294 (2), and Technical requirements for road facilities, Article 242 (3); ISO 21542: 2011, point 7.13.

wheelchair user would not be able to use a beach volleyball pitch. If the pitch itself is not accessible for such persons, they should at least have the possibility to watch the matches.

- **Parking spaces**

Parking spaces for visitors should be provided in the vicinity of penitentiary establishments.

The number of parking spaces for people with disabilities is indicated the table below [63]:

Total number of parking spaces	Number of spaces for people with disabilities
6-15	1
16-40	2
41-100	3
Over 100	At least 4% of the total number of spaces

Parking spaces for people with disabilities should be located as close as possible to the entrance to the establishment. Such spaces have to be located at ground level, in a place accessible to people in wheelchairs, and in the case of multi-storey car parks, on a storey accessible to them e.g. by an elevator.

Paring space sizes are indicated the table below [64]:

Parking system		Minimum space width	Minimum space length
Perpendicular		360 cm	500 cm
Parallel	standard	360 cm	600 cm
	non-standard *(see below)*	250 cm	
Diagonal		360 cm	500 cm

Note: Non-standard width of 250 cm is only permitted in exceptional circumstances. At least a 150 cm-wide access to the pedestrian route along the longer side of the place should be ensured.

[63] Article 12a of the Act of 21 March 1985 on public roads, Consolidated text: Journal of Laws of 2017, item 2222.

[64] Based on: Technical requirements for buildings, Article 21(1); and ISO 21542: 2011, point 6.3.

Spaces with reduced width may not be located along dual carriageways and one-way roads where it is not up to the driver to select the car side parked along the pavement.

It is necessary to provide direct or very close access to a pavement from a parking space for people with disabilities. The following solutions are acceptable:

- parking space on the same level as a pavement or pedestrian route,
- lowered curb.

Parking spaces for people with disabilities have to be marked with horizontal and vertical road signs, in accordance with applicable regulations. The space surface should be blue.

ENTRANCES TO BUILDINGS

In the prison, access should be ensured in accordance with the table below:

Function of building/building's part	**Entrance for people with reduced mobility**	
	For prisoners	**For visitors**
Visiting rooms	At least 1 entrance	At least 1 entrance
Rooms for intimate visits	At least 1 entrance	At least 1 entrance
Rooms where prisoners wait to be placed in/released from the establishment	At least 1 entrance *from the outside of the building and from the inside*	not applicable
Prison building	At least 1 entrance per building with a given system of supervision	not applicable
Hospital	At least 1 entrance	not applicable
Doctor's office	At least 1 entrance	not applicable

Entrances for people with reduced mobility should meet the requirements as in the table below:

Entrance location	**Route to the entrance**
At ground level – best solution	----------
Up to 200 cm above ground level	stairs / ramp *elevator is permitted*
More than 200 cm above ground level	stairs / elevator *ramp is additionally recommended*

In existing buildings, in the absence of other technical possibilities, a wheelchair lift may be used in accordance with the rules set out later in this chapter; stair-lifts may not be used.

The width of the door has to be at least 90 cm[65]. The height of the door frame has to be at least 200 cm[66]. The height of a doorstep at the entrance to the building may not exceed 20 mm[67].

If the door leads to a vestibule its width has to be at least 150 cm wide, and at least 150 cm long plus the space for the door's wings opening to the inside[68].

If there are revolving doors, next to them there have to be regular doors or sliding doors accessible to people with reduced mobility. Transparent doors and walls should be marked with contrasting-colour signs to make them easier to see.

If access control gates are used, at least one of them has to be 90 cm wide (or more), and has to have a wheelchair moving space with the dimension of at least 150 x 150 cm. Access control devices should be installed at a height of 80-110 cm, measured as follows:

- door opening button – the whole of the button within the space indicated,
- intercom or videophone - all buttons within the space indicated,
- access card readers - at least a part of the reader within the space indicated.

INDOOR SPACE

In penitentiary establishments, access to rooms should be provided in accordance with the table below:

Room function	The principle of ensuring accessibility for people with reduced mobility
Visiting rooms	At least 1 room per every supervision system
Rooms for intimate visits	At least 1 room
Rooms where prisoners wait to be placed in/released from	At least 1 room

65 Technical requirements for buildings, Article 62(1).
66 Technical requirements for buildings, Article 75(1).
67 Technical requirements for buildings, Article 62(3).
68 See: requirements for buildings, Article 61(1).

the establishment	
Prison cells	At least 2 cells (in existing establishments, at least 1 cell) per building with a given supervision system
Canteen	At least 1 canteen per building with cells accessible to people with reduced mobility
Common room	At least 1 common room per building with cells accessible to people with reduced mobility
Bathroom	At least 1 bathroom per: – building with cells accessible to people with reduced mobility, – hospital.
Hospital	Accessibility to all other spaces, including hospital rooms, medical emanation rooms, bathrooms, toilets
Doctor's office	At least 1 office of every type
Library	At least 1 library, or access to a catalogue of publications in the cell plus the possibility to have publications delivered to the cell
Chapel	At least 1 chapel per establishment
Other rooms	If there are other common rooms in the penitentiary establishment, e.g. therapy rooms, art rooms, radio stations, music rooms, they have to be accessible to people with reduced mobility.

If a room is to be classified as accessible, it has to be on a floor accessible to persons with reduced mobility, and on the way there may be no stairs, doorsteps, level differences or other obstacles limiting access to the room. It is recommended to locate the rooms indicated in the table above on the ground floor. It is permitted to place them on other floors provided there are elevators that can be used by prisoners. Visiting rooms and rooms for intimate visits on a floor other than the ground floor have to have elevators for visitors.

In existing buildings, if there are no technical possibilities to ensure an elevator, a wheelchair lift may be ensured. Stair-lifts are not permitted. An elevator ensuring access to all floors must be provided in hospital buildings with at least 2 floors. In newly planned buildings, hospitals on one floor should be planned.

In existing penitentiary establishments, there may be no differences between the levels used by people with reduced mobility, unless appropriate architectural or technical solutions are provided. If different levels exist, the following solutions should be used:

– height difference up to 200 cm: ramp,

– height difference over 200 cm: elevator.

In existing buildings, if there are no technical possibilities to ensure an elevator, a wheelchair lift may be ensured.

- **Passageway parameters**

The width of indoor passageways has to be as indicated in the table below:

	Passageway width
Main passageways, e.g. entrance halls, elevators, main corridors	At least 180 cm
Usual passageways, e.g. corridors	At least 150 cm (in exceptional cases, at least 40 cm)
Secondary passageways, e.g. passages between desks, shelves	At least 120 cm

Corridors that are less than 180 cm wide and are located in main areas should have wheelchair moving spaces that are least 200 cm long and 180 cm wide and are located, in particular, at both ends of the corridor.

The height of the passageways, measured from the floor level to the lowest obstacle, e.g. information boards, has to be at least 210 cm[69].

The floor surfaces have to be non-slip and smooth. Because of visually impaired people, glossy materials should be avoided. Contrasting colours should be used for floors and walls, for walls and doors, and for equipment and its background.

Light switches should be at a height of 80-110 cm.

The standards for doors, doorsteps, vestibules and access control are as those applicable to entrances to buildings.

- **Telephones**

[69] ISO 21542: 2011, point 11.2.

In a penitentiary establishment's every ward that is accessible to people with reduced mobility, and at every other place where such people are permitted to use a telephone, at least one telephone at a height of 80-110 cm has to be installed.

RAMPS AND STAIRS

- **Ramps**

Ramp surface has to be even and non-slip. Before and after a ramp, marking stripes of a colour contrasting with the floor surface, and with a width of at least 50 mm, should be placed. The marking stripe has to be located no less than 15 mm from the edge of the ramp. The contrast between the stripe colour and the floor colour must be no less than 60 degrees LRV[70].

The ramp inclination degree should be designed in accordance with the requirements described in the table below:

Difference between levels	**Maximum inclination**		**Maximum length**
New buildings[71]			
no limits	less than 5%*		no limits
max. 50 cm	5%		900 cm**
max. 46 cm	5.3%		874 cm
max. 42 cm	5.6%		756 cm
max. 38,5 cm	5.9%		654.5 cm
max. 35 cm	6.3%		560 cm
max. 31,5 cm	6.7%		472.5 cm
max. 28 cm	7.1%		392 cm
max. 24.5 cm	7.7%		318.5 cm
max. 21 cm	8.3% *only indoors or roofed if outdoors***		252 cm
Existing buildings and new buildings, in exceptional situations[72]			
	indoors or roofed if outdoors	outdoors without roofing	
up to 15 cm	15%	15%	900 cm
15-50 cm	10%	8%	
over 50 cm	8%	6%	

[70] ISO 21542: 2011, point 35.1.
[71] See ISO 21542: 2011, point 8.2, corrections to ensure compliance with Polish regulations have been applied.
[72] Technical requirements for buildings, Article 70.

* the use of handrails is not necessary
** adjusted in relation to the ISO 21542: 2011 standard to ensure compliance with Polish regulations.

The difference between the levels connected by a ramp may not exceed 200 cm, unless a technical device e.g. an elevators is also available. The ramp base has to be 120 cm[73] wide and has to have curbs that are at least 7 cm high along its edges [74].

- **Landings**

Landing dimensions have to be as determined in the table below:

	Minimum landing dimensions	
	new buildings[75]	**existing buildings**[76]
For moving onwards or changing direction by no more than 45º	**width:** as that of the ramp **length:** min. 150 cm	**width:** as that of the ramp **length:** min. 140 cm
For changing direction by over 45º	**width:** min. 150 cm **length:** min. 150 cm	**width:** min. 140 cm **length:** min. 140 cm

At the starting and ending points of a landing, before its first section and after its last section, there must be a space for changing direction, with the min. dimensions of 150x150 cm[77]. These spaces may not have any obstacles or areas into which doors open.

- **Handrails**

Handrails should be available when the ramp inclination degree is 5% or more. Handrails have to meet the following requirements:

- location on both sides of the ramp[78],
- location at the heights of 75 and 90 cm (measured to the top surface of the handrail)[79],
- space between handrails has to be 100-110 cm wide[80],

[73] Technical requirements for buildings, Article 71(1).
[74] As above.
[75] ISO 21542: 2011, point 8.4.
[76] Technical requirements for buildings, Article 70.
[77] Technical requirements for buildings, Article 71(3).
[78] Technical requirements for buildings, Article 71(1).
[79] Technical requirements for buildings, Article 298(4).

- outdoor ramps have to have handrails that are 30 cm longer than the ramp (for indoor ramps, such length is recommended)[81],
- the distance between the handrail and the wall or another obstacle has to be at least 5 cm[82],
- handrail cross-section: round or oval, with a diameter of 35-45 mm,
- handrail colour has to be contrasting with the background.

- **Stairs**

The stairs' surface has to be even and non-slip. The first and the last step in every stair-flight have to be marked with stripes of a colour contrasting with the stair surface, and with a width of 50-100 mm. The marking stripe has to be located no more than 15 mm from the edge of the step, and placed at least on the top surface of the step. The contrast between the stripe colour and the step colour is recommended to be 60 degrees LRV[83].

The steps' maximum height is 17.5 cm[84].

The steps' maximum width has to meet the following formula[85]:

$$2h + w = 60\text{-}65\ cm$$

h - step height, w - step width

The width of outdoor stair steps leading to main entrances to buildings has to be at least 35 cm.

The number of steps in a stair-flight has to be as determined in the table below:

Type of stairs	Minimum number of stair steps	Maximum number of stair steps[86]
Outdoor	3	10
Indoor		17

[80] Technical requirements for buildings, Article 71(1).
[81] Technical requirements for buildings, Article 298(5).
[82] Technical requirements for buildings, Article 298(6).
[83] ISO 21542: 2011, point 35.1.
[84] Technical requirements for buildings, Article 68(1).
[85] Technical requirements for buildings, Article 69.
[86] Technical requirements for buildings, Article 69(1 and 3).

The landing has to be no less than 150 cm wide[87], and a stair-flight has to be no less than 120 cm wide[88].

ELEVATORS AND WHEELCHAIR LIFTS

- **Elevators**

The elevator cabin dimensions have to be no less than:

– **110 x 140 cm** if the door is on the shorter side of the elevator cabin (also if there are doors on opposite sides of the elevator),

– **150 x 150 cm or 140 x 160 cm**, if it is necessary to move a wheelchair inside the elevator cabin, e.g. if there are two doors that are on perpendicular sides,

– **130 x 170 cm** if the door is on the longer side of the elevator cabin, in a corner,

– **130 x 200 cm** if the door is on the longer side of the elevator cabin, in the middle of the wall,

– **120 x 230 cm** in hospital elevators.

The entrance to an elevator must be at least 90 cm wide.

The distance between the door to the elevator cabin and its opposite wall has to have the minimum width of[89]:

– **300 cm – for elevators for transporting people on stretchers in hospitals**,

– **200 cm - if there are stairs opposite the entrance to the elevator**,

– **160 cm – for other elevators**.

If an elevator cabin has dimensions of less than 150x150cm or 140x160 cm, a mirror should be installed in the cabin to allow a person in a wheelchair to check whether it is possible to safely leave the cabin (when moving backwards). The mirror has to be installed opposite the elevator door. The bottom of the mirror should be placed at a height of 30-100 cm. The upper edge of the mirror has to be at a height not lower than 190 cm[90].

87 Technical requirements for buildings, Article 68(1).
88 Technical requirements for buildings, Article 68(1).
89 Based on Technical requirements for buildings, Article 195; and ISO 21542:2011, point 15.3.
90 ISO 21542:2011, point 15.4.3.

Inside the elevator cabin, there has to be a handrail on at least one wall[91].

Elevators for people have to have automatic sliding doors[92]. The door has to have a sensor curtain preventing the door from closing if there is a person or another obstacle in the door. The sensor curtain should react to a variety of users, including fully-abled people, people in wheelchairs, and short people (including children). The system has to work on remote basis.

All buttons on control panels inside and outside have to be at a height of 80-120 cm[93] (80-110 cm is recommended). This applies to floor number buttons and function buttons (e.g. alarm, door opening, door closing). The control panels inside have to be located at least 50 cm from the corner of the elevator cabin[94]. The control panels outside have to be located at least 60 cm from the nearest corner of the wall. Touch panels are not permitted. The buttons must have a diameter, or shorter side length, of at least 2 cm, and have to be convex. The instruction received should be confirmed by an audio and visual signal (e.g. button light on). It is recommended for the button with the number of the floor where the building exit is located to be in a different colour or shape (e.g. a thicker frame, more convex shape).

The buttons have to indicate [95]:

- **floor number:** convex-shape number and the number in the Braille system,
- **function** (e.g. alarm, door opening, door closing): convex-shape symbol and the symbol in the Braille system.

On each floor, there has to be a sound signal to indicate the elevator has arrived, and to help people with vision impairment to find the entrance[96]. Inside the elevator cabin, a clear voice system should indicate the floor number when the elevator stops there, and possibly the function, e.g. "Ground floor - exit from the building"[97].

There has to be a visual information system inside and outside the elevator, to indicate the floor on which it is at a given time, and the direction in which it is moving.

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91 Technical requirements for buildings, Article 193(2a).
92 ISO 21542:2011, point 15.3.
93 Technical requirements for buildings, Article 193(2a).
94 Technical requirements for buildings, Article 193(2a).
95 See: Technical requirements for buildings, Article 193(2a).
96 See: Technical requirements for buildings, Article 193(2a).
97 Technical requirements for buildings, Article 193(2a).

- **Wheelchair lifts**

The use of wheelchair lifts is permitted only in exceptional situations, where there are no technical possibilities for installing an elevator or a ramp.

If a wheelchair lift is planned, priority should be given to vertical lifts; stair lifts should be the last choice.

Wheelchair lift parameters

	Vertical lift with a shaft	**Vertical lift without a shaft**	**Stair-lift**
Recommended platform dimensions	As per technical requirements for elevators for people		----------
Minimum platform dimensions (existing buildings only)	110 x 140 cm	90 x 125 cm	80 x 100 cm
Minimum carrying capacity	300 kg	300 kg	250 kg

TOILETS AND BATHROOMS FOR PERSONS WITH DISABILITIES

- **Toilets**

Toilets for people with disabilities should be ensured at least in:

– prison cells classified as accessible for persons with reduced mobility,

– next to visiting rooms (both on the prisoners' side and on the visitors' side),

– in rooms for intimate visits,

– in or near rooms accessible rooms where prisoners wait to be placed in/released from the establishment,

– near the canteen, common room and other common spaces, unless accessible cells are close to them and can be easily reached by prisoners,

– in accessible bathrooms,

– in hospital's accessible rooms and bathrooms,

– near the doctor's office.

The toilet door has to open to the outside. A rectangular space for moving, with a minimum size of 150 x 150 cm, should be ensured in toilets for people with disabilities[98]. The space in the toilet has to be organized so as to make it possible for a person in a wheelchair to reach all equipment items and move freely near the door. It must be possible to use the toilet by moving from a wheelchair along a straight line and along a diagonal line. On at least one side of the toilet, there must be a free space at least 90 cm wide[99]. The toilet bowl should be installed at a height of 45-48 cm (preferably, 46 cm)[100]. The toilet bowl has to be 65-80 cm long, and its centre line has to be at least 45 cm from the nearest wall.

Double-sided handrails with the following parameters should be provided for the shells[101]:

<table>
<tr><th colspan="2" rowspan="2"></th><th rowspan="2">Handrail on the free space side</th><th colspan="2">Handrail on the wall</th></tr>
<tr><th>toilet bowl centre line: 45 cm from the wall</th><th>toilet bowl centre line: over 45 cm from the wall</th></tr>
<tr><td colspan="2">Handrail mounting place</td><td>wall behind the toilet bowl</td><td>wall next to the toilet bowl</td><td>wall behind the toilet bowl</td></tr>
<tr><td colspan="2">Handrail type</td><td>movable</td><td>fixed</td><td>fixed</td></tr>
<tr><td colspan="2">Distance between handrail and toilet bowl centre line</td><td>30-35 cm</td><td>30-40 cm</td><td>30-35 cm</td></tr>
<tr><td colspan="2">Handrail length</td><td colspan="3">Handrail extending 10-25 cm to the front of the toilet bowl</td></tr>
<tr><td rowspan="2">Handrail mounting height</td><td>new buildings</td><td colspan="3">20-30 cm above the toilet bowl</td></tr>
<tr><td>existing buildings</td><td colspan="3">75-85 cm above the floor level</td></tr>
<tr><td colspan="2">Handrail diameter</td><td colspan="3">35-50 mm</td></tr>
<tr><td colspan="2">Handrail carrying capacity</td><td colspan="3">Min. 1 kN applied in any direction
(recommendation: 1.7 kN)</td></tr>
</table>

If so necessary for safety reasons, a handrail may be installed one side of the toilet bowl only (without a movable handrail).

[98] Technical requirements for buildings, Article 86(1).
[99] ISO 21542: 2011, point 26.4.1.
[100] ISO 21542:2011, point 26.6.
[101] Based on: ISO 21542: 2011, point 26.7.

A toilet for people with disabilities should have a wash basin in front of which there should be enough space for a wheelchair. It has to be possible to place a wheelchair in front of the wash basin. The top edge of the sink has to be 75-85 cm above the floor level, and there has to be no less than 65 cm under the sink. The wash basin depth (measured from the wall to the front edge) has to be 40-60 cm [102].

The tap may be controlled by a lever (that is sufficiently long) or a photocell. Taps controlled by means of valves or any other systems that are difficult to use for people with manual disabilities are not permitted. The distance between the front edge of the sink and the tap lever or photocell sensor must not exceed 30 cm.

Two types of mirrors may be used:

– fixed, with the lower edge 90 cm above the floor and top edge min. 190 cm above the floor (recommended for security reasons),
– pivoting, with a handle at a height of max. 100 cm and use comfortable for wheelchair users and standing persons.

A soap dispenser should be installed next to the wash basin. The lower edge of the dispenser has to be 80-110 cm above the floor level (80-100 cm is recommended). The dispenser should be operated with one hand.

If a hand dryer or towel holder is installed, it has to be place next to the wash basin. A person in a wheelchair should not have to move around in it to dry his/her hands. The lower edge of the dryer or towel holder has to be 80-110 cm above the floor level (80-100 cm is recommended).

If there are towel hooks, at least one of them has to be 80-110 cm above the floor level, at a place easily reached in a wheelchair.

The following light switching systems may be used:

– switches placed 80-110 cm above the floor level,
– permanent lighting, e.g. BMS controlled,
– automatically controlled lamps.

[102] ISO 21542:2011, point 26.9.

In toilets for people with disabilities it is recommended to install an alarm system that can be activated by means of:

– a cord with the lower end no higher than 10 cm above the floor level and the top end min. 110 cm above the floor level,
– two activating buttons: one at a height of 0-40 cm and the other at a height of 80-110 cm; this solution is recommended for security reasons.

The cord or activating button has to be located in a place accessible from a wheelchair, the toilet bowl, and for a person who has fallen down on the floor. The activating devices should not be located in the corner of the room, behind the toilet, and their activation should not require the user to reach backwards. If the alarm system reset button is installed, it should be 80-110 cm above the floor level. The alarm system has to notify persons responsible for assistance provision, e.g. prison officers.

- **• Showers**

  Showers for people with disabilities should be available at least in the following places:

  – prison cells accessible to persons with reduced mobility,
  – accessible rooms for intimate visits,
  – hospital rooms: accessible rooms or their bathrooms,
  – in the vicinity of the doctor's office.

In or next to the bathroom with a shower adapted to the needs of people with disabilities there should be an accessible toilet. An accessible shower and an accessible toilet for people with disabilities may be located in one room.

In a room with a shower for people with disabilities, there should be a rectangular space for wheelchair moving, with minimum dimensions of 150x150 cm, ensuring convenient access to the shower. Next to the shower base, there should be space for placing a wheelchair. The space dimensions may not be less than 90 x 130 cm.

A shower accessible for people with disabilities has to have a shower base at the floor level. The base should be 90 cm wide and at least 90 cm long.

In a shower adapted to the needs of people with disabilities there should be a seat with the minimum dimensions of 45x45 cm[103]. The seat should be installed in a way ensuring that its longitudal centre line is 45 cm from the wall, and is placed at a height of 45-48 cm.

Handrails also have to be installed in a shower adapted to the needs of people with disabilities. Handrails should be installed on a wall perpendicular to the one to which the seat is attached.

In a shower adapted to the needs of people with disabilities, the tap should be installed on a wall perpendicular to the one to which the seat is attached, and should be at a height of 80-110 cm.

The shower head height must be adjustable at least within the range of 100-180 cm. above the floor level, and it has to be possible to hold the shower head by hand. In exceptional cases, other solutions may be used for security reasons.

The following light switching systems may be used:

– switches placed 80-110 cm above the floor level,

– permanent lighting, e.g. BMS controlled,

– automatically controlled lamps.

MAIN ROOMS

The below mentioned rooms have to be accessible to people with reduced mobility. Entrances to those rooms have to meet the standards described before in this chapter.

- **Watch room**

A wheelchair moving space with the minimum dimensions of 150x150cm should be available on the visitor's side. There should also be a desktop with a minimum width of 90 cm, no more than 90 cm above the floor level.

It is recommended that the reception desk be equipped with:

– induction loop,

[103] ISO 21542:2011, point 26.16.

– online access to a sign language interpreter.

- **Visiting rooms**

A penitentiary establishment should have at least one visiting room (per every supervision system) that is accessible for persons with reduced mobility. Between the entrance and at least one table or space for visitors, there should be space for a person with reduced mobility.

