

Everyone around is suffering

Report on psychological support
offered by the Polish Migration Forum
Foundation to persons staying in guarded
detention centres for foreigners

Warsaw, May 2024

FOUNDATION

**Polish
Migration
Forum**



**Save the
Children**

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RZECZNIK PRAW DZIECKA

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Introduction

Agnieszka Kosowicz

Since 2022, a team of psychologists from the Polish Migration Forum Foundation have been providing psychological support to migrants in guarded detention centres for foreigners, as well as to those who have been released from detention.

Since 2022, we have provided support to 143 people: women, men and children from 26 countries.

Psychological assistance in guarded facilities is a very challenging task – both for psychologists and at an organisational level. It became even more difficult when we lost the ability to meet our clients face to face and assistance had to take the form of telephone consultations only, usually interventional.

In order to organise any consultation between a psychologist and a person in detention, several conditions need to be met. Firstly, establishing efficient contact with the individual, and secondly, having an interpreter available over the phone. Plus, it is necessary to build rapport and create a basic sense of safety in the conversation for someone who does not feel safe. It also requires cooperation with Border Guard officers, many of whom view our intervention and assistance in strictly negative terms – in these circumstances, it is not easy to find space for cooperation in case of crisis situations.

We have often faced accusations from the Border Guard that we misjudge the mental state and situation of the people we provide support to. Staff at the guarded centres would argue that telephone contact carries many limitations and thus we attribute inadequate meaning to the words of foreigners who – in the officers' opinion – would say anything just to get released from detention. Consequently, reports made by us to the facilities' management about our clients' suicidal thoughts or other life and health-threatening situations would get ignored.

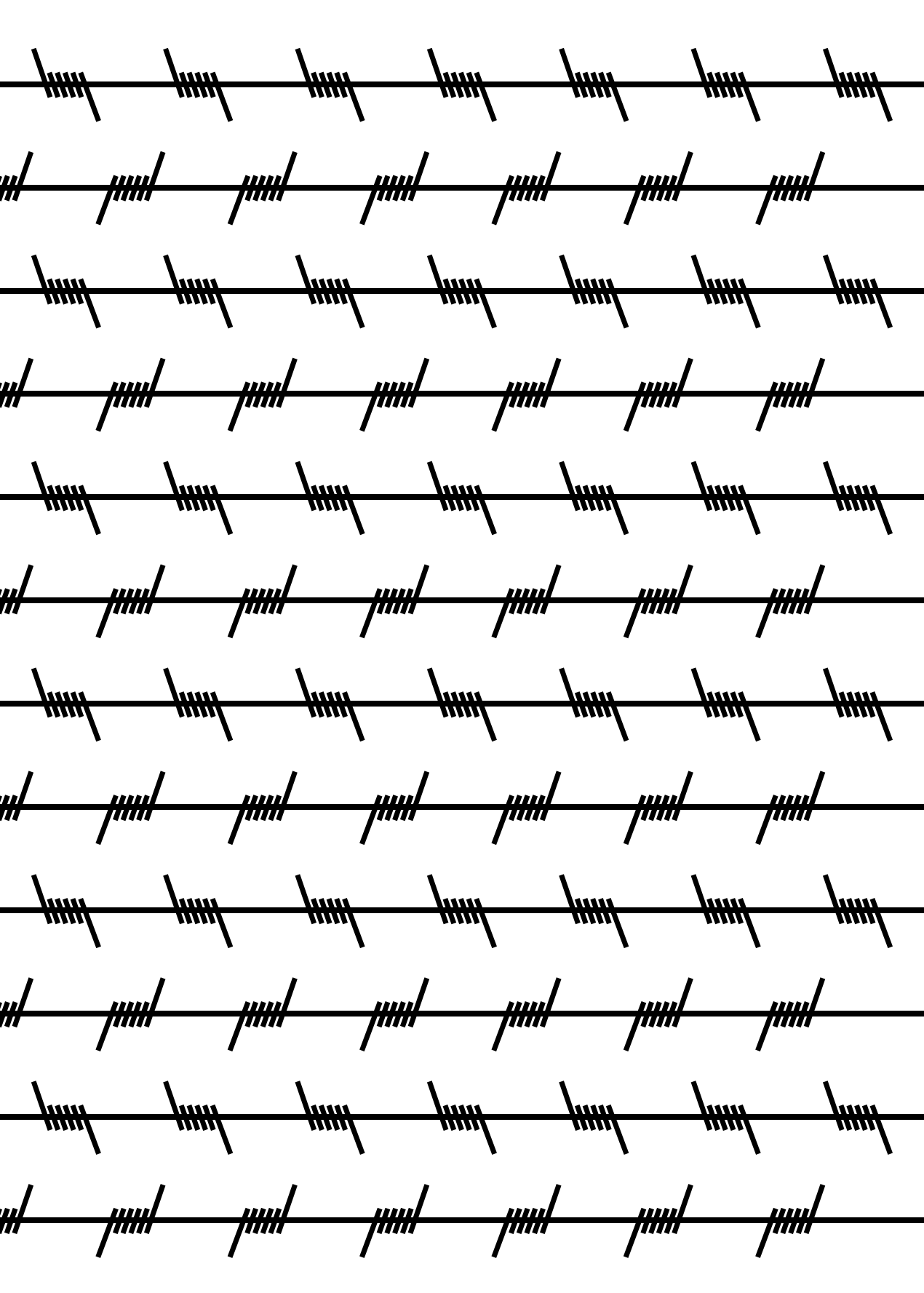
The fact that organisations such as ours were being deprived of the possibility to work directly with people in guarded detention centres indeed felt like a big loss. However, although telephone contact significantly limits the scope of psychological work, it still remains a valuable form of support – when others are not available.

We have repeatedly experienced situations when a telephone conversation with a psychologist was a way to effectively support a person in mental health crisis.

We have heard numerous testimonies from our clients, as well as from their legal representatives, confirming that the support provided by a psychologist was like an invaluable light at the end of the tunnel, allowing them to survive a time they later recalled as a nightmare. On many occasions, a psychologist's opinion actually contributed to the release of a person in mental health crisis from detention.

We do not expect the concept of detention to disappear from Poland. Detention is sometimes necessary. However, we urge that it should not be the standard treatment for those who currently end up in detention, and that it should be a solution used for as short a period as possible. We also strongly call for an end to the detention of two groups that should not get detained at all: children and victims of violence and torture.

If we could only call for one change in the system, we would say: stop repeatedly extending the detention of people deprived of their liberty. This practice drives detainees in guarded centres to despair and desperation and is a form of abuse in itself.



Part I

**What are guarded centres
for foreigners in Poland and
how does the system work?**

1. Definition and organisation of guarded detention centres

Kornelia Trubiłowicz

What are guarded detention centres used for?

A guarded detention centre (GDC) for foreigners in Poland is a facility for migrants deprived of their liberty under migration regulations – either due to a pending deportation procedure or a procedure for granting international protection. Detention is intended to make these processes run efficiently.

We should explain here what they entail. The return procedure, i.e. deportation procedure, is an administrative procedure aimed at obliging a foreigner to leave Poland. It is conducted by the Border Guard Commander in a situation where during a check performed on a foreigner it is found that one of the conditions set out in Art. 302 of the Foreigners Act (FA) applies with respect to that foreigner. These include, among others: illegal stay, illegal work, absence of any travel document authorising entry and stay in Poland.

With respect to persons obliged to return and held in a guarded centre, the Border Guard takes measures to compulsorily execute the deportation decision. In specific cases, the return procedure may conclude in waiving the obligation to leave Poland, i.e. in the issue to the foreigner of a permit to stay in the country for humanitarian reasons or a permit for tolerated stay¹.

Whereas the international protection procedure is an administrative procedure conducted at the request of a person who has declared to the Border Guard their intent to apply for international protection due to being in danger in their country of origin. It may conclude in the granting of refugee status or subsidiary protection, or in the refusal to grant either of these forms of protection [the legal basis applicable to both procedures is discussed on page 14 - editor's note].

¹ Article 348 and 351 of the Foreigners Act (FA)

Organisation of guarded detention centres

In structural terms, the centres are subordinate to the locally competent Commander of the post or branch of the Border Guard which runs the respective facility and makes the binding decisions regarding the persons held there.

Guarded detention centres are penitentiary in nature. This means that the person sent there cannot individually decide whether they want to stay there or whether they want to leave. Placement in a guarded centre follows a decision of the locally competent district criminal court. Whereas release is at the discretion of the court or the Border Guard Commander in charge of the centre or, exceptionally, the Head of the Office for Foreigners.

A migrant may end up in a guarded centre not as a result of a crime or offence. This is because by definition it is administrative detention and is not intended to punish a person for their conduct.

However, guarded detention centres are not divided according to the administrative procedures pending against foreigners. The law does not provide for any other differentiation either, e.g. for the conditions that should be ensured in each different case.

In Poland, guarded centres for foreigners are divided into:

- Men's centres – for single adult men;
- Family centres – for families, also with children, for single adult women and for underage foreigners without a legal guardian in Poland (there is a special part of the centre designated to them).

There are currently six facilities: in Lesznowola, Biała Podlaska, Kętrzyn, Przemyśl, Białystok and Krosno Odrzańskie. The sites are protected by high fences with barbed wire.

Daily life in GDCs

Staying in a guarded centre entails a significant restriction of freedom and contact with the outside world. What does this mean in practice? A person in detention needs to follow a strict daily schedule and regulations. They are also deprived of some private belongings e.g. smartphones with a camera and Internet access, which are deposited in a special room; they have limited computer and network use; can go outside to get some fresh air, but only within the facility. Their ability to use their money is also limited – it is secured towards the costs connected to their forced removal from Poland, including the costs of their stay in the guarded centre. Most people in the GDC pay for their stay, although this depends on the individual legal situation.

At the same time, migrants in detention are not allowed to engage in gainful employment – they remain under constant supervision of Border Guard officers. Single people are usually placed in a room with strangers. The human right to privacy and to family life is significantly restricted.

In each guarded centre, foreigners are provided with all-day board and medical care. Moreover, children should have access to basic learning, recreational and sporting activities². Despite this, the Ombudsman has signalled that the constitutional right to education of migrant children in guarded centres is not respected³. Each facility should have, among other things, a library, rooms for cultural and educational activities and sports activities, a sports field and a playground (in the place where children are staying), as well as a solitary room and isolation room for sick persons⁴. People staying at a GDC have the right to engage in religious practices and to have on-site or remote online visits with relatives, but this is limited to 90 minutes per day⁵.

² Article 416(2) FA

³ RPO, *Do strzeżonych ośrodków nie powinny trafiać m.in. rodziny migrantów z dziećmi*. Marcin Wiącek pisze do polskich sądów, text available at: <https://bip.brpo.gov.pl/pl/content/rpo-sady-migranci-strze-zone-osrodki-rodziny-dzieci>, accessed: 23.11.2023

⁴ §3 Regulation of the Minister of the Interior on Guarded Detention Centres and Jails for Foreigners of 24 April 2015 (consolidated text, Journal of Laws of 2023, item 719), hereinafter: "GDC Regulation").

⁵ Ibid, §21(1).

Currently, the centre provides no less than 4 m² of room space per person. However, if there are more people in the facility, this space may be reduced to 2 m², but for a maximum of 12 months⁶. This represents a lower standard than in prisons (3 m² per person). The practice is contrary to international standards and may bear the hallmarks of torture and other inhuman treatment⁷.

Jail

A jail for foreigners may also operate within a guarded centre⁸. One is currently located at the Guarded Centre for Foreigners in Przemyśl. By design, it is only meant for people who pose the risk of not complying with the rules of the facility. They can only be placed there by an order of the court, which assesses whether the grounds to do so exist. Therefore, the jail should only be used when it would be insufficient to detain a person in a guarded centre.

However, the Ombudsman has reported cases where a jail was used instead of a guarded centre⁹. The Ombudsman also reports that the jails do not meet international standards and that their regime resembles closed prisons.

⁶ Ibid, §11(1) a.

⁷ Krajowy Mechanizm Prewencji Tortur, *Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi. Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur*, 2022, available at: <https://bip.brpo.gov.pl/sites/default/files/2022-06/Raport%20KMPT%20-Sytuacja%20cudzoziem-c%3%B3w%20w%20o%20C5%9Brodkach%20strze%20C5%BConych%20w%20dobie%20kryzysu%20na%20granicy%20Polski%20i%20Bia%20C5%82orusi.pdf>, p. 64, accessed: 24.11.2023 and Stowarzyszenie Interwencji Prawnej, *Wsparcie zamiast przemocy – czyli alternatywa dla strzeżonych ośrodków dla cudzoziemców*, 2023, available at: <https://interwencjaprawna.pl/wp-content/uploads/2023/05/wsparcie-zamiast-przemocy-ra-port-SIP.pdf>, accessed: 24.11.2023 r., p. 14.

⁸ Article 399(2) FA

⁹ *Cudzoziemcy zbyt łatwo trafiają do aresztu – zamiast do ośrodka*. Odpowiedź MSWiA na wystąpienie RPO, 2023, text available at: <https://bip.brpo.gov.pl/pl/content/rpo-cudzoziemcy-areszty-mswia-od-powiedz>, accessed: 24.11.2023

The jail is governed by a strict regime and there is constant surveillance of the people in custody. A special walking area is designated, which is only accessible at certain times. Detainees have no contact with other people from the centre, unless they obtain special permission. They spend most of the day locked in their rooms. They also have to ask an officer to take them to the toilet¹⁰. The maximum time limits for detention in jail are the same as those applicable to persons placed in guarded centres [this is discussed later in this chapter - editor's note].

¹⁰ Ibid.

2. Legal regulations on the operation of guarded detention centres

Kornelia Trubiłowicz

The operation of guarded centres is regulated by both national law and European Union Community law, which sets the basic framework for the detention of foreigners in the member states. It is worth noting that other international conventions which are binding on Poland and set out fundamental rights also apply to the stay of foreigners in Polish GDCs. They include, in particular, the Convention for the Protection of Human Rights and Fundamental Freedoms, done at Rome on 4 November 1950, with Additional Protocols.

European directives and Polish law

Under EU law, detention of foreigners is primarily regulated by two documents. The first is the Directive of the European Parliament and of the Council 2013/33/EU of 26 June 2013 laying down standards for the reception of applicants for international protection (recast, hereinafter: "Reception Directive"). The document regulates the situation of foreigners seeking international protection.

The second one is 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 (hereinafter: "Return Directive") – concerning foreign nationals subject to a return procedure [both procedures are described on page 8 - editor's note].

The documents point to the basic principle which national authorities should follow when detaining foreign nationals: detention should be considered only as an instrument of last resort, to be used only when it is not possible to use a less repressive alternative measure that does not involve restricting liberty¹. Moreover, it explicitly prohibits the detention of foreigners solely on the grounds that they are seeking international protection. Furthermore, each case should be examined on an individual basis.

Although national regulations reflect these principles, it cannot be said that they are properly enforced in practice. Placement of people in guarded centres often happens almost automatically, on a mass scale, without individual consideration of measures alternative to detention – i.e. reversing the direction of the principle indicated above. In 2021, first-instance courts – according to information obtained by the Association for Legal Intervention – granted an astounding 99.69% of requests by Border Guard commanders to extend the period of stay of foreigners in a guarded centre or jail².

Polish regulations: deportation law (Foreigners Act) and international protection (Act on Granting Protection to Foreigners)

Under national law, the legal situation of migrants against whom deportation proceedings are pending is regulated by the Foreigners Act of 12 December 2013 (Journal of Laws of 2023, item 519, as amended, hereinafter: "FA"). Whereas the situation of refugees seeking international protection in Poland is further regulated by the Act on Granting Protection to Foreigners within the Territory of the Republic of Poland of 13 June 2003 (Journal of Laws of 2023, item 1504, hereinafter: "AGPF").

These two acts – FA and AGPF – list the grounds for placing a foreigner in a guarded centre or jail for foreigners. The documents also regulate measures alternative to detention, as well as list the basic rights and obligations of foreigners staying in a guarded centre and indicate the maximum time limits for detention.

¹ Article 8(1) and (2) of the Reception Directive, Article 15(1) of the Return Directive.

² *Sytuacja cudzoziemców w ośrodkach ...*, op. cit. p. 53; *Stowarzyszenie Interwencji Prawnej, Wsparcie zamiast przemocy...*, p. 48.

The Foreigners Act sets out general provisions applicable to all persons placed in guarded centres, including those who are subject to deportation proceedings related to the expulsion of foreigners from the territory of Poland. Article 404 FA refers to the Code of Criminal Procedure of 6 June 1997 (Journal of Laws of 2022, item 1375, as amended) with regard to the procedure for the placement and extension of stay of foreigners in detention (within a guarded centre and in jail) as well as to their release, except that the activities reserved for the public prosecutor are performed by a Border Guard officer.

Whereas AGPF regulates the legal situation only in the context of the detention of persons who have applied for international protection and the relevant procedure is still ongoing. The Act on granting protection to foreigners is therefore a special regulation – *lex specialis* – in relation to FA. This means that in cases of applicants for international protection, both acts apply. If AGPF does not regulate a given issue, reference should be made to the provisions of FA³.

Conditions for detention under FA and AGPF versus international standards

Each of these acts sets out different prerequisites for placing a foreigner in detention – under a specific procedure. The prerequisites under the Foreigners Act are primarily connected to the likelihood of issue of a decision obliging the foreigner to return without a specific deadline to do so or to the failure of the foreigner to comply with a previous return decision⁴. However, also in this case, as a rule, other non-detention measures to secure return proceedings should be applied first, and detention should only be considered if their application is not possible or if the foreigner has not complied. Only in certain situations does the law absolutely mandate detention without the possibility of using alternative measures⁵.

However, provisions prescribing absolute detention, without prior consideration of alternative measures, are incompatible with the aforementioned Return Directive (Article 15(1)), as well as with developed international standards on the detention of foreigners.

³ Judgment of the Supreme Court of 20 June 2023, file ref.: II KK 148/22.

⁴ Art. 398-398a FA

⁵ These are the four prerequisites described in Article 398a FA.

In case of applicants for international protection, the **grounds for their placement in a guarded centre** are listed in Article 87 AGPF. These are: the need to establish or **verify the identity** of the foreigner, to collect information with the foreigner which forms the basis for the application for international protection and which would be impossible to obtain without detention (where there is a **substantial likelihood** of absconding), to issue or implement **a decision on the foreigner's obligation to return** when there is a presumption that the application was made for the sole purpose of delaying the issue or execution of a decision on the foreigner's obligation to return. A foreigner may also be placed in a guarded centre when this is required for reasons of defence or **state security** or to protect public security and order, or when it is necessary to transfer the foreigner to another member state in accordance with the **Dublin Convention**⁶ and when there is a substantial likelihood of absconding.

However, also in the case of an international protection procedure, when any of the abovementioned grounds apply, the **possibility of using measures alternative to detention should first be examined**⁷ [alternatives to detention are explained in full in Part IV - editor's note]. Only after it has been established that none of these measures can be applied, can the foreigner be placed in a guarded centre⁸.

In the case of both procedures, alternative measures may be applied by the competent commanding officer of the Border Guard as well as by the court which received the application for placement in detention or prolongation of detention⁹.

⁶ Based on Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of criteria and mechanisms for determining the member state responsible for examining an application for international protection lodged in one of the member states by a third-country national or a stateless person (recast).

⁷ Article 88(1) AGPF

⁸ Article 88a(1) AGPF

⁹ Articles 398(5), 401(5), 403(7a) FA and 88(2), 88b(3), 89(8) AGPF

Statutory limits on the length of stay in GDCs

Each of the discussed acts regulates the maximum duration of stay in a guarded centre. It should be stressed that a decision to detain or prolong detention entails the obligation to determine its duration in advance¹⁰, as well as the need to pursue a specified objective within that period. The aim is to enable the administrative authorities to carry out relevant actions against the migrant and to conclude the pending proceedings.

If there are delays on the part of the administrative authorities, the consequences should not be borne by the person detained in the centre. Detention should not be continued especially if the foreigner does not warrant this with their conduct. An exception here is a prolonged time of issuing the documents necessary for the execution of a deportation decision on the part of third countries¹¹.

Under the deportation procedure, the maximum duration of stay of a foreigner in detention is 18 months and under the refugee procedure (international protection) it is 6 months¹².

The time spent in a guarded centre or jail for foreigners calculated under one of the Acts is not included in the period of detention specified in the other¹³.

This means that a person facing first a refugee procedure (international protection) and then a deportation procedure may spend even 24 months in a guarded centre or jail.

¹⁰ For foreign nationals in a deportation procedure, these are a maximum of 3 months in each case (Art. 403(1), (3), (3b) FA). For persons seeking international protection, the maximum duration may be 60 or 90 days when detention is first ordered on that basis and more when detention is prolonged (Article 89(1)-(4) AGPF). However, the court may order a shorter term of detention.

¹¹ Art. 403(3a) FA; Art. 89(4a) AGPF

¹² Art. 403(3a) FA; Art. 89(5) AGPF

¹³ Article 403(4) FA

However, it should be emphasised that, as the Act implies, migrants should be sent to GDCs or jails for the shortest possible period of time¹⁴. However, practice shows otherwise. They often remain in the facilities for as long as possible – the maximum time applicable to the procedure pending against them. An exception is when there is a special need for early release. It can be applied by the competent Border Guard Commander, e.g. when it is established that the given person is likely to be a victim of violence or that further stay in a guarded centre threatens their life or health.

In 2022, a total of **923 decisions of the Commanding Officer of a Border Guard post or branch on release from a guarded centre** were issued against foreigners, of which **445 decisions were based on an allegation that the foreigner had experienced violence or a threat to their life or health in connection with further detention**¹⁵. In addition, the Head of the Office for Foreigners has such competence in connection with applications for international protection if they determine that the evidence indicates that the foreigner is highly likely to fulfil the conditions for international protection being granted in Poland¹⁶.

In addition, technical and organisational issues concerning the operation of guarded centres and jails for foreigners are governed by the Regulation of the Minister of the Interior of 24 April 2015 on guarded centres and jails for foreigners (consolidated text, Journal of Laws of 2023, item 719).

¹⁴ Article 403(6) FA

¹⁵ Information of 17 February 2023 obtained by the Association for Legal Intervention from the Headquarters of the Border Guard via public information service.

¹⁶ Art. 406 FA; Art. 89b(2) AGPF

3. The Polish experience: *ultima ratio*?

Aleksandra Pulchny

Let us recap: foreigners may be placed in guarded centres for reasons specified in the following Acts: the Foreigners Act (FA) and the Act on Granting Protection to Foreigners within the Territory of the Republic of Poland (AGPF). Detention should therefore contribute to streamlining essentially two types of proceedings – asylum procedure (i.e. for international protection) and deportation procedure (i.e. obligation to return).

