

CPT/Inf (2012) 9

## **Report**

**to the Bulgarian Government  
on the visit to Bulgaria  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 18 to 29 October 2010**

The Bulgarian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2012) 10.

Strasbourg, 15 March 2012

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**Copy of the letter transmitting the CPT's report**

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and European Affairs Directorate  
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1 Slavianska Street  
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Bulgaria

Strasbourg, 31 March 2011

Dear Ms Doycheva,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Bulgarian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Bulgaria from 18 to 29 October 2010. The report was adopted by the CPT at its 74<sup>th</sup> meeting, held from 7 to 11 March 2011.

The recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Bulgarian authorities to provide **within six months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the Bulgarian authorities to provide, in the above-mentioned response, reactions to the comments formulated in this report as well as replies to the requests for information made.

The CPT would ask, in the event of the response being forwarded in Bulgarian, that it be accompanied by an English or French translation.

I am at your entire disposal if you have any questions concerning either the CPT's visit report or the future procedure.

Yours sincerely,

Lətif Hüseynov  
President of the European Committee for  
the prevention of torture and inhuman  
or degrading treatment or punishment

## **I. INTRODUCTION**

### **A. Dates of the visit and composition of the delegation**

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT visited Bulgaria from 18 to 29 October 2010. The visit formed part of the Committee’s programme of periodic visits for 2010, and was the seventh visit to Bulgaria to be carried out by the CPT<sup>1</sup>.

2. The visit was carried out by the following members of the CPT:

- Wolfgang HEINZ (Head of delegation)
- Celso DAS NEVES MANATA
- Mykola GNATOVSKYY
- Vladimir ORTAKOV
- Elena SEREDA
- Marika VÄLI

who were supported by the following members of the CPT’s Secretariat:

- Petya NESTOROVA (Head of Division)
- Elvin ALIYEV.

They were assisted by:

- Clive MEUX, consultant forensic psychiatrist, Oxford, United Kingdom (expert)
- Elena ALEXIEVA (interpreter)
- Gergana ALYAKOVA (interpreter)
- Iliana ATANASSOVA (interpreter)

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<sup>1</sup> The previous periodic visits took place in 1995, 1999, 2002 and 2006. Further, two ad hoc visits were carried out, in 2003 and 2008. The CPT’s reports on these visits, as well as the responses of the Bulgarian authorities, have been made public at the request of the Bulgarian authorities (cf. documents CPT/Inf (97) 1, CPT/Inf (2002) 1, CPT/Inf (2002) 2, CPT/Inf (2004) 21, CPT/Inf (2004) 22, CPT/Inf (2004) 23, CPT/Inf (2004) 24, CPT/Inf (2008) 11, CPT/Inf (2008) 12, CPT/Inf (2010) 29 and CPT/Inf (2010) 30).

- David IEROHAM (interpreter)
- Julian PISHEV (interpreter).

**B. Establishments visited**

3. The delegation visited the following places of detention:

Establishments under the Ministry of the Interior

- 3<sup>rd</sup> District Police Directorate, Sofia
- 8<sup>th</sup> District Police Directorate, Sofia
- 9<sup>th</sup> District Police Directorate, Sofia
- Balchik District Police Directorate
- 5<sup>th</sup> District Police Directorate, Plovdiv
- 6<sup>th</sup> District Police Directorate, Plovdiv
- 1<sup>st</sup> District Police Directorate, Varna
- 2<sup>nd</sup> District Police Directorate, Varna
- Home for Temporary Placement of Adults, Varna
- Home for Temporary Placement of Minors, Varna
- Sobering-up centre, Varna
- Home for Temporary Placement of Foreign Nationals, Busmantsi

Establishments under the Ministry of Justice

- Lovech Prison Hospital
- Plovdiv Prison
- Varna Prison

Investigation detention facilities at:

- 42 Blvd. G.M. Dimitrov, Sofia
- Balchik
- Lovech
- Plovdiv
- Varna
- Veliko Turnovo

Establishments under the Ministry of Health

- Karvuna State Psychiatric Hospital
- Lovech State Psychiatric Hospital (forensic ward)

Establishments under the Ministry of Labour and Social Policy

- Home for men with intellectual retardation in the village of Oborishte, Valchi Dol municipality
- Home for men with psychiatric disorders in the village of Pastra, Rila municipality.

**C. Consultations held by the delegation and co-operation encountered**

4. In the course of the visit, the CPT's delegation held meetings with Margarita POPOVA, Minister of Justice, Hristo ANGELOV and Daniela MASHEVA, Deputy Ministers of Justice, and Petar VASSILEV, Director of the Main Directorate for the Execution of Sanctions, as well as with other senior officials from the Ministries of Internal Affairs, Justice, Health, and Labour and Social Policy, and the Supreme Cassation Prosecutor's Office. It also met the outgoing Ombudsman, Ginyo GANEV, and members of his office.

Further, discussions were held with the UNHCR Representation to Bulgaria and members of non-governmental organisations active in areas of concern to the CPT.

A list of the national authorities and organisations consulted during the visit is set out in Appendix II to this report.

5. As on previous CPT visits, the co-operation received both from the national authorities and from staff at the establishments visited was of a very high level. The delegation enjoyed rapid access to the places visited (including ones not notified in advance) and was able to speak in private with persons deprived of their liberty, in compliance with the provisions of the Convention establishing the CPT. Further, it was provided with all the necessary documentation in advance of the visit and additional requests for information made during the visit were promptly met. The CPT wishes to place on record the assistance provided to its delegation before, during and after the visit by Ms Iva STANCHEVA, Expert at the Ministry of Justice.

6. That said, on some occasions there appeared to be a lack of understanding of the objectives of CPT visits. In particular, senior officials met during the visit suggested that the delegation's findings should be supported by concrete evidence, e.g. names of prisoners at Plovdiv Prison who made allegations of ill-treatment or claimed that staff had warned them against complaining to the delegation, as well as names of staff members concerned, in order for the authorities to investigate the issue.

In this regard, when reference is made to allegations of ill-treatment, this is after a careful consideration and in order to give an illustration of existing problems, in order that appropriate preventive action can be taken for the future. The Committee wishes to stress that attempts to find out who provided specific information to the CPT are incompatible with the confidentiality which applies, by virtue of the Convention, to the Committee's interviews with detained persons. That said, in certain situations, the CPT may choose itself to raise an individual case with the national authorities, in particular in order to examine the effectiveness of action taken when ill-treatment has occurred.

Further, any retaliatory measures taken against persons as a result of their contacts with a CPT's delegation would be entirely incompatible with the obligations of Parties to the Convention and, as such, totally unacceptable. In this connection, it should be noted that the Director of Plovdiv Prison gave his personal assurance that no prisoner will be subject to retaliation or punishment after the visit.

7. As stressed by the CPT in the past, the principle of co-operation set out in Article 3 of the Convention is not limited to steps taken to facilitate the task of visiting delegations. It also requires that decisive action be taken in response to the Committee's recommendations. During the 2010 visit, the CPT noted a number of positive developments, especially as regards the gradual improvement of material conditions of detention in police establishments, the opening of a new investigation detention facility in Plovdiv and the improvement of material conditions at the forensic ward of Lovech State Psychiatric Hospital. The Committee hopes that the Bulgarian authorities will continue to build upon them.

However, the CPT is concerned that little or no progress has been made in other areas. This relates in particular to material conditions in other investigation detention facilities and the regime of activities for persons held there, overcrowding in prisons, insufficient prison staff levels and inadequate health care provision to prisoners.

The CPT calls upon the Bulgarian authorities to take decisive steps to improve the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention establishing the CPT.

#### **D. Immediate observations under Article 8, paragraph 5, of the Convention**

8. At the end of the visit, the CPT's delegation met senior Government officials in order to acquaint them with the main facts found during the visit. On that occasion, the delegation made several immediate observations, in pursuance of Article 8, paragraph 5, of the Convention, on certain particularly urgent matters.

The first immediate observation concerned two of the cells (Nos. 12 and 13) at the investigation detention facility in Varna, conditions in which were very bad. The delegation requested the Bulgarian authorities to take out of use and renovate the two cells in question; this needed to be done urgently in order to prevent lengthy overcrowding in the remainder of the cells.

The second immediate observation was made in respect of the disciplinary punishment cells at Plovdiv Prison, which were unsuited for use as inmate accommodation due to their limited size (some 3.2 m<sup>2</sup>). The delegation asked the Bulgarian authorities to take out of service the above-mentioned disciplinary cells at Plovdiv Prison and to ensure that prisoners placed in disciplinary segregation have ready access to a proper toilet facility.

The final immediate observation concerned the Home for men with psychiatric disorders in the village of Pastra, Rila municipality. Despite certain improvements, living conditions for half of the Home's residents, namely those accommodated in Building 3, remained unacceptable. The delegation requested the Bulgarian authorities to draw up a plan for bringing conditions for all patients at the Home in Pastra in conformity with the standards and criteria for the provision of social services in Bulgaria, including a timetable for the implementation of the measures envisaged.



9. The above-mentioned immediate observations were subsequently confirmed in a letter of 5 November 2010 from the Executive Secretary of the CPT. The Committee requested the Bulgarian authorities to provide, within three months, an account of the steps taken in response.

In addition, the CPT requested information within one month on the measures taken at the investigation detention facility at Blvd. G.M. Dimitrov in Sofia to minimise the negative effects of isolation on the juvenile who has been held there alone in a cell for nearly a month.

By letters of 26 November 2010 and 21 January 2011, the Bulgarian authorities informed the CPT of the measures taken. Those measures will be assessed later in the report.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Establishments under the authority of the Ministry of Internal Affairs

#### 1. Preliminary remarks

10. The Law on the Ministry of Internal Affairs (LMIA) contains a list of grounds on which a person, including a *criminal suspect*, may be detained by the police on their own authority for a maximum of 24 hours.<sup>2</sup> However, Section 64 (2) of the CCP stipulates that a prosecutor may order the detention for up to 72 hours of an accused person with a view to bringing him/her before the court competent to remand persons in custody<sup>3</sup>. As a result, the total period during which persons may be deprived of their liberty prior to being brought before a judge is 96 hours. In the report on the visit in 2006, the CPT invited the Bulgarian authorities to reduce this period to a maximum of 72 hours.

The Bulgarian authorities have subsequently argued that the 24-hour period of detention by the police is a form of administrative detention (“pre-proceedings activity of an executive authority”) and as such is not part of the criminal proceedings, to the extent that a person becomes “accused” at the end of the 24-hour period if charges are brought against him/her. According to them, the extension of the detention period by a further 72 hours is relatively frequent<sup>4</sup> because the application of remand measures takes time and resources. The authorities remain of the opinion that the legislative framework offers all the necessary guarantees for the rights of accused persons.

However, as previously pointed out by the CPT, a detention period of 96 hours before a person is brought before a judge is at the outside limit of what has been deemed as acceptable by the European Court of Human Rights (ECHR) in its case-law under Article 5, paragraph 3, of the European Convention of Human Rights. In a recent case (*Zvezdev v. Bulgaria*<sup>5</sup>), the ECHR observed that the detention of the applicant for 96 hours, resulting from the accumulation of the two types of detention, could lead to delays incompatible with the right to be brought promptly before a judicial authority, and in the case in question, found Bulgaria to be in violation of Article 5, paragraph 3, of the Convention.

**The CPT would like to be informed of the steps taken by the Bulgarian authorities in the light of the above-mentioned judgment.**

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<sup>2</sup> According to Section 63 (1) of the LMIA, the police may detain a person: 1) for whom there is information that he/she has committed a crime; 2) who, after due warning, deliberately obstructs the police from fulfilling their duties; 3) who demonstrates serious psychic disorder and, by his/her behaviour, violates public order or exposes his/her life or the life of others to obvious danger; 4) who is an underage offender who has left his/her home, guardian, trustee or specialised institution where he/she has been accommodated; 5) if it is impossible to establish his/her identity in the cases and manner provided for in Section 61 (2); 6) who has evaded prison sentence or escaped from a place where he/she was detained as an accused under the authority of the police or the judiciary; 7) in respect of whom there is an international search warrant in connection with his/her extradition or in fulfilment of the European arrest warrant; 8) in other cases determined by law.

<sup>3</sup> During this 72-hour period, detained persons are in principle accommodated in investigation detention facilities run by the Ministry of Justice.

<sup>4</sup> According to statistics provided by the Bulgarian authorities, in the first nine months of 2010, a total of 2,010 persons had been detained by prosecutor’s order for up to 72 hours.

<sup>5</sup> Judgment of 7 January 2010 concerning application No. 47719/07.

11. The examination of police records indicated that the legal provisions on the duration of police custody were generally respected. Nevertheless, the delegation came across some cases in which detained persons had spent over 24 hours in police custody without being issued with a prosecutor's detention order. Further, the delegation came across a few isolated cases in which there was apparently a difference of several hours between the moment of apprehension and the time indicated in the order of detention. For example, a person interviewed at 8<sup>th</sup> District Police Station in Sofia had been apprehended at 8 a.m. on 19 October 2010 and registered in the "Book of admissions" at 11 a.m., but his order of detention referred only to the time 4.30 p.m., and he had left the police station at 3.20 p.m. on the following day.

As on previous CPT visits, some allegations were heard of persons being kept in several police stations for successive 24-hour periods prior to being detained by a prosecutor's order.

**The CPT urges the Bulgarian authorities to make additional efforts to ensure that the detention of persons by the police is always carried out in conformity with the legislative provisions. This should include measures to ensure that the precise moment at which a person has been deprived of his/her liberty is systematically noted in orders of detention by the police and prosecutors' detention orders. Further, a copy of the order of detention by the police should always be attached to the detained person's file.**

12. The police can also detain *vagrants* for up to 30 days in establishments for the temporary placement of adults, pursuant to Section 79 (2) of the Law on the Ministry of Internal Affairs. Further, pursuant to the Juvenile Delinquency Act, the police can detain *juveniles* for up to 15 days, exceptionally 2 months, in special homes for temporary placement of juveniles.

As regards the *detention of irregular migrants*, see section II.A.5 of the report.

## **2. Ill-treatment**

13. Similar to the CPT's findings from the previous periodic visit in 2006, the majority of the persons interviewed by the delegation who had recently been detained by the police indicated that they had been correctly treated. Nevertheless, a considerable number of the persons interviewed made allegations of physical ill-treatment at the time of their apprehension. In some cases, the ill-treatment was said to have been inflicted by masked police officers, apparently belonging to units for combating organised crime. Some allegations were also heard of ill-treatment at the time of questioning with a view to extracting confessions or obtaining information. The ill-treatment alleged generally consisted of kicks, punches, slaps and blows with truncheons or other hard objects. However, in a few isolated cases, the delegation heard allegations of the infliction of electric shocks. A number of detained persons also gave accounts of psychological pressure put on them in order to make them confess to a crime, in the form of verbal abuse, threats of being physically ill-treated, or of possible repercussions for family members.

The examination of medical records at the investigation detention facilities (IDFs) visited revealed several cases of newly admitted persons who had borne injuries upon arrival which were consistent with allegations made by them of ill-treatment by the police.

14. In its reports on visits to Bulgaria since 1995, the CPT has repeatedly expressed concern about the problem of ill-treatment by the police. It is clear that over the years, efforts have been made in this area, in particular as regards measures to step up police staff training, to adopt new legislation, instructions and a Code of Ethics for police staff (all of which explicitly prohibit torture and other forms of ill-treatment), to set up a Permanent Commission for Human Rights and Police Ethics at the Ministry of Internal Affairs, and to increase supervision, including through regular visits by independent civilian monitors. Nevertheless, the problem of police ill-treatment persists.

In the CPT's view, the primary responsibility for consolidating change on this issue and enhancing public trust rests with the leadership of the Ministry of Internal Affairs, who should promote a culture within the police where to ill-treat persons during apprehension or at the time of questioning is seen as unacceptable not only from the legal, but also from the professional point of view. Consequently, **the Committee recommends that the Minister of Internal Affairs delivers a firm message of "zero tolerance" of ill-treatment to all police staff, to be backed up by appropriate ongoing training activities. As part of this message, it should be made clear that the perpetrators of ill-treatment and those condoning or encouraging such acts will be subject to severe sanctions. Further, police officers must be trained in preventing and minimising violence in the context of an apprehension. In cases in which the use of force becomes necessary, they need to be able to apply professional techniques which reduce as much as possible any risk of harm to the persons whom they are seeking to apprehend.**

15. Pursuant to Ministry of Internal Affairs Instruction No. Iz-1711 of 15 September 2009 ("On the equipment of police detention facilities and the rules applicable to them"), special rooms for police interviews should be set up at police directorates. The Instruction contains detailed provisions on the manner in which these interview rooms are to be equipped (e.g. the environment should not be in any way intimidating, there should be no weapons or threatening objects, all participants in the interview should have similar chairs, etc.). The rooms are also to be fitted with equipment for making full electronic recording of the questioning, and the video- and audio-recordings are to be kept for 30 days. However, it is understood that inasmuch as such equipment entails considerable expenses, its introduction will take place gradually according to a schedule approved by the Minister of Internal Affairs.

The CPT welcomes the provisions of Instruction No. Iz-1711 which are in line with its own standards<sup>6</sup>. Instructions should also be issued to the effect that police interviews are always conducted in rooms specifically equipped and designed for the purpose. In parallel, specific training in advanced, recognised and acceptable interviewing techniques should be regularly provided to the police officers concerned. Ensuring adherence of police officers to the required standards will also be greatly facilitated by the drawing up of a Code of Conduct of police interviews and a system of ongoing monitoring of police interviewing methods and procedures. As for the electronic recording of police interviews, it can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of any allegations of ill-treatment. This is in the interest both of persons who have been ill-treated by the police and of police officers confronted with unfounded allegations that they have engaged in physical ill-treatment or psychological pressure. Electronic recording of police interviews also reduces the opportunity for defendants to later falsely deny that they have made certain admissions. The Committee therefore hopes that the equipping of interview rooms with the necessary technical means will proceed expeditiously. **The CPT recommends that measures be taken to review training, procedures and arrangements for police interviews, in the light of the preceding remarks.**

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<sup>6</sup> See paragraphs 36 and 37 of the CPT's 12<sup>th</sup> General Report of Activities.

16. According to statistical data provided by the Ministry of Internal Affairs, in 2008, there had been 124 complaints of unlawful actions lodged against police officers (of which 70 concerned the use of physical force, 5 concerned the use of auxiliary means, 9 were related to the use of weapons and 40 concerned detention/summoning). In 2009, the number of such complaints had been 119 (including 67 related to the use of physical force), and in the first nine months of 2010, 137 (of which 51 related to the use of physical force and 40 concerned the use of weapons). After conducting disciplinary proceedings, respectively 6, 8 and 2 of the complaints received in 2008, 2009 and 2010 had been accepted as grounded, and disciplinary sanctions had been imposed (including the dismissal of respectively 3, 6 and 1 officers).

During the 2010 visit, the Supreme Cassation Prosecutor's Office also provided information concerning criminal proceedings and sanctions in respect of police officers. In 2008, a total of 307 preliminary criminal proceedings had been initiated against Ministry of Internal Affairs staff and 130 officials had been convicted. In 2009, there had been 387 preliminary criminal proceedings and 69 convictions. However, the information provided did not differentiate between types of crime and it was impossible to determine how many proceedings and convictions related to ill-treatment.

The compilation of statistical information is not an end in itself; if properly collected and analysed, it can provide signals about trends and can assist in the taking of policy decisions. Increased co-ordination between the Ministry of Internal Affairs and the Supreme Cassation Prosecutor's Office is needed in this respect. **The CPT invites the Bulgarian authorities to introduce a uniform nationwide system for the compilation of statistical information on complaints and disciplinary and criminal proceedings and sanctions against police officers related to ill-treatment. Further, steps to provide information to the public on the outcome of investigations into complaints of ill-treatment by the police could help counter any perception of impunity.**

17. The existence of effective procedures for examining complaints and other relevant information regarding alleged ill-treatment by the police is an important safeguard against ill-treatment of persons deprived of their liberty. In this context, the CPT wishes to stress that the credibility of the prohibition of torture and other forms of ill-treatment is undermined each time officials responsible for such offences are not held to account for their actions.