If there are tables, at least one of them has to meet the following standards:

– in front of the table, rectangular space for wheelchair moving, with the minimum dimensions of 150x150cm,

– table top 72-80 cm above the floor level,

– free space under the table top [104]:

  - space under the table top: min. 67 cm high (70 cm recommended),
  - min. 75 cm wide (90 cm recommended),
  - min. 40 cm deep (60 cm recommended).

Next to the visiting room (both on the prisoners' side and on the visitors' side) there should be a toilet, including one accessible for persons with disabilities.

- **Room for so-called intimate visits[105]**

In a penitentiary establishment, there should be at least one room for so-called intimate visits, that is accessible for people with reduced mobility.

In such a room, there should be:

– a bed with at least one rectangular space for wheelchair moving, with the size of at least 150 x 150 cm,

– a toilet adapted to the needs of people with disabilities,

– a shower adapted to the needs of people with disabilities.

- **Rooms where prisoners wait to be placed in/released from the establishment**

[104] See: ISO 21542:2011, point 37.3.
[105] Visits that are permitted for good behaviour, under Article 138(1)(3) of the Penalties Enforcement Code.

A penitentiary establishment should have at least one room accessible to persons with reduced mobility, where prisoners wait to be placed in/released from the establishment. This room should have:

– rectangular space for wheelchair moving, with the size of at least 150 x 150 cm,

– a seat with a backrest and armrests.

Near or next to this room there has to be a toilet adapted to the needs of persons with disabilities.

- **Prison cells**

In the establishment's every section (covered by a given supervision system), there should be cells accessible for people with reduced mobility. If the establishment has several wards covered by the same supervision system, such cells may be placed only in one of those wards.

Persons with reduced mobility, kept in such cells, have to have access to other functions of the establishment (e.g. canteens, common rooms), similarly to other inmates.

A cell should have:

– spaces for wheelchair moving, with the minimum dimensions of 150x150cm, making it possible for a wheelchair user to move freely,

– a bed with at least one rectangular space for wheelchair moving, with the size of at least 150 x 150 cm,

– a toilet adapted to the needs of people with disabilities,

– a shower adapted to the needs of people with disabilities.

- **Canteen**

At least one canteen in the establishment should be accessible for people with reduced mobility, from any prison section where such persons can access. The possibility of moving between the entrance and the tables, food serving points and points to which plates are returned, should be ensured. Table tops at food serving points and points to which plates are returned should be placed no higher than 90 cm above the floor level. The canteen should have some tables for wheelchair users. The tables have to meet the requirements applicable to visiting rooms.

- **Common room**

Each prison section accessible to persons with reduced mobility should have a common room adapted to the needs of those persons. The common room should have enough space for moving in a wheelchair, and should ensure access to all important equipment items. The tables have to meet the requirements applicable to visiting rooms.

- **Hospital**

The hospital has to be fully accessible for people with reduced mobility.

Rooms for patients should have:

– spaces for wheelchair moving, with the minimum dimensions of 150x150cm, making it possible for a wheelchair user to move freely,

– a bed with at least one rectangular space for wheelchair moving, with the size of at least 150 x 150 cm,

– a toilet adapted to the needs of people with disabilities,

– a shower adapted to the needs of people with disabilities, directly in the room, or access to a bathroom with such a shower.

- **Doctor's office**

Doctors' rooms within the penitentiary establishment have to be accessible for persons with reduced mobility.

A doctor's office should have:

– a waiting room with at least one seat with a backrest and armrests; the size of the waiting room should make it possible for people to move in a wheelchair,

– spaces for wheelchair moving, with the minimum dimensions of 150x150cm, making it possible for a wheelchair user to move freely,

– a couch with at least one rectangular wheelchair moving space no smaller than 150 x 150 cm,

– a toilet adapted to the needs of people with disabilities.

- **Other rooms**

Other rooms for prisoners also have to be available to people with reduced mobility. In exceptional situations, if there is no possibility of physical access to certain rooms, services offered there have to be accessible. For example, if a disabled prisoner is unable to get to the library he/she has to have the possibility to have books delivered to the cell.

II. Situation of prisoners with disabilities

The Prison Service's activities regarding prisoners with disabilities

The Polish penitentiary system has been in operation for 100 years. It was established when Poland regained independence. In the first years of the system, prisons previously used by the occupants' authorities were used. There were no educational activities or rewards for prisoners, and there existed no prisons or prison sections for people with disabilities.

Thanks to international penitentiary congresses, in particular the ones held in London in 1925 and in Prague in 1930, the opinion was formed that during the penalty of imprisonment, attention should be paid not only to the committed offence/crime (the act) and the court judgment, but also to the personality of the convict. This view was reflected in the ordinance of the President of the Republic of Poland of 7 March 1928 on the organization of the prison system, and the parliamentary Act of 26 July 1936 on the organization of the prison system. Pursuant to those legislative acts, prisons were divided into ordinary ones and special ones. In both groups, prisons were divided into ones for non-depraved people and ones for depraved people (including special establishments for people considered as deprived to a low degree and thus having prospects for improvement). In the latter group, there were so-called therapy-offering prisons. In April 1936, the first *observation and classification* establishment was established whose role was to assess the personalities of convicts in order to place them in appropriate prisons, and to determine further actions regarding the convicts.

At the same time, in Polish prisons so-called criminal biology research was carried out on a large scale in those years[106], which identified the need for ensuring special treatment to certain categories of prisoners.

The first group of persons deprived of liberty, that was classified as requiring different treatment, were persons considered to be *mentally distorted*[107]. These were mainly persons

[106] Since the London Congress until the middle of 1938, 31 thousand prisoners were examined in several Polish prisons.

[107] The category covered e.g.. psychopathic behaviours, sociopathy, characteropathy, neuropathy, mental retardation, mental illness and epilepsy. See: M. Dworski et al. *Diagnoza kierująca więźniów do Więzienia Specjalnego w Oleśnicy a ich obserwacja w tym zakładzie* [Diagnosis of, and decision on, placing prisoners in

who were mentally ill, which is also reflected in the literature on the subject of that time. Interestingly, according to the said criminal biology research among convicted men and women, as many as 41.7% were considered also *physically ill*[108].

In the first years of the regained independence, mentally ill prisoners were released from prison for the so-called penalty suspension periods. This practice was discontinued in 1928 and it was decided that they should undergo treatment. For this purpose, in the 1930s five psychiatric hospitals for prisoners were established, located in buildings separate from prisons. There, among others, occupational therapy was conducted to make the prisoners used to systematic work, which was assumed to give positive results.

The psychiatric hospitals for prisoners reduced workload on prisons' staff, contributed to the development of psychology and cognition research and, above all, to developing a different approach to work with convicts, in which retaliation for the offence committed was not dominant, but the focus was on social rehabilitation taking into account the convicts' dysfunctions, physical rehabilitation and performance of work adjusted to the capabilities of prisoners.

Penitentiary facilities and wards for prisoners requiring special treatment due to mental problems also began to be established. Within this movement, in 1937, a separate unit for *physically weak* prisoners was planned[109] in the prison in Grudziądz [110].

This prison was opened on 1 April 1939, and then transformed into a medical-type facility managed by a doctor who was also the head of the institution. This proved that therapy prevailed over other methods of influence on prisoners. *Mentally defective* prisoners and *physically weak* prisoners were placed in the facility[111]. The establishment had places for

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the Special Prison in Oleśnica, and their observations conducted in the establishment] in: Przegląd Penitencjarny No. 3(15), Warsaw, 1967.

[108] Tadeusz Kolarczyk *Postępowanie ze skazanymi niepełnosprawnymi fizycznie lub psychicznie* [Dealing with convicts with physical or mental disabilities] in: Księga Jubileuszowa Więziennictwa Polskiego 1918-1988, ed. Andrzej Marek, Wydawnictwo Prawnicze, Warsaw, 1990.

[109] Apart from prisoners with physical disabilities, the category *of physically weak prisoners* also included elderly persons and ill persons (e.g. suffering of tuberculosis).

[110] According to the ordinance of the Minister of Justice of 3 August 1937 on the classification of prisons, Official Journal of the Ministry of Justice, No. 8.

[111] The terms: *mentally defective and physically weak* were in use in Poland in the years between the world wars, and they have been mentioned here to illustrate changes concerning people with disabilities that have occurred over the last hundred years, also in the language.

500 people, and according to some researchers[112], together with a smaller prison in Grodzisk Mazowiecki (intended for *mentally defective* prisoners and *epileptics, drug addicts and psychopathic people*) was considered to have solved the problem of convicts with disabilities.

As a result of the Second World War, the development of the prison system in this area stopped and even reversed. In the 1950s, penitentiary approaches worldwide started to recognize again that it is advisable to apply individualized and specialized influence with regard to prisoners with health dysfunctions. This concept was implemented in Poland by way of establishing, in 1965, a Special Prison - Psychiatric Hospital in Oleśnica. Experimental facilities for convicts with deviations from psychiatric standards were also established in Wronki, Rawicz and Świecie.

In 1966, for the first time, a general regulation was adopted that permitted exceptions from penalty serving standards in Polish prisons, with regard to specific prisoners, including *physically disabled* prisoners.

It seems that the problem of people with physical and sensory disabilities, although noted by prison authorities at that time, was not a subject of thorough considerations. The lack of an in-depth analysis of the situation of such people continued until a wave of self-injury cases, that resulted in serious visual impairment or blindness, which took place in some Polish prisons in the 1980s. Nearly 100 convicts lost or damaged their eyesight. The penitentiary health care system was not prepared for such a large increase in the number of vision dysfunctions.

In 1984, one of the prisoners injured himself in a way which led to his vision impairment. He then applied to a penitentiary court for a period of suspension of serving the sentence, in order to undergo treatment outside the establishment, said Wojciech Wilk, spokesman of the prison in Fordon near Bydgoszcz. There were more such cases. Some prisoners believed that vision impairment was a way of leaving the prison for the period of medical treatment, which sometimes lasted half a year or more. This was a way of living outside prison.

[112] Karol Pawlak, *Więzienia dla niepełnosprawnych psychicznie i fizycznie w Polsce w okresie międzywojennym* w: *Pomoc postpenitencjarna w kontekście strategii działań resocjalizacyjnych* [Prisons for mentally disabled and physically disabled people in Poland between the World Wars; in: Post-penitentiary assistance in the context of social rehabilitation strategies]; ed. Beata Skafiriak, Oficyna Wydawnicza *Impuls*, Kraków 2007.

Convicts used various methods to deteriorate their eyesight. Frequently, a prisoner had a copper wire put into his eye by another inmate. The copper contained in the wire caused a disease. Some prisoners had a wire in their eyes permanently. They rubbed the area under the eye for a long time, so as to make the head swell, to make doctors concerned. When they could not get a copper wire, they used heated paper clips, or even hurt their eyes with razor blades. In order to cause inflammation, they sometimes put pieces of pencil lead, or pieces of wires from light bulbs, into their eyes[113].

The penitentiary system had to react to such situations. The National Prison Service Headquarters concluded an agreement on physical rehabilitation of convicts with the Board of the Polish Association of the Blind, and with the National Association of Blind Persons' Cooperatives. A hospital unit for blind prisoners was established in Bytom, and a prison section for such prisoners was established in the Fordon prison. Those institutions taught blind prisoners how to function, provided the Braille system teaching to them, and ensured adjusted employment. The unit for convicted blind or visually impaired people still exists there. Similar units operated in the past in Bydgoszcz, Opole and Kluczbork.

The prison administration was required to depart from the standard procedures with regard to those prisoners and, because of their health condition, to refer them to medical examinations to determine the existing disability degree, to facilitate their contacts with non-governmental organizations working with people with disabilities, and to take care of them after leaving prison, by referring them to a competent disability assistance cooperative. However, such a specialized procedure was not used for prisoners with other types of disabilities.

Notably, in the second half of the twentieth century there were discussions on penitentiary establishments' activities with regard to prisoners who require special treatment. There were suggestions to group them in special prisons, and opposite suggestions to *dilute this community in the normal prison population, while emphasizing the necessity for their special treatment*[114]. Due to the lack of appropriate staffing and organizational conditions to undertake individualized and specialized treatment of these people in ordinary prisons, and

[113] Stanisławski, *Cela bez taryfy ulgowej* [Cells without preferential treatment], Magazyn Integracja, 2/2008.
[114] Mieczysław Dworski *Koncepcja Zakładu Specjalnego w Oleśnicy* [The system of the Special Prison Facility in Oleśnica] in: Przegląd Penitencjarny No. 3(15), Warsaw, 1967.

the fear that such prisoners may have negative influence on each other, at the beginning the first solution was preferred[115].

Finally, the idea of concentrating prisoners with physical disabilities in separate prisons was abandoned, and it was decided to indicate individual units where such prisoners could be placed.

In 1981, the then-existing National Headquarters for Prisons carried out a survey to determine the living conditions of persons with disabilities in prisons. It showed that such prisoners did not have conditions adequate to their health condition, and that the existing legal regulations regarding exceptional treatment, as well as organizational solutions, were insufficient to change the situation. Prisoners with disabilities were not always placed in prisons designated for them, had no adequate living conditions, did not have adjusted bathrooms, did not go for walks, were not generally provided with appropriate medical assistance, and were not employed within the so-called "protected work" system. Cases of negligence of the Prison Service in the field of assistance provision to convicts with disabilities were disclosed, also as regards referring such prisoners to medical examinations to determine the degree of their disability, and the post-penitentiary assistance provision.

In view of the conclusions of the survey, in 1982 in 21 penitentiary establishments (prisons and remand facilities), special prison sections were established for convicts with the health category D (which meant inability to work, considered to result from disability).

At the same time, guidelines were issued on serving imprisonment penalties by all convicts with physical disabilities. The guidelines related e.g. to the need to specify, in individual educational programmes, the exceptions from the penalty serving system, mandatory placement in the designated establishments, comprehensive determination by prison officers of the needs of such prisoners in the context of their situation in various areas, including family and health. These guidelines also provided for the possibility to seek annulment of the rest of the penalty, by convicts who show progress in social rehabilitation and in relation to whom humanitarian reasons support their release.

[115] In the case of people with physical and sensory disabilities, this is a bad solution. More on this subject can be found from results of the NMPT monitoring in prisons and remand facilities, in 2015-2016, regarding penitentiary units' adjustment to the needs of people with such disabilities.

However, the guidelines were considered purely theoretical and difficult to implement in the absence of properly adjusted facilities for convicts of this health category. There was no information either about the possibilities of those facilities in the fields of offered employment, training and treatment[116]. However, the guidelines were an important step on the way to focusing the attention of Prison Service staff on this category of prisoners.

In the middle of the twentieth century, attention was also drawn to the need to estimate the number of prisoners with *anomalies*[117]. It was noted that all systemic considerations actually fail to take a uniform and comprehensive approach to assessing the overall number of such prisoners in the overall prisoners population[118]. This need was raised again in the 1990s[119] and in principle has not yet been fully implemented until now.

The presence of people with disabilities among prisoners is an indisputable fact. It was, as already indicated, noticed very late in the theory and practice of the penitentiary system. Appropriate approach to such prisoner is not a focal point of the penitentiary system, but with the change in the general attitude towards people with disabilities, its importance is increasing, particularly as among those deprived of their liberty, persons with disabilities may constitute a high percentage.

The beginning of the 1990s brought the awareness of the need to ensure prison cells adapted to the needs of people in wheelchairs. Such cells were considered needed in every prison and remand facility. This has not yet been fully achieved, even until today. In 2001, only four prisons in Poland had such adapted cells. Today there are many more. The Prison Service has 129 penitentiary establishments under its supervision. In 68 establishments there are:

- 92 adapted prison cells, that can accommodate in total 285 people – wheelchair users;

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[116] Tadeusz Kolarczyk, *Postępowanie ze skazanymi niepełnosprawnymi fizycznie lub psychicznie* [Dealing with convicts with physical or mental disabilities] in: Księga Jubileuszowa Więziennictwa Polskiego 1918-1988, ed. Andrzej Marek, Wydawnictwo Prawnicze, Warsaw, 1990.

[117] Another outdated term used to refer to persons with various disabilities.

[118] jw.

[119] Tadeusz Kolarczyk *Postępowanie ze skazanymi niepełnosprawnymi fizycznie lub psychicznie* w: Księga Jubileuszowa Więziennictwa Polskiego 1918-1988 red. Andrzej Marek, Wyd. Prawnicze, Warsaw 1990.

- 8 prison cells purposefully built for persons with physical disabilities; these cells have the total number of 24 beds[120].

Despite the adjustments introduce in penitentiary establishments for prisoners with disabilities, their daily life in penitentiary isolation is largely associated with the necessity to be assisted by fully-able inmates who are accommodated together with them. In a situation where the condition of a disabled person deprived of liberty makes it impossible for him/her to be kept in a given prison, the person is transferred to another facility, at least partially accessible. Neither dependence on other people, nor moving far away from the family's home are optimal solutions.

There are no legal regulations applicable to our service that would require the provision of specific care to disabled prisoners. In some cases, such people undergo physical rehabilitation, but only when there are medical indications for it. There are no special readaptation programmes for this group of prisoners, either. In the facility where I worked, we sometimes organized competitions in order to ensure entertainment to prisoners in wheelchairs, said in 2012 Lt. Urszula Charciarek, then the chief doctor of the Warsaw District Inspectorate of Prison Service[121].

As a result of the NMPT's thematic visits regarding the situation of the discussed group of prisoners, as well as recommendations based on them, the Prison Service paid more attention to disabled persons deprived of their liberty and undertook more activities with regard to them. It should be noted that the current activities largely follow the conclusions and recommendations of the NMPT, which demonstrates the openness of the Prison Service to the need for changes in this area.

On 28 March 2017, Director General of the Prison Service sent a letter to all district-level directors requesting them to analyse and indicate establishments which could be considered comprehensively adjusted for prisoners with disabilities, including people in wheelchairs[122]. In this context, attention has been drawn to the fact that when preparing prison cells for people with physical disabilities, their needs have to be taken into account. The indicated establishments should have places for all types of convicts and detainees on remand.

[120] Reply of the Ministry of Justice of 14 April 2018, ref. no. DWMPC-III-850-2/18.
[121] Łupińska A., *Łamiemy bariery* [Breaking the Barriers], Forum Penitencjarne 2012, No. 4.
[122] Ref. no: BIS.404.91.2017.MH.

It was pointed out that such penitentiary establishments should, if possible, include wards with the functions of schools, therapy facilities, sections for convicts considered as posing a serious risk to the society or the safety of the establishment, as well as hospital rooms and doctors' offices.[123]. It was also indicated that, in analysing and selecting the establishments referred to above, account should be taken of the experience of representatives of associations, foundations, organizations and institutions cooperating with penitentiary establishments pursuant to Article 38 of the Penalties Enforcement Code, if their statutory activities are addressed to persons with disabilities.

In order to eliminate architectural barriers during the modernization of healthcare units operating in penitentiary establishments, account is taken of the need to adapt hospital rooms, doctors' offices and rooms for ill prisoners to the needs of persons with disabilities, in accordance with the Regulation of the Minister of Justice of 5 July 2012 on specific requirements to be met by healthcare units and facilities existing in prisons for persons deprived of liberty. By the end of 2016, 61 prison health care units met the requirements of the regulation, and 93 still required adaptation.

In 2017, within the penitentiary system there were two hospital wards dedicated, among others, to convicts with disabilities:

- Oddział Rehabilitacji Narządu Ruchu w Zakładzie Karnym Nr 2 w Łodzi [Motor System Rehabilitation Ward in Prison No. 2 in Łódź] (in 2016, 131 patients were hospitalized there);
- Oddział dla Przewlekle Chorych w Zakładzie Karnym w Czarnem [Ward for chronically ill prisoners in the penitentiary establishment in Czarne] in 2016 (in 2016, 38 patients were hospitalized there). The ward is located in a new prison hospital adapted for prisoners with disabilities and opened early in 2017.

Persons deprived of their liberty, including persons with disabilities are covered by free medical care, in accordance with Article 115 of the Penalties Enforcement Code. After being placed in a penitentiary establishment, every prisoner is immediately examined by a doctor. If necessary, the prison physician issues appropriate recommendations on how to deal with the person, for example:

[123] Journal of Laws of 2012, item 808, as amended.

- placing in a prison cell adapted for persons with disabilities,
- provision of free-of-charge prostheses, orthopaedic aids or other aids,,
- recommendation to apply an exemption from the Regulation of the Minister of Justice of 22 December 2016 on the organizational rules and regulations on the serving of remand detention and from the Regulation of the Minister of Justice of 21 December 2016 on the organizational rules and regulations on the serving of penalty of imprisonment.

Convicts who had obtained a disability certificate before imprisonment are not required by any regulations to inform the prison administration about this. The provisions on penitentiary work, however, provide for the educator to pay attention during the initial meeting to any visible disabilities of the convict, to find out whether he/she had been previously kept in a medial ward, and to determine any former psychiatric or neurological treatment. Depending on the findings, decisions are made about the appropriate placement of the convict and the need for any specialist psychological assistance, or the provision to the convict, where possible, with aids required by the type of his/her disability.

The regulation No. 19/16 of Director General of the Prison Service of 14 April 2016 *regarding specific rules of conducting and organizing penitentiary work, as well as the scope of activities of officers and employees of penitentiary and therapeutic units and wards*, regulates the method of conducting penitentiary work, taking into account the special needs of prisoners with disabilities and the need to ensure that they are treated in a way that prevents their discrimination; this may be achieved through:

1) making other prisoners aware of the need to properly treat persons with disabilities, to respect their difference and to accept them;
2) taking actions aimed at eliminating prejudices and stereotypes towards people with disabilities;
3) active inclusion in social rehabilitation programmes and cultural and educational activities available to all convicts;

4) inclusion in employment, vocational training and participation in sports activities, taking into account medical indications regarding their state of health;

5) organizing, where possible, occupational therapy for people with disabilities;

6) supporting the language needs of deaf people by creating opportunities to learn sign language;

7) organizing vocational courses for convicts who wish to be trained as carers for persons with disabilities;

8) cooperating with non-governmental institutions and organizations whose activities are focused on helping people with disabilities.

In 2016, emphasis was placed on increasing the competences of officers and employees of the Prison Service in the field of working with persons with disabilities and respecting their rights in the conditions of isolation. A total of 230 training sessions for penitentiary staff were carried out in prisons and remand facilities. In total, 3,670 officers and employees of penitentiary and therapeutic establishments participated. 87 training sessions were organized in cooperation with public benefit institutions and organizations whose statutory goal is to help and care for people with disabilities.

On 26 January 2016, the district-level Directors of the Prison Service received from Director General of the Prison Service an instruction that required staff of penitentiary establishments to read the legislative documents placed on the website of the Government Plenipotentiary for the Disabled, regarding the rights and obligations of disabled persons, and to find out about the applicability of those documents to the Prison Service's work[124].

Also, in 2016, representatives of the National Prison Service Headquarters and three penitentiary establishments were invited to participate in meetings of experts, carried out under the Project *Implementation of the Convention on the Rights of Persons with Disabilities – our common goal*. Their purpose was to engage Poland in the international process of positive changes regarding persons with disabilities[125].

[124] Ref. no: BP-073-27/16/175.

[125] The project is implemented by: the Polish Forum of People with Disabilities [Polskie Forum Osób Niepełnosprawnych] that is the project leader, along with the partners: Lublin Forum of Organizations of People

Since 2015, on the intranet site of the Penitentiary Office, under the *Good Practices* tab, officers and employees of the Prison Service can find *A practical savoir-vivre guide to interacting with persons with disabilities* by Judy Cohen. It can be used to improve competences in providing effective assistance to people with disabilities and in interacting with such people in general.