Applicants for international protection may end up in detention for a variety of reasons, as detailed above [on page 15 - editor's note]. Practice suggests that the courts believe that crossing the border illegally is in itself indicative of a risk of absconding, which can be regarded as undue abuse. The fact that someone applies for international protection cannot automatically be a reason for placing them in a guarded centre.

On the other hand, in the case of an obligation to return, the decision is issued by the competent Commander of the Border Guard post. The most common use of detention in such a situation is to enable the issue or execution of a return decision¹. The deportation itself is organised by the Border Guard, but not necessarily by the post where the foreigner is located. The deportation process can take up to several months, for example, due to the need to confirm the foreigner's identity.

As has been stressed many times above – detention should be a last resort. Non-detention measures should be considered first. However, since, in practice, the percentage of Border Guard applications for placement in a guarded centre

approved by the courts is high², the question arises as to the actual treatment of this measure as *ultima ratio* [Latin: measure of last resort – editor's note].

¹ Article 398a(1) FA

² Data from district and county courts from 2022.

Children, regardless of age, can also stay in guarded centres, provided they have arrived with their parents. Whereas when a minor is found in Poland without a guardian, the possibility of depriving them of liberty depends on their age and the type of administrative proceedings pending against them. This means that if they are alone and under 15 years old, they cannot be placed in a centre. The same is true when the person is applying for international protection, regardless of age.

Landmark Supreme Court ruling

In cases handled by migration lawyers in Poland, the courts have repeatedly commented on the use of detention as a last resort. In a landmark judgement of 20 June 2023, the Supreme Court pointed out that the Constitution protects the right of foreign nationals to liberty, and that any deprivation or restriction of liberty “must meet the constitutional standard resulting from the principle of proportionality set out in Article 31(3) of the Polish Constitution. If it does not meet it, it is an unjust deprivation of liberty”³.

The ruling also indicates how the provisions allowing for the detention of refugees should be applied, taking into account their particular vulnerability and the principle of humanity. It was pointed out that the detention of such persons does not have “a repressive function, nor is its purpose to protect the borders of the Republic of Poland or the external borders of the European Union, let alone to combat the phenomenon of illegal immigration [...]. Guarded centres are therefore not used to house foreigners for the duration of the examination of an application for protection or, in the event of a negative outcome of such an application, to ensure the effective enforcement of a decision to deport the foreigner”⁴. It was emphasised that in this respect the “ultima ratio principle applies, which excludes any automated treatment meaning that the submission of an application for international protection is highly likely to lead to the deprivation of the applicant’s liberty by way of detention in a guarded centre. Such a practice undermines the humanitarian sense of granting international protection to foreigners, especially to refugees”⁵. The Supreme Court stressed that all grounds for detention must be proven and the decision-makers cannot rely solely on presumptions. In order for a detention to be lawful, it is required to demonstrate that it was necessary in the particular case.

³ Judgement of the Supreme Court of 20 June 2023, ref. II KK 148/22.

⁴ Ibid.

⁵ Ibid.

In the judgement, the Supreme Court also emphasised that “if detention in a guarded centre was justified by the need to carry out certain activities with the foreigner’s participation, but these activities were not carried out, or the actual period of detention was not necessary to carry them out, there are grounds to consider that the application of this measure was unjust in part or in whole [...]”⁶.

What does this mean? That courts should examine whether and what activities (e.g. hearings in the international protection procedure) involving foreigners have been carried out and are planned in the given case, and what information was to be collected with the foreigner’s participation. If these aspects are not established, this clearly excludes “the possibility of assessing the fulfilment of the other conditions and thus the legitimacy of the detention of persons in the refugee procedure”⁷.

When placing foreigners in GDCs, it is not uncommon for courts to refer to the fact that the foreigners have illegally crossed the border, including those applying for international protection. In one case handled by the Association for Legal Intervention, the court indicated, however, that the ineffectiveness of measures alternative to detention cannot be determined *a priori* by the fact that the foreigner has illegally crossed the state border of the Republic of Poland.

Let us repeat: the fact that someone enters Poland illegally cannot be an argument for the court that such a person must be placed in a guarded centre and, consequently, that alternative measures, i.e. without restricting liberty, cannot be applied.

Moreover, certain groups of people absolutely cannot be placed in detention. This applies, for example, to victims of violence and those for whom deprivation of liberty could result in a threat to life or health. In practice, however, victims of violence and migrants in poor mental health or struggling with mental illness are placed in these centres.

⁶ Ibid.

⁷ While this report is being written, there is a damages case pending in the Court of Appeal in relation to the judgement in question.

It is regularly observed that the Border Guard ignores foreigners' statements regarding their mental state, the procedure of identification of victims is ineffective, and the courts do not examine the mental condition of the given person when deciding whether to detain them or extend their stay in a guarded centre⁸.

It is also apparent from Polish practice that courts which rule on the placement of foreigners in guarded centres or on the prolongation of detention very rarely appoint expert psychologists and psychiatrists to give an opinion on whether the migrant has experienced violence. They mostly base their decisions on documentation provided by the Border Guard, which, according to the Ombudsman, cannot, for instance, effectively identify victims of violence⁹ [the importance of identification and methods of identification in guarded facilities are described in Chapter 11 – editor's note]. They do not independently check whether a person's mental and physical state may indicate that they have experienced violence.

NGOs further observe that the courts which decide on the placement of children in centres often do not consider their best interests and do not examine what impact the detention will have on their further development¹⁰ [the impact of detention on children's mental health is discussed in Part III – editor's note].

⁸ <https://interwencjaprawna.pl/skarzimy-polske-za-detencje-chorego-cudzoziemca-po-przemocy/>, accessed: 30.11.2023 <https://interwencjaprawna.pl/kolejna-interwencja-przed-etpc-dotyczaca-detencji-cudzoziemcow-mek-w-polsce/>, accessed: 30.11.2023

⁹ Sytuacja cudzoziemców w ośrodkach ..., op. cit.

¹⁰ *10 SIP w działaniu. Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 r.*, available at: https://interwencjaprawna.pl/wp-content/uploads/2021/01/SIP-w-dzialaniu_raport-2022.pdf, p. 32, accessed: 30.11.2023; <https://hfhr.pl/aktualnosci/dzieci-nie-powinny-trafiac-do-strzezonych-osrodkow-dla-cudzoziemcow>, accessed: 30.11.2023

4. Psychological support at guarded detention centres in theory: an indisputable right

Aleksandra Pulchny

A foreigner's right to contact non-governmental organisations is indicated by 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. In accordance with Article 16(5) of that Directive, the information provided to foreigners held in detention should also include information about their right, in accordance with national regulations, to contact non-governmental organisations and entities that are able to visit detention centres.

National legislation guarantees that NGO representatives can contact people in detention in order to provide them with psychological support. The regulations set out separate procedures for those who have applied for international protection and those who have not¹.

Polish law therefore empowers NGOs to provide assistance to people in detention centres and ensures the detainees' right to receive it. In a word, foreign men and women in GDCs have an unquestionable right to contact NGOs, also to obtain psychological assistance.

In one case handled by the Association for Legal Intervention in February 2024, the court, when releasing a foreigner from a guarded centre, took into account a psychological opinion issued by a psychologist from outside the centre². In the court's view, it unequivocally confirmed the existence of a threat to the foreigner's life and health due to their current mental state caused by their stay in the centre. This demonstrates the importance of access to external assistance and psychological assessment for foreign nationals in detention.

¹ Art. 29(2) AGPF and Art. 415(1)(2) FA

² See <https://interwencjaprawna.pl/sad-zawalnia-z-detencji-i-bierze-pod-uwage-opinie-psychologa-spoza-soc>, accessed: 25.03.2024

In December 2021, the Border Guard changed a long-standing practice: psychologists and the NGOs that employ them have stopped receiving permission to enter the centres in order to hold psychological consultations. No justification for this change was given. It is certainly not in any way due to a change in the legislation, which has remained unchanged for years. The current practice may indeed lead to inhuman or degrading treatment of foreigners in detention.

Access to psychological support – assessment of the actual situation

Important information on real access to psychological support in guarded centres is provided by the post-audit report of the Supreme Audit Office³ (SAO) following an inspection carried out in the Podlasie Border Guard Branch (POSG). The branch is responsible for running the GDC in Białystok.

As part of the overall assessment, the Supreme Audit Office found that POSG “did not provide adequate psychological care to foreigners”⁴. This assessment was independent of the fact that it was confirmed at the same time that the Border Guard officers in contact with foreigners took into account their psycho-physical condition and cultural differences⁵. The controlling body noted how few psychologists work in GDCs. Moreover, specialists providing psychological support are usually Border Guard officers. As reported by residents of the facilities, they question the independence of psychologists at the centres from the management [foreigners’ accounts of their mistrust of professionals in GDCs and the specific nature of psychological support in the centres are described in Part II – editor’s note]. Consequently, some of those in need of help do not take advantage of the support offered in this form.

The post-audit report also found that the psychological assistance provided at the centre was unreliable and that the persons providing it were not qualified to make psychological diagnoses regarding crisis responses to traumatic events. Moreover, supervisors did not refer aid workers to specialised psychological training in clinical diagnosis⁶, even though the need to possess such competences stems from the internal regulations of the Border Guard service. In addition, no one from

³ Naczelna Izba Kontroli, *Wystąpienie pokontrolne D/21/506 – Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski*.

⁴ Ibid, p. 3.

⁵ Ibid, p. 11.

⁶ Ibid, p. 27.

the psychological team had issued diagnoses according to the ICD-10 or DSM-V classification or had completed specialised psychological training.

The Supreme Audit Office found that staff providing psychological assistance in the guarded centres were insufficiently qualified: they did not make diagnoses in accordance with the applicable rules. And the fact that they are Border Guard officers makes it difficult for those in detention to form a therapeutic relationship with them. The report also highlights the change in profile of the Białystok centre from a men’s to family facility, which was not accompanied by adequate psychological support adapted to the new situation.

Among the Office’s post-audit recommendations, measures were mentioned to ensure that psychological services are provided to persons in GDCs in accordance with the applicable regulations⁷. The Office therefore considered the issue of the lack of adequate psychological support to be vital and to have a direct impact on the life and health of foreigners placed in guarded centres.

The National Torture Prevention Mechanism (hereafter: NTPM) operating at the Ombudsman’s office also prepared a report following visits to guarded centres in 2022⁸. The Ombudsman highlighted many of the violations already identified by the SAO, thus confirming that they also occur in other centres across the country. Moreover, it stressed the inappropriate practices used, i.e. as psychologists do not speak the native languages of foreigners, it is necessary to rely on the help of other foreigners to interpret, rather than seeking the assistance of independent outside interpreters, which prevents reliable diagnosis⁹ [the standards and challenges of the cooperation between psychologists and outside interpreters are described in Part III - editor’s note].

The Ombudsman also pointed out that an important aspect of psychological assistance to foreigners is to identify and reliably describe whether they have experienced violence. However, it was stressed that the entire therapy cannot be based solely on answering the question of whether the detention of a particular foreigner is possible¹⁰. The report also points out that the provision of psychological support needs to be tailored to the profile of the centre, i.e. whether it is a men’s

⁷ Ibid, p. 29.

⁸ See: *Sytuacja cudzoziemców w ośrodkach ...*, op. cit.

⁹ Ibid, p. 36.

¹⁰ Ibid, p. 37.

centre or a family centre. In family centres, "it is necessary to ensure the presence of at least two psychologists specialised in working with children and two psychologists specialised in working with adults"¹¹.

While analysing the real situation in guarded centres, the NTPM found that "the staff, including psychologists, are not adequately prepared to identify victims of torture and inhuman treatment and are not familiar or do not use in practice the Istanbul Protocol"¹² [information on the Istanbul Protocol can be found in Chapter 11 – editor's note]. This issue is particularly problematic as the presumption of experience of violence is a premise that prevents a foreigner from being placed in a guarded centre. The NTPM also indicated that in relation to the Polish-Belarusian border crisis, which began in 2021, and the resulting increased burden on GDCs, there has been a systemic deterioration in the execution of the foreigners' right to benefit from adequate psychological care¹³.

In summary, two important independent state institutions tasked with examining whether the state is properly exercising its competences (including those relating to migration management) have recently stated that there are many violations in terms of access to psychological assistance in guarded centres for foreigners. This should lead to immediate changes that would have a direct impact on improving access to psychological help.

¹¹ Ibid, p. 38.

¹² Ibid, p. 39.

¹³ Ibid, p. 43.

5. Instead of a summary: How does the guarded detention centre system work in practice?

Magdalena Fuchs

Guarded centres for foreigners and detention in general are measures used by state authorities to control the whereabouts of migrants without a regulated status. It is a form of restriction of human freedom. Therefore, placing people in GDCs should be a measure of last resort, following a decision by an independent court, in situations strictly defined by law.

Historically, this form of control originated from the idea of isolating people of inferior social or material status – thus separating them from the rest of the citizens¹.

Prison and GDC

Placing fully capable adults in institutions that they cannot voluntarily leave clearly brings to mind prisons. However, it is essential to distinguish between these institutions. All the more so as children and people with disabilities are also placed in guarded detention centres.

Individuals are sent to prison as a result of committing an act contrary to the applicable law, going against some good for which the law provides for the penalty of imprisonment. It serves many functions, but certainly among the most important ones is the resocialization function. The convicted individual – through solitary confinement – after leaving prison should be able to change and (most often) return to life in society.

How does this look in the case of guarded centres for foreigners? Here we are dealing with a situation where deprivation of liberty can occur for two reasons. The first is a breach of the rules concerning legality of stay, which are most often administrative rather than criminal laws. The second is to make it possible to smoothly carry out

¹ See P.D. Arnold, *How Immigration Detention Became Exceptional*, "Stanford Law Review" 2023, p. 264-265. Article available at: <https://review.law.stanford.edu/wp-content/uploads/sites/3/2023/02/Arnold-75-Stan.-L.-Rev.-261.pdf>, accessed: 25.01.2024

procedures related to the stay of migrants on the national territory and, if necessary, to execute deportation to the foreigner's country of origin without any problems.

It is therefore primarily a question of controlling the whereabouts. The stay in a guarded centre is not sought to have any positive impact on the life of foreigners after leaving detention. The courts, in making their decisions on placement or extension of stay in GDCs (after the initial period of detention has already expired), emphasise that migrants should expect negative consequences of their stay in the centre, including deprivation of comforts. The reason is the very fact of making the decisions that led them to arrive in the territory of Poland without the necessary documents. As practice shows, the courts treat detention as the only possible measure despite the fact that it is not justified, and foreign men and women do not have to face such consequences just because they attempted to flee their country and are seeking international protection.

In the Polish context, the stay of migrants in guarded centres rarely has a neutral impact on their lives. It very often creates negative consequences for their life or health, and the opinion of the courts is not correct, as deprivation of liberty is not a measure that should automatically be applied to people fleeing the threats they experienced in their country.

European Convention on Human Rights

Under the provisions of the European Convention on Human Rights, as a general rule, no one may be deprived of their liberty. The Convention provides for exceptions to this rule, which it lists directly. Among them is one that allows for the operation of guarded centres for foreigners. The provisions state that deprivation of liberty of a migrant is only permissible in strictly defined cases². All provisions that justify the use of detention in Poland should be compatible with the provisions of the Convention.

Therefore, the measures of deprivation of liberty used in migration procedures should be necessary, justified and proportionate to the goal pursued by the state. Most often it is said that detention can be used if there is a risk of the migrant fleeing from the place of future judicial or administrative proceedings, or if there is a threat to the individual's or the public's safety³.

² Article 5(1) (f) of the European Convention on Human Rights.

³ International Detention Coalition. *What is immigration detention? And other frequently asked questions*, text available at: <https://idcoalition.org/about/what-is-detention>, accessed: 30.11.2023

Detention as an exception to the rule?

The detention of migrants in GDCs is meant to be an exception to the rule – this is the basic idea behind the operation of these facilities. This means that foreign men and women who comply with the procedures and do not pose a security risk can be controlled in a different way – through so-called measures alternative to detention [this issue is described in Part IV – editor's note].

When considering how the system of closed centres works, the question should be: to what extent in a specific situation is it really impossible to use another measure to control the whereabouts of a foreigner while pursuing the objectives of control. Before deciding on detention, it is necessary to consider whether alternative measures can be applied, which are, after all, not excluded under Polish law.

The excessive use of the measure of last resort of detention, especially against vulnerable people such as children, is a problem in many countries, not only in Poland. Detention carries severe psychological effects that should be mitigated by access to psychological support [the impact of detention on mental health is described in Part II and III - editor's note]. First of all, it is important to consider to what extent such a necessity can be avoided. If the mental state and vulnerability of a particular person had been properly identified in advance, detention would not have been used as a result.

Moreover, the increasing practice of detention has no direct impact on increasing the efficiency of procedures. It can only lead to the deprivation of liberty, which will be contrary to the provisions of Polish and international law. Therefore, the use of the last resort measure of placing migrants in closed detention centres should be examined in depth.

You look for hope anywhere

27-year-old male Syrian refugee

What should change in detention centres? There is no answer to that question. Why? Because the whole concept on which their existence is based is wrong. Nothing can be done to make it better. And if there is anything at all, how about language courses? If only so that you don't feel like you've just lost months of your life when you finally get out.

First, I waited for the first two months to be over. That was the duration of the detention order I got, then it was extended. Every day I looked forward to tomorrow. The detention itself is stressful. None of us had done anything wrong. Essentially, you are locked in for no reason at all. This is reason enough to feel nervous. But there are others, such as the conditions at the centre. Wędrzyn was extreme, horrible. I'm glad it has been closed¹.

The standard detention time if you are applying for international protection is 6 months. Unless the asylum application is rejected twice, in which case the stay in a guarded centre can be extended to 2 years. Border Guards let people out just like that, for no apparent reason. It's like playing the lottery – you never know what's going to happen. Even if you have a detention order for 2 months, they can release you earlier, just like that. Of course, they can also release you only when the entire first adjudicated period is over. But they can also extend your stay. Or reject your application. At the same time, they can let you go at any time. Even at night - they just open the gate, leave you in the middle of the forest and say: "OK, go".

You never know when you're going to get out, so you look for hope anywhere. There is a lot of gossip around: people listen to things that don't make sense and can't be true. They don't necessarily believe in them, but they take in whatever gives them any light at the end of the tunnel. You don't know who to believe, because most of the time no one understands what is happening at all.

What should be changed is the behaviour of the border guards. Although some of them are really nice. Some play ball with people, but others refuse to even answer a question if you don't speak Polish. Some of them look really scary – like members of special forces.

They get annoyed when people shout. True, some shout. They are entitled to do so in the circumstances. But any agitated behaviour means you could get beaten up. Of course, it depends on the guard. It is also very stressful.

As for me, I went on hunger strike twice. I don't know where the idea came from. The first time, after a month in detention, there were seven of us. But we didn't prepare well and quickly realised that nobody cared. They didn't even give us a basic medical check-up.

*The second time, after 5 months, there were five of us. We went on strike for 10 days, but first we wrote a petition. I think I was inspired by the film called *The Shawshank Redemption* and the main character, who regularly wrote a petition to the state parliament every week in a matter that was important to him. So first we wrote. We indicated that we would start a hunger strike if we did not receive a response in 10 days. We did not. So we wrote another one, announcing a strike.*

This time we attracted the attention of many media outlets, and after 10 days we were visited by officials and finally listened to. It was tough. Some needed medical attention. One Syrian broke his hip while crossing the border into Belarus and spent 4 months in the centre without being seen by a doctor. He was in pain all over, he couldn't walk, he didn't get any help. His condition was getting worse and worse. During our strike, he was the most affected.

In detention, people are very stressed and do everything to get out. There are even suicide attempts. I don't think they are all serious about it. People don't want to kill themselves. They are just trying to get out.

¹ The GDC in Wędrzyn closed in August 2022 - editor's note.

There have been cases of people released after suicide attempts. That is why people are taking this risk. Some of them had already had serious disorders before. The thing is, nobody pays attention to them.

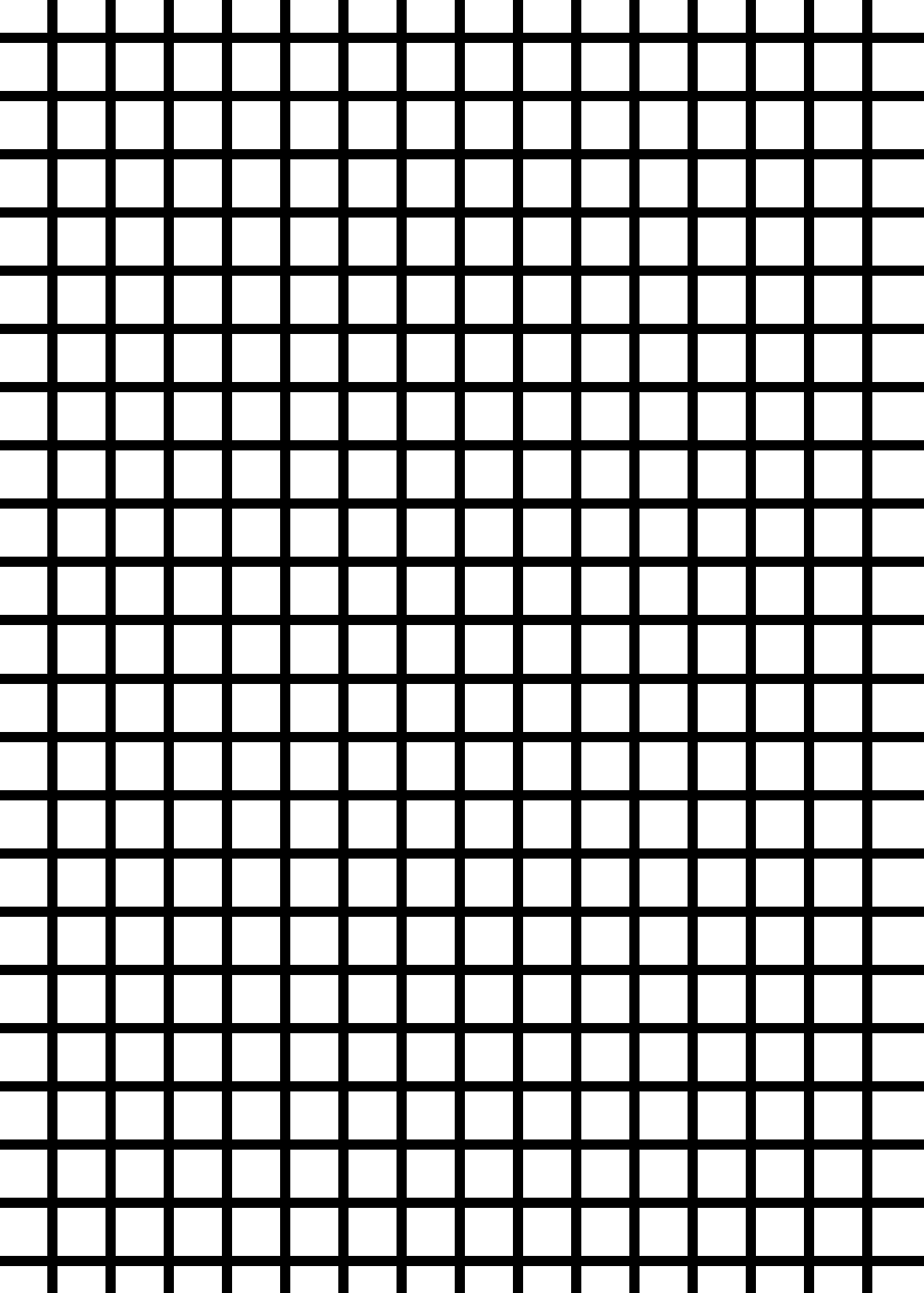
This is why psychological help is so important. It was for me too. I needed to talk to someone who was an outsider and who was objective about my traumatic experiences. As for therapy, on the other hand, I don't think it would have been helpful in those circumstances. But a meeting with a psychologist gives you the chance to talk to someone outside the GDC.