Bulgarian legislation contains a number of provisions concerning action to be taken in respect of cases of ill-treatment. Pursuant to Section 205 (2) of the CCP, public officials are under a legal obligation to immediately inform the prosecutor's office of any facts related to a criminal offence which may have come to their knowledge. The Code of Ethics of police staff and Instruction No. Iz-1711 of 15 September 2009 contain specific obligations for the police to report to their superiors acts of violence or inhuman or degrading treatment. Further, the Ministry of Justice has issued specific instructions concerning the obligatory reporting of injuries observed on persons admitted to prisons and investigation detention facilities (see paragraph 18).

However, the existence of a suitable legal framework is not in itself sufficient to guarantee that appropriate action will be taken in respect of cases of possible ill-treatment. During the 2010 visit, the delegation once again met detained persons who alleged that prosecutors and judges had ignored their complaints of police misconduct. Further, a number of detained persons interviewed who had lodged complaints concerning ill-treatment by the police (sometimes supported by medical evidence) stated that they had no trust in the official channels of complaint.

**The CPT wishes to stress, once again, that due attention must be given to sensitising the relevant authorities to the important obligations which are incumbent upon them. The Committee considers that there should be a more proactive stance and concerted action by senior police officers, prosecutors, judges and staff working at investigation detention facilities and prisons to make sure that no case of ill-treatment goes unnoticed or unpunished.**

**In this context, the CPT must reiterate its recommendation that whenever a detained person brought before a judge alleges ill-treatment by police officers, these allegations be recorded in writing, a forensic medical examination immediately ordered, and the necessary steps taken to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Moreover, even in the absence of an express allegation of ill-treatment, a forensic medical examination should be requested whenever there are other grounds to believe that a person could have been the victim of ill-treatment.**

18. The role to be played by medical doctors in the prevention of ill-treatment has been repeatedly emphasised by the CPT in the past.

The Committee notes with satisfaction that its previous recommendations concerning the procedure for the recording of injuries have been taken into account in Order № L-6399 of 26 July 2010 issued by the Minister of Justice (concerning the internal order in investigation detention facilities). Pursuant to this Order, medical staff performing the examination of newly arrived detainees should draw up a certificate which specifies in detail the characteristics, position and size of each injury, the statements made by the detainee, and the medical conclusion. The case should be immediately reported to the management, who should inform the supervising prosecutor and the General Directorate for the Execution of Punishments. Similar instructions are contained in Regulation № 2 of 22 March 2010 “On the terms and conditions for medical care in places of deprivation of liberty”, issued by the Minister of Health and the Minister of Justice and concerning medical examinations at prisons.

However, the observations made during the 2010 visit suggest that, in practice, the above-mentioned instructions were not always complied with. Doctors called in by the police and medical staff working in IDFs recorded the objective medical findings, in a more or less detailed manner, and sometimes included a brief reference to allegations made by the person concerned, but there was no conclusion as to whether injuries observed were consistent with the person’s allegations. As regards the requirement that all relevant cases be forwarded to the supervising prosecutor, as far as the delegation could ascertain, it was being complied with at Plovdiv, Sofia and Varna IDFs (see also paragraph 77).

It should also be noted that medical examinations were frequently conducted in the presence of police officers. Such a practice is a flagrant violation of the principle of medical confidentiality and could clearly inhibit the person concerned from making a truthful statement about what had happened to him/her.

The CPT recommends that further steps be taken to ensure that signs of injuries observed on detained persons and documented by doctors/feldshers are properly recorded, in keeping with the provisions of Order № L-6399 of 26 July 2010, and are duly investigated, even if the person concerned has not lodged a formal complaint. Whenever injuries are recorded by a doctor which are consistent with possible ill-treatment, the record should be systematically brought to the attention of the relevant prosecutor. Detained persons and their lawyers should be entitled to receive a copy of that record at the same time.

Further, the CPT reiterates its recommendation that all medical examinations be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers.

The Committee would also like to know how many cases of injuries observed on persons admitted to IDFs have been reported to the relevant prosecutors in Plovdiv, Sofia and Varna in 2010, and what follow-up action has been taken in respect of each of these cases, including information on any criminal proceedings initiated.

19. During the initial meeting at the Ministry of Internal Affairs, the CPT's delegation learned of plans to equip specialised police units with electrical discharge weapons (tasers), in co-operation with US officials who were expected to provide relevant methodology and training.

In this connection, the CPT wishes to refer to its 20<sup>th</sup> General Report of activities<sup>7</sup>, which spells out the general principles to which the use of electrical discharge weapons should be subject. In the Committee's view, the use of electrical discharge weapons should be limited to situations where there is a real and immediate threat to life or risk of serious injury. It is inadmissible to use them solely with the purpose of ensuring compliance with an order. Furthermore, their use should only be authorised when less coercive methods - such as negotiation and persuasion or manual control techniques - have failed or are impracticable and when it is the only alternative to other methods presenting greater risk of death or injury. Police officers to whom electrical discharge weapons are to be issued should be specifically selected and suitably trained, and they should receive detailed instructions concerning the use of these weapons. The CPT has also stressed that before such weapons are made available, they should go through a technical authorisation procedure and that they should be equipped with memory chips which can record information on their use, enabling supervision by the competent authorities. **The CPT recommends that the Bulgarian authorities ensure that the preceding points are complied with when police officers or other law enforcement officials are issued with electrical discharge weapons.**

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<sup>7</sup> See CPT/Inf (2010) 28, <http://www.cpt.coe.int/en/docsannual.htm>

### 3. Safeguards against the ill-treatment of persons detained by the police

20. As pointed out in the reports on the visits in 2006 and 2008, Bulgarian legislation contains specific provisions guaranteeing the rights of notification of custody, access to a lawyer and access to a doctor from the very outset of deprivation of liberty<sup>8</sup>. In addition, the Ministry of Internal Affairs Instruction No. Iz-1711 of 15 September 2009 (“On the equipment of police detention facilities and the rules applicable to them”) reiterates the duty of police officers to inform detained persons of the previously mentioned rights immediately after their detention.

21. Concerning the right of notification of custody, the majority of the detained persons interviewed by the delegation indicated that they had been put in a position to promptly notify their family or another third party of their situation. However, a few detainees stated that they had not been allowed to make a phone call themselves and were thus not aware whether or when their relatives had been informed of the fact of their detention. **The CPT reiterates its recommendation that the Bulgarian authorities take steps to ensure that persons detained by the police are systematically given feedback as to whether the notification of their custody has been performed.**

22. As for access to a lawyer, it became clear from interviews with detained persons, police officers and lawyers that it is still rare for detained persons to benefit from a lawyer during police custody.

The above-mentioned Instruction No. Iz-1711 reiterates that the right of access to a lawyer – including to legal aid pursuant to the Law on Legal Assistance – applies from the very outset of deprivation of liberty. Detained persons should expressly state in the “declaration of rights” which they sign after apprehension whether they wish to have a private lawyer or an *ex officio* lawyer. The precise time at which the lawyer is contacted should be noted in that declaration, and the time at which the lawyer arrives, in the “Book of visits and parcels”. Further, a list of duty lawyers and their phone numbers should be placed in a visible place in police stations.

That said, the delegation met detained persons who alleged that police officers had misinformed them about the possibility to contact a lawyer (e.g. by saying that the presence of a lawyer was only required in court) or had discouraged them from exercising their right to a lawyer. The examination of registers (“Book of visits and parcels” and “Book of movements of detained persons outside the detention facility”) revealed that visits by lawyers were very infrequent (e.g. at the 8<sup>th</sup> District Police Directorate in Sofia, there had been only five visits by lawyers since the beginning of 2010). It is also noteworthy that in several police stations visited by the delegation (e.g. 1<sup>st</sup> District Police Directorate in Sofia, 1<sup>st</sup> District Police Directorate in Varna), lists of *ex officio* lawyers were not available. The delegation was also told by police officers that *ex officio* lawyers were often reluctant to come to the police station because they were not paid adequately. Further, detained persons who had benefited from the services of *ex officio* lawyers complained about the quality of their work.

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<sup>8</sup> Namely, in the Bulgarian Constitution, the Code of Criminal Procedure and the Law on the Ministry of Internal Affairs.



The CPT calls upon the Bulgarian authorities to take additional steps to ensure that the right of access to a lawyer for persons deprived of their liberty applies effectively as from the very outset of deprivation of liberty by the police. In this context, the Committee reiterates its recommendations that:

- the Bulgarian authorities recall to all police officers the legal obligation to grant access to a lawyer from the very outset of a person's deprivation of liberty;
- steps be taken, in consultation with the Bar Association, to make the system of legal aid truly effective, *inter alia* through the provision of proper funding and practical arrangements to ensure that *ex officio* lawyers are contacted and meet their clients while in police custody.

In this context, the Committee would like to know what are the practical implications of the project commissioned by the Chairman of the National Bureau for Legal Aid in 2008 in the field of "Equal Access to Justice".

23. As regards the right of access to a doctor during police custody, the previously-mentioned Instruction provides that detained persons can be medically examined at their own request or when their state of health requires it. An examination by a doctor of the detainee's choice can be carried out upon the person's request and at his/her expense. A copy of the medical certificate drawn up after each examination is to be given to the detainee or his/her lawyer. Further, the results of the examination and any prescriptions should be entered in a special register, and signed by the doctor. The presence of a police officer during the examination is possible only at the doctor's request.

At the police establishments visited, there was evidence of doctors being called in, having examined detained persons and made entries in a specific register. However, as already noted in paragraph 18, the procedure for recording injuries observed on detained persons and the subsequent action taken, as well as the confidentiality of medical examinations, should be improved. **In this context, reference is made to the recommendations made in paragraph 18 concerning the proper recording on signs of injuries observed on detained persons, and the need to conduct out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers.**

24. Concerning information on rights, most detained persons had been given a copy of a form ("declaration of rights") referring to their rights of access to a lawyer, access to a doctor and notification of custody (and, in the case of foreign nationals, to contact a consular office). The form was signed in two copies (one given to the detained person, the other attached to the order of detention). However, some persons interviewed alleged that they had not been given enough time to read the form and had signed it without actually understanding their rights. It should also be noted that the form was still not available in languages other than Bulgarian (despite the fact that the Open Society Institute had issued to police stations a booklet "Detained persons' rights" in 9 languages).

The CPT recommends that verbal information on rights be given systematically to all persons apprehended by the police, at the very outset of their *de facto* deprivation of liberty. As regards the information form on rights, it should be given to all detained persons as soon as they are brought into a police establishment, and should be properly explained to them to ensure that they are in a position to understand their rights and to exercise them effectively. The form on rights should also be made available in an appropriate range of languages.

25. As regards custody registers, in accordance with the above-mentioned Instruction, all police establishments kept a range of records<sup>9</sup>. However, the delegation observed various deficiencies (e.g. missing time of apprehension and/or transfer/release, inaccurate or misleading information).

The requirement that the fact of a person's deprivation of liberty be properly recorded is one of the most fundamental safeguards against ill-treatment. In addition to facilitating control over the observance of the legal provisions concerning police custody, the accurate recording of all aspects of a person's period of detention can protect police officers by countering false allegations made against them. **The CPT recommends that the Bulgarian authorities take further steps to ensure that custody registers are properly maintained, accurately record the times of actual apprehension, admission, placement in a cell, release or transfer, and reflect all other aspects of custody (precise location where a detained person is being held; visits by a lawyer, relative, doctor or consular officer; taking out of cell for questioning; any incidents related to a detained person, etc.).**

Further, **the CPT recommends that supervising prosecutors and senior police officials exercise effective supervision of the accuracy of custody registers in police establishments.**

26. Turning to the independent monitoring of police establishments, the CPT is pleased to note that the project "Civil Monitoring of the Police", run by the Open Society Institute, has been extended until June 2011 and now covers 10 regions of the country. It transpired from the entries in the "Book of inspections" seen at the police establishments visited that civil monitors were carrying out frequent and unannounced visits and were examining all aspects of detention (including the accuracy of custody records).

**The CPT recommends that the independent monitoring of police establishments is placed on a permanent footing and is extended to cover the whole country.**

#### **4. Conditions of detention**

27. As regards material conditions of detention in police cells, the delegation noted a positive trend of gradual improvement. In the framework of a EU-funded project "Modernising Bulgarian police and enhancing its efficiency", the modernisation and reconstruction of a number of police detention facilities had taken place. It was also planned to refurbish a further 45 police departments in the period 2010-2013, and a budget of 2.4 million Euros had been allocated for the purpose.

The CPT is pleased to note that its earlier recommendations concerning material conditions in police cells have to a large extent been taken into account in the drafting of Instruction No. Iz-1711 of 15 September 2009 ("On the equipment of police detention facilities and the rules applicable to them"). Pursuant to that Instruction, police cells should measure at least 7 m<sup>2</sup> and, in multiple occupancy cells, there should be at least 4 m<sup>2</sup> per person. The cells should be equipped with a means of rest and persons held overnight should be provided with blankets. Further, it is forbidden to have metal rails for handcuffing detainees.

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<sup>9</sup> "Book of detained persons", "Book of medical examinations", "Book of inspections", "Book of movements of detained persons outside the detention facility", "Book of visits and parcels".

28. The cells at the *3<sup>rd</sup> District Police Directorate in Sofia*, *5<sup>th</sup> District Police Directorate in Plovdiv* and *1<sup>st</sup> District Police Directorate in Varna* were located in modern buildings and offered on the whole adequate material conditions, both in terms of cell size (some 9 to 13 m<sup>2</sup>) and equipment (windows giving access to natural light, forced ventilation, heating, means of rest). That said, the artificial lighting in the cells at the *1<sup>st</sup> District Police Directorate in Varna* was not functioning. At the *8<sup>th</sup> District Police Directorate in Sofia*, the cells had benefitted from a recent refurbishment and were also generally satisfactory; however, artificial lighting in the two cells for adults left something to be desired.

Conditions in the remainder of the police directorates visited were variable. At the *9<sup>th</sup> District Police Directorate in Sofia*, two of the cells were rather small (e.g. some 5 - 6 m<sup>2</sup>) and were in a bad state of repair; further, the artificial lighting in one of the cells was not functioning. Further, at the *2<sup>nd</sup> District Police Directorate in Varna*, access to natural light in the cell for adults was severely limited due to the presence of a metal covering on the window, and the cell for juveniles measured only some 5.5 m<sup>2</sup>.

Particular mention should be made of the cell at *Balchik Police Directorate*, which was also used for administrative detention of up to 15 days. The cell (measuring some 5 m<sup>2</sup>) was located near the entrance to the police station and was bar-fronted; as a result, persons detained were exposed to the gaze of visitors to the police station. The examination of custody records revealed that up to three persons had occasionally been held simultaneously in the cell.

It is of concern that clean mattresses and blankets were not always provided to persons in police custody detained overnight.

29. Pursuant to Section 43 of Instruction No. Iz-1711, three meals a day are to be provided to persons in police custody. However, none of the persons interviewed in the police directorates visited had received food from the police (as a general rule, food was brought in by family members). It transpired from conversations with police staff that the establishments did not have a dedicated budget for providing food to detained persons. Further, there was no ready access to drinking water in the cells.

30. In the light of the above, **the CPT recommends that steps be taken to ensure that:**

- **all police cells where persons may be held overnight are enlarged to at least 7 m<sup>2</sup> (see also Instruction No. Iz-1711 of 15 September 2009);**
- **any person detained overnight is provided with a clean mattress and clean blankets;**
- **the cells at the 1<sup>st</sup> District Police Directorate in Varna, and the 8<sup>th</sup> and 9<sup>th</sup> District Police Directorates in Sofia, are provided with adequate artificial lighting;**
- **access to natural light in the adults' cell at the 2<sup>nd</sup> District Police Directorate in Varna is improved;**

- **police establishments are allocated a specific budget to cover the cost of providing food to detained persons;**
- **detained persons are guaranteed ready access to drinking water.**

Further, the location, configuration and limited size of the cell at Balchik Police Directorate renders it unsuitable for use as detainee accommodation. **This cell should be urgently replaced by proper detention facilities.**

31. The *Home for Temporary Placement of Adults in Varna* was being used for the detention of vagrants for up to 30 days as well as for administrative detention of up to 15 days (pursuant to the Law on Combating Petty Hooliganism). According to the custody records, the last admission of a vagrant had been in December 2009. There had been 13 administrative detainees in 2010, the average stay being 5-7 days. The establishment had a capacity of 14 places and was empty at the time of the visit.

The accommodation area was somewhat dilapidated, but clean. There were four cells measuring between 11 and 15 m<sup>2</sup> and equipped with three to four beds. All cells had large windows. Further, there was a small canteen and a TV set in one of the cells. The Home ran an open-door regime, detainees being able to leave the cells during the day and have access to a large courtyard.

32. The *Home for Temporary Placement of Minors in Varna* could accommodate children for up to two months in accordance with the Juvenile Delinquency Act, and also served as a short-term shelter for children placed under the Child Protection Act. It had a capacity of 15 places, but only one child was present at the time of the visit. The Home had been refurbished some four years previously and offered very good living conditions. The rooms were large and adequately furnished. The Home employed 16 staff, including a child psychiatrist, nurse, psychologist and educators, and ran a programme of educational activities for the children. Further, there was an outside fenced playground for sports activities.

33. Material conditions at the *Sobering-up centre in Varna* (where persons could be held for a maximum of 24 hours) were generally satisfactory. Only one person was accommodated at the time of the visit. There were two rooms measuring respectively 8.5 and 21 m<sup>2</sup>, and equipped with two and five beds with plastic-covered mattresses and pillows. The rooms were fitted with surveillance cameras; however, **the larger room had a broken window pane.** Further, there was a common sanitary facility (toilet and basin) which was clean, **but did not have a shower. Steps should be taken to remedy these shortcomings.**

The centre did not have any medical staff (it had stopped employing a feldsher about a year previously); instead, staff called for an ambulance if there was a medical problem or a person had to be transferred to a hospital. **The CPT would like to know whether staff working at the Sobering-up centre in Varna receive specialised training in the care of intoxicated persons, including details on the content of this training, and what instructions are given to staff as regards action to be taken when an intoxicated person is accommodated at the centre, including steps to ensure that there is an appropriate level of medical supervision.**

## 5. Special Home for Temporary Placement of Foreign Nationals in Busmantsi

### a. preliminary remarks

34. The “Special Home for Temporary Placement of Foreign Nationals” in Busmantsi (near Sofia) was previously visited by the CPT in December 2008<sup>10</sup>. The Home had opened in June 2006 and, at the time of the 2010 visit, was accommodating 147 foreign nationals (of whom 9 were women) for an official capacity of 400.

35. The Home continued to hold a mixture of foreign nationals detained pending their expulsion/forcible removal to the border and persons who had lodged first-time applications for asylum and were awaiting an interview with the State Agency for Refugees (SAR) or the outcome of their applications. The Home’s management did not keep a breakdown of foreign nationals according to their legal status, but it was estimated that some 50% of the detained foreign nationals were asylum seekers. The delegation was also told that the usual waiting period for the consideration of an asylum application was two to three months.

In the report on the visit in 2008, the CPT has already expressed concern about the mixing of illegal aliens who are subject to deportation and asylum-seekers. The Committee understands that, pursuant to an Ordinance concerning the Responsibilities and Coordination between the State Agency for Refugees (SAR), Directorate of Migration and Border Police for the Implementation of EC Regulations on Dublin II, SAR may conduct the asylum procedure in the Busmantsi Home. All asylum-seekers who lodged an application for protection at the border are transferred to the Busmantsi Home and not to reception and registration centres run by SAR. An exception from this rule is made in respect of unaccompanied children, pregnant women, and physically or mentally disabled individuals.