Actions addressed to convicts were also taken in the fields of:

- coordinating interactions between the Prison Service, public benefit organizations, institutions and organizations that aim to help disabled people and support prison staff in care provision to people with various disabilities,
- professional and social activation of people at risk of exclusion, with particular emphasis on people with disabilities,
- developing convicts' volunteering programmes, implemented as part of social rehabilitation programmes conducted in social welfare homes and hospices. In 2015, 415 convicts participated in 55 programs (in 2016, there were 57 programmes and 416 participants),
- organization of educational meetings and social rehabilitation programmes on preventing discrimination, and on developing the attitudes of tolerance, respect and acceptance. In 2015, 55 such programmes were conducted, in total for 415 convicts, and in 2016, the overall number of 2438 convicts participated in 159 such programmes,
- engaging convicts in charity campaigns for the benefit of the disabled,
- organization of trainings for convicts to be trained as carers of persons with disabilities. In 2016, 227 convicts participated in 25 trainings. Compared to 2015, the number of prisoners trained as carers of disabled or senior persons increased three times (in 2015, 71 convicts were trained).

with Disabilities - the Province Council; the Warmia and Mazury Asosciation of the Disabled, the Maria Grzegorzewska Special Education Academy, and the law firm Domański Zakrzewski Palinka Sp. z o.o.

The number of convicts with a disability certificate, that find work opportunities in penitentiary establishments is also growing. In 2016, there were 166 such persons, including 64 paid workers and 102 non-paid workers (working under Article 123(a) of the Penal Code). As of 31 October 2018, the number of working prisoners with disabilities was 170.

In 2017, with the help of the Prison Service, 647 prisoners received disability certificates for purposes other than seeking disability pensions. 183 prisoners received disability certificates that entitled them to seek so-called illness-related pension.

Pursuant to the provisions of the Regulation of the Minister of Justice of 13 September 2017 regarding the *Fund for Victims Support and Post-Penitentiary Assistance – the Justice Fund*[126], prisoners in penitentiary establishments may be assisted in covering the costs of specialist medical treatment or physical rehabilitation or of seeking certificates referred to above. In 2015, about PLN 93,000 was spent on this purpose.

In addition, convicts may, pursuant to the said regulation, seek support in covering the costs of medical aids such as prostheses, orthopaedic and other aids, medicines, medical materials and hygiene items. In 2016, 871 convicts received such materials.

In March 2017, the Penitentiary Division of the National Prison Service Headquarters allocated PLN 7,000 to new equipment for blind prisoners serving their penalties in the therapy-focused system in the Bydgoszcz-Fordon Prison. The prison carries out an education programme for visually impaired and blind prisoners, but does not provide specialist ophthalmological treatment. The *course of basic physical rehabilitation with elements of spatial orientation, unassisted moving and Braille system* is addressed to convicts who have not undergone such training before. The programme is focused on education and its purpose is to improve the functioning of prisoners with vision impairment. After completing the programme, they are placed back in their previous establishments or ones located closer to their permanent place of residence.

The number of prisoners who experienced permanent or temporary communication difficulties and had to use the services of the sign language interpreters in 2018 was 8.

[126] Journal of Laws of 2017, item 1760.

If it is necessary to use the services of a sign language interpreter, the head of the penitentiary establishment or remand facility has to pay for the service with funds from the facility's budget.

In 2016, the total number of prison officers and employees who were able to use the sign language was 80. Of them, 52 had a certificate of interpreter of one of the following languages: sign language, sign and spoken language, or language for people with both vision and hearing impairment. However, the National Prison Service Headquarters had no information on the precise numbers of interpreters of each of those languages.

In 2016, contrast change mechanisms and font size change were made available on the websites of the Prison Service and the Prison Service Public Bulletin. This way, the websites were adjusted to the guidelines on WCAG 2.0 web content availability for visually impaired people.

It is also worth emphasizing that the order no. 20/2016 of Director General of the Prison Service of 19 April 2016, Prison Service Director General's Representative for the Protection of Human Rights and Equal Treatment was appointed, whose activities concern protection against discrimination, among others on the grounds of gender, age and disability.

III. Systemic problems regarding prisoners with motor and sensory disabilities

The Commissioner for Human Rights identified several general important problems regarding prisoners with disabilities, which he has reported to competent institutions in the form of motions to ensure effective protection of the freedoms and rights of people deprived of liberty. Using his powers set out in Article 16(2)(1) of the Act on the Commissioner for Human Rights[127], he also suggested taking a related legislative initiative. Some of the raised problems still exist. The main problems are indicated below..

1.) The problem of lack of early identification by the police of people who require special treatment and of forwarding information on them to other bodies engaged in criminal proceedings

[127] Consolidated text: Journal of Laws of 2017, item 958.

It is necessary to be aware that a person who has been deprived of liberty by the police requires special treatment if he/she has a disability. Such persons should be e.g. placed in appropriate conditions or organize appropriate medical care and enable them to exercise their rights, e.g. by guaranteeing the assistance of a sign language interpreter.

The CHR wrote to the Police Commander-in-Chief and to the Prime Minister[128], noting the special role of police officers in documenting their observations regarding such persons, and passing them on to other authorities conducting criminal proceedings. According to the Commissioner, police officers should be required, for example, to indicate in the detention report that a given detained person belongs to a group of people who require special treatment, and for what reason. This is a precondition for creating an appropriate system to allow an efficient flow of information on health problems of people with various dysfunctions, between entities responsible for the situation of such people (police, courts, Prison Service).

In view of the above, in addition to the CHR's proposal addressed to the Police Commander-in-Chief to consider developing appropriate guidelines for police officers on documenting and providing information and observations regarding persons detained by police officers, the Commissioner also requested the Prime Minister to consider taking legislative action to amend the provisions of the Regulation of the Council of Ministers of 29 September 2015 *on procedures for exercising certain powers of police officers*[129], by changing the detention report template.

The suggestion was not taken into account. In reply, the Minister of the Interior and Administration informed that a detention report is a document that describes the process of detention, and it would be inappropriate to enter into it *personal* observations of police officers, regarding the state of physical or mental health of the detained person. Police officers are not competent and qualified to make such assessments and to determine whether a detained person requires special treatment.

The minister noted, however, that in the event the health or behaviour of a detained person causes difficulties in detaining him, it is possible to make an appropriate entry in the detention report, in the box for opinions of the detaining policeman. In addition, in a situation

[128] Ref. no.: IX.517.2.2015, 12 January 2016 and 22 July 2016.
[129] Journal of Laws of 2015, item 1565.

where a detained person has symptoms indicating a possible mental or physical disability or other disorders causing difficulties in contacting him or in carrying out the police activities, it may also be registered in the report.

2.) The problem of persons whose life is directly at risk but who are place in prions or remand facilities

The content of Article 35(1) of the Regulation of the Minister of Justice of 23 June 2015 *on administrative activities related to detention on remand, on penalties and coercive measures relating to deprivation of liberty, and on methods of documenting these activities*[130] stipulates that every person who is temporarily detained or convicted, even if he/she is at immediate risk to life (which may apply to persons with disabilities due to their progressive diseases) has to be first placed in a penitentiary establishment and only then may receive adequate medical care. **Therefore, the regulation does not provide for a situation preventing imprisonment of an ill person, even with a very serious illness.** The regulations that were in force before 1 July 2015 explicitly excluded the possibility of placing people with severe illnesses in penitentiary establishments, in particular when those persons required hospitalization. In the Commissioner's opinion, the adopted solution may be a manifestation of inhumane treatment of seriously ill and disabled prisoners and of a violation of their constitutional rights to health and life protection. The penitentiary health care system is not able to provide immediate treatment to persons in urgent need of hospitalization or persons with death-threatening diseases.

The Commissioner for Human Rights, in his letter to the Minister of Justice and the Prosecutor General[131], suggested returning to the previous regulations that prevented the imprisonment of persons with severe physical illnesses that pose a risk to life or health.

The minister informed[132], that it is currently not possible to restore the previous wording of the regulations. He noted, however, that, bearing in mind the arguments presented by the Commissioner with regard to people’s placement in penitentiary establishments, the Ministry of Justice is ready to undertake analytical and planning works that may led to

[130] Journal of Laws of 2015, item 927, as amended.
[131] Ref. no.: IX.517.2.2015 of 29 July 2016.
[132] Ref. no.: DWOIP-I-072-25/16 of 30 September 2016.

amending the relevant provisions at the level of parliamentary act or of implementing regulations. However, changes in this respect have not yet been introduced.

3.) The problem of lack of possibility to place a remand prisoner with a disability resulting, e.g., from a severe physical illness, in a hospital or in another health care facility outside the penitentiary system

The Prison Healthcare Service cannot provide all types of health care that should be available to remand prisoners with disabilities that result, inter alia, from specific somatic diseases.

The provision of Article 260(1) of the Code of Criminal Procedure provides that detention on remand, if the defendant's health condition so requires, can only have the form of placement in an appropriate health care facility. Such a facility can be understood as part of prison as well as a public health care entity. Yet, the Ordinance of the Minister of Justice of 16 June 2015 *on the list of health care facilities for placing remand prisoners, and on security provision at such facilities*[133], does not contain any list of health care facilities that are outside the penitentiary system. **Therefore, there in a situation when no penitentiary healthcare facility can provide appropriate medical care to the detainee and a non-custodial preventive measure cannot be applied, the detainee will not receive health care services adequate to the needs.**

The problem had been reported several times to subsequent Justice Ministers in 2015-2016[134]. The Commissioner requested supplementing the list of healthcare facilities intended for temporary detention, by adding health care facilities from outside the penitentiary system.

According to the reply received from the Minister of Justice and the Prosecutor General[135] it is pointless to undertake legislative work aimed at amending the content of the provision in line with the suggestions of the Commissioner.

[133] Consolidated text: Journal of Laws of 2016, item 1733.
[134] Ref. no.: IX.517.411.2015, the CHR complaints of: 27 August 2015, 7 December 2015 and 20 December 2016.
[135] Ref. no.: DL-III-072-56/16 of 8 February 2017.

4.) The problem of architectural barriers in prisons and remand facilities, and of insufficient space per prisoner, which causes problems with moving around to prisoners with disabilities, and constitutes obstacle to Poland's implementation of Articles 9 and 15 of the *UN Convention on the Rights of Persons with Disabilities* relating to freedom of torture and ill-treatment.

In the Commissioner's opinion, in the Polish law there are gaps and exceptions that constitute an obstacle to the full implementation of Article 15 of the Convention on the Rights of Persons with Disabilities. Poland's ratification of the Convention did not entail any changes in relevant legislation to the extent enabling persons with disabilities to function properly in places where they are deprived of liberty. The issue should also be considered from the perspective of inhuman or degrading treatment of persons with disabilities. The problem of existing architectural barriers does not apply solely to institutions that are supervised by the Ministry of Justice (e.g. remand facilities and prisons), but this publication is focused on such places[136]. The signing and ratification of the Convention did not result in the introduction of specific requirements to modernize the existing facilities in order to adapt them to the needs of persons with disabilities.

There are also, what is of significance, certain exceptions from the obligation to adapt certain types of penitentiary buildings to the needs of persons with disabilities. Thee Act of 7 July 1994 the *Building Law*[137] provides for the obligation to design and build public utilities and multi-family houses in a way that ensures accessibility for persons with disabilities. Yet, this obligation only applies to public utility buildings, and this category of buildings does not contain prisons and detention facilities. Prisons and facilities are classified as so-called collective residence buildings, and in relation to them the formerly existing requirements have been lifted also based on an ordinance of the Minister of Infrastructure[138].

The situation in this area violates the principle of equality before the law, expressed in Article 32(1) of the Polish Constitution, which requires that equal treatment of persons who

[136] The problem also concerns state services supervised by the Ministry of the Interior and Administration (Police and Border Guard units), by the Ministry of Health (psychiatric hospitals), the Ministry of National Defense (Military Police units) and the Ministry of National Education (including youth education centers).

[137] Consolidated text: Journal of Laws of 2018, item 1202.

[138] See E.g: paragraphs: 16(2), 42 (2), 55(2), 61(2), 71(4), 74, and 89 of the Regulation of the Minister of Infrastructure of 12 April 2002 on technical conditions to be met by buildings and their locations (consolidated text: Journal of Laws of 2015, item 1422).

are in similar situations. In the Commissioner's view, people with disabilities in detention facilities should have the same access to their rooms as other inmates in order to fully exercise their rights. The provision of Article 32(2) of the Polish Constitution explicitly states that no one may be discriminated against in political, social or economic life for any reason.

People with disabilities may not be stigmatized and subjected to additional difficulties as a result of the lack of appropriate technical conditions necessary for their daily functioning. Thus, failure to ensure to prisoners with dysfunctions the conditions that are appropriate for them may contribute to violation of their dignity. According to Article 30 of the Polish Constitution human dignity is inherent, inalienable and inviolable, and has to be respected and protected by public authorities.

The CHR drew attention to the issue in his letter to Deputy Prime Minister - Minister of Infrastructure and Development[139], in the report on the implementation of Poland's obligations under the UN Convention in the period 2012-2014[140], as well as in the National Mechanism for the Prevention of Torture's annual report for 2015.[141]

This problem is further aggravated by the fact that some penitentiary establishments are located in buildings classified as historic ones and thus protected by conservators. Therefore, it is difficult to obtain permits for their modernization for the purpose of adapting those buildings to the needs of people with disabilities, including people in wheelchairs.

The issue is also connected with the standard of floor area per prisoner. This area is too small even for fully abled prisoners. The current legal regulations raise doubts of the Commissioner with regard to basic human rights in view of the international obligations undertaken by the Republic of Poland. The 3 m² standard per person that is stipulated in the Polish law is not compliant with the European standard of at least 4 m² per person and at least 6 m² in single-prisoner cells (without toilets that are located in prison cells)[142]. That standard is applicable only for fully abled people. Wheelchair users should have a larger space for moving, not occupied by any furniture in the cell.

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[139] Ref. no.: RPO-744194-II/IV-702/13/EB/AT

[140] https://www.rpo.gov.pl/pl/content/realizacja-przez-polsk%C4%99-zobowi%C4%85za%C5%84-wynikaj%C4%85cych-z-konwencji-o-prawach-os%C3%B3b-niepe%C5%82nosprawnych

[141] https://www.rpo.gov.pl/sites/default/files/Raport%20RPO%20KMP%202015.pdf

[142] The 3 m² standard is set in Article 110(2) of the Penalties Enforcement Code.

In the several recommendations of the CPT, issued after its visits to Poland conducted since 1996, including the last visit in 2017, the Committee recommended that the Polish authorities increase their efforts to reach the standard in all penitentiary establishments. In response to the 2017 recommendations[143], the Polish government pointed out that with such a high population of prisoners in relation to the capacity of establishments supervised by the Prison Service, it is currently not possible to ensure 4 m² of floor area to every prisoner. It was also pointed out that the Prison Service was taking efforts to build new penitentiary establishments that would meet the standards, but the achievement of the standards was dependent on the state's penal policy as well as financial possibilities[144]. The Commissioner for Human Rights drew attention to the issue of insufficient space per detainee by writing to the Minister of Justice in 2016, but the reply indicated that the recommended standard would not be reached quickly[145].

It is worth adding that the provisions of the Penalties Enforcement Code that relate to the placement of prisoners in the conditions characterized by overcrowding do not provide for exceptions with regard to disabled prisoners. The case of a prisoner with a disability who was occasionally kept in a cell with a floor area of 16 m² together with 5 or 6 other inmates, as there were no free cells in the prison, was described in the CHR's letter to Director General of the Prison Service[146]. In reply, Director General of the Prison Service explained that the case described in the letter was incidental, and persons with disabilities are not in principle placed in cells where there is less than 3m² per prisoner[147]. Although the indicated case, as was stated in the reply, was indeed incidental, there is a risk that it can be repeated in the absence of appropriate legal regulations.

5.) The problem of limited number of prisons in which persons with disabilities may be kept, and of not taking certain types of dysfunctions into consideration

At the time of the thematic visits to penitentiary establishments, conducted by the NMPT, in accordance with the then binding ordinance No. 30/15 of 1 July 2015 of Director

[143] CPT report on its visit to Poland, CPT / Inf (2018) 39, Article 59.
[144] Report of the Polish authorities for the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 19 June 2018, ref. number DWMPC-III-0825-18/16.
[145] Ref. no.: KMP.571.5.2016.RK.
[146] Letter of 21 October 2013, ref. number RPO-727 955-II-702/13/JN.
[147] Reply of 14 November 2013.

General of the Prison Service *regarding the classification of prisons and remand facilities,* **only 60 of 155 penitentiary establishments could be used by persons moving in wheelchairs, and 1 establishment was adapted to blind prisoners. No penitentiary establishment was adapted for deaf prisoners**.

Bearing in mind the aforementioned standards and the fact that we live in the 21st century, in which there are possibilities to develop space that is accessible to all people, **one may be surprised that not all penitentiary establishments, which have the status of public sector entities, have adjustments for people with disabilities**.

In this context we should think not only about prisoners but also about visiting relatives, prison employees, officials and other guests. Lack of adjustments and the presence of barriers (steep stairs, lack of elevators, driveways, appropriate passage widths, etc.) exclude many people from using such spaces.

Lack of commonly present adaptations means a limited possibility of placing convicts with physical and sensory disabilities in some penitentiary establishments, and also hinders access to them by their relatives.

It should also be openly stated that the division into prisons for people with disabilities and ones for fully-abled people is artificial. In practice, every detention facility in Poland, also not intended for people with disabilities, may have a prisoner e.g. with motor disabilities[148], placed there as a result of ongoing proceedings or the necessity to participate in court hearings. It is also worth noting that during their visits to prisons, representatives of the NMPT often identified people with mobility problems (also temporary ones) who, despite those problems, were placed in facilities intended for fully-abled people[149].

A similar problem concerns blind people for whom the only properly adapted prison ward[150] is the facility assigned solely for convicts in relation to whom a court order on penalty

[148] For example, during a visit to the Wałbrzych Detention Facility in 2017, a prisoner who had to use crutches was placed in a cell not adapted for people with motor disabilities, so was not able to go out of there as the cell was located on the first floor. The only way to get to the other rooms or to the walking area was to use steep stairs in a staircase.

[149] For example, during the visit to prison No. 2 in Wrocław in 2015, two people were identified who had motor disabilities: one had a leg prosthesis and the other one had a recent fracture of the leg, due to which he could not walk.

[150] The prison in Bydgoszcz-Fordon.

serving in the so-called therapy system has been issued. As a result, none of the blind or visually impaired prisoners to whom the representatives of the NMPT spoke was placed in a penitentiary ward intended for people with visual impairment. They were instead placed in conditions not conducive to those prisoners' functioning, as was found during the meetings with visitors in detention establishments[151].

This division of penitentiary facilities takes into account only the needs of people in wheelchairs. The latest ordinance No. 60/18 of Director General of the Prison Service of 19 December 2018 *amending the ordinance regarding the classification of prisons and remand facilities* does not indicate facilities for prisoners who are deaf people or have other disabilities, except of disabilities that require moving in a wheelchair. Meanwhile, people who permanently have to use crutches also need to be placed in conditions adjusted for people with disabilities, similar to those required by prisoners in wheelchairs, because climbing stairs, using sanitary facilities or moving on surfaces that are not covered with anti-slip materials, is often an insurmountable barrier for people who use crutches.

Another problem is the fact that **based on the ordinance of Director General of the Prison Service[152] only selected penitentiary establishments are required to have a cell for people with disabilities** who use wheelchairs.

The Commissioner for Human Rights in his letter to the Minister of Justice pointed to the need to prepare at least one cell in each penitentiary establishment to meet the needs of people with disabilities[153]. The numbers and types of adjustments in penitentiary establishment should depend on the actual number of people having mobility problems, also caused by old age.

The visits carried out by the NMPT allow the general conclusion that the allocation of individual prison cells adapted for prisoners moving in wheelchairs does not remove architectural barriers in general, but makes the prisons only partially accessible to such prisoners. The Deputy Commissioner for Human Rights drew attention to this issue in a letter

[151] Complaints regarding the living conditions and the lack of an activities addressed to blind people were raised by convicts placed in the remand facilities in the Warsaw district of Mokotów and in Szczecin.

[152] Annex to Regulation No. 55/13 of Director General of the Prison Service of 20 December 2013 regarding the classification of prisons and remand facilities.

[153] Letter by the Commissioner for Human Rights to the Minister of Justice of 14 May 2014, ref. number KMP.571.26.2014.MMa.

to Director General of the Prison Service[154], unsuccessfully applying for the amendment of the aforementioned regulation of Director General of the Prison Service Regulation *amending the ordinance regarding the classification of prisons and remand facilities*.

6.) The problem of the lack of training for employees of various entities, including the Prison Service, regarding persons with disabilities

Individual cases examined by the Commissioner showed that prison staff often cannot provide effective and appropriate assistance to a person who, due to disability, has difficulties in adapting to the conditions in the prison, and in performing basic daily routines.

This was confirmed during the visits conducted by the NMPT. As regards the common understanding of the perspective of prisoners with dysfunctions, of concern are also the replies that have been provided by heads of penitentiary establishments, who in many cases disagreed with the post-visit recommendations regarding persons with disabilities.

In view of such replies, the Commissioner undertook actions aimed at extending the training programmes for Prison Service officers to include content regarding the treatment of convicts with disabilities.

However, it should be remembered that the Prison Service does not function in isolation from other institutions. Therefore, the fulfilment of obligations towards people with disabilities can be achieved by expanding the scope of education of representatives of all entities that are engaged in criminal proceedings as well as representatives of central-level institutions by which decisions are made regarding the functioning of penitentiary establishments and other places where people are deprived of their liberty[155]. Such education would contribute to overcoming prejudices and incorrect perceptions of people who have disability-related problems, as well as behaviours that may be associated with discrimination.

[154] Statement of 24 January 2017, ref. number KMP.571.2.2017.MK.

[155] The CHR letters to: Director General of the Prison Service (KMP.571.I.2015.DK of 21 May 2015, ref. number IX.517.2.2015.JN of 21 December 2015 and 19 February 2016); Chairman of the National Council of Probation Officers (ref. number IX.517.2.2015, dated 19 October 2016); Director of the National School of Judges and Prosecutor (ref. number IX.517.2.2015, dated 7 March 2017); all those letters related to the need to ensure adequate training for all practitioners who have contacts with persons who require special treatment and are subject to criminal proceedings.

7.) The problem of the lack of coherent regulations on dealing with prisoners with disabilities, for staff of penitentiary establishments

The problem can be confirmed, e.g., by methods used in body checks or by procedures for evacuation of people with physical disabilities. These issues are described in more detail in the further parts of this report, describing the results of the NMPT's visits that focused on the treatment of prisoners with dysfunctions.

Personal search of prisoners with disabilities should take into account the degree and type of dysfunction, that requires a different type of procedure than in the case of fully-able persons deprived of liberty. The general principles, covered by the training for officers conducting such searches should be unified for all establishments and be developed by the National Prison Service Headquarters.

Similarly, the basic evacuation regulations should be consistent for all prisons and remand facilities. Security departments of individual penitentiary establishments may extend such rules to include individual issues related to the topography or facilities existing in a given establishment (e.g. the need to have evacuation wheelchairs to be used for evaluating people with disabilities whose cells are located on upper floors).

The Deputy Commissioner for Human Rights reported those and other problems in his letter of 21 May 2015 to Director General of the Prison Service[156]. In response to the letter, the Director (in his letter of 18 June 2015) assured that persons deprived of their liberty are, during personal search, treated with full respect and their human rights are fully observed, and that no additional procedures, in addition to the existing ones, are required for such searches[157]. As regards fire safety instructions, they are drawn up by heads of individual establishments and apply to all persons in evacuated buildings, including persons with disabilities.

