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Warsaw, 20<sup>th</sup> February 2020

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**To:**  
**The Secretary of the Committee of Ministers**  
**Council of Europe**  
Avenue de l'Europe  
F-67075 Strasbourg Cedex

**COMMUNICATION FROM THE HELSINKI FOUNDATION FOR HUMAN  
RIGHTS**

**CONCERNING**

**EXECUTION OF ECtHR JUDGMENT IN CASE *BEDNARZ AGAINST POLAND*  
(APPLICATION NO. 76505/14)**

**To the attention of:**

**1. Mr. Jan Sobczak**

Plenipotentiary of the Minister of Foreign Affairs for cases and procedures before the European  
Court of Human Rights  
Agent of Polish Government

**2. Mr. Adam Bodnar**

Commissioner for Human Rights

## EXECUTIVE SUMMARY

- On 13 June 2019, the European Court of Human Rights issued a judgment in the case of *Bednarz v. Poland*, in which it found a procedural violation of Art. 3 of the ECHR.
- The Action Report dated 9 January 2020 states, "*the Government is of the opinion (...) that measures of a general nature (...) will be sufficient to conclude that Poland has fulfilled its obligations under Article 46 § 1 of the Convention.*"
- On 7 June 2016 the Committee of Ministers Council of Europe announced its Resolution CM/ResDH(2016)148 on closing execution of the *Dzwonkowski* group judgements. However, since the resolution's adoption, studies have been carried out and recommendations issued which affect the assessment of implementation of ECtHR judgments regarding inhuman and degrading treatment at the general level.
- The importance of the present case, as well as the need to take additional action at the systemic level, are justified by observations and positions of international bodies. In August 2019, the Committee against Torture presented a report indicating concern of excessive force being used by police officers and an attendant absence of convictions in the event of such violations. These findings also correspond with those after the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment held in July 2018, the report from which was published in January 2020.
- Furthermore, the Helsinki Foundation's many years of experience confirm the allegations and observations of international bodies that assert difficulties in pursuing police officer liability in such cases.
- A qualitative study conducted by HFHR in 2018 shows that the most common problems faced by advocates dealing with cases of degrading or inhuman treatment or punishment are evidentiary difficulties in proceedings against police officers, but also disregard of allegations of mistreatment and humiliation.
- Conclusions presented by the Supreme Bar Council in its *amicus curiae* brief to the European Court of Human Rights in the case of *Kuchta and Mełel v. Poland* confirm the credibility of the above observations. The brief points to evidentiary difficulties compounded by the excessive length of proceedings in such cases.
- The above findings make it necessary to continue supervision over the execution of the judgment in *Bednarz v. Poland* and for the Committee of Ministers to determine the Polish authorities' further plans to improve the efficacy of proceedings in cases of alleged inhuman or degrading treatment committed by police officers.

## I. Introduction

1. The Helsinki Foundation for Human Rights (hereinafter: “HFHR” or “the Foundation”) is a non-governmental organisation whose statutory objects include human rights defence and advocacy. The problem of police violence is an area of particular interest to the HFHR since the beginning of its activity. We assist victims thereof through various kinds of interventions and organizing pro bono professional legal assistance, we observe court proceedings in cases that may involve police violence, monitor places of deprivation of liberty, as well as conducting observations of public assemblies. HFHR further conducts trainings for police officers in the area of the prohibition of torture and inhuman or degrading treatment and European Court of Human Rights (hereinafter: “ECtHR” or “the Court”) jurisprudence.

2. Operating within its statutory objects, the Helsinki Foundation for Human Rights respectfully presents the Committee of Ministers of the Council of Europe with a communication on Poland's execution of the ECtHR judgment delivered on 13 June 2019 in the case of *Bednarz v. Poland*<sup>1</sup>, no. 76505/14. We hope that the Committee will find our communication useful in the process of assessing the measures taken by the Government of Poland in the wake of the *Bednarz* judgment and that our comments will provide a basis for further discussions at the national and European level.