The CPT must stress once again that deprivation of asylum seekers of their liberty should be resorted to only exceptionally, after a careful examination of each individual case, and should be applied for the shortest possible time; further, the lawfulness of such a measure should be open to challenge before a judicial authority<sup>11</sup>. When asylum seekers are deprived of their liberty as an exceptional measure, they should be kept separately from foreign nationals who have not lodged an application for international protection. **The Committee calls upon the Bulgarian authorities to act in accordance with these precepts. In those instances where there are exceptional reasons for depriving an asylum seeker of his/her liberty while awaiting the outcome of his/her application, such reasons should be fully documented.**

In this connection, the delegation learned that a new establishment for the temporary placement of foreign nationals was expected to open in 2011 in Lyubimets, near the border with Turkey, and that persons who had applied for asylum might be detained there. **The CPT would like to receive detailed information on the new facility (e.g. capacity, structure, categories of persons held, etc.).**

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<sup>10</sup> See paragraphs 25 to 47 of CPT/Inf (2010) 29.

<sup>11</sup> See Recommendation Rec(2003)5 of the Committee of Ministers of the Council of Europe on measures of detention of asylum seekers, which defines *inter alia* the situations in which the detention of asylum seekers may be resorted to.

36. In the report on the visit in 2008, the CPT had expressed concern about the lack of a time limit for the detention of foreign nationals under aliens legislation. The transposition of Directive 2008/115/EC of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals has led to the amendment of the Law on Foreigners (LF) in May 2009. Pursuant to Section 44 (8) of that law, detention may not exceed six months; by exception, should the person refuse to cooperate with the competent authorities or should there be a delay in obtaining the necessary documents, it may be extended by 12 months to a total of 18 months. The CPT welcomes this legal amendment.

However, at the time of the delegation's visit in 2010, there were two persons at the Busmantsi Home who had been detained for over 18 months (one for three years and another one for three and a half years). Pursuant to a court ruling, their placement in the Home had been replaced by a signed promise of appearance; however, neither of them had an address in Bulgaria and efforts to find them an appropriate place of residence had failed. The delegation requested the Bulgarian authorities to take urgent steps to address this unacceptable situation. In their letter of 21 January 2010, the authorities indicated that in both cases, various actions had been taken in order to provide the two persons in question with valid travel documents, without success. Various governmental institutions, including Sofia City Administrative Court, had been notified of the problem, and assistance had been asked from the UNHCR and several NGOs. **The CPT would like to receive information on further action taken to find a solution to this matter.**

b. ill-treatment

37. No allegations were heard of recent physical ill-treatment of detained foreign nationals by police staff working at the Busmantsi Home. This is a positive development. The delegation learned that, following an inquiry into allegations of ill-treatment, two staff members had been transferred to other duties<sup>12</sup> and the Home's management had been changed in mid-2009. According to the Acting Director of the Home, this had led to a new approach to relations between staff and detainees.

That said, the delegation heard from some detained persons accounts of rude behaviour and racist remarks by certain members of custodial staff. The frequent lack of a common language and the resulting problems of communication clearly did not help matters. The delegation nevertheless gained the impression that the management strove to take action whenever such attitudes came to light.

38. Further, from the examination of the documentation and interviews with detained persons, the delegation learned of cases of inter-detainee violence. The lengthy periods during which foreign nationals were detained, combined with the fact that persons with different legal status were mixed, engendered frustration and stress and was likely to provoke tensions among detained persons.

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<sup>12</sup> Criminal proceedings were pending vis-à-vis one of them.

39. **The CPT recommends that the management of the Special Home for Temporary Placement of Foreign Nationals in Busmantsi continue to deliver a clear message to all staff members that the ill-treatment of detained persons (whether of a physical or verbal nature) is not acceptable and will be the subject of sanctions.**

**Further, the Committee recommends that the management and staff exercise increased vigilance and make use of all the means at their disposal to prevent inter-detainee violence and intimidation.**

c. conditions of detention

40. Material conditions at the Busmantsi Home were described in detail in the report on the visit in 2008, and a number of recommendations for improvements were made by the CPT. However, no signs of improvement were observed by the delegation at the time of the visit in 2010.

The Home was operating well below its official capacity and no overcrowding was observed; however, the dormitories continued to be crammed with bunk beds, most of them unused and broken, and would become overcrowded if the establishment were to be used to its full capacity<sup>13</sup>. Further, some foreign nationals complained about the absence of solid doors to the dormitories, which entailed a lack of privacy, especially in the case of women and married couples who were accommodated together in the women's section.

There was clearly a need of funding for running repairs as well as for providing detained foreign nationals who are destitute with clothing and shoes appropriate for the season and with an adequate range of sanitary items (including for women's monthly needs).

41. There was no integral sanitation in the dormitories and some detained persons complained that access to the toilet was problematic when the dormitories were locked at night, since it was not easy to summon staff.

On a positive note, access to the showers was unlimited and there was no shortage of hot water. However, the communal toilet and washing areas were rather dilapidated and dirty. Further, there was no laundry and no facilities for drying clothes and bed linen.

42. Food (the budget for which was said to be 4.93 BGL per person per day) was served three times a day in a spacious dining room, and foreign nationals were allowed to make additional purchases. However, a number of them complained about insufficient quantity and inadequate quality of the food provided at the Home.

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<sup>13</sup> For example, a room measuring 56 m<sup>2</sup> contained 36 sleeping places.

43. The CPT reiterates the recommendations made in the report on the 2008 visit that steps be taken at the Busmantsi Home to:

- ensure occupancy levels in the dormitories which guarantee a minimum of 4 m<sup>2</sup> per detained person;
- restore the broken furniture and sanitary facilities to a good state of repair and provide sufficient funding for running repairs;
- ensure that detained persons have ready access to a toilet at all times, including at night;
- review the provision of personal hygiene products and appropriate clothing and footwear to detainees.

Further, the Committee invites the Bulgarian authorities to review the food arrangements in the Busmantsi Home in order to ensure that the dietary habits and needs of detained persons are being adequately catered for. It would be useful to involve detainees in the setting up of food menus, to reflect better the range of different dietary habits.

44. Turning to activities, the open-door policy during the day continued to be a positive feature, as was the existence of spacious outdoor sports facilities (to which detained persons had access two hours a day) and rooms for religious practice. Further, detained persons could spend up to an hour a day in a room with a billiards table, chess board and some basic weight-lifting equipment. However, the Home's library contained only some 50 old books in a limited range of languages (English and German). Television was one of the main forms of distraction, but some of the TV sets in the common rooms were broken, as were many of the chairs in those rooms.

The CPT recommends that the Bulgarian authorities further develop the activities on offer at the Busmantsi Home, taking into consideration the fact that persons may – and often do – spend lengthy periods of time at the establishment. In this context, the Home's library should be provided with more books and recent newspapers in various foreign languages. Further, the TV sets should be repaired and detained persons should have access to foreign TV channels. As regards the outdoor exercise facilities, they should be equipped with a shelter against inclement weather.



d. health care

45. The health-care provision remained as described in the report on the visit in 2008 (i.e. a doctor and a nurse, both working full time). Detained persons could be transferred to the hospital of the Ministry of Internal Affairs for dental, psychiatric or other specialised care; further, in case of an emergency, outside medical specialists could be called in. There appeared to be a sufficient supply of medication.

46. Foreign nationals were examined on arrival as well as departure, and each of them had an individual medical form or file. However, the delegation noted that the information contained in some of the files was scanty, the recorded reason being “language barriers”. A number of detained persons complained about insufficient attention to their health problems (it was clear that the lack of interpretation engendered poor communication with health-care staff) and delays in access to a dentist.

47. **The CPT recommends that steps be taken to strengthen the provision of health care to foreign nationals detained at the Busmantsi Home, and in particular to:**

- **reinforce the health-care team by appointing at least one more nurse;**
- **ensure that detained persons have unrestricted and reasonably rapid access to the doctor and outside specialists, including to dental care;**
- **provide interpretation in cases when medical staff cannot communicate with detained foreign nationals;**
- **ensure that detained foreign nationals are fully informed of their treatment.**

48. The establishment initially had three psychologists, but only one was employed at the time of the visit. In the absence of interpreters, she had limited possibilities to provide psychotherapy.

The CPT must stress once again the need for particular attention to be paid to the mental health and psychological state of foreign nationals in custody, some of whom are asylum seekers and may have experienced difficult situations – including torture or other forms of ill-treatment – in other countries. **The Committee recommends that the Bulgarian authorities reinforce the provision of psychological care to foreign nationals detained at the Busmantsi Home.**

- e. other issues of relevance to the CPT's mandate

49. With regard to staff, the delegation was informed that 24 out of 115 available posts were currently vacant (including the post of the Director of the Home, 1 interviewer, 2 inspectors and 18 police officers). According to information provided by the authorities, 15 staff were studying foreign languages (English and Farsi) and 100 staff had passed a course of specialised training.

However, the delegation noted that there was still little communication between staff and detainees, and many detainees expressed frustration with the lack of information about their legal and practical situation. The available facilities had potential for the provision of a more varied programme of activities, but improvement clearly depended upon having sufficient numbers of specialised staff available.

**The CPT recommends that the Bulgarian authorities take steps to fill the vacant posts at the Busmantsi Home and develop further specialised training for this type of work.**

50. The delegation noted improvements as regards the procedure for placement in the establishment's solitary confinement unit. A maximum period of 15 days had been set in the Home's Internal regulations and a register reflecting all aspects of placement in solitary confinement had been introduced. The solitary confinement cells did not appear to be excessively used. Further, persons placed in them were offered outdoor exercise on a daily basis.

51. There was scope for improvement in the provision of information to detained foreign nationals, whose major complaint was the lack of knowledge of what was happening in their cases and how long they would spend in custody. They claimed that they lacked information about the procedure for appealing placement decisions as well as relevant telephone numbers (of lawyers, interpreters, SAR, etc.). The physical distance and the lack of communication with the body responsible for processing asylum applications (SAR) resulted in difficulties in providing detainees with regular information on their situation. **The CPT recommends the Bulgarian authorities seek ways to improve channels of communication between SAR and the Busmantsi Home with a view to better informing detainees of their situation.**

52. Although the order for detention of persons held at Busmantsi specified the right to legal assistance, the delegation learned that legal aid was not provided in administrative proceedings. Some NGOs (e.g. the Bulgarian Helsinki Committee, the Legal Clinic for refugees and Immigrants) visited the Home periodically and provided pro bono legal assistance. However, many foreign nationals complained about impossibility to appeal administrative and/or judicial decisions. **The CPT recommends that the Bulgarian authorities take steps to extend the system of legal aid to detained foreign nationals.**

53. The continuing absence of interpreters at the Home is a matter of concern, in particular when it comes to medical examinations (see paragraph 46). **The CPT reiterates its recommendation that the Bulgarian authorities take steps to ensure that foreign nationals detained at the Busmantsi Home receive, when necessary, the assistance of qualified interpreters. The use of fellow detainees as interpreters should, in principle, be avoided.**

54. Pursuant to Sections 41 and 42 of the LF, irregular migrants are detained and issued with an order for forcible escorting to the border. The measure is imposed by order of a director of a national, local office of the Ministry of Interior, a chief of a regional border sector, or the director of the Migration Directorate. Following 2009 amendments of Section 46a of the LF, involuntary placement orders may be appealed in the administrative courts within three days of the date of placement. The court reviews the placement orders at an open meeting and adopts a decision within one month of the date the case was filed. However, the appearance of the person in court is not mandatory.

**The CPT recommends that the Bulgarian authorities take effective steps to ensure that foreign nationals subject to coercive administrative measures (including those facing expulsion on grounds of national security) benefit from an effective legal remedy enabling them to have the lawfulness of their detention decided speedily before a judicial body. This judicial review should entail an oral hearing with legal assistance, if necessary provided free of charge to the person concerned, and interpretation. Moreover, detained foreign nationals should be expressly informed of this legal remedy.**

55. Eighteen of the persons held at the Home (including some who had previously been granted refugee status or had applied for asylum) had been detained, pending expulsion, by order of the State Agency for National Security (SANS) because they were considered to pose a serious threat to the national security or public order. This measure could be appealed before the Supreme Administrative Court. However, it transpired from interviews with foreign nationals detained by order of SANS that they had no access to their files and the evidence held against them, and therefore were deprived of the possibility to mount a reasonable defence. **The CPT would like to receive the comments of the Bulgarian authorities on this issue.**

56. In the report on the visit in 2008, the CPT noted with concern that when a national security order was issued against a person with refugee status, there was no obligation for SANS to inform the State Agency for Refugees and to consult it concerning the risk of persecution, torture or inhuman or humiliating treatment if the person were expelled. Unfortunately, the Bulgarian authorities have failed to reassure the Committee that effective steps are taken to prevent such situations from occurring. The CPT remains concerned that, by losing their right to reside legally in Bulgaria, recognised refugees are under threat of refoulement. **The Committee reiterates its request to be provided with a detailed account of the precise practical steps taken by the Bulgarian authorities to ensure that such a situation does not occur (including information on the applicable procedures and, in particular, the means of appeal).**

## **B. Establishments under the authority of the Ministry of Justice**

### **1. Investigation detention facilities**

#### **a. preliminary remarks**

57. The CPT's delegation visited six investigation detention facilities (IDFs) in different parts of Bulgaria (Balchik, Lovech, Plovdiv, Sofia, Varna and Veliko Turnovo).

It should be recalled that IDFs are primarily used to hold persons remanded in custody during the period of investigation, i.e. prior to issuing an indictment<sup>14</sup>, but also accommodate sentenced prisoners who have been transferred in order to appear in court or undergo investigation related to other offences, as well as persons detained by prosecutor's order for up to 72 hours. The legal framework governing the functioning of IDFs is provided in the 2009 Law on the Implementation of Sentences and Preliminary Detention.

From the information provided by the Bulgarian authorities, it was clear that the number of persons held in IDFs had been on the increase (1,318 at the time of the 2010 visit as compared to 945 on 11 December 2008). Further, the positive trend noted at the time of the 2006 and 2008 visits of reducing the proportion of persons held for lengthy periods of time in IDFs had unfortunately not been maintained. According to official information, by 1 October 2010, 570 persons (i.e. some 9% of those detained in pre-trial proceedings) had spent over six months in IDFs, and 1,269 (i.e. 19%) had spent between two and six months. At the establishments visited during the 2010 visit, there were a number of persons with stays of over six months (e.g. 15 at Plovdiv, 6 at Varna), occasionally as long as 16 months.

58. Following the transfer of IDFs to the Ministry of Justice in 1999, the Bulgarian authorities have engaged in a long-term programme for bringing conditions of detention in line with international standards, involving the closing down or refurbishment of obsolete facilities and the construction of new ones. However, due to the financial and economic crisis, the gradual improvement of material conditions has slowed down and, since mid-2009, only urgent repair works has been carried out. The delegation was informed that there remained 14 IDFs without outdoor exercise yards and five without rooms for visits.

The findings from the 2010 visit demonstrate that the situation in investigation detention facilities remains problematic, due to the structural limitations of a number of IDFs which had been constructed many years ago following an outdated concept, and the failure to develop a proper regime of activities.

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<sup>14</sup> In principle, criminal investigations must be completed within two months and the file transferred to the prosecutor. However, this period may be extended to six months and, in exceptional circumstances, even further, with the General Prosecutor's authorisation, the maximum length of remand custody being two years.

b. ill-treatment

59. Hardly any allegations of physical ill-treatment by IDF staff were received from persons interviewed at the six facilities visited. Many persons with prior experience of detention indicated that the situation had improved following the installation of CCTV cameras in the corridors and common areas of IDFs. Further, the CPT's delegation was pleased to note that custodial staff did not carry truncheons in detention areas.

That said, the delegation did hear some isolated accounts of unnecessary use of force by staff vis-à-vis detainees who disobeyed staff orders or were disruptive or disturbed. For example, a person interviewed at Plovdiv IDF alleged that he had been hit by staff because of having failed to get out of bed when the door was opened. Another person met at Plovdiv Prison alleged that he had been hit by staff at Plovdiv IDF after refusing to hand over magazines which his lawyer had brought during a visit. Further, at Varna IDF, the delegation heard some allegations that drug addicts with withdrawal symptoms could be handcuffed to their beds or radiators for prolonged periods of time.

**The CPT recommends that staff working at investigation detention facilities be reminded at regular intervals that the ill-treatment of detainees is prohibited and will be severely punished. All complaints of ill-treatment made by detained persons should be properly investigated. Further, managers and supervising prosecutors should be particularly vigilant when examining cases of the use of force to ensure that it is only used when – and to the extent – strictly necessary, and never as a form of physical punishment. In this connection, a specific register recording the use of force should be set up at each IDF.**

In this context, it should also be noted that the absence of a formal disciplinary procedure in IDFs entails a danger of unofficial disciplinary systems developing, which carry a risk of abuse of authority. **The CPT recommends that the Bulgarian authorities establish clear rules (including appropriate safeguards) in this area.**

60. Although inter-detainee violence did not appear to be widespread, the delegation did hear some accounts of incidents, in particular at Varna IDF. The fact that the establishment was overcrowded and staffing levels were low made it difficult for staff to control the situation.

The delegation noted as a positive development the introduction of a preventive/diagnostic system at Plovdiv, Sofia and Varna IDFs, aimed at a better distribution of detainees, prevention of inter-detainee violence and minimising the risk of suicides. As part of this system, all newly arrived detainees were interviewed by specially trained staff and a plan for risk reduction was drawn up, involving, if appropriate, increased staff supervision.

**The CPT invites the management and staff of IDFs to exercise continuing vigilance and make use of all the means at their disposal to prevent inter-detainee violence and intimidation.**

61. Similar to what was observed in the past, the delegation which carried out the 2010 visit noted that female staff members were rarely present in the detention areas even when there were female detainees. As stressed in the report on the visit in 2006, mixed gender staffing can contribute to improved relations between staff and persons in custody and is a requirement when women are held. **The CPT recommends that additional steps be taken to ensure that whenever female detainees are held in an IDF, female staff are deployed in the IDF detention area.**

c. conditions of detention

62. The situation at Plovdiv IDF – which had been the subject of major concerns by the CPT since 1999 - had radically improved following the entry into service of a new building in June 2009. This two-level facility, located next door to Plovdiv Prison, offered better material conditions than any of the other IDFs visited by the CPT in Bulgaria. With an official capacity of 180, it was holding 153 detainees at the time of the visit<sup>15</sup>. Most of the cells were designed for three-person occupancy and measured some 12 m<sup>2</sup> (including a fully-partitioned sanitary annexe with a WC and a sink with hot and cold taps). The cells had large windows, differentiated day/night artificial lighting, a well-functioning ventilation system, heating and a call bell. The cell furnishings (beds, table, chairs, shelves, TV set) were in a good state; that said, **the bedding provided to some detainees was very worn-out.**

63. The Investigation detention facility in Blvd G.M.Dimitrov, Sofia had previously been visited by the CPT in 1999 (see paragraphs 71 and 72 of CPT/Inf (2002) 1). The establishment's official capacity had since been increased to 332 places, with 83 four-person cells (measuring some 15 m<sup>2</sup>) spread over four floors. It was accommodating 304 persons (including 11 women and one juvenile) at the time of the visit.

The delegation was concerned to note that material conditions in the establishment had significantly deteriorated over the years. The whole facility was showing signs of wear and tear (peeling paint, damp ceilings and walls, etc.) and most of the cells were in a poor state of hygiene, extremely stuffy and humid. Although the cells had large windows, the latter had been fitted with frosted glass panes which rendered access to natural light very poor (and prevented detainees from seeing outside the building). Moreover, artificial lighting in most of the cells left something to be desired. In this connection, the delegation was shown a “model” cell on the 3<sup>rd</sup> floor where new windows had been installed in an apparent effort to improve access to natural light; however, these windows were still fitted with partially frosted glass which did little to alleviate the situation.

