

Migration Is Not a Crime.

Report on the Monitoring of Guarded Centres for Foreigners



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1. INTRODUCTION

On 16-22 October 2012, a protest took place with the participation of more than 70 foreigners in four out of six guarded centres for foreigners in Biała Podlaska, Białystok, Lesznowola and Przemyśl in Poland. This was unprecedented in Poland. Never has it happened that so many foreigners in guarded centres would protest together at the same time. Mostly, the foreigners did not demand that their detention was abolished but above all they contested the conditions in which they were accommodated. They also questioned the relations between them and Border Guard officers responsible for safety in the centres. The demands corresponded to a large degree with earlier recommendations of non-governmental organisations indicated in reports drawn up as a result of the monitoring of such centres¹. Neither the authorities nor the public, including media, had raised any concerns about them before and consequently not much changed when it comes to the functioning of centres for foreigners in the last years.

This year's protest of foreigners gained a lot of interest from media and contributed to many press releases being published. Apart from journalists' comments, two letters of detained women appeared in *Gazeta Wyborcza* [a Polish daily]. They pointed out many irregularities that occurred during they stay in those centres.

In relation to the protest, the Ministry of the Interior ordered five guarded centres for foreigners to be inspected. That order did not include Kętrzyn where a thorough inspection was performed in the spring this year. The monitoring of non-governmental organisations also included this centre as it aimed at comparing conditions in all facilities. Thus, the conditions in all guarded centres for foreigners were examined in a short period of time. However, detention centres for the purpose of deportation (maximum security facilities) located in principle in guarded centres for foreigners were neither inspected nor monitored. The inspection was performed by the Department of Control, Complaints and Petitions of the Ministry of the Interior and the Border Guard Headquarters. Two non-governmental organisations – the Helsinki Foundation for Human Rights and the Association for Legal Intervention² were invited to carry out the monitoring simultaneously. The simultaneous activities of representatives of public authorities and non-governmental organisations aimed at examining the operations of guarded centres and verifying allegations made by foreigners were unprecedented. The assumption adopted from the very beginning – the prerequisite for taking up such activities by an organisation – was full independence of the non-governmental organisation's members, guaranteeing them access to all materials they might deem necessary in order to comprehensively explain the problems underlying the inspection (excluding confidential documents) as well as the ability to draw up a separate and independent report to be made public on the basis of visits.

The inspection process was arranged very quickly and due to the lack of earlier experiences related to joint monitoring activities, many formal issues were not agreed or clarified. Moreover, some problems that arose during visits were not anticipated. As a result, actual verification of the role of the Foundation and Association's representatives was performed only during the visits. It turned out that representatives of public authorities and the employees of non-governmental organisations did not, in practice, constitute a joint inspection team, but were, in a manner of speaking, two separate bodies that merely conducted their activities in one place at the same time – however, the activities were based on a different methodology and different materials.

¹ D. Cegiełka, A. Chrzanowska, W. Klaus, K. Wencel, *Observance of foreigners' rights in guarded centres*, [in:] A. Chrzanowska, W. Klaus (red.), *Beyond the System. Access of Undocumented Migrants and Asylum Seekers in Poland to Health Care*, Warsaw 2011, p. 197 ff.; A. Gorlach, M. Pryczyńska, K. Przybysławska (ed.), *Detention of Migrant Children in Poland. Report on Implementation of International and Domestic Standards Concerning Detention of Migrant Children*, Cracow 2011; *Report on Detention of Asylum Seekers and Illegally Staying Third Country Nationals in Poland*, Caritas, Warszawa 2007.

² More on this subject:

http://www.msw.gov.pl/portal/pl/2/10359/Kontrola_w_osrodkach_strzezonych_dla_cudzoziemcow.html and
http://www.msw.gov.pl/portal/pl/2/10367/Trwaja_kontrola_w_osrodkach_strzezonych_dla_cudzoziemcow.html.

The role of the organisations' employees during those activities was not clear – either for the controlling team of the Ministry of the Interior or for the management of individual guarded centres – especially within the scope of making documents related to foreigners and other internal documents of the Border Guard available. As a result, the employees of non-governmental organisations were provided access to different types of documentation to be inspected in different centres (all documents requested in some centres and hardly any in others). It was a paradox that during the inspection the employees of non-governmental organisations had less access to migrants' documents than during their former monitoring activities run based on a consent of the Border Guard Commander in Chief. In consequence, the employees of non-governmental organisations were not able to verify all allegations made in relation to the situation in guarded centres completely.

1.1. Methodology of conducting activities

As referred to above, the monitoring activities were conducted by lawyers from the Helsinki Foundation for Human Rights and the Association for Legal Intervention simultaneously to the controlling activities of the Ministry of the Interior. The guarded centres were monitored on the following days: 5-8 November in Przemyśl; 9 and 12 November in Lesznowola; 13-14 November in Białystok; 15-16 November in Biała Podlaska; 19-22 November in Krosno Odrzańskie; 26-27 November in Kętrzyn. Two lawyers participated in each visit: one lawyer per each organisation. In total, the monitoring activities were performed by: Jacek Białas (Helsinki Foundation for Human Rights), Dawid Cegiełka (Association for Legal Intervention), Marta Górczyńska (Helsinki Foundation for Human Rights), Witold Klaus (Association for Legal Intervention), Karolina Rusiłowicz (Helsinki Foundation for Human Rights), Katarzyna Słubik (Association for Legal Intervention), Maja Tobiasz (Helsinki Foundation for Human Rights).

The non-governmental organisations conducted the monitoring activities in conformity with one common methodology, so that activities and practices of different centres could be compared. They developed a survey including a detailed list of issues to be inspected in every facility. The issues constitute a framework for this report. There were the following activities undertaken in each centre in order to collect necessary data:

- Interviews with the management of a guarded centre – the head or head's deputies;
- Interviews with foreigners staying in the facility;
- Interviews with other Border Guard officers or employees, e.g. a psychologist, a doctor, educational team members, a nurse – as necessary and possible;
- Verification of documentation related to measures of direct coercion or penalties for violating rules and regulations (if such events occurred) applied to foreigners in 2012;
- Verification of internal rules and regulations in the facilities.

In addition, a survey including statistical data was developed. Managements of individual centres were requested to fill in the survey.

The non-governmental organisations' employees as a rule did not ask for access to medical documentation, since they assumed that they would not be able, as lawyers, to verify the correctness of the documents or the purposefulness of certain actions having been taken or omitted by doctors with regard to foreigners. This report presents conclusions drawn from non-governmental organisations' findings made with the use of the above mentioned methodology. The report consists of the following sections:

- Statistical data concerning the number of detainees in the centres and the length of their detention;

- Look of the centres as well as the conditions in which foreigners are detained, their alimentation and leisure time;
- Observing foreigners' right to information and contact with the world outside the centre;
- Foreigners' access to medical and psychological care in the centres;
- Actions taken in order to keep foreigners safe as well as relations between them and officers;
- Situation of children detained in the centres and access to education.

A particular attention was paid to the guarded centre in Przemyśl due to non-governmental organisations' experience with that centre gained during as well as directly before and after monitoring. According to the non-governmental organisations, this description is relevant as it presents certain principles governing the functioning of this facility which stands out among other facilities.

The report ends with recommendations regarding changes in the functioning of guarded centres in Poland that need to be introduced so that the rights of detainees are secured more fully. The changes should be introduced in various areas and on different levels –starting from system changes that require regulatory intervention to perhaps minor but significant organisational changes that depend on the goodwill of the decision-makers and on redefining the role and conduct of officers working in the centres. The changes do not require extensive preparations or expenditures.

1.2 Statistical information

A survey with questions about statistical data for 2012 was sent to all guarded centres on 2 November by electronic mail through the Ministry of the Interior. The centres were requested to send the survey back on 14 November. The surveys from 5 centres were sent back on 18 November and the last centre sent it back on 20 November. Therefore, it was assumed that, unless indicated otherwise, the data included in the survey were up-to-date as at mid November³.

The survey included, among other things, questions related to the following:

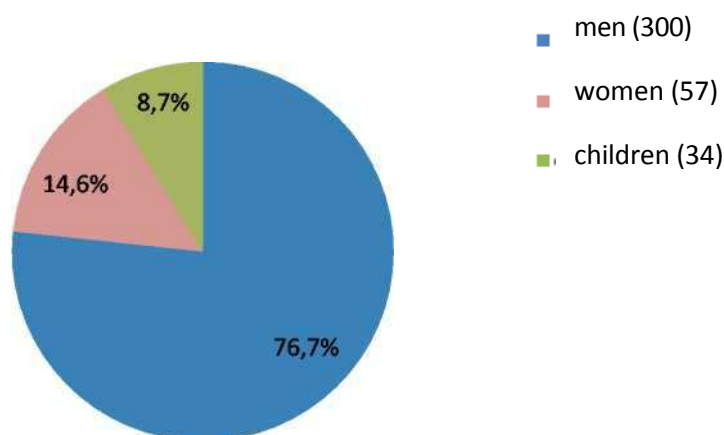
- The number of foreigners detained in each centre in a given time broken down by gender and including under-aged children detained together with their caretakers or without them;
- The number of foreigners applying for refugee status broken down by those who submitted their application before detention and those who did so after being put into a guarded centre;
- The countries of origin of detainees;
- The minimum, maximum and average detention time of a foreigner in a guarded centre in 2012.

1.2.1. Number of foreigners detained in guarded centres

It results from the information gained through surveys that the total of 391 foreigners, including 300 men, 57 women and 34 children (including three under-aged children without caretakers), were detained in mid November in all guarded centres in Poland.

³ Krosno Odrzańskie – as of 6.11, Biała Podlaska – as of 7.11, Przemyśl – as of 13.11.

Diagram 1. Population of women, men and children in all 6 guarded centres

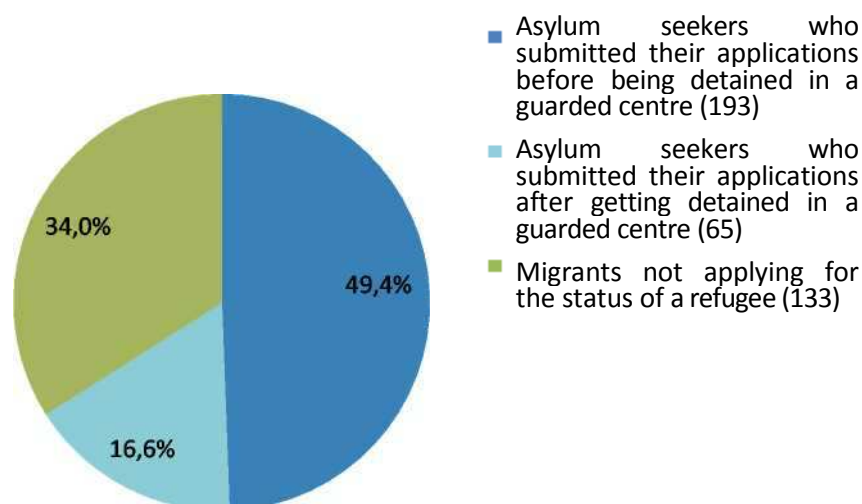


The most people were detained in Biała Podlaska (97), Przemyśl (86) and Białystok (82), the least were detained in Lesznowola (17). Białystok is the only facility with only male detainees. There were men and women detained in all other guarded centres. Women tended to be the minority, except for Lesznowola where there were twice as many women as men and Kętrzyn where women made up a little more than 20% detainees. At the same time, there were 34 children detained in four guarded centres: Kętrzyn (20, including 3 without a caretaker), Przemyśl (7), Lesznowola (4) and Biała Podlaska (3). In Kętrzyn and Lesznowola, children constituted about 25% of all detainees.

1.2.2. Legal status of foreigners detained in guarded centres

Two out of three foreigners detained in guarded centres (258 people) are international asylum seekers. 75% of them had applied for the status of refugees before they were detained in a guarded centre. Every fourth of detainees did so after they had been put into a guarded centre. 1/3 of foreigners detained in guarded centres are migrants with a non-regulated residency status (133 people).

Diagram 2. Detainees of all guarded centres broken down by their legal status



Persons who applied for refugee status constituted more than a half of all foreigners detained in each centre. The largest differentiation in terms of the legal status of foreigners was in Przemyśl, Krosno Odrańskie and Biała Podlaska where nearly 60% people applied for refugee status and detention of more than 40% of foreigners was not regulated. The smallest differentiation occurred in Lesznowola where international asylum seekers made up nearly 90% of all residents.

1.2.3. Countries of origin of foreigners detained in guarded centres

Every third foreigner detained in a guarded centres is a citizen of Georgia. They were the most numerous group in four centres – Biała Podlaska, Białystok, Kętrzyn and Przemyśl. Citizens of Russia were the second most numerous group (17%). Citizens of both countries were detained in all six guarded centres (in different proportions). Citizens of Vietnam were the third most numerous group – they constituted 15% of detainees in guarded centres.

4% of all detainees in guarded centres were constituted by citizens of Pakistan (in all centres except for Lesznowola), Syria (8 people in Kętrzyn, 7 people in Lesznowola and 1 person in Przemyśl) and Ukraine (mainly in Przemyśl).

Citizens of Afghanistan (detained mainly in Białystok) and Armenia (Białystok, Biała Podlaska, Kętrzyn) each constituted 3% of all detainees in guarded centres. In addition, there were 8 citizens of both India and Bangladesh, 6 citizens of both Nigeria and Turkey, 5 citizens of Iran, 4 citizens of both China and Iraq as well as 1-3 people from each of the following countries detained in the guarded centres: Belarus, the Democratic Republic of Congo, Egypt, Philippines, Gambia, Ghana, Guinea, Kazakhstan, Cameroon, Kenya, Lebanon, Moldova, Mongolia, Nepal, Uganda, Tanzania, Tunis and 3 people without any citizenship.