The Deputy Commissioner for Human Rights wrote another letter regarding the issue on 26 October 2015.[158] He expressed serious doubts about the statement that the organization of evacuation procedures for people with disabilities is practically the same way as for

[156] Letter ref. no.: KMP.571.I.2015.DK.
[157] Reply no.: BDG-070-72/15/431.
[158] Letter ref. no.: KMP.571.I.2015.DK.

prisoners who do not have any vision, hearing or movement impairments, including prisoners in wheelchairs.

Despite such a response that disagreed with the letter[159], training sessions were organized for employees and officers of the Prison Service, as had been requested by the Commissioner. Furthermore, the letter of Deputy Director General of the Prison Service of 5 July 2016 to all district-level directors of the Prison Service indicated that work was undertaken on the Procedure for s*earching people with disabilities*[160]. In the course of further activities, the procedure for searching such people was included in the *Personal search* document drawn up by the National Prison Service Headquarters. In November 2018, representatives of the NMPT and of the Team for Penalties Enforcement, operating within the CHR Office presented their comments on the content of the document.

[159] Reply no.: BDG-070-72/15/431.
[160] Ref. no.: BP-073-173/16.

IV. Results of the NMPT's thematic visits

In 2015-2016, the NMPT conducted 17 thematic visits to remand facilities (which were located in: Gdańsk, Grójec, Kraków, Lublin, Warszawa-Mokotów district, Warszawa-Grochów district, Poznań, Radom, Suwałki, Szczecin and Wrocław) and to prisons (which were located in: Hrubieszów, Bydgoszcz-Fordon, Gębarzew, Koronów, Przytuły Stare, Włocławek). The visiting teams looked, primarily, into the situation of prisoners with physical disabilities and with sensory disabilities (with vision and hearing impairment).

The conclusions drawn from the examination of the situation in those places of detention are still valid in the light of the Mechanism's experience of visits that took place in the subsequent years. For the purposes of this publication, however, the focus was only on prisons for people with disabilities.

Map 1. Location of places covered by the NMPT's thematic visits.

1. Legality of imprisonment

The NMPT did not find any cases of ungrounded deprivation of liberty of a person with a disability.

There exists, however, the problem of placement in penitentiary establishments of people with various disabilities that are caused by incurable diseases and are at a very advanced stage. It means that further imprisonment of those people will, at some point in time, lead to their death in the prison. Yet, the main purpose of any sentence of imprisonment is to lead to the improvement of the sentenced person's conduct and to his/her return to living in the society.

This problem was reflected in the case of a man who had unsuccessfully been seeking a suspension of his penalty of imprisonment. The man sought it due to his severe and terminal illness. His application was rejected, and finally, the man died in prison[161]. In the opinion of the NMPT, the applicable provisions do not clearly clarify the question whether, in connection with the need to observe the principles of humanitarian treatment and respect for human dignity with regard to a convicted person, it is permitted to suspend the sentence of his/her imprisonment (see Article 4(1) of the Penalties Enforcement Code) in the case the medical treatment is expected to be unsuccessful (neither outside of the prison, nor in the prison)[162]. This issue is a systemic problem that requires appropriate changes of relevant legislation regarding the suspension of penalties of deprivation of liberty, or the development by penitentiary courts of rules to be followed in such cases, in view of the principles of humanitarian approach.

Paragraph 51 of Recommendation R(98)7 of the Committee of Ministers to Member States concerning the ethical and organizational aspects of health care in prison Adopted by the Committee of Ministers on 8 April 1998 states that *The decision as to when patients*

[161] Remand facility in Gdańsk.

[162] For more information on the possibility of optional decision on suspension of a sentence of imprisonment (Article 153.2 of the Penalties Enforcement Code) on the grounds of family or personal reasons regarding the convicted person, see the publication: K. Postulski, *Stan zdrowia skazanego w aspekcie zdolności do odbywania kary pozbawienia wolności*, [Health condition of convicted persons versus their ability to serve the sentence of imprisonment], Prokuratura i Prawo nos. 7-8, 2015, p. 170.

subject to short term fatal prognosis should be transferred to outside hospital units should be taken on medical grounds. While awaiting such transfer, these patients should receive optimum nursing care during the terminal phase of their illness within the prison health care centre. In such cases provision should be made for periodic respite care in an outside hospice. The possibility of a pardon for medical reasons or early release should be examined[163].

Guidelines regarding the approach to dying prisoners can be found in the publication by Jørgen Worsaae Rasmusen, a former CPT member, entitled: *Factual and real penalties of imprisonment*. It reviews a number of various texts drawn up by the Council of Europe and relating to life imprisonment, including the Council's recommendations nos. (2003)22 and 23. In the conclusions of the paper, the author indicates, among others, that all member states of the Council of Europe may use a provision that permits releasing a convicted person from a penitentiary establishment a for humanitarian reasons, but this *particular form of release* differs from the conditional release*. No one should be forced to die in prison. In order to allow terminally ill prisoners to die with dignity, consideration should be given to their release so that they could be looked after outside prison*[164].

This recommendation should be taken into account also when reading Article 20(1 and 2) of the Act of 6 November 2008 on patients' rights and the Patients Ombudsman[165], according to which:

1. *A patient has the right to respect for his/her intimacy and dignity, in particular during the provision of health care to him/her.*

2. *The right to dignity also includes the right to die in peace and dignity.*

As the comments to the Act state: *A dying patient has the right to psychological support, and in critical situations, also to the administration of psychotropic substances to assist him/her to overcome the experienced problems of the emotional nature (Article 5(6), Article 6, Article 7 para. 1 and para. 2 point 9 of the Regulation on guaranteed palliative and hospice care. Such a patient has the right to religious services, to additional care provided by*

[163] https://bip.ms.gov.pl/Data/Files/_public/bip/prawa_czlowieka/zalecenia/987.pdf
[164] CPT (2007) 55, 27 June 2007.
[165] Consolidated text: Journal of Laws of 2017, item 1318.

his/her relatives and to maintaining contacts with people from outside the facility until his/her death[166].

Dignified dying is not only dying without physical pain and other symptoms of which the ill person suffers. An element of dignified dying is also the possibility to continue to perform the person's social roles, private relationships, contacts with close persons (family members and friends). The right to this can be best ensured by providing the possibility to die at home. Dying in prison means dying in isolation and loneliness that no man should experience[167].

2. Placement of persons with severe health problems in penitentiary establishments

The National Mechanism for the Prevention of Torture has noted the problem with placement of prisoners in appropriate establishments. This is caused by a small **number of cells for persons with physical disabilities in the establishments classified by the Director General of the Prison Service as adjusted for such persons (usually, 1 or 2 prison cells per establishment**[168]**)**.

As a result of the small number of prison cells for persons with disabilities, in some penitentiary establishments the NMPT visiting teams found such persons placed in regular cells[169], because there were no free places in the specialist ones.

It should also be noted that **the capacity of the establishments** is not in proportion to the number of such cells in them. There are large prisons, for example, the one in Koronowo, which do not have such cells at all, although they are large-scale facilities (for 641 prisoners, in the case of Koronowo). Yet, the Koronowo prison's branch located in Strzelewo, for 254 people, has a cell for persons with disabilities. In the prison in Wrocław with the capacity of 794 places, there is 1 cell for people with physical disabilities, and in the prison in

[166] Karkowska Dorota *Ustawa o prawach pacjenta i Rzeczniku Praw Pacjenta* [the Act on patients' rights and the Patients Ombudsman], *Komentarz* Lex nr 490040.

[167] More on the subject can be found in an article by prof. Wojciech Bołoz, Ph.D., entitled *Rezygnacja z uporczywej terapii jako realizacja praw człowieka umierającego* [Discontinuation of persistent therapy in order to make it possible for a dying person to exercise his/her human rights], that is available at http://www.mp.pl/etyka/kres_zycia/41127,prawa-czlowieka-umierajacego.

[168] The largest number of cells for disabled prisoners was found during the visit to the Gdańsk remand facility. There are 4 such cells. The number of healthy prisoners there was 823. In the prison's hospital unit, there were no cells for persons with disabilities.

[169] Remand facility in Wrocław; prison in Przytuły Stare.

Gębarzewo, with the capacity of 605 places, there are 3 such cells, one in each of the 3 buildings.

For comparison, it is worth pointing out that in hotels, and even hostels with more than 50 rooms, at least one room should be adapted for people with disabilities, and there has to be one such room per every 100 rooms[170].

Other problems regarding the placement of prisoners, that were found by the NMPT, were related to the establishments' need to comply with the following three criteria: the prisoner's status related to the stage of court proceedings (convicted by a court, or detained on remand), the prisoner's status regarding his/her imprisonment (first time offender, or repetitive offender) and the system in which the penalty is served (closed, partially-open, open). In one cell adjusted for persons with physical disabilities, it is therefore not possible to place detainees who are covered by different supervision systems, or to place a prisoner who has been convicted by a court together with a person who has been detained on remand. It is not possible either to place a person serving the penalty for the first time in the same cell with a repetitive offender. Therefore, if, in a given prison, there is one person detained on remand, and one person who has been convicted by a court (a first time offender and a repetitive offender), and both of them are wheelchair users, they may not share a cell adapted to the needs of person with disabilities.

Moreover, there may be such a situation that none of those prisoners will be placed in such a cell if the building where the cell is located is covered by a different supervision system than the one under which the prisoners are supposed to serve their penalties. A **cell for prisoners with motor disabilities may be used only in accordance with its formally assigned system of supervision,** for example only for convicts serving their imprisonment penalties in the closed system. Therefore, it would not be allowed to place there a convicted person serving the sentence in the partially-open system. Heads of penitentiary establishments may freely decide to which group of prisoners a given cell will be assigned, and may make the required changes. However, such changes will, in practice, have only formal impact, without affecting the real possibility to serve sentences there. For example, convicts with

[170] Annex 8 to the Regulation of the Minister of Economy and Labour of 19 August 2004 *on hotel facilities and other facilities where accommodation services are provided* (consolidated text: Journal of Laws of 2017, item 2166).

disabilities, serving their penalties in the partially-open system would not be able to really benefit from the system if they were placed in a cell for prisoners in wheelchairs that is located in a closed-system unit[171].

The supervision system over disabled prisoners should not depend on the place allocated to them by the penitentiary facility's administrators but on the system in which their penalties should be served.

The currently binding solution is not the best for prisoners. The NMPT representatives in one of the facilities saw a convict in a wheelchair, who was allowed to move around the ward corridor during the day, because he was serving his penalty in the partially-open system. However, the whole ward was allocated to convicts not allowed to leave their cells, because their penalties were served in the closed system. As a result, the disabled convict was accompanied only by the guards watching him, which was not good for his psychological condition.

An optimal solution to the above problems with placing convicts with disabilities in penitentiary establishments would be to have, in all prisons and remand facilities, a greater number of cells for persons with motor disabilities, i.e. to ensure that, for example, at least one cell adapted for people with motor dysfunctions is available per 50 prisoners. Such cells should exist in wards covered by different supervision systems.

Special rooms, such as monitored cells, separation cells, and cells for transported prisoners should be available for people with physical disabilities (at least one per room type in every prison or remand facility).

Considering the number of people with sensory disabilities, identified in the analysis conducted in 2012 by the Prison Service, it is also necessary to develop solutions to meet the needs of prisoners with visual impairments.

The above-mentioned problems, regarding the possibilities of cell allocation to people with different types of disabilities, are accompanied by problems that have been identified by representatives of the NMPT, and reflecting the lack of sensitivity of some representatives of the Prison Service to the situation of people with motor disabilities.

[171] In the Włocławek prison, there was an accessible cell that was used by remand prisoners and convicts serving their penalties under the closed system. In the branch of the Koronowo prison there was a cell for the disabled that could not be used by convicts serving their penalties in the closed system.

As a rule, convicts with motor disabilities should be placed in cells adapted for them (equipped with appropriate facilities), and exceptions in this respect should result from individual situations and the will of the persons concerned.

The Prison Service officially declares the above rule is complied with.

The placement of people with disabilities in every case depends on the level of disability. In taking decisions on the placement, indications of the local doctor are also taken into account. After analysing all information, the most suitable cell for each prisoner with a disability is selected. In addition, in every case, the possibility of ensuring the best access to medical care, to the walking areas, rooms with activities for convicts, rooms for meetings with lawyers, etc., is taken into account.

Prisoners with any mobility limitations are mostly placed on the lower floors of the buildings. If the disability is severe enough to require the use of special equipment, it is a normal practice to place the person in a specially adapted cell. If this is not possible, efforts are taken to place the prisoner in another establishment, that has better conditions and is better adapted to the needs of such persons.[172].

However, detailed findings (also resulting from complaints filed with the CHR Office) sometimes indicate a different practice, according to which prisoners are placed in regular cells, and only exceptionally in cells adapted for people with disabilities (e.g. when a prisoner has to move in a wheelchair). This procedure is not acceptable even with regard to people with identified or visible physical disabilities (i.e. those without formally issued disability certificates).

In view of the above, **it unfortunately happens that in cells for persons with motor disabilities there are fully-abled prisoners, and persons who e.g. use crutches are placed in non-adjusted cells, in prison wards where it is difficult for them to move around**[173]. Prisoners whose cases were analysed by the visiting team not only had problems with moving in their cells but also faced difficulties when they wanted to get to walking areas, common spaces, bathrooms, medical rooms, libraries or chapels.

[172] Part of the reply of 8 December 2015 of Director of the prison in Przytuły Stare (ref. number S/P-072/30/15/36813) to the NMPT's report on the visit to the prison.
[173] Prison in Gębarzewo, and remand facilities in: Suwałki, Radom and Grójec.

Even the lack of space in cells adapted to the needs of prisoners with disabilities does not justify placing people with motor disabilities on floors 3 or 4, in buildings without elevators[174].

In this regard, representatives of the NMPT often heard explanations from prison officers that such situations took place because of the fact that a formal opinion of a doctor had not been issued, indicating the need to **place a given prisoner in a cell for persons with physical disabilities. In the opinion of the NMPT, the lack of such a medical opinion should not be an obstacle to the proper placement of prisoners, based on the principle of common sense**. Similar arguments were also mentioned, for example, in the replies of prison authorities, relating to prisoners using crutches, who were not placed in adapted cells. Those replies were sent in connection with complaints received by the Commissioner for Human Rights and analysed by the CHR Penalties Enforcement Team[175]. It should be noted that according to Article 110(4) of the Penalties Enforcement Code, when placing a convict in a prison cell, account should be taken, in particular, of medical, psychological and physiotherapy recommendations relating to the prisoner. There is a possibility of placing prisoners with motor disabilities in cells adapted to their needs, even when a doctor does not issued an opinion on the case.

The NMPT visiting team also negatively assessed the use of prison cells for disabled prisoners as cells for transported prisoners[176]. There are frequent changes of prisoners in such cells (e.g.in one case, 11 prisoners changed in one cell within 4 months, with the exception of the prisoner with a disability who lived there). This negatively affects the sense of security of disabled prisoners, and hinders their possibility of building closer interpersonal relations with other inmates, which normally facilitate everyday life of persons with disabilities.

The above-described cases confirm the need to conduct, among employees and officers of the Prison Service, trainings regarding the needs of persons

[174] Prison in Wrocław, remand facility in Koronowo.

[175] For example, the District Inspectorate for Prison Service in Warsaw, in the letter no. OI/S-0510/7132/6/15 informed that *the prisoner using crutches had*, among others, possibilities of going for a walk on an even surface and was placed in a one-level building, but at the same time it admitted that *the prisoner was occasionally placed on the ground floor and on the first floor*. In another case, non-placement of a prisoner with a motor disability, who waited for a surgery, in an adjusted cell was caused by the fact that the cell was used by prisoners moving in wheelchairs.

[176] Remand facilities in the cities of Wrocław and Szczecin.

with various types of disabilities, during which staff of penitentiary establishments could e.g. simulate the role of a blind or deaf person or a person with a motor disability, in order to find out about their actual situation. The need to overcome architectural or communication barriers should be highlighted. It is also necessary to systematically monitor the work of the establishments' employees and officers, so that in their professional decisions and contacts with prisoners they are guided by empathy, principles of humanitarian treatment, and respect for human dignity.

3. Treatment of prisoners

The observations of representatives of the NMPT, made during the conducted visits, show that, as a rule, people with disabilities are properly treated by employees and officers of the Prison Service. The visiting team did not find any evidence of abuse or mistreatment of prisoners from this group, or of discrimination related to their state of health. Prisoners, in conversations with the visiting team members, generally indicated a positive attitude of officers, wardens and medical staff. Written complaints from prisoners, concerning the approach to them as persons with disabilities, were rare.

There were, however, two cases contrary to this positive image of the Prison Service officers with regard to treatment of people with disabilities.

In one of the establishments[177], due to small space in a cell, a wheelchair was taken away from a prisoner who then had to move around on his knees. He was also dependent on the other inmates when he needed to use the toilet. The NMPT representatives considered this situation as violating the dignity of the prisoner and as constituting degrading treatment. The taking away of the wheelchair from a prisoner should be considered as an unacceptable step.

This case clearly indicates the need to sensitize medical staff and Prison Service officers to the needs of people with significantly reduced mobility.

In another penitentiary establishment[178] a deaf convict reported problems he experienced communicating with the staff, and the negative consequences of the lack of proper communication with them. He argued that the other prisoners caused conflicts with

[177] Remand facility in Warsaw-Mokotów district.
[178] Prison in Bydgoszcz-Fordon.

him. As nobody from the Prison Service was able to use the sign language, he was never able to describe his version of the situation. The prisoner also informed that his gestures, aimed at informing the staff about what happened, were interpreted as an expression of aggression.

This example demonstrates the great need to provide prison staff with appropriate training in communicating with people with speech disabilities. In the described case, services of a Polish Sign Language interpreter should have been used, which can be done also via the Internet.

As a rule, the system of prizes for fully-abled prisoners who help prisoners with disabilities, with whom they share a cell, should be assessed positively. During the monitoring process, representatives of the NMPT found, however, an establishment where such prizes were not used as an encouragement at all[179].

During the visit to one of the establishments[180] it was noticed that a blind person was guided by another convict in an unprofessional manner, i.e. was lightly pushed forward by a fully-abled inmate. Such a method, instead of guiding the blind convict by holding his hand, caused discomfort to the disabled prisoner. He was not certain what was there in the space in front of him, which he could not see. Training for convicts would help them gain knowledge about how to deal with people with disabilities. This, for some of them, could also be an additional advantage when looking for a job after leaving prison.

In the opinion of the Mechanism, it is worth to develop prisoners' engagement in such assistance, through the provision of professional training and vocational courses for those interested.

Although support from other inmates is a positive aspect in the period of imprisonment of people with disabilities, it should be remembered that such a transfer of the responsibility for assistance provision to them may lead to their abuse or failure to meet all their needs. According to reports of some prisoners, such assistance is sometimes provided by other prisoners in return for some profits. For example, a prisoner with a visual impairment informed the visiting team that in return for the support he was required to supply

[179] Remand facilityin Radom.
[180] Remand facility in Warsaw-Mokotów district.

cigarettes to the other prisoners. A prisoner in a wheelchair stated that he had been refused assistance by his inmates many times[181].

In the same establishment, there was a prisoner with a paralysis in all the limbs. He informed that assistance in everyday activities was provided to him by the other inmates, since no regular assistance by prison officers or medical personnel of the establishment was provided. He found it upsetting to have to ask the other inmates to call an officer, or to help him to change his body position. The visiting team also noted that the prisoner had no covering for his stoma pouch, which made him embarrassed.

This case also proves that in some penitentiary establishments the staff members are convinced that they do not have to engage in assistance provision to prisoners with disabilities. What was also disturbing was the information from another convict who recalled that a Prison Service officer did not react in a situation when a disabled prisoner fell of his wheelchair[182]. Due to his disability, the prisoner was unable to stand up on his own and had to wait for another prisoner to help him. In the opinion of the NMPT representatives, in the described situation a quick reaction was necessary, in that case by the prison officer who was nearby and should have helped the person lying on the floor to get back on the wheelchair without delay.

In all the establishments there were no adopted procedures of dealing with people with disabilities.

None of the officers responsible for conducting personal searches was able to explain how, in practice, such search should be conducted, e.g. if the prisoner should remain in the wheelchair (they usually explained that the searches were carried out in *accordance with general principles*). It was not clear, therefore, whether disabled prisoners were lifted from the wheelchair or were asked to facilitate the activities conducted by Prison Service officers, as is the case for fully-abled persons. As regards the personal search procedure, there was one prison which was an exception[183]: it had a paramedic employed in the prison, who was more qualified in the field of physical capabilities and limitations of persons with motor system's various dysfunctions.

[181] Remand facility in Warsaw-Mokotów district.
[182] Prison in Koronowo.
[183] Prison in Przytuły Stare.

However, in most of the establishments visited, conducting personal searches was a task of officers who did not undergo any training on how to deal with people with motor disabilities. It should be emphasized that e.g. in the case of people with severe mobility disorders in the hips, knees or ankle joints or people with deformities of the lower limbs, it is extremely important to know the techniques of lifting them from a wheelchair, or moving them, so as not to cause injury to them. Also, in the case of people with strong bending spasticity of the lower limbs, it is necessary to make all movements slowly and to strongly stabilize the people's knees and feet. It should also be required to ask the person who is undergoing the search which lifting technique is the safest for them.

In the opinion of the NMPT representatives, personal search of prisoners with disabilities should take into account the degree and type of disability. In the current situation, due to the lack of relevant procedures, the dignity of searched persons may be violated. It should be noted that this applies to prisoners as well as persons coming to visit them.

Prisoners themselves pointed to this problem. For example, a prisoner from one of the remand facilities inspected[184] complained that personal search was very inconvenient for him. He was moving in a wheelchair, but on the day he was transported to the prison, he was asked to stand up holding to a chair during his personal search.

Another problem that relates to the protection of such prisoners is the failure to adopt, at some of the visited penitentiary establishments, the procedures of evacuation of people with disabilities or to describe those procedures in safety instructions in a proper way. Sometimes, extremely brief general statements were used such as "during evacuation, people with mobility problems should be assisted".[185]

However, it was not indicated who exactly is to provide such assistance and what route is to be used to evacuate this group of prisoners. It was also unclear to whom this help should be provided. The NMPT visitors concluded that identification by the establishment's administration, during emergency evacuation, of prisoners and other persons with disabilities,

[184] Remand facility in Kraków.

[185] For example, in the Fire Safety Instruction of the Grójec Remand Facility it was indicated that to help people with mobility problems, stretchers could be used, and that: *physically fit people who are nearby can be used to provide assistance*.

is too long a process to enable efficient evacuation. Also in view of this aspect, people with disabilities should be placed on the lowest floors of the building.

The organization of the evacuation of people with disabilities should take into account the guidelines applicable in the event of an emergency, including methods of alerting prisoners (even individual ones), as well as should indicate obligations of other employees of the establishment where emergency has occurred.

4. Living conditions

Living conditions in prisons and remand facilities do not depend solely on the will of heads of individual establishments but also on the funds allocated to them. Therefore, it should be noted that from the perspective of human rights protection, problems of the prison administration in obtaining funding cannot be used as an excuse as regards the treatment of prisoners.

The European Court of Human Rights took the position that every person who has been validly sentenced to imprisonment has the right to expect the state not only to effectively ensure appropriate treatment, but also to provide appropriate conditions in which the penalty is served. Such appropriate condition should be understood at least as ones that preclude any degrading treatment or punishment. It does **not matter, in assessing the situation, whether the state has problems with finding the necessary resources**[186]**.**

Similar regulations are contained in point 4, Part I of the European Prison Rules, according to which *the lack of funds does not justify the prison conditions violating the human rights of prisoners*[187].

As the conclusions of the NMPT thematic visits show, financial matters are, however, the main reason of problems in providing space that is free from architectural barriers.