64. The IDF in Varna was located on the top floor of a building constructed in the 1980s. With an official capacity of 76 places distributed among 19 cells, it was holding 68 persons on the day of the visit (including one woman). However, in the recent past the establishment had held on occasion up to 120 persons. Cells measuring some 12 m<sup>2</sup> were holding three to four persons. The cell windows were fitted with opaque glass bricks, as a result of which there was very limited natural light; further, artificial lighting was dim (in some cells, detainees had installed additional table lamps) and ventilation was deficient. In addition to beds, most cells contained cupboards, small tables, TV sets and air-conditioners (used for heating the cells in the winter). All but two of the cells had in-cell sanitation (which, however, was not fully partitioned and was often dilapidated).

Conditions in two of the cells (Nos. 12 and 13) were so bad that they could easily be considered as amounting to inhuman and degrading treatment. The cells (measuring some 18 m<sup>2</sup>) were designed to hold 10 persons each. They contained nothing but old bunk beds with tattered mattresses and were submerged in darkness, extremely dilapidated, stuffy and unhygienic. Unlike other cells, there was no in-cell sanitation and detainees were using a bucket to comply with the needs of nature.

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<sup>15</sup> 142 men, 8 women and 3 juveniles.

As already noted in paragraph 8, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention and requested the Bulgarian authorities to take out of use and urgently renovate the two cells. By letter of 21 January 2001, the Bulgarian authorities informed the CPT that, following an inspection from the General Directorate for the Execution of Punishments on 10 and 11 November 2010, the use of the two cells had been suspended. Repair works were being carried out and were expected to finish by 30 January 2011. The CPT welcomes the action taken and **wishes to receive confirmation that the repair works have been completed as well as details on conditions in the refurbished cells.**

65. The IDF in Balchik had six double-occupancy cells and was holding three detainees at the time of the visit. Conditions in the cells were deficient in many respects. The cells were small (some 5 m<sup>2</sup>), dilapidated, dirty, with extremely limited access to natural light (through a small opening to the corridor above the cell door), dim artificial lighting and poor ventilation. The cell equipment consisted of bunk beds with torn and filthy mattresses and blankets.

66. The IDF in Lovech had a capacity of 20 beds distributed among nine cells. Conditions in most of the cells were very cramped, with two persons sharing a space of some 5 m<sup>2</sup>. Although the facility was holding 14 persons on the day of the visit, the custody records showed that the number of detainees had on occasion exceeded the number of beds available; indeed, one of the detained persons interviewed told the delegation that during his first two nights in the facility he had had to sleep on a mattress placed on the floor. The situation was made worse by the poor state of repair of the establishment, the unhygienic conditions and inadequate ventilation and lighting in the cells (no direct access to natural light and weak artificial lighting). Staff were attempting to minimise the negative effects of the existing environment by leaving the solid cell doors open (locking the grilled doors only), thus ensuring some air circulation and access to natural light from the corridor.

The delegation was informed that plans were afoot to close the existing facility and transfer the IDF to a building (still to be refurbished) on the premises of Lovech Prison. **The CPT would like to receive detailed information (including a timetable) on the implementation of these plans.**

67. With an official capacity of 44 places, the IDF in Veliko Turnovo was holding 27 detainees at the time of the visit. The establishment had eleven cells, each measuring 8 m<sup>2</sup> and designed to accommodate up to four persons. All the cells were in a bad state of repair, dirty and humid, and ventilation was minimal. Further, the detainees were provided with filthy and worn out mattresses and blankets. Although artificial lighting was generally acceptable in most of the cells, they had no windows and therefore no direct access to natural light (there was small opening over the cell door into the corridor, which had windows).

68. At the IDFs in Balchik, Lovech and Veliko Turnovo (as well as the two above-mentioned cells at Varna), there was no integral sanitation in the cells, and access to a toilet depended on staff opening the cell door. There seemed to be no particular problems in this respect at Lovech IDF. However, at the IDFs in Balchik and Veliko Turnovo, detainees did not have ready access to the communal toilet and were obliged to resort to plastic bottles or buckets in the cells.

Since 1995, the CPT has repeatedly been making recommendations concerning detainees' access to a toilet in investigation detention facilities. The instructions issued to the effect that staff should grant detained persons access to the toilet at any time of day or night have so far failed to produce the desired effect. The CPT considers that the act of discharging human waste, and more particularly of defecating, in a bucket or pot in the presence of one or more other persons, in a confined space used as a living area, is degrading. It is degrading not only for the person using the bucket but also for the person with whom he or she shares a cell. Moreover, it is also debasing for the custodial staff who have to supervise it. In this context, it is noteworthy that the ECHR has found Bulgaria to be in violation of Article 3 of the Convention in several cases of prisoners having to relieve themselves in a bucket in the presence of other inmates.<sup>16</sup>

69. As regards personal hygiene, detained persons could generally take a shower once a week (more frequent showers were reportedly allowed at Lovech). In this context, reference is made to the European Prison Rules according to which every prisoner should have a bath or shower at least twice a week.<sup>17</sup> Further, detained persons generally received no hygiene items except for soap, nor were any cleaning materials provided. There were no laundry facilities and detainees washed their clothes and bed linen themselves and dried them in the cells or corridors.

70. At all the IDFs visited, food was provided three times a day. A number of complaints were heard about the quantity and/or quality of the food. At Sofia IDF in particular, where all meals were delivered from Sofia Prison once a day, there were complaints that the food was usually served cold.

Detainees could receive food from their relatives and there was a possibility to make periodic food purchases at some of the IDFs.

71. It is clear from the above that material conditions in investigation detention facilities – with the notable exception of Plovdiv IDF - continue to fail to meet the CPT's standards. As stressed by the CPT in the report on the visit in 2006, the continued failure to ensure compliance with the Committee's recommendations in this area constitutes a serious breach of the principle of co-operation laid down in Article 3 of the Convention. The CPT calls upon the Bulgarian authorities to take steps without further delay at investigation detention facilities to:

- **reduce cell occupancy rates to an acceptable level, applying a minimum standard of 4 m<sup>2</sup> per detainee in multiple occupancy cells; all cells of less than 6 m<sup>2</sup> (e.g. at Balchik and Lovech IDFs) should be either withdrawn from service or enlarged and cells measuring 6 m<sup>2</sup> should be used for accommodating one person;**
- **improve cell lighting (by providing access to natural light and adequate artificial lighting and, as far as possible, introducing differentiated day/night lighting systems) and ventilation in the cells;**

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<sup>16</sup> See, for instance, *Radkov v. Bulgaria*, judgment of 10 February 2011 concerning application no. 18382/05.

<sup>17</sup> Rule 19.4 of the European Prison Rules states: "Adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene".



- **improve the state of the beds and bedding provided to detained persons;**
- **guarantee strict compliance with the instructions given to custodial staff to grant detainees ready access to the toilet at any time of day or night, and gradually to introduce in-cell toilets in the context of refurbishment;**
- **increase the frequency of showers for inmates, in the light of Rule 19.4 of the European Prison Rules;**
- **ensure that detainees have access to essential personal hygiene products;**
- **provide detainees with sufficient materials to clean their cells;**
- **review the quantity and quality of the food provided and ensure that cooked meals are appropriately heated when served.**

72. The situation regarding the regime of activities at the IDFs remains of serious concern to the CPT, in view of the fact that many persons spend months (occasionally over a year) detained there.

Plovdiv IDF was the only establishment where access to outdoor exercise of one hour (two for juveniles) was guaranteed on a daily basis. There were three outdoor yards (each measuring some 36 m<sup>2</sup>). Further, the establishment had a library with some 800 books and a fitness room (which, however, was reportedly not being used by detainees because of the lack of staff to supervise them). Efforts were also being made to offer some purposeful activities (literacy courses for six groups of detainees, drug-prevention group work).

The IDF in Sofia also had three exercise yards (40 m<sup>2</sup> each), situated on the top of the building; however, the delegation was informed that the shortage of staff made it difficult to enable each detainee to have one hour of exercise every day. At the remainder of the IDFs visited, there was a lack of outdoor exercise facilities. At Balchik, detainees were allowed to stroll along the corridor for some 20 minutes a day, and at Lovech, they were taken to a small area next to the toilets; as a result, detainees at these two IDFs did not get outside the buildings for months on end. At Varna, a room measuring some 20 m<sup>2</sup>, with some fitness equipment and a bench, was used as an exercise area. Similarly, at Veliko Turnovo, there was a room measuring some 20 m<sup>2</sup>, with two large windows and two benches; however, detainees claimed that access to that room was limited to two to three times per week, some 30 minutes each time.

To sum up, the vast majority of persons held in IDFs spent at least 23 hours a day locked up inside their cells. Their only means of distraction were books and newspapers provided by their families and, for those who had the financial means, TV and/or radio sets.

73. In previous visit reports, the CPT has expressed particular concern about the position of juveniles held in IDFs, who were subjected to the same regime as adult detainees (with the exception of being entitled to two hours of daily outdoor exercise). The Committee has stressed that, although a lack of purposeful activity is detrimental for any detained persons, it is especially harmful for juveniles, who have a particular need for physical activity and intellectual stimulation.

At the time of the 2010 visit, there was one juvenile at the Sofia IDF who had been held alone in a cell for nearly a month. He had no TV or radio in the cell; further, because he had no money, he could not make phone calls. In reaction to the delegation's concerns about the negative effects of isolation on the mental health of this juvenile, the establishment's director undertook to take appropriate measures. By letter of 26 November 2010, the Bulgarian authorities informed the CPT that these measures had involved increased contacts with staff (a probation officer, medical and custodial staff), allowing the juvenile telephone calls and additional visits, and providing him with newspapers. Since 15 November 2010, the juvenile in question was being held together with other juveniles who had been detained in the meantime.

There were also three juveniles at Plovdiv IDF, of whom one had been held alone in a cell for five days. Staff were making efforts to ensure that the latter had some forms of association: he was allowed to take two hours of outdoor exercise together with the other juveniles and was also offered to clean the corridor for up to two hours a day.

**The CPT considers that the above-mentioned efforts of staff should be underpinned by the issuing of instructions which make it clear that, in the case of there being only one juvenile detained in an IDF, to avoid isolation, he/she should be provided with appropriate human contact, including opportunities to participate in out-of-cell activities with adults, under appropriate supervision by staff, and should not be left locked up alone in a cell for extended periods of time.**

74. As stressed by the CPT in previous visit reports, it is incumbent on the authorities to develop a proper regime of activities for persons held in investigation detention facilities which, *inter alia*, is designed to protect the detainees' mental and physical health during the period they spend in such facilities. In the case of detainees undergoing prolonged preliminary investigation, the aim should be to enable them to spend a reasonable part of the day (eight hours or more) outside their cells engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association).

**The CPT calls upon the Bulgarian authorities to take steps to develop the regime of activities for persons held in IDFs, particular attention being paid to the special needs of juveniles. Immediate action must be taken to ensure that detainees are guaranteed their entitlement of at least one hour of genuine outside exercise per day (two hours for juveniles).**

d. health-care services

75. As regards health-care staff, the IDFs visited employed at least one feldsher. At the Sofia IDF, which is the largest in the country, there was a doctor, feldsher, nurse and dentist. As for Plovdiv IDF, it employed a doctor and a feldsher.

76. Newly arrived detainees were, as a general rule, medically examined on the day of admission. However, the delegation heard allegations about some exceptions, especially at weekends when no medical staff member was present. The initial examination included screening for injuries, measuring the blood pressure and pulse, anamnesis and diagnosis. Further, the delegation was told that, as a rule, all detained persons were seen by the doctor/feldsher once a month and could be sent out for specialised consultations in case of need.

That said, the delegation heard numerous complaints about lack of medication (which usually had to be supplied by the families), delays in gaining access to a doctor and difficulties in securing transfers to outside hospital facilities.

**The CPT recommends that the Bulgarian authorities take steps to ensure that:**

- **appropriate medication in sufficient quantities is supplied to all IDFs in the country;**
- **detained persons in need of medical care are promptly seen by a doctor and, if required by their state of health, transferred to an outside medical facility.**

77. As previously noted (see paragraph 18), the Ministry of Justice Order № L-6399 of 26 July 2010 contains detailed provisions concerning medical examinations in investigation detention facilities. Pursuant to this Order, all cases of injuries observed on newly arrived detained persons should be reported to the IDF director and forwarded to the supervising prosecutor and the General Directorate for the Execution of Punishments. As previously mentioned, this practice was being followed at Plovdiv, Sofia and Varna IDFs. However, the examination of medical documentation revealed that the recording of injuries observed upon arrival did not always refer to the relevant statements made by the person concerned, nor were the doctor's conclusions noted. **In this respect, reference is made to the recommendations in paragraph 18.**

78. All detained persons had a personal medical file. However, the quality of medical documentation and the observance of medical confidentiality left something to be desired (e.g. medical certificates drawn up in respect of new arrivals were kept in the legal files of detainees). Further, with the exception of Plovdiv IDF, medical examinations continued to take place in the presence of non-medical staff.

**The CPT recommends that further steps be taken to improve the quality of medical records and ensure the observance of their confidentiality. All medical examinations should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of custodial staff.**

- e. other issues related to the CPT's mandate

79. In all the IDFs visited, detained persons were entitled to receive at least two visits per month of up to 40 minutes each (in practice, many detainees had a visit every weekend). That said, there were no proper visiting facilities at Balchik and Veliko Turnovo. It is also noteworthy that all visits took place in closed conditions (i.e. there was a physical separation between detained persons and their visitors).

**The CPT recommends that steps be taken to:**

- **equip Balchik and Veliko Turnovo IDFs with a proper visiting room, as well as any other IDFs where such rooms are still missing;**
- **enable persons detained in IDFs to receive visits under open conditions. Open visiting arrangements should be the rule and closed ones the exception, based on well-founded and reasoned decisions following individual assessment of the potential risk posed by a particular prisoner or visitor.**

**Reference is also made to the recommendation in paragraph 139 concerning the frequency of visits.**

80. In all the establishments visited, detained persons had the possibility to make telephone calls (either unlimited or, as a minimum, twice a week). Pay-phones had been installed in the exercise yards/rooms or corridors and detainees could have up to ten numbers authorised on their phone cards. However, numerous complaints were heard about the high price of telephone calls (see also paragraph 141). **The CPT recommends that the Bulgarian authorities ensure that persons detained in IDFs have access to telephone communications at prices analogous to those in the community.**

## 2. Prison establishments

### a. preliminary remarks

81. The delegation carried out first-time visits to Plovdiv and Varna Prisons, and paid a follow-up visit to Lovech Prison Hospital.

82. Compared to the previous periodic visit in 2006, the total number of inmates in the country had dropped by some 18% (there were 9,379 prisoners on 1 October 2010, as compared to 11,452 in September 2006). According to the Director of the General Directorate for the Execution of Punishments, in the last three years, the prison population had stabilised at an annual average of 9,000. The reduction in the prison population could mainly be attributed to changes in judicial practice, with an increased resort to probation<sup>18</sup> and the use of early release (parole)<sup>19</sup>.

Despite the welcome reduction in the overall number of prisoners, prison overcrowding continues to represent a significant challenge for the Bulgarian authorities. According to information provided by the General Directorate for the Execution of Sentences, the official capacity of the prison estate (calculated on the basis of 4 m<sup>2</sup> of living space per prisoner) was 8,763. While some establishments were holding less prisoners than their official capacities, others were affected by overcrowding. The two prisons visited by the CPT's delegation, in Plovdiv and Varna, were seriously overcrowded (see paragraphs 95 and 107), and it was clear from the information provided by the authorities that Belene, Burgas and Pleven Prisons were also prey to this phenomenon.

83. As part of their efforts to improve prison conditions, the Bulgarian authorities have adopted a new Law on the Implementation of Sentences and Preliminary Detention (in force since 1 June 2009). The law provides for a minimum of 4 m<sup>2</sup> of living place per prisoner; however, the application of this requirement has been postponed until 2012. In December 2008, the Council of Ministers adopted a Strategy for the Development of the Places of Deprivation of Liberty in the period 2009-2015. This Strategy had to be adjusted in 2010 in the light of the economic and financial crisis which affected negatively the investment programmes. On 8 September 2010, the Council of Ministers adopted a Programme for Improvement of Places of Deprivation of Liberty in the period 2011-2013, with 20 million BGL<sup>20</sup> being allocated to new construction and refurbishment of existing prisons. In this context, the delegation was informed that the construction of a new prison in Sofia would begin shortly.

Further, with a view to ensuring a more even spread of inmates through the prison estate, the Minister of Justice has issued a new Order on the territorial distribution of sentenced prisoners. Efforts were also being made to transfer more prisoners to prison hostels in which there was a spare capacity and the delegation was informed of plans to introduce electronic monitoring (tagging).

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<sup>18</sup> Since its introduction in 2005, probation had been applied to 57,291 cases, and at the time of the CPT's visit there were some 14,000 persons on probation.

<sup>19</sup> In 2009, 1,110 persons were released on parole, and in the first 9 months of 2010, 734 persons.

<sup>20</sup> The equivalent of some 10 million Euros.

It should also be noted that in June 2010, the Bulgarian Government approved a new “Concept of Penal Policy” (covering the period 2010-2014), which contains measures for reforming the country’s criminal justice system in the light of European standards. The Concept stresses the need for developing the aspect of resocialisation of prisoners, improving the juvenile justice system and reinforcing preventive social action in respect of people with addictions and other risk groups. A working group was set up to draft a new Criminal Code (the one in force dating back to 1968). Amongst the objectives pursued by this group are a decriminalisation of obsolete and petty offences and exploring alternatives to imprisonment. Further, the Concept envisages amendments to the Code of Criminal Procedure with a view to speeding up the proceedings for certain offences.

84. The CPT appreciates the measures already taken or planned with a view to reforming the Bulgarian penal policy and improving prison conditions. It is clear that at times of financial and economic crisis, finding money to build new prisons is not a realistic solution to the problem of prison overcrowding. The only viable way to control overcrowding and achieve the standard of 4 m<sup>2</sup> of living space per prisoner provided for in Bulgarian law is to adopt a strategy for the sustainable reduction of the prison population, which includes a variety of steps to ensure that imprisonment really is the measure of last resort. This implies, in the first place, an emphasis on non-custodial measures in the period before the imposition of a sentence and the availability to the judiciary, especially in less serious cases, of alternatives to custodial sentences together with an encouragement to use those options. Further, the adoption of measures to facilitate the reintegration into society of persons who have been deprived of their liberty will reduce the rate of re-offending.

**The CPT calls upon the Bulgarian authorities to pursue vigorously the application of all the different measures designed to combat prison overcrowding. In this context, the drafting of a new Criminal Code should be used as an opportunity to examine certain features of the legislation which may be contributors to the overcrowding problem.**

**In addition, efforts should be made to step up the training provided to prosecutors and judges, with a view to promoting the use of alternatives to imprisonment.**

85. Low prison staffing levels has been an issue of concern for the CPT over the years. In the reports on the visits in 2006 and 2008, the Committee recommended that the Bulgarian authorities reconsider this issue as a matter of urgency. The information received at the time of the 2010 visit is disappointing: by decree of the Council of Ministers of 5 August 2010, the total number of staff positions had been decreased from 4,708 to 4,610. As previously stressed by the CPT, this is not a viable path to overall improvement of the treatment of prisoners. A low staff complement diminishes the possibilities of direct contact with prisoners, reduces the emergence of dynamic security and has a negative influence on the quality and level of the activities provided to prisoners. At the prisons visited in 2010, the low staffing level, combined with overcrowding, made control by staff difficult, as demonstrated by the incidence of inter-prisoner violence (see paragraph 88).

**The CPT calls upon the Bulgarian authorities to improve prison staffing levels as a priority. Further, to obtain personnel of the right calibre, the authorities must be prepared to invest adequate resources into the process of recruitment and training and to offer adequate salaries.** This will also attract candidates from a wider pool and enhance the standing of prison staff in the community.<sup>21</sup>

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<sup>21</sup> In this connection, see Rules 76, 78, 79 and 81 of the European Prison Rules and the comments thereon.