Table 1. Foreigners detained in guarded centres by citizenship

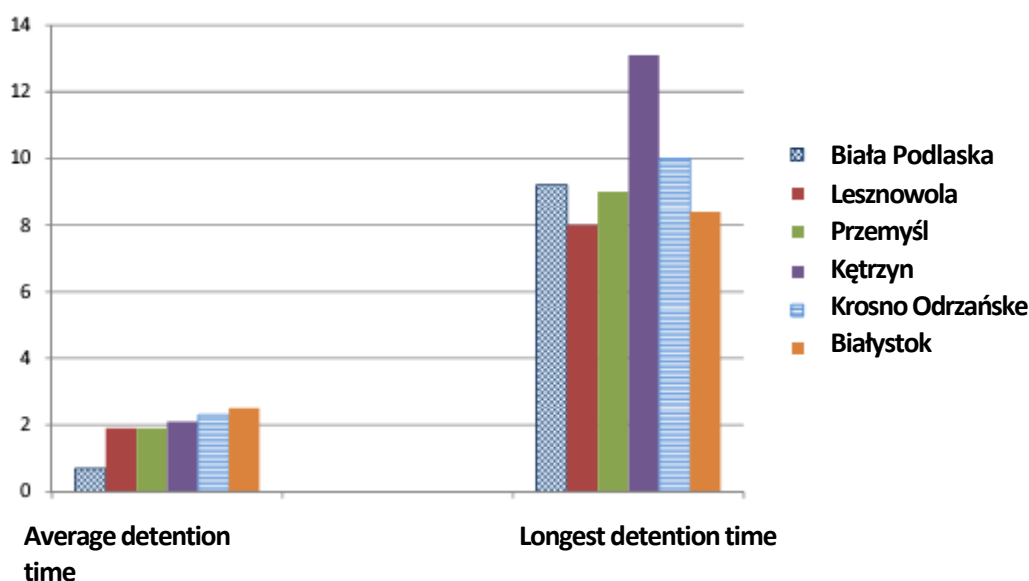
	Przemyśl	Lesznowola	Krosno Odrzańskie	Biała Podlaska	Białystok	Kętrzyn	Total
Georgia	22	3	3	40	38	26	132 (34%)
Russia	15	4	4	16	9	17	65 (17%)
Vietnam	18	0	4	14	14	7	57 (15%)
Pakistan	6	0	2	5	3	1	17 (4%)
Syria	1	7	0	0	0	8	16 (4%)
Ukraine	13	0	2	0	0	0	15 (4%)
Afghanistan	0	0	1	1	8	3	13 (3%)
Armenia	0	0	0	3	5	3	11 (3%)
India	4	0	2	2	0	0	8 (2%)
Bangladesh	0	0	5	2	1	0	8 (2%)
Nigeria	1	1	1	1	1	1	6 (1.5%)
Turkey	1	0	2	1	1	1	6 (1.5%)
Iran	1	1	0	3	0	0	5 (1%)
Iraq	0	0	0	0	0	4	4 (1%)
China	1	0	1	2	0	0	4 (1%)
Other	5	2	8	12	2	8	24 (6%)

1.2.4. Foreigners' detention time in guarded centres

The shortest time of detention of foreigners in guarded centres in 2012 (from beginning of January until mid November) amounted to: 1 day - in Przemyśl and Biała Podlaska, 2 days - in Lesznowola and Krosno Odrzańskie, 13 days - in Kętrzyn and Białystok. On average, foreigners spent almost 2 months (57 days) in guarded centres in 2012. The shortest average detention period was in Biała Podlaska (21 days), and the longest one was in Białystok (76 days).

The longest detention time in a guarded centre in 2012 was over 9.5 months (295 days). The shortest out of the longest detention periods was in Lesznowola - 8 months (244 days), whereas the longest one was in Kętrzyn - more than 13 months (398 days). It results from the information obtained from the Border Guard in Kętrzyn that such a long detention time, exceeding the maximum time of 12 months as provided by law, that a foreigner can spend in a guarded centre was a consequence of the lack of a joint, generally accessible database which would enable the Border Guard to verify how long the foreigner was detained in another facility, particularly if it was a past detention and not a direct transfer from one facility into another. The foreigner who spent more than 13 months in total in detention, was detained in another facility in the past and released from it. Only after some time was the foreigner detained again and put into the centre in Kętrzyn. According to the Border Guard in Kętrzyn, the foreigner was released after that information had been obtained.

Diagram 3. Average and longest detention time of foreigners in guarded centres (in months)



There were three reasons for the prolonged detention time of foreigners in guarded centres:

1. Appeal procedures in the proceedings for granting refugee status, including complaints to the Voivodship Administrative Court in Warsaw and suspending by the court the execution of the decision on deportation as well as multiple submissions of applications for refugee status (reason indicated by all guarded centres);
2. A prolonged procedure for identification of a foreigner or the impossibility to confirm their identity (reason indicated by the guarded centres in Lesznowola, Przemyśl and Białystok);
3. Lack of travel documents and a prolonged procedure for issuing that document by diplomatic missions that on many occasions resulted in no possibility to obtain such a document (reason indicated by the guarded centres in Lesznowola, Kętrzyn and Biała Podlaska).

2. RESULTS OF MONITORING

2.1. Conditions under which foreigners are detained in guarded centres

2.1.1. Overall look of the centres

Four out of six centres were put into operation relatively recently: facilities in Biała Podlaska, Kętrzyn, Przemyśl and Białystok were put into operation after 2008 as part of Poland's adjusting border protection standards to the requirements related to the entry into the Schengen Area. The first three of the above were constructed especially to serve as guarded centres for foreigners. The remaining ones were adapted from already existing buildings. In Przemyśl, there was a centre for 138 foreigners built in modified barracks of the Border Guard. The centre in Kętrzyn was constructed on the area of the building complex of the Border Guard Branch in Warmia and Mazury and designed for approximately 150 detainees. The centre in Biała Podlaska (for 152 people) was constructed on the area of the former military airport. The centre in Białystok was constructed in a building which formerly served as tsar's barracks. The building underwent a comprehensive renovation and is intended for 140 detainees. Those centres for foreigners are well-kept, equipped in sports fields

and playgrounds. The guarded centre building in Lesznowola formerly served as a police detention centre (131 detainees at a time). This is the centre in which the issue of underinvestment seems to be the most significant. The guarded centre in Krosno Odrzańskie is located in a building that formerly served as a detention centre for the purpose of deportation (58 detainees at a time, although the centre is currently able to accommodate less people). As a result, the centre particularly resembles a prison (in terms of its looks).

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

Windows in the rooms for foreigners are secured with bars that often prevent from opening the windows widely. Entries into individual wings of the centres are separated with bars. On that background, the solution applied in Kętrzyn stands out – bars have been installed away from building walls which enables foreigners to have windows wide open in their rooms (and not just open them slightly). The centre in Krosno Odrzańskie also provides detainees with the possibility to open the windows freely. Both Kętrzyn and Przemyśl centres do not, as opposed to other facilities, have bars inside divisions that separate individual wings.

The foreigners are generally put into two wings of the centres: wings for men and families. In some centres, there is an additional wing for women. No women or families with children are currently allowed into the centre in Białystok – therefore there only is a wing for men. However, there is an additional wing for under-aged children without caretakers in Kętrzyn. At the time of the monitoring, there only was one wing functioning in the centre in Lesznowola – it was intended for families and single women. Another wing, for single men, was closed. According to the information provided by the Border Guard officers, the wing is supposed to be renovated and re-opened in 2014.

2.1.2. Divisions for foreigners

Foreigners are accommodated in rooms according to the family criterion, then depending on the nationality (alternatively on the ethnicity), taking into account cultural differences and in compliance with safety principles so that the risk of conflicts between co-occupants are eliminated as efficiently as possible.

There was a separate wing for citizens of Georgia established in the centres in Biała Podlaska and Białystok due to recent strong conflicts between men in their wing. Foreigners have the possibility to apply for transfer into another room or being accommodated together with their families based on an applicable declaration – even in the case of informal relationships that had been formed before the detention. Women and men who are not related with one another can talk during walks, recreational or educational activities (as long as such activities are organised for adults) in all guarded centres, except for centres in Przemyśl and Biała Podlaska.

Foreigners' rooms are open during day and night time. They can only be closed and not locked. Foreigners are free to walk within the designated division. Guards in the centres in Krosno Odrzańskie and Przemyśl enter the rooms a few times during the day and perform controlling activities in order to check the foreigners' conduct. Officers declare that they enter women's rooms only after knocking. However, it results from an interview with one of the detained women in Przemyśl that the Border Guard officers only started knocking after her husband's intervention who could no longer tolerate that the officers often enter the room before his wife, a Muslim woman, is able to cover her head with a headscarf. Knocking at all doors is a standard procedure in Kętrzyn. There also are night checkups. During monitoring activities, foreigners in Przemyśl pointed our attention to the fact that officers look into rooms while they are sleeping, thus disturbing their sleep, whereas the management of the centre claimed that officers look into the rooms at night only when there is noise.

As a rule, each wing is equipped with sanitary rooms, a room for preparing meals. There also often is a separate recreation room and a washing room with drying facilities. In Krosno Odrzańskie, our attention was drawn to low partition walls between showers or even toilets that do not provided even a minimum intimacy. The management of the centre has plans for renovating bathrooms, but they point out that they lack sufficient resources for that purpose.

The rooms are equipped with basic furniture: metal beds, tables and wardrobes. The centre in Krosno Odrzańskie constituted an exception as instead of wardrobes, there are pull-out containers for clothes and personal items under beds. Foreigners detained in Krosno Odrzańskie also have special boards at their disposal in their rooms. The boards are there for them to stick their photographs or personal notes. As a rule, rooms are clean and seem spacious. An exception to that is the guarded centre in Lesznowola where walls in an inspected room were crappy and covered with some inscriptions⁴.

2.1.3. Border Guard officers' attitude towards foreigners

In general, foreigners detained in guarded centres complained about a prison regime and had some remarks about the conduct of officers with whom they had direct contact.

For instance, foreigners in the centre in Białystok claimed that the whistles used to announce an early morning wakeup as well as assembly calls or the daily timetable itself (monotonous and too oppressive) were really uncomfortable for them. According to explanations sent over by the management of the centre, "a whistle is the only means resulting from official experiences to announce efficiently, for example: a wakeup call at 6:00 a.m. or meals related to the daily timetable." The detainees complained about the military-like and prison-like life in the centre. In Przemyśl, they complained that time for watching television was too short due to the strict time limits for the evening bathroom routine that started at 9 p.m.

In principle, foreigners indicated that officers behaved differently towards them: some had a very positive attitude, others did not. That was of significance as much as the scope of foreigners' entitlements sometimes depended on a given shift (e.g. a permission to do sports outside the building in Przemyśl). Foreigners in Białystok complained about cold treatment, short orders, swears. One foreigner said that the only thing he expected was "to be treated as a human being and not a criminalist, to be talked to as a person." Foreigners' expectations often related to a less formal, strict conduct in relation to them, but there also were positive comments about officers in all inspected centres.

There were some opinions according to which officers in Lesznowola and Przemyśl threatened foreigners with deportation in order to enforce obedience. Foreigners also pointed out that officers often did not tell them where they were taking them which evoked anxiety. They only said "Let's go" and the foreigners thought that the officers meant deportation.

According to the information gained from foreigners in the centre in Lesznowola, the Border Guard officers called upon them with the use of their last name or a country of origin (e.g. by exclaiming: Georgia or Iran). A few foreigners said that officers addressed them with their reference numbers assigned to them in the centre – that is a very reliable information because the foreigners in that centre, even those who were detained there relatively shortly, could quote their reference number in Polish even though they could not speak Polish. They also said: („no name here, just numbers").

Foreigners detained in the guarded centres in Kętrzyn and Krosno Odrzańskie assessed the attitude of officers and management towards them particularly well. All of them stated that they were treated well by the Border Guard and there were no conflicts between the Border guard and foreigners. Many people praised the officers' conduct. One of them said: "you can say that we are friends". Another foreigners said that "all requests are fulfilled". The Border Guard address the

⁴ According to the management's declarations, the rooms in the centre were painted in May-June 2012.

foreigners with their names preceded by "Mr/Ms". Detainees pointed out that the heads of those two centres visited the facilities frequently and talked to the foreigners. Everyone can approach the head of the centre and report their concerns.

2.1.4. Access to personal items

Foreigners can keep clothes suitable for the time of the year in their rooms. Because of small size of wardrobes, the remaining part of their clothing is kept in a depository. In addition, foreigners can keep books, games, stationery etc. in their rooms. In the guarded centre in Krosno Odrzańskie, foreigners receive a small radio-receiver (1 per room) from the Border Guard.

Foreigners cannot keep prohibited articles (e.g. alcohol), dangerous items or items that can be deemed dangerous, things that break down easily or such items that could disturb other occupants of the room. It is prohibited to keep cans or bottles in rooms. It is possible to buy products in such containers but the content of bottles, jars or cans is placed onto plates in the presence of foreigners. The containers themselves are disposed of. In the guarded centre in Przemyśl, the concept of a dangerous item also applies to large barrels of water that the foreigners would like to use for the purpose of physical activities.

Money, expensive items (including laptops), valuables, some cosmetics (e.g. deodorants), razors, video and audio recorders must be put into a depository. Access to laptops is regulated in different ways depending on the centre. In Kętrzyn, it is possible to use a computer after a camera has been covered and some drivers have been removed (however foreigners would like to have access to the Internet, too). Laptops are not given to foreigners in Lesznowola, Biała Podlaska, Białystok and Przemyśl. Access to mobile phones was described below, in Point 2.3.1.).

It is worth pointing out that items that cannot be kept in rooms are put not only in a depository but also in an on-duty office where it is easier and quicker to get access to them. Both the Border Guard and foreigners often indicated that mobile phones or cosmetics are kept by the Border Guard and it does not pose any problem to get them.

2.1.5. Meals and alimentation

In principle, there are dieticians working in many centres. Foreigners can therefore choose from a number of diets. All centres take into account religious beliefs and as a result there is no pork in the meals served according to the Border Guard. The inspectors' attention was particularly drawn to the fact that religious principles were taken into account when it comes to alimentations and serving meals during Ramadan, especially in Przemyśl.

Meals in guarded centres are prepared in the centre or delivered by a catering company. During inspection activities, many complaints were raised in relation to the quality of meals. Some complaints were relatively mild ("there are sandwiches instead of a warm meal for supper", "too much bread or potatoes in the menu", "too little rice" – depending on the country of origin of foreigners). Other ones were quite serious, for instance in the centre in Krosno Odrzańskie where – as confirmed by the Border Guard officers – meals delivered by a catering company are currently of very poor quality. Foreigners detained in the centre complain that they are hungry, that the food is tasteless and undercooked (that complaint was confirmed during the inspection), that they do not get fresh fruit or vegetables. The centre will substitute the catering company with another one from December 2012.