## II. The judgment in *Bednarz v. Poland*

3. On 13 June 2019, the European Court of Human Rights issued a judgment in the case of *Bednarz v. Poland* finding a procedural violation of Art. 3 of the ECHR. According to the Court's findings, the applicant was detained by police officers on the night of 23 June 2013 because of alcohol consumption in public. During detention and at the police station he was allegedly beaten by police officers. On 30 July 2013, the District Prosecutor's Office in Mielec initiated proceedings regarding the use of excessive force by police officers on the night of 23-24 June 2013. On 23 December 2013, the District Prosecutor's Office in Mielec discontinued the abovementioned proceedings and applicant appealed the decision. In July 2014, the District Court in Stalowa Wola maintained the contested decision after findings of inconsistencies in the testimony of applicant's friends involved in the incident. The court noted that none of the witnesses saw the incident at the police station, heard only sounds thereof, noticed applicant's bruises and limping. Meanwhile, the court found the testimony of police officers to be consistent and logical. According to the court, there were no indications that the police had abused their power or used disproportionate force on the applicant. In finding a procedural violation of Art. 3, ECtHR indicated that it was not convinced that the investigation had been carried out in a sufficiently thorough and effective manner to warrant a finding that all the article's requirements were met. The Court found it particularly unsatisfactory that the prosecutor unconditionally gave credence to police officer testimony without referencing that the officers had a vested interest in settling the case and reducing their liability. The ECtHR further noted that despite the consistency and logic found by the court in the officers' testimony, said testimony used identical wording. In their testimonies, the police officers also provided detailed data, such as addresses of witnesses participating in the incident and their PESEL numbers. The Court added that testimonies containing such information, which are not usually contained in eyewitness accounts, were accepted without question by the authorities. Also, as

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<sup>1</sup> The ECtHR judgement from 13 June 2019 in the case *Bednarz v. Poland*, no. 76505/14.

pointed out by the ECtHR, all of the applicant's friends involved in the incident confirmed he had been beaten by police officers, but the prosecutor's office and the court found their testimony inconsistent. Despite the confrontation between the applicant and police officers, as noted by the Court, no further steps were taken to explain the discrepancy between the versions of the police officers and the versions of the applicant and his friends. Therefore, the ECtHR found that the investigation was superficial and lacking in objectivity and thus in violation of Art. 3 ECHR.

### III. General measures

4. In the Action Report of 9 January 2020 (see page 2), the Polish government stressed that: *“The present case presents certain similarities to some aspects dealt with within the Dzwonkowski group of cases, already examined by the Committee of Ministers, and for which a Final Resolution CM/ResDH(2016)148 was adopted on 7 June 2016.”*<sup>2</sup>

5. In addition, the Government pointed out that: *“(…) the facts of the Bednarz case are [occured] prior to the measures taken by the authorities to remedy the shortcomings identified by the Court. Therefore, information provided in the Action Report of 29 April 2016 in the Dzwonkowski group of cases (DHDD(2016)555) in respect of the actions taken to remedy procedural violations of, inter alia, Article 3 of the Convention remains valid (see pages 18-24 of that Action Report).”*<sup>3</sup>

6. Moreover, the Action Report states that *“the Government is of the opinion (...) that measures of a general nature (...) will be sufficient to conclude that Poland has fulfilled its obligations under Article 46 § 1 of the Convention.”*<sup>4</sup>

7. In light of the above, the Foundation will refer primarily to information contained in the Action Report of 29 April 2016,<sup>5</sup> on pages 18-24, regarding execution of the *Dzwonkowski* case group, as well as the updates presented in the Action Report dated 9 January 2020 in the *Bednarz* case. HFHR will also refer to circumstances that will help assess changes occurring at the institutional, legislative and practical levels following the resolution CM/ResDH(2016)148 of 7 June 2016 regarding closure on execution of judgments from the *Dzwonkowski* case group.

#### III. 1. Prohibition of torture and inhuman or degrading treatment - the perspective of international bodies

8. The importance of the present case as well as the need to take additional measures at the general level justify the observation by and positions of international bodies. Bodies operating as part of the United Nations or the Council of Europe consistently point to the problem of excessive use of force by police officers and the further lack of adequate preventive measures, as well as inadequate effective criminal proceedings. In August 2019, the Committee against

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<sup>2</sup> Communication of the Government of the Republic of Poland of 9 January 2020, p. 2, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680996961](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680996961) (accessed date: 17-02-2020).

<sup>3</sup> *Ibid.*, p. 2.

<sup>4</sup> *Ibid.*, p. 3.