86. The problem of overcrowding has a direct bearing on the issue of work and other activities for prisoners. According to information provided by the General Directorate for the Execution of Punishments, the monthly average of prisoners who worked was 1,800 (i.e. 20% of the total prison population). This points to a deterioration of the inmate employment situation since the visit in 2006 when 4,000 prisoners had work (i.e. approximately 35% of the prison population). Due to the financial and economic crisis, many prison workshops had reduced their activities. On the other hand, attempts were being made to engage prisoners in voluntary labour.

As regards other activities, the delegation was informed that the number of inmates involved in education had been on the increase (819 in 2009, 1,118 in 2010). To combat the increasing illiteracy amongst prisoners, 35 literacy courses had been organised (involving 412 inmates). Concerning vocational training, 61 courses had been organised in 2009-2010 with the participation of 1,156 prisoners. Further, in co-operation with the Ministry of Labour and Social Policy, two projects on resocialisation through vocational training had been set up, providing qualifications to 1,764 inmates. In addition, various programmes for the acquisition of social and practical skills and offence related interventions had been organised (e.g. anger management, cognitive skills, assertive behaviour, treatment for drug addition, civic education, computer literacy, etc.).

**The CPT recommends that the Bulgarian authorities step up their efforts to develop the programmes of activities for prisoners. The aim should be to ensure that both sentenced and remand prisoners are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activities of a varied nature.**

**As regards work in particular, the Committee wishes to stress once again that a major improvement of the employment situation in prisons will require a fundamental change in approach, based on the concept of prisoners' work as geared towards rehabilitation and resocialisation rather than towards financial profit.**

b. ill-treatment

87. The delegation received a number of allegations of physical ill-treatment of prisoners by staff (punches, kicks, truncheons blows) at the closed part of *Plovdiv Prison*. It appeared that truncheons had sometimes been employed in situations in which the prisoner had not represented a direct and immediate threat to staff or other prisoners and, consequently, their use could be regarded as being retaliatory in nature. In one case recorded in the documentation concerning disciplinary punishments, staff had used truncheons against a prisoner because he had "refused to fulfil his duties and threatened to use his connections with powerful people". Another case concerned two prisoners who, after having a altercation in the dining hall, had been taken out by staff into a corridor (an area apparently not covered by CCTV) and hit with truncheons. One of the prisoners concerned was subsequently taken to a hospital and diagnosed with a contusion in the region of his right forearm and hand. It is also noteworthy that some inmates with whom the delegation spoke stated that staff had threatened them with repercussions after the visit (see paragraph 6).

At *Varna Prison*, the delegation heard some allegations of staff assaulting prisoners (punches, kicks and/or truncheons blows) who were disruptive or disobeying orders. In one recent case, the prisoner concerned – who had allegedly been hit by a staff member because of failing to clean the corridor – claimed that he had sent complaints to several instances without receiving an answer.

At *Lovech Prison Hospital*, the delegation heard some allegations from patients in the psychiatric ward that staff occasionally took a rather rough approach, especially when controlling agitated patients (see paragraph 136). It should also be noted that, after the visit to the hospital, the delegation received accounts of ill-treatment of patients in the tuberculosis ward. In particular, it was alleged that in March 2010, some 20 prison officers had been summoned to the ward by a staff member who had had a verbal altercation with an inmate. The inmate in question, as well as some other inmates on the ward, had allegedly been kicked, punched and hit with truncheons.

Further, at all three establishments, a number of complaints were heard of verbal abuse by staff.

**The CPT recommends that the management of Plovdiv and Varna Prisons and Lovech Prison Hospital take steps to ensure that prison staff do not abuse their authority and resort to ill-treatment. All staff members should be reminded at suitable intervals that both the physical ill-treatment and verbal abuse of inmates are not acceptable and will be the subject of severe sanctions.**

**The Committee also recommends that the situations in which prison officers may use physical force and truncheons be defined more precisely, and that detailed instructions concerning the use of such means be issued. It must be made clear in these instructions that physical force and truncheons can only be applied when – and to the extent – strictly necessary to maintain security and good order, and never as a form of punishment. Further, all cases of the use of physical force and truncheons should be recorded in a separate register and the prison management and prosecutors should be particularly vigilant when examining them.**

88. At both Plovdiv and Varna Prisons, inter-prisoner violence was rife. It transpired from the examination of documentation on disciplinary punishments that there was at least one violent altercation between prisoners every week<sup>22</sup>, leading to placements in a disciplinary cell and occasionally to a medical intervention or hospitalisation. Some instances of inter-prisoner violence/intimidation were also reported at Lovech Prison Hospital.

At Varna Prison in particular, the low staffing level, coupled with severe overcrowding, could easily compromise the safety of staff and prisoners alike. The climate of violence and intimidation which seemed to prevail at that establishment was often linked to the drug-trafficking that was acknowledged to be widespread, the presence of organised criminal groups and tensions between different ethnic groups and nationalities. Most of the violent incidents related to fights, but there was also one recorded case of sexual abuse in May 2010. During the day, an inmate had reportedly been asked by several other prisoners to go to their cell where he had been forced to sit on a chair leg; as a result, he had suffered a rupture of the rectum and had required urgent hospitalisation and surgery.

Further, at both Plovdiv and Varna Prisons, allegations were received of certain inmates enjoying a privileged position and helping staff to control other prisoners. At Plovdiv Prison, the delegation heard accounts – and saw documentation – of one such prisoner (employed as a “cleaner”) using a staff truncheon in order to hit another inmate. The case in question had been the subject of a disciplinary procedure, but despite several prisoners giving consistent evidence against the “cleaner”, no disciplinary sanction had been imposed on him.

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<sup>22</sup> At Varna Prison, there had been 8 cases of inter-prisoner violence in September 2010, and 29 in the first six months of 2010. At Plovdiv Prison, the records referred to 7 cases of inter-prisoner violence in October 2010.



89. In the report on the visit in 2006, the CPT had already recommended that the Bulgarian authorities devise a national strategy concerning inter-prisoner violence<sup>23</sup>. The findings from the 2010 visit suggest that there is an even greater need for vigorous action to combat this phenomenon.

The Committee considers that an effective strategy to tackle inter-prisoner intimidation/violence should seek to ensure that prison staff are placed in a position to exercise their authority in an appropriate manner. In particular, staff should be encouraged more closely to supervise the activities of prisoners and enter in direct contact with them with a view to developing dynamic security. This implies making available sufficient numbers of staff and providing them with appropriate initial and advanced training. When incidents of inter-prisoner intimidation/violence do occur, staff must be both resolved and properly trained to intervene. Measures should also be taken to tackle drug-trafficking and tensions between different ethnic groups or nationalities.

In addition to implementing an individualised risk and needs assessment, the prison system may also need to develop the capacity to ensure that potentially incompatible categories of prisoners are not accommodated together. In some European countries which have been faced with the problem of inter-prisoner violence, good results have been produced by violence prevention programmes and the setting up of special units for prisoners seeking protection from other inmates (vulnerable prisoners, prisoners with psychological/psychiatric problems) as well as special units for dangerous/disruptive prisoners.

**The CPT recommends that the Bulgarian authorities carry out a thorough investigation into the nature and scale of the problem of inter-prisoner violence in each prison establishment and develop as a matter of priority a national strategy to address this phenomenon, with a view to ensuring that all prisoners can serve their sentences under safe conditions.**

**Further, the Committee must stress that it is inadmissible for staff to put a prisoner in a position of control and authority vis-à-vis other prisoners.**

90. The delegation noted that staff carried truncheons openly in the prisoner accommodation areas of Plovdiv and Varna Prisons and the TB unit of Lovech Prison Hospital. As far back as in 1995, the CPT had recommended that, if it is considered necessary for prison staff working in detention areas to carry truncheons, these should be hidden from view. During subsequent visits to Bulgaria, CPT delegations had observed that this recommendation was being complied with. However, the management of Plovdiv and Varna Prisons indicated that because of the low staffing levels, staff felt insecure and needed to have truncheons on them. The Committee must stress once again that openly carrying truncheons is in fact prejudicial to establishing positive relations between staff and prisoners and hence will not promote staff safety. **The CPT recommends that prison staff do not carry truncheons in a visible manner inside detention areas.**

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<sup>23</sup> See paragraph 68 of CPT/Inf (2008) 11.

91. The CPT's delegation encountered at Varna Prison the practice of fixation of prisoners with handcuffs to a bed. It was apparently not a frequent phenomenon, however, the delegation was concerned by the duration of fixation (e.g. in the case of one prisoner diagnosed with a personality disorder who had threatened to commit suicide, 11 days in September and 5 days in April 2010; in the case of another prisoner, 15 days in June/July 2009) and the procedure followed.

Fixation took place in one of the rooms of the medical centre (which was not specifically designed for the purpose and contained three ordinary beds). There was no centralised record of recourse to fixation, which made it difficult for the delegation to obtain a full grasp of the situation. The chief officer on duty showed the delegation copies of letters that he had sent to the relevant prosecutor, informing him of his decision to fixate a prisoner. However, the period of fixation was not documented. Further, it transpired from interviews with prisoners and staff that a doctor was not systematically called in whenever an inmate was fixated, and there was no close monitoring of the fixated prisoner by staff.

92. The CPT understands that it is necessary on occasion to resort to means of restraint in a prison setting. In such cases, the existence of regulations governing the use of means of restraint (conditions and procedure), and the conscientious recording of every application of these means, are basic safeguards against possible abuse and at a more general level constitute the essential tools of good management. In the Committee's opinion, the approach to immobilisation in prisons should take into consideration the following principles and minimum standards:

- Regarding its appropriate use, immobilisation should only be used as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail to satisfactorily contain those risks; it should never be used as a punishment or to compensate for shortages of trained staff; it should not be used in a non-medical setting when hospitalisation would be a more appropriate intervention.
- Any resort to immobilisation should always be either expressly ordered by a doctor or immediately brought to the attention of a doctor.
- A special register should be kept to record all cases in which recourse is had to means of restraint; the entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for the measure, the name of the staff member who ordered or approved it, and an account of any injuries sustained by the person or staff.
- The duration of fixation should be for the shortest possible time. Restraint for periods of days at a time cannot have any justification and would amount to ill-treatment.
- Persons subject to immobilisation should receive full information on the reasons for the intervention.
- The management of any establishment which might use immobilisation should issue formal written guidelines, taking account of the above criteria, to all staff who may be involved.

- An individual subject to immobilisation should, at all times, have his/her mental and physical state continuously and directly monitored by an identified member of the health-care staff or another suitably trained member of staff who has not been involved in the circumstances which gave rise to the application of immobilisation. The staff member concerned should offer immediate human contact to the immobilised person, reduce his/her anxiety, communicate with the individual and rapidly respond, including to the individual's personal needs regarding oral intake, hygiene and urination and defecation. Such individualised staff supervision should be performed from within the room or, if the inmate so wishes, very near the door (within hearing and so that personal contact can be established immediately). The supervising staff member should be required to maintain a written running record. Further, the person concerned should be given the opportunity to discuss his/her experience, during and, in any event, as soon as possible after the end of a period of restraint. This discussion should always involve a member of health-care staff or another member of staff with appropriate training.

**The CPT recommends that the Bulgarian authorities take the necessary steps to ensure that all the principles and minimum safeguards set out above are applied in prisons when resort is had to immobilisation.**

c. conditions of detention

i. *Plovdiv Prison*

93. Plovdiv Prison is an establishment for adult men (on remand and sentenced), comprising a closed prison and two open-type prison hostels. The closed prison was constructed in the early 1960s and occupied an extensive territory (2.5 hectares) in one of the residential areas of the city of Plovdiv. With a capacity of 405 places (calculated on the basis of 4 m<sup>2</sup> per prisoner), it was accommodating 619 inmates at the time of the visit, of whom 163 were prisoners on remand ("accused" and "defendants") and the remainder were sentenced. Nine of the inmates were life-sentenced prisoners.

The prison hostel "Hebros" was set up in the early 1990s on the territory of a farm on the outskirts of Plovdiv. When visited by the CPT's delegation, it was holding 108 inmates for an official capacity of 75. The prison hostel "Smolyan" was not visited by the delegation.<sup>24</sup>

94. At the outset of the visit, the prison Director acknowledged that overcrowding remained a feature of the establishment, despite a significant reduction in the prison population in recent years (the total number of inmates in the closed prison and two hostels had previously been around 1,300 as opposed to a monthly average of 920 in 2009, and 873 at the time of the visit). To deal with the problem of overcrowding, the management had submitted to the Main Directorate for the Execution of Punishments a proposal for the transformation of former production facilities on the territory of the prison into an accommodation building with some 250 places.

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<sup>24</sup> This hostel, located on the territory of a former mining factory near the town of Smolyan (some 150 km away from Plovdiv), is reportedly one of the most modern hostels in the country. With a capacity of 220, it was said to be holding 120 prisoners.

The delegation also learned that the prison was in a difficult financial situation and faced challenges in meeting prisoners' basic needs: the 2010 budget was 25% lower than the one for the previous year and included no allocation for refurbishment, medication, bedding and clothing, education, materials and external services. Further, the establishment was in arrears on its payments to outside suppliers.

95. In the closed prison, prisoner accommodation was provided in two wings of an E-shaped two-storey building. Prisoners were distributed into 7 groups in accordance with their legal status and regime.<sup>25</sup> Most of the cells seen by the delegation were overcrowded. For example, 27 prisoners were being held in cell 82 which measured some 50 m<sup>2</sup>; in cell 35, measuring some 32 m<sup>2</sup>, there were 16 inmates. Inmates indicated that about a week before the visit, the third tier of the bunk beds had been removed.

The establishment had benefitted from a refurbishment in 2007-2008 when, thanks to funds from the centralised budget of the Main Directorate for the Execution of Punishments, cell windows and floor surfaces had been replaced, in-cell toilets repaired and walls repainted. Nevertheless, at the time of the visit, many of the cells were dilapidated (e.g. broken beds, damaged floor surfaces, crumbling wall paint, signs of damp on the walls). The general hygiene was variable and there was a need for improved provision of cleaning materials. Further, the cells were infested with cockroaches and other vermin.

96. In some cells (e.g. cell 15 in Group 6), access to natural light was seriously restricted by the presence of metal shutters attached to cell windows. The delegation also noted that when the artificial lighting was turned off during the day (which was frequently the case, see below), cells in Group 1 and 2 were so dark that it was impossible to read.

Further, numerous complaints were heard about the lack of a continuous electricity supply. The delegation was told that there was electricity from 6 to 9 a.m., from 11 a.m. to 1 p.m., and from 4 to 10 p.m. Prisoners complained that it was impossible to switch on the light in the cells after 10 p.m., even in an emergency. The management confirmed that it was attempting in this manner to cut the costs of running the prison and reduce the debts to public utility companies.

There were also reportedly problems with the ventilation and the high temperature in the cells in summer. Because of the above-mentioned power cuts, inmates could not use the fans which they had been allowed to purchase.

97. As regards access to the toilet, the presence of partitioned in-cell sanitary annexes (a WC and sink) in 85% of the cells was a positive development. Prisoners in the remainder of the cells (e.g. in the admission unit and the reinforced security zone; some of the cells in Group 6) in principle had access to common toilet facilities, but because of the shortage of staff, this access was limited during the day and impossible at night. As a result, these prisoners had to resort to buckets for toilet purposes.

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<sup>25</sup> The Eastern wing accommodated Group 1 (prisoners sentenced for the first time), Group 2 (remand and sentenced prisoners without prior convictions), Groups 3 and 4 (sentenced prisoners with prior convictions) and a reinforced security zone for lifers and other prisoners under special regime. The Western wing contained Group 5 (remand prisoners with prior convictions), Groups 6 and 7 (sentenced prisoners with prior convictions) and the unit for new admissions and prisoners in transit.

98. Prisoners could take a shower once a week (and those employed more frequently) in bathrooms located on each floor. Some complaints were heard about the insufficient number of functioning showers (two to three for some 80 prisoners). As regards personal hygiene items, inmates were provided only with soap and had to rely on their own means/families for all other items; there were no arrangements for helping those who were destitute.

As for the prison laundry, it was equipped with only one washing machine and, as a result, prisoners had to wash their clothes and bed linen - and dry them - in the cells.

99. Food was the subject of complaints by many prisoners. Due to the limited budget, the daily food allowance per prisoner was 2.20 BGL (i.e. some 1.10 Euros), which was supplemented by occasional donations from sponsors. From the examination of the weekly menus, it appeared that the daily calorific value of the food was adequate (2,500-2,600 kcal for non-working and 3,000-3,100 kcal for working inmates). However, the food lacked variety and certain products (eggs, fish, dairy products, fresh fruit and vegetables) were rarely present on the menu or altogether missing.

Meals were taken in two dining rooms with dilapidated furniture and unhygienic conditions. The delegation observed that most prisoners ate standing, taking 5-10 minutes to consume the food served. The last meal of the day was reportedly served at 4 p.m.

100. Turning to the open-type prison hostel "Hebros", material conditions in it also left a lot to be desired. Most cells offered cramped conditions (e.g. 15 inmates in a cell measuring 30 m<sup>2</sup>; seven inmates in a cell measuring 16 m<sup>2</sup>). Further, the delegation observed that sanitary conditions were poor, especially in the toilets.

**101. The CPT recommends that the Bulgarian authorities take vigorous steps to reduce the occupancy rate of the closed part of Plovdiv Prison and the prison hostel "Hebros", the objective being to provide a minimum of 4 m<sup>2</sup> per prisoner. Further, the Committee recommends that steps be taken to:**

- **improve access to natural light in the cells referred to in paragraph 96;**
- **ensure that all prisoners have ready access to the toilet and to discontinue the use of buckets;**
- **increase the frequency of showers for inmates, in the light of Rule 19.4 of the European Prison Rules;**
- **ensure that all inmates have access to a range of basic hygiene products and are provided with materials for cleaning the cells;**
- **expand the prison laundry;**
- **review the quality and quantity of food provided to prisoners;**
- **improve the hygiene and equipment of the dining rooms, allow sufficient time for the taking of meals and ensure that meals are taken at normal meal times;**

- **ensure that the disinfection of the establishment's premises is carried out in an effective manner and at suitable intervals;**
- **carry out a rolling programme of refurbishment of the cells.**

102. As regards activities, each prisoner was subjected to a risk and needs assessment and sentenced inmates had an individual sentence plan drawn up and periodically reviewed by the officers in charge of educational and social work. That said, there was a shortage of purposeful activities for the majority of prisoners.

A positive point was that prisoners benefited from an *open-door regime* during the day, within the confines of their respective units, and had access to association rooms ("clubs") containing a table tennis table or body-building equipment.

103. At the time of the visit, only 63 prisoners (i.e. some 11% of inmates) in the closed prison had *work* which was provided in two workshops (furniture and mechanics), the kitchen and various duties related to the upkeep of the establishment. There was also seasonal work (production of shoes) in which up to 30 inmates could be involved. The proportion of working prisoners was said to be higher in the two prison hostels (50% at "Hebros" and 38% at "Smolyan").

The prison did not have a school but some *vocational training* (e.g. for boiler operators, cooks, computer courses) was organised, involving some 36 prisoners at the time of the visit. Further, literacy classes and courses for reintegrating the labour market were occasionally provided.

A number of prisoners interviewed complained of the lack of work and educational opportunities; some of them resented the fact that they were not in a position to earn remission of sentence through work or education. In this context, there were widespread claims of favouritism by staff in connection with the allocation of prisoners to work places.

104. Daily *outdoor exercise* of one hour was guaranteed and took place in two large exercise yards which included trees, areas of grass, benches and some basic sports equipment. There was a separate exercise yard for life-sentenced prisoners and other inmates under special regime.

*Recreational activities* included concerts, football matches, chess tournaments, and various interest groups (e.g. to produce a prison newspaper, to develop writing skills, etc.). The establishment had a gym, a library, a large hall for various celebrations and a chapel. An Orthodox priest attended regularly and representatives of other denominations paid occasional visits. Further, prisoners in most cells had TV sets, although the above-mentioned power cuts prevented them from availing themselves of one of the few distractions available.