Some foreigners in Białystok also highlighted the fact that the time between the last meal of a given day (about 5-6 p.m.) and the first meal of the following day (8-9 a.m.) is too long. Foreigners in Lesznowola indicated that it was not possible to receive an additional portion of food during the meal (however, as pointed out by the management of the centre, it is impossible to receive an additional portion due to the form of mass catering and ordering meals from a catering company).

One of the detainees in the guarded centre in Lesznowola pointed out that officers found it a problem if a foreigner refused to come for a meal or took plates or cutlery from the canteen. After a protest that drew attention to the centre, it is not compulsory to come to the canteen for a meal. All foreigners in Przemyśl are obliged to come to every meal and a refusal to eat is treated by the Border Guard as a violation of the centre's rules and regulations (as pointed out by a person in the management of the guarded centre: "this constitutes a breach of law").

Foreigners in the centre in Lesznowola also admitted that they were forbidden to take food from the canteen for later, for themselves or a person who did not come to a meal, and bring them into the divisions. This is astonishing as there is a kitchen with a fridge in the foreigners' rooms and they can keep food there. It was not rare that women wore loose clothes on purpose in order to hide bread underneath so that they could take it from the canteen⁵.

Foreigners can do shopping in every guarded centre – they give a list of items needed to officers who take enough cash from their deposits. It is a rule that shopping is done once a week. It is possible to shop twice a week in Przemyśl and Krosno Odrzańskie. Foreigners complain that it is not always that they receive all ordered products (Kętrzyn) or that they do not receive a copy of a receipt (Krosno Odrzańskie).

2.1.6. Free time

One of the basic problems of foreigners detained in the centres, which is possible to solve within the meaning of currently applicable provisions of law, is boredom. Due to lack of interesting activities in the centre, foreigners often sleep until dinner (unless they are obliged to come to breakfast) and then they watch TV or go to sleep again. The medical personnel in the centres also pointed out the issue of no activities – in their opinion, a visit at a doctor's office is an enrichment of the daily routine for foreigners who do not have any interesting alternatives.

In their free time, foreigners can visit libraries where educational team members collect games and books in different languages. It is characteristic that even though there are large collections of books in Russian or English in the centres, they only offer one or two books (sometimes Koran or a dictionary) in other languages (e.g. Vietnamese, Arabic, Farsi etc.). Foreigners in the centre in Kętrzyn also complained that there was no popular literature – crime fiction, romance, detective stories. Detainees in Lesznowola pointed out that there were no magazines whatsoever.

Foreigners in Kętrzyn and Białystok have access to a mini-gym – a training station in Kętrzyn and a small gym with a mattress, a horizontal bar and a ladder in Białystok. The management of the guarded centre in Krosno Odrzańskie also has plans to purchase strength training equipment. Moreover, foreigners can play table tennis (Biała Podlaska, Białystok, Krosno Odrzańskie, Przemyśl, Lesznowola), table football (Krosno Odrzańskie, Lesznowola) or billiard. The ability to use that equipment is, however, limited as there usually is only one unit available per guarded centre.

Detainees of all centres have access to television, also in many languages. TV watching hours are different depending on the facility: there are no time limits in Lesznowola and Kętrzyn, although there are too few receivers available (1 per division – a fact that particularly foreigners in Kętrzyn complained about). It is possible to watch television until 2 a.m. in Krosno Odrzańskie. The TV receiver is switched off already at 9 p.m. in Przemyśl what foreigners are opposed to. They claim that it is only at that time when television channels start to broadcast interesting programmes or films. The management of the facility highlighted that "television can generally be watched only during

⁵ According to the explanations of the management of the centre: "Pursuant to the sanitary procedures applicable in the centre and in compliance with HACCP, meals received and served are restricted by the time for storing, heating up and serving from their production time. The technological process as well as the above mentioned procedures do not allow for storing the meals any longer than that. Due to the responsibility of the centre's administration team for the quality of food served to foreigners, it is not allowed to store meals away from the kitchen. However, it is allowed to take some foodstuffs away from the canteen, such as: sweets, juice boxes, fruit, carton milk, baby instant porridge, small sandwiches for children's lunch, biscuits."

free time, however the time for watching TV can be prolonged at the request of the detainees as long as they comply with the principles of social co-existence."

Most centres (except for Lesznowola) provide foreigners with the opportunity to attend Polish language classes, sometimes coupled with Poland's history or geography. In Kętrzyn, such classes take place every day and are always attended by foreigners willing to learn. Other centres offer such classes on the condition that there are some foreigners willing to participate. According to what the management of the centre declare, there are Russian and English classes offered additionally in Przemyśl.

In compliance with applicable provisions of law, a foreigner is entitled to a 60-minute walk daily. The right to go for a walk is, however, executed differently in the centres subject to monitoring. As long as the weather is nice, foreigners in Krosno Odrzańskie are not really restricted in terms of the possibility to go outside the building, although the "recreational" area is not attractive – it is an empty, rather small green area surrounded with a high wall. There are a few small benches in that area. In Przemyśl, foreigners are offered the possibility to go for a one-hour walk daily. During monitoring activities, foreigners told us often that there is the possibility to go for a walk for half an hour before dinner and half an hour after dinner. They also pointed out that it is possible to stay outside the building for a longer time – the decision as to that belongs to the head of the shift. There is a relatively large recreational area with no trees in Przemyśl with a place to sit and a playground. A walk in the centre in Kętrzyn lasts longer than one hour only in the summer. There is a large, modern and well-equipped playground for children and a sports field in the centre. A walk in Białystok and Biała Podlaska takes place once a day for one hour (foreigners in Biała Podlaska can request that the recreational time is prolonged), whereas a walk in Lesznowola lasts two hours (three hours in the summer).

Foreigners in all centres where the Border guard precisely determined time frames for a walk complained that the walk was too short and that the possibility to prolong it or go outside even if one does not feel well are largely limited. There is no roofing within the area intended for walks that would protect foreigners in case of rain/snow or hot sun in any centre.

In the periods of fine weather, foreigners also have the possibility to do open-air sports: volleyball, basketball and football. In Krosno Odrzańskie, foreigners can play squash and basketball, although it results from interviews with them that the only basketball in the centre has been broken for a long time. The centre in Lesznowola has no recreational offer since there is no recreational field within the facility to do any sports.

2.2. Right to information

2.2.1. Rules and regulations related to accommodation in a detention facility

Foreigners receive rules and regulations of stay immediately after they have been accepted to a given facility. In some centres, foreigners are provided with a copy of rules and regulations which they can keep (Biała Podlaska, Białystok, Lesznowola, Kętrzyn), in others they can only read the rules and regulations (Przemyśl, Krosno Odrzańskie). A foreigner in the centres in Przemyśl and Białystok signs a declaration that they have read the document.

The situation related to the access to the rules and regulations after a foreigner has been accepted to the centre differs. In Przemyśl, the rules and regulations are available in the library, from an employer on duty or the head of the shift. It is also displayed in the centre (e.g. in a recreation room), but only in two languages: English and Russian. In Krosno Odrzańskie, the rules and regulations are available in all languages in the library, and there is the Polish language version displayed in foreigners' rooms. The rules and regulations are available on each floor of the centre in Biała Podlaska. In Białystok, the rules and regulations are not displayed anywhere, the document is only available in the library. According to the Border Guard's declarations in Kętrzyn, the rules and regulations of stay are displayed in each room, but only in the Russian language.

Polish, English and Russian language versions are also available in corridors. In Lesznowola, the rules and regulations are displayed in Polish, Russian and English on the notice board.

It is possible to receive rules and regulations in various languages in individual centres. According to the information received from the Border Guard officers in Przemyśl, the rules and regulations are available in 18 languages, in Krosno Odrzańskie and Lesznowola: in 8 languages, and in Białystok: in 9 languages. A new version of rules and regulations⁶ in Kętrzyn are available in three languages (Polish, Russian, Armenian) – a translation into Georgian is being currently prepared. A former version of rules and regulations in Kętrzyn was translated into 20 languages.

Foreigners are informed of the rules of stay in the centre in another way, too. In Biała Podlaska, an educational team member conducts a talk about rights and obligations of a foreigner. If possible, the talk takes place in the presence of a psychologist. According to the information obtained from the management of the Border Guard in Przemyśl, a "training" in the rights and obligations of foreigners accepted to the centre is conducted. The training is conducted only in the languages that the educational team members can speak, that is: Polish, Russian, English as well as Urdu and Hindi that is spoken by one of the employees.

In addition, officers in Krosno Odrzańskie perform an interview with foreigners accepted to the centre in order to get to know the person – an information chart of a foreigner is filled in. This way the Border Guard are able to obtain the following information: whether the foreigner came to Poland with their family and whether the family know their place of stay, whether they suffer from any illnesses, whether they had applied for refugee status before, whether they were harassed in their country, whether they had already been detained in a guarded centre and whether they would like to go back to their country of origin.

2.2.2. Information on appeals and the possibility of being released from a centre

The rules and regulations of stay do not include any instruction as to the possibility to appeal against the order of a court to hold a foreigner in a centre or prolong their stay in such a facility. Some rules and regulations also lack information about the possibility of being released from a centre (e.g. Kętrzyn). The rules and regulations of stay in the centre in Krosno Odrzańskie contain information that a foreigner has the right to "submit through the hands of the head of the guarded centre applications to the District Court in Krosno Odrzańskie for annulment of the order to place the foreigner in the Guarded Centre for Foreigners in the case that requirements set out in Art. 107 Para. 1 Point 1-3 and 7 of the Polish Act of 13 June 2003 on Foreigners are met." A similar stipulation can be found in the rules and regulations of stay in Przemyśl. Irrespective of the large degree of complicity of the above wording, thus the issue of it being understood by foreigners, it shall be noted that the content of the Act referred to above is not available in the centres. Therefore, the information on the possibility of being released cannot be deemed provided.

The approach of the Border Guard to the issue of explaining foreigners the content of letters that they receive from authorities or courts is different in different centres. In Biała Podlaska, educational team members inform foreigners about the decision that is made in relation to them. In Przemyśl, the Border Guard views that they should not provide foreigners with any information in personal matters as such information is regarded as "legal advice". As the management of the centre in Przemyśl highlighted, a court informs of the possibility to appeal the decision on placing a foreigner in a centre or on prolonging the stay in a given facility in the content of the judgment that is translated into a language understood by the foreigner. It is worth pointing out on this occasion that the order is delivered to the foreigner in the Polish language first, and then translated into a language they understand. Translating such documents can even take a few weeks, particularly in the case of the so-called exotic languages.

⁶ Rules and regulations were amended pursuant to the recommendations of the Ministry of the Interior inspectors. During the inspection in spring this year, the inspector took notice that the Polish language version differs from its translations into other languages in some sections and in consequence they ordered to make all languages versions uniform.

In Lesznowola, an inspection team witnessed as a detained women was given documents from a court. They were drawn up only in Polish. A person giving the documents requested help with translating from the inspecting team.

The Border Guard in Krosno Odrzańskie and Kętrzyn declare, however, that they explain the content of the documents received to foreigners. Foreigners detained in those centres did not report any problems related to translating the documents. The Border Guard in Krosno Odrzańskie highlighted the fact that they sometimes encourage foreigners to contact non-governmental organisations in order to get legal advice in relation to the documentation received.

What is more, a so-called reference meeting takes place every week in Krosno Odrzańskie. At the meeting, foreigners can obtain information from officers that relate to the phase of the proceeding pending in their matter or what steps will be taken next by the Border Guard. Every foreigner in Kętrzyn has a "supervisor" of their matter. It is an officer who is up-to-date with the current legal situation of a given foreigner. According to the declaration of the management of the centre, officers are assigned to matters depending on their languages competencies and workload. Foreigners can ask their "supervisors" any questions.

2.2.3. Information on access to medical and psychological care

Information on the possibility to receive medical and psychological care are provided to foreigners in the rules and regulations of stay (Przemyśl, Krosno Odrzańskie, Kętrzyn, Lesznowola) as well as orally, at the acceptance to the centre and making an appointment at the doctor's (Białystok, Kętrzyn, Krosno Odrzańskie). Such information in Biała Podlaska is provided by an educator. Moreover, information on doctors' service hours is provided in the centre in Kętrzyn. It is displayed on boards in divisions (in English, French and Russian).

2.2.4. Language competencies of officers and employees of the centres

A lot of information is given to foreigners orally, therefore it is very crucial for officers to know foreign languages. In general, one can recognise that knowledge of foreign languages is not a strength of the Border Guard employees. In addition, foreign languages are not a necessary requirement for future officers when they are accepted to work in the centres.

Many officers declare Russian language skills, however only a few have received a particular language certificate. Most of them "studied it at school". Foreigners report difficulties communicating in Russian. Due to certain similarities between Polish and Russian, officers and foreigners often manage to communicate during everyday activities, however more complicated matters make bilateral communication more difficult or even impossible. Contrary to the Border Guard's declarations, foreigners also complain about problems regarding communication in English or more exotic languages in the case that foreigners do not speak neither English nor Russian. Mutual communication is then technically impossible and consists only of gestures.

According to the information obtained from the Border Guard officers in Przemyśl, one of the female officers knows two exotic languages, Hindi and Urdu, and can communicate in Dari and Farsi to a certain degree. Such information was confirmed by foreigners speaking exotic languages. Whereas division's (not centre's) officers in Krosno Odrzańskie can speak Arabic and help interpreting in the centre.

Contrary to foreigners' experiences in Krosno Odrzańskie, communication with the Border Guard in Russian does not pose any problems. English-speaking foreigners reported, however, that most officers only speak Russian. In this respect, the foreigners believe that they constitute a minority and do not feel comfortable, e.g. reporting conflict issues with Georgians or Chechens. There exists a language barrier between them and the Border Guard, while there is no such barrier between Russian-speaking people and officers. Foreigners detained in the facility in Kętrzyn had similar impressions related to the knowledge of English and Russian among the Border Guard officers.