Once I was out, I was looking for someone to give me hope, to help me gather my thoughts, to talk to, someone to build any kind of relationship with. When you get out, you mainly need more 'normal' people around you, more friends – more than psychologists. You look for someone with the same experience.

Once I was out, I started supporting people in detention. I called to give them hope and share my story. They felt relieved to hear that someone was on their side.

The author spent 5 months in detention in 2021, successively in Wędrzyn, Krosno and Lesznowola. He asked to remain anonymous.

Written down by Agnieszka Kosowicz



Part II

**Practice and observations
of psychologists from the
Polish Migration Forum
Foundation**

6. Instead of an introduction: Rigour at detention centres

Artem Graban

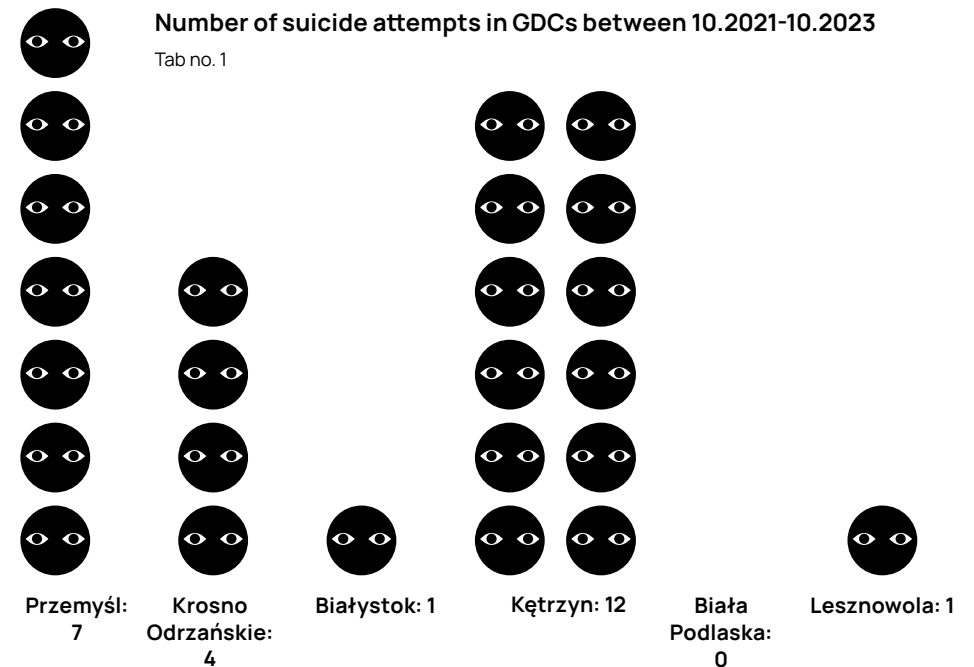
People in detention are subject to the absolute discipline of the centre and their contact with the outside world is limited. According to the accounts of residents of GDCs, it is a disruptive element in their daily functioning, which is already disturbed by stress and traumatic experiences from their country of origin or from their travels to Poland. In some facilities, the time spent outside in fresh air has been minimised to one hour a day. Numerous accounts of people held in GDCs show that group strikes or individual acts of disobedience are dealt with using direct coercive measures or solitary confinement. People in detention fear that reporting their problems to the authorities or people outside the centre could result in deportation.

The mobile phones of migrants staying in GDCs have neither internet connectivity nor video function. Access to the network is only possible via the computers in the common room. However, the fact that they are used in the company of other people completely eliminates privacy during conversations with family, lawyers or other professionals. In addition, due to the large number of those interested and the small number of computers, Internet time is significantly limited.

Mental health crisis

People in detention tell psychologists that the prospect of solitary confinement is used as a form of intimidation to discourage them from reporting mental health issues. Although the transfer to solitary confinement should be ordered by a doctor, according to the accounts of migrants using the support of the PMF, people on hunger strike and people in psychological crisis are placed in there.

Table 1 and Table 2 show data for the period from October 2021 to October 2023 on suicide attempts and the number of people receiving psychological and psychiatric care provided by the centres. Table 3 presents data on the number of detainees supported by the Polish Migration Forum Foundation's team of psychologists in 2022 and 2023.



Number of people in GDCs receiving psychiatric treatment						
Period	Przemysł	Krosno Odrzańskie	Białystok	Kętrzyn	Biała Podlaska	Lesznowola
10.2021-10.2022	127 (86 continuations, 41 new)	8	69	29	no data	no data
10.2022-10.2023	131 (63 continuations, 68 new)	7 (of which 2 hospitalised)	47	12	no data	90
Number of people in GDCs receiving psychological help provided by the centre						
10.2021-10.2022	118	194	359	27 diagnoses (288 services)	244	no data
10.2022-10.2023	171	120	180	12 diagnoses (228 services)	96	264

Tab. no. 2

Number of people in detention provided with psychological care by the Polish Migration Forum Foundation		
	2022	2023
Female	14	9
Male	37	74
Children	7	2
Total	58	85

Tab. no. 3

In December 2021, the Border Guard stopped allowing psychologists from NGOs into the facilities (the exception being the centre in Białystok, in the others, PMF continues to provide psychological assistance by telephone). Meanwhile, people staying there often distrust the professionals employed in GDCs, seeing them primarily as co-workers of the Border Guard. Access to psychological support varies from one facility to the next: some have permanent staff on duty, while in others specialists come periodically.

The issue of neglect in the context of mental health of people in detention is highlighted in a report published in 2024 by the European Torture Prevention Mechanism – European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment¹. After visiting Polish centres in spring 2022, the authors are concerned about the situation, as mental health problems are not diagnosed or are inadequately treated, mainly due to a lack of mental health professionals.

¹ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, p. 21. The document reads: "Given the sheer volume of detained foreigners transiting through the guarded centres, their personal histories and the stress incurred by the circumstances of their arrival, the prospect of deportation and sometimes prolonged detention, a number of them presented a heightened risk of self-harm and suicide, as well as symptoms of post-traumatic stress disorder and/or other mental disorders. The CPT recommends that a needs assessment be carried out in all guarded centres for foreigners – in cooperation with the relevant health authorities – with a view to ensuring that psychiatric and psychological disorders and emotional distress amongst detainees are detected and that appropriate psychological assistance and psychiatric care is provided" - p. 21. Report available at: <https://rm.coe.int/1680ae9529>, accessed: 25.03.2024

Communication

According to information provided by the Border Guard, in the case of the more common languages, such as Russian, English, German, French or Arabic, interpreting is provided on an ongoing basis by the centre's staff or by permanently used interpreters. In the case of rarer languages, agreements are concluded with interpreters for these languages where necessary.

The testimonies of detainees show that communication with guards is mainly in English, Russian or through other residents of the centre who speak the same language. As with psychological or psychiatric consultations, during medical appointments Google Translate is also often used.

Good practices demonstrated by guarded centres include the translation of permanent documentation – instructions and orders – into around a dozen languages, made available to persons in detention by the management of the centre in Krosno Odrzańskie. In addition, a team of the International Organization for Migration (IOM) operates at the GDC in Biała Podlaska providing legal assistance in English, Arabic, Russian, French and Farsi. However, conversations held by PMF specialists with people in detention indicate that if a person requesting consultation does not speak English, Russian or another more common language, conversations with the centre's psychologist are unfortunately conducted using an automatic translator.

Nonetheless, PMF psychologists encourage migrants in detention to seek specialist assistance at the centre, while also trying to support communication by preparing notes and interpreting during conversations with patients.

A PMF psychologist first talks to the person on the phone and then passes on the information obtained to a psychologist at the GDC [psychological interventional support is described in Chapter 9 – editor's note]. For those in detention it is important to know that an outside specialist is ready to listen to them and that conversations are conducted in the presence of professional and independent interpreters.

The GDC in Krosno Odrzańskie has indicated that the Vasco Translator M3 device is used for communication. Unfortunately, the currently available technology of automatic translators, whether in the form of separate devices such as the one mentioned above or apps, is limited and cannot replace a professional interpreter in the case of specialised medical or psychological consultations. Thus, its absence prevents the possibility of fully understanding the situation of people in need and makes them feel uncertain whether their words have been understood correctly.

Access to a doctor

Migrants feel excluded from the treatment process and often do not even know what medicines they have been prescribed. In order to collect a complete medical history, GDC residents have to request each document individually. Guards are always present during consultations with specialists outside the centre and during hospitalisation. People in detention have reported that it is the officers who talk to the specialists prior to the visit and that the medical interview is only limited to confirming the personal details of the patient in detention.

Xenophobia and homophobia

Problems often reported by people in detention are xenophobia and racism. Black people tell PMF psychologists about various forms of abuse from fellow GDC residents – emotional, psychological and physical. Cases of violent racist behaviour are notified to the management of the centres. The management try to place black people in one room or allocate an entire floor to them. In addition, extreme homophobia is observed, which prevents LGBT+ migrants from revealing or expressing their identity in any way. Even heterosexuals who are seen as not sufficiently conforming to heterosexual standards may experience homophobic comments and conduct from other male and female residents of the GDC.

Children

The placement of children, including unaccompanied children, in GDCs is the most concerning issue and means that minors are de facto deprived of their liberty. Detention of children is another stage of their potential traumatising after fleeing their country of origin, travelling and being detained by the Border Guard. Children sometimes witness conflicts within the centre and between those in detention and the Border Guard, which can be an additional –severely distressing factor.

As at the end of 2023, the number of minors in GDCs decreased: from 30 (631 adults, as of November 2023) in November to 18 at the end of December; the number of unaccompanied children then fell from 4 to 2 [the impact of detention on children's mental health is described in Part III - editor's note].

Children are placed exclusively in the Guarded Centre for Foreigners in Lesznowola, which, during the reorganisation of the GDCs in 2023, was functionally adapted to the needs of this group. It is a facility not only for families with children, but also for unaccompanied minors. At the end of December 2023, a total of 9 families were staying there with 16 minors and 2 unaccompanied minors.

The PMF team encounters situations where determining the age of a young person is a controversial issue: sometimes we are in contact with a person who claims that he or she is a minor, although the Border Guard officers say otherwise. Methods for determining a person's age are subject to a large margin of error, so it is difficult to establish the facts unequivocally in such situations.

Parents report feelings of powerlessness and lack of self-efficacy to PMF professionals. Adults are unable to explain to the children what is happening, what awaits their family, and when they will leave the centre. This in turn undermines the role of the parent and negatively affects the relationship between them. In addition, large families are placed in one room and children of different ages lack privacy, which can lead to intergenerational conflicts.

As well as many adults in detention, children also experience mental health problems. Among others, minors have serious problems falling asleep and suffer from recurring nightmares. Every morning, just like everybody else, they get woken up by uniformed guards, who enter the rooms to count the people in the centre.

The rigour towards adults that prevails in the centre applies equally to children. In case of medical consultations or hospitalisation of children outside the centre, young patients are always accompanied by two Border Guard officers. One of the psychologists working on behalf of the centre has mentioned a method widely known in detention facilities for years. She says that just like everyone else in the facility, the children would also sometimes be called by the guards by numbers - not by first name or surname².

The Border Guard psychologist explains that this enables children first of all to learn Polish numerals.

The text was written on the basis of interviews with PMF psychologists working with people in GDCs.

Data on the centres were obtained from the Border Guard Headquarters or from individual GDCs via public information service. A lot of this information is fragmented: some centres have not provided information on a specific topic or the information was not comparable, i.e. centres provided data for different periods or in different units of measurement. The data that were suitable for analysis are presented in the text.

In 2023, GDCs underwent reorganisation. The profile of the centres changed from family to exclusively men's facilities, the number of people also changed from a few hundred to a dozen, which does not allow for the data to be reflected in fractions, e.g. it is difficult to know whether the information provided on psychological consultations indicates a lot or little, and what the trend is in relation to this.

² This information was provided to the author by a member of the PMF psychology team and it refers to 2018-2019 - editor's note.

7. Specifics of the psychologist's work with people in GDCs and standards of the psychologist's work

Zofia Żmijewska

I have been part of the PMF psychology team since August 2021 and have been providing psychological telephone interventions for people in detention since January 2023 (more about this topic can be found on page 59 - editor's note), as well as meeting directly with migrants in the guarded centre in Białyłstok.

I would like to briefly summarise my work experience of more than a year in guarded centres. I worked in a two-person sub-team with Kamil Kamiński. For most of that time we were the only psychologists in Poland supporting people in GDCs on behalf of a large NGO, with all the resources provided by the Foundation.

It is a special experience. Conducting consultations with clients in detention is a unique experience, mainly due to the constant confrontation with the conditions found in the facilities and the internal (unwritten) rules, which, in my opinion, differ from those contained in the Code of Criminal Procedure¹, the Border Guard Act² or in the adopted Code of Ethics³. The practice of crisis intervention at GDCs forced us to develop new working standards that take into account both the ethics of the psychological profession and other laws that we respect and are in the habit of following. Similarly, the personal and psychological situation in which our clients - migrants deprived of their freedom and rights - find themselves is also unique.

¹ Act on the Code of Criminal Procedure of 6 June 1997 (Journal of Laws 2024, item 37).

² Act on the Border Guard Service of 12 October 1990 (Journal of Laws 1990, No. 78, item 462).

³ Code of Ethics for Psychologists of the Polish Psychological Association of 2 December 2018. Text available at: <https://psych.org.pl/dla-psychologow/kodeks-etyczny>, accessed: 22.04.2024

Telephone interventions

The formula of psychological work conducted over the phone is unusual for a number of reasons. The relationship established in this way is very different from that built in an office, where we can see the client, can respond to any non-verbal messages, but also show support or understanding through body language. In this situation, our main working tool is the voice – i.e. the melody, tempo, timbre and dynamics of the spoken word are of exceptional importance, especially as these are the only signals our client can understand at the time. Each party can only imagine what the other looks like, what physical state he or she is in, what they are wearing, at what pace they move the body and what their gaze conveys. The voice, however, can reveal a great deal of information: whether the throat is tight, how long the breath is, whether the other person is speaking faster and faster, or perhaps taking a long time to speak. When a client speaks, I can analyse these signals – often this alone tell me what the level of tension, anxiety, anger or resignation is. Only then, after hearing the translation can I determine whether there is consistency between the manner and meaning of the words spoken.

The relationship between the psychologist and the client is 'diagonal', no one remains passive, but it is the client who benefits from the help and knowledge of the professional. We can therefore speak of a kind of hierarchy. In this relationship, this is established by two additional elements. The first is the use of a restricted telephone number. This is a significant barrier, setting the direction for contact – it is the psychologist who calls the client, whereas the client cannot call back. The second is that the therapist contacts the client from a world of freedom, while the client is not able to make decisions for themselves.

In daily therapy practice, it is the person who needs support that comes to the office, which is a safe and familiar space. In case of telephone interventions, this element does not exist. What is very important in the process of psychological support is constancy and that the client feels that the psychologist is available to them at a specific place and time. In this case, all we can do is to make an appointment for a specific time to talk on the phone. My clients stay in touch with me by email – when something happens, they can ask for additional intervention or let me know that

have been transferred to another facility or hospital. However, I most often get such messages from the lawyers and attorneys who I stay in contact with.

Working with an interpreter

The basis of the therapeutic support provided to migrant men and women in detention is the cooperation of a psychologist with an interpreter of the client's mother tongue. Initially, it was a big challenge for me, especially when working with people I had never seen in person. It is a very unusual situation for a psychologist or psychotherapist who, like me, was taught to build a relationship individually, as well as for an interpreter listening to and accompanying such an intimate situation, which is normally not accessible, and the issues raised are covered by professional secrecy. There are some interpreters with whom I have developed such a close working relationship that I often find it easier to conduct consultations with the interpreter than without.

However, such a cooperation has a downside. When migrants hear my words translated by another person into a language they understand, their trust in the interpreter is often greater than in me. Therefore, during each consultation, I remind them that the interpreter will only translate my and the client's words, without adding anything from themselves. This aims to take the responsibility off the interpreters and to lower the clients' expectations that a person from their cultural background will 'save' them. I feel that migrant clients often do not have this awareness, and hearing a supportive voice that finally tells them what it is like in Poland, and humanely believes the foreigner, is simply more meaningful.

In my in-house work, I only use interpreters for the first meeting – so that the client can see what the person translating the language looks like and knows whose voice will accompany us during the session. Subsequent visits are individual, and the voice in the native language comes from the telephone. This serves to establish a face-to-face relationship: there are only two people in the office, so it is easier to look into each other's eyes, even when the voice is coming from somewhere else.

However, I have to admit that when I carry out a consultation or telephone intervention alone, without the support of an interpreter, it is more taxing for me. A telephone conversation between two people is intimate and engaging. I do not have that time available to me where the client is speaking in a language I don't understand, thus enabling me to collect my thoughts, take care of myself, have a sip of water, make a note of important things, etc. It is then easier to establish a relationship, whereas in crisis intervention it is not always the most important thing.

Danger of idealisation

One of the aggravating consequences of talking without an interpreter is also idealisation directed at only one person instead of two. Thus, I (rather than we) am seen as the 'saviour'. One of the clients I contacted individually and exclusively by telephone visited me at the practice after he had left the guarded centre. It was a touching moment for me: it felt as if this one person embodied all my clients who had managed to get out. I felt like hugging him like a hero who had endured so much, survived so much and was now free. Idealisation also occurred on his end. It could be said that his idealisation of me was so great that it even prevented further psychological support. Even at the stage of working over the phone, for him I was a "saviour" with an "angelic voice"; this person wanted me to call him as often as possible, he did not like to end calls, claiming that they were the only thing keeping him alive. Such a high degree of idealisation often occurs when working with people in guarded centres, but in this case it focused on one person rather than a team providing assistance, making it more burdensome.

This experience was a good lesson not to mix roles and not to combine intervention work with subsequent support or psychotherapeutic work. Thus, it is our good practice: after the client leaves the GDC, I meet with them just once to get to know each other in person and to thank each other for our cooperation. Whereas if there is a need for further psychological help, I refer them to another specialist.

Stepping out of the role of psychologist

Working with people in detention often forces the psychologist to step out of their role. The therapist becomes something of an activist: they talk to the management of the centre, often listen to what the guards or emergency number operators have to say about alleged lies or manipulations of migrants. There are also situations where the client reports to us chronic toothache or headaches due to the lack of corrective glasses, damaged for example while staying in the forest on the Polish-Belarusian border. That is when I step out of my role as a psychologist and provide humanitarian assistance by passing this information onto the relevant services or organisations.

The most difficult interventions are those related to suicide crisis, not least because of the responsibility involved. Each time I ask myself where my role ends and what are the limits of responsibility for another person's life.

In a standard situation, when a psychologist becomes aware that their client has the intention (i.e. plan and instrument) to commit suicide, they are obliged to report this immediately to the emergency number: 112. Whereas in case of people in detention, we pass information about suicidal thoughts, tools and intentions to the head of the guarded centre or to the person on duty. If the facility accepts the report, the responsibility of the psychologist ends. The problem is that it happens that the centre refuses to accept the report. It is then my responsibility to initiate the procedure and call for medical assistance. However, there is never a guarantee that the operator will accept my report or that doctors will be allowed into the facility once the ambulance is dispatched. In addition, we report past unsuccessful suicide attempts shared with us by our clients. Sometimes the border guard was the person who interrupted such an attempt, but the procedure for dealing with a suicide crisis was not initiated.

We report any such negligence on the part of the GDC in the form of a complaint submitted to the Ombudsman, for whom this forms the basis for an on-site audit.

Unfortunately, I often hear from clients in detention that they are frightened that contact with a psychologist outside the centre will be a premise for not getting released. However, there are also good examples of cooperation with centres, for example when the head of the facility sees a positive impact on the condition of foreigners benefiting from our support.

Diagnosis

My work involves identification of torture victims and diagnosis of post-traumatic stress disorder (PTSD), complex post-traumatic stress disorder or dissociative disorders.

One of the diagnoses I prepared was sent to the European Court of Human Rights in Strasbourg. The person diagnosed was already sitting on a plane with a deportation order. He knew what awaited him – right from the airport he was to be sent to prison, from which he would not get out alive. Next to him sat Polish families with children, flying to warm countries for a holiday. Despite that, he stayed calm the whole time; the guards had asked him to co-operate so that they would not have to struggle with him and he would not have to be carried out of the centre by four officers, like other foreigners whose deportation he had seen in the guarded centre. The intervention worked, the stewardess answered the phone, the relevant information was passed on and the man left the plane. He returned to the guarded centre. As I finish working on this text, my client had been released – after spending 15 months in the GDC.

Drawing up psychological opinions is one element of our work. We pass them onto the lawyers dedicated to supporting our clients in an asylum procedure or in cases related to release from a detention centre and sometimes in post-release compensation case. On the basis of such opinions and other documents we manage to stop deportations, bring about release, provide adequate psychological and/or psychiatric support, hospitalisation or perhaps glasses. But why is this only happening after many interventions by a team of NGO specialists?

8. Psychologist's account: working at guarded detention centre in Białystok. Part 1

Agnieszka Klimaszewska

Time and place of psychological work

I first established contact with people held at the GDC in Białystok in November 2021. During the first month, it was only possible via the Zoom platform, as due to the pandemic the possibility of in-person meetings was suspended. At that time, families with children and women travelling alone were staying at that centre. From December 2021 to May 2022, I was already able to see GDC residents face to face.