105. **The CPT recommends that the Bulgarian authorities strive to further develop the programme of activities for prisoners – both sentenced and remand – in the closed part of Plovdiv Prison. In this context, vigorous efforts should be made to increase work opportunities and educational activities, and involve more prisoners in vocational training courses. As regards the allocation of work places to prisoners, it should follow a transparent procedure.**

ii. *Varna Prison*

106. Like Plovdiv Prison, Varna Prison is an establishment for adult men (on remand and sentenced), comprising a closed prison and two open-type prison hostels. The building of the closed prison was constructed in the late 1920s in what were at the time the outskirts of Varna and is now one of the residential areas of the city. With a capacity of 350 places, on the first day of the visit the closed prison was holding 528 prisoners, of whom 82 were on remand and the remainder were sentenced (including 18 life-sentenced prisoners).

The prison hostel “Varna”, adjacent to the closed prison, was built in 2000. When visited by the CPT’s delegation, it was accommodating 62 inmates. Prison hostel “Razdelna” (not visited by the delegation) was located some 30 km away from the main prison; built in 1981, it had a capacity of 136 places and was reportedly holding 206 prisoners.

107. In the closed prison, prisoner accommodation was provided in a cross-shaped building on three levels, with three of the wings containing a total of some 70 cells of varying sizes and the fourth wing being occupied by the medical centre, cinema hall and visiting rooms. Inmates were distributed into nine groups according to legal criteria and regime.<sup>26</sup>

The situation was marked by extreme overcrowding, which exacerbated the already problematic material conditions of an obsolete building constructed 80 years previously and had negative repercussions for all other aspects of life. In most cells, the space available per prisoner was at best around 2 m<sup>2</sup> and was on occasion little more than 1 m<sup>2</sup> per person.<sup>27</sup> The worst conditions were observed on the top level of the building (Groups 8 and 9). The cells were packed with two or three-tier bunk beds, the distance between the third level of the beds and the ceiling being only some 50 cm. In the larger cells, prisoners had hung blankets around the beds in order to create some privacy; as a result, the cells looked like a labyrinth of screened-off areas, which made control by staff difficult. Further, access to natural light and ventilation were problematic because of the overcrowding and the related effects.

Due to the lack of financing, no major refurbishment had been carried out for years, and the building was very dilapidated (walls damaged by dampness, broken floor surfaces, missing window panes, faulty electrical wiring). With the exception of a few cells (e.g. those accommodating working prisoners in Groups 1 and 2), the general hygiene was poor and prisoners complained about infestation with cockroaches and other vermin. Further, the state of the beds and bedding was far from adequate, and the delegation noted that a few prisoners had no mattress and bed linen.

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<sup>26</sup> On the ground floor, Group 1 (sentenced prisoners with health problems and working prisoners), Group 2 (sentenced working prisoners) and Group 3 (lifers and other prisoners under special regime). On the first floor, Group 4 (admission unit and prisoners on remand), and Groups 5 and 6 (remand prisoners). On the second floor, Groups 7, 8 and 9 (sentenced prisoners).

<sup>27</sup> For example, cell 67, which measured some 12 m<sup>2</sup>, was holding 12 prisoners; cell 55, measuring some 13 m<sup>2</sup> was accommodating 11 inmates; there were 30 prisoners in cell 58 which measured some 32 m<sup>2</sup>. In Group 1, cells measuring some 6 m<sup>2</sup> were holding three to four (in one case even five) prisoners.

108. One of the three accommodation wings, that holding Groups 2, 5 and 8, had had in-cell sanitation (a WC and sink) installed a few years previously. However, the partitioning - there was a only a low wall on one side of the WC - was clearly inadequate.

The remainder of the cells had no integral sanitation. During the day, prisoners could circulate around their units and access to a toilet was not a problem (each unit had a common sanitary facility). However, at night, low staffing levels resulted in failure to provide access to toilets, and prisoners relied on buckets inside their cells. Further, in the admission unit, prisoners were locked up in their cells and were reportedly taken out to the toilet only three times a day. It should also be noted that the common sanitary facilities were dilapidated, dirty and insufficient for the numbers held (e.g. in Group 1, there was one toilet and two sinks for some 60 inmates; in Group 7, two toilets and three sinks for some 100 prisoners).

109. Prisoners could take a shower once a week (and those who worked on a daily basis). The bathroom, located in the basement of the building, was dark and dilapidated (broken window panes, missing sprinklers, damaged walls and floor surfaces). As at Plovdiv Prison, there was no centralised provision of sanitary items other than soap.

The prison laundry had limited and obsolete equipment (two washing and two drying machines), and prisoners were obliged to wash and dry their clothes in the cells.

110. The accumulation of the above-mentioned negative factors (extreme overcrowding, problematic access to the toilet, unhygienic conditions) could easily lead to a situation amounting to inhuman and degrading treatment.

The Director of Varna Prison informed the delegation that a plot of land had been found for a new prison, but there were no plans to start construction due to the lack of funding. As previously mentioned, the new Law on the Implementation of Sentences and Preliminary Detention provides for a minimum of 4 m<sup>2</sup> of living space per prisoner, a standard which should start to apply from 2012. Given the present state of Varna Prison and the absence of plans for its refurbishment or extension, it is difficult to see how the Bulgarian authorities can comply with this standard by the deadline set.

**The CPT recommends that the Bulgarian authorities do everything within their powers in order to provide a lasting solution to the problem of overcrowding at Varna Prison and the other ensuing deficiencies. Given the state of dilapidation of the building, the replacement of Varna Prison should be considered as a priority. In the meantime, the Committee recommends that steps be taken at Varna Prison to:**

- **remove the third tier of the bunk beds;**
- **ensure that each prisoner has a mattress, blankets and bed linen;**
- **ensure that all prisoners have ready access to the toilet and to discontinue the use of buckets;**
- **improve the state of the common sanitary facilities;**



- **provide the in-cell toilets with a full partition;**
- **refurbish and enlarge the prison bathroom;**
- **increase the frequency of showers for inmates, in the light of Rule 19.4 of the European Prison Rules;**
- **ensure that all inmates have access to a range of basic hygiene products and are provided with materials for cleaning the cells;**
- **ensure that the disinfection of the establishment's premises is carried out in an effective manner and at suitable intervals.**

111. The delegation received many complaints about the poor quality and insufficient quantity of the food. Eggs, dairy products and fruit were rarely on the menu. Prisoners supplemented their diet through food parcels from their families and by buying foodstuffs from the prison shop. It is also striking that all products – including bread – were centrally supplied from Sofia (nearly 500 km away) on a daily basis.

Meals were served in a dining room situated in the basement of the building.

**The CPT recommends that steps be taken to review the quality and quantity of the food provided at Varna Prison.**

112. In contrast to the situation at the closed prison, the prison hostel “Varna” offered generally good material conditions. The building was modern (dating back to 2000) and in a good state of repair. Cells measuring some 15 m<sup>2</sup> were accommodating two inmates each. There was adequate access to natural light, artificial lighting and ventilation in the cells. Further, each cell had a fully-partitioned sanitary annexe, including a shower.

113. Turning to activities, during the day, the cell doors were unlocked and prisoners could move freely within the units. However, because of the shortage of organised activities, the majority of inmates in the closed part of Varna Prison spent their time in idleness.

The availability of *work* was very limited. In the closed prison, 93 inmates (i.e. 18% of all prisoners) were employed in the furniture and mechanical workshops and on general prison services. The proportion of working prisoners was higher in the prison hostel “Varna” (50%).

As regards *educational and vocational training* activities, at the time of the visit, 12 prisoners were enrolled in a five-month literacy course. Further, a course for boiler operators (involving 12 inmates from the closed prison) had recently been organised. Through a joint project with the public supervising commission of Varna Municipal Council, in June 2010 the prison had received three computers and prisoners were being trained to use the internet (5 at the closed prison, 12 at hostel “Varna” and 7 at hostel “Razdelna”).

*Pre-release assistance* included group work for preparation for life after release and meetings with the job centre and social assistance directorate in Varna.

114. The *outdoor exercise and sports* facilities were basic and not large enough for the number of prisoners held. Prisoners took their daily hour of outdoor exercise in a cement-covered area which had some fitness equipment (allegedly used only by prisoners linked to organised crime) and could become rather cramped with up to 100 inmates walking around at the same time. A second yard had a basketball hoop and two goal-posts and was being used according to a schedule, each group having two one-hour slots per week (except for lifers and prisoners in the admission unit). Further, there was a small indoor sports hall with a table tennis table.

As regards *other activities*, the prison had a library (with some 14,200 books) and a multi-functional hall. An attractive chapel had been set up, and the delegation was told that an Orthodox priest attended regularly the prison. However, Muslim prisoners (of whom there were many in the prison) complained that their religious needs were being neglected.

115. In the light of the above, **the CPT recommends that the management of Varna Prison steps up its efforts to develop activity programmes for inmates at the establishment, in particular as regards work, education and vocational training, taking account of the specific needs of different groups of the inmate population. Further, the outdoor exercise and sports facilities should be expanded.**

**The Committee also invites the Bulgarian authorities to ensure that all prisoners' religious needs are catered for.**

*iii. life-sentenced prisoners*

116. During previous visits, the CPT has paid close attention to the situation of life-sentenced prisoners. The 2010 visit provided an opportunity to review progress in this area.

At the outset of the visit, the CPT's delegation learned that the working group which was in the process of drafting a new Criminal Code had decided to propose that the sentence of "life imprisonment without the right to substitution" (i.e. without possibility of parole) be revoked. This is a welcome development which goes in the direction of the Committee's recommendations. The new Criminal Code was expected to be submitted to Parliament for adoption in 2011. **The CPT would like to receive confirmation that, following the adoption of the new Criminal Code, conditional release (parole) has been made available to all life-sentenced prisoners, subject to a review of the threat to society posed by them on the basis of an individual risk assessment.**

117. At the time of the visit, *Plovdiv Prison* was holding nine life-sentenced prisoners, three of whom had been sentenced to life imprisonment without possibility of parole. All life-sentenced prisoners were being accommodated in a special unit with reinforced security. The delegation was told that three of them had had their regime changed by the competent court from "special" to "strict". Preparations were underway to integrate these prisoners into the mainstream prison population (one of them had already spent a short period of time in an ordinary group).

Lifers were being held one to a cell (measuring some 7 m<sup>2</sup>). The cells and their furniture were in an advanced state of dilapidation. Further, there was no integral sanitation in the cells and access to the communal toilet was limited to three times a day; during the rest of the time and especially at night, prisoners resorted to buckets in their cells to comply with the needs of nature. The sanitary facilities were in a dilapidated state and unhygienic.

As regards activities, lifers could spend up to 3.5 hours a day outside their cells associating with other prisoners in the unit, participating in hobby groups, playing chess or engaging in sports. Outdoor exercise of one hour per day was taken in a small yard attached to the special unit (see paragraph 104). Lifers were also offered the possibility to periodically participate in group cultural and sports activities. All of them had a TV set in their cells (but three of the TV sets were broken) and there was access to cable television, as well as a continuous electricity supply. However, none of the lifers had work (though two of the lifers worked as cleaners on a voluntary basis).

118. There were 18 life-sentenced inmates at *Varna Prison* at the time of the visit, including six without the right to parole. Five of the lifers had been integrated in the mainstream prison population, while the rest were being held in a separate high-security area (Group 3 on the ground floor) which also contained the disciplinary isolation cells.

Lifers were accommodated in multiple-occupancy cells (e.g. 5 prisoners in a cell measuring some 20 m<sup>2</sup>). Like the rest of the prisoner accommodation at Varna Prison, the cells were dilapidated and unhygienic. Access to natural light was very limited and the artificial lighting had to be constantly on during the day in order for prisoners to be able to read. Similar to Plovdiv Prison, access to the communal toilet was limited to three times a day.

The activities offered to lifers consisted of occasional individual and group work (e.g. anger management) and English classes (twice a week) which took place in the unit's dining room. Outdoor exercise, lasting one hour a day, took place in a small courtyard topped with a net. Further, a tennis table had been installed in the corridor of the lifers' unit and could be used for half an hour twice a week. As at Plovdiv Prison, none of the lifers had work. In-cell activities included watching TV and reading books from the library.

119. The CPT has already stressed in its reports on the visits in 2006 and 2008, that, whereas initial segregation of a person starting a life sentence might be deemed appropriate on the basis of individual risk assessment in a specific case, persons serving a life sentence should not be subject to a systematic policy of segregation. At present, the formal criteria for changing the regime of a lifer is to have served at least five years under special regime (not counting the period on remand), to have good behaviour and to formally apply for the change of regime.<sup>28</sup> However, in practice, only a minority of lifers have been moved to the mainstream. **The Committee recommends that the Bulgarian authorities review the legal provisions in order to ensure that the segregation of lifers is based on an individual risk assessment and is applied for no longer than strictly necessary. Meanwhile, the CPT urges the Bulgarian authorities to strive to increase the number of life-sentenced prisoners integrated into the general prisoner population.**

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Pursuant to Section 198 (1) of the Law on the Implementation of Sentences and Preliminary Detention.

120. Concerning material conditions in the special units for lifers, the Committee recommends that steps be taken to:

- improve access to natural light in the cells at Varna Prison;
- ensure that life-sentenced prisoners at both prisons have ready access to the toilet and to discontinue the use of buckets;
- refurbish the lifers' cells and improve the state of the common sanitary facilities at both Plovdiv and Varna Prisons;
- ensure that all inmates have access to a range of basic hygiene products and are provided with materials for cleaning the cells.

As regards those life-sentenced prisoners currently held in special units, the CPT recommends that the Bulgarian authorities continue to develop their regime of activities, in particular by providing more communal activities (including access to work and education).

d. health-care services

i. *health-care services in Plovdiv and Varna Prisons*

121. Despite the goodwill and commitment of health-care staff at the prisons visited, the provision of health care to prisoners remained problematic, due to the serious shortage of staff and resources. The delegation heard a number of complaints from prisoners at both Plovdiv and Varna Prisons concerning delayed or difficult access to a doctor, inadequate quality of care (in particular dental care), problematic access to outside specialists and delays in transfer to outside hospitals.

*Plovdiv Prison* employed a head doctor, a dentist and a feldsher, all working full time. The post of a psychiatrist had been vacant since the end of 2008. The management had concluded contracts with two outside medical consultants, a psychiatrist and a specialist in internal diseases and endocrinology, who held periodic surgeries. Further, the prison employed two psychologists who interviewed all newly arrived prisoners.

At *Varna Prison*, the health-care staff team comprised a psychiatrist and a feldsher. The impossibility to replace the head doctor who was on prolonged sick leave placed an overwhelming burden on the psychiatrist and the feldsher. As a stop-gap solution, the doctor from the nearby hostel "Razdelna" periodically visited the prison (i.e. four to five times a month). The post of a dentist was vacant. As at Plovdiv Prison, there were two psychologists.

No qualified health-care staff were present at night or during weekends at either prison.

122. In view of the above, the CPT recommends that urgent steps be taken at Plovdiv and Varna Prisons to:

- considerably reinforce the health-care teams. As a first step, the vacant posts should be filled, which will require providing working conditions that are sufficiently attractive to recruit and retain staff. Further, given the current inmate population, both prisons should have an additional doctor's post and several nurses' posts should be created at each establishment;
- review the provision of dental care to inmates;
- ensure that prisoners in need of diagnostic examination and/or hospital treatment are promptly transferred to appropriate medical facilities.

123. In both prisons, the delegation met prisoners working as orderlies in the health-care unit. Although in principle their tasks were limited to cleaning the unit, there were indications that prisoner-orderlies were involved in the performance of certain medical tasks (e.g. distribution of medication). The CPT wishes to stress that prisons should not have to rely on prisoners, even if they have medical qualifications, for the provision of health care to inmates. Prisoners should not be involved in the performance of health-care tasks and under no circumstances should they be tasked with the distribution of medicines. **The Committee recommends that the position of prisoners employed in health-care units as orderlies be reviewed, in the light of these remarks.**

124. At both Plovdiv and Varna Prisons, there was clearly a shortage of medication and a number of prisoners complained that they depended on their families for the acquisition of most of the necessary medication. **The CPT recommends that steps be taken to ensure the supply of appropriate medication in sufficient quantities to all prison establishments.**

125. Medical examination on admission took place, as a rule, on the day of arrival or the following day.

However, medical record keeping was poor and often lacked detail, including in relation to traumatic injuries which may have resulted from ill-treatment. All prisoners had individual medical files; however, the information contained in them was far from being comprehensive. Moreover, neither prison had a dedicated register for recording injuries observed on prisoners. **The CPT recommends that steps be taken to improve the medical record-keeping at Plovdiv and Varna Prisons.**

126. At Plovdiv Prison, the confidentiality of medical examinations was not respected, a prison officer being systematically present in the room where medical examinations took place. In contrast, at Varna Prison, contacts between health-care staff and prisoners reportedly rarely took place in the presence of custodial staff. **The CPT calls upon the Bulgarian authorities to implement its long-standing recommendation that all medical examinations be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical staff.**

127. The presence in Bulgarian prisons of a growing proportion of inmates with drug-related problems is a major challenge for the prison authorities. At Plovdiv Prison, the delegation was informed that an NGO organised a programme for prisoners suffering from drug addiction (group work of two hours twice a week, during six months); 37 inmates had followed this programme in 2009 and 18 were involved in it at the time of the visit. At Varna Prison, a short-term (45 days) and a three-month programmes were apparently on offer but, due to the shortage of staff, no action (other than traditional prison security) was being taken to assist prisoners with drug-related problems at the time of the visit.

**The CPT reiterates its recommendation that the Bulgarian authorities develop a comprehensive policy for the provision of care to prisoners with drug-related problems, combining medical detoxification, psychological support, life skills, rehabilitation, substitution programmes and a prevention policy.**

*ii. Lovech Prison Hospital*

128. The CPT is pleased to note that, after many years of construction, the new building of Lovech Prison Hospital was eventually made operational in 2005, housing psychiatry and tuberculosis units. The follow-up visit to the hospital mainly focused on the situation of psychiatric patients. A brief visit was also paid to the TB unit (see paragraph 137).

129. The hospital's *psychiatric unit* was accommodating 41 patients (including three women) at the time of the visit, for a capacity of 70 beds<sup>29</sup>. The patient population consisted of sentenced and remand prisoners from all over the country who were in need of mental health care, including those with drug dependency, as well as persons admitted for a psychiatric assessment in the context of criminal proceedings. The average length of stay was said to be a few months.

130. Living conditions in the psychiatric unit were far better than those found in the old hospital during previous CPT visits<sup>30</sup>. Most of the patients' rooms contained four to six beds, providing at least 4.5 m<sup>2</sup> of living space per person. Further, the rooms had good access to natural light and adequate artificial lighting and ventilation. Patients were allowed to keep a range of personal items (including television sets and radios) and to decorate their rooms with posters. More generally, the overall state of hygiene and cleanliness in the psychiatric unit (including sanitary facilities) was satisfactory.

However, the building was already displaying signs of dilapidation, including dampness on the walls. Further, the furniture in the patients' rooms was often decrepit.

As regards food, many patients complained that their meals were insufficient in quantity and that cooked meals were served cold; this was confirmed by the delegation's own observations.

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<sup>29</sup> The beds were spread over two floors. The third floor, which was not operational at the time of the visit, contained an additional 20 beds.

<sup>30</sup> The psychiatric unit of Lovech Prison Hospital had previously been visited by the CPT in 1995 and 1999 (see, respectively, CPT/Inf (97) 1 and CPT/Inf (2002) 1).

Patients were allowed to take a shower twice a week. Further, bed linen was provided by the hospital and washed every week in the establishment's laundry. However, personal hygiene products (except for soap) as well as cleaning materials had to be purchased by the patients themselves. Moreover, it is a matter of serious concern that patients were not allowed to go to the toilet at night, having to use buckets in their locked rooms.