Foreigners in Lesznowola reported that officers only know English and Russian very poorly (some officers know both languages well, others do not speak them at all). The foreigners stressed, however, that an officer speaking English is called when they want to talk to an officer who does not know that language. Female detainees who speak English poorly said that they had difficulties communicating with the centre's officers and other personnel. Foreigners detained in the centres in Białystok and Biała Podlaska did not report extensive problems regarding the possibility to communicate with officers.

2.2.5. Interpretation

If employees and Border Guard officers do not know the language of a given foreigner, interpretation is necessary. In all centres, other detained foreigners who know the language of a given foreigner and one of the languages of the Border Guard come to assistance. For instance, one of the families who only knew Arabic communicated with the personnel of the centre in Lesznowola through another family who could speak both Arabic and English. A combined interpretation, e.g. from an exotic language into English, then from English into Polish (a solution noticed during a reference meeting in Krosno Odrzańskie and as a frequent practice in Białystok), is a situation that happens often.

Some centres (Krosno Odrzańskie, Biała Podlaska) use the help of non-governmental organisations who provide interpretation services (e.g. "Ocalenie" Foundation from Warsaw). It also happens that the Border Guard receive assistance from "friends" who know a given language (Krosno Odrzańskie, Przemyśl, Kętrzyn). In Przemyśl, the Border Guard officers informed us that in the case there is the need to interpret, they turn to a befriended Vietnamese. Foreigners from other Asian countries who speak English indicated that a group of Vietnamese people detained in the centre (there were 19 citizens of Vietnam in the centre during our visit) is not able to communicate with anyone on a daily basis.

There are professional interpreters employed in some centres under contracts of mandate. For example, interpretations in the centre in Kętrzyn are generally done by the same people who act as interpreters during proceedings for granting refugee status before the Office for Foreigners.

Interpreters' assistance may also be necessary during various appointments at a doctor's office, including psychologists. In Białystok, Kętrzyn, Krosno Odrzańskie, Przemyśl and Biała Podlaska, the Border Guard can guarantee interpretation services during those appointments. In Przemyśl, such services are provided either by an officer who speaks a given language or an interpreter employed particularly for that purpose – in the Border Guard's opinion, the division has suitable resources for that purpose and if a doctor finds it necessary to have the appointment interpreted, the interpretation services are provided. The same applies to psychological appointments. In Biała Podlaska, such interpretations are done by employees of non-governmental organisations at the request of the Border Guard. In Krosno Odrzańskie or Lesznowola, officers assist in interpreting doctor's appointments (especially outside the centre) – such assistance does not, however, apply to psychological appointments. According to declarations of foreigners detained in Lesznowola, an interpreter is not present during appointments with a psychologist. In accordance with information provided by the Border Guard officers, appointments in the centre in Kętrzyn are sometimes provided via telephone. This regards exotic languages in particular.

2.3. Foreigners' right to contact with the world outside the centre

2.3.1. Telephone

Foreigners in all centres have the possibility to use generally available telephones installed by a third party service provider. The telephones can be found in the corridors. They can be used without any limitations between 6 a.m. and 10 p.m. This is also possible at night in Lesznowola. In Białystok, Biała Podlaska and Przemyśl, one can use a commonly available telephone at night time with the consent of the head of the centre (e.g. due to time differences between countries). In Krosno Odrzańskie, detainees can answer the telephone 24 hours a day according to the Border Guard officers' declarations. There is, however, a note by the telephone that prohibits telephone calls between 10 p.m. and 6 a.m. Moreover, a time limit of 30 minutes has been introduced in the above mentioned centre at the request of foreigners so that everyone has the possibility to use the telephone.

Officers do not assist foreigners during phone calls and they do not listen to them. The Border Guard do not keep any kind of register of calls' content or interceptions. Telephone conversations take place without any witnesses as far as possible – telephones are located in commonly accessible places.

The cost of calls are calculated in accordance with rates applicable at a given service provider. Neither the Border Guard nor the service provider do calculate any additional fees for using the telephones. In order to make a phone call, a foreigner has to purchase a telephone card from their own resources with the assistance of the Border Guard. It is also possible to answer incoming calls – this is what foreigners do themselves. The website of the guarded centre in Białystok includes the numbers of individual telephones which makes it easier to get in contact with the foreigners.

The Border Guard officers in Białystok and Kętrzyn indicated that the service provider intended to close the telephone network in those centres because they were non-profitable (incoming calls were the majority of all calls). The Border Guard negotiated maintaining the network.

If a foreigners has no money to buy a telephone card, the Border Guard makes it possible to make a call at their expense. In accordance with the information obtained from the management of the centre in Białystok, a foreigner can use a telephone of a team on duty with the consent of the head of the centre on the condition that it is a conversation related to a legal issue or a short talk with a family. A similar situation was found in Biała Podlaska, Kętrzyn, Przemyśl and Krosno Odrzańskie (the two latter centres have introduced time limits of five minutes per call, including calls abroad, however a conversation with a consulate can be prolonged).

There is no uniform policy of the Border Guard in relation to foreigners' own mobile phones. The regulations only provide for a limitation concerning the use of audio and video recorders on the premises of a guarded centre. Therefore, modern mobile phones with such functionalities are kept in the centre's depository.

In Lesznowola, foreigners can order a purchase of telephones without a camera and a voice recorder. According to the management, there were two mobile phones with a call limit purchased for foreigners from the EU resources in December 2012. Undoubtedly, a good practice was adopted in the centre in Kętrzyn: the Border Guard do not deprive foreigners of telephones with forbidden functionalities. Instead, they place special stickers on cameras so that the banned functionalities cannot be used. This was confirmed by foreigners who showed such telephones to the organisations' employees. This is why the Border Guard in Kętrzyn do not require foreigners to spend their money on old generation telephones.

A general rule in each of the visited centres is that foreigners can use their telephones, but there are some limitations in this respect depending on a centre. Officers in Krosno Odrzańskie take private mobile phones into a depository and provide detainees with old phones that belong to the centre (one per room). Foreigners can place their own SIM cards into such phones. In theory, such

telephones are available all day and night. However, due to the fact that those are old devices, they need to be recharged every few hours for a few hours. The phones are recharged in the Border Guard officers' room. In consequence, each foreigner has access to a phone for a few hours per day. Private telephones that include audio and video recording functionalities can be used only in a separate room under supervision.

In Przemyśl, foreigners use their own telephones in their free time (within the following hours: 9:00-12:00, 14:00-17:00, 19:00-21:00). In accordance with the information obtained from the management of the Border Guard, if a foreigner only has a new generation telephone (with a camera and a video recorder) and does not have sufficient resources to purchase a telephone card for card-operated telephones, they can use their own telephones with the consent of the head of the centre and under supervision.

In Białystok, telephones are issued only during free time scheduled in the daily timetable. Foreigners always keep their SIM cards in order to avoid suspicion of the telephone being used by third persons.

Foreigners in Lesznowola, Biała Podlaska, Krosno Odrzańskie and Kętrzyn can use mobile phones 24 hours a day. The use of the phones must be compliant with the rules of social co-existence (in addition to the technical issues referred to), e.g. abiding by the night time – one can make phone calls in a recreation room or another generally available place where such a call will not disturb other foreigners.

2.3.2. Right to written communication

Foreigners have the right to send letters by mail or fax. Similarly to telephones, there have been different solutions adopted in different centres with regard to technical and organisational issues that make it possible to execute that right.

Communication related to legal proceedings of a foreigner is sent by mail at the expense of the Border Guard. This is true of all centres, at least in the case when foreigners cannot afford sending letters themselves. On the other hand, the cost of sending private letters is generally covered by foreigners. Letters are not examined by officers, they can be handed over in a closed envelope (with the exception of Przemyśl where an open envelope is closed by a Border Guard officer).

Foreigners can also use fax. The issue of foreigners sending communication by fax is particularly important, since it influences a foreigner's access to legal assistance. Any limitations of formal, timely or quantitative nature within that scope should therefore be regarded as bad practise.

Sending a fax requires a prior written application to a head of the centre (Białystok, Lesznowola) or an oral request (Biała Podlaska, Przemyśl, Kętrzyn, Krosno Odrzańskie). The former of the solutions referred to above is too formalistic. According to the information obtained from the Border Guard officers in Lesznowola, the time between submitting an application for sending communication by fax and the moment of it actually being sent often depends on the time of awaiting for a translation of the foreigner's application for a fax communication and of the content of the communication if the application was drawn up in an exotic language. One of the foreigners detained in the centre complained about the long time of awaiting for the possibility to send a fax message (even a week).

Fax communication in official matters is free of charge in all centres (in Biała Podlaska only in the case when a foreigner lacks financial resources). Private communication of a reasonable amount is sent by of fax free of charge (Białystok, Kętrzyn, Przemyśl) or in exchange for a fee (Biała Podlaska, Lesznowola, Krosno Odrzańskie).

The rules and regulations of the centre in Przemyśl provide for days intended for fax communication (Monday, Wednesday and Friday), but as the Border Guard state, "the days are not complied with strictly." Officers mentioned that fax communication is sent frequently (on all business days) as a

way of meeting the needs of foreigners. However, foreigners mentioned the three days referred to above.

A good practice is to send letters of foreigners (to non-governmental organisations providing assistance in legal matters) by electronic mail – such a solution has been applied in the centres in Przemyśl, Kętrzyn, Krosno Odrzańskie and Biała Podlaska.

It is worth noting on this occasion that although the Border Guard in Białystok declares that there is the possibility for the foreigners to send communication by fax, a completely different practice has been observed by organisations for a long time now. Foreigners are given the information that they can send communication only by mail which contributes to the fact that letters addressed to lawyers of non-governmental organisations providing legal assistance are often received after the deadline for submitting an appeal or a complaint.

The management of the centre concluded in a letter to the organisation that "in principle, the detained can send communication and use means of communication at their own expense. Currently, Poczta Polska [Polish Post] (...) does not offer services consisting in sending communication by fax. At present, it is not possible to send communication of a few dozen pages to a number of non-governmental organisations by fax at the expense of the guarded centre." Nevertheless, it should be noted that the management of other centres did not consider it a problem to send foreigners' communication to non-governmental organisations by fax free of charge. A good solution is to scan the communication and send it to the organisations by e-mail (a solution applied by some centres).

Foreigners are entitled to receive packages which are x-rayed and checked manually in the presence of foreigners. Prohibited items are deposited, perishable goods are disposed of. Those activities are recorded in a protocol. There are no limitations in relation to the weight of packages or the frequency of receiving them.

2.3.3. Visits and contact with relatives

The right to visitation is provided in each centre. In principle, visits are limited to 60 minutes – except for centres in Kętrzyn and Krosno Odrzańskie, where there are no limitations – and can be attended by the maximum of 2 adults and an unlimited number of children. At the request of a foreigner, the visit can be prolonged. In four centres, visits are possible 7 days a week (Białystok, Kętrzyn, Krosno Odrzańskie, Lesznówola). Other centres allow visitations only on some days.

In Lesznówola, a consent to a visitation must be given by the Border Guard Commander in Chief. In other centres, a consent is given by the head of the centre at a written request after obtaining information according to which there are no objections from the point of view of a detaining unit or authority to a visitation. Time for awaiting the consent is different (from over ten minutes to 14 days). It is not required to submit applications in Biała Podlaska. It is enough that a person who wishes to visit a foreigner reports to the guardroom and gives necessary information. It is a good and worth emphasising practice.

Visitations take place in separate rooms monitored by a camera that does record audio or a glass enabling a Border Guard officer to monitor the visit while not being present during the meeting. There is no room in Lesznówola in which a visitation could be supervised without the presence of a guard in a room and as a result the officer is present in the room during the meeting.

Relatives of a foreigner can participate in visitations or call the telephone booth in the centre. A good practice of the centre in Białystok within that scope is to place a telephone number of the booth on a website. Considering the fact that relatives are informed about a given foreigner being detained by a detention unit (and placing the foreigner in the centre), and in some centres (Krosno Odrzańskie, Kętrzyn i Przemyśl) foreigners are not instructed about the possibility to contact relatives or may not have the financial resources, this is of great significance for contact enhancement.

2.3.4. Contact with non-governmental organisations

Foreigners detained in guarded centres can contact non-governmental organisations by means of telephone or fax. There also are service hours of lawyers of non-governmental organisations in the centres. However, they are not frequent, often less than once a month⁷, and depend on projects under execution. Appointments with lawyers also take place without the participation of Border Guard officers.

A current practice applied by non-governmental organisations is to obtain a consent from the Border Guard Headquarters in order to enter the centre and provide legal assistance or inspect rooms. When the Border Guard Headquarters recognises that there are no objections as to a visit, they hand over the letter to the chief of an appropriate division. Then organisations contact division chiefs or heads of the centres in order to determine details concerning the visit. It has been declared in Krosno Odrzańskie that organisation representatives could come without prior formalities which should be deemed an approach that could contribute to improving access to assistance for foreigners, including legal assistance.

Contact details of non-governmental organisations providing assistance to foreigners are available in the centres (in Lesznowola they are only available in Polish, what is more, some information was out-of-date at the time of monitoring activities⁸; in other centres, the information is available in other languages – mostly also in English and Russian). With regard to the scope of activities of individual organisations, the Border Guard makes available information (posters, leaflets) delivered by the organisations themselves. In the guarded centre in Białystok, clear information in three languages was made available with regard to the possibilities to submit an application for refugee status as well as contact details of authorities dealing with foreigners' matters.

The Bordered Guard do not hinder foreigners' contact with non-governmental organisations representatives. They often even encourage foreigners to do so. However, an unclear situation occurred in the guarded centre in Przemyśl. A day after a monitoring visit, a lawyer of the Helsinki Foundation for Human Rights came to the centre to provide assistance inter alia with the help of an interpreter of the Vietnamese language. The possibility to provide assistance was conditioned upon the lawyer's signing a declaration that the lawyer would assume the responsibility for any consequences of a meeting with a foreigner in a visitation room without witnesses.

Moreover, one of female detainees was refused the possibility to meet with the lawyer during that visit. It was argued that that woman received assistance earlier from another organisation that visited the centre. After the lawyer's intervention, the lawyer was able to talk to the woman but only for 10 minutes due to a time limit on the lawyer's assistance until 5.15 p.m.