The age of buildings in certain penitentiary establishments actually precludes them from their use for prisoners with motor disabilities. By definition, comprehensive modernization of those buildings with the aim to ensure their accessibility for people with physical disabilities is not possible. In Poland, some prisons have been built in the

[186] See, e.g., Kalashnikov v. Russia, judgment of 15 July 2002, application number: 47095/99, points 93–95.

[187] https://www.rpo.gov.pl/sites/default/files/Dorobek%20mi%C4%99dzynarodowy%20w%20sprawie%20w%C4%99%C5%BAni%C3%B3w.pdf

previous centuries. Examples can be: the prison in Koronowo, that was built in 1819 as a result of reconstructing the premises of a monastery of the Cistercian Order, that dated back to the 14th century, or the remand facility in Kraków, classified as adjusted for people in wheelchairs, whose cell buildings were constructed in 1880-1890.

The old age of buildings causes numerous adjustment problems. This is clearly reflected by a part of the NMPT post-visit report regarding the prison in Wrocław:

The buildings of the remand facility mostly date back to the middle of the nineteenth century, and their renovation requires the consent of a historical buildings inspector. The closeness of the historic buildings of the facility from each other, and their location in the city centre prevent any extensions, which is a significant problem, especially in the context of architectural adaptations to the needs of people with disabilities. (...) Full adaptation seems to be difficult to achieve. All renovation works are, as mentioned, determined by the age of the buildings, their historic character and location in close proximity to each other. Appropriate adjustments will therefore require great financial expenditures, as well as thorough technical inspections, architectural plans and negotiations with the historical buildings inspector. Therefore, it should be analysed whether it is reasonable to make any adjustments. It is possible that an easier solution would be to identify prisoners moving in wheelchairs and to move them to another remand facility that is more accessible and easier to adapt[188].

In addition to the age of penitentiary establishments, **a problem in their general adaptation for the needs of people with disabilities is the aforementioned location of the buildings in close proximity to each other, and the fact that they are mostly multi-storey buildings, also in the case newer facilities**[189]. In such situations, introducing architectural changes and eliminating barriers such as stairs, and the construction of elevators and ramps, is undoubtedly a difficult and expensive task.

> ***In the NMPT's opinion, in this context, prisons and remand facilities should be assessed from the point of the possibilities of ensuring their accessibility to persons with disabilities. Consideration should be given to identifying prisoners in wheelchairs, and moving them to other facilities, as the current ones may not be suitable for adaptive modernizations.***

[188] https://www.rpo.gov.pl/sites/default/files//Wyci%C4%85g%20-%20A%C5%9A%20Wroc%C5%82aw%202016.pdf

[189] For example the remand facility in Szczecin.

Another problem noted by the NMPT is the fact that new cell buildings for prisoners are not designed with taking into account the needs of people with disabilities. An example can be a cell building of one of the prisons, that was completed in 2008.[190]

Adaptations are also useful for people who are fully-abled, and make it easier for them to perform their daily activities. It should also be remembered that it is often much simpler and cheaper to raise a new building without architectural barriers than to adapt the existing one.

> ***According to the NMPT, in view of the growing awareness of the specific needs of people with disabilities among the society, and the current approach to disability, which has been set out in the Convention, it is important to implement the idea of equality, and therefore all newly constructed places of detention should be free from architectural barriers.***

As regards detailed results of the NMPT study conducted in the 17 penitentiary establishments, it should **be noted that in general, as regards the adaptation to the needs of people with disabilities, the situation is very different in different facilities. The situation in some of the buildings is very poor but in others it is appropriate.** This opinion is obviously based only on a very general assessment.

During the conducted monitoring activities, representatives of the NMPT were disappointed to see that **in Poland there are some establishments which, despite being classified as places for persons with specific types of disabilities and despite many clearly visible shortcomings in their adaptation, did not intend to make any modernizations at all**. For example, the NMPT experts, after their visit to one of the prisons, expressed the following opinion: *It is of great concern that according to the information obtained from staff members, there are no plans at all to make any renovations to increase the accessibility for people with special needs*[191].

However, there also penitentiary establishments which should be assessed very positively: they take a different approach to the modernization works, in spite of the same problems experienced with their budgets, similar age of buildings and other similarities. They

[190] Prison in Gębarzewo.

[191] Prison in Włocławek. It should also be noted that the modernization activities were undertaken as a result of the recommendations of the NMPT, contained in the post-visit report.

took actions with the aim to increase their accessibility, even before the visits and suggestions of representatives of the NMPT. For example in one of the prisons[192] until 2014, *a number of activities was carried out to facilitate the functioning of persons with reduced mobility within the establishment: the entrance to one of the buildings was adapted to the needs of people with disabilities (a ramp was constructed, the entrance door and the surface at the entrance were replaced), the doctor's office was renovated appropriately, a new cell buildings and a new administrative building with infrastructure adapted for people with disabilities were built. (...) In this establishment there are also 2 double cells for people with mobility disabilities, located in the ground floors of the buildings. They have bathrooms with facilities for people with reduced physical abilities (an easily accessible bathtub, and handles installed next to all the facilities).* The results of the modernization works were not fully satisfactory in all the cases, but thanks to the positive attitude of the staff, and the advice provided by the NMPT experts, the continuation of the modernization works is soon expected.

Another general problem relating to the living conditions is **the fact that Prison Service officers are used to being focused on people with one type of disabilities, i.e. physical disabilities. They are not aware of the need to ensure adaptations for people with sensory disabilities, especially blind or visually impaired prisoners**.

In the opinion of the NMPT, Polish prisons should be modernized so as to be adapted to all types of disabilities.

Prison cells for people with disabilities, and the equipment in such cells

As already indicated, there are few prison cells classified as ones for people with disabilities (1-2 cells per prison). They are mostly used by wheelchair users.

For the needs of such persons, rooms other than their cells in the prison are usually not adapted. This relates to so-called temporary cells[193], isolation cells, monitored cells, medical examination rooms and cells for sick prisoners[194].

[192] Prison in Hrubieszów.

[193] It should be noted that the head of a penitentiary establishment in which a person with a disability is placed, may assign a cell adapted for him as a temporary cell, which solves the problem of the have the temporary cells adjusted.

The authorities of all penitentiary establishments visited by the NMPT were convinced that there was the need for full adaptation of the cells assigned to prisoners in wheelchairs. However, in practice, none of those cells could be considered fully adapted to the needs of persons with motor disabilities.

The basic problem was too limited space **in cells, which made it impossible to freely move in a wheelchair**.

At present, the standard of floor area per prisoner in a prison cell is among the lowest standards in the EU (3 m², including furniture in the cell). Cells for people with motor disabilities in general do not have sufficient space for moving in a wheelchair, as there should be at least a free space with the dimensions of 150x150 cm. As a result, a person using a wheelchair may be forced to leave it near the door and get to the bed in a different way, as was in the case of the prisoner who had to move in the cell on his knees.

The problem also applies to toilets in cells designated for people with disabilities. In one of the remand facilities visited[195] there was not enough space for using the toilet, so when using it, the disabled prisoner could be seen by others, and had no privacy at all. Pursuant to Rule 19.3 of the Recommendation Rec (2006) 2 of the European Prison Rules, *Prisoners shall have ready access to sanitary facilities that are hygienic and respect privacy*, so the situation was against the regulations.

There were some cells classified for people with disabilities, which a prisoner in a wheelchair could not even enter because the doors were too narrow (less than 90 cm), and there were doorsteps (higher than 2 cm)making it impossible to use a wheelchair.

Attention was also paid to the fact that cell equipment and sanitary facilities did not meet the accessibility requirements.

In most cells for prisoners with physical disabilities, there were bunk beds. This is not a good solution, because it difficult for a disabled person to sit independently and securely on the lower bed (the space above the head is limited by the upper bed). Moving from the wheelchair to the lower bed is also difficult (because the ladder partially blocks the space

[194] Which is inconsistent with the Regulation of the Minister of Justice of 5 July 2012 on *specific requirements to be met by detention facilities' rooms and facilities where health care services are provided to persons deprived of liberty* (Journal of Laws of 2012, item 808, as amended).
[195] Remand facility in Warsaw-Mokotów district.

along the lower bed). The beds are usually too low (less than 45 cm) and their height cannot be adjusted.

In one of the remand facilities[196] the authorities tried to solve this problem by placing a hospital bed (on wheels) in the cell, which was not an appropriate solution either.

Conditions in cells for persons with physical disabilities should not resemble hospital rooms but should be similar to normal rooms, as in other cells for fully-abled prisoners.

In the case of prisoners in wheelchairs, too highly placed window handles as well as light switches and emergency call system buttons could not be reached. The radio control button normally placed above the entrance door could not be reached either to control the sound volume. Hooks and cabinets were also placed too high. Emergency call system buttons were located only next to the door, while they should also be accessible from the bed of a person with a motor disability.

Apart from the beds, prisoners have basic furniture such as tables and stools in the cells. One of detainees in a remand facility[197] informed the visiting team that stools were not adjusted to people with lower spine problems as the spine could not be supported. He asked the head of the facility for a chair, but his request was rejected. The representatives of the Mechanism are of the opinion that despite the standards of furniture in prison cells, there is always the possibility of providing a regular chair to a prisoner, in particular if can prevent the deterioration of his health.

However, it is advisable to pay attention to the content of Annex 3 to the Regulation of the Minister of Justice of 19 December 2016 on the living conditions of persons detained in prisons and remand facilities (Journal of Laws of 2016, item 2224). They specify the standard equipment in cells. The annex should be changed so as to take into account the needs of people with different types of disabilities.

Toilets and bathrooms

[196] Remand facility in Radom.
[197] Remand facility in Gdańsk.

The NMPT experts' comments on sanitary facilities in prison cells, common bathrooms and toilets indicate that there is a common problems with adjusting those rooms.

Some toilet bowls in cells for people with disabilities were too low (below 45 cm) for their use by people in wheelchairs. It many cases, toilet bowls and washbasins hand no handrails next to them, or they were installed improperly, e.g. the distance to the centre of the toilet bowl was below 40 cm, fixed handrails instead of movable ones were installed in the space for moving from the wheelchair, there were no fixed handrails for supporting where needed). Washbasins were installed at different heights (the upper edge should be 85 cm above the floor level, and the lower edge min. 70 cm above the floor level). The washbasins were sometimes not accessible due to the lack of space underneath for the legs of a wheelchair user.

Apart from the few penitentiary units where for the purpose of water saving, taps were activated by means of a photocell, most of the taps in prison bathrooms were of the old type, i.e. had valves that were inaccessible to people with manual disabilities. What is required, is the use of taps with a long control lever or taps activated by photocells.

There were no mirrors above wash basins which could be used by wheelchair users. They mirrors were at a height of over 100 cm, which is only appropriate for someone who is standing.

In most toilets there were no emergency call systems, although a person with a disability who falls from a wheelchair may not be able to call for help by himself[198].

In some penitentiary units, bathrooms with showers for people with physical disabilities were only accessible for one gender. There was one remand facility[199] with such a bathroom for women.

Adaptations for people with motor disabilities in bathrooms were generally limited only to ensuring appropriate space for wheelchair moving in the middle of the bathroom (the width of the doors to bathrooms was often incorrect). There were chairs under the shower. Handrails next to the shower for disabled persons, if present at all, were not installed at the

[198] A positive exception were some toilets in the prison in Hrubieszów.
[199] Remand facility in Warsaw-Grochów district.

correct height of 75-85 cm, and hangers for towels and clothes were, in all cases, placed too high, above 120 cm. The bathrooms also had no toilets for people with disabilities. No bathroom had a special bathing unit for disabled people.

It is worth emphasizing, however, that there are also penitentiary establishments which, as regards bathing facilities for people with motor disabilities, provided appropriate facilities both in the cells and in common bathrooms. In one of the prisons[200] there were showers adjusted to the needs of people with disabilities inside the cells, but in addition, adequate facilities were also provided in the common bathrooms. They were used also by senior prisoners, people moving with crutches, walking sticks, etc. This solution is definitely worth duplicating.

The time prisoners have for bathing is usually about 10-15 minutes. This does not take into account the individual condition of people with special needs, including with disabilities. One of the prisoners complained to the NMPT representatives that he had not enough time to get ready for bathing. He had dressed wounds on his feet and the time assigned for bathing was too short for him to take the dressings off, and he had no time to take a bath[201].

The NMPT experts **noticed that in penitentiary establishments, in many places there were no toilets adjusted for people with disabilities, for example in:**

a) waiting rooms for new prisoners placed in the establishment;

b) in the proximity of visiting rooms;

c) in or in the proximity of unguarded visiting rooms;

d) common rooms on the floor with cells for people with disabilities;

e) waiting rooms of the prison's hospital ward;

f) the prison's hospital ward [202].

Mowing inside and between buildings

[200] Prison in Hrubieszów.
[201] Remand facility in Wrocław.
[202] For example the remand facility in Szczecin.

Moving inside prison buildings is sometimes difficult or even impossible for people with physical disabilities, in particular those in wheelchairs. **There are no facilities for the blind or visually impaired prisoners (such as tactile paths, tactile warning signs) and for prisoners who are deaf or hearing impaired (no visual information signs).** Such prisoners move mainly through staircases not marked with contrasting sign and not having handrails on both sides. Also, some prisons[203] have staircases with individual steps of different heights. As already mentioned, penitentiary facilities generally do not have elevators or ramps, and stair-climbers are used very rarely.

Prisoners with disabilities are not permitted to use elevators, even if they are installed in the prison. During a meeting with prisoners in one of the remand facilities, the visiting team was informed that persons with mobility problems (using crutches) had to use the stairs, although an elevator was available in the building. The explanation of the establishment's administrators was that some elevators did not have technical approvals. Yet, in reply to the NMPT report on the visit, this was not formally confirmed.[204]

The doors to some rooms, which should be accessible for persons in wheelchairs were less than 90 cm wide, and had doorsteps taller than 2 cm (rooms of correction officers, common rooms).

Also, the entrances to cell buildings with cells for people with disabilities were sometimes inaccessible to prisoners with mobility problems[205].

This problem also concerned entrances to some penitentiary establishments, where people with disabilities had to move on uneven pavements in front of those buildings and too high buttons to be used to call assistance. Near the buildings, curbs were not lowered, for example at road crossings or car parks.

The paths between the buildings inside the prison areas had bumps and too high curbs. There were no seating places along pedestrian routes (inside and outside buildings).

[203] Prison in Włocławek.
[204] Remand facility in Gdańsk.
[205] For example the remand facility in Grójec.

There were few benches in walking areas, but they could not be considered suitable for people with disabilities because their height was not proper (it should be 45-55 cm) and they had no support for the back and the arms.

As regards the subject of moving inside and outside buildings, it is necessary to mention the subject of prisoners who are transported outside the facility (to a doctor, to a court hearing, etc.) **Vans of the Prison Service, are generally not adapted to the needs of people with disabilities**. Moreover, they do not even have basic security equipment for such people transported in them. During the time of transport, prisoners sit on benches with a metal base, permanently attached to the vehicle's floor. It is difficult to imagine a person with weak hands or in a wheelchair in such a situation.

Therefore, it should be noted that pursuant to Article 66(1)(1) of the Polish Road Traffic Act[206], *a vehicle that uses a public road has to be constructed, equipped and maintained in such a way as to not pose a risk to the safety of its users (...) and do not expose anyone to danger.* During the NMPT's thematic visits, the binding legislative instrument was the ordinance of the Ministers of the Interior, National Defence, Finance and Justice of 17 October 2014 on technical conditions to be met by special vehicles and vehicles used for special purposes *by the Police, Internal Security Agency, Intelligence Agency, Military Counterintelligence Service, Military Intelligence, Central Anti-Corruption Bureau, Border Guard, Government Protection Bureau, Revenue Service, Customs Service, Prison Service and Fire Brigades*[207]. The ordinance did not provide specific guidelines regarding the described situations[208]. However, it is commonly known that wheelchair users should be transported using vehicles equipped with a lift or a ramp with equipment making it possible to attach a wheelchair in a stable way.

Director General of the Prison Service, in reply to the Commissioner's letter of general intervention of 21 May 2015[209] informed that where transport of such a person is necessary, penitentiary establishments, in most cases, use vehicles adjusted to medical usage, that offer

[206] Consolidated text: Journal of Laws of 2017, item 1260.
[207] Journal of Laws of 2014, item 1421.
[208] Similarly as the currently binding ordinance of 1 March 2017 (Journal of Laws of 2017, item 450, as amended).
[209] Correspondence regarding the case is available at: https://www.rpo.gov.pl/pl/content/wyst%C4%85pienie-generalne-z-dnia-21052015-r-do-dyrektora-generalnego-s%C5%82u%C5%BCby-wi%C4%99ziennej-w-sprawie

the possibility of transporting people in the horizontal position, or use specialist medical transport services provided by external companies.

Unfortunately, the practices of the visited penitentiary establishments demonstrated that the standard indicated in the reply was not always followed. The reports of detainees in one of the prisons[210] indicated that people with motor disabilities were transported in a vehicle of the Prison Service, that was not adapted for transporting such people (no belts were used for attaching the wheelchair and the prisoner had to sit on an ordinary bench). Only in the case of long-distance transport prisoners with disabilities were transported by medical vehicles, in a horizontal position.

In the opinion of the NMPT, regardless of the travel distance prisoners with physical disabilities should always be transported in a way that is safe for them, and to guarantee this, vehicles adapted to the needs of such prisoners should be used.

Furniture and other equipment items

Furniture in cells for prisoners with motor disabilities is not adapted to their needs.

Not all places that may be used by people in wheelchairs had tables with sufficient leg space (with a height of min. 67 cm, width of min. 75 cm, and depth of min. 40 cm, which enables comfortable access when using a wheelchair).

A common mistake was the lack of lowered-level table tops (at least parts of them) at reception desks, warden desks and canteens, for people in wheelchairs to be able to speak to people on their other side, and to see e.g. sold products.

For the needs of people with disabilities, some prisons had additional wheelchairs, walking frames and crutches. In some cases they were purchased at prisoners' requests. Prisoners who, at the time of their placement in the establishment, had their own physical rehabilitation equipment were permitted to keep and use it.

[210] Prison in Bydgoszcz-Fordon.

However, the situation in this area was not perfect at all establishments. In one of the remand facilities the visiting team members saw a disabled prisoner transported on a wheeled toilet chair[211], and in another remand facility, the prisoner had to use his own anti-bedsore mattress[212] because penitentiary establishments do not have such mattresses. The story of a detainee who had to ask for crutches may times, which is described in the section on healthcare, shows, unfortunately, that there still are establishments which do not pay sufficient attention to the provision of support to prisoners with disabilities.

Prisoners whose cases were analysed by the NMPT representatives were not provided with basic items to help them in their daily and hygiene routines.

I have only one hand, and prisoners have to hand-wash their clothes. The most difficult part is to wring out the clothes, so I have to ask my inmate for help, but when I wash my underpants, he does not do it. This is really embarrassing for me. I wear the same clothes for as long as possible not to have to wash them. Sometimes I even wear dirty socks. I know they smell but I have no possibility to use a washing machine. It would be good if we had one, people like me could wash their clothes more often. [213].

The NMPT recommends ensuring to prisoners access to all household equipment items necessary for normal functioning. This applies, in particular, to physical rehabilitation equipment.

Technical solutions to assist people with motor disabilities did not always meet the accessibility requirements. For example, in some penitentiary establishments, attempts were made to remove barriers in buildings by constructing small ramps next to doorsteps at building entries[214] or providing a ramp to be used instead of a staircase[215] or placing wheelchair ramps along the stairs[216]. However, their inclination angle was often too big, and the surface was not smooth enough for using wheelchairs, so the solutions were not useful.

[211] Remand facility in Kraków.
[212] Remand facility in Warsaw-Mokotów district.
[213] Fragment of the conversation with a disabled convict in one of the penitentiary facilities visited by NMPT.
[214] Remand facility in Grójec.
[215] Prison in Gębarzewo.
[216] Remand facility in Warsaw-Grochów district.

There were similar problems with some slipways[217], although requirements to be met by them are set out in detail in the Regulation of the Minister of Infrastructure of 12 April 2002 *on technical conditions to be met by buildings and their locations*[218].

It should not be forgotten that, as a result of architectural obstacles, prisoners with disabilities are in a worse situation than other inmates, and thus perceive greater severity of their penalties served in non-adapted conditions. This results not only from obstacles whose overcoming requires more effort than for others, but also from situations that can be humiliating for them (e.g. personal searches in bathrooms instead of regular cells). Those prisoners are also at greater risk of health problems or even risk to their lives as they may fall down or may not be able to call for help if their health suddenly deteriorates. One should also not forget about their psychological discomfort, which entails a risk of depression, as they are not able to use the same spaces (apart from cells) as other prisoners, and have to depend on the assistance from them. Such helplessness is not good for their future returning to the society when their penalty ends. They are also at risk of mistreatment, including abuse.

According to the NMPT, appropriate conditions regarding space, furniture and other equipment should be ensured in prison cells and in other places. Prisoners in wheelchairs, using crutches or with vision impairment should be able to move around their cells and use individual items without assistance from others. As regards prisoners with motor disabilities, it is important to ensure adapted entrances to buildings and access to infrastructure in prison cells, common rooms, bathrooms, walking areas and meeting rooms. Accessibility of upper floors is not required, provided that disabled prisoners are placed on the ground floor.

Also the regulations on using prison cells and facilities, e.g. the time for taking a bath, should take into account the individual situations of people with disabilities.

[217] Prison in Gębarzewo, remand facilities in Warsaw-Grochów district and in Gdańsk, prisons in Włocławek, and Hrubieszów.

[218] Consolidated text: Journal of Laws of 2015, item 1422.

5. Right to information

As a rule, any person deprived of liberty after being placed in a prison should be immediately informed of his/her rights and obligations[219]. This can be done by providing e.g. information brochures addressed to specific groups of prisoners[220]. The prisoner should also have the possibility to read the provisions of the Penalties Enforcement Code and the prison rules and discipline regulations applicable to serving the penalty of imprisonment.

The European Prison Rules [Recommendation Rec (2006) 2 of the Committee of Ministers of the Council of Europe, hereinafter referred to as EPR] indicate that *at admission, and as often as necessary afterwards all prisoners shall be informed in writing and orally in a language they understand of the regulations governing prison discipline and of their rights and duties in prison* (point 30.1). *Prisoners shall be allowed to keep in their possession a written version of the information they are given* (point 30.2).

> ***The provision of information does not mean only the possibility to read the rules, but also includes providing related guidance and explanations. They should take into account the level of knowledge and education of the convict, as well as any dysfunctions, e.g. the fact that he is a deaf person who needs to use non-standard communication channels, e.g. written communication in the Braille system or in the electronic form (for reading with the use of a computer with specialist software and a keyboard for blind people), or the assistance of a Polish sign language interpreter.***

The *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment Adopted by General Assembly resolution 43/173 of 9 December 1988* contains Rule 14, according to which "A person who does not adequately understand or speak the language used by the authorities responsible for his arrest, detention or imprisonment is entitled to receive promptly in a language which he understands the information referred to in principle 10, principle 11, paragraph 2, principle 12, paragraph 1, and principle 13 and to have the assistance, free of charge, if necessary, of an interpreter in connection with legal proceedings subsequent to his arrest".

[219] Articles 101 and 210 of the Penalties Enforcement Code.

[220] Poland has no good practices in this area but it is worth referring to practices of other countries' NGOs, e.g. a leaflet for disabled prisoners:
http://www.prisonreformtrust.org.uk/Portals/0/Documents/pibs/PolishDisabilityBook2009.pdf

Unfortunately, even in the prison of which a part was assigned to blind or visually impaired convicts[221] they had no access to documents and messages in a form understandable to them because all the important information was only available in the visual form. No tactile information was available, which also concerned announcements placed on information boards. The establishment did not have any documents in the Braille system or in the form of audio recordings. The computer stations had no screen readers or adjusted keyboards[222], so they were not accessible for the blind. Representatives of the NMPT were informed that only a part of the establishment's internal regulations was read out to prisoners with sight impairments by the correctional officer. This does not seem to be sufficient fulfilment of the information obligations towards the prisoner. Such a situation was found in all visited establishments.