**131. The CPT recommends that steps be taken in the psychiatric unit of Lovech Prison Hospital to ensure that:**

- **patients have ready access to a toilet at any time of the day or night;**
- **regular maintenance works are carried out;**
- **patients' rooms are properly furnished;**
- **the quantity of food provided to patients is increased and that cooked meals are served at an appropriate temperature;**
- **all patients have access to a range of basic hygiene products and are provided with materials for cleaning the cells.**

132. The delegation noted that most psychiatric patients were obliged to wear pyjamas throughout the day. **The CPT would like to stress once again that such a practice is not conducive to strengthening a sense of personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process.**

133. The psychiatric treatment continued to be based almost exclusively on pharmacotherapy. There were no problems with the supply of psychiatric medication and new-generation neuroleptics were available. As for psychosocial rehabilitative programmes, they remained virtually non-existent and there were no individual written treatment plans for patients. Further, no organised activities were available for patients and, as a consequence, they spent most of the time in their rooms or the canteen, watching television or playing board games.

**The CPT recommends that steps be taken at Lovech Prison Hospital to engage psychiatric patients in a range of psychosocial therapeutic activities adapted to their individual needs; this will require, *inter alia*, the recruitment of more staff qualified to provide such activities (see paragraph 135). The Committee also recommends that an individual treatment plan be drawn up for each psychiatric patient at Lovech Prison Hospital, defining the goals of the treatment, the therapeutic means used and the staff member responsible. Patients should be involved in the drafting of their individual written treatment plans and the evaluation of their progress.**

Patients were offered daily outdoor exercise of one hour, which took place in an exercise yard with no shelter against inclement weather. **The CPT recommends that this failing be remedied.**

134. Particular mention should be made of the situation of a psychiatric patient who was serving a life sentence and had been held in the hospital for about a year. The delegation was concerned to note that the patient concerned was locked up alone in his room<sup>31</sup> for 23 hours per day, had no contact with other patients (except for when another lifer was accommodated with him) and had minimum contact with staff. **The Committee recommends that steps be taken to ensure that the patient in question is provided with appropriate human contact.**

It should also be noted that the patient in question was routinely handcuffed when taken out of his cell, including during outdoor exercise. **The CPT would like to know whether the handcuffing of the patient concerned is based on an individual risk assessment. In this context, the Committee wishes to stress that the practice of routinely handcuffing prisoners when outside their cells is highly questionable, all the more so when it is applied in an already secure environment.** In the CPT's opinion, there can be no justification for handcuffing a prisoner exercising alone in a secure yard, provided there is proper staff supervision.

135. As regards health-care staff resources, the unit employed three psychiatrists, three feldshers and five nurses; this is clearly an inadequate number of nursing staff for so many patients. Staff qualified to offer psychosocial therapeutic activities – essentially a social worker<sup>32</sup> and a part-time psychologist, the latter's permanent duty station being Lovech Prison – were also in short supply. A number of prison officers (including two female officers) assigned to the unit completed the staff complement.

The delegation was particularly concerned to learn that there was only one feldsher and one prison officer present in the psychiatric unit during the night shift (i.e. from 7 p.m. till 7 a.m.). Further, female staff were not systematically present during the night shift<sup>33</sup>.

**The CPT recommends that the nursing staff resources at the psychiatric unit of Lovech Prison Hospital be significantly increased in the light of the above remarks.**

136. As regards the use of means of restraint, the delegation was told that seclusion was not practised and there had been no resort to mechanical restraint over the past two years. That said, the delegation was concerned to learn that agitated patients might on occasion be handcuffed by custodial staff to a bed (and sedated by health-care staff). The CPT considers that the use of handcuffs is not an appropriate way of dealing with agitated psychiatric patients. Any measures of mechanical restraint must involve the use of appropriately designed restraint equipment which is properly applied by suitably trained staff, must be monitored and recorded, and must be carried out in such a way as to maintain the dignity and safety of the patient. **The CPT recommends that a clearly-defined policy be drawn up on the use of means of mechanical restraint at Lovech Prison Hospital, in the light of the provisions of Ordinance No. 1 of 28 June 2005 on "Temporary physical restraining of patients with established psychiatric disorders" (see paragraph 173) and taking into account the above remarks.**

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<sup>31</sup> A double-occupancy room measuring some 17 m<sup>2</sup>, including a partitioned sanitary annexe with a shower and toilet.

<sup>32</sup> Who also worked in the TB unit.

<sup>33</sup> The two female prison officers only worked on day shifts (i.e. from 7 a.m. to 7 p.m.).



137. The *TB unit* was accommodating 17 patients (all adult males) at the time of the visit, for an official capacity of 100 beds. The patients' living conditions were generally satisfactory (spacious, well lit and ventilated rooms). The treatment provided was based on the DOTS (Directly Observed Treatment Short-course) programme. Further, the facility had adequate health-care staffing levels and proper medical equipment.

However, the delegation observed that custodial staff working in the unit were carrying truncheons in full view of patients. **In this context, reference is made to the recommendation in paragraph 90.**

e. other issues related to the CPT's mandate

i. *prison staff*

138. As already noted in paragraph 85, the prison staffing complements at Plovdiv and Varna Prisons were insufficient and this deficiently was exacerbated by the fact that, at both establishments, there were a number of vacant posts. At Plovdiv, 11 out of 98 custodial staff posts were unfilled, as well as one post of a chief custodial officer and two posts of staff in charge of social and educational work. At Varna, there were five vacant custodial staff posts (out of a complement of 86), as well as two posts of heads of sector, two posts of group commanders, two posts of staff in charge of social and educational work and one post of a chief custodial officer. Not surprisingly, the delegation observed that the number of staff working in the prisoner accommodation areas was generally low (e.g. at Plovdiv Prison, there were 18 custodial staff and two officers on each 24-hour shift, for a prisoner population of 619).

The negative consequences of low staffing levels have already been highlighted in paragraph 85 and those consequences were very much in evidence at both Plovdiv and Varna Prisons. Further, as previously stressed by the CPT, the shift pattern requiring some staff to work for 24 hours at a time negatively affects professional standards. **The CPT recommends that the Bulgarian authorities take urgent steps to increase staffing levels in prisoner accommodation areas at Plovdiv and Varna Prisons, in the light of the preceding remarks.**

**The Committee also invites the Bulgarian authorities to review the 24-hour shift system for custodial staff.** Clearly no one can perform in a satisfactory manner the complex tasks expected nowadays of a prison officer for an unbroken period of this length.

ii. *contact with the outside world*

139. The visit entitlement of both remand and sentenced prisoners is at least two visits per month. Further, as a form of reward, sentenced prisoners may be allowed prolonged visits of up to four hours, as well as meetings with family members outside the prison (lasting up to 12 hours) and home leave of up to five days. **The CPT recommends that the Bulgarian authorities to increase the visit entitlement for all prisoners to at least one visit per week.**

140. The arrangements in the visit facilities at Plovdiv and Varna Prisons and Lovech Prison Hospital did not allow physical contact between prisoners and their relatives. The CPT accepts that in certain cases it may be justified, for security-related reasons or to protect the legitimate interests of an investigation, to prevent physical contact between prisoners and their relatives. However, open visits should be the rule and closed visits the exception. **The Committee recommends that the visiting arrangements at Plovdiv and Varna Prisons and Lovech Prison Hospital be reviewed so as to allow prisoners to receive visits under less restrictive conditions; resort to visits under closed conditions should be based on an individual risk assessment.**

At both Plovdiv and Varna Prisons, a room had been set up for visits lasting up to four hours, offering adequate conditions. That said, these rooms appeared to be used rather infrequently.

141. Prisoners at the establishments visited had unlimited access to a telephone and a number of card-operated telephones had been installed in the corridors and/or exercise yards. However, as noted in paragraph 80 concerning IDFs, many prisoners complained that the price of telephone calls had considerably increased following the signing of a contract between the Ministry of Justice and a telephone provider for the whole system of deprivation of liberty. **In this respect, reference is made to the recommendation in paragraph 80.**

*iii. discipline and segregation*

142. The disciplinary procedure provided for in the new Law on the Implementation of Sentences and Preliminary Detention can be described as on the whole satisfactory. Prisoners are granted an oral hearing before the imposition of a disciplinary sanction, may call witnesses and are informed of their right to appeal the disciplinary decision, as well as being given a copy of the disciplinary order. As regards in particular decisions for placement in a disciplinary cell, they can be appealed against to the district court, which should consider the case in the presence of the prisoner concerned and/or his lawyer.

The law provides for placement in a disciplinary cell for a maximum of 14 days. If a prisoner has two or more punishments of disciplinary isolation, the total period of placement in a punishment cell can be prolonged to 20 days.

143. Pursuant to the Law on the Implementation of Sentences and Preliminary Detention, inmates placed in a disciplinary cell are automatically deprived of visits. Further, although the law does not specifically prohibit telephone calls or letters during placement in a disciplinary cell, in practice, inmates placed in such cells also had no access to a telephone or paper to write letters. The present situation is not compatible with the European Prison Rules<sup>34</sup>. **The CPT recommends that the Bulgarian authorities take steps to ensure that the placement of prisoners in disciplinary cells does not include a total prohibition on family contacts. Moreover, any restrictions on family contacts as a form of punishment should be used only where the offence relates to such contacts.**

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<sup>34</sup> See Rule 60 (4) of the European Prison Rules.

144. At *Plovdiv Prison*, the disciplinary punishment cells were extremely small (some 3 m<sup>2</sup>), which made them totally unsuited for use as inmate accommodation. Further, inmates placed there had to resort to a bucket to comply with the needs of nature because access to the toilet was allowed only three times a day. As mentioned in paragraph 8, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention and requested the Bulgarian authorities to take out of service the disciplinary cells at Plovdiv Prison and to ensure that prisoners placed in disciplinary segregation have ready access to a proper toilet facility. In their letter of 21 January 2011, the Bulgarian authorities informed the CPT that steps had been taken to transform the former eight disciplinary cells into four larger cells. The disciplinary unit had been thoroughly refurbished, including the fitting of the cells with ventilation and sanitation (toilet and sink). The works had been completed on 9 December 2010. The CPT welcomes the prompt action taken by the management of Plovdiv Prison.

145. There were two disciplinary cells at *Varna Prison*, measuring some 6 m<sup>2</sup> and equipped with a bunk bed and a bucket occasionally used by prisoners to comply with the needs of nature (as at Plovdiv, access to the communal toilet was allowed only three times a day). The cells were very dilapidated and dirty. Further, one of the inmates held in a disciplinary cell did not have a mattress.

**The CPT recommends that immediate steps be taken at Varna Prison to:**

- **refurbish the two disciplinary cells and ensure that each of them never accommodates more than one prisoner;**
- **provide each prisoner placed in a disciplinary cell with a mattress and blankets;**
- **ensure that prisoners placed in disciplinary cells have ready access to a toilet.**

146. At both prisons, inmates undergoing disciplinary isolation could take one hour of outdoor exercise on a daily basis. Further, they were given the possibility to read newspapers and books. Access to the shower room was similar to that of other prisoners (i.e. once a week).

147. Plovdiv and Varna Prisons each had an isolation cell for prisoners segregated for administrative reasons which was located next to the disciplinary punishment cells. The isolation cell at Plovdiv Prison measured some 7 m<sup>2</sup> and was accommodating three prisoners at the time of the visit; such an occupancy level is not acceptable. As for the one at Varna Prison, its very small size (some 4 m<sup>2</sup>) rendered it unfit for use as inmate accommodation; further, the cell was dilapidated and dirty.

Prisoners placed in these cells were held under a very restrictive regime, sometimes for prolonged periods of time (e.g. over one year at Plovdiv Prison). The delegation was informed that segregation in an isolation cell was made upon decision by the prison's director and could be appealed against in court. However, it appeared from interviews with prisoners placed in isolation cells that they had not seen any documentation on the subject and were not aware of the procedure applied.

The CPT recommends that the 4 m<sup>2</sup> isolation cell at Varna Prison be immediately taken out of service until such time as it is enlarged and renovated; concerning its size, the cell should measure at least 6 m<sup>2</sup>. As regards the isolation cell at Plovdiv Prison, it should never be used to accommodate more than two prisoners.

Further, the Committee recommends that the Bulgarian authorities take steps to ensure that:

- a prisoner who is segregated for administrative reasons is informed in writing of the reasons for that measure and, if necessary, its renewal (it being understood that the reasons given could exclude information which security requirements reasonably justify withholding from the prisoner); this will, *inter alia*, enable the prisoner to make effective use of avenues for challenging that measure;
- a prisoner in respect of whom such a measure is envisaged is given an opportunity to express his views on the matter;
- the placement of a prisoner in an isolation cell is as short as possible and is reviewed by a higher authority at least once every three months;
- prisoners segregated for administrative reasons are ensured appropriate human contact with staff and/or other inmates.

148. Pursuant to Section 248 (1) of the Law on the Implementation of Sentences and Preliminary Detention, remand prisoners prosecuted for crimes which are punishable by imprisonment of over 15 years or for life should be held in constantly locked cells, without the right to participate in group activities. Such a generalisation is unacceptable. In this context, the CPT wishes to recall that the management of life-sentenced and other long term prisoners should proceed from individual risk and needs assessment to allow decisions concerning security, including the degree of contact with others, to be made on a case-by-case basis. **The Committee recommends that the Bulgarian authorities review the legal provisions in the light of these remarks.**

*iv. complaints and inspection procedures*

149. Prisoners had the possibility to submit complaints to outside bodies, including by means of locked complaints boxes. At Plovdiv Prison, separate records were being kept of prisoners' correspondence sent out in closed envelopes (there had been 104 such letters since the beginning of 2010) and complaints/requests submitted in an open form (613 so far in 2010).

That said, many prisoners interviewed by the delegation expressed scepticism about the operation of the complaints procedure. It was claimed that staff responsible for collecting prisoners' correspondence withheld complaints or threatened inmates with reprisals in order to prevent them from complaining to an outside authority. In addition, some allegations were received that complaints sent to competent outside bodies were not responded to.

**The CPT recommends that the Bulgarian authorities take further steps to ensure that the right of prisoners to lodge confidential complaints and to receive replies to them in due time is fully respected, by guaranteeing in practice that complainants will be free from reprisals.**

150. As regards inspections, in addition to visits by supervising prosecutors (both planned and ad hoc, including at the request of prisoners), the Law on the Implementation of Sentences and Preliminary Detention strengthens the role of public oversight by the Ombudsman and the municipal monitoring commissions. Under the new provisions, the mandate of these commissions is expanded to include public control on the activities of penitentiary facilities. At Varna Prison, the delegation was informed that there had been frequent visits by the local municipal commission. Further, both Plovdiv and Varna Prisons were receiving visits by the Bulgarian Helsinki Committee.

v. *police officers carrying out investigative activities inside prisons*

151. At Varna Prison, the delegation noted the presence of two police officers subordinated to the General Directorate of the Criminal Police (Operative Service for Penitentiary Establishments). The main task of these officers was to investigate criminal offences committed by inmates (both while in the prison and prior to imprisonment) and to prevent crimes inside and outside the prison. For the purpose, they had access to the detention areas at any time and could interview inmates without any restrictions. Further, it would appear that these police officers could offer prisoners rewards for the provision of information (e.g. allocation to a better cell, home leave).

The above-described situation is of serious concern to the CPT given the potential it contains for abuse. The presence in a prison of a person with free access to all prisoners who is not accountable to the prison authorities can be detrimental to the safeguarding of inmates' rights. It is also arguably contrary to Rule 84.3 of the new European Prison Rules, according to which the prison administration must ensure that every institution is at all times in the full charge of the director, the deputy director or other authorised official. If it is necessary for police officers to interview prisoners within a prison in the context of the investigation of criminal offences, this should be surrounded by appropriate safeguards. In particular, any such interviews should be subject to prior authorisation by the competent judicial authorities and the police officers' access to the prisoners concerned should take place under the control of the prison management. This might involve the presence of a representative of the prison management whenever police officers interview prisoners. Furthermore, the right of the prisoner concerned to have access to a lawyer should be guaranteed.

**The CPT recommends that the Bulgarian authorities review the presence of police officers in prisons in order to ensure that the above-mentioned precepts are complied with.**

## C. Establishments under the authority of the Ministry of Health

### 1. Preliminary remarks

152. The CPT's delegation visited Karvuna State Psychiatric Hospital for the first time. Further, it paid a follow-up visit to the closed forensic ward at Lovech State Psychiatric Hospital, with a view to assessing the changes made since the Committee's previous visits in 1995 and 1999<sup>35</sup>.

153. Karvuna State Psychiatric Hospital is located on extensive, forested grounds surrounded by a perimeter fence, in an isolated area some 50 kilometres north of Varna. It was opened in 1970 and has the only unit for psychiatric patients suffering from tuberculosis in the country. With an official capacity of 130 beds, at the time of the visit, the hospital was accommodating 95 patients (including 23 women). Among them, 79 were involuntary civil patients and four were deprived of their legal capacity and had been placed in the hospital by their court-appointed guardians. A further 12 had been declared by a court to be not criminally responsible for their acts pursuant to Section 89 (b) of the Criminal Code, which provides for the compulsory medical treatment of such persons in a psycho-neurological establishment. Some 80% of patients suffered from chronic psychosis. There was a significant turnover of patients, with some 250 new admissions per year. The delegation was told that the average length of hospitalisation of civil patients was two to three months. As for forensic patients, they stayed considerably longer, sometimes two to three years.

154. The principal features of the forensic ward at Lovech State Psychiatric Hospital were described in the report on the CPT's 1995 visit. The capacity of the ward had been reduced to 40 beds and it was accommodating 30 patients at the time of the visit. All of them were male adults who had been found to be not criminally responsible by the court and ordered to undergo compulsory medical treatment in a special ward of a psycho-neurological establishment (under Section 89 (c) of the Criminal Code). In this connection, the delegation was informed that since 2003 the forensic ward had stopped admitting patients for the purpose of psychiatric examination in the context of criminal proceedings. The overwhelming majority of the patients were diagnosed as suffering from schizophrenia; the average length of stay in the ward was said to be between three and five years.

### 2. Ill-treatment

155. The delegation received no allegations of deliberate physical ill-treatment of patients by staff at *Karvuna State Psychiatric Hospital*, and gathered no other evidence of such treatment. On the contrary, relations between staff and patients appeared to be generally relaxed.

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<sup>35</sup> See, respectively, CPT/Inf (97) 1 and CPT/Inf (2002) 1.

156. However, at the *forensic ward at Lovech State Psychiatric Hospital*, several allegations were received of physical ill-treatment of patients by certain orderlies, mainly consisting of slaps and punches, but also occasionally of blows administered with a wooden stick. In one case, a medical member of the delegation observed injuries which were consistent with an allegation made by a patient that he had been struck on the leg with a wooden stick. A stick closely matching the description given by the patient concerned was found in a cupboard in the orderlies' room.

Some allegations were also received of rude behaviour and the use of insulting language, mostly by orderlies and occasionally by private security guards employed on the forensic ward (see paragraph 165). The delegation noted that the latter had access to truncheons, handcuffs and pepper spray, although such equipment was apparently not carried on the ward.

When presented with the delegation's findings at the end of the visit, the hospital's director undertook to take immediate action. According to the information provided by the Bulgarian authorities in their letter of 21 January 2011, the orderly implicated in the alleged beatings with a stick had been dismissed and one security guard had been subjected to the disciplinary sanction of "warning before dismissal". The CPT welcomes the resolute action taken; **it wishes to be informed if criminal proceedings had been initiated against the above-mentioned orderly.**

**The Committee recommends that staff of the forensic ward at Lovech State Psychiatric Hospital be regularly reminded that all forms of ill-treatment of patients, including verbal abuse, are unacceptable and will be the subject of severe sanctions.**

157. It was also indicated in the above-mentioned letter of the Bulgarian authorities that "[...] Article 20 of the Instruction on the organization of the control and admission regime and the guarding activity in the area of the buildings of State Psychiatric Hospital and the Male Forensic Ward in the town of Lovech [...] concerning the use of special means (handcuffs, rubber and plastic sticks, etc.) was brought again to the attention of the ward guard staff with a view to preventing the use of such means in contravention of the provisions laid down in the Instruction." **The CPT would like to receive a copy of this instruction.**

158. In both establishments visited, patients and staff indicated that instances of inter-patient violence occasionally occurred, sometimes resulting in significant injuries. At Karvuna, the delegation itself witnessed a fight between patients, and saw recent injuries on two patients sustained as a result of a recent altercation between them.