2.4. Access to medical and psychological care

Foreigners are provided with medical care in each centre, although access to it differs depending on a centre. There are doctors seeing foreigners from Monday to Friday during various hours in some centres (Biała Podlaska, Białystok i Przemyśl), whereas they are available only on some week days in others (it shall be noted that a lot depends of the size of the centre and the number of detainees). For instance, doctor's office hours in Lesznowola take place twice a week for two hours, whereas it is four times a week for an hour in Krosno Odrzańskie. In the latter centre, foreigners indicated problems related to a restricted access to a doctor, because a doctor is not able to see all foreigners who report such a need within one hour. In turn, there are no designated office hours in Biała Podlaska, where – as declared by a nurse – a doctor is available every day („the doctor comes

⁷ The centre in Białystok, where a lawyer is available more often, and the centre in Biała Podlaska, where lawyers of the Rule of Law Institute from Lublin were available twice a week in the years 2011-2012, constituted exceptions.

⁸ Pursuant to the information obtained from the management of the centre, the data has been corrected.

during day time or in the evening”) which makes it impossible to actually evaluate medical care accessibility in that centre. In addition, there is at least one nurse during day time in each centre.

Doctors working in the centres have different areas of expertise. For example, a female doctor in Przemyśl is in the process of gaining specialist competencies within the scope of family medicine, whereas a male doctor is a surgeon. A male doctor in Białystok is a specialist of internal medicine and allergies and a female doctor's area of expertise are infectious diseases. The only centre where a paediatrician works is the centre in Lesznowola (thus one of four centres where children are detained). A foreigner in that centre pointed out that there was a case of an ill child who was not examined by a doctor and eventually, with a fever of 40°C, was taken to a hospital⁹.

It is not possible to choose a doctor of one's own gender in all centres, a fact that particularly requires to be mentioned due to the cultural diversity of foreigners detained in guarded centres. There are only male doctors who see foreigners in the centres in Kętrzyn and Lesznowola – this may cause problems, especially in the case of Muslim women.

Border Guard officers are present in an examination room during a doctor's appointment in some centres (e.g. in Białystok), although they can leave the room at the request of a doctor. In Przemyśl or Lesznowola, the presence of an officer in an examination room depends on the doctor's decision (safety measure). Examination takes place without the presence of officers in Biała Podlaska and Kętrzyn.

Foreigners generally had relatively many remarks concerning medical care available in a given centre. They mentioned a language barrier, difficulties in managing to get a doctor's appointment (Krosno Odrzańskie). There were many comments about the quality of medical care in several centres. For obvious reasons, the latter circumstance was very difficult to verify.

Foreigners in the centre in Krosno Odrzańskie indicated that they did not receive sufficient information about their physical condition or that a doctor ignored their concerns. Foreigners in the centre in Przemyśl spoke of the medical care in positive terms. They especially complimented a good relation with the female doctor.

2.4.1. Foreign language skills of a medical personnel

When it comes to assessing the medical personnel's knowledge of foreign languages, we can only depend on officers and foreigners' declarations as we had no access to applicable personal documentation and language certifications, if any.

A nurse in Krosno Odrzańskie indicated that doctors spoke Russian and English, however foreigners pointed to an intermediate level of skills related to those languages among the medical personnel. The centre does not benefit from the assistance of external interpreters. If needed, an officer of the Border Guard assists in interpretation. According to officers in Kętrzyn, one doctor speaks Russian fluently, another one can speak English (although foreigners also talked about the necessity of interpretation by officers). In Lesznowola, Russian-speaking foreigners point to language barriers in the contact with doctors despite officers' assurances that doctors spoke Russian. English-speaking foreigners mentioned good communication with a doctor who could speak English.

At a written request to disclose statistical data concerning requests of doctors and psychologists of the centre in Białystok for an interpreter so that a foreigner's examination could take place, the following answer was provided: "in case of difficulties in communicating with a foreigner in a language that the foreigner understands, an interpreter from detained foreigners is guaranteed where possible."

⁹ According to explanations sent over by the head of the centre, „the child was examined, diagnosed and received applicable medication in form of antibiotics. It was a lack of collaboration on the part of the child's parents with regard to abiding by doctor's recommendations that caused a temporary deterioration of the child's health. Therefore, treatment in the Paediatric Ward of the Hospital in Grójec was decided for the good of the patient as agreed by the paediatrician in the centre who was employed in the hospital and could provide permanent care for the patient.”

According to the information of the Border Guard, there were 4 cases of interpretations provided in health care facilities located outside the centre in Biała Podlaska within the period from 1 January to 30 September 2012: a Border Guard officer acted as an interpreter on 3 occasions (Russian language) and on one occasion interpretation was provided by an external interpreter (Persian language - Dari).

The management of the centre in Przemyśl emphasised that the Border Guard division covers costs related to interpreting doctor's appointments. A doctor who deems it necessary shall apply for an interpreter. No information was made available about the number of occasions when interpretation was provided in 2012.

2.4.2. Specialist medical care

Specialist medical care is provided as a rule outside all centres under applicable contracts with local health care institutions. In addition, there is a dentist available in the centre in Kętrzyn. Foreigners undergo other examinations in a local hospital. Two foreigners in Przemyśl are currently transported to a hospital in Warsaw for an antiviral therapy which started before they were detained in the guarded centre.

The issue of choosing a doctor according to their gender differs depending on a centre. For instance, the gender of doctors is not taken into account in Kętrzyn when choosing specialists, although all female detainees declared that they only benefited from the assistance of female gynaecologists. However, the management of the centre in Przemyśl claimed that patients can choose the gender of some specialists.

Foreigners are usually transported by convoy vans. The only exception to this was observed in the centre in Kętrzyn where foreigners are usually taken to examination appointments with passenger cars, unless there is a need to transport a larger group of men or it is required as a safety measure determined individually in relation to a particular foreigner. In Krosno Odrzańskie, passenger cars are used to transport women. Whether handcuffs are used during transportation of foreigners to a doctor is a matter dealt with in various manners. For example, handcuffs are not used in Lesznów, Kętrzyn and Biała Podlaska, whereas each decision in this matter belongs to the convoy commander in Białystok and Krosno Odrzańskie.

Male or female officers are present during an appointment of a foreigner in a doctor's office. At the request of a doctor or a foreigner, in particular in the case of intimate procedures, the officers can wait outside the office or behind a screen in the same room – this is the case in Kętrzyn. According to the information obtained from the Border Guard, a female detainee of the centre in Krosno Odrzańskie was handcuffed to a hospital bed for the time during which an officer who accompanied her went to a toilet.

2.4.3. Access to medical records

As indicated in the centres in Lesznów, Biała Podlaska and Przemyśl, foreigners have access to their medical records and the possibility to receive a copy of them. In Kętrzyn, a doctor decides about the right of access to the records pursuant to applicable laws. In Białystok, a doctor declared that foreigners cannot receive a copy of their records, they can only apply for access to that documentation. In Krosno Odrzańskie, foreigners submit written requests to the head of the centre and to the head of the Public Health Care Institution for a copy of documentation at a fee of PLN 0.70 per page.

2.4.4. Psychological assistance

Access to an applicable psychological assistance is not provided in every centre. Psychologists in Białystok, Krosno Odrzańskie and Przemyśl are officers of the Border Guard employed

in the centre or the division of the Border Guard. They declare that they can communicate enough in Russian and English. The psychologist in Przemyśl has English language skills documented at the level of B2. According to the information obtained from the foreigners in Krosno Odrzańskie and Kętrzyn, an officer assisting in interpretation is sometimes present during a foreigner's consultation with a psychologist. In Białystok and Przemyśl, it is possible to choose (or replace) a psychologist among those who work in the centre. In the centre in Lesznówola, an officer employed in the educational team who has completed education in the field of psychology acts as a psychologist.

Psychologists who work in the centres in Kętrzyn and Biała Podlaska are civil employees of the centres. A psychologist in Biała Podlaska is employed in the centre's library during usual hours and runs educational and development classes for children. She emphasised that should a foreigner request an appointment with a male psychologist or in a language that she cannot speak, the centre can contact the Foundation for Education and Creativity and request consultation with the psychologist employed in the Foundation. The centre's good practice deserves to be mentioned as it collaborates closely with non-governmental organisations within the scope of interpreting and other necessary assistance when it comes to work with foreigners.

In the centre in Kętrzyn, where all under-aged children are currently detained without caretakers, there is no psychological assistance provided for children. What is more, foreigners admitted that teenagers detained in the centre do not handle the isolation well. They pointed to a 16-year-old boy as an example – the boy stays in bed all day and cuddles his stuffed toy. A young woman said she was having suicidal thoughts but she has not benefited from a psychological help yet. In the centre in Lesznówola, the head of the educational team is a psychologist, but, according to the detainees, neither does he work with foreigners nor is he regarded as a psychologist by them. He does not run any form of therapy, either.

2.4.5. Trauma or torture victim identification

Trauma or torture victims or people suffering from PTSD are not diagnosed in five centres (in Białystok, Lesznówola, Kętrzyn, Przemyśl and Krosno Odrzańskie). It was indicated in most centres that there are no applicable procedures which would make it possible to diagnose such people. In Krosno Odrzańskie, there was no case of releasing foreigners from the centre due to bad psychological health, except for one person in the past. A doctor in Białystok indicated that psychologists can issue certificates on a bad psychological condition of a foreigners which may constitute a basis for releasing such a person from the centre, however the head of the centre did not confirm that practice, because „this does not belong to the competencies of the Border Guard.”

It should be emphasised that a bad psychological health, which can constitute a basis for releasing a foreigner from the guarded centre, needs to be confirmed with a doctor's opinion. It is worth pointing our attention to the fact that one psychologist in Przemyśl has documents confirming the participation in trainings related to crisis intervention and work with people suffering from PTSD. The similar situation is in Lesznówola, where – apart from training – a psychologist has completed internship in the Department of Psychiatry and Combat Stress of the Military Institute of Medicine in Warsaw.

It should be emphasised, however, that certificates issued by officers acting as psychologists are staff's notes and not medical records. The notes are not available for patients. Based on such a note, a doctor of the centre can issue a medical certificate in appropriate cases and inform the management of the centre about the legitimacy of application to the court for releasing a foreigner as further detention in the centre would constitute a threat to the foreigner's health. It results from an interview with the management of the centre that there were no procedures established for enhancing the flow in information within that scope. In consequence, the fact that a foreigner is a violence victim is not taken into account as a circumstance which would render the foreigner's further detention in the centre impossible – this was directly confirmed by a doctor.

There are no examinations conducted in Lesznowola and Kętrzyn in order to diagnose violence and torture victims, although officers in Kętrzyn admitted that some of them were trained in violence victim identification.

It is worth mentioning a good practice in Biała Podlaska where a psychologist confirmed that torture victims and people suffering from PTSD were identified. The psychologist also pointed to a few cases where applications were submitted to the court for releasing a given foreigner from the centre due to a bad psychological condition.

It should be pointed out that a large number of officers from all centres were trained within the scope of human trafficking victim identification on several occasions. In recent years, two people who were victims of that crime were identified in two centres (Białystok and Kętrzyn).

TUBERCULOSIS IN PRZEMYŚL

With regard to assessing medical care provided to foreigners detained in the guarded centres, it is worth describing a case in the centre in Przemyśl.

In September 2012, foreigners detained in the guarded centre in Przemyśl contacted lawyers of the Helsinki Foundation for Human Rights to report that tuberculosis was diagnosed in one of the foreigners in the centre. Other foreigners, who stayed with him in common rooms before he was transported to a hospital, were not yet examined for possible infection with that disease. The matter became a subject of the Foundation's intervention with the management of the centre on 20 September 2012. On 28 September 2012, lawyers of the Foundation were not able to clarify that matter during the visit in the centre as they were not allowed to meet with the head of the centre although he had been informed about their visit in advance. The issue thus became the subject of another contact with the management of the centre on 15 October 2012 when the Helsinki Foundation for Human Rights requested the matter to be clarified and asked for information whether the foreigners were examined.

Then the Foundation obtained information that the above issue was the subject of communication between the Border Guard Headquarters and the Chief of the Bieszczady Division of the Border Guard. The Foundation was provided with the answer of the Chief of the Division stating the following:

- A foreigner suffering from tuberculosis was admitted to the centre on 12 September 2012;
- The foreigner was examined on 14 September 2012 and the disease was suspected;
- The foreigner was placed in medical isolation on 17 September 2012;
- The foreigner was released from the centre and taken to a hospital on 22 September 2012;
- The foreigner escaped from the hospital on 25 September 2012.

It was further pointed out that approximately 20 foreigners were reported for examination on 19 September 2012, 9 other residents of the facility – on 20 September 2012; and an information appointment with the participation of an interpreter was arranged on 21 September 2012.

Nevertheless, an interviewed foreigner reported during a monitoring visit on 5-8 November 2012 that he was not examined for tuberculosis. It resulted from the interview with a doctor that the management of the centre only ordered examination of officers and not foreigners. Thus, the information that approximately 30 residents of the centre were examined was not confirmed. A foreigner who drew our attention to the problem had his chest x-rayed during a visit at a hospital on another occasion after over a month following the day on which it was revealed that a foreigner suffering from tuberculosis was staying in the centre and that the Foundation was communicating with the centre in that matter.

2.5. Situation of children detained in the centres

Within the period of the monitoring activities in the guarded centres, the total number of detained children was 34 (in Przemyśl, Lesznowola, Biała Podlaska and Kętrzyn), including three children without caretakers. Except for only few exceptions, the conditions of their stay in the centre do not differ from the conditions of adults.

2.5.1. Accommodation

As a rule, families are placed together in a common room in a family wing (separated from a wing for men) in every guarded centre. Under-aged children without caretakers who are currently detained only in Kętrzyn live on a separate floor, completely isolated from other foreigners. As a result, those children have a very limited contact with other people which can cause the feeling of loneliness. They only have contact with other under-aged children. This can result in very serious problems, e.g. on three occasions, officers needed to apply measures of direct coercion in relation to one under-aged child without caretakers in Kętrzyn within only two months as the boy constituted a threat for himself.