<sup>5</sup> Communication of the Government of the Republic of Poland of 29 April 2016, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=090000168064a9db](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168064a9db) (accessed date: 17-02-2020).



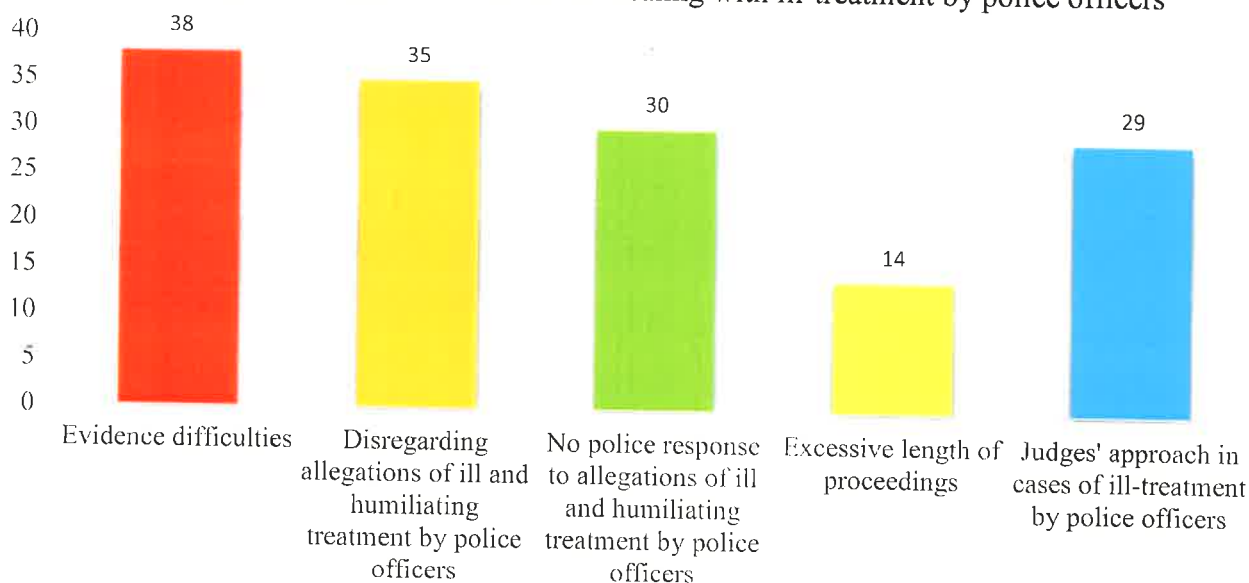
*ill-treatment of such a severity that they could be considered as amounting to torture i.e. asphyxiation using a plastic bag placed over a person's head and administering truncheon blows on the soles of the feet.*"<sup>15</sup>

### III. 2. Difficulties in conducting proceedings regarding inhuman or degrading treatment or punishment by police officers

11. At the center of this case and the judgment of the European Court of Human Rights is the allegation of a violation of the procedural aspect of Art. 3 of the European Convention on Human Rights. Furthermore, HFHR's many years of experience confirm the allegations and observations of international bodies that assert difficulties in pursuing police officer liability in such cases.

12. Data obtained by HFHR in surveys among lawyers confirm our observations and illustrate some issues. We conducted this survey in March and April 2018 among 47 lawyers from various parts of Poland (Warsaw, Poznań, Gdańsk, Łódź, Toruń, Kraków, Katowice).<sup>16</sup>

Chart. 1. Difficulties advocates encounter when dealing with ill-treatment by police officers<sup>17</sup>



13. Analysis of survey data from HFHR's study clearly indicates that the most common problems are evidentiary difficulties in proceedings against police officers, but also the disregard of allegations of misconduct and degrading treatment. A similar level of problems was reported with lack of police response to allegations of ill and degrading treatment by police officers and the erroneous approach of judges to cases of this type. Less frequently, advocates pointed to overly lengthy proceedings and two advocates claimed that judges lend more weight to police officer testimony. One advocate noted that suspects are afraid to bring a complaint

<sup>15</sup> *Ibid.*

<sup>16</sup> A.Klepczyński, *Złe traktowanie osób podejrzanych i zatrzymanych przez funkcjonariuszy Policji. Raport z badania ankietowego przeprowadzonego wśród adwokatów*, Warsaw 2018, p. 7, <http://www.hfhr.pl/wp-content/uploads/2018/05/HFPC-z%C5%82e-traktowanie-podejrzanych-i-zatrzymanych-badanie-ankietowe.pdf> (accessed date: 17-02-2020).