In March 2022, I met with families at the centre who had previously stayed in a warehouse in Bruzgi, Belarus. Thus, stories emerged in the conversations about the winter months spent there – in very difficult conditions. In total, I was in contact with eleven families and seven adults staying at the centre on their own.

Access to the facility was completely stopped in May 2022. The centre management responded with a refusal to every request to meet on site with people with whom I had previously been in contact. These included two families with infants and mothers in a depressed state.

In September 2022, to the surprise of the whole team, I was given permission to have an on-site interview with a person at the centre. At that time, families with children were moved from Białystok to other facilities, adult men remained on site – and it was with them that I started working. It lasted until November 2023. During this period, I had contact with a total of eighteen people. In the beginning I met with three or four of them. I soon realised that I was able to work with up to two people at a time. Working with trauma is an exhausting experience, sometimes I felt like I was conducting an experiment: how much longer can I cope? After two years, I made the decision that I wanted out.

I would like to describe here what the people I came into contact with were facing. Of course, only briefly, just like my work was. I would also like to give at least a fragmentary account of what emerged from my observations of the mental state of parents, younger children, adolescents and adults living alone in detention centres.

Core work dimensions

The main, not to say obvious, purpose of my psychological work at the GDC was to draw up opinions on the mental state of the people I was in contact with. In case of families, it included how all the family members were functioning, the ability of the parents to perform parental functions in detention, the dynamics within the family in the context of their detention in the guarded centre.

I had the following methods at my disposal: observation, interview through an interpreter, questionnaires, mainly the Essen Trauma Questionnaire and the diagnostic criteria of post-traumatic stress disorder according to the DSM-V classification. In describing the situation of children, I used the KOZE Behaviour and Emotion Assessment Chart. I also used drawing; artwork created by younger and older children and teenagers provided additional diagnostic material. Most of them featured the slogan: "I wanna freedom".

My second goal was to support these people. A big part of the work at the GDC was responding to crises, including suicide crises of people in prolonged detention, which I write about below.

I also helped my clients prepare for the status interview. For example, I worked with a man who had to prove that he was homosexual and was thus in danger in his country of origin. The man was so resigned and immersed in a sense of hopelessness that he was incapable of fighting back for himself by preparing a statement about his own case. In the accounts of traumatised people, stories of life events are so chaotic that outsiders without the right knowledge may find them meaningless. Meanwhile, this chaos is precisely the result of trauma. So we worked so that – empowered – he could tell this story first to me and then during the interview.

There were also exceptional situations where I came into contact with adolescents in an adult detention centre, adults whose detention had lasted over 18 months, trafficked persons or mothers in severe postnatal depression.

Stories – reclaiming one's voice

The psychological opinions I prepared also presented stories of traumatic experiences, often multiple. The first stories were from the country of origin of the given person or family, sometimes immediately before leaving the country, but sometimes the stories went back to even earlier traumas. Subsequent ones took place at the Polish-Belarusian border in connection with crossing the border, staying in the border area on both sides, including at the Bruzgi camp in Belarus. Finally, there were also stories about staying in the guarded centre. Here, deprivation of liberty or the presence of uniformed guards, among other things, were experienced as traumatic.

A very important aspect of my presence at the GDC and my conversations with the people and families staying there was that people regained their voice. I was an attentive and curious listener, so there was space for their stories to resonate, and with it the subjectivity of the storytellers was restored.

I remember a gentleman who was staying at the centre with his wife and four children. When I met him, he was already broken, resigned, immersed in a serious state of depression. He did not speak, walked with his head down, did not look people in the eye. It was a great effort for him to sit in the chair during the meeting. After a while, he slid down to the floor. He would sit down or lie down on the ground. The voice of the family at the meetings was the wife. She was very afraid for her husband's life. During one visit where I was accompanied by an interpreter, the gentleman was sitting in the chair but was bent in half. His chest and head were on his knees. He looked – literally – broken. His eyes were closed, he wasn't looking at anyone. His wife was speaking. He seemed disengaged from conversation, from contact at all.

However, at one point he responded to my attempts to include him in the meeting and began to talk very quietly and very slowly about his experiences on the Belarusian-Lithuanian border. He pointed to the strap of my rucksack and said: "that was the colour of the uniforms of the Lithuanian soldiers who beat us". After which he began to describe in great detail his family's attempts of crossing the Belarusian-Lithuanian border, detentions, beatings, threats by a special uniformed unit.

What began to happen to his body over the course of this story was incredible. His chest and head started to rise. He straightened up. Then, he slowly opened his eyes. He turned to the interpreter and began to speak, while looking him in the eye. I watched from the side and felt I was witnessing something extraordinary. This is how reclaiming one's voice restores humanity and subjectivity.

Interpreters – challenges

Interpreters accompanied me at each meeting, translating my and my interlocutors' statements. Working with them – which I was doing it for the first time in my life – brought different challenges.

Some of them had refugee experience themselves and even had stayed in guarded centres. This meant that the work could be an additional burden and they required psychological care as part of their duties.

I remember talking to a couple who were staying in the centre with their children.

The woman recounted her story from her country of origin and cried, her husband sobbed. At one point, the interpreter also burst into tears at their words. I had three people in front of me who were moved by content that had not yet reached me. I was aware that something difficult was happening, but I was able to remain unaffected by the emotional charge for a while.

Or there was another situation where a client told me about very difficult experiences from his country of origin. He quoted names he had been called by the person on whom his fate depended. The interpreter had not yet translated these words for me, but I could see by the very expression on his face how strong they must have been. The surprise and horror I saw complemented the meaning I was yet to learn.

Sometimes the interpreter I worked with spoke English. Therefore, the translation was often double: I would speak my thoughts in English and direct them to the interpreter, who in turn would translate the sentences into the interlocutor's mother tongue, the response from the mother tongue was translated into English and in this language the interpreter would pass it onto me, and I would change it to Polish in my mind.

I was aware that some of the meaning might have got lost along the way. Sometimes this involved not only specific words, but also the subject matter. Such as, for example, when the situation required the topic of sexual orientation to be raised and the client's native language lacked terms for such concepts.

All of this required a great deal of flexibility, acceptance that this was not a perfect situation and that it would be impossible to maintain all the standards of traditional diagnosis while trying to live up to them whenever possible.

Support and search for meaning

Another dimension of my work was supporting individuals and families. Sometimes – as far as possible – I stayed in contact with them after the diagnosis had been completed and an opinion drawn up. Some individuals or families asked for the contact to continue until they leave the centre.

During these subsequent meetings, we talked about what life was like at the centre. And apart from everything that is difficult about detention, I was also able to pick out some attempts to support each other and to build community, especially during the period when there were families staying at the centre. I found out that women used to gather in the smoking room and sing songs together. During this period, there was a big Kurdish community at the centre. One mum told me that her four-year-old daughter, on hearing those songs, would start to cry. She was concerned by this crying. Whereas I thought of it as a therapeutic process in which dissociated feelings connected to trauma could get released, come to the fore.

I also saw single women who stayed at the centre forming a network of support for each other. From one of them, staying there with her sons, I heard how she had extended care to a young single African woman lost in the centre's reality. When the former left the facility, I was still in contact with the other, and I saw how she was then starting to look after another newcomer to the GDC. She was giving back what she herself had received.

Some tried to make sense of their stay at the centre. One of the men, who spoke English, helped other families translate documents, communicate with the guards and even communicate with me when meetings were held remotely during the pandemic. He enlisted the help of his daughters, who also spoke English. One of them kept a diary in detention. In doing so, she transformed her experiences into a narrative, a way of protecting herself against trauma.

I remember one young single woman at the centre teaching English to children. Another, in her twenties, very rebellious and belligerent, was in conflict with the guards, reproaching them for being vulgar and swearing. I understood it as a manifestation of the struggle against helplessness, hopelessness, a manifestation of activity and vitality. I thought of it as something positive, even though the guards perceived this young person as problematic. These were the few moments where I could see signs of solidarity or creativity.

In most cases, detention had a paralysing, incapacitating effect, exacerbating various psychosomatic reactions, anxiety and depressive states and activating past traumas. It deprived stability, security, continuity, predictability. Everything that predisposes a traumatic response.

Flashbacks of traumatic experiences

People with experiences of captivity, torture and violence in their country of origin told me how their experiences were activated in detention – in connection with the restriction of freedom, the presence of guards and the nature of contact with them. So said a young man who was the victim of kidnapping and of being held against his will in his country of origin: “there too, when they said stand – I stood, go – I went. They ordered me around, I was afraid of them”. When someone entered his room, he would immediately begin to think that they were his captors and that they are about to start beating him.

I also listened to accounts of how the traumatic experience of crossing the Polish-Belarusian border in the forest came back on a daily basis. Some of these accounts, such as those I describe below, were related to being in the forest at night, in difficult weather conditions, feeling hungry and thirsty for a number of days. While others were stories of the experiences of young mothers, which I write about below in the following section:

- A fifteen-year-old girl has nightmares in which she relives the situation when they were crossing the river at the border. In her dream, icy water reaches her mouth, she is all wet and afraid. She wakes up crying, terrified. She has a strong sense that she is still there. To describe flashbacks, she uses the phrase: “the thoughts run back to what happened”. The girl is afraid of water, showers have become unpleasant because they mean skin contact with water.
- The snow, the sound of the trees, the sounds of the birds ‘take people back’ to that forest at the border, evoke images from there. I hear from someone that they used to love snow and now they hate it. There is a recurring avoidance of being in the dark – it evokes experiences of fear of the dark forest and its sounds.
- A young woman says she “can’t forget the forest”. When new families arrive at the centre, she constantly thinks of where they came from, of being in the forest and experiencing what she went through as well. The woman tells me that she sees the emotions on the faces of the new arrivals and that she can see the fear in their eyes and on their faces. “I know what they have been through” – she says. She adds: “for the first month after leaving the forest, I felt like I was swollen all over from the cold and fear”.
- The teenager talks about how, when she was in the forest, she was afraid that none of her family would survive and that she would never see anything but the forest again in her life. At the centre, she was accompanied by a constant fear that the guards would take her family into the forest again, and that she would not survive a second time.
- The father of two young children says the images from the Bruzgi warehouse and the forest along the border “take away his sleep”.

Another group of people who experienced flashbacks were young women caring for children. I was in contact with two mothers of babies who were born in the Bruzgi warehouse. They told me what in detention was a stimulus that took them back to the traumatic events of their time in Belarus. I found the similarity of their accounts very moving. When they undressed their newborns to change their clothes or nappies, the sight of their naked bodies took them back to the first days after giving birth, when they had literally nothing and kept their newborns wrapped in a blanket or towel.

One of them told me that the room they were staying in at the centre reminded her of the one she had stayed in after giving birth to her daughter. This brought back memories of a lonely birth, of complications, memories of the first four days during which she could not get up on her own, could not fall asleep due to pain and longing for her older daughter and husband.

The other recalled being in the forest for 8 days with a three-month-old baby. She said it was an extremely taxing time. She was terrified that her child might freeze in the woods. She did not allow herself to sleep. She felt the need to be constantly alert and monitor her daughter's breathing. Now those experiences were triggered when she looked at her sleeping daughter.

Suicide crisis – limits of a psychologist's work

A big part of my work was responding to suicide crises. In such situations, I would make a note to the Head of the GDC and ask for an adequate response. Most often, the concerned individual would get referred to a psychiatrist for a consultation in an outpatient setting or to stay for several days in the psychiatric hospital in Choroszcz.

What raised my doubts and frustrations, and was the subject of numerous conversations within the PMF team, were the boundaries of our work. My way of seeing these situations clashed with the perspective of the Border Guard service, which, as I perceived it, saw suicide crises as attempts by people in detention to manipulate, put pressure on the service and to end their detention. My impression is that psychiatrists would succumb to this perspective, downplaying suicide crises. The version presented by Border Guard officers spoke to them more strongly than that of the foreigners. Meanwhile, I was left with a sense of helplessness that the response to my requests was insufficient or inadequate.

For example, when these situations concerned families and affected one of the parents. I remember a family with young children of nursery and pre-school age. Their father had thoughts of extended suicide [murder-suicide]. After my intervention, he was placed in a psychiatric hospital for observation. At the time, I was meeting with his wife and children. I could see how badly the woman couldn't cope with caring for them without the support of another adult, how strongly she felt it lacking. Her fatigue, confusion and overload were evident. The children responded to the situation with a strong disorganisation, agitation, hyperactivity, lack of control, inhibition, carelessness. I wondered whether I had helped this woman, or on the contrary.

I had many such dilemmas. Shouldn't the fact that I sent a note, informed the facility of the person's suicidal thoughts and asked for action be enough? Perhaps here is the limit of my engagement? Where does my responsibility end? When do I have to accept a lack of control over a situation? I had such conversations not only with myself, but also with the PMF team. The latter were an invaluable source of support, providing an opportunity to talk through my own emotions and dilemmas.

This area calls for a dialogue with the psychiatric community: what the relationship with people in detention requires, how to find one's way in contact with the Border Guard referring a foreigner in detention for diagnosis and treatment, who is our client in this situation, where does our loyalty lie, how to ensure working standards, how to organise an interpreting service so that people in mental health crisis in detention can get the right help?

Situation of the psychologist

I will take a moment to reflect on my situation as a person who listened to all these stories, accounts of past trauma, but also of trauma actively ongoing in connection with remaining in detention. Being listened to gave these people some small chance to adjust the constantly disturbed and removed equilibrium, but at the same time it infected me and the accompanying interpreters with a state of trauma.

Drawing up psychological opinions was another difficult moment for me when working with people in detention. It made it necessary to go back to these stories and meetings and to try to digest content that cannot be digested, and to give it meaning and to formulate it in the form of a factual opinion. I remember moments of almost physical internal resistance to dealing with it.

I found it similarly difficult to work on this text. The psyche was defending itself, which translated into procrastination, postponement, not meeting set deadlines. Revisiting these stories – the emotional upheaval that came with it – made me realise how much of it I was still keeping, yet it was, after all, only a small percentage of all the people who crossed the border in such conditions and stayed in guarded centres.

After 2 years in GDCs, having listened to my body giving me messages of overload in the form of somatic symptoms indicating compromised immunity and excessive stress, I decided it was time to recover. Thinking about my work with trauma as hard labour, as a time of active exploitation and exposure to the traumatic, I gave myself permission to change that. I was met with understanding and support from the team at the Polish Migration Forum.

9. Intervention helpline: tools, challenges

Kamil Kamiński

The telephone psychological intervention service was launched in May 2022 after the Border Guard prevented the PMF and other organisations providing psychological support from having direct contact with people in detention. The opportunity to implement forms of psychological support such as face-to-face consultations at the GDC, online consultations or consultations outside the centre were taken away from us by all guarded centres for foreigners with the exception of the facility in Białystok.

Interventional psychological support was developed as a response to the needs of people in detention. These persons reported and continue to report difficulties in obtaining psychological, psychotherapeutic and psychiatric help. In their view, the help offered by the centres is insufficient, inadequate and does not produce results, i.e. an improvement in the psycho-physical state of those who need it.

This is confirmed by reports from the Supreme Audit Office¹ and the Ombudsman². The SAO report clearly indicates that “the actions of the Health Service of the POSG [Podlasie Branch of the Border Guard - editor’s note] in providing proper psychological care to foreigners were unreliable”, and that diagnoses were not carried out in line with Decision No. 182 of the Border Guard Commandert³. The SAO report states that the psychological help offered is “illusory in nature”. In such a situation, PMF implemented measures to enable migrants in detention to benefit from psychological support.

We work with a team of four psychologists and interpreters, whose participation depends on current needs. In 2023, we carried out 553 three interventions for 85 people.

¹ Naczelna Izba Kontroli, *Wystąpienie pokontrolne DI/21/506 – Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski*.

² *Sytuacja cudzoziemców w ośrodkach...*, ..., op. cit.

³ Decision No. 182 of the Commander of the Border Guard of 6 October 2017 on the Provision of Psychological Services in the Border Guard Service.

How do we operate?

We accept requests electronically. After sending an email requesting assistance, the individual receives a return message asking them to provide their details, such as their name, age, country of origin, native language, the name of the centre they are staying at and their telephone number, as well as consent to the use of their personal data. This information is then passed onto the psychologist conducting the initial consultation. Most meetings are held with an interpreter working in the applicant's mother tongue.

Each conversation – starting with the consultation, continuing through to the final interview – is conducted according to established patterns developed by the PMF team of specialists. It should be noted, however, that this is only a starting point and the consultant flexibly modifies the next steps according to the situation.

1. Telephone psychological intervention for adults - call scenarios

The **first conversation with an adult** follows the following pattern:

- a. Presenting the context of the intervention work – informing that the consultation can only take place over the phone; explaining what crisis intervention is: what its aims and limitations are. The intervention continues until the person is released from the GDC, withdraws from psychological services or is deported to their country of origin.
- b. Checking identity and confirming that this person actually requested mental health support.
- c. Explaining the role of the psychologist – informing that the purpose of the interviews is to assess the psycho-physical state, to support people in detention and to propose appropriate action. Assuring of confidentiality of the consultations except in the case of a threat to life or health.
- d. Distinguishing between a psychologist and psychiatrist – an important element of consultation in relation to cultural differences and the migrants' experience with psychological support. Psycho-educational elements can also be introduced here, concerning psychological, psychiatric and psychotherapeutic assistance in Poland.

- e. Informing what organisation or institution the psychologist is associated with.
- f. Determining whether the person has previously received psychological or psychiatric help both at the GDC and in the country of origin.
- g. Setting the terms of the consultation – it is important that the person staying at the GDC creates the most optimal conditions for themselves to talk freely: no other people around, a charged phone, good coverage.
- h. Informing them that answering questions is voluntary and that they can stop the interview at any time by indicating the experienced difficulties.
- i. Indicating that it is important to tell the truth and that if the truth would be too difficult to tell, it is better to refuse to give an answer.
- j. Supportive actions – during the first consultation, we try not to delve into the history of the person consulted, focusing on their current psycho-physical state and, if possible, setting goals for further intervention.
- k. Asking for the request to be forwarded to a lawyer to obtain information about the consulted person's legal situation, especially information related to legal proceedings, and asking for permission to provide the person coordinating the GDC team at PFM with information as part of a possible collaboration.
- l. Request for scans of medical records to see what psychological and psychiatric measures have already been taken. This is an important step, as foreign men and women sometimes do not know whether they have received psychological or psychiatric help while in detention; the language barrier is also an obstacle: consultations at GDCs are often translated through an interpreter or conducted in a language that is not understood by the person in detention.
- m. Conclusion – asking if there are any issues that the person consulted would like to discuss further and that cannot wait until the next consultation, answering any questions, arranging the next appointment with confirmation that the person can wait until the next conversation.

Subsequent telephone consultations are conducted according to the following pattern:

- a. Each time we check that the person who answered the phone is our client and that they have the right conditions to have the consultation.
- b. We check the current psycho-physical state of the person – whether there are any issues to be discussed at the very beginning, whether anything important has happened that affects their functioning, whether since the last consultation they have benefited from psychological, psychiatric or medical assistance.
- c. We have an interview about the past, especially traumatic events.
- d. We implement supportive and psycho-educational activities.
- e. We implement diagnostic measures – we assess whether the person has experienced traumatic events in the past, we assess their psycho-physical state according to ICD-10, ICD-11 or DSM-V.
- f. We recommend contacting a psychologist, doctor or psychiatrist working at the GDC – we encourage the individual to report their symptoms and difficulties in functioning to the professionals working at the GDC. This is where the person may object. The need for such a consultation should be explained, the tension of the appointment should be lowered, the individual should be informed about the consequences of not having specialist assistance and that only staff on site can respond and provide adequate assistance at the right time.

The **concluding consultation** takes place when the migrant leaves the GDC or when the person drops out of the intervention service. We conduct this meeting according to the following pattern:

- a. We inform the individual about the possibilities of psychiatric and psychological help in Poland: at open centres, at NGOs, including PMF (free psychological help, support groups, psychotherapy, helpline) and about available funding for psychiatric help.
- b. We answer any questions about functioning outside the GDC.
- c. We summarise the support provided so far and suggest further support activities to be provided by another psychologist.
- d. In the event that the individual withdraws from the assistance service, we inform them that they can request assistance again at any time by sending an email.

We have also developed a scenario in the event of a **suicide crisis** reported during the consultation:

- a. We conduct an interview – we investigate the frequency of suicidal thoughts and thoughts of resignation, we ask about previous suicide-related history, current treatment and psychological and psychotherapeutic care, we check if the person is planning to commit suicide. It is important not to be afraid to ask questions about the intention and plan. If a plan is declared, we ask how and what tools are being prepared.
- b. In case of a threat to life and health, we indicate that we have to pass the matter over to the GDC staff. People having a consultation are informed at the very start that we can act without their approval in the event of a threat to life and health. They need to agree to this in order for the consultation to take place.

We have developed a **policy for informing the GDC if the life** of the consulted person is **at risk**, which we follow in our contacts with the facility. This was necessary due to emerging difficulties such as:

- Lack of standards on how to report information on threat to life and health – in some GDCs such reports are received by the warden, in others by the education department or the person on duty. Therefore, when it is not clear how to communicate a threat to the life of the person consulted, the person on duty should be contacted;
- Refusal to accept a report – if a report is refused, we inform the refusing person that we are calling an ambulance.
- In such a situation, we pass this on as soon as possible to the psychological support coordinator, who contacts the Border Guard facility and sends a complaint about the actions of the centre.
- Once the intervention is completed, we prepare an official note.
- Documentation is copied and forwarded to the Ombudsman or UNHCR (United Nations High Commissioner for Refugees).

2. Documentation

In the course of conducting telephone psychological intervention, we prepare three types of documents:

- a certificate on the consultations held, which contains the data of the person drawing up the certificate, the data of the foreigner, the number of consultations held,
- information on the psycho-physical condition of the person consulted, including: data of the person drawing up the document, data of the foreigner, number of consultations held with dates, previous medical, psychological or psychotherapeutic assistance, course of intervention, conclusions and recommendations,
- an official note that describes the emergency event that requires the fastest possible intervention, e.g. a suicide crisis.

The documentation is translated orally into a language understood by the person consulted and handed over to them. The exception to this is the official note.

3. Psychological telephone intervention service for children and adolescents

First of all, it should be emphasised, as the report states at the outset that detention of young children always carries the risk of –potential disruption of a child's developmental trajectory disorders [the impact of detention on children's development and health is discussed in Part III - editor's note]. For a person over the age of three, staying in a closed facility for more than two weeks will have a negative impact on their functioning and development⁴.

When a minor reports for an intervention, we decide on the framework for contact in each case. The primary action is to talk to the child's parent or legal guardian. It is then necessary to explain the limitations of the telephone psychological intervention service, i.e. the lack of a possibility to interview young children and the limited possibility to talk to children over 12 years of age.