It should also be emphasised that there are window bars in all centres. The centre in Kętrzyn should be mentioned as an example of a centre implementing a good practice. There are no bars in windows on the first floor, where activities for foreigners take place, but only delimiters that prevent from opening windows widely for safety reasons – the windows can only be opened slightly. Rooms for children are, however, secured with bars.

2.5.2. Access to education

At first, it should be pointed out that the law provides for compulsory education until the age of 18 and there are no exceptions to that rule. It results from the monitoring activities that the right to education of children detained in the centres and the obligation of the state to provide such education are not executed. There are various forms of educational classes conducted in the guarded centres in collaboration with local authorities. The scope of such classes differs depending on a centre.

In Przemyśl, only educational classes (depending on the age of children) and Polish language courses organised by the officers of the Border Guards (about 2 hours per day) are conducted. According to the officers, the town's authorities did not agree to send teachers to the centre and there are no regulations which would allow for transporting children to the nearby school. The management of the centre claims that the classes are aimed at "preparing children for possible future education in educational institutions." They also added that "should children willing to take up school education arrive at the centre, there is an agreement between the town's authorities and the Border Guard division under which an officer of the educational team will be employed in one of the town's schools and execute the curriculum for a given pupil." However, no such case was indicated in the past.

Under an agreement with the Department of Education of the Town Hall, a teacher of a local school arrives at the centre 4 times a week. Classes last about 1-1.5 hour and are conducted for all children at the same time. The management of the centre informed us that all children are subject to compulsory education and individual schooling. Considering the fact that classes are conducted for children at a different age (currently two girls at the age of 6 and 9 are subject to compulsory education) and that the monitoring team was not presented with a detailed curriculum, it is difficult to agree with the statement of the Border Guard that the classes meet the requirements of individual schooling provided for in the Polish Act on the Education System.

General development activities take place 5 times a week for 90 minutes (with a breakfast break) in the centre in Lesznowola and are run by teachers from a local school. The teachers do not have specialist background for work with foreigners. All children detained in the centre, irrespectively of

their age, gender, degree of development or Polish language skills, participate in the activities. It results from an interview with a teacher that it is very difficult to run classes for such a diversified group. In consequence, the activities rather aim at general development and they can hardly be regarded as meeting the obligation of schooling. The management of the centre explicitly stated that it is not possible to fulfil the obligation of schooling in the centre since children's detention time is not specifically determined (...) and continuity of education, which does not exist in this situation, is necessary for that purpose."

In the centre in Kętrzyn, activities take place twice a week and the school where the classes are conducted decides about the curriculum. It includes mainly the Polish language, hence it can hardly be stated that children have access to appropriate education suitable for their age and needs. However, if a child previously attended a Polish school and received a certificate of completion, then the child is schooled individually (there have been two such cases so far).

There currently are no children in the guarded centres in Krosno Odrzańskie and Białystok. Officers in Białystok said that children who were detained in the centre had no access to education because local authorities did not consent to the classes being run in the centre by teachers from local schools and the officers did not have adequate competences to teach.

2.5.3 Free time

In each centre where families with children are detained, there is a recreation room equipped with books and toys for children to spend their free time. A playing room in Lesznowola is opened at the request of foreigners. In Kętrzyn, children can benefit from the recreation room until 3 p.m. with the supervision of officers and after that time – if a parent is watching them. Officers from educational teams organise different recreational activities for children in all centres. The activities are sometimes organised outside the building, e.g. sports competitions.

Rules with regard to walks are the same for adults and children – in principle, it is 60 minutes per day (see also Chapter 2.1.5), but there are many open-air activities for children in Kętrzyn, whereas families in Biała Podlaska may request the time for a walk to be prolonged. The same applies to the centre in Przemyśl as long as children are in their parent's care. Contrary to other centres, there is no playground for children in Lesznowola. It results from the information obtained from officers that it is scheduled to be built in 2013.

Officers from the centre in Lesznowola also indicated that it was impossible to organise a trip for children outside the centre. A suggestion of a nearby school to take children to one of the school's celebration days was refused by the management of the centre as the regulations do not stipulate such a possibility. There are no activities for children outside the centre in any centre either¹⁰.

2.6. Safety measures applied in guarded centres

2.6.1. Inspection of foreigner's accommodation

Rooms in which foreigners live as well as common rooms are inspected regularly, once a week or a month, in most of the guarded centres. In addition, there are ad-hoc inspections, e.g. when a knife was reported missing from a canteen. Foreigners interviewed during monitoring activities did not say that the inspections were abused (e.g. that things were intentionally thrown to the floor).

In the guarded centres in Biała Podlaska and Białystok, all rooms are inspected once a week in the presence of one of the foreigners living in a given room. Any ad-hoc inspections are recorded.

¹⁰ It results from the information obtained from the management of the centre that a concert was organised with the collaboration of a non-governmental organisation for foreigners detained in the centre at the beginning of December. The concert was also attended by children from the school in Lesznowola.

In the guarded centres in Lesznowola and Krosno Odrzańskie, rooms are carefully inspected at least once a month according to a schedule as well as randomly as needed. In Krosno Odrzańskie, rooms in which foreigners are accommodated are inspected (general inspection) daily, roughly speaking once an hour.

Foreigners are present during room inspection in Lesznowola. Moreover, foreigners present in rooms are counted every day at 7 a.m. Some of them are asleep at that time.

Inspections are done once or twice a month in the guarded centre in Przemyśl. There are additional inspections according to the schedule developed by the head of the centre (no detailed information was given for safety reasons). What is more, general inspection of a room takes place every day. According to foreigners, officers happen to look into rooms at night time. In accordance with the information obtained from officers, employees of the Border Guard only look into rooms when they hear noise. It came to our attention that the management of the centre in Przemyśl was convinced that foreigners detained there were dangerous.

The guarded centre in Kętrzyn is an exception to the above as there are no regular inspections of rooms. They take place only when there is a reason for that (e.g. a knife or a fork missing from the canteen). According to the Border Guard officers, there was no such inspection in 2012. An inspection normally takes place after a foreigner has left.

2.6.2. Personal inspection of foreigners

Monitoring persons observed that personal inspections are done in rather pre-defined situations and not only when they are grounded in particular cases. It results from the information collected that the inspections are run differently depending on the centre.

Personal inspections are principally done when a foreigner is admitted to a centre and after a contact with the world outside the centre (a foreigner went outside the centre or had contact with a person outside). In the centres in Białystok, Przemyśl, Lesznowola and Krosno Odrzańskie, a rule was pointed out according to which officers perform personal inspections of foreigners after they have come back from medical examinations run outside the centre.

In the guarded centre in Biała Podlaska, personal inspections of foreigners also take place when foreigners go into different rooms. How meticulous the inspection is, it depends on the situation. A personal inspection in this centre is done in a separate room (e.g. infectious disease isolation room). It consists in inspecting clothing and hiding parts of the body. Pursuant to a written information obtained from the guarded centre, a foreigner undergoes personal inspection "in cases related to safety and order matters (in particular when a foreigner is transferred from one cell to another, after the visitation is over, before an enhanced safety measure in form of isolation is applied)."

In the guarded centre in Kętrzyn, inspections are performed only when a foreigner is admitted to the centre. The foreigner is requested to take off all clothes and do a sit-up. Foreigners coming back from a hospital are only inspected if an officer lost sight of them. According to the Border Guard officers, an examination performed behind a screen in the same room is not regarded as such a situation. A full inspection is always recorded in the shift's book.

Some foreigners in Przemyśl admitted that they were allowed to keep their underwear on during an inspection. There are notes of personal inspections drawn up but the persons performing monitoring activities were not presented with any information within that scope.

In the guarded centre in Białystok, foreigners complained that there have been inspections carried out in a prayer room but the Border Guard officers explicitly denied such an occurrence.

2.6.3. Procedures and measures of direct coercion

To a large degree, monitoring persons based their findings within the scope of measures of direct coercion on declarations of the management of the Border Guard. A documentation was made available to them in Białystok and Kętrzyn, whereas in other centres (Biała Podlaska, Przemyśl) personal data protection was relied on and no notes were presented to the monitoring persons, even with blacked out personal data. The following are therefore restricted numbers relating to situations when measures of direct coercion were applied as deemed grounded by the Border Guard.

In no case did any injuries of foreigners result from the measures of direct coercion. According to the information obtained from the Border Guard officers in the guarded centre in Krosno Odrzańskie, a doctor is not always called after measures of restrained have been applied (it is impossible due to restricted office hours of doctors). Anyway, no one ever reported a crime committed by officers.

Table 2. Measures of direct coercion applied in the centres (01.01.2012-15.11.2012)

Guarded centre	Number	Form
Biała Podlaska	11	mainly physical strength
Białystok	4	physical strength: incapacitating holds, a straitjacket, handcuffs on hands behind one's back
Lesznowola	0	
Kętrzyn	7	physical strength: incapacitating holds
Krosno Odrzańskie	19	physical strength: incapacitating holds (8), handcuffs (11)
Przemyśl	6	physical strength: incapacitating holds and handcuffs

In most of the guarded centres, measures of direct coercion were applied with regard to foreigners – there were mainly in form of physical strength and handcuffs. The centre in Lesznowola constituted an exception: according to the information obtained from the Border Guard officers, such measures were not applied due to the special character of the centre where only families and single women were detained. The management of the centre in Białystok emphasised that measures of direct coercion are applied after a foreigner has been requested to conduct in compliance with the law and warned that the measures will be applied in the case of no response, unless the foreigner's actions are so fierce that they require immediate reaction. The management of the centre in Przemyśl pointed out that officers try to influence foreigners' conduct in crisis mainly with a conversation and it depends on a particular situation and threat whether a given measure of direct coercion will be applied. Despite explicit request of the persons conducting monitoring activities, no information was made available about the circumstances in which measures of direct coercion were used and the centre's management did not provide specific answers to questions concerning those measures. The case of a foreigner being beaten by an officer in 2010 was mentioned vaguely: the officer was exonerated.

In the guarded centre in Kętrzyn in 2012, a foreigner was transferred to a detention centre for the purpose of deportation after a measure of direct coercion was applied. According to the Border Guard, the reason was the foreigner's conduct: he threw a blood-pressure monitor at an officer and spilled hot soup on a cook a few days later.

Recently, there was a case in the centre in Białystok that a citizen of Nigeria got into a struggle with a citizen of Turkey. The citizen of Turkey reported a theft of a SIM card by the citizen of Nigeria to officers. The Border Guard officers described that situation in that they stated that they wanted to take the disputed telephone away in order to establish its owner. The citizen of Nigeria refused to provide it. He was incapacitated, resisted strongly and was still aggressive, so handcuffs were used. The foreigner was placed in an isolation room. There, he tried to break a glass with his head (there was a mark of cut skin on his forehead), therefore safety belts and a straitjacket were applied. After about 2 hours, the measures were withdrawn. The version presented by the foreigner differs from the information included in the documentation related to the measures of direct coercion used. According to the citizen of Nigeria, his friend from Turkey deleted a number on his phone which resulted in a discussion between them but they solved the matter peacefully. The Border Guard officers intervened unnecessarily. With regard to his conduct in the isolation room, the foreigner claimed that he simply was looking through the window and did not attempt to be auto-aggressive.

In another case, measures of direct coercion in Białystok were applied with regard to a citizen of Georgia who attacked an officer with a pen. He was then transferred to a detention centre for the purpose of deportation under a court's order.

2.6.4. System of penalties and awards, including informal measures, in guarded centres

The protest of foreigners of October this year involved, in the opinion of the management of some centres, violating terms and conditions of stay in the centres and failure to fulfil their obligations (refusal to leave their rooms and go to a meal, failure to clean toilets in the wing for men). The persons conducting monitoring activities asked the management of the centres about the system of penalties and awards in the centres, including informal measures, applied i.a. during the protest in October.

According to the information obtained, the following measure is mainly applied in the guarded centres: it consists in placing foreigners who disturb safety and order in an isolation room as isolating such foreigners is necessary for the protection of life and health of people staying in a given facility. Having placed a foreigner in an isolation room, the Border Guard applies to the court for placing the foreigner in a detention centre for the purpose of deportation or allows further stay in the guarded centre as required by the circumstances. Isolation rooms are monitored (e.g. in Przemyśl). Time of a foreigner's staying in such a room varies (e.g. up to 14 days in Przemyśl, up to 4 days in Krosno Odrzańskie).

It should be emphasised that placement in a isolation room is the only measure provided for by the law. Moreover, various informal penalties and awards are applied in most of the centres. They are not, however, rooted in applicable laws. The managements of the centres in Białystok and Przemyśl emphasised that there was no formal system of penalties and awards precisely due to missing regulations which would authorise their introduction.

The management of the centre in Przemyśl explicitly denied that any measures restricting foreigners' rights were used during the protest in the centre. However, the following remark was worded in the interview with the management: "the head of the centre personally makes decisions which are executed in consequence of violating the rules and regulations."

The managements of the centres in Białystok, Przemyśl and Krosno Odrzańskie mentioned some awards. When foreigners voluntarily do additional work (shovelling snow, sweeping leaves) or are "well-behaved" (this meant e.g. cleaning toilets during the protest), they can gain more access to entertainment (permission to watch TV at night time) or an additional cigarette time from the head of the centre.

Foreigners detained in those three centres mentioned informal penalties being imposed upon them, such as: shopping ban (including purchase of cigarettes), refusal to release a mobile phone,

entertainment (games or television) ban. A foreigner in Przemyśl said: "the head of the centre said that smoking was only allowed during the time for a walk and there is no additional cigarette time because of Georgians and the Chechen's failure to clean." A resident of the centre in Krosno Odrzańskie pointed out: "you don't clean, you don't smoke".

According to the management of the centre in Biała Podlaska, no penalties related to cleaning were applied – foreigners might be deprived of phones if they are placed in an isolation room. In 2012 (until about mid November), the measure of placing a foreigner in an isolation room was applied 9 times. The measure was applied 16 times within the same period of time in Krosno Odrzańskie. No data related to this matter was presented to the monitoring team in Przemyśl.