<sup>17</sup> *Ibid.*, p. 8.

against police officers because they believe that this may worsen their situation, which especially applies to suspects detained on remand.<sup>18</sup>

14. Of course, because of the sample size, this was a qualitative not a quantitative study. However, the study's findings are also confirmed by the Supreme Bar Council (hereinafter: NRA) in its *amicus curiae* brief filed in the case of *Kuchta and Mętel v. Poland*,<sup>19</sup> in which the reported observations are based on the experiences of a much broader group of law practitioners.

15. The NRA opinion indicates that the most frequent kind of evidence in such cases tends to be testimony by victims and the alleged perpetrator.<sup>20</sup> The aforementioned opinion notes that the proceeding “often focuses on the assessment of police officers’ in the light of the regulations pertaining to the use of coercive measures by the police. Prosecutors and courts often tend to give police officers the benefit of credibility based on the sole fact that they are public officials. Some advocates have observed that even if acts of perjury become apparent throughout proceedings concerning the alleged acts of abuse of force by police officers/other public officers, no notifications or investigations against such acts are initiated.”<sup>21</sup> Meanwhile, the NRA opinion indicates “investigations into the allegations of torture, inhuman or degrading treatment brought against the police office are often discontinued and conclude for example that: (i) there is no sufficient evidence in support of the allegations; (ii) the use of force was justified due to the aggressive behaviour of the injured party and hence was legal; (ii) it is impossible to establish a causal link between the injuries sustained by the victim and specific acts of the police.”<sup>22</sup>

16. Referencing The Internal Affairs Bureau of the police, which handles investigations involving alleged crimes committed by police officers and employees, the NRA found that “this Bureau and its officers are often much better positioned to conduct such investigations impartially. Allegations of criminal acts committed by police officers are sometimes investigated by prosecutors in cooperation with officers of the Bureau.”<sup>23</sup> Further, the NRA notes, “this is only when the Bureau is engaged in the prosecutor’s investigation or takes up action at its own motion.”<sup>24</sup> Advocates also noted that “in cases of allegations of mistreatment brought against police officers the Bureau is not always engaged. In instances when it is, there often seems to be a low level of cooperation and slow exchange of information between the Prosecution and the Internal Affairs Bureau of the police.”<sup>25</sup>

17. Furthermore, the NRA indicated that “many advocates observe that excessive length of proceedings is a common feature in cases concerning allegations brought against police officers. This observation pertains to both, the preparatory and court stage of proceedings. This may also lead to situations when cases are discontinued due to lapse of a statute of limitation.”<sup>26</sup>

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<sup>18</sup> *Ibid.*, p. 8.

<sup>19</sup> *Amicus curiae* brief of the Polish Bar Council, Warsaw, 26 April 2018, [http://www.adwokatura.pl/admin/wgrane\\_pliki/file-amicuskuchtameteletpcz-22949.pdf](http://www.adwokatura.pl/admin/wgrane_pliki/file-amicuskuchtameteletpcz-22949.pdf) (accessed date: 17-02-2020).

<sup>20</sup> *Ibid.*, p. 9.

<sup>21</sup> *Ibid.*, p. 9.

<sup>22</sup> *Ibid.*, p. 9.

<sup>23</sup> *Ibid.*, p. 9.

<sup>24</sup> *Ibid.*, p. 9.

<sup>25</sup> *Ibid.*, p. 9.

<sup>26</sup> *Ibid.*, p. 9.

### III. 3. The scale of police violence - statistical data

18. Data on the complaints of police violations of the right to liberty or inhuman or degrading treatment provides some information on the scale or torture or improper treatment.

Table 1. Violation of the right to freedom<sup>27</sup>

| Year | Handled internally | Form of handling: |               |                     |
|------|--------------------|-------------------|---------------|---------------------|
|      |                    | Confirmed         | Not confirmed | Other <sup>28</sup> |
| 2013 | 208                | 7                 | 183           | 18                  |
| 2014 | 231                | 9                 | 203           | 19                  |
| 2015 | 203                | 11                | 170           | 22                  |
| 2016 | 191                | 4                 | 172           | 15                  |
| 2017 | 153                | 6                 | 132           | 15                  |
| 2018 | 119                | 3                 | 109           | 7                   |

19. As indicated by the National Police Headquarters data (hereinafter: NPH) complaints of "*violations of the right to freedom*", which involve complaints related to detention of a person, have been decreasing since 2014. In addition, only about 3% of complaints were considered confirmed, and as much as about 85% of complaints were considered unconfirmed.

