

## EXECUTIVE SUMMARY

- In the judgment delivered on 18 October 2018 in the case *Burża v. Poland*, the European Court of Human Rights found that Poland had infringed Article 5 § 3 of the Convention by reason of the excessive length of pre-trial detention.
- On 11 June 2019, the Government of Poland presented an Action Report in which it expressed the hope that the general measures taken would be a sufficient basis for concluding that the judgment has been executed. In the Action Report, the Government referred to, among other things, the action report issued in the case of *Trzaska v. Poland*, which resulted in the adoption of a resolution to close the examination of the execution of a group of judgments on pre-trial detention.
- However, since the adoption of the *Trzaska* resolution (4 December 2014), there have been a number of legislative and practical developments that the Committee should take into account when assessing the execution of the most recent pre-trial detention judgments. Changes in statistics and legislation have also occurred since the adoption of the resolution related to *Porowski v. Poland*, on 18 April 2018.
- As a consequence, in the opinion of the Helsinki Foundation for Human Rights, the measures implemented by the Polish Government in relation to *Burża v. Poland* have not achieved the expected results. Therefore, they could not be sufficient to conclude that Poland has complied with its obligations under Article 46 § 1 of the Convention.
- The last recommendations of the UN Committee Against Torture published on 9 August 2019 also show that in Poland the application of the pre-trial detention remains a problematic issue.
- Moreover, the Ombudsman has been consistently pointing to concerns about the use of pre-trial detention.
- Our position has also a solid statistical basis. On the last day of 2009, 9460 individuals were held in pre-trial detention in various penitentiary institutions. This number was consistently decreasing: as of 31 December 2015, 4162 persons were held in pre-trial detention. However, this downward trend was not sustained, and in recent years we have seen a consistent and significant increase in the number of persons deprived of their liberty before the final sentence is handed down in their case. On 31 May 2019, as many as 8365 individuals were held in pre-trial detention. Between 2009 and 2015, also the number of prosecutor's requests for pre-trial detention fell, by more than 14,000. However, a clear increase in the number of such requests is visible already for the period from 2016 to the end of 2018. In 2018, prosecutors filed 19,655 pre-trial detention requests.
- In view of the current trend in the use of pre-trial detention, concerns are raised by the most recent amendments to the Criminal Code and the Code of Criminal Procedure.