A serious hunger strike by a citizen of Georgia took place in the guarded centre in Przemyśl. He was placed in a monitored isolation room and continued the hunger strike despite negotiations. The Border Guard applied to the court for releasing him from the guarded centre. The application was granted. The foreigner was released and transported to a hospital. In the opinion of the Border Guard officers, the hunger strike was a protest against the refusal to grant a refugee status. In the high security court psychiatric unit in a hospital in Jarosław, the foreigner started to eat. Being authorised by the foreigner, the monitoring team read his medical records. They confirmed that he was not prescribed any medications, only vitamins. As soon as the man's health improved, he was detained again – the man was placed in a detention centre for the purpose of deportation. He is currently awaiting voluntary return as he submitted such an application in the hospital.

The isolation room in the guarded centre in Lesznowola has not been used for a long time. According to the management of the centre, no penalties or sanctions in form of limiting privileges are applied since there has been no necessity to do so. However, officers emphasised on many occasions that this is influenced by the specificity of the centre (there only are a family wing and a wing for women) and the small number of people accommodated in the facility. During the foreigners' protest no penalties were applied and the head of the centre negotiated with each protesting foreigner.

Good practices within the scope of penalties and awards were recorded in the centre in Kętrzyn. According to the information obtained from the management of the centre, no penalties are imposed on foreigners. This is also confirmed by the foreigners – no one of them has heard of penalties or any restrictions with regard to other residents of the facility. Placement in a isolation room was neither applied in the centre. Even the foreigner with regard to whom an application for placement in a detention centre for the purpose of deportation was submitted awaited the court's decision in his room. He was only under stricter supervision.

2.6.5. Violence and conflicts between foreigners

According to information obtained from foreigners and Border Guard officers, conflicts between foreigners occurred in each centre but with different frequency and not always involved violence.

In the guarded centre in Biała Podlaska, conflicts between foreigners resulted in several measures of direct coercion being applied by the Border Guard. In the guarded centres in Kętrzyn and Krosno Odrzańskie, no acts of violence between foreigners took place in 2012. Conflicts occur but they take the form of verbal attacks, arguments. Border Guard officers do not allow fights. Foreigners in the guarded centre in Białystok claimed that a prolonged time of awaiting for return to countries of origin is a frequent reason for tension in the centre.

The management of the centre in Przemyśl claimed that cases of violence between foreigners are common. They result in implementing a procedure that has not been presented clearly. It was established that an attempt to separate people involved in the incident is made, the place of

incident is secured and medical care is provided to harmed persons. If a victim wishes to report a crime, the Border Guard officers inform the police about that. An alleged offender is isolated and the Border Guard submits an application to the court for placing them in a detention centre for the purpose of deportation. Following an incident, a doctor is always called and carries out forensic examination. Also, surveillance records are secured. Most foreigners claimed that there were no conflicts during their stay (from a few weeks to 5 months), others admitted that such incidents took place. One foreigner said that protests and hunger strikes happen all the time in the guarded centre and "who starves, gets deported quicker".

In the guarded centre in Lesznowola, foreigners indicated one conflict between the centre's residents. There was a fight caused by financial settlements. A female foreigner who participated in the incident claimed to have been beaten three times by another women. According to information obtained from foreigners and Border Guard, the case was passed on to the police who conducts proceedings. Female participants in the incident were interrogated and a forensic examination of the victim was carried out.

2.7. A monitoring visit in Przemyśl

In the opinion of the non-governmental organisations conducting the monitoring activities, a visit in Przemyśl on 5-8 November 2012 requires separate characterisation in relation to the scope and manner of making information available by the Border Guard for drawing up this report. We view that the Border Guard has a negative attitude towards the monitoring team which constituted a significant obstruction of data collection. A lot of information and documents requested by the employees of the non-governmental organisations were not provided.

The management of the guarded centre and the Bieszczady Division of the Border Guard delivered separate information to the controlling team of the Ministry of the Interior and the representatives of the non-governmental organisations. It was emphasised that the Ministry of the Interior's team has controlling competences as opposed to the representatives of the non-governmental organisations. That statement is obviously correct but it resulted in that the Ministry of the Interior's team and the non-governmental organisations' team interviewed representatives of the management of the centre separately and inspected rooms in the facility on their own despite the fact that the teams' areas of interest overlapped to a large extent. As it turned out later, the scope of information delivered to them differed greatly, too. For instance, the organisations' representatives were refused to see isolation rooms during the inspection of rooms in the guarded centre. The explanation was that foreigners were placed there at that time. That circumstance did not constitute any obstacle for making the rooms available to the controlling team members of the Ministry of the Interior.

The Border Guard officers often gave hardly direct answers during conversations of the non-governmental organisations' representatives with the management of the centre (even to the question whether foreigners were provided with drinking water between meals). The monitoring team was presented with photographs unrelated to the questions – e.g. photographs of foreigners' children being held in the officers' arms or photographs from a Christmas game. The Border Guard had a defensive attitude and refused to provide information even on issues that did not raise any significant concerns in the view of the monitoring team, such as the number of officers in the guarded centre and the detention centre for the purpose of deportation in Przemyśl or whether there was a Border Guard officer behind a two-way mirror in the wing for men.

In the opinion of the monitoring team, the delegation team of the Ministry of the Interior did not provide expected support to the non-governmental organisations. This issue is clearly demonstrated by the attempt to determine what language competencies and skills doctors, psychologists and a psychiatrist have within the scope of work with trauma victims (including people suffering from PTSD) and violence or torture victims as those specialists provide assistance to foreigners detained in the guarded centre. During the interview with a representative of the Public Health Care Institution, the monitoring team asked for information concerning the above mentioned qualifications of the personnel and was informed that such information would be collected later from the Human Resources and delivered the following day. Two days later, when the non-governmental organisations' representatives were in the Public Health Care Institution, a representative of the Institution informed them that the collected information was delivered to a member of the Ministry of the Interior's controlling team. The monitoring team went to the room where the delegation team worked and asked about the data. A member of the team started to quote general information from memory. Representatives of the organisation requested access to the documents or reading out of the issues of their interest without giving access to the documents. That request was not granted and the organisations' members were referred back to the Public Health Care Institution. It turned out that the documents for controlling activities were borrowed from the Human Resources and obtaining them again would pose a problem. An employee of the Public Health Care Institution went together with the non-governmental organisations' representatives to seek the member of the government's delegation team in order to ask him for the documents and read the competences of the psychologists and the psychiatry within the scope referred to above to the monitoring team.

The great majority of problems related to obtaining data were connected with the issue of applying measures of direct coercion, room inspections, personal inspections, placing in isolation rooms. The organisations' representatives did not receive documents concerning those matters, therefore they requested data concerning the number of cases in which the above mentioned measures were used and a brief description of each situation. Most of the time, they only obtained information about applicable regulations or that certain measures are applied under provisions of law.

A request for specific data met with the answer that the Border Guard did not keep such statistics. Such an answer was given to the request of the number of applications for an interpreter submitted to the Border Guard by doctors, psychologists and a psychiatrist in 2012. The Border Guard cover expenses related to visits of doctors and psychologists, therefore the organisations' representatives assumed that each expense of that kind was recorded.

The situation that occurred during the monitoring visit in Przemyśl is part of a bigger picture of the attitude of the centre's management towards the representatives of the non-governmental organisations. Shortly before and after the monitoring visit in the guarded centre in Przemyśl, representatives of the Helsinki Foundation for Human Rights visited the centre within the framework of projects under execution (28 September 2012 and 9 November 2012). The Border Guard refused to let the lawyers see rooms in the guarded centre, subjected a contact of a lawyer with foreigners to signing a declaration that the lawyer would assume the responsibility for own safety on the premises of the facility, restricted legal assistance in time, limited a female foreigner's access to the lawyer with the explanation that she had benefited from the assistance of another non-governmental organisation before. Those situations were referred to in other interventions mentioned on the Foundation's website.

3. CONCLUSIONS AND RECOMMENDATIONS

Generally, the inspection has corroborated the recommendations for and objections to detention centres for foreigners which had already been made by non-governmental organisations. Three matters were brought to attention. Firstly, no evidence was found of any alleged serious infringements of law by Border Guard officers, above all there were no incidents of foreigners being beaten up or harassed. Secondly, the current regime observed in the centres models after the military or penitentiary systems, which, in conjunction with the external and internal design of the centres, is to be considered oppressive. As a result, it contributes to the interpretation of Border Guard officers' conduct as insulting the dignity of foreigners (e.g. Border Guard officers call foreigners by their identification numbers or threaten them with deportation without any justification). Furthermore, it leads to many unnecessary and onerous situations encountered by foreigners on a daily basis. Thirdly, despite the same legal provisions applying to six centres under inspection, substantial differences between them were discovered: not only those pertaining to the housing conditions but particularly with regard to the attitude towards foreigners detained in the centres (the guarded centre for foreigners in Kętrzyn should be a role model for other centres).

It is to be highlighted that the personal freedom is one of the fundamental human rights. Therefore, any decision on its deprivation is to be made with due diligence and only when other solution cannot be applied. The European law expressly provides that that **detention is to be used only as an exception and a measure of last resort**. The authors of the report judge it advisable to restrict the right to detain foreigners only to cases when they pose a threat to national security and foment public disorder. Each decision on deprivation of freedom should be personalised and supported with detailed justification. If some foreigners need to be kept under control, preventive non-isolation measures should be applied first (a catalogue of said measures should be included in the Polish law). At present, it is not feasible. As a matter of fact, said measures are mentioned in the Polish Act on Foreigners, yet detention is still regarded as the basic form of control and the preventive non-isolation measures are treated as exceptions to the rule only. What should also be noted is that guarded centres for foreigners are extremely expensive. Whereas the preventive non-isolation measures are considerably cheaper, which is another (economic) argument for their implementation.

Next, it should be pointed out that if a foreigner is placed in a guarded centre, the procedures related to that person should take precedence over matters pertaining to other foreigners. Whether the foreigner applies for refugee status or not or whether the foreigner awaits deportation or not, the priority is to **make the detention period of foreigners as short as possible**. Nevertheless, the new draft of the Polish Act on Foreigners no longer stipulates the unconditional twelve-month limit to the detention period at a guarded detention centre for foreigners, which in practice may result in prolonged periods of deprived freedom.

All procedures should be designed in such a way as to guarantee foreigners the real possibility to seek their inherent **right to a trial**. It is especially important in the case of foreigners applying for refugee status in Poland, who, according to the reports by both organisations, are deported from Poland before they have an opportunity to appeal to the Voivodship Administrative Court against the refusal to grant refugee status or before the said Court decides the case. Such actions of the Border Guard not only violate the constitutional right of each person to a trial but also constitute a breach of the European Union legislation on persons seeking international protection. Moreover, they obstruct the work of administrative courts which are to control the decisions pertaining to refugees made by administrative bodies, thus violating the principle of checks and controls provided for in the Constitution of the Republic of Poland, and undermines the respectability of the judiciary¹¹.

Detention of children should be unconditionally forbidden irrespective of their age and no matter whether they travel on their own or with parents. Within the interpretation of the international law,

¹¹ Common position of both organisations concerning this subject is available on their websites: <http://interwencjaprawna.pl/sip-i-hfpc-o-niewydalaniu-cudzoziemcow-ubiegajacych-sie-o-nadanie-statusu-uchodzczy-w-polsce/>; <http://programy.hfhr.pl/uchodzczy/wydalenie-cudzoziemca-moze-naruszyc-jego-prawo-do-sadu-2012./>.

every person under 18 years of age is considered a child. In this respect, cultural differences are of no importance, since that age limit is set in the Convention on the Rights of the Child, which is the most common convention worldwide (signed by 193 countries and ratified by 140 countries). Poland is one of its signatories and an initiating party. The Convention deems the welfare of the child an underlying principle to be respected and taken into consideration whenever a decision on children is made or whenever children are subject to any activities (it is also a fundamental principle of the Polish Family and Guardianship Code). It should be emphasized that deprivation of freedom does never serve the best interest of the minor. The International Detention Coalition, which associates 258 members from 50 countries all over the world, urges all countries to make explicit references to the following in their legislation and migration policy:

- * All children, including refugees and those seeking international protection as well as those without a regulated status of residency, are first and foremost children.
- * As a priority, each activity which includes the child shall always take into consideration what is best for the child.
- * Freedom for the child is a fundamental human right.

In the light of the above, legislation, policy and practice are to be developed in such a way as to guarantee each child, regardless of his or her legal status, the possibility to stay within a local community during the proceedings to regulate their migration status¹². What should be kept in mind is that children have the right to upbringing in the family and to stay with their parents.

Another argument against the detention of minors is that detention centres for foreigners are not able to duly satisfy their **right to education** (according to Polish legal provisions). Due to a lack of proper activities, the centres fail to fully cater for their development and have a detrimental effect on their psychology: bars in windows, restricted walking areas, constant daily presence of uniformed officers. All of the above is far from a friendly environment which would foster a proper development of the child.

One of the most important recommendations arising from the inspection is the necessity to **make a definite departure from the prison-like regime** which prevails in the centres. What should be made evident is that foreigners are placed in guarded centres due to administrative infringements and not due to criminal records. Therefore, their sojourn in Poland should be controlled exclusively by measures restricting or prohibiting their free movement within the borders of the Republic of Poland and that should be the only inconvenience that they encounter, particularly because such measures already substantially restrict their rights. When in the guarded centre, they should be given as much freedom of movement within its boundaries as possible and be provided with means and opportunities to contact the world outside the centre. Obviously, it is necessary to guarantee safety to all residents in the centre; however, that should not constitute the basis to further universal restriction of freedom of all isolated foreigners. On the contrary, that necessity should rather stimulate appropriate centre management (through negotiation rather than physical strength) and encourage an individual approach to people who fail to observe the rules of social existence.

Thus, it is advisable to **implement the following changes in the centre regime**:

- * The rules and regulations valid at the time being should be reviewed in order to exclude from them the provisions which only excessively restrict foreigners' rights instead of aiming at ensuring their security, establishing principles of order or of conduct in the community. It is unjustified and unreasonable to resort to early morning assembly calls, fixed daily timetable (especially one which restricts walking outdoors), limited entertainment and sport activities. While it is totally understandable and justified to set meal times in the situation of group accommodation, it is absolutely unnecessary and ungrounded to make it obligatory to appear at each meal time and consume meals.

¹² *Captured childhood. Introducing a New model to ensure the rights and Liberty of refugee, asylum seeker and irregular migrant children affected by immigration detention*. International Detention Coalition, Melbourne 2012, pp. 4-5 (available at: www.idcoalition.org/ccap).