In one of the remand facilities[223] the visiting team members were informed that persons with significant visual impairment had been moved to other establishments. According to the information contained in chapter *Placement of persons with severe health problems in penitentiary establishments,* there is only one prison in the country for blind and visually impaired prisoners, and only for those who are to serve their penalties in the so-called therapy system. Therefore, those explanations seem against the facts. During the inspection of this remand facility, representatives of the NMPT identified a blind prisoner who complained about numerous problems such as communication barriers or no access to information (e.g. no screen readers available on any of the computers for prisoners).

A similar problem was found in the case of deaf prisoners. Prisons have no induction loops[224], no FM systems for hearing impaired people[225], no sign language interpreters among their staff[226]. During the visits to the individual penitentiary facilities,

[221] Prison in Bydgoszcz-Fordon.

[222] These can be convex signs placed on regular keyboards used also by healthy prisoners.

[223] Remand facility in Warsaw-Mokotów district.

[224] A hearing loop (sometimes called an audio induction loop) is a special type of sound system for use by people with hearing aids. The hearing loop provides a magnetic, wireless signal that is picked up by the hearing aid when it is set to 'telecoil setting.

[225] An FM system is a special wireless device that supports hearing aids and helps people hear better in noisy listening situations and poor acoustic conditions. FM systems are more resistant than audio induction loop systems to interference caused by the proximity of electrical equipment such as computers.

[226] Single officers from remand facilities in Wrocław and Poznań took part in Polish Sign and Spoken Language courses which does not mean they are skilled translators, especially that deaf people communicate in Polish Sign Language.

the NMPT representatives were assured that appropriate assistance would be provided in the case of placement of a deaf person there, but it is difficult to believe it would be efficient.

In one of the prisons[227] the visiting team members identified a deaf prisoner. The Prison Service did not provide him access to a Polish Sign Language interpreter. The NMPT representative talked to him thanks to the help of the *Polska Bez Barier Foundation*, whose representatives took part in the visit as experts. It turned out that since the beginning of his placement in the establishment, the convict had not talked to anyone from among the Prison Service officers or staff members and had not been informed about the prison's internal regulations. His daily contacts with the officers were limited to being called by a guard who used gestures, but the prisoner never knew what it was as about. Then the prisoner was guided in a direction unknown to him, which was undoubtedly a stressful experience. He understood the officers' intentions and demands intuitively, through body language and, for example, by looking at the types of rooms (*e.g. it is a bathroom - I can take a bath here*).

The NMPT representatives also checked the documentation regarding this prisoner. In the note made by the correctional officer, there was the following statement: *I informed the prisoner of the internal regulations in force in the Bydgoszcz-Fordon prison, and of his obligations arising from the Penalties Enforcement Code and those regulations*. Given that no sign language interpreter had ever been there, and what the prisoner said, this statement should be considered not true.

In the opinion of the NMPT representatives, prison authorities should take measures to properly communicate with prisoners with hearing, speech or visual disabilities, using methods and means normally used to communicate with such people.

It is also worth remembering that non-provision of information to such prisoners makes them fully dependent on others (officers or inmates) and hinders their communication with people, which can cause their frustration and even generate conflicts.

Since April 2014, computers have been available in all penitentiary establishments. They make it possible for prisoners to access websites, including the Public Information Bulletin of the Prison Service, the websites of the Ministry of Justice, the Office of the

[227] Prison in Bydgoszcz-Fordon.

Commissioner for Human Rights, and the Lex Polonica legal service[228]. The website of the Ministry of Justice contains, among others, documents and information on human rights, including Poland's reports for international organizations, translations of ECHR judgments, as well as binding and planned legislation.

Unfortunately, in a large number of penitentiary establishments such computer stations are not accessible for people in wheelchairs, and are not useful for the blind or visually impaired people, due to the lack of appropriate software and keyboards. In many prisons[229], stairs leading to the rooms with the computers were a barrier for wheelchair users. There was no sufficient space for wheelchair moving in the rooms. The computers were not adapted for people with weak hands.

> ***In the NMPT's opinion, steps should be taken to ensure that persons with disabilities are not excluded, due to architectural and technical reasons, from accessing information via a computer.***

All the cell buildings in penitentiary units visited by the NMPT had mailboxes for letters to international entities as well as information boards with, among others, lists of institutions responsible for safeguarding human rights, including the Office of the Commissioner for Human Rights. Key information for prisoners was also placed at the entrances to the wards, in the visiting rooms, canteens and common rooms.

However, the information boards and mail boxes were placed too high for wheelchair users to be able to use them[230]. **For visually impaired people, the font size in the information texts was too small**[231].

The optimal solution, apart from using larger font sizes, would be to place all information boards at a height from 80 cm (bottom edge) to 180 cm (upper edge), especially in buildings with cells assigned to people with motor disabilities.

[228] An exception was the remand facility in Szczecin where, during the visit and in the submitted documentation, the prison authorities informed that the establishment had no computer station for prisoners at all. Later, in the reply to the recommendation of the NMPT, the head of the remand facility in Szczecin informed that such a computer had been available since 2014 and that the earlier information must have been misunderstood.
[229] For example the remand facility Gdańsk.
[230] An exception was the prison in Przytuły Stare where information boards were available to everyone.
[231] For example, a price list in the canteen in Przytuły Stare prison.

6. The right to contacts with the world outside

The scope and methods of contacting the world outside depend on the type of prison in which the sentence is served and on the internal regulations of that prison. In the case of persons detained on remand, additional restrictions in this area may apply, depending on the decision of the so-called competent bodies (prosecutors, courts) which have to consent to such persons' contacts with people outside the facility.

There are no special regulations for people with disabilities regarding their contacts with the outside world.

The situation of blind and visually impaired prisoners as regards access to paper documentation or correspondence remains unresolved. Such prisoners, without the possibility to use a special scanner, cannot not read any documents. At the same time, the issue of the possibility of reading out incoming letters to the prisoner by a trusted person or a prison officer are not regulated. Due to the lack of specific guidelines, solutions in this area are discretionary and depend on the decision of the head of a given penitentiary establishment, who may request a healthy prisoner to read out the correspondence. Correctional officers sometimes help on their own initiative. However, during the talks with blind prisoners, representatives of the NMPT were informed that if letters are read out of by other people, particularly prisoners, it is uncomfortable is perceived as violation of privacy.

A good solution for blind or visually impaired people would be to provide to them access to electronic versions of documents (e.g. criminal proceeding files) via the Information Portal, on computers with a reading software installed for disabled prisoners. It also seems that prisoners should have the possibility to file documents in the electronic form and to write letters on prison computers which should have special software making it possible for blind people to write documents.

In view of the earlier comments regarding the placement of persons with motor disabilities in penitentiary establishments, it should be noted that the type of the facility where the sentence is served has a significant impact on the frequency and forms of contacts of prisoners with their families, relatives and friends.

There are only few facilities for imprisonment of people in wheelchairs and only one facility for imprisonment of blind or visually impaired convicts. This means that

they can be placed far from their family and place of residence. The placement in a facility located far from the place of residence and far from relatives definitely does not contribute to maintaining direct contacts in the form of personal visits.

It can also be an obstacle for people who would like to visit prisoners with such disabilities. The Commissioner for Human Rights received complaints and requests for assistance, relating to such cases. An example can be a letter of a mother of a prisoner who was moved from a prison in his hometown to a penitentiary facility located several hundred kilometres away. The convict had 4 children, 2 of whom were disabled. Travelling to the new facility was a problem for the family because of the costs, and because of the health problems of the children. In the opinion of the NMPT, the described situation constitutes a manifestation of inhumane treatment of both the prisoner and his relatives.

The most obvious form of contacts with people from outside the prison, that is visits, is not always ensured to prisoners with physical disabilities because of the existing architectural barriers.

The vast majority of visited prisons and remand facilities[232] had no access at all, or difficult access to the visiting rooms for people in wheelchairs. This was caused by the presence of stairs, high doorsteps, narrow corridors, narrow doors to those rooms (too narrow for a wheelchair). There was no assisting equipment such as elevators[233] or other devices for transporting disabled persons up the stairs (e.g. stair-climbers[234]). There were cases in which existing facilities were, in practice, inaccessible to people with motor disabilities because e.g. ramps for wheelchairs had too large inclination angle, and people with weaker hands were not able to use them[235].

The furniture in the visiting rooms in most cases did not ensure accessibility to people in wheelchairs. Chairs were permanently attached to the floor, and there was no space for

[232] Apart from the prisons in Przytuły and Włocławek, and the remand facility in Warsaw-Grochów district, where there were nearly no barriers.
[233] The exceptions were remand facilities in Kraków, Radom and Gdańsk (where, however, during the NPTM visits no lifts were used to transport people with disabilities) and the hospital ward of a remand facility (which, however, had only stairs leading to the entrance to the building).
[234] The exceptions in this respect were the prison in Przytuły and remand facility in Kraków.
[235] Remand facility in Warsaw-Grochów district.

wheelchairs[236]. Visiting rooms subject to the provisions of Article 138 (1)(3) of the Penalties Enforcement Code (so-called intimate visits) had not enough space for wheelchairs, and sometimes too narrow door for a wheelchair.

Similar problems are encountered by visitors in wheelchairs who come to meet with prisoners, as well as employees of various entities performing official tasks.

The Mechanism has taken note of problems that are common to all penitentiary establishments. First of all, it is difficult for a person with a disability to prepare in advance for any availability barriers in a given prison, because the websites of facilities supervised by the Prison Service were, during the NMPT visits, not adjusted to the WCAG 2.0 standard[237] and did not contain information related to accessibility, possible assistance, or phone numbers which can be called to announce a visit of a disabled person to a facility.

Secondly, parking spaces for people with disabilities were not always ensured at penitentiary facilities.

Thirdly, most visitor entrance doors were not accessible for wheelchair users. Here is a description of such a situation.

It is not possible to enter the waiting room through the door leading to the main building, because it is too narrow. According to the standard, the door should be 90 cm wide (but in reality, it is 83 cm wide). In addition, there is also a 12 cm doorstep, and then there are stairs and a passage without space for turning round in a wheelchair, although there should be a 150x150 cm space for it. Visitors are advised that wheelchair users can get in through the main gate to the premises, but this route also has some obstacles on the way. The bell is placed at a height of over 120 cm, which means that it cannot be reached by a person moving in a wheelchair. Such a person cannot be seen through the spy-hole from the inside. Also, when the gate opens, there is a gap 10 cm deep in the pavement so if the person has problems with balancing the wheelchair, it is difficult for him to cross that point. The door to the building has a doorstep taller than 2 cm required by the standard (it is 6 cm tall). So in

[236] Remand facilities in Lublin, Wrocław and Szczecin, and prison in Hrubieszów.

[237] WCAG 2.0 (Web Content Accessibility Guidelines) - a document that provides guidance on how to develop websites accessible to everyone.

the remand facility, regardless of which gate you choose, there are architectural barriers. Neither of the entrances can be considered as fully accessible[238].

Notably, in all penitentiary establishments there were no facilities for people with other disabilities intending to access the visiting rooms. There were no special paths for visually impaired, and there were no induction loops improving the hearing.

Apart from visits to the facility, upon the consent of its head, convicts may contact their families and other close people via Skype.

Computer stations in most penitentiary establishments were inaccessible to people in wheelchairs. To get to them, it was most often required to climb stairs, and the rooms had too narrow doors[239]. Moreover, as indicated in the section on the right to information, computers in prisons do not have supporting devices and software to facilitate their use by blind and visually impaired people.

The same concerns telephone sets which in most prisons were placed too high for a wheelchair user to use them independently[240]. In one of the prisons [241] telephone sets were placed in metal booths into which a wheelchair could not get and would not be able to move.

Moreover, telephone sets in penitentiary establishments usually do not have keys enabling their use by people with visual disabilities or manual limitations. Only in one prison[242] telephone sets had volume control and the sms sending function which is a support method for deaf and hard of hearing people.

The NMPT representatives received no reports from prisoners with disabilities about any problems with sending or receiving correspondence. However, the mailboxes were placed too high too high to be reached by a wheelchair user.

In summary, as regards contacts of prisoners with disabilities with the world outside (which contacts may take place in person, by the Internet or by telephone) in most penitentiary establishments it is required to eliminate

[238] Remand facility in Warsaw-Mokotów district.
[239] An example is the Wrocław prison where there was a 56 cm wide door with a tall doorstep leading to the room where Skype could be used. The other examples are e.g. remand facilities in Gdańsk and Warsaw-Mokotów district, and the prison in Przytuły Stare.
[240] The button should not be higher than at 120 cm.
[241] Prison in Przytuły Stare.
[242] Prison in Hrubieszów.

architectural barriers and introduce aids such as induction loops or tactile paths.

It is also necessary to ensure that large fonts and information graphics are used on information boards.

At least one computer in the establishment should be accessible to blind and visually impaired people. People with sensory disabilities and weaker hands should have access to telephones adapted to their needs.

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7. The right to health protection

When depriving a person of his/her liberty, the state takes responsibility for ensuring that his/her health is not deteriorated during the imprisonment period. To this end, free-of-charge health care is ensured to the prisoners.

This is very important from the point of the needs of people with disabilities. Those needs often result from existing diseases that require continued treatment, or from injuries, either recent or past, which require medical assistance and physiotherapy.

According to the standards based on the case law of the European Court of Human Rights regarding persons deprived of their liberty, prisoners have to be provided with regular health care if necessary, and occasional consultations by general practitioners are not sufficient (the case: Hummatov v. Azerbaijan, applications No. 9852/03 and 13413/04, judgment of 29 November 2007) or care provision by inmates (Kaprykowski v. Poland, no. 23052/05, judgment of 3 February 2009). If the provision of outpatient care proves to be insufficient, it is necessary to provide specialist treatment (the case of Dzieciak v. Poland, application no. 77766/01, judgment of 9 December 2008).

The analysis of the availability of medical assistance for prisoners with disabilities indicates that, as a rule, their right to health protection is respected. In every penitentiary establishment there is a health care unit for persons deprived of their liberty. There are doctor's offices with rooms for ill patients (in all penitentiary units), and there exist over ten hospitals for prisoners. They have different wards, doctor's offices, diagnostic laboratories, dentist's offices, physical rehabilitation and physical therapy facilities, as well as pharmacies. Penitentiary establishments that have no medical staff use the services of Medical

Rescue Teams. If it is not possible to provide required medical assistance to a prisoner, there is the possibility of requesting a penitentiary court for suspension of the penalty serving period for the treatment period, or to request the cancellation of the preventive measure (in the form of remand detention).

There are situations when there is the need for medical consultations or examinations that cannot be conducted in prison and then the National Health Fund medical entities or other external companies have to be used.

During the NMPT visits, representatives of the Mechanism were informed by medical staff of some penitentiary establishments that medical personnel of **some non-penitentiary medical facilities are reluctant to see prisoners (including prisoners with disabilities), which is caused by doctor's reluctance to work with this group of patients**. Usually, officers from remand facilities and prisons receive information on refusing to see such patients in some informal way, e.g. verbally, and then look for another clinic or hospital. Formal requests for arranging medical consultations in such cases result in receiving vague answers, e.g. such as:

In connection with your letter [data deleted], we regret to inform you that at present we have no possibility to accept your request regarding the conducing of neurosurgical consultations of prisoners. A more competent place for conducting such consultations is, it seems, the National Hospital of the Ministry of the Interior, located in Warsaw at ul. Wołoska. Thank you for considering our facility that seeks professionalism, quality and reliability in the provision of services[243].

Refusals are sometimes justified by a large number of patients:

In reply to your letter of 2 April 2015, the hospital named Mazowiecki Szpital Bródnowski Sp. z o.o. informs that due to the large number of patients it is unable to provide medical services consisting in neurosurgical consultations[244].

According to the NMPT, such situations are unacceptable and discriminatory to patients deprived of their liberty. In accordance with Article 30 of the Act of 5 December

[243] Letter from the Military Medical Institute in Warsaw, illustrating the problem with specialist consultations, identified during the visit to the remand facility in Warsaw-Grochów district.
[244] Example mentioned by the staff of remand facility in Warsaw-Grochów district.

1996 on *the professions of physician and dentist*[245], *a doctor is under the obligation to provide medical assistance if a delay in its provision would cause a risk to the patient's life, a risk of the patient's serious bodily injury or serious health disorder, and in other emergency cases.* The refusal to provide medical treatment or its discontinuation, provided for in Article 38 section 1 of the aforementioned Act, may not take place if the physician's practice is based on his/her employment relationship with the requesting entity or if the physician is a member of the requesting uniformed service, and if there are no significant reasons for the refusal and the physician's superior has not agreed to it. A reluctant approach to the patient due to discriminatory reasons should not be considered a significant reason.

However, according to Article 38(4) of that Act, in the event of discontinuation of the treatment, *the doctor is required to state the reasons for it and indicate the fact of refusal in medical records*. This means that the state of health of the patient should be assessed by a doctor, and not by an employee of the reception of the medical entity.

A patient who does not require immediate medical assistance may be refused admission to a selected healthcare institution on the day when he or she reports there and the institution has no free beds, or when all consultations and examinations have already been scheduled for other patients. However, the patient should then be entered on the waiting list. The service provider should register the patient's data and medical indications, and should indicate the date on which the service will be provided. The same rules should apply to prisoners.

People with permanent and temporary disabilities who require physical rehabilitation to prevent deterioration of their health condition, to relieve pain, etc., may be provided physical rehabilitation services during their imprisonment. It is commonly known, however, that in Poland such services under the National Health Fund are not available easily and on close dates. However, people deprived of their liberty are in a worse situation because of the limited number of places where such physical rehabilitation services are provided to them.

One hour of walking per day is nothing. In prison, I did not get enough exercise and my legs started to ache. I've had a knee surgery, I take painkillers. But now, I can't sleep at night because of the pain. I am registered to undergo physical rehabilitation in Łódź. I've

[245] Consolidated text: Journal of Laws of 2018, item 617.

been waiting for a year now. So I applied for a suspension of my penalty because I wanted to undergo the treatment arranged by myself. The decision was a refusing one, because it was decided that the penitentiary establishment could ensure the provision of the therapy[246].

In the penitentiary system, there is a discussion about the reasonability of further operation of the health service within it. In the meantime, changes that are disadvantageous for prisoners are taking place. For example, until the end of 2014, the remand facility in Warsaw-Mokotów district provided services in the field of physical rehabilitation of prisoners, which are not provided by other penitentiary establishments. The average waiting time for physical rehabilitation there of persons deprived of liberty from the nearest prisons was about 2 weeks. The said facility ended the provision of the services, and therefore services for prisoners in need of such rehabilitation, including prisoners with disabilities, are provided in other penitentiary establishments where the waiting time is up to 2 years[247].

Information has been provided by one of the prison heads[248] that prisons and remand facilities are covered by a zoning system as regards such physical rehabilitation services, as a result of which patients have to be transported to remote locations. This is a result of the process of restructuring the prison system's hospitals and the closing down of some of them, which was initiated in 2015[249].

Further reservations of the NMPT experts and representatives as regards access to health care procedures concerned, as in the case of the right to contacts with the outside world and other aforementioned problems, the presence of architectural barriers and the lack of aids for people with disabilities (physical and sensory ones).

The main mistakes in this area concerned people in wheelchairs and using crutches.

[246] Mentioned by an anonymous prisoner.

[247] Based on information obtained from medical personnel of the visited penitentiary establishments, including the remand facility in Grójec.

[248] Prison in Przytuły Stare.

[249] Hospitals whose age and technical condition did not allow to adapt them to current standards were closed due to the huge costs of their potential renovation. More on the subject can be found in the reply to Member of Parliament's inquiry no. 7747 of 22 January 2015 in this case.
http://www.sejm.gov.pl/sejm7.nsf/InterpelacjaTresc.xsp?key=6CD2EBF7

Cells for the disabled in hospital wards and rooms for ill prisoners[250] **were generally not adapted to the needs of people with mobility dysfunctions.** Problems identified were similar as in the case of regular cells for such prisoners: not adjusted height of window handles, cabinets, light switches and emergency call buttons (or their absence), handrails next to toilet bowls and sinks placed too low, or absence of such adjustments in toilets and bathrooms, lack of space for wheelchair movement. Beds for patients did not have height adjustment. The absence of anti-bedsore mattresses was also common.

It should be indicated that rooms for ill prisoners in penitentiary establishments, in accordance with the Regulation of the Minister of Justice of 5 July 2012 on *specific requirements to be met by detention facilities' rooms and facilities where health care services are provided to persons deprived of liberty* [251] are required to meet the accessibility requirements for persons with movement disabilities.

In many remand facilities and prisons, **access to the doctor's office for wheelchair users was also difficult**[252] **or even impossible** due to the presence of stairs, narrow corridors, narrow doors, and high doorsteps[253]. Difficulties in wheelchair moving existed in many doctor's offices (as a result of incorrectly placed furniture). Doctor's offices also lacked additional equipment items, and beds had no height adjustment options.

In some penitentiary establishments, the problem was solved by conducting medical examinations of people with physical disabilities in their cell[254]. However, the NMPT emphasizes the lack of privacy during such examinations (in the case of multi-person cells in which the other inmates had to stay) and the lack of possibilities to conduct certain medical procedures (e.g. dental procedures can be provided only if the room is adjusted to the needs for persons with disabilities).

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[250] Prisons in Gębarzewo, Przytuły Stare and Bydgoszcz-Fordon; remand facilities in Warsaw-Mokotów district, Gdańsk, Poznań, Suwałki and Warsaw-Grochów district.

[251] Journal of Laws of 2012, item 808.

[252] For example, in the prison in Włocławek, the ramp to the building did not have a landing, and the handrail inclination angle was too big.

[253] In this regard, the prison in Hrubieszów had a particularly good system. The access to the prison's health care unit was facilitated by a properly constructed ramp and there was a separate entrance for people with disabilities. The prison as such, however, cannot be considered a model facility because of the specific shortcomings the the availability of the cells.

[254] Remand facilities in Radom and Grójec, and the prison in Koronowo.

For this reason, the NMPT representatives recommend that the doctor's office be available at the same floor as the cells for people with disabilities. If this is not possible, other access for the disabled (elevator, stair-climber) should be ensured.

Prison health care units, like cells for such prisoners, should not have doorsteps, should have sufficiently wide doors and markings for the visually impaired. In doctor's offices there have to be facilities for people with disabilities, including, for example, height-adjustable medical beds.

Medical experts who visited penitentiary establishments where prisoners with disabilities were placed did not find any irregularities in the provision of medical care to this group of patients.

However, the NMPT's doubts were raised in individual cases, when health care personnel's dealing with people with disabilities was described by the concerned prisoners as unacceptable. Two examples of specific situations should be described.

The first case concerned a prisoner who had no access to crutches. The prisoner explained that his one leg was shorter and he asked for crutches that would help him move independently. The prisoner's request was first refused due to the need to seek an orthopaedics specialist's opinion, for which the detainee had to wait 2 months. According to the explanation of the head of the remand facility[255], the request was filed by the prisoner only after the NMPT's visit. The request was accepted by the specialist in orthopaedics but in the meantime the detainee was released on parole.

However, the dates of the examination of the prisoner by the specialist in orthopaedics and of his opinion that the detainee should use crutches were the same, so in reality the detainee had to have requested the crutches earlier. The explanations provided by the head of the facility thus seem against the facts.

