



Committee against Torture

38<sup>th</sup> session

8 May 2007

Geneva, 30 April - 18 May 2007

## **List of additional questions that the CAT may ask the Polish delegation during the review of Poland's fourth report (CAT/C/67/Add.5)**

### **Article 1**

1. Please explain which specific regulations guaranteeing control of the use of arms in accordance with binding regulations (in the report there is mention of "further regulations of the ordinance", which shall be considered as insufficient clarification).
2. Please explain the reason why Polish law does not exclude the possibility for Prison Service officers to use "shackles" (see Art. 5 of the Act on the Prison Service, which permits the use of shackles in justified cases while conveying or escorting a prisoner), while shackles are forbidden under international law. (see Council Regulation (EC) no. 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhumane or degrading treatment or punishment, which introduces a ban or other restrictions on the export and import of equipment for the Police and security forces, the use of which is inherently cruel, inhumane or degrading, including "shackles").
3. Please explain whether or not an intoxicated individual, against whom direct coercion measures have been used and this has been noted in the registration card, has the right to receive such a card (see point 17.7 of Poland's Report).
4. Which Polish authorities have taken specific action in order to more effectively protect children against corporal punishment not only at schools, but also at other institutions and within families, where such a form of "child castigation" is still permissible? What educational activities have the authorities undertaken to enlighten both society and professional groups?

### **Article 3**

5. Please explain how the authorities responsible for expulsion verify “the fear that the individuals may be subject to torture”. Is there a standard procedure for this, and if not, do the authorities intend to develop such a procedure, along with efficient protective measures against expulsion, e.g. participation of NGOs, obligatory legal assistance?
6. In accordance with point 43 of Poland’s Report, “the decision to grant permission for tolerated stay is issue based on a motion to the voivod submitted by the organs responsible for executing the decision on expulsion (Border Guard, Police)”. How are these services prepared and trained to effectively fulfill the aforementioned duty (e.g. is there expert training in this extent, are there special task groups)? How are they supposed to verify these circumstances?

### **Article 4 and 16**

7. How are officers prepared (theoretically and in practice) to appropriately and proportionally use direct coercion measures and weapons against citizens? Is legal training in this extent, as well as on the limits of Police authority in relations with citizens held on a regular basis? If so, what does the training consist of?

### **Article 10**

8. What specific action has Polish authorities undertaken in order to allow the staff of appropriate services to familiarize themselves with the Istanbul Protocol? Which services were among the beneficiaries of the authorities’ actions and when did it happen?
9. Please provide exact information on the project concept for studies on human rights observance within the Police and by the Police. Please provide precise clarification of the essence of implementing the assumptions of the project “diagnosis of the relations between superiors and subordinates”. (Poland’s Report, par. 146-163 – in the Polish version par. 85)

### **Article 11**

10. In justifying the application of preliminary detention, how do courts explain the reason for not finding other preventive measures to be sufficient? What are the typical criteria applied by the courts? Have any studies been conducted in this regard?
11. How is the regulation included in Article 14 of the Act on counteracting domestic violence enforced in practice by the organs of penal prosecution and courts? In how many cases has this institution been applied since the act’s entry into force? How has the State ensured that public officials will apply this regulation? (Art. 14 § 1. If there is rationale for the the use of preliminary detention against an individual accused of committing a crime mentioned in Art. 13, the court may apply Police supervision instead of preliminary detention under the condition that the accused individual leaves the premises occupied together with the victim, in the time determined by the court, and specifies his place of residence. § 2. If the individual leaves the premises in accordance with the provisions of § 1, the restriction provided for under Art. 275 § 2 of the Act of 6 June 1997 - Code of Criminal Procedure (Official Journal no. 89, item

555, with further amendments) may also consist in refraining from contact with the victim in a specified manner).

12. What is the specific manner of guaranteeing the right to file a request, complaint or motion to individuals placed in sobering-up facilities in the organizational units of the Police (see Poland's Report, par. 96 in the Polish version)? (Are there any registries of complaints, available templates, information about this?)
13. What specific technical safeguards and precautionary measures are introduced with regard to individuals placed in detention centers, both the legally sanctioned and actually taken actions?
14. Are the recommendations of the Commander in Chief of the Police in the scope of implementing the post-monitoring (follow-up) observations mentioned in point 98 of Poland's Report (Polish version) made public and available to all interested parties? What have Voivodeship Commanders of the Police done "to eliminate deficiencies in the functioning of facilities for detainees" and how are their activities verified? Has the number of "extraordinary events" decreased after the recommendations were developed and forwarded to Commanders and is this being assessed?
15. Has the penitentiary court, as part of the monitoring of prisons and due to the overcrowding of prison facilities in Poland (which meets the order of Art. 35 § 3 of the Executive Penal Code - "transgressions in the functioning of a penal institution"), taken any action to file a motion to the competent Minister to suspend the operation or to completely or partially dissolve the penal institution or detention center? If not, then for what reason? If so, then how many of these motions have been filed and what were the results? (see Poland's Report, par. 110 in the Polish version)
16. Exactly how many common rooms, gyms, briefing rooms and other common facilities have been reassigned and adapted for residential purposes and what have the authorities provided in return in order to conduct resocialization activities consistent with the objectives of executing the punishment of imprisonment?

#### **Article 12 and 13**

17. Please describe the measures Poland has taken in order to disseminate information concerning the opportunity to benefit from mediation during preparatory proceedings among both the officers of the police and the public prosecutors office, as well as among society? Please state the exact number of cases that have been referred for mediation by police officers and separately by public prosecutors during the reporting period. If mediation was not conducted by the Police at the stage of preparatory detention, please state the reason for this omission. (see Poland's Report, par. 178 in the Polish version)

#### **Article 14**

18. How have the Polish authorities disseminated information regarding the opportunity to benefit from the right to a representative, acting based on Art. 42 of the Executive Penal Code, among individuals convicted and imprisoned at penal institutions?

### **Other**

19. How have the authorities disseminated information concerning the opportunity to lodge individual complaints to the Committee against Torture?
20. What new or additional measures have been made available to the Ombudsman in order to implement “the domestic mechanism of prevention” (see Art. 18 par. 1 of the Facultative Protocol to the Convention against torture and other cruel, inhuman or degrading treatment or punishment, adopted by the United Nations General Assembly on 18 December 2002)? What specific actions has the Ombudsman taken in the period following the launch of this mechanism (according to the authorities’ declaration, the mechanism should be launched within a year of the Protocol’s entry into force)?
21. Considering the difficulties associated with evidence in the event of conducting investigations of cases based on e.g. Art. 246 and 247 of the Polish Penal Code, particularly since the victim is subject to full supervision and control of public officials, have the authorities developed special techniques and tactics for conducting investigations and presenting and collecting evidence? If not, why has this not been done? If it has, how is the knowledge of the special techniques and tactics for conducting investigations in cases concerning the commitment of the abovementioned crimes imparted to the relevant people?