Table 2. Inhuman or degrading treatment<sup>29</sup>

| Year | Handled internally | Form of handling: |               |                     |
|------|--------------------|-------------------|---------------|---------------------|
|      |                    | Confirmed         | Not confirmed | Other <sup>30</sup> |
| 2013 | 594                | 11                | 514           | 69                  |
| 2014 | 550                | 16                | 464           | 70                  |
| 2015 | 571                | 9                 | 477           | 85                  |
| 2016 | 538                | 3                 | 463           | 72                  |
| 2017 | 463                | 9                 | 391           | 63                  |
| 2018 | 408                | 4                 | 365           | 39                  |

20. It should also be noted that the number of complaints has been consistently decreasing since 2015 from 594 in 2013 to 408 in 2018. Confirmed violations range from 0.5% (2016) to 2% (2014). Unconfirmed complaints total approx. 85%.

21. It is worth emphasizing at this point that, as follows from the National Prosecutor's Office (hereinafter: NPO) reply of 11 February 2020, NPO does not collect statistical data on crimes related to torture and inhuman or degrading treatment, the use of physical violence or verbal

<sup>27</sup> Table prepared based on data made available by the National Police Headquarters via email dated 11 February 2020 pursuant to a freedom of information request pursuant to the Act dated 6 September 2001 on access to public information (final version.: Dz. U. [*Journal of Laws*] of 2019, pos. 1429 as later amended), hereinafter: access to public information.

<sup>28</sup> NPH pointed out that complaints resolved as "other" should be understood as pending complaints, complaints which did not specify the subject of the complaint, as well as complaints withdrawn or passed on for informational purposes.

<sup>29</sup> The table is based on data provided by NPH by email of 11 February 2020.

<sup>30</sup> NPH pointed out that complaints resolved as "other" should be understood as pending complaints, complaints which did not specify the subject of the complaint, as well as complaints withdrawn or passed on for informational purposes.



statements by police officers towards detained persons / suspects. The reason there is no such data is that case registration in the prosecutorial SIP LIBRA computer system does not require entry of the party's profession, i.e. any indication that the case involves a police officer.<sup>31</sup> However, according to the Action Report of 29 April 2016 (page 20), the Department of Preparatory Proceedings of the Prosecutor General's Office (currently the National Prosecutor's Office) was to constantly monitor this type of crime. Such an obligation is also included in point 14 of the guidelines of the Prosecutor General's Office of 27 June 2014 regarding prosecutors conduct of proceedings for crimes related to deprivation of life and inhuman or degrading treatment or punishment, where the perpetrators are police officers or other public officials.<sup>32</sup>

### III. 4. Report of the Ministry of Internal Affairs and Administration

22. In December 2015, the Ministry of Internal Affairs and Administration prepared a report summarizing *"Research concerning the occurrence in the police force of aggression directed against individuals outside the police force with whom police officers have contact in connection with performance of official duties"*<sup>33</sup> ("MIAA Report"). The MIAA Report indicates that its fundamental goal was to *"(...) identify the sources of police officer aggression for the purpose of introducing activities aimed at diminishing or eliminating such. This approach required the level of aggression in the police force be established along with cause and effect relationships between undesired behavior by police officers and other phenomena so that it would be possible to impact police officer behavior by eliminating or attenuating causes thereof."*<sup>34</sup> The MIAA Report indicates that 45% of police officers admitted to *"(...) having been participants in situations in the course of police service during which acts by police officers occurred, which in the eyes of individuals from outside the police, could be deemed to be expressions of unreasonable aggression. (...) 12.95% claim that interventions that involve such situations constituted at least 1/5 of their recent 100 interventions, while for 3.58% this was more than half of their recent 100 interventions."*<sup>35</sup> The most frequent aggressive forms of behavior witnessed personally by police officers included various disabling holds (73%), general use of physical force (69%), forcing an uncomfortable position of the body (43%), and insults (42%). Less egregious, though not exiguous, forms of violations that are difficult to deem accidental, include degrading statements (29%), a blow with the hand or a kick (25%), a strike using an object other than a police baton (17%), use of handcuffs in contravention of regulations (16%), excessive use of the police baton (16%).<sup>36</sup> The MIAA Report indicates that *"the fundamental source of police officers' frustration is the deep divergence between their own understanding of the sense, role and value of being a police officer and their perception of the social understanding and appreciation of that role on the part of society. Police officers consider themselves guardians of the law, obligated to act effectively on behalf of society. However, they feel they are not perceived this way. Seventy one percent of those surveyed feel they experience the problem of the low social authority of the police profession, 66% note the*