During the interview, the intervener learns about the child's current situation. They ask about the predominant symptoms, functioning at the centre, treatment history, including treatment in the country of origin, and development, i.e. any difficulties in the past, traumatic events affecting the whole family e.g. warfare or lack of access to education and psychiatric and psychological support. It is important to obtain information about the support the child is receiving while at the facility.

The decision to talk to the child is made by the person conducting the consultation. In addition to the child's age, an important factor is the child's psycho-physical development. It is recommended not to carry out a telephone intervention with a person under 12 years of age. Of course, the intervening psychologist should take all factors into account and decide whether such a conversation is advisable, considering, for example, whether it is the only form of help available to the child when it is not possible to talk to the child's parent or legal guardian (parent in poor mental and physical state, language barrier, parent's intellectual disability).

⁴ M. von Werthern, K. Robjant, Z. Chui, R. Schon, L. Ottisova, C. Mason & C. Katona, *The impact of immigration detention on mental health: a systematic review* "BMC Psychiatry" 2018, vol. 18, art no. 382, article available at: <https://bmcp psychiatry.biomedcentral.com/articles/10.1186/s12888-018-1945-y>, accessed: 19.02.2024

Moreover, there are situations where there are people staying at GDCs who declare to be children but are treated as adults. In such a situation, it needs to be assumed that we are potentially dealing with a minor and the intervention measures must be adapted accordingly.

Cooperation with interpreter during consultations

The majority of telephone consultations with migrants in GDCs are held with the participation of an interpreter. To ensure the professionalism of the assistance offered, we make sure that the interpreter:

- has received adequate training to be able to work as an interpreter for a psychologist (e.g. we discuss the role of the psychologist and the role of the interpreter in the interview, potential difficult topics, the need for supervision for the interpreter);
- before the intervention, the interpreter was able to speak to a consultant who checked how the interpreter was at the given moment, whether they needed any information, etc;
- after the intervention, the interpreter speaks to a psychologist who answers their questions and asks how they felt after the consultation.

10. Psychologist's account: psychological support for people after detention

Agnieszka Carrasco-Żylicz

In August 2021, the media first reported on people trying to enter Poland in terrible conditions through the border with Belarus. Soon there was talk of a humanitarian crisis erupting. Four months later, I joined the team of psychologists at the Polish Migration Forum Foundation.

My task was to provide psychological support to persons who were released from one of the guarded centres for foreigners and placed at the Centre for Foreigners in Dębak (reception centre) or who were trying to become independent or organise their lives in the new country – usually in Warsaw. I have been working with the people in Dębak since January 2022.

Opinions and diagnosis – cooperation with lawyers

Part of my psychological work involves working with lawyers from the PMF Foundation, as well as from the Association for Legal Intervention and the Helsinki Foundation for Human Rights. These professionals seek to obtain international protection or residence permits granted for humanitarian reasons for refugees. I have very good experience in this area: conversations and contact with the lawyers give me, as a therapist, a sense of collaboration and unification.

In the context of this cooperation, my task is to carry out the diagnostic process and prepare a psychological opinion, which is added to the file of the international protection case.

Every person with refugee experience has a story to tell. But the role of a psychologist or therapist is not to establish facts or assess the veracity of events. For the therapist, the most important thing is how someone tells the story, how they relive and process the painful past. It is also necessary to answer questions such as: how did what happened change the person and affect their perception of the world and relationships.

Hurtful events and situations faced by those in Dębak often have a direct impact on their wellbeing and psycho-physical functioning. These are people frozen in their experiences, immersed in the past and trauma. The aim of the conversations is therefore to overcome silence, to equip them with the strength to open up to tell their stories and to merge their self-image fragmented in memory.

The diagnoses I prepare aim to describe the individual's psychological functioning in terms of post-traumatic disorders – in the context of refugee experience. They are also intended to show that a person is unable to answer questions coherently and logically during the status interview, nor are they able to maintain chronology or retrieve important details from memory.

Traumatic experiences very often have a direct impact on the brain structures responsible for recording and storing memories. Thus, they are not transferred into permanent memory, making the picture of oneself and one's history and the description of events sometimes inconsistent and fragmented.

Psychological opinions also apply to family reunification cases. In such situations, the role of the psychologist is to show the current situation, the emotional burden on the children and the separated parents living in uncertainty about the fate of their loved ones. Like Mrs G. from Congo, who was separated in Lithuania from her husband, who was detained and taken to a Lithuanian centre. Mrs G. was in advanced pregnancy, and when she went into labour in the Polish forest, she was fortunately transported to hospital. After the birth of her daughter, she was taken to the Centre in Dębak. She was depressed for weeks. She was unable to breastfeed and was afraid she might never see the father of her child again. Every day she waited for news of his release, and for his arrival. Thanks to the lawyer's efforts, Mrs G.'s husband joined the family and was able to see the child for the first time.

I would like to believe that my opinion contributed to this as well.

Reviewing own professional experience

Upon release from guarded centres, people with refugee experience are sometimes sent to Dębak. Sometimes they are brought in groups, sometimes individually. All have experienced months of confinement. Unfortunately, the centre is located in a forest (it is about five kilometres on foot to Otrębusy, about six kilometres to Podkowa Leśna and almost three and a half kilometres to Nadarzyn).

I meet mainly women but also whole families. The source of their greatest suffering is not being able to contact their children, who are most often left in the care of extended family in Africa. Women who were pregnant often lost their babies or experienced this time in great stress, tension and insecurity.

These meetings have taught me a lot of humility and allowed me to distance myself from the experiences I had gathered over the years. They prompted me to review my previous working methods and actions. At Dębak, I do not introduce myself straight away – as is standard practice in office-based work, nor do I say that I am a psychologist, because at this point it does not matter to anyone. For me, it is important that these people know my name and the name of the Foundation, although the latter is also of little importance to them at first.

It has been a great support for me to be able to attend regular meetings of the team of psychologists who do interventional work in situations of severe crisis and mental health risk for people in guarded centres [intervention assistance is described in Chapter 9. - editor's note].

Focusing on resources and empowering

The topic of introductory conversations is usually ill health and increasing physical ailments. Very often, during the very first meeting, I find that the people I talk to do not have enough clothes, shoes, hygiene products, sometimes a phone or an active SIM card.

I often do not have information on who has arrived, who is still at the centre and who has left it, because Dębak is a reception centre, from where people are transferred to other facilities at short notice. A reliable source of such information is people with whom I have already made acquaintances. Sometimes I would knock on the doors

of the rooms occupied by refugees with an offer to talk and meet. For it to happen, it takes time, often persuasion by someone else. Uncertainty of fate and complete lack of control over their own lives make it difficult for newcomers to trust another person or organisation. It is not easy to be ready to establish a relationship with a stranger one knows nothing about and whose intentions are not clear.

An invaluable tool for me is language. I try to communicate in the language of the people I am establishing a relationship with – this is usually French. I ask about their name, its history and meaning, as well as where the person comes from. My natural curiosity, ease of acceptance and openness to the other person help me in my work. Each time I am ready for whatever comes up in the relationship, I try to be flexible. I also never know if the person I've arranged a meeting with will actually come – there's no planning in this job.

I always try to remember and pronounce names correctly in order to restore to the women the subjectivity from which they have been stripped. I ask for details about their country of origin, their culture, or just listen to who they are, what they like to do, what they find interesting and enjoyable. I am delighted by the talents, interests and skills of African women. They can create works of art, jewellery and decorations from nothing or prepare a sumptuous meal from a few simple ingredients. Focusing on women's resources and looking for empowerment in them is the main focus of my activities at the Dębak meetings.

These meetings are one-to-one, but over time they have begun to happen in a women's circle. The idea of one of my colleagues from the PMF Foundation, Katarzyna Sawko, has proven to be extremely helpful here – she suggested that we organise meetings for women together, outside the centre. So we would get together to make cosmetics and, thanks to our African friends, learn about body care, cook or dance together. We found just how much these women can give us from themselves. We drew the joy of life from them and looked with admiration at their will to live and their strength to survive.

There was also group singing: we were encouraged to make music together by A. from Tanzania, blessed with a beautiful voice and musical talent. Joint crocheting and workshops were initiated by A., while J. showed us what African hairstyles look like and what the art of doing afro curls is all about. Watching women over time starting to want to take care of their appearance once again was an extraordinary experience for me. They often asked for karite butter or tres to be brought to them for braiding.

Regaining their sense of agency and desire to act allows them to recover from trauma. Restoring a sense of influence over one's own life works in the same way. Constant presence, accompaniment and attentive listening provide an opportunity to build relationships.

Challenges and tools

I found it most difficult to build a rapport with people who were in a state of permanent confusion and dissociation or 'frozen' by traumatic experiences. I have had meetings where instead of talking, we sat in long and piercing silence. In such situations, I find it helpful to accept the emptiness and chaos (completely understandable in these circumstances), and to be aware that these people are victims of accumulated trauma. From my perspective, the most important thing is just to be present, to abide by them and accompany them.

In this kind of therapeutic work, various stabilising exercises are helpful, teaching people to gain control over their thoughts (flashbacks) so that these thoughts do not determine, dominate and take away peace, sleep or the will to live. Visualisations prove useful: evoking the image of a safe place, as well as various tools for working with objects, space and movement. I often introduce techniques used in the Ericksonian or systemic approach.

Without saying goodbye

As I visit Dębak regularly, I can never predict whether the people I have previously met will still be there. Due to the temporary nature of the centre, the Office for Foreigners transfers many of them, especially couples and families, to other centres in Poland. Once released from detention, they continue to live with a sense of constant unpredictability, a lack of control over their lives, awaiting decisions by officials. Procedures for granting protection or a residence permit sometimes drag on and every day is a day of waiting in suspense for an answer: whether refugee status will be granted and whether they will be able to continue living in Poland.

The uncertainty of fate and the frequent refusals to grant protection make families or women decide to leave. Most often to France, Germany, but also to other European countries.

I have become accustomed to not saying goodbye and not being able to close the therapeutic relationship, although there were cases such as a family from Cameroon (I accompanied them for almost a whole year) who wrote to me to say thank you and to tell me that they were all safe in France and doing well. Perhaps they were lucky, because German or French officials deport many people who started the procedure here back to Poland [under the Dublin Convention - editor's note]. This was the fate of Ms D. from the Congo, who travelled to western Europe with a group of women and returned again to Dębak after six months.

Psychological support after leaving the reception centre

Persons who have been granted international protection or humanitarian residence permits are required to leave the facility in Dębak. Very often – this is the case for women, especially those with children – they feel strong anxiety due to the need to find housing, a job, to start living independently, without language skills or community support. They are still able to benefit from regular meetings and psychological support at the Foundation's offices or online. I stay in regular contact with many families and continue my therapeutic work. It is only when they gain independence and stability, after many months and sometimes years, that the time comes to work deeper and face the trauma.

Accepting traumatic experiences

I have found that the most important aspect of psychological work with people with traumatic refugee experience is the therapist's ability and willingness to accept their story.

I will not forget the caution of one of the women, A. from the Congo, who directly told me at the very start of the meeting, as if asking if I was sure I wanted to get to know her story: "no one can accommodate, endure this amount of pain and trauma".

I also need to mention that I myself have experienced anger, outright rage, disappointment and despair multiple times because of the way the people I supported were treated on their refugee journey, because of how difficult it is to live in uncertainty about the decisions of officials granting or denying them refugee status.

Personal stories: roads to the Polish-Belarusian border

I have not met a person who decided to leave their country of origin purely for economic reasons. It is not only wars and ethnic conflicts, such as those in Ukraine, Yemen, Ethiopia, Syria, Mali and many other countries, that force people to flee and look for a new place to live.

In Dębak, I have met and continue to meet migrants from West and Central African countries, mostly women and whole families. Their stories have made me realise how current and complex the problem of human rights crisis is – and even more so how often these rights are brutally violated. The stories of women from Congo, Cameroon, Côte d'Ivoire, Somalia and many other countries show a world full of cruelty from which they had to flee – to save themselves and their children.

In that part of the world rape is still used as a tool of war. It has become clear to me why the women I work with suffer from acute gynaecological conditions. For many of them, the decision to leave their country of origin was also a dramatic attempt to save themselves from male domination in the family, the superiority of their elders and oppressive cultural impositions. Another reason is natural disasters resulting from climate change.

At Dębak, I have met young people whose childhood was marked not only by poverty and hardship, but also by persecution and fear for themselves and their loved ones. This was often linked to the experience of the death of a parent or family member. Such was the case of the Congolese siblings who had witnessed their mother and father being shot. After the incident, friends and distant relatives sent them to Russia to ensure their safety. Over there, they had to survive on their own for many months, even though only two of them were of legal age. They experienced racist attacks and lack of prospects to settle down. They decided to move further. A friend persuaded them to travel to Minsk. From there, they went straight into the forest on the Polish-Belarusian border.

I have also met women who were fleeing lynching and persecution by local or ethnic people. After the death of her husband, Ms K. from Côte d'Ivoire was being forced to marry his brother, 20 years older than her. When she refused, her husband's family threw her and their children out of their own home and persecuted them. Other stories: Ms R. lived in a small Congolese village. She gave birth to twins with albinism

and she and her children were threatened with death because of it. Or Ms A., who admitted to being homosexual, which is forbidden and condemned in her tribe (the Bamileke ethnic group) in western Cameroon. When she was 16, her family forced her to move in with a man that was chosen for her when she was born. She had to have intercourse with him and bear his children. The man, when he found out that his wife was a lesbian, started to abuse her. Ms A., after 20 years of hell, escaped Cameroon with the help of some friends. Unfortunately, she did not know what awaited her in the forest in Podlasie, when she tried to cross the Polish-Belarusian border.

Ms T. from Congo lost everything during the rainy season: the slope on which her house was located collapsed after a river flooded. The older children were at work with her at the time; the younger ones died with her mother. The father of a Cameroonian family I have been accompanying for over a year had been persecuted, imprisoned and tortured for political reasons. He got out of prison with the help of a relative. Together with his wife, he decided to flee the country. The carrier allowed them to take one child out of three – they chose the youngest. It was the lightest, which mattered when later they crossed the Niger by boat. In Nigeria, friends helped them get visas and plane tickets to Minsk.

The refugees I have met were not aware that they were being deceived and used as 'pawns' in a political game. They had no idea what awaited them along the way. A 26-year-old Congolese woman undergoing an internship at an office uncovered illegal transactions, exposed corruption and consequently received death threats. Her father borrowed money from family and neighbours to send his daughter to Minsk and ensure her safety. He wanted her to continue her studies there. Unfortunately, the middleman passed her onto a woman who was involved in human trafficking. The girl was forced into prostitution. She managed to escape with the help of other women – her escape route led through the forest on the border between Belarus and Poland.

I could cite many such stories and others.

A. fled the war in Ukraine (she studied medicine there and her children were born there). She did not have a Ukrainian passport and for this reason went to Minsk, and later, with a group of others, attempted to cross the border into Poland. This is how she talked about it: "All I was thinking about was: keep going, don't get left behind. I was carrying the children, tied them with a rope, one at the back and one at the front. I have to keep going, I can't stumble, I can't lose my balance, despite the pain and fatigue".

Unfortunately, one of the children fell ill and died of hypothermia. A. buried the child in the forest. Just like many other women, she too ended up in a guarded centre. All of these people have not only experienced abuse and instrumental treatment in their lives, but also – on many occasions – abuse by Polish and Belarusian border guards. They were victims of pushbacks, they struggled to survive in the extreme conditions of the Białowieża Forest.

11. Importance of torture identification process in the context of Istanbul Protocol standards and GDC conditions

Katarzyna Janczewska-Arčon

Foreign nationals who are victims of torture and inhuman treatment and who apply for international protection are a particularly vulnerable group requiring special treatment. It is not uncommon for them to suffer physical and psychological injuries inflicted by their persecutors. They need psychological support, medical assistance and rehabilitation, including psychosocial support. Consequently, the law – both European¹ and Polish² – establishes specific procedures for them.

The term 'torture' is defined by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment³ adopted by the UN in 1987. This definition was also used in the Istanbul Protocol⁴.

Let's recall: "[Torture] means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity"⁵.

1 Article 17 of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 on the establishment of standards for the reception of applicants for international protection (recast).

2 Act on *Granting Protection to Foreigners on the Territory of the Republic of Poland* of 13 June 2003.

3 The Convention adopted by the United Nations General Assembly on 10 December 1984, entered into force on 26 June 1987, ratified by Poland on 26 July 1989; full text at: https://www.amnesty.org.pl/wp-content/uploads/2016/04/Konwencja_w_Sprawie_Zakazu_Stosowania_Tortur.pdf, accessed 25.03.2024

4 The Protocol was published by the UN in 1999; the document was updated in 2022. In total, it was developed by some 200 experts from 51 countries, and new sections added on medical-legal evaluation of children, LGBTQ+ people and asylum seekers. The document is accompanied by separate manuals for doctors, psychologists and lawyers containing guidelines issued by the International Rehabilitation Council for Torture Victims, available in English, Spanish and French, among others (see: <https://irct.org/gsr>, accessed: 26.03.2024).

5 Article 1 of the Convention against Torture..., op. cit.

What is the Istanbul Protocol? The functionality of the document is indicated by the subtitle: *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. The Protocol contains information on methods of identifying and documenting cases of torture or other cruel treatment or punishment – for use by courts or investigative bodies. Whereas doctors, psychologists and lawyers are provided with the tools to assess whether a person has been tortured and are informed how to report such cases to the courts or investigative bodies. In 2015, the Istanbul Protocol was translated into Polish⁶.

But how do we protect and provide special conditions for foreigners who are victims of torture or inhuman treatment if they are not first identified as victims of violence? It is not possible. Meanwhile, this obligation lies with the host countries. So how should it work?

It is possible to imagine several stages in the application procedure for international protection during which mechanisms for identifying victims of torture and inhuman treatment should be applied. The first is when the foreigner applies for international protection, if they are seeking such protection. The second could be during the stay at the centre (reception or guarded), the next before the status interview. Certainly, any of these solutions is better than no identification at all.

Many specialists believe that identification, or more precisely the screening stage of it, should be repeated in many steps of the procedure (some foreigners experience too much fear to talk about such experiences just after arriving in a safe country). It offers professionals screening tools for initial identification (e.g. PROTECT-2 questionnaire).

Let's try to imagine a man who, after taking photographs during human rights protests in his country of origin, was taken into custody where he was interrogated and tortured (also sexually), and after these experiences, when he arrived in Poland, he was placed in a GDC. It is likely that such a person will keep quiet about many of his difficult experiences at the stage of applying for international protection. He might

6 The full text of the Protocol in Polish is available at: https://bip.brpo.gov.pl/sites/default/files/atoms/files/3_Protokol_Stambulski.pdf, accessed: 26.03.2024. To date, the accompanying publications have not been translated.

discuss some issues connected to political opinions, perhaps the arrest. Talking about the experience of torture with people who, like his torturers, are dressed in uniform, will be very difficult for him. It is linked to a great deal of shame and requires a relationship to be built on trust. Telling the story of what happened to this man will also be difficult in the conditions of a GDC, where many of the circumstances (bars in the windows, uniformed officers, locked cells/rooms) may resemble the holding cell in which he experienced torture. It is possible that such a person will experience great difficulties, symptoms of mental disorders, but he will only be able to talk about the cause of his condition after leaving the centre. Therefore, a screening tool that focuses more on recognising the possible consequences of experienced violence and the symptoms of disorders is useful at an early stage.

The Border Guard informs⁷ that a procedure has been developed and implemented in all administrative detention facilities as specified in: *Rules of conduct of the Border Guard with regard to foreigners requiring special treatment*, updated in 2019. According to these rules, victims of human trafficking, people with post-traumatic stress disorder, people with mental disorders, etc., are considered vulnerable. The document states that "the rules not only set out a procedure for the identification of persons with special needs (based on psychological and medical assistance, including specialist assistance), but also establish a system by which such identification is carried out". According to this information, identification takes place at each stage of a foreigner's stay in the administrative detention facility.

The PMF Foundation's practice shows that the system of legal and psychological care provided by guarded centres for foreigners does not meet their needs. Access to both is limited, meaning that many survivors of torture or other violence are not identified as belonging to vulnerable groups. Sometimes they are placed in GDCs (which for many of them involves retraumatisation), are interviewed remotely (this should be done in person and in the presence of a psychologist) and have no real access to psychological help, which they very often need, nor any other form of rehabilitation.

NGOs trying to fill the gaps in the systemic identification of victims of torture and inhuman treatment do not have an easy task either. Contact with foreigners in detention centres is severely limited. Whereas psychologists employed at GDCs,

⁷ Border Guard Headquarters, Information Protection Office, letter no. KG-OI-VIII.0180.38.2024 – response of 26.03.2024 to a request for public information.

who often have many responsibilities (they also work with officers), are rarely sufficiently trained to be able to carry out identification professionally according to the standards of the Istanbul Protocol⁸.

Why is this important?

The identification of foreign nationals seeking international protection who are victims of torture or other forms of violence is of great importance for several reasons. Firstly, these people only have a chance of receiving adequate support and rehabilitation if they are identified.

Identification, even when applied in the form of screening, would therefore allow alternatives to detention for those suspected to have experienced violence. Importantly, the law does not specify neither the type of violence nor the location where the person may have experienced it. Detention should therefore not be imposed on foreigners who have experienced violence in their country of origin, nor on those who have been exposed to violence (physically and psychologically) in transit countries, or in the territory of Poland, including at the border.

Identification carried out before the decision to place a person in a guarded centre or already during their stay in a facility would offer the chance to avoid retraumatisation for many people in custody. For many survivors of torture, this is linked to the context of detention: the situations they experienced often took place in police stations, jails, prisons, during interrogations, and the people causing these experiences – by definition – represented the authorities; they were often people in uniform. For many foreigners who have survived torture, detention is like being in prison [more information on the rigour in GDCs can be found in Chapter 6. – editor's note].

The bars in the windows, the restriction of liberty, the inability to go outside freely, the uniforms of the Border Guard officers, the punishments such as, inter alia, staying in isolation, sometimes the use of a stun gun – all this may remind people of the circumstances under which they previously (e.g. in the country of origin) experienced torture. If a person has developed a disorder related to experienced violence (for example, post-traumatic stress disorder), being in such a situation, often over a long period of time, can have a detrimental effect on their health and cause suffering.

⁸ See: *Sytuacja cudzoziemców w ośrodkach...*, op. cit., s. 39

Circumstances reminiscent of the traumatic situation can, among other things, increase the frequency and severity of symptoms associated with flashbacks of the traumatic situation. When this is juxtaposed with the fact that psychological help is hardly available in GDC settings (insufficient number of psychologists, unavailability of professional interpreters) and psychotherapy is basically impossible, it puts these people in a very difficult situation. This then puts their health and, as symptoms worsen, often their life at risk.