Another case concerned a fully paralyzed prisoner with untreated pressure sores, which could suggest he was not provided with adequate health care. According to the prisoner, he did not get any assistance in the form of physical rehabilitation[256].

[255] Remand facility in Gdańsk.
[256] Remand facility in Warsaw-Mokotów district.

After checking the facts, it turned out that the prisoner was placed there already with neglected pressure ulcers (according to medical records, his condition had lasted since 2000). He was placed in a prison hospital at the request of his establishment's head, because of humanitarian reasons (there were no other indications for hospital treatment) . From the very beginning of his stay there, the prisoner received highly specialized medical care. He was consulted many times by surgeons (with regard to pressure ulcers treatment), a neurologist, a urologist, a neurosurgeon, a psychiatrist and an orthopaedist. The treatment procedure was carried out, and as a result of daily application of appropriate dressings and a surgeon's supervision, improvement of the patient's condition was achieved. To achieve even better results, the prisoner was consulted twice in a plastic surgery clinic where surgery was planned.

Contrary to the prisoner's statements, the medical personnel indicated that he was covered by physical therapy procedures. Prior to the NMPT's visit, several long treatments were entered in the medical records. Their aim was to prevent shortening of muscles (it was not possible to completely restore their function). However, the prisoner did not want to cooperate with the medical personnel and refused to take the prescribed medicine, which resulted in an increase in spastic symptoms.

The explanations of the detention facility's mangers confirmed that the disabled patient's right to medical care was respected. Probably the prisoner's report was motivated by the desire to be released from the facility. The Prison Service medical personnel, in that case, had to deal with a prisoner whose attitude could negatively influence the personnel's perception of other prisoners with disabilities.

Therefore, medical staff members from penitentiary establishments, who deal with difficult prisoners on a daily basis (in terms of prisoner's both medical and psychological condition (also determined by their family or personal situations), in particular psychologists and psychotherapists, may benefit from support in the form of regular supervision, which may help relieve tensions caused by the performance of professional duties. Such meetings could also contribute to the improvement of relations between the staff members, which may have a direct impact on the quality of their work and the level of care provided to prisoners.

8. Prison staff

The thematic visits revealed the problem of the Prison Service being not prepared at all to working with people with disabilities. And yet the attitude of staff is a key element in ensuring the protection of human rights of disabled prisoners and effectively counteracting any discrimination in prison.

It is advisable here to remind of the standards set out by the European Committee for the Prevention of Torture [see: the part of the Second General Report (CPT/Inf 92/3), regarding the training of law enforcement officials], which indicate that there is no better guarantee against the ill-treatment of a person deprived of liberty, than a well-trained officer of the Police or Prison Service.

> ***Bearing in mind the situation in the visited establishments ,the representatives of the NMPT recommend covering all officers and members of the Prison Service who work in direct contact with prisoners with disabilities by training programmes on how to deal with such prisoners. Such training should increase their knowledge of the limitations resulting from motor, sight and hearing disabilities.***

The staff should be trained to effectively supervise persons with disabilities to prevent abuse and ill-treatment by other prisoners. The staff should also be trained to detect early signs of violence against prisoners with disabilities.

9. Cultural, educational and sports activities

As a standard, all prisoners, regardless of their health condition and physical limitations, may spend their free time in cells and common rooms watching TV, listening to the prison radio, reading books and newspapers available from the library, playing table tennis, games of skill, or walking within walking areas. There are also knowledge competitions, meetings with interesting people, concerts and artistic performances. If there is a gym or a sports pitch in the establishment, there are also sports activities there.

Social rehabilitation programmes addressed to convicts are usually numerous. They use e.g. using art therapy techniques (e.g. ornamentation, photography, decorating or

drawing[257]). Prisoners also have organized so-called discussion groups or interest groups, e.g. film or music ones[258].

Usually, during their visits, the NMPT representatives were informed *that people with physical disabilities may, under the commonly binding rules, use all forms of activities available at the establishment*. However, this is only a theoretical possibility. **In practice, the cultural, educational and sports activities rarely take into account the interests and possibilities of people with disabilities**. There were a few positive examples, such as a meeting with a medallist of the Paralympic Games in Beijing, or the regular social rehabilitation meetings entitled you and *tolerance*, in which convicts learned about the problems of people with disabilities[259]. In general, the only available form of movement for prisoners with disabilities in their free time was walking.

Because of typical architectural barriers such as stairs and lack of an elevator, the already limited access of prisoners with disabilities to the organised activities, including walks, was often significantly hindered.

Among the numerous social rehabilitation programmes ones dedicated specifically to people with disabilities did not exist. [260].

There can be alternative forms of cultural or sports activities for this group of prisoners and it is possible to develop such rehabilitation programmes in which convicts with disabilities could participate.

In most cases, the libraries in prisons and remand facilities visited by the NMPT did not have books in the Braille system or in audio versions, for blind or visually impaired people. Some penitentiary establishments that had very few of such books, compared to regular printed ones[261].

[257] Remand facility in Gdańsk.
[258] Numerous activity groups for people with reduced mobility were conducted in the remand facility in Warsaw-Grochów district.
[259] Remand facility in Grójec. The prison in Przytuły Stare had a similar offer in cooperation with the *Let's Give Together Association*.
[260] This problem was present in most penitentiary units, including: the remand facilities Lublin, Poznań and Radom, and the prisons in Włocławek, Przytuły Stare and Koronowo.
[261]For example the remand facility in Szczecin.

Common rooms accessible to prisoners with disabilities did not have any equipment they could use[262]. During a visit to one of the remand facilities[263] disabled people had cells in a building without a common room.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment correctly points out that an appropriate program of activities (work, education, sport, etc.) is crucial for the well-being of prisoners. This applies to all penitentiary establishments, both prisons and remand facilities. (see Article 47 of the Second General Report [CPT/Inf (92)3]). Also, the issue is covered by the European Prison Rules that state: *This regime shall allow all prisoners to spend as many hours a day outside their cells as are necessary for an adequate level of human and social interaction*. (Rule 25.2).

The Prison Service should take all possible steps to ensure equal access of prisoners with disabilities to activities organized in the prison, including recreation. People with disabilities should not have to stay in their cells for several weeks or months, even if the living conditions are good. Efforts should be taken to ensure that prisoners with disabilities, just like able-bodied prisoners, have the opportunity to spend part of the day (8 or more hours) outside their cells doing various activities.

10. Employment and teaching

Work performance by prisoners, unless it is used as a form of repression or degrades them to the level of cheap or unpaid labour force, constitutes the foundation of social rehabilitation. Performance of gainful work reflects good adaptation and proper performance of social roles, which is expected of prisoners undergoing a positive transformation[264]. The subject of employment of prisoners is well known by the Prison Service which, pursuant to Article 121 of the Penalties Enforcement Code, is required to provide work possibilities to prisoners, if possible[265].

[262] The problem existed, for example, in the remand facility in Gdańsk.
[263] Remand facility in Szczecin.
[264] This section for obvious reasons excludes remand detainees to whom the social rehabilitation process and work in prison does not relate
[265] For example: http://www.sw.gov.pl/aktualnosc/Praca-skazanych-jako-efektywna-forma-resocjalizacji

Currently, in the market economy conditions, the main problem is the lack of jobs for convicts. The vast majority of them do not work, although many of them could and would want to. This also applies to people with disabilities. Of course, there are also convicts who prefer to receive a pension or do not work because they do not want to lose their pension. However, this approach is not characteristic of all prisoners with disabilities.

The NMPT was yet concerned with the lack of vocational training and programmes addressed specifically to prisoners with disabilities, and the lack of any work possibilities for prisoners from this group.

During the thematic visits the NMPT representatives concluded that no vocational courses were organized for convicts with disabilities. According to the explanations of the Prison Service, such convicts may take part in courses for all convicts, but here were no persons with disabilities who had completed such courses. Thus, in prison, people with disabilities do not get any new professional skills or work experience that could help them to find a job after being released.

Interestingly, the NMPT members have identified only one course in independent living, conducted by the Prison Service[266] in cooperation with the Polish Association for the Blind, based in Bydgoszcz (the so-called basic physical rehabilitation course with elements of spatial orientation, moving independently, and the Braille system), although such a course could provide a basis for further e.g. vocational training. Unfortunately, during the NMPT visit there was only one person participating in the course. No such courses addressed to persons deprived of liberty with other types of disabilities were organized.

Representatives of the NMPT encourage the authorities of all penitentiary establishments to create conditions for vocational development of prisoners with disabilities and to mobilize them to actively participate in such courses.

According to the information provided to the visiting team, **no employment offers existed for convicts in wheelchairs or with other disabilities**. There were no plans in this regard, either. According to the data provided by the Prison Service during the visits, none of the convicts with disabilities, staying in those penitentiary establishments, were employed at

[266] Prison in Bydgoszcz-Fordon.

that time. There was one exception[267] where a prisoner with a disability was employed half-time outside the establishment, as a worker in a building renovation company.

These poor statistics also relate to work performance directly for the prison. In general, people employed by them do some cleaning or support works that require full physical abilities.

The NMPT representatives point out that prisoners with disabilities should have the same access to work as fully-abled prisoners, and the only possible barrier in this respect may be a medical certificate that prohibits them to work in a specific job offered by the penitentiary establishment.

The information gathered on the issue showed that, as a rule, *there is no discrimination against persons with disabilities and that there were simply no job offers from external entities for disabled prisoners*.

The attention of the NMPT was drawn to the fact that *it is mostly companies and institutions from outside the penitentiary system that offer such employment; they do not discriminate persons with physical dysfunctions who may access the related meetings. But no special attention of is focused on work for people with disabilities*[268].

Also, it was pointed out that prisoners with disabilities did not show interest in starting to work, and *if a person with a disability indicates he wants to find work, it will be considered under the applicable regulations, without any form of discrimination against such prisoners*[269].

At the same time, no penitentiary unit sought jobs for prisoners with disabilities by cooperating with institutions or organizations that provide assistance to people with disabilities who seek employment. The NMPT representatives did not come across any advertisements (e.g. on penitentiary establishment websites) for potential employers with regard to this group of prisoners[270].

[267] Prison in Przytuły Stare.
[268] Remand facility in Warsaw-Mokotów district.
[269] For example remand facility in Warsaw-Mokotów district.
[270] An example of such activities: http://sprawniwpracy.com/korzysci-dla-pracodawcy .

Prisoners with disabilities, just like other prisoners, should be assessed in terms of their capabilities and specific requirements, in particular teaching needs, to determine the level and type of support they require in job seeking. It is required to plan activities with the aim to teach and employ them. The same applies to preparing prisoners with disabilities to living after they are released.

11. The right to religious practices

The right to religion practices is protected by the Polish Constitution (Articles 5(1) and (2)), the Universal Declaration of Human Rights (Article 18), the European Convention on Human Rights (Article 9) and the International Covenant on Civil Rights and Political (Article 18).

As practice shows, people deprived of their liberty generally use services of Roman Catholic priests who are usually employed as civilian employees of the Prison Service. They hold masses in prison chapels and in prison hospitals' common rooms. Every prisoner, regardless of his/her disability, may take part in a mass on Saturday/ Sunday, every week or every few weeks (when the prisoner has to be isolated from other people, e.g. in connection with pending criminal proceedings) and on church holidays. Priests also provide individual religious services (if a prisoner requests them via the correctional officer or head of the prison unit). On church holidays, priests organize meetings with prisoners' families, sometimes with some refreshments and gifts for children.

Holy masses are also broadcast on the radio. This is important for people with physical disabilities or sight impairments, or those who are unable to take part in them in person.

Active participation in religious meetings is made difficult by the existing architectural barriers (mainly stairs, doorsteps and lack of markings for visually impaired inmates). In more than a half of the visited establishments[271] people with different types of motor disabilities could not access chapels. The visiting team members were assured that if a prisoner wishes to participate in a religious service, he/ she is carried up

[271] Prison in Włocławek and remand facilities in Warsaw-Grochów district, Wrocław, Szczecin, Suwałki, Radom (applies only to people with disabilities placed in sick rooms), remand facilities in Poznań, Mokotów, Grójec. solated inconveniences in the form of a too high - 15 cm - threshold and too narrow door were found in respectively remand facilities in Gdańsk and Lublin.

the stairs. This way the prisoner can indeed attend the mass to meet his/her spiritual needs, but the solution itself is not a good one.

The chapels lacked facilities for people with disabilities, in particular for people in wheelchairs or hearing impaired (chairs had no armrests, and there were no induction loops for better hearing).

> ***The NMPT representatives recommend that prisoners should have the possibility to physically participate in religious services held in the establishment. To this end, it is necessary to eliminate architectural barriers that are an obstacle to reaching prison chapels and to install aids and facilities that assist hearing impaired and deaf people.***

The same would apply to people of other religions who would have their religious services in the chapels (which are ecumenical). Sometimes religious meetings are conducted in common rooms).

V. Recommendations

1. Eliminate cases of inhuman and degrading treatment of prisoners with disabilities by the establishment's staff members.
2. Amend the legislation on treatment of prisoners and on conditions of their detention, in accordance with standards arising from international agreements ratified by Poland.
3. Amend the regulations so as to ensure that people whose life is directly at risk are not placed in penitentiary units.
4. Amend the legislation so as to make it possible to place a remand prisoner with a disability that results, inter alia, from a severe physical illness, in a hospital or another healthcare facility outside the penitentiary system.
5. Exclude the applicability, to prisoners with disabilities, of the regulations that permit temporary reduction of floor area limit per prisoner due to overcrowding in the establishment.
6. Introduce flexible internal rules, so to ensure that disabled persons deprived of liberty can exercise all their rights, taking into account their individual deficits (taking a bath, walking, using telephones).
7. Estimate the number of prisoners with various types of disabilities and keep and update such statistics by the Prison Service.
8. Assess the possibilities of penitentiary establishments in the field of providing employment, teaching, medical treatment and rehabilitation of convicts with disabilities.
9. Improve the process of early identification of people with disabilities and recognize their needs connected with the conducted proceedings and placement in the establishment. Prisoners with disabilities, just like other prisoners, should be assessed with regard to their capabilities and specific requirements, in particular teaching needs, to determine the level and type of support they require in order to get teaching and find employment. The same should apply to preparing prisoners with disabilities for living after their release.

10. Ensure appropriate medical therapy as well as teaching to prisoners with disabilities, taking into account their needs and identified possibilities. Ensure equal access to recreation for prisoners with disabilities.
11. Develop conditions for professional development of people with disabilities and mobilize them to actively participate in such projects. Persons with disabilities should have the same access to work as fully-abled persons, and the only possible barrier in this respect may be a medical certificate not permitting them to work in the specific job offered to them by the establishment.
12. Train all officers and staff members of the Prison Service who work in direct contact with prisoners with disabilities in methods of dealing with this group of prisoners, so as to extend their knowledge about the limitations resulting from motor, vision and hearing impairments.
13. Extending the scope of training for representatives of all agencies engaged in criminal and penalty enforcement proceedings, and for employees of central-level institutions that take decisions regarding the operation of places where people are deprived of their liberty, to take into account the needs of persons with disabilities.
14. Staff members from penitentiary establishments, who deal with difficult prisoners on a daily basis (in terms of prisoner's both medical and psychological condition (also determined by their family or personal situations), in particular psychologists and psychotherapists, may benefit from support in the form of regular supervision.
15. Regularly remind staff members and officers that in in their professional work, in taking decisions and in contacts with prisoners with disabilities, they should be guided by such values as empathy, the principle of humanitarian treatment, and respect for human dignity.
16. Review the list of prisons and remand facilities where prisoners with disabilities are placed and limit the list only to those establishments that have appropriate infrastructure or are suitable for conducting adaptive modernizations.
17. Eliminate architectural barriers and carry out modernization of prison buildings and their equipment, in accordance with the principles of universal design,

taking into account all types of prisoners' disabilities and the actual number of prisoners with them. Conditions should be provided for persons with disabilities in terms of space, aids and other equipment items in cells and in other places so that a person in a wheelchair, a person who uses crutches or has vision impairment can use those spaces. As regards prisoners with motor disabilities ad vision impairment, it is important to ensure that they have adequate access to building entrances and to infrastructure (in the cells, common rooms, bathrooms, walking areas and meeting rooms).

18. Introduce equipment items that help people with disabilities: induction loops, stair-climbers, tactile paths, contrasting markings, text readers for computer screens, special computer keyboards for visually impaired prisoners, telephone sets for sensory disabled people and people with weak hands.
19. Make it possible for prisoners to own or have access to all equipment items necessary for their efficient functioning, including in particular rehabilitation equipment.
20. Eliminate errors in the placement of prisoners with disabilities in cells. As a rule, persons deprived of their liberty with motor disabilities should be placed on the ground floor, in cells adapted to their needs (with appropriate equipment items); any exceptions in this respect should be based on the individual situation and the will of the persons concerned.
21. Undertaking, by prison authorities, activities to ensure effective communication with prisoners with sensory disabilities; to this end, commonly used means and methods should be used, including the services of Polish Sign Language interpreters. Attention should also be paid to the use of large fonts in written announcements placed on information boards. It would be desirable to present the key rules to be followed in the penitentiary facility, in the form of info graphics.
22. Take into account the possibilities and needs of people with disabilities in the security procedures used in penitentiary units (personal searches, evacuation, transportation).

23. Develop, by conducting appropriate training, the professionalization of fully-able prisoners' skills in the provision of care to prisoners with disabilities, which skills can later be used as a job.
24. Ensure to terminally ill prisoners the possibility to die outside of prison.

Questionnaire used in the NMPT thematic preventive visits

BUILDING ENTRANCE

1. Access to the building/outdoor area:

0 –no access at all; access by persons with disabilities requires significant assistance provision by others.
1 - low accessibility/ access by persons with disabilities is very difficult and they require assistance in some places.
2 - medium accessibility/ independent access by persons with disabilities is possible, although a person with a disability may have some difficulties.
3 – good accessibility/ independent access by persons with disabilities is possible.

Elements to be taken into account in the assessment:
- presence of surface that is hardened and even,
- width of access routes (min. 90 cm),
- curb profile which makes it possible to cross the street (curb no higher than 2 cm),
- presence of obstacles.

COMMENTS:

2. Parking spaces for people with disabilities:

If the facility does not have its own car park, it is necessary to assess, taking into the function of the facility, whether the number and size of parking places for people with disabilities in the vicinity is sufficient.
Number of spaces:
0 – no places
1 – insufficient number of spaces
2 – sufficient number of spaces (at least 5% of all the spaces in the car park)
The size of places:
0 – spaces too small
1 –spaces of sufficient size

Space size should be assessed based on:
Place type Width Length
Place located along the road* 3,6m….6m
Other parking places* 3,6m…. 5m
• Places with a width of 2.3m with direct access to the main pedestrian route are acceptable. Such access must have a width of min. 1.4m and led to two such parking spaces.

COMMENTS:

3. Main entrance to the building

0 – no accessible entries
1 - entrance from the rear side of the building or via a technical entrance
2 - front entrance accessible
3 - all entrances accessible

Only the accessible entrances should be assessed.
door width min. 90 cm
0 - no / 1 yes 1
door height min. 200 cm
0 - no / 1- yes
doorstep
0 - doorstep higher than 2 cm
1 - doorstep no higher than 2 cm
2 - no doorstep
Contrast between doors and walls (on transparent doors, at the level of people's eyes)
handle at a height of 90-120cm (do not judge if automatic doors lead to the entrance)
0 – no
1 – yes
Type of door
0 - hinged doors, difficult to open
1 - hinged door, easy to open
2 - automatic sliding doors
if there are revolving doors: is there an alternative accessible entrance
0 – it does not exist or it is closed
1 – yes
if there are turnstiles: is there an entrance for people with disabilities
0 – no
1 – yes

Any space behind the entrance door should be min. 120 cm long and 150 cm wide, according to "Accessibility planning" by Kamil Kowalski.

COMMENTS:

4. Ramp at the main entrance

Ramp parameters compliant with the ones in the table

0 – no
1 – yes
Evaluate according to the table below

Height difference	Maximum inclination indoor or roofed	Maximum inclination outdoor
up to 15 cm	15%	15%
15-50 cm	10%	8%
over 50 cm	8%	6%

The width of wheelchair moving space: 120 cm.
Maximum length of ramp: 9 m.
Landing length: min. 1.4 m
Curb with a height of min. 7 cm on both sides of the ramp.
Handrails
0 – not Maximum inclination indoor
1 – appropriate
Space between handrails: 1-1.1 m.
Level: 90 and 75 cm above ground level.
Handrail with a diameter of 3.5-4 cm.
Wheelchair moving space before and after the ramp
0 - no wheelchair moving space at least 150 cm long
1 - there is a wheelchair moving space at least 150 cm long but it collides with the door opening area or is occupied by equipment items
2 - wheelchair moving space is sufficient
Floor surface
0 – slippery
1 - non-slip
Each section of the ramp is marked
0 - no markings
1 - visual markings
2 - texture markings
3 - visual and texture markings

COMMENTS:

5. Stairs leading to the main entrance
The number of steps should not be too large.
All steps in the stair flight should have the same parameters.

In healthcare facility buildings, and in collective housing buildings intended for senior persons or people with disabilities, stair steps with projecting nosing may not be used.

Handrails

0 - no handrails

1 - one-sided railing

2 - double-sided railing or at max. 4 m

3 - double-sided handrail or at max. 4 m, at two heights: 90 and 75cm, starting from the front of step. Double-sided railing may be placed on one side of the stair flight only.

Step edge markings

0 – no

1 – yes

Markings before the stair flight

0 - no markings

1 - visual markings

2 - texture markings

3 - visual and texture markings

Anti-slip material

0 - slippery material

1 - anti-slip material (the properties of the material should be assessed subjectively, taking into account e.g. conditions when it is raining)

COMMENTS:

PRISON CELL

1. Door to the prison cell

Door width min. 90 cm

0 - doors less than 90 cm wide

1 - door to the main spaces min. 90 cm wide

2 - doors to the main spaces less than 90 cm wide

3 - all doors at least 90 cm wide

accessibility for people with disabilities.

Door height min. 200 cm

0 - doors less than 200 cm high

1 - doors the main spaces min. 200 cm high

2 - doors the main spaces less than 200 cm high

3 - all doors at least 200 cm high

Doorsteps

0 - doors with doorsteps

1 - doors to the main spaces without doorsteps

2 - doors to the main spaces without doorsteps
3 - all doors without doorsteps
Contrast between doors and walls
0 – none
1 – low
2 – high
Handle at a height of 90-120 cm
0 – no
1 - in the doors to main spaces only
2 - in the doors to most spaces
3 - in all doors
Visual markings on transparent doors
0 – no
1 – yes
Door is easy to open
The ease of opening the door and the space for wheelchair moving in front of the door should be assessed.
0 - the door opens too heavily, wheelchair moving space is not enough
1 - the door opens too heavily, wheelchair moving space is sufficient
2 - the door opens lightly, wheelchair moving space is not sufficient
3 - the door opens sufficient, wheelchair moving space is sufficient

COMMENTS:

2. Prison cell furniture

a) **Beds**

It should be assessed whether the wheelchair moving space by the bed is sufficient.

It should be assessed whether the mattress height is 45 - 55 cm.

COMMENTS:

b) Tables

The access to the table, and the possibility of using the table by persons with various disabilities should be assessed. Not all tables need to be accessible to everyone. It should be assessed whether the number of tables

that are accessible is sufficient.
The height of the table top should be between 67 and 80 cm. The space for legs of a person sitting in a wheelchair should be min. 30 cm.

COMMENTS:

c) Cabinets, shelves etc.