<sup>31</sup> NPO's reply to HFHR's request for access to public information dated 11 February 2020, letter with NPO insignia, I p. 20.2020.

<sup>32</sup> Guidelines of the Prosecutor General of 27 June 2014, reference number PG VII G 021/4/14, access: <https://pk.gov.pl/wp-content/uploads/2014/07/022c10a03902e8d39fd95788590691da.pdf> (accessed date: 17-02-2020).

<sup>33</sup> The research is part of the report prepared by Synergion Michał Kochanowski spółka komandytowa. HFHR obtained access to the report as part of a request for access to public information submitted pursuant to provisions of the Act on Access.

<sup>34</sup> *Ibid.*, Pp. 34-35

<sup>35</sup> *Ibid.*, p. 5.

<sup>36</sup> *Ibid.*, p. 6.

lack of appreciation by society, of which 38% feel this applies to them to a high or very high degree. Fifty nine percent declare they experience the problem of the need to protect the respectability of the "police uniform" against the insulting behavior of individuals with respect to whom they conduct their activities."<sup>37</sup> The MIAA Report also states "87% of police officers claim that an officer should use all available means when it appears that a situation may slip out of control during an intervention," and "84% feel that use of all physically available means is indicated when there is a threat that in a direct confrontation with a criminal, the police officer will not have sufficient physical or equipment means to put up effective resistance. Sixty three percent of police officers directly admit they are likely or very likely to use direct means of force in a manner that may be deemed excessive by individuals from outside the police if a situation appeared to be getting out of control."<sup>38</sup> Police officers described threats that may allow a situation to get out of control to include allowing the person with respect to whom an intervention had been taken to take control of the situation (58%), involvement of third parties in the course of the intervention (55%), being unsure of one's abilities (45%), lack of a physical advantage (42%), and lack of an intellectual advantage (39%).<sup>39</sup> Police officers' ability to obtain an advantage is constantly put to the test; for 10% of them this occurs several times a day, 46% of them encounter a verbal provocation once every few days, 45% of those surveyed are subjected to criticism and social pressure once every few days, and 42% at least once every few days experience an impression concerning the impunity of individuals with respect to whom they're conducting an intervention.<sup>40</sup> The MIAA Report finds that only 11% of police officers exhibit a high propensity toward violent behavior, though as many as 74% exhibit a medium level, with 15% exhibiting a low level thereof.<sup>41</sup>

23. Considering the above report and NPH statistics, it is important to assume the low percentage of complaints considered, which in the case of detention is 3%, and in the case of inhuman or degrading treatment only 0.5% -2%. At the same time, it should be noted that many complaints submitted are considered by NPH to be unconfirmed. There may also be concern about the large number of complaints that have been dealt with in a different way because they are pending complaints or those where the subject matter of the complaint has not been clarified. The question then arises whether NPH's approach to complaints is not overly formalistic. At the same time, the low percentage of recognized complaints may raise doubts after analyzing the report of the Ministry of Interior and Administration, especially when it comes to complaints about inhuman or degrading treatment. This is due to the fact that, as indicated by approximately 13% of police officers that they witnessed unreasonable aggression in the course of 1/5 of the last 100 interventions, and for approx. 3.5% of them this involved over half of 100 interventions. In view of the above, it may also be assumed that the low number of complaints submitted by victims annually means they are unaware of their right to submit such or they do not consider it an ineffective measure.

### **III. 5. Police officer training**

24. Bearing in mind the aforementioned report of the Ministry of Interior and Administration, HFHR analyzed training courses related to the psychological aspects of intervention for newly admitted police officers. NPH indicates that the above issue regarding intervention is

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<sup>37</sup> *Ibid.*, p. 7.

<sup>38</sup> *Ibid.*, p. 7.

<sup>39</sup> *Ibid.*, p. 7.

<sup>40</sup> *Ibid.*, p. 8.

<sup>41</sup> *Ibid.*, p. 8.

implemented as part of the basic compulsory vocational training conducted for all newly recruited officers.<sup>42</sup> The Police Academy in Słupsk indicated that such classes are part of basic training and specialist courses. In addition, it pointed out that during the implementation of other program content, practical skills in the field of applied psychology were discussed and developed, including other official activities performed by police officers, e.g. interrogation of a witness or receiving a crime report. The Police Academy in Słupsk indicated all curriculum classes are compulsory.<sup>43</sup> The Police Academy in Szczytno reported that classes in psychological aspects of interventions are conducted as part of basic vocational training.<sup>44</sup> The Police Training Center in Legionowo indicated that these types of classes are conducted for newly admitted police officers and these classes involve police psychologists who evaluate exercises or simulations in this respect. Furthermore, in the course of instruction police instructors are required to respond to the behavior of police officers. Their task is to emphasize the value of proper social behavior while providing constructive correction of behaviors deemed legally and socially unacceptable. The Police Training Center in Legionowo also indicated that they were not tasked with implementing the central vocational training on the "psychological aspects of an intervention."<sup>45</sup> HFHR recognizes the activities implemented during training, however, it seems that they require supplementing and deepening. As such, an HFHR analysis indicates that there are no separate classes for newly admitted recruits focusing specifically on the psychological aspects of intervention.

25. In addition, in HFHR's evaluation, there are no continuing education or supplementary trainings for police officers regarding the psychological aspects of interventions. Neither the Police Training Center in Legionowo nor the Police Academy in Słupsk conducted supplementary training for police officers regarding the above-mentioned subject.<sup>46</sup> Only the Police College in Szczytno indicated that classes in these topics are conducted in the form of elective specialized courses available as part of professional development.<sup>47</sup> NPH indicated that a program of local professional development was developed, called "Techniques of exerting influence in situations of difficult police interventions," the aim of which is to improve the skills of Police officers in techniques of exerting influence during interventions. However, the above training is not compulsory and this program is for preventive police officers. NPH indicated that 1,410 police officers were trained in 2019.<sup>48</sup> However, the fact that the training is not required, generates doubts. According to the Ministry of Interior and Administration report, 11% of Police officers indicate a high level of propensity to aggression, with 74% of them reporting a medium propensity. For this reason, it seems that such training should be compulsory and should be repeated in given police units once every 3 years. The goal would be to achieve continuous control as well as self-improvement in dealing with stress and aggression in difficult situations.

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<sup>42</sup> Information made available by NPH by email of 11 February 2020.

<sup>43</sup> Information provided by the Police Academy Słupsk at the request of HFHR for access to public information of 7 February 2020, letter: AWIP - 7/20.

<sup>44</sup> Information made available by the Police Academy in Szczytno upon HFHR's request to provide public information of 7 February 2020, letter: ZP-29/20.

<sup>45</sup> Information made available by the Police Training Center in Legionowo upon HFHR's request for access to public information of 6 February 2020, letter: CD/575/DK/20.

<sup>46</sup> Information provided by the Police Academy in Słupsk at the request of HFHR for access to public information of 7 February 2020, letter: AWIP - 7/20 and information provided by the Police Training Center in Legionowo at the request of HFHR for access to public information of 6 February 2020, letter ref. no.: CD/575/DK/20.

<sup>47</sup> Information made available by the Police Academy in Szczytno upon HFHR's request to provide public information of 7 February 2020, letter: ZP-29/20.

<sup>48</sup> Information made available by NPH by email of 11 February 2020.

#### IV. Recommendations

26. Having regard to the above-mentioned argumentation, HFHR requests that the Committee of Ministers continues its supervision of the execution of the *Bednarz v. Poland* judgment. In our opinion, the implemented measures have not achieved expected results. As a consequence, the adopted measures could not be sufficient to conclude that Poland complied with its obligations under Article 46 paragraph 1 of the Convention. Therefore, we assert that examination of *Bednarz cases* should not be finished as the systemic problem underlining the violation of human rights has still not been fully resolved.