That is why it is so important for people who have experienced violence, especially foreigners who have survived torture, not to stay long in closed institutions (where they spend up to several months at a time). NGOs are trying to bridge the gap that causes wrongly placed people to suffer and experience an increase in disorder symptoms. Building a systematic cooperation between NGOs and the Border Guard would bring an important change in this matter.

For identification to take place on the basis of the Istanbul Protocol, it would require the cooperation of a doctor, a psychologist and a lawyer. Under Polish conditions, such cooperation is difficult. External specialists are usually not allowed into the centres. Under the pretext of the availability of psychologists in the facilities, foreigners are denied not only a face-to-face meeting with an outside specialist, but also a video consultation. Telephone calls remain the only option for contact. It is difficult to carry out in-depth diagnosis under these conditions. Even when meetings can take place face-to-face, the available time is often, for various reasons, limited.

In the absence of the possibility of real psychological support for foreigners who have gone through the identification process, moral doubts also arise. How exactly can we hold an interview, for example, on the type of torture experienced, if we know that the person will be left alone after such an interview, which may exacerbate their symptoms and worsen their mental state? Even the fairly simple and basic principle of creating safe evaluation conditions and building trust seems difficult to implement in the conditions of a GDC. Consultations sometimes take place in small rooms with barred windows, often in the presence of a Border Guard officer. It is therefore difficult to have a safe environment for conversation and to create a relationship based on trust.

Identification based on the Istanbul Protocol is a rather lengthy process. It requires, among other things, a thorough interview to collect data on the person's life and health prior to the traumatic event, current condition and symptoms. The torture experienced by the individual should also be described in detail and a diagnosis made. It is difficult to do this during one or even two meetings lasting several hours, and it is also necessary to take into account the condition of the person being assessed during and after the appointment. All of this makes it challenging to apply the Istanbul Protocol in a GDC setting. Therefore, a preliminary identification is often sufficient, especially since, according to the Foreigners Act, in order to release someone from detention, a suspicion that the person has experienced violence is sufficient⁹.

The best available solution therefore seems to be to carry out the initial identification of detainees in GDCs so that, on this basis, they can be released from detention and accurate identification in accordance with the principles of the Istanbul Protocol can be carried out in a setting where survivors of torture have their liberty, access to psychological support and an opportunity to undergo therapy and rehabilitation.

⁹ Art. 406 FA, item 1 point 2.

I wished it was a prison

Darin Loka

Border guards say that people locked in GDCs lie and manipulate. There are certainly those who pretend to have problems, but if they actually have them, there is nothing they can do about it. No one listens to them, no one takes them seriously. People are afraid to say openly who they are. Especially LGBT+ people.

One person, whose conversation with a psychologist I recently translated, told me that she was looking forward to meeting us because she had no one there. She was scared of everyone and did not trust anyone, but after each conversation with the psychologist she could breathe slowly and feel calmer.

The worst and most difficult thing is that you don't know how long it will all take. One can endure all sorts of suffering when there is a light at the end of the tunnel. It is possible to persevere for even 20 months if you are confident that you will eventually get out. But in a GDC you don't know. You don't know if you'll be here another week, 6 months or 20 months. They can come for you at any time. Then you face deportation, by force. That is why at the sight of every door closing and every door opening, at the sound of every gate slamming, your heart starts pounding. You think to yourself: "this time they are coming for me".

Uncertainty is horrible – you don't know what is going to happen to you. Whether they deport you or whether you stay. You wake up every day and wonder whether today it is your turn or not. Whether they release or deport you. And this goes on and on. Every time they let someone go, the whole centre is in suspense. People are happy to see someone leave, but at the same time they are saddened because they themselves are still there.

People also find it difficult to endure unclear rules and a sense of injustice. Why is it that one stays in the GDC for a dozen months and another for only two weeks? Why is it that of two people of the same nationality, detained at the same time, one gets out after six months and the other is still detained? Why has my friend been out for a week and I have received a deportation order? Why have I been here for several months and see others released after two to three?

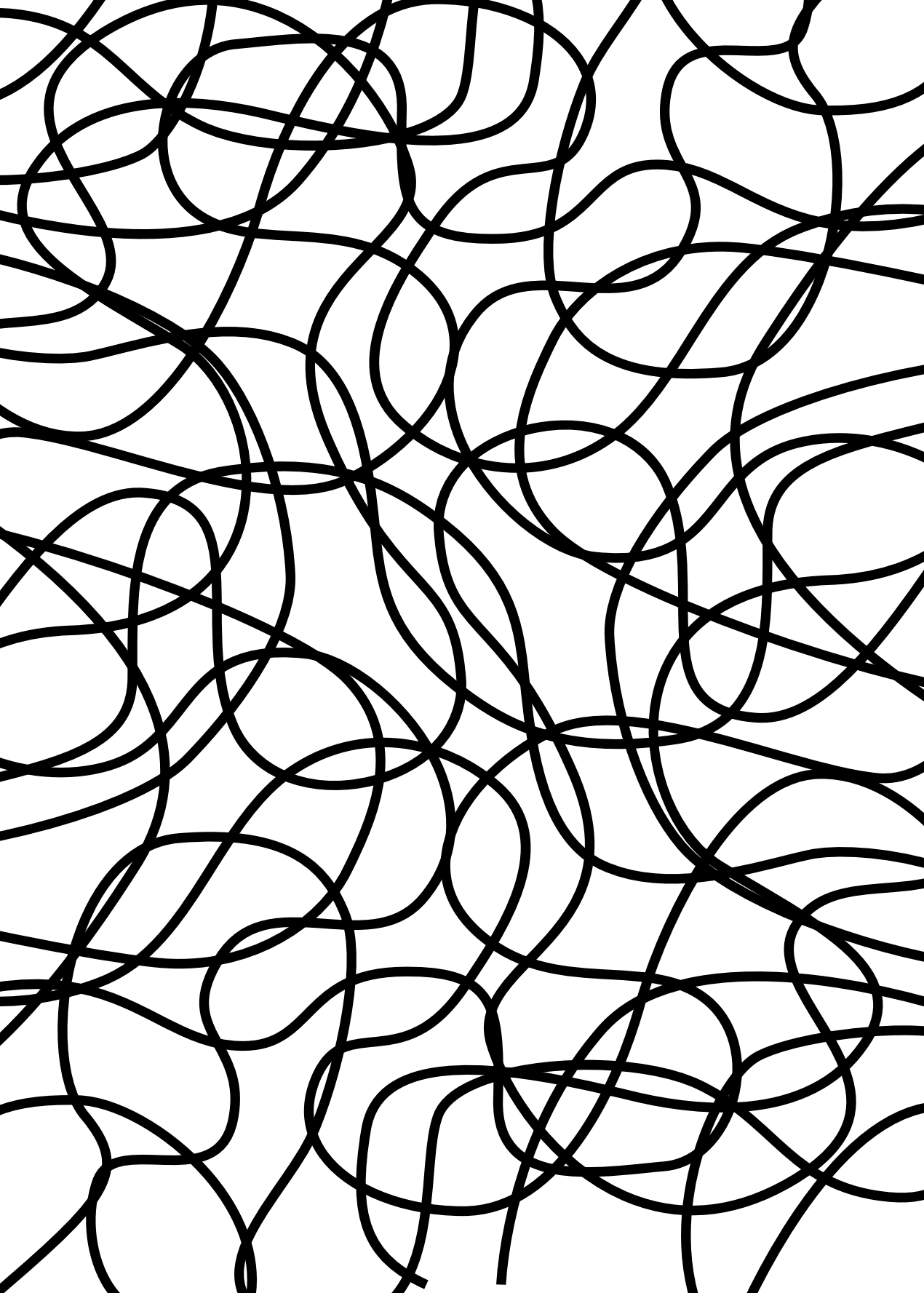
They ask and I don't know how to answer. I know how they feel. I myself have the experience of staying at the GDC in Białystok, except that in my time there were no psychologists there. And they are very important. Meetings with them are a big deal for people locked in the centres, a huge source of support. Psychologists are a window through which to see the world. They are the only ones people are willing, able, not afraid to talk to. After the first, second session, people start to trust. They say things that nobody knows. It is very important what they feel in their heart and what agonises them. I say this from my experience. I would have loved to have someone come see me at least once a week while I could tell them anything I wanted, and at the same time I feeling safe about it.

The Border Guard says it has its own psychologists on site – but the Border Guard psychologist is an officer. A guard. A guard-psychologist. He does not ask: "how do you feel". He asks: "why don't you want to go home?". Talking to him is not support, it is interrogation. People use this form of assistance because they have to. But there is no trust.

I think that in GDCs up to 90% of people need psychological support – because nobody listens to them. People live in uncertainty, feel alone, until eventually some of them lose control. One of our patients, after a suicide attempt, said he woke up in hospital but did not know why he was there. He did not remember what he did, nor did he remember anything that happened afterwards.

Some people end up in a GDC after difficult events: they have been raped, beaten, imprisoned. After which they immediately, again, end up behind bars – in the GDC. You can tell them a thousand times that it's a closed centre – to them it's a prison. Everyone says so: "a prison". It was for me too. Someone told me it wasn't, because, after all, I wasn't a criminal. I wish it had been [a prison], because a GDC is worse. In prison you even have a TV in your cell, while in the GDC you have neither a phone nor the internet. You have no contact with your family, loved ones. And you don't know when it will end.

The author is a refugee from southern Kurdistan, who spent several months in GDCs. He works as a humanitarian interpreter, founder of the Mova Association – Language Without Barriers, and winner of the Olga Kersten-Matwin Award of 2023. Written down by Agnieszka Kosowicz



Part III

Detention in the context of children's mental health

13. The impact of detention on children's mental health - experiences from around the world and the position of Save the Children

Joanna Hajduk

It is worth starting with the basics: among the factors of key importance for children's development, including psychosocial development, are biological, psychological and environmental factors. The child's environment, both the immediate family and the slightly more distant surroundings, has an undeniable influence on them. It shapes perceptions of the world and social relationships, influences feelings of security, belonging, emotional and cognitive development, as well as physical development. The outside world provides the building blocks for the internal world – it can support or harm child's development and health.

So what does the 'outside world' look like in a guarded centre for foreigners? In this description, we will rely on our experience, on studies conducted worldwide in similar circumstances by other organisations, as well as on our knowledge of the influence of external factors on the state of the developing personality.

What are these factors? Above all, the restriction of freedom, which, even if it takes place in relatively good conditions, results in an avalanche of consequences: a sense of living in limbo and a conviction that the world – since it deprives one of freedom – is threatening, unjust. Another factor is the lack of contact with peers, family and community. Children also have to deal with the trauma of their parents (if they are detained with their parents, those without care suffer from the lack of contact with a close, stable adult).

They live in an environment that does not provide them with a sense of security. The customary rules of social functioning do not apply here, this place is governed by prison rules. In addition, children most often do not have opportunities for free play, adequate movement and space, contact with nature or access to education meeting their needs. They are also often witnesses and victims of violence or other behaviour marked by a lack of respect for basic human rights. If even one or two of the aforementioned factors occur over a long period of time, this situation can lead to serious consequences for children's mental health, often irreversible.

Children have a high degree of adaptability, i.e. the ability to adjust to external factors without major damage to their development. However, the detention environment is loaded with such an amount and qualitative burden of harmful elements that normal adaptation is very difficult to achieve. After experiencing traumatic events, children are able to heal – but they need to get support, have a basic sense of security and remain in a safe relationship with an adult.

However, none of these 'healing' factors are sufficiently present in guarded centres – after all, children end up here after traumatic events connected to the way they arrived in Poland and difficult experiences in their countries of origin. At the same time, there are many factors present that contribute to further mental deterioration of children.

According to a report published by, among others, the International Detention Coalition¹ and research carried out by Save the Children², children with experience of detention develop symptoms such as depressive states, sleep problems, eating disorders, bedwetting, night terrors, anxiety disorders, oppositional behaviour, all the way to mutism, extreme apathy, food refusal or suicidal thoughts. The results of twenty-six other studies, based on data obtained through interviews (a total of 2099 participants, including 629 children and 302 parents) and clinical trials, described in a cross-sectional study on the impact of detention on mental health, are alarming³. They reveal a range of symptoms, such as sleep disturbances (65-100%), eating disorders (100%), suicidal thoughts (50%), self-harm (25-80%).

The studies also showed a correlation between the age of the children and the type of symptoms. In younger children (3-6 years), developmental delays and regression symptoms appeared: withdrawal and excessive crying (100%), sleep disturbances (100%), delays in speech development (50%), bedwetting (13%). Older children (7-11 years) manifested symptoms of depression (100%, among them 50% had clinical

1 International Detention Coalition, Corlett, D., with Mitchell, G., Van Hove, J., Bowring, L., Wright, K. (2012), *Captured childhood. Introducing a new model to ensure the rights and liberty of refugee, asylum seeker and irregular migrant children affected by immigration detention*, text available at: <https://www.refworld.org/reference/annualreport/idc/2012/en/90340>, accessed: 19.02.2024

2 Save the Children International, *Stripped, beaten and blindfolded: new research reveals ongoing violence and abuse of Palestinian children detained by Israeli military*, text available at: <https://www.savethechildren.net/news/stripped-beaten-and-blindfolded-new-research-reveals-ongoing-violence-and-abuse-palestinian>, accessed: 19.02.2024

3 *The impact of immigration detention...*, op. cit.

symptoms), anxiety (66%), PTSD (17%). Whereas about 85% of adolescents showed anxiety disorders and symptoms of depression or PTSD. As many as 57% in this age group continued to have symptoms even after leaving detention centres.

The occurrence of these symptoms depends on the location, conditions, treatment of children in detention, as well as on other factors such as the length of detention and the presence of carers and, above all, the mental state of the carers. The experience of detention can have a similarly devastating effect on the adult psyche. The lack of a stable carer, adequate care and support can be devastating for children. Not only are their basic needs not being met, but they are often the ones who have to provide support in various ways to parents in crisis, and this role reversal is potentially very damaging to children.

Although the detention of children clearly has a detrimental effect on their mental state, such an action is not directly prohibited under international law. Nevertheless, the existing legal framework is clear. Article 37 of the Convention on the Rights of the Child states that the detention of a child "should be lawful and should be used only as a measure of last resort and for the shortest possible period of time"⁴. The CRC (Committee on the Rights of the Children) and UNHCR guidelines on children seeking asylum emphasise that the detention of child migrants should be guided primarily by the best interests of the child rather than immigration regulations enforcement.

In its general comment on the provision referring to "detention as a measure of last resort"⁵, the CRC recommends that it should only apply to juvenile justice and not to immigration detention. For authorities and UN mechanisms, this means that the detention of a child because of the child's or the parent's migration status constitutes a violation of children's rights and is always contrary to the principle of safeguarding the best interests of the child. States should therefore put an end to the detention of children on the basis of their immigration status immediately and completely.

⁴ See Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, text available at: <https://brpd.gov.pl/konwencja-o-prawach-dziecka>, accessed: 19.02.2024

⁵ Comment No 24, text available at: <https://www.ohchr.org/en/treaty-bodies/crc>, accessed: 19.02.2024

As Save the Children, we are aware that the detention of migrant children is not in every case unlawful. Nonetheless, we know that detaining children can cause lasting and often irreversible damage. We therefore take the position that:

1. Detention must not be based either on the child's or their parent's immigration status or on the child's unaccompanied or separated status. Administrative detention of child migrants in any case constitutes a violation of children's rights and a measure alternative to detention of children and their families should always be indicated. This includes unaccompanied migrant or refugee children as well as children seeking refugee status with their families.

2. The belief in the need to maintain family unity should not be used as an argument to justify the detention of children.

3. Save the Children is aware that, in some situations, working with children in detention centres is in the best interest of the children themselves.

4. Collaborating with detention centres, which includes seeking to improve their conditions, will not affect our fundamental position that alternatives to detention should be created.

Research and practice clearly show that detention of children is a debilitating and violent experience, with far-reaching psychological consequences that can be irreversible in the absence of adequate support. As an organisation that has been working around the world for more than a century, supporting children during humanitarian crises, running development programmes and promoting the protection and education of children, for the past 2 years also present in Poland, we oppose to the continued practice of detention of children in Poland.

Asylum-seeking and refugee children are first and foremost children and are entitled to the same basic rights and benefits as all other children in Poland.

For this reason, we believe that it is necessary to develop alternatives to detention that take into account the fundamental rights of children guaranteed by the Convention on the Rights of the Child, including the right to development, the right to being brought up in the family, the right to decent conditions and an adequate standard of living, the right to health care, the right to rest and the right to education. At this point, it should also be noted that Article 72 of the Constitution of the Republic of Poland expressly states that Poland and public authorities will uphold the rights of all children and protect them from violence and torture. As the national office of Save the Children, we are committed to working together to uphold the rights of all children in the territory of Poland.

Save the Children Country Offices and Members have been working directly with children and their families in detention and detention like conditions for many decades in different parts of the world when specific risks and conditions are recognized and accounted for. In general, Save the Children does not engage in detention centers when there is a risk of failing to deliver assistance to acutely vulnerable children in need of support, and when there is a reduced ability to gather accurate information on conditions for children and /or to advocate effectively.

Save the Children's work in detention centers aims at supporting governments in identifying alternatives to detention in order to prevent the harmful impact detention has on children. This can be delivered through implementing programmatic interventions, support in policy reform and active advocacy for the rights of the detained children.

What does Article 37 of the Convention on the Rights of the Child¹ oblige the Polish authorities to do?

- a. No child should be subjected to torture or cruel, inhuman or degrading treatment or punishment. Neither the death penalty nor life imprisonment without the possibility of early release can be imposed on a person under the age of eighteen for any crimes they may have committed;**
- b. No child may be deprived of their liberty unlawfully or arbitrarily. Arrest, detention or imprisonment of a child should be lawful and can only be used as a measure of last resort and for the shortest possible time;**
- c. Any child deprived of their liberty must be treated humanely and with respect for the innate dignity of the human being, in a manner that takes into account the needs of the person at that age. In particular, any child deprived of liberty will be separated from adults, provided that a solution to the contrary is not considered to be in the best interest of the child, and will have the right to maintain contact with their family through correspondence and visits, except in exceptional situations;**
- d. Every child deprived of liberty has the right to have immediate access to legal or other appropriate assistance, as well as the right to challenge the lawfulness of their deprivation of liberty before a court or other competent, independent and impartial authority and to request a prompt decision in the matter.**

¹ See Convention on the Rights of the Child..., op. cit.

14. Psychologist's account: detention and child development and functioning

Marta Piegat-Kaczmarczyk

International regulations are clear: children should not be placed in detention. The argument that they end up there with their parents and that it is for their own good is not considered sufficiently justified – neither by the courts nor by international organisations. All the more so in the context of scientific findings and psychological observations derived from practice.

For the optimal development of competences and functions related to the subsequent developmental stages, the child's brain and nervous system need a sense of security and stimulation – varied, engaging, inspiring. If a child stays for a long time in an environment that does not provide this, their development does not progress normally.

When exposed to severe adversity, children's nervous system switches from a mode of development that is natural and appropriate to their phase of functioning into survival mode, in which the only goal becomes to survive and wait until the bad things pass.

Traumatic experiences in the country of origin, then during the journey to a safe country, then during deportation, and further during the stay in a detention centre, put the child at risk of serious developmental issues.

They deregulate physiological, emotional, cognitive and interpersonal functioning. They can destroy faith in oneself and in the people around. They can take away the energy to grow, create, explore, be spontaneous and have fun. So to do everything that should be enjoyed without limitations during childhood.

Consequently, the legislation recommends seeking solutions other than detention [alternatives are discussed with in Part IV - editor's note]. Meanwhile, children – both with and without their parents – are still being held in guarded centres in Poland.

According to information sent by the Information Protection Bureau, eighteen foreign minors (nine families), including two unaccompanied minors, were held in detention as of 28 December 2023.

At the end of 2021, contact with children in GDCs was significantly restricted for psychologists who specialise in working with children after traumatic experiences and are familiar with migration and intercultural aspects (this situation continues to this day, i.e. at the time of writing this report). Depriving young children of the possibility of accessing psychological support is another element that makes it difficult for them to function and cope with a situation that is extremely stressful.

International studies

How does being in a guarded centre affect children's functioning and development? A lot of information on this subject – very moving information – is provided by, among other things, a meta-analysis of twenty-six studies on the mental health of people in detention conducted by research centres in ten countries. The article entitled *The impact of immigration detention on mental health: a systematic review*¹ by M. von Werthern, K. Robjant, Z. Chui, R. Schon, L. Ottisova, C. Mason and C. Katona provides data on symptom severity in adults and children in detention, as described in the opening part of this section of the report.

In adults, these include depressive symptoms, anxiety, PTSD, specific phobias, affect disorders, personality disorders, thoughts, suicide intentions and attempts. Whereas children showed increased symptoms of sleep and appetite disorders, behavioural disorders, including oppositional defiant disorder, hyperactivity, self-harm, difficulty establishing peer relationships, somatic symptoms, abnormalities and developmental regressions such as returning to nappy use and language regression.

¹ See *The impact of immigration detention...*, op. cit.

The Polish experience – personal practice

There are no studies on this subject in Poland. However, psychologists, psychotherapists and diagnosticians who specialise in supporting children with refugee experience have numerous observations in this area from their own practice.

In children who have left guarded centres, we often observe the same difficulties mentioned in the abovementioned article. They manifest themselves at all levels of functioning: children suffer from numerous deregulations and physiological, emotional, cognitive and interpersonal disorders. Many also exhibit anxiety and depressive disorders. Many develop suicidal thoughts and self-harm, which I describe below.

My experience and observations are based on regular work with children in open and closed centres for over 15 years. At the time of the publication of this report, I am working at the centre in Dębak. Previously, I was associated with the now-defunct Warsaw centres in the districts of Targówek and Bielany, on Ciołka Street and in Moszna. I visited children in the centre in Czerwony Bór, in the GDC in Biała Podlaska, and I am currently providing support, by telephone, at a facility in Lesznowola.

In 2023, I had 23 people under my care either in or already out of GDCs. Six of them were mothers and 17 were children – all from Chechnya. In addition, in an open centre, I supported 59 people (including 12 mothers and 47 children) who were not in GDCs. They were people from Afghanistan, Turkey, Somalia, Dagestan, Moldova, Israel, Ukraine, Belarus, Iraq.

Currently I am in contact with a family with five children staying at a GDC that I know from the open centre. If it hadn't been for the oldest three remembering me, I could only have used the mother's interview in the telephone diagnosis. We are in contact and waiting for them to leave the centre. When this happens, they will probably end up in Dębak again, especially as the children went to school here for 5 years and miss their friends².

² The family have left the GDC and gone to an open centre in Linin, and remains under the care of a psychologist - editor's note.

A few years ago at a GDC I had a mother and her daughters in my care with whom we had previously worked at the centre in Warsaw's Targówek district. I was able to get permission to get inside, so I was able to use diagnostic tools, aids, toys in the diagnosis process and also rely on observation, which is a very important source of information.

Detention as additional trauma

It is worth emphasising that detention is most often not the only deregulating experience in the lives of the children and adults we work with. Many have experienced or seen repeated episodes of interpersonal, physical and often sexual violence. While still in their countries of origin, children had witnessed their caregivers beaten, kidnapped or go missing. Staying in a detention centre is therefore an additional trauma for many of them, at a time when they most need support for their developmental needs.

One of the children staying with his family in a guarded centre complained, for example, that his dad slept all the time and when he wasn't asleep, he would get angry with everyone and did not want to go outside with his son, yet according to the rules in the centre children are only allowed out in the yard when accompanied by their parent. Another recounted that they were very scared because they would see their mother crying under the duvet every night. The image of a helpless adult affects children's sense of security. Fears then arise that this adult will not protect me, will not help me, that I am on my own.

Detention becomes one part of a young person's story and development. I work with children I met in the open centre who later, after being refused protection in Poland once again, fled to Germany, for example. From there – deported – they were placed in a guarded centre for several months or longer. Then we met again at the open centre when they managed to leave the GDC. This winding road shows how important it is for them to have access to psychological support and contact with their psychologist, no matter where fate takes them.

I have already mentioned self-harm. Children who do this say more or less: "this is the only thing that brings me at least temporary relief. I can go to the bathroom and quietly cut myself or I can scream, yell and smash everything around me". When I talk to the parent of a child who is self-harming, I notice fear, confusion and often a huge

sense of guilt that they did not protect the child. The parent needs to be told that this is one way of regulating the enormous tension and an important signal that the child feels a great strain.

Whereas the child needs reassurance that we are in this together from now on, and that we will not push them to show fresh cuts or to account for days when they managed not to do it. The child needs to know that together we will explore and see what other ways there might be to deal with this great tension, which ones might help at least a little, and when the child can use them. Feeling that the enormity of the difficulties is recognised, trust and security in the relationship with the therapist allow the child to experience vital regular support and to recover step by step from difficult experiences.

Working with the child

Contact with children, both in detention and in an open centre, takes place after a meeting and conversation with the parent. This is a very important element. This allows us to gain knowledge from the adult about how he or she sees the child's functioning, what the child is able to cope with and what the child has difficulties with. We have an opportunity to find out whether the child will have anywhere to sit quietly during the conversation, whether they have a sheet of paper and crayons that we can use, even if we are only communicating over the phone.

When we meet in the open centre or at our offices at the Foundation, the therapeutic work takes place in a very friendly space. Here, children have a multitude of sensory or artistic aids, building blocks and toys to help them act out and tell difficult stories, tools to help regulate psychophysical tension, such as a hammock, a tent, a balance beam. Traumatic experiences are written all over a young person's body, so the whole being needs to be involved in working through them and healing from trauma: thoughts, emotions, body, movement – through play and creation.

Regulatory practices

Children in GDCs who we know from open centres can enter into a supportive relationship with much more confidence, and benefit from it, knowing that on the other side of the phone is the same person with whom they have already, in other circumstances, played, drawn and talked about important things. It is then much easier for psychologists to use what they have built before. They can, for example, refer to emotional regulation practices and ways to reduce tension, such as:

"Do you remember when we were sitting on the floor and putting one hand on the stomach and the other on the chest and watching them move with every breath? Should we do it again now?".

"Do you remember how we drew the inhale with one line upwards and the exhale with a spiral across the page? Do you have a piece of paper, crayons? Shall we draw it again?".

"Do you remember how we used to pick cards that had your skills and strengths written on them? Remember how much good you discovered in yourself then and think about how you can benefit from it now".

These are very basic techniques to support the child with regulatory processes. They help deal with panic attacks, anxiety, regain confidence in their own competence and agency. At the same time, it is possible to offer these methods to children while having only telephone contact with them.

Detention as a time of missed opportunities and therapeutic outcomes

During therapy sessions with young people, memories of being in detention repeatedly return. In children, this experience is stored not only in consciousness, but also in sensory memory and the nervous system. They talk about the sound of creaking doors, the tension in the body associated with the fact that even in the bathroom or anywhere else they did not have a sense of complete privacy, they recalled being on constant alert, as well as recalled anxiety about their parents, in whom they observed symptoms of resignation, helplessness, apathy.

Parents I work with recall their stay in GDCs as a time of completely wasted opportunities for their children, who were not able to fully develop educationally, socially, physically or artistically while being in there. Whereas the parents of children with whom I had the opportunity to work while they were still in open centres, before they were placed in detention, say with regret that during their stay in the guarded centre, all the child's accomplishments were lost and the difficulties returned to their previous state.

Children facing anxiety disorders, which we worked on to reduce anxiety levels, to develop coping skills in different situations, and who were able to manage their anxiety, see, for example, a man in uniform, which brings to mind traumas previously experienced in their country of origin. After the experience of deportation and detention, anxiety symptoms triggered by the same stimulus return and are often exacerbated, accompanied by additional somatic symptoms.

The youngest children who used means such as nail biting and cuticle pulling, hair pulling or sucking on their sleeves as a way of regulating tension after difficult experiences, and who, while in therapy in an open centre, learned to regulate tension in a constructive and safe way, when placed in detention return to their previous habits.

Return to development mode

When I meet children in detention centres that I know from when they were free, I see how down they feel. I see the spark disappearing or already gone from their eyes. They often speak and move more slowly, have an absent-minded look, some of them dream of a return to normality, others have already lost hope and do not expect anything good to happen to them.

However, when they manage to leave the guarded centre and we meet in an open facility, there is a huge opportunity and equally huge work ahead. Psychological support after such experiences is much needed for children. And regeneration, rebuilding confidence, sense of agency and getting back into development mode – are possible.

It is crucial that they first regain a sense of security and stability and that they are confident that they will no longer experience deportation or detention.

15. Working at guarded detention centre in Białystok, part II: children

Agnieszka Klimaszewska

I would like to point out that the psychological situation of the youngest residents of the Białystok centre was known to me through interviews with the parents. I wrote down selected accounts provided by the adults concerning their children's mental state directly in the course of my work.

At the Białystok centre, I was in contact with families who had two, three, four and five children. The youngest, five and three months old, were born in Belarus while the families were staying at the Bruzgi warehouse. Four were under the age of 3, eight were of pre-school age and four were of early school age – up to the age of 10. There were ten teenagers between the ages of 11 and 17, and four young adults.

I differentiate the children by age, because depending on it, the situation of the family and the children differed. Other needs and frustrations were experienced by families who had younger children or infants in their care. And other challenges were faced by families with teenagers in the conditions of detention.

Sleep

The children experienced massive sleep disturbances: they had difficulty falling asleep, often falling asleep only when it started to dawn. They were afraid of the dark (due to their experience of nights spent in the forest on the Polish-Belarusian border), waking up at night screaming. They had nightmares. They were afraid to sleep alone and sought the presence of a parent.

Toilet

The children were afraid to be alone in the bathroom, locked in a small room, asking a parent to accompany them. Some were wetting themselves at night. Some of those who had used the toilet regressed. Some suffered from constipation. The process of getting children to stop using diapers was difficult to implement at the centre. There were limited opportunities to change bedding, clothes and do laundry. Children aged 4-5 wore nappies. A five-year-old girl, who had suffered from a kidney problem at the Bruzgi warehouse, was still reacting with fear and psychomotor anxiety to emptying her bladder.

Food

Parents repeatedly reported problems with their children eating. The children did not like the food at the centre. They longed for familiar flavours. Adults were unable to cook their favourite meals for them; there was no access to a kitchen in the centre. Children were losing weight. In the case of the youngest ones, it was difficult to introduce new foods to their diet. I heard parents' accounts of bringing food from the canteen to the room for their children, even though they did not eat it, for fear they would end up needing nutrition drips.

Development

As a result of the high levels of anxiety experienced by the children at the border, which translated into the situation at the centre, there was a regression in various areas where they had previously achieved some degree of independence – a return to greater dependence on their parents. This applied to both toilet use and mobility. The centre is a closed environment where opportunities to develop independence through household chores or pre-school duties were not available. Some children reacted with bravado or fearlessness. They manifested risky behaviours that put them at risk of injury. They would fall down the stairs, injure themselves. With older children, teenagers, the lack of privacy was a problem.

Anxiety habits

The children displayed habits indicative of high tension and anxiety, such as nail biting, pulling out their hair, motor tics, grinding their teeth, biting, pinching their hands, scratching themselves. They also had somatic symptoms such as diarrhoea, constipation, skin lesions, headaches, stomach aches, nose bleeds and fainting.

Emotions

Children had difficulties with regulating their emotions. They became disorganised, agitated, chaotic, impulsive, distracted. They also had trouble focusing, staying still, interacting, concentrating on what another person was saying to them. They seemed to remain in a constant fight or flight mode. They had a problem with slowing down and transiting into quiet mode. It can be concluded that due to excessive stress, their brains were in a constant state of alarm.

Emotions of sadness, fear, anger and longing prevailed. Some children expressed emotions through behaviour, others spoke of being in a frozen state, while others externalised them through sensations in the body.

A three-and-a-half-year-old boy (...) is not sleeping much, is afraid to fall asleep. He is unable to fall asleep on his own. He falls asleep cuddled up with his parent, soothed, stroked. He has nightmares at night. He wakes up screaming. He calls out in his sleep: "soldiers will come and take us away", he moves restlessly, waving his limbs. He awakens in the morning. Asks for the light to be switched on in the room, is afraid of the dark. He wants to be stroked and cuddled, but despite this he finds it difficult to calm down and takes a long time to fall asleep. For the past three months, following doctor's orders, the child has been taking a sleeping medicine every night. Before coming here, the boy had no sleep problems.

A one-and-a-half-year-old boy suffers from a sleep disorder. He has difficulty falling asleep. His falling asleep is accompanied by crying that is difficult to soothe. The boy wakes up several times during the night screaming, afraid of the dark. He wants to get up in the middle of the night, to leave the room. He is still breastfed by his mother several times a night. For the past three months, following doctor's orders, he has been taking sleeping medication every night.

A 12-year-old boy has a sleep disorder. He is afraid to go to sleep on his own and needs his parents' presence. He has nightmares, sees images from the border in his dreams, menacing dogs surrounding him.

A seventeen-year-old girl can't sleep at night, sits down opposite her dad, who is also awake, and they both cry.

A ten-year-old girl wakes up at night crying, frightened by nightmares; for example, she dreams that her dad kills her little brother.

A one-and-a-half-year-old boy grinds his teeth a lot both at night and during the day. The habit is so intensified that the boy has a cracked right upper incisor and a large tooth cavity (approximately 50%) caused by the grinding of the upper teeth against the lower teeth. The parents try to inhibit this reflex by giving the child a teat to suck on to protect the teeth.

A two-year-old girl, while in the forest, reacted with shock to very strong headlights that the border guards were directing at the refugees. The light rapidly awoke the girl from her sleep.

The mother recalls that as a result of this and other intense visual and auditory stimuli the child experienced in that situation, putting the girl in a strong state of anxiety, she reacted by crying, which lasted for hours. The mother was unable to soothe her child. She mentions that she had never seen her child like this. Since then, the girl has regularly woken up at night screaming and crying, very agitated and anxious. Moreover, she doesn't allow anyone to come near her at such times to let herself be soothed. She reacts to her mother's attempts by pushing her away, painfully pinching her. Her crying can last up to an hour.

A twelve-year-old boy wakes up at night, is afraid to sleep alone and has night terrors. He dreams of soldiers, he dreams that someone wants to hurt him with a knife and about someone cutting off animals' heads.

A four-year-old boy performs a range of activities that indicate high levels of tension in the body. He picks his nose until it bleeds. He scratches his hands. He pushes his nails into his skin, cutting himself. He squeezes, pinches his hands so hard that he leaves marks in the form of bruises. He pulls his hair out of his head. He hits himself in the face, ears. When there is a lot of noise around, the boy covers his ears with his hands, closes his eyes and starts shouting. This is how he shows that he cannot cope with the excess of stimuli around him. For the past two weeks he has been undressing himself and refusing to put on clothes. He is digging a hole in the wall with his finger. He bites his nails.

A two-year-old girl, when she gets angry, won't let anyone get close, lies down on the ground and rolls on the floor.

An eight-year-old boy gets angry and reacts impulsively when he cannot go out in the yard. He then asks in anger: "why are we here?". A six-year-old boy also reacts with anger when he cannot play and when he hears about the restrictions.

The parents are noticing a change in their six-year-old daughter's behaviour regarding the level of impulsivity. Before, she was calm, balanced and patient. Now, she is agitated and easily overtaken by anger. Her reactions are violent. She hits her parents, runs out of the room, shouts. It takes a long time for her to return to a calm state. The parents link this to the fact that for the past year she has been in an environment with a lot of tension. At the warehouse, in the guarded centre, she has been surrounded by adults who are under a lot of stress, frustration. They often express strong emotions and there is a lot of arguing between them. According to her parents, the girl has witnessed and continues to witness behaviour too difficult for her as a six-year-old to emotionally process.

A twelve-year-old boy: the dominant emotion is anxiety and fear. He often goes back to the events from the border, he was very afraid of the nights spent in the forest, of animals. He was travelling without shoes and was in great bodily discomfort, in pain, cold, hungry and thirsty. He cried a lot.

A three-year-old boy: the overwhelming state he is in is one of danger and anxiety, heightened tension, constant readiness to escape. When every morning someone in uniform enters the room where he is sleeping and awakens him out of his sleep in order to count everyone, he reacts with increased anxiety. There is an isolation room next to the room where the family is staying. The boy has witnessed an adult being forcefully placed inside. He reacted with fear and apprehension and questions to his dad about whether someone would lock him in that room too. He is surrounded by uniformed staff on a daily basis. The sight of the uniform acts as a fuse. The boy seeks shelter for himself behind furniture, behind his parents, and asks them if dangerous dogs are about to come too. The boy's experience is reflected in his play. He plays by locking up toys and says: "they are in lockdown just like us".

A seventeen-year-old girl says on several occasions that she can't cry, that she would like to get this fear out of her, and that she can neither cry nor speak. She feels a lot of anger inside. She feels like throwing things, hitting the wall. She has a lot of emotion inside her for which she finds no outlet. She says she feels like she has something stuck in her throat, feels pressure, like she can't breathe.

A seventeen-year-old boy asks for medical help for his mother, who is in a bad mental state, she is in strong agitation, anxiety, helplessness – expressing these emotions. The boy is horrified by what is happening to his mother, he fears for her. The father is not with them. He goes up to the staff to ask to contact a doctor and gets dismissed, is denied help, his mother's condition is belittled. The boy is left with a sense of powerlessness, helplessness, rage. There is no one beside him in a stable state to help him accommodate, understand, regulate the emotions inside of him. At the meeting, he tells the story of feeling responsible for his mother, his brothers, but also of being ill-equipped to carry out this role effectively. The story, the emotions, the tale pour out of him in a very strong current.

You will also live a normal life

Female Afghan refugee

The hardest thing is that you are locked up, you can't go anywhere. It is very difficult to survive that when you have children. In Afghanistan we had a house, the children were out in the garden all the time. And at the centre, my son stood at the door knocking, saying that he wanted to go outside. He knocked and knocked, finally sat down, knocked again, and cried, and I cried with him.

There was a woman working at the centre in Kętrzyn at the time who ran a day care for the children – it was a great relief for them. They had activities before noon, in the afternoon, something different every day. The children liked her so much that they wanted to visit her after being released too.

But there was nothing for the adults. We could go outside for half an hour a day, sometimes after breakfast, sometimes in the afternoon. When we kept asking, they let us go out twice for half an hour. The rest of the time you wait.

Our room had a window and a window sill. I spent three months on that windowsill – I would sit down there as soon as the children fell asleep.

Or perhaps the waiting is the worst part? You don't know what is going to happen – whether they're going to send you back to a country you can't live in, or let you go, or whether you're going to continue staying here. They told us that Afghans were being released faster, so I just waited for the end of the three months. But others were told every three months that their stay was being extended for another three, then again and again. I met a Chechen woman with two children who had been in the GDC for almost a year and a half – every three months she would get a new order. Uncertainty is also the worst.

It was very difficult when you were ill and couldn't go see a doctor. I myself suffered from a toothache. I cried for two days, they did not want to take me to the emergency room, they finally took me to a doctor for a pain-relieving injection. I met a boy who kept asking to see a doctor every day, finally succeeded after a month. I observed

that young men found it really difficult at times. There was always some extra help for women and children. For men – never. When I was placed in the centre, there was a young boy with us. When the children and I were given milk, water, some biscuits, this boy got nothing. Then they also gave us all soup, some extra stuff. And this boy was hungry the whole time.

And then they say you are released. I was told that 2 days before the three-month term. They said they were letting us go and that we should go to Warsaw. I went to the warden and said that I didn't know the language, that I didn't know anything about Warsaw, and how would I get there with three small children? The warden was good and found a car to transport us to the open centre.

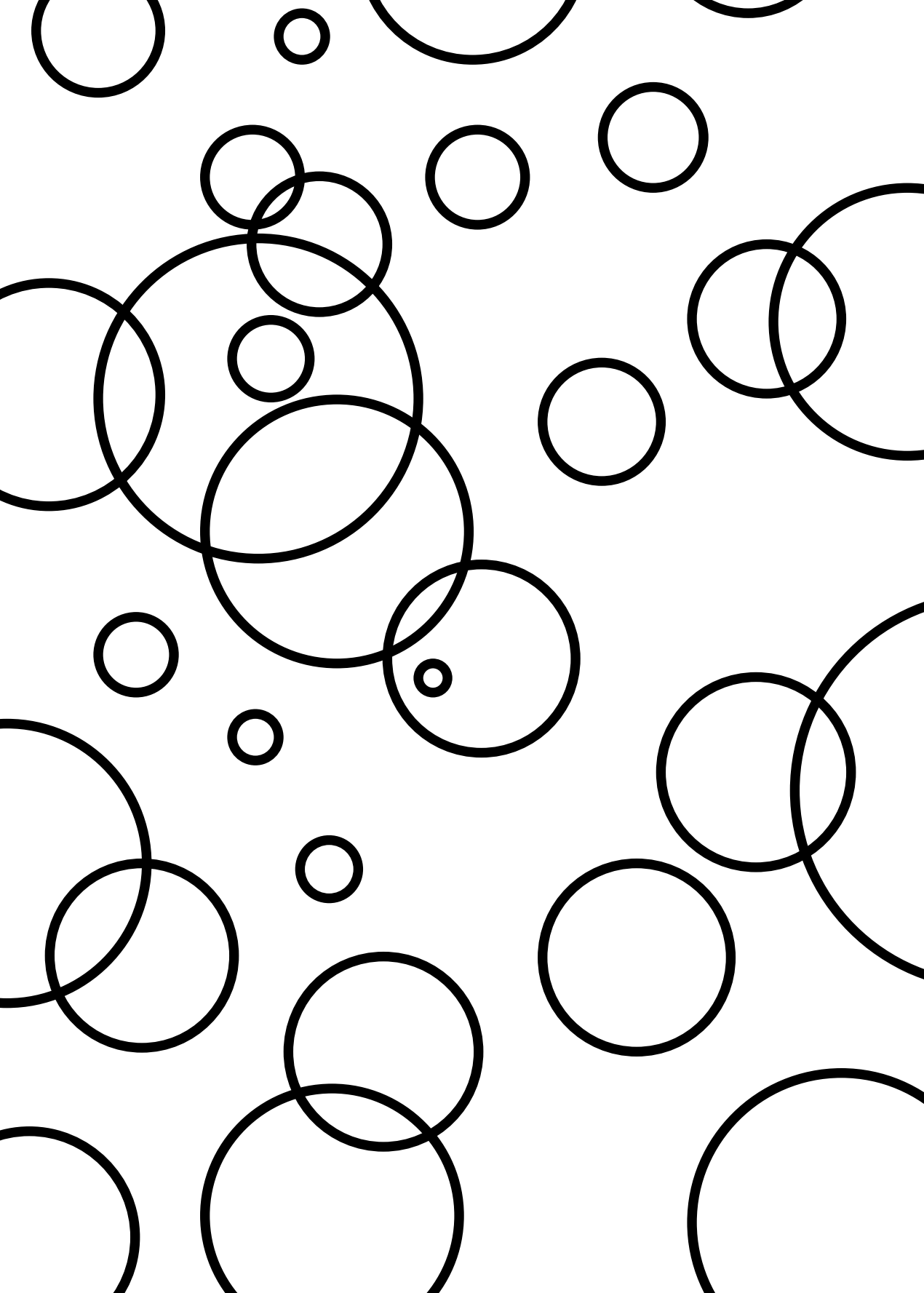
I now work as an interpreter. I sometimes interpret during conversations held by female psychologists who work in GDCs. The first time – several years after Kętrzyn – I found it difficult.

I saw people locked up just like I was back then, I remembered it all again. But afterwards I was proud of myself for coping in freedom, for knowing the language, for working. I told people: "don't worry - you will also live a normal life like me".

When I was staying at the centre, I didn't even know there was a psychologist there. Only as an interpreter did I see how much such a person was needed. When you give yourself permission to say all that is on your mind, you can feel a sense of relief. People tell the psychologist about what they are experiencing now: in confinement, in uncertainty. Some complain about the doctor, others about the food. They say what it was like when they were imprisoned in their country, how they escaped, and how they got locked up again in Poland. Everyone thought they would have a new life here.

There are those who no longer want to live. I understand how they feel. I was in their position.

The author is an interpreter. In 2012, she spent three months at the GDC in Kętrzyn with her three children. She asked to remain anonymous.
Written down by Agnieszka Kosowicz



Part IV

Practices alternative to detention

16. 16. Instead of an introduction: detention versus alternative measures

Aleksandra Kuśnierkiewicz

In the current discourse on how to manage migration, there are two clashing perspectives. The first emphasises the return of third-country nationals to their countries of origin – by means of coercive measures, border procedures or detention. The second is based on the belief that these measures are inefficient and, on top of that, costly.

Furthermore, they do not regulate the situation of foreigners in the long term and, in addition, as a result of human rights violations, can lead to persistent and negative consequences for this group of people. The Polish Migration Forum advocates for the safeguarding of the human rights of persons affected by or at risk of migratory detention.

Let us recap: detention should only be used as a last resort, after a thorough examination of each case individually, and for the shortest possible time. This is due to the obligations of European Union member states based on international human rights legislation with regard to freedom and health. The relevant EU legislation regulating asylum and return procedures and conditions in individual EU member states also forms the foundation of this approach [more on this topic in Part I. - editor's note].

Under EU legislation, **there should always be mechanisms to protect migrants from arbitrary detention.** Furthermore, their fundamental rights must be protected throughout their detention. Given its impact on health (including mental health), locking people up in detention centres should be a measure of last resort, implemented only to a limited extent and in specific circumstances. Before using detention as a factor to regulate migration, it is necessary to consider alternatives.

The prohibition on arbitrary detention is absolute. Thus, to meet the legality requirement, the detention must be “in accordance with the procedure prescribed by law”, applied “in good faith”, and serve a “legitimate purpose”. The reasons cited for detaining migrants, such as the need to identify foreigners with irregular status, the risk of absconding or facilitating the removal of a person who is in the country illegally, “must be clearly defined and exhaustively enumerated in legislation”¹.

The negative effects of the restriction of liberty particularly affect people from vulnerable groups: victims of trafficking, unaccompanied children, elderly people, victims of torture or sexual violence, people with disabilities, pregnant women. These people should not be placed in closed centres². A special category is children and families with children. There are, of course, legal reasons in favour of applying measures alternative to detention to them, but also – and perhaps above all – humanitarian reasons.

¹ International Organization for Migration, *International standards on immigration detention and non-custodial measures*, text available at: <https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/DraftBasicPrinciples/IOM3.pdf>, p. 3, accessed: 31.01.2024

² Ibid, p. 4.

17. What are the alternatives to detention?

Aleksandra Kuśnierkiewicz

Alternatives to detention (ATD) do not have a universal legal definition. These are measures that are, in principle, less repressive than placing individuals with undocumented status in a detention centre. But they still allow migration authorities to regulate the stay of foreigners in the country. They focus on a pragmatic and proactive search for solutions, rather than on restrictions and limitation of freedom of individuals. At their core is respect for refugees and migrants as subjects with rights, who – without the need to restrict their freedom – can comply with migration processes.

In May 2022, the World Health Organisation (WHO) published a report on the impact of detention on the physical and mental health of migrants. It called on member states “for a more humane approach and to use alternatives to detention”¹. An increasing number of documents from international institutions including the Council of Europe speak of the need to provide effective alternatives to detention².

Remember: the detention of foreigners, as well as the use of alternatives, is regulated in European law by two separate regimes – depending on the situation of the foreigner. The situation is different for those seeking international protection (refugee procedure) and different for those for whom there are grounds to issue a decision obliging them to return (return procedure). In both cases, the impossibility of applying alternative measures must be demonstrated before restriction of liberty can be imposed³. In addition, it is emphasised that member states are obliged to adopt measures alternative to detention in their national policies⁴ [regulations are described in Part I – editor’s comment].

¹ Article available on the WHO website at: <https://www.who.int/europe/news/item/04-05-2022-immigration-detention-is-harmful-to-health--alternatives-to-detention-should-be-used>, accessed: 30.01.2024

² See Council of Europe, *Practical Guidance on Alternatives to Immigration Detention: Fostering Effective Results*, 2019.

³ Article 8 (4) of Directive 2013/33/EU on the establishment of standards for the reception of applicants for international protection and Article 15(1) of Directive 2008/115/EC on common standards and procedures in member states for returning illegally staying third-country nationals.

⁴ Art. 8 (4) Directive 2013/33/EU.

Despite the fact that the Return Directive does not provide for any concessions in this matter, the Polish legislator in certain situations allows for the placement of foreigners in a guarded centre without considering whether alternative measures would be sufficient. Article 398a FA provides that the court is obliged to do so when there is a likelihood that a return obligation decision will be issued without setting out a time limit for voluntary departure and this is due to the circumstances referred to in Article 315(2)(2). That is, when required for reasons of defence or state security, or when there is a need to secure the transfer of a foreigner to a third country on the basis of an international agreement on the transfer and reception of persons. The above provisions can be considered to be in conflict with EU law⁵.

Polish law provides four alternatives to detention⁶:

- reporting at specified intervals to the designated Border Guard authority;
- payment of a cash security in a certain amount;
- obligation to reside in a designated place;
- surrendering the travel document or other identity document to be kept by the authority indicated in the decision.

A person who fails to comply with the obligations imposed on them under alternatives to detention may be detained and subsequently placed in a guarded centre.

⁵ K. Słubik, *W stronę wolności. Pilotaż środków alternatywnych do detencji wspierających migrantów i migrantki*, Warsaw 2021, p. 23, report prepared by the Association for Legal Intervention [Stowarzyszenie Interwencji Prawnej] available at: https://interwencjaprawna.pl/wp-content/uploads/2021/01/W-strone-wolnosc-i-RAPORT_SIP.pdf, accessed: 10.01.2024

⁶ Stowarzyszenie Interwencji Prawnej, *Detencja*, text available at: <https://interwencjaprawna.pl/tematy/detencja/> accessed: 20.11.2023

18. Alternative methods to support migrant men and women

Aleksandra Kuśnierkiewicz

Measures alternative to detention can be divided into two types. The first – the four measures defined in Polish legislation – is described above. Although less oppressive than detention, it nevertheless involves an element of coercion, such as the obligation to stay in a certain place, handing over documents to be deposited, reporting to certain authorities or visits by state services at the place of residence.

The second type is measures that do not include a coercive element and support migrants. They are engagement-based alternatives, which encourage full participation in the relevant procedures and reduce the risk of the foreigners absconding or going into hiding. They are based on working with the person on whom the alternative measure was imposed, and help consider solutions that can permanently regulate their situation. In this sense, they support the broader wellbeing of migrants, including their mental health.

Case management

As research shows, engagement-based measures can be more effective than the four basic ones mentioned above. However, they require the participation of persons independent of migration services and offices in the support processes with the use of case management methods¹.

This method is understood as a systemic approach to providing support to migrants who have not been placed in detention. They are assigned a special person who coordinates the services offered, provides information about their legal situation and acts as an intermediary between the foreigners and the migration office and services while having no influence on the pending administrative procedures.

¹ International Detention Coalition, *There are alternatives: A handbook for preventing unnecessary immigration*, Melbourne 2015, p. 50. Publication available at: <https://idcoalition.org/wp-content/uploads/2015/10/There-Are-Alternatives-2015.pdf>, accessed: 31.01.2024

The assistance is tailored to the accurately diagnosed needs of the person receiving the support. In addition to the strengthening and empowerment of the foreigner, the aim is also to permanently or temporarily and in accordance with the law resolve the migration case: granting a residence permit, international protection, voluntary departure to the country of origin or to a safe third country².

Community Assessment and Placement (CAP) model

The International Detention Coalition, a global network of organisations advocating for the safeguarding of the human rights of people affected or threatened by detention – to which the Polish Migration Forum belongs – conducted a multi-annual study that analysed around 250 different alternative measures and good practices in 60 countries. Based on the study, a model for effective and humane alternatives to detention was developed, called the Community Assessment and Placement Model (CAP).

The model is based on the principles of the presumption of liberty (the standard by which deprivation of liberty is applied as a last resort) and the guarantee of minimum standards during the procedure. These include: respect for human rights, meeting the basic needs of foreigners, the right to stay in the territory of the state pending a final decision, the provision of legal counselling and language support, and fair issuing of decisions.

The process consists of three stages: identifying the foreigner's needs, deciding on the foreigner's place of residence for the duration of the procedure and individual support using case management methods.

The study showed that there are a number of benefits to using this method. Firstly, it contributes to improving the quality of decision-making both by bodies deciding on the legal situation of foreigners and by the persons concerned. Secondly, it contributes to the timely and fair conclusion of the case – case managers help clients better understand their case, their rights and the legal tools available to them. It helps remove barriers to finding a solution and increases the chances that the person concerned will feel part of a fair process.

² *W stronę wolności...*, op. cit., p. 16.

Importantly, the method has a positive impact on the wellbeing of foreigners, increases their ability to cope with adversity and leads to psychological strengthening³. As the study shows, placement in the community “boosts migrants’ wellbeing compared to detention and does not exacerbate experienced trauma”⁴. This has to do, among other things, with the fact that it is easier to safeguard the fundamental rights of foreigners without restricting liberty.

The case manager assists the foreigner in accessing various types of support: medical, psychological or legal care, or accommodation. This is particularly important when it concerns people from vulnerable groups, such as sick people or those who have experienced torture. The involvement of migrants in the processes concerning them leads to psychological empowerment, beneficial regardless of the resolution of the case. If someone is granted a legal residence status, they will be better prepared to integrate into the host society, while in the case of return to the country of origin, a better psychological state may contribute to the sustainability of the return itself⁵.

³ *There are alternatives...*, op. cit., p. 48-49.

⁴ *Ibid.*, p. 12.

⁵ *W stronę wolności...*, op. cit., p. 20.

19. Case study: “no detention necessary” (Poland)

Aleksandra Kuśnierkiewicz

A pilot of the engagement-based method was introduced and studied in Poland by the Association for Legal Intervention as part of the “No Detention Necessary” programme conducted between 2017-2019 and described in the report entitled: *W stronę wolności. Pilotaż środków alternatywnych do detencji wspierających migrantów i migrantki [Towards Freedom. Piloting Measures Alternative to Detention to Support Migrants]* from 2021¹.

The aim of the project was to develop and test with a selected target group a work system based on case management as an alternative to detention under Polish conditions, without the involvement of the authorities and migration services. Consequently, the study was to help introduce the model into the nationwide migration management tools.

The process was based on extending comprehensive support to foreigners in return procedures and at risk of detention, involving these individuals in the proceedings conducted in their cases, avoiding detention and leading, if possible, to the resolution of the case with the acceptance of the outcome by the supported person. The participants were offered services in the scope of legal advice, psychological support and interpreting – their other basic living needs, i.e. accommodation and food, had to be satisfied by the participants themselves. Thirty-five adults and thirty-three children received the support.

Working with this group involved identifying and assessing their needs together with case managers, followed by action planning in the short and long term. At the next stage, the case manager acted as an intermediary between the project participants and the administration or migration services, facilitating access to services and legal advice. The final step was to finalise the case, marking the end of the migrant’s illegal stay in Poland.

¹ *Ibid.*

The project showed that case management in Polish conditions takes time – in 69% of cases the support lasted longer than 12 months. The case manager’s work proved to be more complex than traditional counselling because it required the establishment of a relationship based on respect, clear role division and trust. As a result, the project had a positive impact on the wellbeing and mental health of the participants and reinforced their ability to cope with difficulties. In addition to the obvious benefits, the involvement of foreigners into the ongoing procedures also increased. The method prevented the illegal crossing of the internal borders of the EU by the participants and contributed to the fulfilment by the participants of other obligations imposed by the administration or the courts².

Preservation of liberty also allowed for safeguarding the fundamental rights of foreigners listed in the European Convention on Human Rights, such as the right to liberty (Article 5), the right to respect for private and family life (Article 7) and in the EU Charter of Fundamental Rights, such as the principle of the best interests of the child (Article 24(2)), the right to good administration (Article 41). Without liberty restriction, the risk of infringement of the listed rights simply did not exist. Whereas other potential shortcomings were mitigated by cooperation with the case manager, who facilitated contact with a lawyer and mediated relations with the migration services, ensuring dignified treatment of the individual in the procedure.

The pilot showed that freedom-based measures do not have to be considered strictly as an alternative to detention, but also more broadly as a way of securing proceedings and supporting participants. This was based on a recognition of the primacy of liberty over detention – deprivation of liberty should be, as national and international legislation dictates, a last resort.

² Ibid, p. 27-32.

20. Case study: JRS Belgium (Belgian organisation)

Aleksandra Kuśnierkiewicz

The migration management method based on case management has been tried and tested in many European countries. In 2020, JRS Belgium, a Belgian organisation assisting refugees and asylum seekers, launched a pilot programme exploring alternatives to detention for families (with children) with an unregulated status. The aim was to enable them to engage in the migration process without being placed in detention.

Over the course of the programme, families received comprehensive case manager support. A unique component was the decision that migrants should be assisted in their own homes in order to make the collaboration as comfortable as possible. It was tailored to individual needs – the caseworker regularly visited the families involved in the programme, identified their situation and adapted the intended activities accordingly, taking into account the resources and special needs of vulnerable groups.

The caseworker worked separately with each person in the family, updating the plan on an ongoing basis against the information obtained at the meetings. The addressed issues concerned areas such as education, employment, mental health and wellbeing, legal aid. The key of the programme was to respect the human rights of those involved and to empower them so that they could make informed decisions about their own future. This could lead to permanent solutions, such as legal residence in Belgium or another EU country, or in some cases return to the country of origin.

In 2023, JRS Belgium published a summary of the programme – it found that case management in a residential setting had a positive impact on the degree of involvement of families in the legislative process, facilitated informed decision-making and overall helped strengthen those involved in the programme¹.

¹ Jesuit Refugee Service (JRS) Belgium. *Plan together. Gestion de cas comme alternative à la détention des migrants*, 2023, p. 15-16.

The project had no impact on the speed of obtaining decisions of state bodies or the length of legislative processes, which are not dependent on the caseworker's actions. However, a relationship with the caseworker based on trust and built in conditions that reinforced a sense of security allowed migrants involved in the programme to believe that they would receive a fair and impartial decision.

21. Case study: Dialog Foundation – institutional support

Aleksandra Kuśnierkiewicz

Another point of reference is the institutional arrangements guaranteed by Polish law (Article 400a-d). These regulations provide for services in the scope of social, medical and psychological assistance to persons¹ who cannot be detained or should be released from detention because it endangers their life or health or because their psycho-physical state may justify the presumption that they have been subjected to violence. Such assistance is directed at persons who might otherwise be placed in a guarded centre under the Foreigners Act². If alternatives to detention are understood simply as means by which a foreign national is not placed in a closed centre, institutional assistance can be considered to meet these criteria. It also attempts to respond to the needs of a specific group of foreigners in Poland.

The implementation of these provisions has encountered difficulties due to the lack of bids in the tender procedure³. Potentially this was due to the high financial risk borne by the contractor: according to the terms of the tender, the contractor should be prepared to provide a range of services from the first day after the transfer of a foreigner, but would only be remunerated for the actual services provided. In addition, tenders provide for a short-term contract, with the contractor being obliged to provide the infrastructure for long-term support⁴.

The organisation that currently provides the aforementioned services is the Dialog Foundation. Located in Białystok, it works towards social integration, helping refugees and migrants and supporting families and children. Under an agreement with the Border Guard, from 2020, it organises and provides social assistance,

¹ Art. 400a. FA

² *W stronę wolności...*, op. cit., p. 14.

³ *Ibid.*, p. 15.

⁴ *Ibid.*

medical and psychological care services for foreigners whose health does not allow them to be placed in a guarded centre or jail for foreigners and members of their families, and, in the case of minors or incapacitated persons, also for their legal guardians⁵.

The organisation providing institutional support is forced to incur a number of costs in order to adapt its infrastructure to accommodate foreigners, as well as to remain on standby in anticipation of the transfer of the next foreigner.

The range of services to be provided is very broad and includes: accommodation, care services, full board, medical, psychiatric and psychological assistance, necessary cleaning and personal hygiene products, clothing, underwear and footwear, as well as transport, including medical transport. As part of institutional support, the organisation receives people in very poor health, recovering from accidents or operations, and people with serious mental disorders who require special care.

⁵ *Pomoc instytucjonalna cudzoziemcom*, publication available at: <https://fundacjdialog.pl/projekt-fami/pomoc-instytucjonalna-cudzoziemcom>; accessed: 05.02.2024 r.

22. Prospects and recommendations

Aleksandra Kuśnierkiewicz

Based on pilot programmes and practices from other European countries and international standards and regulations, recommendations can be made to support the establishment of humane systems alternative to detention. Their use is intended to increase the involvement of foreigners in the relevant ongoing administrative and judicial procedures¹.

1. It is necessary to **recognise the primacy of freedom over detention**, in line with national and international regulations. Deprivation of liberty should be the exception and not the main reference point of migration policy. Alternative measures can serve as safeguards for migration procedures and support for their participants, respecting their fundamental rights as autonomous subjects, rather than being seen strictly as "alternatives to detention". Liberty-preserving measures imposing significant restrictions, such as supervision, should only be applied after detailed consideration of the individual situation of the migrant.
2. It is important to establish in national law a **clear prohibition on the detention of all children under 18 years of age**, including unaccompanied children and children in family care. When the best interests of the child require keeping the family together, the overriding requirement not to deprive the child of his or her liberty extends to the child's parents and requires an application of alternatives to immigration detention for the entire family.

¹ *Wsparcie zamiast przemocy...*, op. cit.

3. It is necessary to implement **effective identification mechanisms**. Each case should be subject to an identification and needs assessment process, taking into account the factual, legal and medical situation of the foreigner. It is the identification that decides whether an application should be made for the foreigner to be placed in a centre or whether to apply alternative measures. Therefore, an effective assessment of the circumstances that may indicate special needs is necessary. In the context of concern for the psychological wellbeing of foreigners, their health should be assessed, if necessary with the support of a psychologist. Effective identification is particularly important in the case of unaccompanied and separated children. Once identified, the state can implement key referral mechanisms to national child protection authorities.
4. The **trust of foreign men and women in state institutions and migration services** needs to be strengthened so that to grow their engagement in their own case. The principle of working with the case management method relies on building a relationship with the foreigner based on trust and clearly defined roles. It is important that the work is entrusted to staff who are independent of the migration services and decision-makers. The absence of a significant power imbalance between the parties reinforces a sense of security and facilitates opening up and exchange of information, which translates into general wellbeing and participation in formal procedures.
5. In order to increase the effectiveness of institutional support and to ensure a long-lasting reinforcing effect, it is worth considering **including the work of a case manager in the services offered**. An important step would be to keep extending this type of service to further groups of migrants, e.g. all vulnerable groups, even those whose detention under Polish law is possible (e.g. families with children) but would be unnecessary thanks to supportive alternatives. In that scope, institutional assistance could be an effective alternative to detention.

Everyone around is suffering

34-year-old female refugee from Eritrea

I was caught at the airport. One minute you're supposed to be boarding a plane, the next you're in prison. And nobody knows where to look for you.

They put me in the police station for the first two nights. On the third day they took me to court, I was given three months' detention. They transported me to Przemyśl. The car ride took around eight hours. The first guard took everything from me: my phone, my belongings, even my water. He didn't give me anything to eat. After four hours, the guards changed. This new one said: "man, this woman needs to eat and drink", he gave me water.

I speak Tigrinya and Amharic [languages spoken in Eritrea - editor's note], and I also know Arabic and some English. But when I was in Przemyśl, everyone spoke Russian. It was hard for me there – I didn't know anyone, I couldn't talk to anyone. However, we found ways to communicate. I made friends with two people from Uzbekistan and Kurdistan. It turned out that we could get by with the few Turkish words we knew.

In detention, everything is difficult. Even getting border guards to answer any question. They just keep telling you over and over again that you can't do this and can't do that.

Every day you see someone who has gone mad. Every day people are crying, screaming, breaking limbs, wanting to kill themselves. The ambulance comes and you wonder what happened. I remember a woman with five children who wanted to take her own life two or three times. I was worried about who would take care of her children.

Everyone is crying. I just can't cry in front of others. So I used to do it at night when they turned off the lights. The women in the room would tell me to stop. But often they too cried and shouted. I also felt despair for a woman who got deported. She didn't have anything. I wanted to give her what I had, but the guards wouldn't let me.

From Przemyśl they took me to Biała Podlaska – it was very difficult there. Nobody listens to you. The guards laugh. They don't show any respect, they don't listen to what you say. It's like they don't think you're human. If anything were to happen to you, they wouldn't care. When you go to see a doctor because something hurts, they tell you everything is fine – "just drink some water".

When someone gets a negative decision, the others shout, cry, destroy things. Everyone around is suffering. I remember a woman who had lost her children. But when someone is crying and screaming in despair, most guards do nothing. They just sit in the corner and laugh.

The conditions at the centre were also difficult. We had half an hour a day to use the computer, send emails or look for help. People were trying to support each other – send a message, contact a lawyer, find clothes or something they needed. All I got at the centre was a small bar of soap to wash my clothes. There was no shampoo, just something resembling liquid detergent. A lady named Olga sent us clothes, shampoo, children's toys and many other things.

The first interpreter who helped me when I was still at the airport spoke Tigrinya. He sent me a SIM card and called me every day. He told me to be strong, not to hurt myself, he asked me to survive this. He gave me the motivation to look after my health. He said: "if you have a problem – call me".

I was given a detention order for three months, but I was well aware that most people stay in the centre twice as long. So I assumed that would be my case too. I just knew that I couldn't last longer than 6 months. After the first three I got another three. My lawyer, Tomasz, was shocked. He said he would do everything in his power to free me.

The day after another three-month detention order, they just let me go.

I was in the old building of the centre at the time. The commander told everyone to pack up because we were moving to a new building. As I was gathering my things, they led me to another room. I was told: "you are free".

I could not believe it.

I asked: "how is this possible when I got another three-month order yesterday?"

"Leave, you're free", they repeated, and I still couldn't believe it. People were screaming. I still could not believe it until I left.

I had two mixed feelings. The first of them was good. It was about the fact that although I had been through so much in my life, God Himself gave me this experience, and I needed to be strong. Like in a GDC, where you don't actually have access to the Internet, you don't have anyone to talk to, but you just try to cope with the situation. So I tried to somehow survive that time. But this second feeling was bad. I wondered, why am I here? When it was dark, I cried. There was nothing else I could do. I asked: "God, why have you left me here? What have I done?"

I shared a room with six or eight women. Each of us wanted to do something different from the others most of the time. One was singing, another was crying, another was doing art, colouring or something else. The men would go outside to smoke, the women looked after the children. Some people were constantly shouting at each other or arguing.

I asked the social worker for anything I could do. I wanted to do sports, but they said it was only for children. Sometimes we would go outside to play with them. But then they gave me jigsaw puzzles – a thousand pieces. When I was stressed, I focused on the puzzles. I finished the first set in a week. Then another, with one thousand five hundred pieces, and then another. The children would bring me their puzzles and I would do them. With so many pieces, the individual parts are small and similar to each other. So you don't think about anything else because you only focus on which flower goes with another flower.

I have one of these puzzles in my room in England. I am starting to study nursing. I don't know what my future will look like. All I know is that I will study. And that I am safe.

The author spent 3 months and 10 days at the GDC in Przemyśl and Biała Podlaska in 2022. She asked to remain anonymous.

Written down by Agnieszka Kosowicz

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