Accessibility of storage spaces
The possibility of wheelchair access to storage spaces should be assessed.
Height of storage surfaces
0 - most surfaces placed higher than 135 cm above the floor level
1 - some storage surfaces placed more than 135 cm above the floor level; no possibility to reorganize the space.
2 - some storage surfaces placed more than 135 cm above the floor level but there is the possibility to reorganize the space
3 - storage space organized correctly, only elements that are less important for users are more than 135 cm above the floor level

COMMENTS:

d) Windows

windows can be opened by people in wheelchairs, and short people e.g. children
0 – no
1 – yes
Door handle max 1.2 m above the floor level according to "Accessibility planning" by Kamil Kowalski.

COMMENTS:

e) Electrical and lighting installations

Installation of light switches and emergency call buttons: 90-120 cm
(80-120 cm, according to "Accessibility planning" by Kamil Kowalski)
0 - all or most not at this height
1 – the standard is met in the main spaces
2 - the standard is met in most spaces
3 - the standard is met in all spaces

Electrical sockets level

It should be assessed whether the place of installation of the sockets makes it possible to use them for all users, e.g. whether at desks, sockets are located above the desk top level.

COMMENTS:

2. Toilet space in prison cells

Entrance
The width of the door, the possibility to open it to at least 90 degrees, the wheelchair moving space in front of and behind the door and other possible obstacles should be assessed.

Wheelchair moving space in the toilet
0 - the space in the toilet does not enable wheelchair moving
1 - wheelchair moving space with a diameter of 140-150 cm
2 - wheelchair moving space with a diameter of 150 cm or more

Accessibility of toilet bowls
It is necessary to assess the possibility to get to the toilet bowl in a wheelchair and to transfer from it to the toilet bowl (from the front, from side, diagonally); a movable handrail
0 - no access to the toilet bowl and no possibility to transfer from a wheelchair to the bowl
(min. 90 cm. free space between the edge of the bowl and the wall or another piece of equipment according to "Accessibility planning ")

1 - access and possibility to transfer to the toilet bowl from a wheelchair from one side
3 - access and possibility to transfer to the toilet bowl from a wheelchair from two sides
4 - access and possibility to transfer to the toilet bowl from a wheelchair from three sides

Toilet bowl
It should be assessed whether the toilet bowl is suitable for use by persons with disabilities and whether its height is appropriate 45-50 cm.
(42-45 according to "Accessibility planning")
0 – no
1 – yes

Handrails
Handrails near the toilet should be installed 40 cm from the centre of the bowl to the centre of the handrail, at a height of 70 - 85 cm measured to the highest point of the handrail. It is also useful to install handrails on both sides of the wash basin.
0 – no handrails or improperly placed
1 – properly placed

Wash basin accessibility
Wash basin accessibility by a wheelchair should be assessed.

Wash basin
It should be assessed whether a suitable wash basin has been used and its upper edge is at 85 cm and its lower edge is at min. 70 cm and whether it is possible to approach the wash basin in a wheelchair. The tap should not be operated with revolving valves. It is correct to use a tap with an extended lever or activated by a photocell.
0 – appropriate wash basin
1 – not appropriate wash basin

Lower edge of the mirror next to the wash basin at a level no higher than 100 cm above the floor level (according to "Accessibility planning").

Accessibility of other equipment (paper, soap, hand dryers, etc.)
The possibility of using the soap dispenser, towels, hand dryer from next to the wash basin, of using toilet paper, and other items should be assessed. Also, the height and the method of mirror installation.
Light switches, power sockets near the wash basin, hangers, soap dispensers, towel dispensers - at a height of 80-120 cm according to "Accessibility planning".

Above-standard solutions
It should be assessed whether any above-standard solutions are used in the bathroom, e.g. an emergency call button (cable), emergency phone, etc. The quality of the solutions used should be assessed.
0 - no above-standard solutions found or they are incorrect
1 - above standard solutions used correctly

Shower

It should be assessed whether the wheelchair moving space in the shower is sufficient.

It should be assessed whether the shower tray is flat, has no obstacles, whether there are handrails, a special bench for people with disabilities, and whether the tap and shower head are placed correctly.
If a shower tray with a vertical verge is installed, a bench or handrail is missing, the shower should be considered not adjusted.
A flat-level shower tray for people in wheelchairs,140 x 140 cm if without a seat, 90 x 90 cm if with a seat, wheelchair space 90 x 130 cm, maximum step 2 cm high, for people with crutches, a shower tray 90 x 90 cm. According to the guidelines by the State Fund for the Rehabilitation of the Disabled.

COMMENTS:

BUILDING FLOORS

Individual floors should be assessed.

0 - floor not accessible
1 - floor accessible by a stair-lift or a vertical lift
2 - floor accessible by elevator that may be used by a person in a wheelchair but does not meet all the accessibility criteria
3 - floor accessible by elevator which meets all the accessibility criteria

COMMENTS:

1. Stairs

It is necessary to assess the possibility of using the stairs by senior persons, and of their adjustment for the needs of people with disabilities; thus, the number of steps should not be too large.
All steps in the stair flight should have the same parameters.
In healthcare facility buildings, and in collective housing buildings intended for senior persons or people with disabilities, stair steps with projecting nosing may not be used.
Handrails
0 - no handrails
1 - one-sided railing
2 - double-sided railing or at max. 4 m
3 - double-sided handrail or at max. 4 m, at two heights: 90 and 75cm, starting from the front of step.
Double-sided railing may be placed on one side of the stair flight only.
Step edge markings
0 – no
1 – yes
Markings before the stair flight
0 - no markings
1 - visual markings
2 - texture markings
3 - visual and texture markings
Anti-slip material
0 - slippery material
1 - anti-slip material (the properties of the material should be assessed subjectively, taking into account e.g. conditions when it is raining)

COMMENTS:

2. Elevators

All users of the facility should be able to reach the elevators.

If there is a separate elevator assigned to people with disabilities, the assessment should consider whether it is not a cargo elevator.
0 - no accessible elevators
1 – accessible cargo elevator
2 - accessible elevator for people
3 - all elevators accessible
Wheelchair moving space in front of the elevator
0 - less than 160 cm
1 - 160 cm or more
The difference between the floors outside and inside the elevator
0 - over 2 cm
1 - up to 2 cm
The size of the elevator cabin
0 - cabin too small to be used by a person in a wheelchair
1 - cabin smaller than 1.1 x1.4 m but enabling use by a person in a wheelchair
2 - cabin with dimensions of at least 1.1 mx1.4 m
Height of control panels
0 - panels at a height over 80-120 cm above the floor level
1 - panels at a height of 80-120 above the floor level
Convex and/ or Braille symbols on the control panel inside the elevator
0 – no
1 – yes
Handrails
0 - no handrails or handrails at a height other than 90 cm
1 - handrail at a height of 90 cm on one side
2 - handrails at a height of 90 cm on two sides
3 - handrails at a height of 90 cm on all sides
Mirror
0 - no mirror on the wall opposite the entrance or a mirror at a level of over 100 cm above the floor
1 - mirror on the wall opposite the entrance at a level of max. 100 cm above the floor
Visual, sound and voice information systems
0 - no information
1 - visual / sound information
2 - visual and sound information
3 - visual and voice information

COMMENTS:

3. Doors on floors

Door width min. 90 cm

0 - doors less than 90 cm wide
1 - door to the main spaces min. 90 cm wide
2 - doors to the main spaces less than 90 cm wide
3 - all doors at least 90 cm wide
accessibility for people with disabilities.
Door height min. 200 cm
0 - doors less than 200 cm high
1 - doors the main spaces min. 200 cm high
2 - doors the main spaces less than 200 cm high
3 - all doors at least 200 cm high
Doorsteps
0 - doors with doorsteps
1 - doors to the main spaces without doorsteps
2 - doors to the main spaces without doorsteps
3 - all doors without doorsteps
Contrast between doors and walls
0 – none
1 – low
2 – high
Handle at a height of 90-120 cm
0 – no
1 - in the doors to main spaces only
2 - in the doors to most spaces
3 - in all doors
Visual markings on transparent doors
0 – no
1 – yes
Door is easy to open
The ease of opening the door and the space for wheelchair moving in front of the door should be assessed.
0 - the door opens too heavily, wheelchair moving space is not enough
1 - the door opens too heavily, wheelchair moving space is sufficient
2 - the door opens lightly, wheelchair moving space is not sufficient
3 - the door opens sufficient, wheelchair moving space is sufficient

COMMENTS:

CORRIDORS

Minimum width 120 cm

0 – no
1 - only main passageways
2 - most of the passageways
3 - all passageways
Floor level changes on one building floor
0 – present, and preventing access to most areas of the building
1 - present, and preventing access to main areas of the building
2 - present, and preventing access to less important areas of the building
3 - no or there are ramps for moving between them
Floor area
Wheelchair moving space with dimensions of 150 cm x 150 cm
To be assessed for with passageways less than 150 cm wide
Passageway height - min. 220 cm
0 – no
1 – yes
No equipment items within the passageways
Places for resting
It should be assessed whether the building has seats for resting.

COMMENTS:

1. Doors inside corridors, leading to main rooms (common rooms, correctional officer rooms)

Door width min. 90 cm
0 - doors less than 90 cm wide
1 - door to the main spaces min. 90 cm wide
2 - doors to the main spaces less than 90 cm wide
3 - all doors at least 90 cm wide
accessibility for people with disabilities.
Door height min. 200 cm
0 - doors less than 200 cm high
1 - doors the main spaces min. 200 cm high
2 - doors the main spaces less than 200 cm high
3 - all doors at least 200 cm high
Doorsteps
0 - doors with doorsteps
1 - doors to the main spaces without doorsteps
2 - doors to the main spaces without doorsteps
3 - all doors without doorsteps
Contrast between doors and walls
0 – none
1 – low

2 – high
Handle at a height of 90-120 cm
0 – no
1 - in the doors to main spaces only
2 - in the doors to most spaces
3 - in all doors
Visual markings on transparent doors
0 – no
1 – yes
Door is easy to open
The ease of opening the door and the space for wheelchair moving in front of the door should be assessed.
0 - the door opens too heavily, wheelchair moving space is not enough
1 - the door opens too heavily, wheelchair moving space is sufficient
2 - the door opens lightly, wheelchair moving space is not sufficient
3 - the door opens sufficient, wheelchair moving space is sufficient

COMMENTS:

2. Telephones, vending machines and letterboxes

Accessibility
0 – none accessible
1 - 1 accessible in the building
2 - accessible in most places where people with disabilities are present
3 - accessible in all places where people with disabilities are present
Installation place
It should be assessed whether ATMs, telephones, intercoms and vending machines have been installed at a place accessible for all users. AS regards ATMs, telephones and vending machines, there may be separate machines at places designed specifically for people with disabilities. The highest-placed button should not at least at 120 cm. Access over 90 cm.
Voice information
0 – no
1 – yes
Buttons
0 – buttons not possible to be used by people with vision impairment or manual problems
1 - buttons possible to be used by people with vision impairment or manual problems

Letterbox height (above the floor level):

COMMENTS:

3. Visual and tactile information

Information boards
It should be assessed if it is reasonable to use such boards in the building
0 – none
1 - visual only
2 - visual and tactile
Room markings
It should be assessed if it is reasonable to use such markings in the building
0 – none
1 - visual only
2 - visual and tactile
Tactile paths
0 – no
1 – yes
Touch maps
0 – no
1 – yes
Other above-standard solutions
0 – no
1 – yes

COMMENTS:

VISITING ROOM (as in "Accessibility planning" and other points herein)

1. Access

Building floor (number)

Entrance door (width)

Possible amenities (ramp, elevator, etc.)

2. Wheelchair moving and furniture in the main room

The number of tables available for people with disabilities should correspond to the number of such places in the cells.
Tables accessible for people with disabilities should be minimum 120 cm wide
In places for change of direction or turning, there should be a space with a diameter of 150 cm.
Tables - the height of the table top should be between 67 and 80 cm. *(according to "Accessibility planning": table top - 75 cm; space under the top approx. 70 cm high and 75 cm wide); table legs straight legs not to*

take space.

3. Wheelchair moving space, doors and furniture in other rooms

4. Reception, information, windows, cash desks, etc.

Reception accessibility
The possibility of getting to the reception (information desk, etc.) for all users (also with vision impairment), as well as and the ease of finding it should be assessed.
Reception desk
It should be assessed whether the table top is no more than 90cm above the floor level, along at least 90cm.
0 – no
1 – yes
Lighting
The reception lighting should be assessed, taking into account, inter alia, the possibility of lip reading.

COMMENTS:

5. Toilets for visitors and prisoners visited

Toilet accessibility
0 - no toilets for people with disabilities
1 - one toilet for people with disabilities
2 - all toilets within the visiting rooms adjusted for people with disabilities

Entrance door
The width of the door, the possibility to open it to at least 90 degrees, the wheelchair moving space in front of and behind the door and other possible obstacles should be assessed.

Wheelchair moving space in the toilet
0 - the space in the toilet does not enable wheelchair moving
1 - wheelchair moving space with a diameter of 140-150 cm
2 - wheelchair moving space with a diameter of 150 cm or more

Accessibility of toilet bowls
It is necessary to assess the possibility to get to the toilet bowl in a wheelchair and to transfer from it to the toilet bowl (from the front, from side, diagonally); a movable handrail

0 - no access to the toilet bowl and no possibility to transfer from a wheelchair to the bowl
(min. 90 cm. free space between the edge of the bowl and the wall or another piece of equipment according to "Accessibility planning ")

1 - access and possibility to transfer to the toilet bowl from a wheelchair from one side
3 - access and possibility to transfer to the toilet bowl from a wheelchair from two sides
4 - access and possibility to transfer to the toilet bowl from a wheelchair from three sides

Toilet bowl
It should be assessed whether the toilet bowl is suitable for use by persons with disabilities and whether its height is appropriate 45-50 cm.
(42-45 according to "Accessibility planning")
0 – no
1 – yes

Handrails
Handrails near the toilet should be installed 40 cm from the centre of the bowl to the centre of the handrail, at a height of 70 - 85 cm measured to the highest point of the handrail. It is also useful to install handrails on both sides of the wash basin.
0 – no handrails or improperly placed
1 – properly placed

Wash basin accessibility
Wash basin accessibility by a wheelchair should be assessed.

Wash basin
It should be assessed whether a suitable wash basin has been used and its upper edge is at 85 cm and its lower edge is at min. 70 cm and whether it is possible to approach the wash basin in a wheelchair. The tap should not be operated with revolving valves. It is correct to use a tap with an extended lever or activated by a photocell.
0 – appropriate wash basin
1 – not appropriate wash basin

Lower edge of the mirror next to the wash basin at a level no higher than 100 cm above the floor level (according to "Accessibility planning").

Accessibility of other equipment (paper, soap, hand dryers, etc.)
The possibility of using the soap dispenser, towels, hand dryer from next to the wash basin, of using toilet paper, and other items should be assessed. Also, the height and the method of mirror installation.
Light switches, power sockets near the wash basin, hangers, soap dispensers, towel dispensers - at a height of 80-120 cm according to "Accessibility planning".

Above-standard solutions
It should be assessed whether any above-standard solutions are used in the bathroom, e.g. an emergency call button (cable), emergency phone, etc. The quality of the solutions used should be assessed.

0 - no above-standard solutions found or they are incorrect
1 - above standard solutions used correctly

COMMENTS:

CHAPEL (as in "Accessibility planning" and other points herein)

1. Access route

Building floor (number)

Entrance door (width)

Possible amenities (ramp, elevator, etc.)

2. A place for a wheelchair (90-120 cm.)
3. Access to the altar (150 cm wide)

DOCTOR'S OFFICE (as in "Accessibility planning" and other points herein)

1. Access route

Building floor (number)

Entrance door (width)

Possible amenities (ramp, elevator, etc.)

2. Visit system (prisoner taken to doctor's office by an accompanying officer)

3. Physical rehabilitation
a) Waiting time and most frequently use health care facility
b) Possibilities of physical rehabilitation in prison / remand facility

ROOM FOR ILL PRISONERS (minimum 2 rooms in establishments for over 230 people)

1 Door to the room

Door width min. 90 cm
0 - doors less than 90 cm wide
1 - door to the main spaces min. 90 cm wide
2 - doors to the main spaces less than 90 cm wide
3 - all doors at least 90 cm wide
accessibility for people with disabilities.
Door height min. 200 cm
0 - doors less than 200 cm high
1 - doors the main spaces min. 200 cm high
2 - doors the main spaces less than 200 cm high
3 - all doors at least 200 cm high
Doorsteps
0 - doors with doorsteps
1 - doors to the main spaces without doorsteps
2 - doors to the main spaces without doorsteps
3 - all doors without doorsteps
Contrast between doors and walls
0 – none
1 – low
2 – high
Handle at a height of 90-120 cm
0 – no
1 - in the doors to main spaces only
2 - in the doors to most spaces
3 - in all doors
Visual markings on transparent doors
0 – no
1 – yes
Door is easy to open
The ease of opening the door and the space for wheelchair moving in front of the door should be assessed.
0 - the door opens too heavily, wheelchair moving space is not enough
1 - the door opens too heavily, wheelchair moving space is sufficient
2 - the door opens lightly, wheelchair moving space is not sufficient
3 - the door opens sufficient, wheelchair moving space is sufficient

COMMENTS:

2. Furniture

b)Beds

Presence of a hospital bed, bedside cabinet and stool.

It should be assessed whether the wheelchair moving space by the bed is sufficient.

It should be assessed whether the mattress height is 45 - 55 cm.

COMMENTS:

b) Tables

The access to the table, and the possibility of using the table by persons with various disabilities should be assessed. Not all tables need to be accessible to everyone. It should be assessed whether the number of tables that are accessible is sufficient.
The height of the table top should be between 67 and 80 cm. The space for legs of a person sitting in a wheelchair should be min. 30 cm.

COMMENTS:

c) Cabinets, shelves etc.

Accessibility of storage spaces
The possibility of wheelchair access to storage spaces should be assessed.
Height of storage surfaces
0 - most surfaces placed higher than 135 cm above the floor level
1 - some storage surfaces placed more than 135 cm above the floor level; no possibility to reorganize the space.
2 - some storage surfaces placed more than 135 cm above the floor level but there is the possibility to reorganize the space
3 - storage space organized correctly, only elements that are less important for users are more than 135 cm above the floor level

COMMENTS:

d) Windows

windows can be opened by people in wheelchairs, and short people e.g. children
0 – no
1 – yes
Door handle max 1.2 m above the floor level according to "Accessibility planning" by Kamil Kowalski.

COMMENTS:

e) Electrical and lighting installations

Installation of light switches and emergency call buttons: 90-120 cm
(80-120 cm, according to "Accessibility planning" by Kamil Kowalski)
0 - all or most not at this height
1 – the standard is met in the main spaces
2 - the standard is met in most spaces
3 - the standard is met in all spaces

Electrical sockets level
It should be assessed whether the place of installation of the sockets makes it possible to use them for all users, e.g. whether at desks, sockets are located above the desk top level.

COMMENTS:

Access to the walking area, etc.

3. Toilet in the room for ill persons

Entrance
The width of the door, the possibility to open it to at least 90 degrees, the wheelchair moving space in front of and behind the door and other possible obstacles should be assessed.

Wheelchair moving space in the toilet
0 - the space in the toilet does not enable wheelchair moving
1 - wheelchair moving space with a diameter of 140-150 cm
2 - wheelchair moving space with a diameter of 150 cm or more

Accessibility of toilet bowls
It is necessary to assess the possibility to get to the toilet bowl in a wheelchair and to transfer from it to the toilet bowl (from the front, from side, diagonally); a movable handrail
0 - no access to the toilet bowl and no possibility to transfer from a wheelchair to the bowl
(min. 90 cm. free space between the edge of the bowl and the wall or another piece of equipment according to "Accessibility planning ")

1 - access and possibility to transfer to the toilet bowl from a wheelchair from one side
3 - access and possibility to transfer to the toilet bowl from a wheelchair from two sides
4 - access and possibility to transfer to the toilet bowl from a wheelchair from three sides

Toilet bowl

It should be assessed whether the toilet bowl is suitable for use by persons with disabilities and whether its height is appropriate 45-50 cm.

(42-45 according to "Accessibility planning")

0 – no

1 – yes

Handrails

Handrails near the toilet should be installed 40 cm from the centre of the bowl to the centre of the handrail, at a height of 70 - 85 cm measured to the highest point of the handrail. It is also useful to install handrails on both sides of the wash basin.

0 – no handrails or improperly placed

1 – properly placed

Wash basin accessibility

Wash basin accessibility by a wheelchair should be assessed.

Wash basin

It should be assessed whether a suitable wash basin has been used and its upper edge is at 85 cm and its lower edge is at min. 70 cm and whether it is possible to approach the wash basin in a wheelchair. The tap should not be operated with revolving valves. It is correct to use a tap with an extended lever or activated by a photocell.

0 – appropriate wash basin

1 – not appropriate wash basin

Lower edge of the mirror next to the wash basin at a level no higher than 100 cm above the floor level (according to "Accessibility planning").

Accessibility of other equipment (paper, soap, hand dryers, etc.)

The possibility of using the soap dispenser, towels, hand dryer from next to the wash basin, of using toilet paper, and other items should be assessed. Also, the height and the method of mirror installation.

Light switches, power sockets near the wash basin, hangers, soap dispensers, towel dispensers - at a height of 80-120 cm according to "Accessibility planning".

Above-standard solutions

It should be assessed whether any above-standard solutions are used in the bathroom, e.g. an emergency call button (cable), emergency phone, etc. The quality of the solutions used should be assessed.

0 - no above-standard solutions found or they are incorrect

1 - above standard solutions used correctly

Shower (optional)

It should be assessed whether the wheelchair moving space in the shower is sufficient.

It should be assessed whether the shower tray is flat, has no obstacles, whether there are handrails, a special

bench for people with disabilities, and whether the tap and shower head are placed correctly.
If a high paddling pool is used, a bench or handrail is missing, the shower should be considered unsuitable.
A flat-level shower tray for people in wheelchairs,140 x 140 cm if without a seat, 90 x 90 cm if with a seat, wheelchair space 90 x 130 cm, maximum step 2 cm high, for people with crutches, a shower tray 90 x 90 cm. According to the guidelines by the State Fund for the Rehabilitation of the Disabled.

COMMENTS:

BATHROOM

Is there a shower for people with disabilities. What are the adjustments/ dimensions?

It should be assessed whether the wheelchair moving space in the shower is sufficient.

It should be assessed whether the shower tray is flat, has no obstacles, whether there are handrails, a special bench for people with disabilities, and whether the tap and shower head are placed correctly.
If a shower tray with a vertical verge is installed, a bench or handrail is missing, the shower should be considered not adjusted.
.

Are the showers separated from each other in a way that ensures intimacy.

COMMENTS:

OUTDOOR WALKING AREA
(based on "Accessibility planning")

A pedestrian path minimum 150 cm wide (with narrower sections up to 90 cm wide, and max. 150 cm. long)

No curbs or stairs within the paths, starting from the building exit.

Gates along the pedestrian path with no steps, and at least 90 cm wide.

Within the walking area, places with dimensions min. 90 x 120 cm where a wheelchair can be safely stopped (next to the pedestrian path), preferably next to benches

Hearing impaired people

Presence of induction loops
0 – no
1 – yes
Access to a Polish Sign Language interpreter
0 – no
1 – yes
Other above-standard solutions
0 - no
1 - yes

COMMENTS:

Emergency alert system for deaf people

Its visibility should be assessed in different rooms of the building.
0 - no visual system
1 - visual system in some rooms
2 - visual system in all rooms, full visibility not ensured
3 - visual system in all rooms, full visibility ensured

COMMENTS:

Above-standard solutions increasing the accessibility of the establishment

Specify the number and type of above-standard solutions not indicated earlier in the questionnaire

COMMENTS: