



Mapping Solitary Confinement: Poland country report

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1. Country general Criminal Justice System facts & numbers

As of August 25, 2023, the population of prisons and pretrial detention centers (jails) nationwide is 91.61%, which means that within the meaning of the Regulation of the Minister of Justice of December 9, 2022 on the procedure to be followed by the competent authorities in the event that the number inmates in prisons or pretrial detention centers will exceed the total capacity of these facilities on a national scale (Journal of Laws of 2022, item 2690), their total capacity has not been exceeded.

84506 (Actual capacity - this is how many people are guaranteed a place in a prison with a standard of 3 m² - remand centers and prisons)

81885 (Actual capacity of detention centers and prisons less other places listed below)

2621 (Other places: isolation cells; cells and wards for "N"; infirmaries; hospitals; mother and baby homes; temporary accommodation wards)

Number of prisoners actually staying in a penitentiary unit by legal status - convicted, punished, temporarily arrested², as of September 30, 2023:

A total of 76,204 deprived of liberty (residing in penitentiary units: prisons & jails), including 3,866 women.

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² * Convicted means a person who has been legally sentenced by a court of the first (second instance) to a non-custodial penalty (a fine or restriction of liberty in the form of community service or deduction from remuneration) or imprisonment (from 1 month to 30 years, then life imprisonment)

* Temporarily arrested, i.e. suspects of committing a crime or defendants who have not been legally convicted (a criminal trial is underway) and against whom the court has imposed arrest (isolation as opposed to participating in a criminal trial while remaining free)

* Punished by arrest for a misdemeanor (a lighter category than a crime).



8,671 arrested, including 506 women

66,686 convicts, including 3,282 women

847 punished, including 78 women

2,312 foreigners, including 84 women (mostly from countries such as Ukraine, Georgia, Belarus - hundreds)

The actual population of residential units after taking into account additional accommodation places was 90.8%.

According to my own analysis from September 1, 2023: 172 penitentiary units, including 64 prisons, 39 remand centers, 69 external departments.

For comparison, a few years earlier, as of December 31, 2018, there were 176 penitentiary units, including 81 prisons, 39 remand centers and 52 external departments.

2. Reasons for use, process, and administrative regulations.

In Poland one can find the following types of solitary confinement

- As disciplinary punishment; "punishment of isolation cell" – while staying in isolation during pretrial arrest and serving a prison sentence (article 142-149 & article 222 Penal Execution Code, PEC), The Act on Foreigners (AoF) does not provide for this form of detention
- As "security/holding cell" (intended to protect against aggression or self-aggression of a person deprived of his liberty (article 26 Act on Coercive Means of Enforcement & Weapons, ACM&W); it is a short-term measure, analogous to the treatment of mentally ill people (Act on Mental Health Protection); ACM&W applies to prisoners (convicted, temporarily detained and foreigners in detention)
- As placement in special-security unit/cell in prison/jail (type of super-max, "prison in prison"), preceded by qualification as "dangerous" (article 88a-88b according to prisons, article 212a-212b according to jails); PEC calls the qualified perpetrator a "particularly dangerous perpetrator", i.e., according to regulation 88a/212a, "posing a serious social threat or a serious threat to the safety of the establishment"; the provision applies to prisoners (convicted, temporarily detained); the relevant act (AoF) does not provide for this category in the case of foreigners in detention;
- As placement in special-security unit/cell (rather the last) in prison/jail preceded by qualification to prisoners requiring "special protection" (article 88d & article 212ba)

Each of these subgroups is subject to different regulations and processes, summarised in the table below.



Table 1. Reasons for use, process, and administrative regulations

	<i>solitary confinement as punishment)</i>	<i>solitary confinement as management of prisoners labelled 'difficult' or 'dangerous'</i>	<i>solitary confinement for the prisoner's own protection)</i>		<i>solitary confinement pre-trial</i>	<i>solitary confinement in immigration detention³</i>
regulation in law	Art. 142-149 PEC	Art. 88a i 88b PEC, Art. 212a i 212b PEC	Art. 88d PEC, Art. 212ba PEC	Art. 26 ACM&W	Art. 207-223 PEC	Art. 29 ACM&W
Who authorizes placement? Medical 'certification'? Maximum duration?	Prison director A medical or psychological certificate is required ("the doctor or psychologist issues a written opinion on his ability to serve this sentence") Maximum time 28 days	Penitentiary commission (for the information of the penitentiary judge & procedural authority) the penitentiary commission takes into account, among others, personal properties of the convict, including health condition Status verification every 3 months (the law does not specify a maximum time)	Prison director - ex officio - at the request of the convict - at the request of a criminal court or prosecutor No medical certificate is required The maximum period is 6 months, but it can be extended if there is still a basis	Authorized service (e.g. police, prison officers) No medical certificate is required Maximum time 48 hours	Not applicable see footnote 2	Used by the Border Guard No medical certificate is required Maximum time 48 hours
Which prisoner groups? Gangs? Terror?	A disciplinary penalty may be imposed on a convict who has committed a violation of bodily integrity or	The decision of the PC depends on the nature of the crime (terrorist, brutal), the nature of the disciplinary offense (e.g.	There is a serious threat or there is a direct fear of a serious threat to the convict's life	General premise, e.g. to repel a direct, unlawful attack on the life,	Not applicable see footnote 2	A foreigner staying in a guarded center may be placed in an isolation room for the purpose of

³ Dealing with this category is the responsibility of the Ministry of Interior and Administration.

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<p><i>Violent? High profile? Death Row?</i></p>	<p>an active attack on an officer or employee of a prison and may be imposed on a convict who has committed another offense seriously violating the discipline and order in force in the prison - regardless of the above-mentioned factors (e.g. gangs, terror). Discretionary decision</p>	<p>incitement to rebellion), membership in a gang or professional crime, and the threat of life imprisonment. Discretionary decision</p>	<p>or health in connection with ongoing or completed criminal proceedings in which the convict is or has participated, regardless of the factors mentioned (e.g. gangs). Discretionary decision.</p>	<p>health or freedom of the entitled person or another person; preventing a direct attack on areas, facilities or devices protected by the authorized person; protecting order or security in areas or facilities protected by the authorized person; preventing the destruction of property; counteracting activities leading to self-aggression.</p>		<p>temporary isolation in the following cases:</p> <ul style="list-style-type: none"> • counteracting activities aimed directly at attacking the life, health or freedom of the authorized person or another person; • counteracting violations of public order or security; • protecting order or security in areas or facilities protected by the authorized person; • preventing the destruction of property; • counteracting activities leading to self-aggression - regardless of the factors (e.g. terror, violent), although it mainly concerns violent/aggressive behaviour
<p>Dedicated special high</p>	<p>NO. Isolation cells are also from semi-open</p>	<p>Yes, supermax units, „prison in prison“.</p>	<p>Yes, supermax units, „prison in</p>	<p>No, although the security cell</p>	<p>Not applicable see footnote 2</p>	<p>No, although the isolation room must</p>

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<p>security / Supermax prisons, or units within prisons)?</p>	<p>facilities.</p>		<p>prison”.</p>	<p>should be soundproof and monitored. The vestibule is equipped with permanently attached: table, stool, washbasin and toilet.</p>		<p>meet the conditions specified in the law (e.g. a door with a reinforced structure, with a wide-angle peephole and an approved lock)</p>
<p>Regime / Time out of cell/ Contact with the outside world (visits, telephone</p>	<p>This punishment consists in placing the convict individually in a cell and preventing him from contact with other convicts; during its execution, the convict is deprived of the possibility of: 1) using visits and self-collecting telephones; 2) use of audiovisual and computer equipment; 3) direct participation, together with other convicts, in services, religious meetings and religious education; at the request of the convict, however, he should</p>	<p>Regime and conditions: 1) cells and places and rooms designated for: work, study, walks, visits, worship, religious meetings and religious teaching and classes are equipped with appropriate technical and protective security; 2) cells remain closed 24/7 and are inspected more frequently; 3) convicts may study, work, directly participate in services, religious meetings and religious education, and take part in classes only in the department in which they are incarcerated; 4) the movement of convicts around the prison takes</p>	<p>Regime and conditions of increased isolation and security of the convict, which may consist in: 1) health check; 2) providing psychological assistance; 3) using constant monitoring; 4) a ban on leaving the convict alone in a cell or other room, with the exception of monitored cells and rooms; 5) increased observation of</p>	<p>This is 48 hours to calm down the person deprived of his liberty. The regulations do not specify the regime, although, for example, a person in a security cell receives the necessary personal items to maintain hygiene and eat meals for the duration of these activities. He receives the necessary</p>	<p>Not applicable see footnote 2</p>	<p>This is 48 hours to calm down an aggressive foreigner. The regulations do not specify a regime. As for the conditions, e.g. The isolation room is equipped with a single bed, a cabinet for personal items and a wooden table and stool, without sharp edges, attached to the floor or wall. It can be equipped with a washbasin with hot and cold water. A foreigner placed in an isolation room is provided with personal items in the</p>

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	<p>be allowed to participate directly in the service in conditions that prevent him from contact with other convicts; 4) participation in cultural and educational activities, physical culture and sports, with the exception of books and press; 5) purchasing food and tobacco products; 6) participating in teaching and employment outside the cell; 8) using your own clothing, footwear and tobacco products</p>	<p>place under enhanced supervision and is limited only to necessary needs; 5) convicts are subject to personal inspection each time they leave and return to their cells; 6) the walk of convicts takes place in designated places under enhanced supervision; 7) the method of personal contact between representatives of the public and convicts is determined each time by the director of the prison; 8) visits of convicts take place in designated places under enhanced supervision; 9) visits are granted in a way that prevents direct contact with visitors. During visits, convicts cannot consume food and drinks; 10) convicts cannot use their own clothing and footwear; 11) the convict's behaviour is subject to constant monitoring.</p>	<p>the convict's behaviour; 6) increasing the degree of isolation from other convicts; 7) more frequent cell visits and inspections; 8) more frequent inspection of items possessed by the convict in the cell, including medicines.</p>	<p>clothing and underwear, as well as slippers, a mattress, a blanket, a pillow and a sheet.</p>		<p>amount and for the time necessary to maintain personal hygiene and eat a meal. It is placed individually.</p>
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3. Restraints and chemical irritants

The use of chemical agents is regulated by the ACM&W (article 24). Therefore, they can be used by services such as the police, prison service, border guard, and others responsible for ensuring security. They belong to the so-called coercive measures. They are used or exploited to temporarily disrupt spatial orientation or to incapacitate.

The premise (reason) for using this type of measures is, for example, to repel a direct, unlawful attack on the life, health or freedom of the authorized person or another person; preventing violations of public order or security; ensuring the safety of the convoy or delivery; counteracting activities leading to self-aggression. Neither the goals nor the premise - in the case of chemicals - differ from the general one.

In the case of prisons, there is no detailed data on their use.

Table 2. Restraints & chemical irritants

	<i>solitary confinement as punishment</i>	<i>solitary confinement as management of prisoners labelled 'difficult' or 'dangerous'</i>	<i>solitary confinement for the prisoner's own protection</i>	<i>solitary confinement pre-trial</i>	<i>Solitary confinement in immigration detention</i>
<i>Are any additional restraints routinely applied to prisoner when leaving the cell?</i>	No	Yes, every time they leave and return to their cells, convicts are subjected to personal inspection, and when moving outside the cell they are handcuffed (legs & hands).	No	Not applicable see footnote 2	No
<i>Are chemical irritants uses in segregation units?</i>	If the condition exists – Art. 24 of the ACM&W. However, the following measures are not used against persons against	If the condition exists – Art. 24 of the ACM&W. However, the following measures are not used against persons against	If the condition exists – Art. 24 of the ACM&W. However, the following measures are not used against persons against	Not applicable see footnote 2. Unless there is a condition specified in	If the condition exists – Art. 24 of the ACM&W. However, the following measures are not used against persons against



	whom the following measures have been used: handcuffs, a straitjacket, a stun belt, a stun net, or incapacitating electric energy.	whom the following measures have been used: handcuffs, a straitjacket, a stun belt, a stun net, or incapacitating electric energy.	whom the following measures have been used: handcuffs, a straitjacket, a stun belt, a stun net, or incapacitating electric energy.	Art. 24 the ACM&W.	whom the following measures have been used: handcuffs, a straitjacket, a stun belt, a stun net, or incapacitating electric energy.
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4. Protected populations

Table 3. Protected populations

	<i>solitary confinement as punishment</i>	<i>solitary confinement as management of prisoners labelled 'difficult' or 'dangerous'</i>	<i>solitary confinement for the prisoner's own protection</i>	<i>solitary confinement pre-trial</i>	<i>solitary confinement in immigration detention</i>
<i>Women including pregnant, lactating, with child in prison</i>	Yes. The law excludes women - in this state they cannot be punished with solitary confinement (article 143 §2 PEC)	The law does not exclude them. It is important whether the conditions exist..	The law does not exclude them. It is important whether the condition still exists.	Not applicable see footnote 2.	The law does not exclude them - they are not in the "excluded" categories. It is important whether the conditions still exist (violent, aggressive, autoaggressive behavior)
<i>Children and young people</i>	The law does not exclude them	The law does not exclude them	Not excluded by law. As for the security cell, pursuant to Art. 26 of the ACM&W, a minor who is under 14 years of age, for a period	Not applicable see footnote 2.	The law does not exclude them - they are not in the "excluded" catalog. It is important whether the conditions exist (violent, aggressive, autoaggressive behavior)

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			longer than 12 hours		
<i>People with disabilities (mental, physical, learning disabilities)</i>	The law does not exclude them	The law does not exclude them. It is important whether the conditions exist. For example, there was a blind prisoner classified as "dangerous". There are special cells for dangerous disabled people. There are also so-called with double status, i.e. dangerous and at the same time requiring special therapy due to their mental condition. (Personality disorder).	The law does not exclude them. It is important whether the conditions exist	Not applicable see footnote 2.	
<i>LBTQI+ people)</i>	The law does not exclude them. It is important whether the conditions exist.	The law does not exclude them. It is important whether the conditions exist.	The law does not exclude them. It is important whether the conditions exist.	Not applicable see footnote 2.	The law does not exclude them. It is important whether the conditions exist.



5. Statistical data on use of solitary confinement/segregation

The only source are prison statistics, available at: sw.gov.pl

Note however that these do not provide much data on the use of solitary confinement.

6. Jurisprudence on solitary confinement

After Poland lost the Piechowicz (complaint no. 20071/07) and Horych (complaint no. 13621/08) cases before the European Court of Human Rights (ECtHR) in 2012, the central authorities again sent Instruction no. 15/10 to the directors of prisons, recommending in the cover letter to familiarize themselves with the judgments of the ECtHR, and for the committees classifying them as "dangerous" to analyze and justify their decisions to maintain them particularly carefully, and at the same time to refrain from formulaic duplication of provisions in the justifications.

After the judgment of the ECtHR Piechowicz and Horych (judgment of April 17, 2012, complaint no. 20071/07 and no. 13621/08, respectively), on June 5, 2012, General Jacek Włodarski, Director of CZSW, sent Instruction No. 15/ to the directors of OISW, developed two years earlier (August 13, 2010), on the principles of organization and conditions for conducting penitentiary interactions with convicts, temporarily arrested and punished, posing a serious social threat or a serious threat to the security of a prison or detention center, detained in conditions ensuring increased protection society and prison safety. At the same time, he recommended taking into account circumstances that militate against continuing to maintain the status, especially for penitentiary reasons, and recommended a broader analysis of observed changes in the situation or behaviour.

7. Reports on the use of solitary confinement

- CPT – visits to Poland: <https://www.coe.int/en/web/cpt/poland>
- Hudoc "polish prisons cases"

8. Good practice

- Programs for Dangerous Persons (at least "on paper", in documentation), provide good living conditions of super-max branches (modernization to ensure appropriate security and protection conditions)
- Increased psychological care and monitoring of the well-being of isolated people
- Inspection by a penitentiary judge (enforced by law) – obligation to inform about qualifications/application, one of the areas of the judge's control during a prison visit



9. Relevant academic / research resources on solitary confinement.

Enclosed.

10. Other relevant information

As for solitary confinement pre-trial – see. footnote no. 2 – mostly not applicable.

In Poland the different types of solitary confinement are regulated by law and applied regardless of the stage of the proceedings - isolation, i.e. whether it is the stage of arrest or execution of a prison sentence. Both at the stage of arrest (stay in pre-trial detention, arrested-accused status) and at the stage of serving your prison sentence (convicted-prisoner status), you can be classified as a so-called Dangerous Prisoner and can either be sentenced to solitary confinement or be placed in solitary confinement due to threats to personal safety.

Pre-trial detainees for whom the court ordered pre-trial detention as such, as a rule, stay in prison isolation, within general units (from 3 months and up, e.g., a year, but also several years). Unless they belong to this category, then - on the basis of provisions analogous to those regulating the treatment of convicts - they may be or are placed in additional isolation, such as award for dangerous persons or isolation for their own protection.

A stay in detention is as normal as a stay in a "normal" prison, on general terms - applicable to all except selected categories.

Regarding prisons, there is no data on "dangerous prisoners" - this legal provision was repealed a few years ago (2015) - or "those requiring special psychological and protective interactions" due to their mental condition or the threat of high punishment - this is a practice not legal regulations, so there is no data. As I wrote, they are not necessarily in solitary confinement. Rather, in the conditions of ordinary branches. The difference is that they either have intensified protective measures (e.g. handcuffs outside the cell, frequent observation, additional security during convoy) or the care of a psychologist or educator.

The same applies to those classified as "potential suicides". They are unlikely to be in solitary confinement - at least according to the regulations. They may be isolated (e.g. in a monitored or two-person cell, walk alone or with a cellmate outside the general ward or outside the walking time of other ward prisoners), but this is not a rule. They are certainly subject to more frequent monitoring and are provided with more intensive care and verification of their mental condition by a psychologist. Instruction No. 2/16 of the Director General of the Prison Service of August 29, 2016, on preventing suicides of persons deprived of liberty applies to them.