27. In light of the above, HFHR recommends that the Committee:

1. based on information contained in the Action Report of 29 April 2016, request the Polish government to provide information on:
  - a) the establishment of a team at the Ministry of the Interior and Administration to develop specific solutions related to shaping attitudes, educating police officers and police officer cadets, and, if such a team has been established, to indicate what its tasks are and whether it has already issued any recommendations;
  - b) the establishment of a team at the Ministry of the Interior and Administration to develop specific solutions related to various types of psychological assistance to ensure that police officers properly fulfill their tasks, and, if such a team was formed, to indicate what its tasks are and whether it has already issued any recommendations;
  - c) the establishment of a team at the Ministry of the Interior and Administration to develop issues related to the prevention of inappropriate behavior by police officers, and, if such a team was formed, to indicate what its tasks are and whether it has already issued any recommendations.
2. based on the report of the Ministry of the Interior and Administration of December 2015, request the Polish government to provide information:
  - a) on whether an implementation plan has been prepared subsequent to the summary report of the study implemented at the request of the Ministry of Interior and Administration on the problem of police aggression against persons from outside the police force with whom an officer has contact in the course of official duties of 7 December 2015;
  - b) whether further tests have been carried out or similar tests are planned to those described in the report referred to in point 1, and if they have been carried out or if they are planned, to provide information on them and to indicate when completion is planned.
3. in light of the guidelines of the Prosecutor General's Office of 27 June 2014, request the Polish government to provide information on why statistical data on crimes related to torture and inhuman or degrading treatment, use of physical or verbal violence by police officers against detained persons / suspects has not been collected despite the abovementioned guidelines and assurances contained in the Action Report of 29 April 2016 that such data would be collected.

28. In HFHR's opinion, in order to guarantee the complete implementation *Bednarz v. Poland* judgment, the Polish government should:

1. ensure that all proceedings regarding torture and ill-treatment by police officers as well as all deaths are investigated quickly, effectively and impartially<sup>49</sup>;
2. introduce a regulation which, in the event of a suspicion of offenses involving torture or inhuman treatment, officers would be suspended immediately during the proceedings<sup>50</sup>;
3. ensure that all police interventions and all interviews are recorded, and that all interview rooms have a video system installed<sup>51</sup>;
4. ensure that all cases of torture and ill-treatment are recorded<sup>52</sup>;
5. ensure that all persons reporting such crimes are protected against intimidation or repression; they should also be provided with all information on the measures taken to notify them, and victims should be given adequate restitution and compensation<sup>53</sup>;
6. ensure that doctors, judges, officers of the Prison Service Police are trained on the Istanbul Protocol recommendations and practical application thereof.<sup>54</sup>

*On behalf of the Helsinki Foundation for Human Rights,*



*Dr Piotr Kładoczny*

Secretary of the Board

Helsinki Foundation for Human Rights



*Maciej Nowicki*

Vice President of the Board

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<sup>49</sup> Cf. *Conclusions and recommendations of the Committee against Torture*, 29 January 2019, CAT/C/POL/CO/7, p. 7, *Concluding observations on the seventh periodic report of Poland*, 23 November 2016, CCPR/C/POL/CO/7, p. 5; *Recommendations and observations of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 21 January 2020, CAT/OP/POL/ROSP/1, p. 8.

<sup>50</sup> Cf. *Conclusions and recommendations of the Committee against Torture*, 29 January 2019, CAT/C/POL/CO/7, p. 7.

<sup>51</sup> Cf. *Conclusions and recommendations of the Committee against Torture*, 29 January 2019, CAT/C/POL/CO/7, p. 7, *Recommendations and observations of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 21 January 2020, CAT/OP/POL/ROSP/1, p. 9.

<sup>52</sup> Cf. *Conclusions and recommendations of the Committee against Torture*, 29 January 2019, CAT/C/POL/CO/7, p. 7, *Recommendations and observations of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 21 January 2020, CAT/OP/POL/ROSP/1, p. 9.

<sup>53</sup> Cf. *Conclusions and recommendations of the Committee against Torture*, 29 January 2019, CAT/C/POL/CO/7, p. 11.

<sup>54</sup> The Istanbul Protocol was transmitted to the United Nations High Commissioner for Human Rights on 9 August 1999. Professional Training Series No. 8/Rev.1, UN New York and Geneva, 2004.