- * The control over foreigners should be limited. Predominantly, it applies to personal inspections, which considerably violate the privacy of its subjects and are usually conducted by forcing the foreigner to undress completely and undergo probing of all bodily cavities. It should be emphasised that such detailed examinations also apply to foreigners transferred from other units controlled by the Border Guard (e.g. from another centre or airport), where they were already subjected to that kind of control. Such detailed personal inspections may be avoided owing to devices which enable security checks and are in common use at airports. They are highly recommended for guarded centres. Personal inspections are advised in exceptional cases only.

Similar principles should also apply to rooms where foreigners are accommodated. The searches should not be executed as a standard procedure but rather only when the residents are suspected of having dangerous or prohibited items. The centre in Kętrzyn is an example which demonstrates that the appropriate management may simultaneously eliminate the above-mentioned violations of personal rights and ensure a high level of security. What should be abolished as well is the unreasonable and unjustified search of rooms at night (in Przemyśl) and morning assembly calls (in Białystok). The guiding principle at each detention centre for foreigners should be to leave the residents a minimum privacy in their rooms (e.g. Border Guard officers should knock at the door before entering the room).

- * It is advocated to limit the use of different security means imposed on foreigners, such as handcuffs, and to set some direct coercions on the armament of Border Guard officers who escort them. In this case, the obligation to control foreigners and provide security to the external borders of the European Union lends priority to the right to life and health of foreigners (even if they try to escape). Additional security measures should be implemented exceptionally and in individual cases.

Moreover, what should be banned is the model of cars used for convoying, because they resemble cars for prisoner convoys. They are very oppressive and extremely uncomfortable, especially for long distances (they comprise a small cage placed in a bus, without any windows, equipped with a hard plastic bench). Furthermore, such means of transport constitute danger to the safety of foreigners transported, as they are not equipped with any safety belts for the convoyed. Legal provisions should also introduce certain restrictions on the transport of pregnant women, children or traumatised persons in such vehicles.

- * Foreigners placed in isolation rooms or prison cells for purposes of deportation should not be constantly monitored. Such monitoring is one of the technical measures which pronounced in violate personal privacy the most and are used in exceptional cases only even in the Polish penitentiary system: in the cases of extremely dangerous inmates¹³. Undoubtedly, none of the foreigners placed in isolation rooms or prison cells for the purpose of deportation can be categorised as such. The security system in this respect is excessively strict against the real danger posed by the foreigners.
- * It should be considered whether the introduction of penalties for breaking centre rules or regulations by the foreigners, as envisaged by the draft of the new Polish Act on Foreigners, is really purposeful. The penalties would include e.g. limited access to the phone, common room, outdoor walking area or shopping. The penalties should not additionally restrict foreigners' freedom. It should be acknowledged that the access to entertainment, sports or contact with the world outside the centre constitute fundamental rights of detained foreigners, rather than their privileges which can be withdrawn. In the cases of serious infringements of rules and regulations, the stipulations of the applicable Art. 102, Para. 2 of the Polish Act on Foreigners could be applied, namely: the court decides on imprisoning a foreigner as they await deportation. In all other cases the Border Guard should be able to make use of the necessary communication, negotiation and mediation skills in order to resolve arising problems without

¹³ Currently, there are 0.24 % inmates (207 prisoners and detainees out of 85,419 imprisoned persons) of that status in Poland – see: Data of the Central Board of Prison Service as of 30.11.2012 available at: http://sw.gov.pl/Data/Files/001c769lidz/2012_listopad_statystyka-Biezaca.pdf

the need to apply the penalties formally prescribed. In fact, it should be remembered that foreigners detained in the centres for foreigners quite often suffer from various psychological problems originating from the sheer fact of being isolated, which may give rise to specific behaviours, which may be mistaken for intentional acts in violation of rules and regulations.

- * External and internal design of guarded centres for foreigners should be changed. On the one hand, external security should be provided. On the other hand, the interiors should have as few elements indicating the enclosed nature of the centre as possible. If possible, bars should be removed from windows (they can be replaced by special types of windows which restrict their full opening and have specially designed glass panes). Furthermore, bars isolating particular internal units are not advised either. At this point, the centre in Kętrzyn sets a good example, as doors are opened with magnetic cards rather than by internal bars.
- * Foreigners should be entitled to move around the centre site and to walk outdoor unrestricted by a set timetable (at least during the day). Outdoor, they should be able to take advantage of sports facilities: sport fields etc. It is advisable to arrange an area with a roofing, which would be suitable for periods of unfavourable weather conditions (i.e. precipitation, heat).
- * One of the problems reported by many foreigners is an overwhelming sense of boredom and lack of activities, which negatively influence the well-being and general psycho-physical condition of the detained. Therefore, they should be provided with a wider range of activities during their stay in the guarded centre, including entertainment, self-development and sports activities (e.g. learning languages, general education and sport competitions). What is evident is the need for more TV sets (one TV set per unit where there are many foreigners using different languages is definitely not enough; TV sets in rooms should be considered as a solution) and for richer and more differentiated library resources (e.g. popular books and literature in exotic languages). It would be worthwhile to provide access to as many varied items of sports equipment as possible.
- * Changes should be implemented in the cleaning system of common rooms, sanitary rooms in particular. Foreigners should be responsible for keeping only their own rooms in order and cleanliness; whereas the sanitary rooms should be cleaned by a person or a company employed for that purpose and paid by the Border Guard.

It is also inevitable to guarantee detained foreigners **a wide and free-of-charge access** to two types of **services**, such as:

- * Access to psychological counselling. It is not recommended that psychologists working for the benefit of the foreigners be Border Guard officers; they should be independent of them but paid from the public budget (European funds may be used for that purpose). The psychologists should speak the basic languages used by the foreigners fluently (at present: Russian, English, French) and should be able to provide psychological assistance in co-operation with a professional interpreter (in the case of foreigners using languages other than those mentioned above). They can be chosen out of NGO employees or freelancing psychologists. What is of paramount importance here is that they should be totally independent of the Border Guard and thus be able to gain trust of the foreigners. The psychological help and diagnostics are to be provided as needs arise (which can be connected to nothing but the sheer fact of detention). At the same time it should be emphasised that if a patient has been diagnosed with the post-traumatic stress disorder, the therapy in detention is not only impossible but first and foremost unethical: without the minimum stability and a sense of security which can be guaranteed in freedom only, the therapy is not effective and is rather conducive to the intensification of PTSD symptoms and depression. Alleged victims of traumatic events, violence, tortures and inhumane treatment, including human trafficking, should never be placed in guarded centres for foreigners or should be released with immediate effect.¹⁴

¹⁴ This is explicitly stipulated in Art. 88 of the Polish Act on Granting Protection to Foreigners on the Territory of the Republic of Poland but should also include foreigners who are not compulsory migrants.

- * Access to free-of-charge legal and financial counselling covered by public funds. The obligation is set forth by European legal provisions, which have not been implemented in Poland yet¹⁵. Also in this case lawyers should be autonomous of the Border Guard. Currently, the activities conducted by non-governmental organisations are insufficient: the availability of lawyers who speak languages used by foreigners should definitely be increased. Once more, it is recommended to apply for relevant European funds.

Access to legal counselling is only one element in the provision of **information** on foreigner's current **legal situation**. The complementary elements include:

- * Unrestrained access to rules and regulations of the centre in a language which a foreigner understands;
- * List of contact details of bodies dealing with protection of legal rights (e.g. Polish Ombudsman) and NGOs together with information on the kind of legal counselling provided by the said entities, written in a language which a foreigner understands;
- * Resources informing on the possibilities of applying for refugee status (as in Białystok) or of voluntary return to a country of origin;
- * Information on the official documents addressed to the foreigner (including court documents) written in a language which the foreigner understands (or provided orally if the translation is not ready) together with information on the consequences arising from each document;
- * Other activities, such as meetings during which the foreigner can learn about their case, its stage and further steps to be taken by the Border Guard (as in Krosno Odrzańskie) or appointment of a dedicated advisor who is familiar with the legal situation of a particular foreigner (as in Kętrzyn).

If Border Guard officers do not know the language used by a foreigner, he or she should have an access to an interpreter as needed (and not only when it is deemed necessary by a doctor, for instance).

It is essential to ensure that foreigners placed in guarded detention centres have **a wide access to the world outside the centre**. In particular, that necessity refers to the following:

- * Foreigners should be able to use mobile phones without any restrictions. The centre in Kętrzyn has a very good practices in that respect: foreigners are not forced to purchase new phones even if the ones which they already possess have functions for audio and visual recording – camera lenses are covered by special sticklers. Thus, it does not encumber the foreigners with additional costs of purchase of the phone in older technology.
- * Foreigners should have a free access to the Internet. At present, none of the centres addresses that need. The cost of Internet connection is small enough not to be a burden on the state budget. It will facilitate contacts with family and friends (by means of Skype or e-mail) and access to information in native languages. Furthermore, foreigners should be allowed to use the electronic devices which they own, especially laptops.
- * Access to the Internet shall also boost contacts with NGOs and improve access to legal counselling. Regardless of that, foreigners should also be able to use a user-friendly and free-of-charge fax machines (or scanners) in order to contact lawyers (as is already the case in some of the centres). It is so important because it is a quick means of communication inevitable to keep legal deadlines.
- * Right to visitation should also be extended, in particular on account of the fact that few foreigners really take advantage of that entitlement. Therefore, there are no grounds for the introduction of time limits for visits (an hour is usually not enough). The spaces where visits are

¹⁵ Art. 13 Para. 4 of the Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals as well as Art. 15 of the Directive 2005/85/EC of the Council of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status.

paid leave an ample room for improvement in terms of both their standards and functionality. Currently, they are off-putting, especially for children who have full rights to be visitors.

- * Guarded detention centres for foreigners should be accessible for representatives of non-governmental organisations more easily. It would be advisable to consider the issue of permanent passes for representatives of organisations which provide legal counselling in order to facilitate contacts with lawyers. The Border Guard should also develop co-operation with other organisations and entities which would arrange free-time activities for foreigners.

If the centres are to function properly, it is vital that **appropriate attitudes and approaches** exhibited by **Border Guard officers towards foreigners** are stimulated. To a large extent, it applies to communication between them. According to one of the foreigners: “we would like to be treated as human beings and not criminalists, to be talked to as persons.” In order to address these problems, two kinds of activities should be undertaken. Firstly, senior officers’ attitudes and approaches play a key role, as it is them who create good practices and are role models for junior officers. Secondly, Border Guard officers should participate in **specialist trainings** which would encompass the following:

- * The so-called soft skills: interpersonal communication, cultural differences, psychological problems encountered by a person kept in a total institution;
- * Negotiation and mediation skills: conflicts are to be settled by physical power and a system of punishments in exceptional cases only;
- * Identification of traumatized persons, victims of the PTSD, violence and inhuman treatment.

Additionally, people working in the centres (both Border Guard officers and medical staff) should continuously improve their language skills, at least in English and Russian. The inability to communicate in those languages may be the basis of some conflicts. It is recommended that the knowledge of those languages be one of the recruitment criteria for Border Guard officers and other staff of guarded centres for foreigners in the future.

As far as an improved **access to medical help** is concerned, a key role is played by a good communication between a doctor and a foreigner. On account of cultural differences exhibited by Foreigners, they should always have a choice between a male or a female doctor. Moreover, each new foreigner should undergo obligatory screening for infectious diseases, especially tuberculosis. Taking into consideration what countries the majority of foreigners come from, the risk of tuberculosis infection in the centres is rather high. Therefore, such examinations are necessary for the provision of healthy conditions of residing and working.

A procedure for identification of traumatised persons, victims of violence, tortures and inhuman treatment should be developed (in particular for the stage when a foreigner is placed at the centre and during the initial period of foreigner’s detention at the centre). Persons who allegedly belong to the victim groups mentioned above should never be placed in guarded centres for foreigners or should be released with immediate effect.

Another problem arises from the **lack of co-operation and coordination between the centres**. The links and relations between them are worth strengthening. Thus, it is recommended to consider the following:

- * Development and implementation of common data base which would enable Border Guard officers to check how long a foreigner stayed at another centre, especially if the stay took place earlier in the past and the foreigner is not transferred directly from another centre. The data base would be a source of information on particular foreigners, their conduct and detention periods (so as to eliminate the risk that a foreigner is detained at a guarded centre longer than legally prescribed – one such case was identified during the inspection);
- * Introduction of a criterion based on language skills of the staff of a particular centre to the procedures governing the placement of foreigners at that centre. With a small number of Border Guard officers able to communicate in rare languages (e.g. Arabic, Hindi or Urdu), their skills are to be maximally used while making sure that foreigners who do not know any other languages are well supported and treated according to high standards;

- * Joint development or exchange of translated centre rules and regulations (if they are convergent in all centres, which would be a highly desired situation) as well as other informative materials for foreigners, especially those written in less common languages;
- * Exchange of good practices between centres, information on challenging incidents, solutions to them, emergency situations (e.g. trouble spots);
- * Implementation of homogeneous admission procedures, so as to eliminate doubled activities, e.g. personal inspections.

The office of the Border Guard should also become more transparent. During the inspection, the managements of some centres did not make all information available to the non-governmental organisations (information on the activities and work pertaining to foreigners, in particularly those including the means of direct coercion, or details on conflicts were withheld). It is to be emphasized that a bigger transparency would also bring some benefits to the Border Guard, as their alleged abuses of foreigners' rights would undergo social scrutiny (NGOs, media, public opinion) in a shorter period of time. Thus, the Border Guard would not be suspected of using illegal practices, as happened recently.

The inspection reported hereby was initiated, as mentioned in the introduction, by the hunger strike of foreigners detained in four guarded centres. That was their call for help. As noticed by monitoring teams, the managements of the centres were implementing some small changes which had been induced by foreigners' demands. We are hopeful that owing to the audit conducted by the Ministry of the Interior and a conjoint inspection run by the Association for Legal Intervention and the Helsinki Foundation for Human Rights , all the necessary changes, which have been demanded by NGOs for many years, will be finally implemented at the centres. They are inevitable to ensure that foreigners' dignity and rights are respected.