Inter-patient violence at the hospitals visited often stemmed from an insufficient staff presence within the wards, as well as from a lack of alternative therapeutic approaches (see paragraphs 165 and 169). The Committee must stress in this regard that the duty of care which is owed by staff in a psychiatric establishment to those in their charge includes the responsibility to protect them from other patients who might cause them harm. This requires not only adequate staff presence and supervision at all times, including at night and weekends, but also for staff to be properly trained in handling challenging situations/behaviour by patients.

**The CPT recommends that the Bulgarian authorities take appropriate measures to combat the phenomenon of inter-patient violence at Karvuna Hospital and the forensic ward at Lovech Hospital, in the light of the above remarks.**

### 3. Patients' living conditions

159. During its follow-up visit to the *forensic ward at Lovech State Psychiatric Hospital*, the delegation was pleased to note that the material conditions in the ward had significantly improved, following an extensive refurbishment carried out in 2009<sup>36</sup>. The patients' rooms were well lit and ventilated and had been fitted with new beds, mattresses and bedside lockers. Further, although the living space per patient in most of the rooms was slightly below 4 m<sup>2</sup>,<sup>37</sup> patients were allowed to move freely throughout the ward at all times and had access, for most of the day, to a canteen (where they could watch television).

That said, the rooms were impersonal and lacked decoration; **more effort should be made to personalise the living environment for patients.**

160. The bulk of patient accommodation at *Karvuna State Psychiatric Hospital* was provided in a three-storey building, housing – from the ground to the top floor – a male ward, a female ward and a male acute ward<sup>38</sup>. The unit for psychiatric patients suffering from tuberculosis was situated in a separate single-storey building.

It was obvious that the main accommodation building had not benefited from refurbishment for many years and was in an advanced state of dilapidation. The patients' rooms were equipped with old furniture (beds and cupboards) and decrepit bedding; the absence of other pieces of furniture, such as tables and chairs or decoration in most rooms, created an impersonal atmosphere. Further, some of the rooms in the male acute ward offered cramped conditions (e.g. five beds on 16 m<sup>2</sup>, eight beds on 22 m<sup>2</sup>). However, patients benefited from an open-door regime within their respective wards throughout the day and night.

That said, the patient accommodation areas, including communal sanitary facilities, were kept in an acceptable state of hygiene and cleanliness. Further, the patients' rooms had large windows providing ample light.

161. The TB unit offered more or less the same living conditions as the main building, except that it was operating well below its official capacity<sup>39</sup>. The delegation noted that ultraviolet lights designed to reduce the spread of the infection were mounted on the walls of the unit's corridor but not in the patients' rooms and were insufficient in number.

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<sup>36</sup> The refurbishment had involved the replacement of the sewage and plumbing systems, floors, doors, window frames, sanitary equipment, etc.

<sup>37</sup> Rooms with four beds measured some 15 m<sup>2</sup>, and rooms with six beds some 22 m<sup>2</sup>.

<sup>38</sup> They were accommodating respectively 35, 22, and 31 patients at the time of the visit.

<sup>39</sup> At the time of the visit, it was accommodating seven patients for a capacity of 30.



162. **The CPT recommends that steps be taken at Karvuna State Psychiatric Hospital to:**

- **thoroughly refurbish all patient accommodation areas, including communal sanitary facilities;**
- **offer more congenial and personalised surroundings for patients (in particular by providing them with personal lockable space);**
- **reduce occupancy levels in the rooms on the male acute ward.**

As regards more particularly the TB unit, **steps should be taken to install additional ultraviolet lights.**

163. The delegation heard many complaints from patients at Karvuna Hospital about the poor quality and insufficient quantity of the food provided (meat only once a week; no fresh fruit or vegetables). Similar complaints were received from patients at the forensic ward at Lovech Hospital. In this regard, the management of both establishments indicated that the daily food allowance per patient was too small<sup>40</sup> to ensure that patients received proper nutrition.

**The CPT recommends that the Bulgarian authorities take resolute action to improve the provision of food to patients at both establishments, in order to ensure that it is adequate in terms of both quantity and quality.**

164. As a general rule, patients were entitled to one shower per week at Karvuna Hospital<sup>41</sup>. At Lovech, the delegation heard complaints from some forensic patients that, although in principle they were allowed to take a shower three times per week, hot water was in fact only available for about half an hour each time, with the result that each patient was not able to take more than one shower per week.

In the CPT's view, this frequency is not sufficient in a hospital context. **The Committee recommends that steps be taken in both establishments to enable patients to take more frequent showers.**

#### **4. Staff and treatment**

165. In both establishments visited, staff were attempting to provide care and treatment to patients with limited human resources.

*Karvuna Hospital* employed four psychiatrists (one of whom was the hospital director), two trainee psychiatrists, a pulmonary specialist (head of the TB unit), a pharmacist, 27 nurses and 12 orderlies. Three psychiatrists' posts were vacant at the time of the visit. Other staff qualified to provide rehabilitative and therapeutic activities were a psychologist, a social worker and an occupational therapist. Such staff resources are clearly insufficient for a psychiatric hospital holding up to 100 patients with a significant turnover.

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<sup>40</sup> 1.5 BGN (i.e. some 0.75 Euro) at Lovech and 2 BGN (i.e. some 1 Euro) at Karvuna.

<sup>41</sup> Some female patients told the delegation that they were allowed to take two showers per week during the summer months.

*The forensic ward at Lovech Hospital* employed two psychiatrists, eight nurses and seven orderlies. Further, security staff from a private company were contracted to ensure the general security of the premises. The hospital had a small team of psychologists, occupational therapists and social workers based in the rehabilitation centre, but to which the majority of the patients of the forensic ward had no access (see paragraph 169).

166. The delegation was particularly concerned by the low numbers of ward-based staff (i.e. nurses and orderlies) in both establishments.

At Karvuna, each ward was staffed by one or two nurses and one orderly during the day shift, which ended at 7 p.m. Thereafter until the next morning, only one nurse was present on each ward<sup>42</sup>. At Lovech, for most afternoons as well as at nights and weekends, the forensic ward had a complement of only one nurse, one orderly and one security guard, who had to supervise and address the clinical needs of 30 of the most serious forensic psychiatric patients in Bulgaria.

In the CPT's view, such low staffing levels (especially as regards nurses) are clearly insufficient to provide adequate care, assistance and supervision and to ensure a safe environment for patients (and staff).

167. In the light of the above, **the CPT recommends that the Bulgarian authorities take steps to:**

- **fill the vacant psychiatrists' posts at Karvuna Hospital;**
- **increase the number of nurses and orderlies in both establishments;**
- **employ additional specialists qualified to provide psychosocial and occupational therapeutic activities in both establishments.**

168. The delegation was concerned by the practice at Karvuna Hospital of staff delegating certain security tasks (e.g. guarding the gate to the hospital) to selected patients. The CPT considers such a practice unacceptable and **recommends that it be discontinued without delay; carrying out security tasks should be the exclusive responsibility of the staff.**

Further, there was a practice of using more able patients to perform various orderlies' tasks (cleaning, feeding bed-bound patients, etc.). **The Committee trusts that reinforcing the team of nurses and orderlies will make it possible to abolish this practice.**

169. In both establishments visited, the treatment provided to the majority of patients consisted exclusively of pharmacotherapy. There appeared to be a sufficient quantity and fairly wide choice of psychotropic medication. That said, the programmes of therapeutic and psychosocial rehabilitative activities were clearly underdeveloped in both establishments.

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<sup>42</sup>

Except for the TB unit where there was an orderly present also during the night shift.

At *Lovech Hospital*, only a limited number of forensic patients (about 13) had individual written treatment plans and benefited from some form of rehabilitative psychosocial activities organised in the hospital's rehabilitation centre<sup>43</sup>. For two hours per day, these patients were involved in various rehabilitation programmes designed to promote the development of social skills (cooking, maintaining hygiene, healthy nourishment, communication skills, work habits, handling money/shopping, etc.)<sup>44</sup>. The remainder of the forensic patients spent the day wandering aimlessly in the ward's corridor, their main occupation being watching television in the canteen.

The situation was even less favourable at *Karvuna Hospital*, where only a few therapeutic group and recreational activities were available for a limited number of patients (drawing, reading in the library)<sup>45</sup>. The delegation was also concerned to note that there were no individual written treatment plans for patients.

This situation was undoubtedly linked to the shortage of suitably qualified staff; it is essential that the clinical teams in both establishments receive an increased multidisciplinary input.

**The CPT recommends that greater efforts be made at Karvuna Hospital and the forensic ward of Lovech Hospital to provide more comprehensive and individualised care with a wide range of psychosocial activities, to better prepare patients for their return to the community. An individual treatment plan should be drawn up for each patient (taking into account the special needs of acute, long-term and forensic patients), including the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and be informed of their progress.**

170. The tuberculosis treatment administered to patients held in the TB unit at Karvuna Hospital does not call for any particular comment. Medicines were made available and the treatment was monitored on an ongoing basis, in accordance with the DOTS programme.

171. It is a matter of serious concern that, despite specific recommendations repeatedly made by the CPT in previous visit reports, the majority of patients at the forensic ward at Lovech Hospital were not offered outdoor exercise on a daily basis. The delegation met patients who had apparently been unable to go outside for months or even years, due to the absence of a secure outdoor exercise area.

After the visit, in their letter of 21 January 2011, the Bulgarian authorities informed the CPT that, by Order No.131/04.11.2010, a minimum of one hour of daily outdoor exercise had been provided to the patients of Lovech State Psychiatric Hospital. The CPT welcomes this development and **would like to receive more information on the precise arrangements made to enable all patients to take outdoor exercise.**

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<sup>43</sup> The centre was equipped with a tennis table, some fitness equipment, musical instruments, computers connected to the Internet, board games and drawing materials. Further, it had an open yard equipped with benches and a basketball hoop.

<sup>44</sup> Three of the patients took part in accompanied outings such as shopping in town (including for other patients).

<sup>45</sup> That said, all patients had access to a day room on their respective wards where they could watch TV.

172. At Karvuna, it appeared that the great majority of patients could go outside every day. However, several patients in the acute male ward, who were deemed to present a risk of absconding, were denied the possibility to go outdoors; this was due to the insufficient staff numbers, combined with the absence of a secure outdoor exercise area. Such a state of affairs is not acceptable. **The CPT recommends that the necessary measures be taken at Karvuna Hospital to offer all patients, health permitting, at least one hour a day of outdoor exercise in a reasonably spacious and appropriately secure setting.**

## **5. Means of restraint**

173. The rules on the use of means of restraint have been described in detail in the report on the 2006 visit. It should be recalled that Ordinance No. 1 of 28 June 2005 on “Temporary physical restraining of patients with established psychiatric disorders” provides for two types of restraint, namely immobilisation (for up to two hours) by means of manual control or mechanical restraints (belt or a straitjacket), and seclusion in a distinct secure room (for up to six hours).

It should be mentioned at the outset that the delegation found no indication of excessive resort to means of restraint in the two establishments visited.

174. *At the forensic ward at Lovech Hospital*, patients could be subjected to immobilisation by means of four- or five-point fixation to a bed (with canvas belts). It was only applied in the two seclusion rooms (one of them equipped with CCTV), had to be authorised by a doctor, and was recorded at the ward level as well as in the patient’s file. Further, it became apparent that the duration of immobilisation did not usually exceed two hours.

A similar approach was followed at *Karvuna Hospital*, where, in addition to canvas belts, patients could be restrained, very exceptionally, in a straitjacket. A restraint register was in place for the whole hospital, and an entry was also made in the patient’s file. However, immobilisation was frequently applied inside patients’ rooms in full view of other patients, and on occasion, with their active involvement.

It is also a matter of concern that, in both establishments, the supervision of patients subject to immobilisation was inadequate. Although such patients were apparently checked by a member of health-care staff every 30 minutes (and also monitored through CCTV cameras at Lovech), there was no continuous, direct and personal supervision.

**175. The CPT recommends that the Bulgarian authorities ensure that immobilisation of a patient does not take place in the sight of other patients, unless the patient concerned explicitly requests otherwise or when the patient is known to have a preference for company. Further, staff should not be assisted by other patients when applying means of restraint.**

As regards supervision, whenever a patient is subjected to immobilisation, a trained member of staff should be present at all times to maintain the therapeutic alliance and provide assistance. Clearly, video surveillance cannot replace such a continuous staff presence. In this respect, **the Committee recommends that the requirement of the aforementioned Ordinance for a permanent staff presence when patients are restrained be strictly adhered to.**

176. No recourse was apparently made to seclusion at *Karvuna Hospital*, where there was no dedicated secure room. Patients prone to escape or aggressiveness could be separated from other patients and placed in accommodation rooms, located at the end of the wards' corridors behind a metal grille, with the doors of the rooms unlocked.

According to the records, at the *forensic ward of Lovech Hospital*, seclusion of forensic patients had never been applied for longer than six hours. However, the delegation heard accounts from patients that they had spent several days in a seclusion room and had had to use buckets to comply with the needs of nature.

**The CPT recommends that steps be taken at the forensic ward of Lovech Hospital to ensure that instances of seclusion are always recorded accurately. Further, patients held in seclusion rooms should have ready access to a toilet.**

More generally, **the CPT considers that only very exceptional circumstances could justify the isolation of a psychiatric patient for a period of days.**

## **6. Safeguards in the context of involuntary hospitalisation**

177. During the visit, the delegation examined in detail the legal safeguards offered to patients declared to be not criminally responsible and subjected to a compulsory treatment measure under Section 89 of the Criminal Code. The procedure for the placement of such patients is set out in Sections 427 to 432 of the Code of Criminal Procedure. In particular, Section 430 specifies that the placement be ordered by a court, that the presence of a lawyer in court be obligatory, and that the court must seek the opinion of a psychiatrist before ordering placement. The decision on placement can be appealed within 7 days.

As regards discharge procedures, the law provides that placements under Section 89 are for an indefinite period of time. That said, the need for compulsory treatment must be subject to *ex officio* review by a competent court at six-monthly intervals<sup>46</sup>, which shall decide, on the basis of a psychiatric assessment, whether to extend, modify (including replacement of an inpatient compulsory measure with an outpatient one) or terminate the compulsory treatment.

178. The examination of a number of patients' files in both psychiatric establishments visited showed that the six-month review period was generally respected in practice. Further, almost all patients interviewed by the delegation confirmed that they had been present during court hearings and had been represented by a lawyer (during both placement and review procedures). That said, some patients indicated that they were neither given copies of the psychiatric assessment reports nor copies of the relevant court decisions. **Steps should be taken to remedy this shortcoming.**

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<sup>46</sup> Section 432 of the CCP. Although the law refers to an initial judicial review (to be carried out "at the expiry of a six-month period from the admission for compulsory treatment"), it was interpreted as requiring subsequent reviews every six months.

179. The CPT's understanding of the relevant Bulgarian legislation is that, in the context of the above-mentioned judicial review proceedings, the competent judge is required to obtain an external psychiatric opinion (in addition to the report of the psychiatric institution in which the person concerned is being held)<sup>47</sup>. However, the information gathered by the delegation suggested that external psychiatrists were as a rule not involved, the court's decision being based solely on the recommendation of the hospital's own psychiatrists (including the patient's treating doctor). **The CPT would like to receive the authorities' comments on this point.**

180. The legal procedure relating to involuntary hospitalisation of a civil nature was described in detail in the report on the CPT's visit in 2006 (see paragraph 149 of CPT/Inf (2008) 11).

From the consultation of patients' files at Karvuna Hospital, it transpired that emergency hospitalisation of a person upon the decision of the head of a medical establishment still occasionally exceeded the statutory time frame of 24 hours. On a positive note, patients attended the court hearings and all cases were heard with the participation of a lawyer.

**The CPT reiterates its recommendation that the Bulgarian authorities take steps to ensure that the legal provisions governing civil involuntary hospitalisation – and in particular the time limits as regards emergency hospitalisation – are fully respected in practice.**

181. Psychiatric patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis – be it in the context of civil or criminal proceedings – should not be construed as authorising treatment without his or her consent. It follows that every patient, whether voluntary or involuntary, should be given the opportunity to refuse – either in person or through his or her guardian – treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances. Of course, consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient's condition and the treatment proposed. Consequently, all patients should be provided systematically with relevant information about their condition and the treatment which is proposed for them. Relevant information (results, etc.) should also be provided following treatment.

At *Karvuna Hospital*, patients (both civil and forensic) were invited to sign a consent form, which contained information on various issues related to hospitalisation (such as patients' rights, the diagnosis, the treatment proposed and the possible side effects) and also stated that the patient was thereby consenting to medical treatment, laboratory analyses and rehabilitation programmes. In the case of legally incompetent patients, the consent form was signed by their guardian or a court-appointed municipal official<sup>48</sup>.

However, no consent to treatment was sought from patients at the *forensic ward of Lovech Hospital*, although patients were apparently informed about their treatment. **The CPT recommends that steps be taken at the forensic ward of Lovech Hospital to ensure that appropriate informed consent procedures are put in place, in the light of the above remarks.**

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<sup>47</sup> See Section 432 (3) of the CCP.

<sup>48</sup> Pursuant to Section 162 (3) of the Law on Health, the court appoints a relative to give informed consent on behalf of patients who are legally incompetent. In case of conflict of interest or in the absence of a relative, a municipal health-care official or a representative of the mayor is appointed to give informed consent.

182. At Karvuna Hospital, the hospital management informed the delegation that for some patients hospitalisation was no longer medically justified; nevertheless, these patients continued to be kept in the hospital due to a lack of adequate care and/or accommodation in the outside community (whether within their families or in a supported accommodation). For persons to remain deprived of their liberty solely as a result of a lack of appropriate external facilities is a highly questionable state of affairs. **The CPT recommends that the Bulgarian authorities take appropriate steps to ensure that patients are not detained in hospital for longer than their medical condition requires.**

In this context, the delegation learned that, within the framework of the national policy for mental health care of the citizens of Bulgaria for 2004-2012, amendments were envisaged to the Law on Health and the Law on Medical Establishments which would enable psychiatric hospitals to provide social services by means of establishing day-care centres and shelters. **The CPT would like to receive detailed information on this matter.**

183. In both establishments visited, the existing arrangements for patients' contact with the outside world appeared to be satisfactory. Patients were generally able to send and receive letters, have access to a telephone, and receive visits. That said, at Lovech, some forensic patients claimed that they were not allowed to use the pay phones available in the hospital. **The Committee would like to receive clarification on this point.**

184. In both establishments visited, the majority of patients appeared to be unaware of the existing possibilities to lodge a complaint. This could partly be explained by the absence of any written information on complaints procedures. In this context, the CPT considers that a brochure setting out the establishment's routine and patients' rights – including information about complaints bodies and procedures – should be issued to each patient, as well as to their families, upon admission to the establishment. Any patients unable to understand this brochure should receive appropriate assistance. **The CPT recommends that such a brochure be drawn up and systematically provided to patients and their families upon admission to Karvuna Hospital and the forensic ward of Lovech Hospital.**

By letter of 21 January 2011, the Bulgarian authorities informed the CPT that, shortly after the visit, complaints boxes had been installed on every ward at Karvuna Hospital. The CPT welcomes this development.

185. Although both establishments received inspections from the Ministry of Health and the regional health authorities on a regular basis (usually once a year), there was no independent outside body responsible for the continuous monitoring of patients' care<sup>49</sup>. **The CPT recommends that steps be taken at Karvuna and Lovech Hospitals and, as appropriate, in other psychiatric establishments to ensure that visits are carried out, on a regular basis, by a body which is independent of the health authorities.**

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<sup>49</sup> The delegation was informed that the Bulgarian Helsinki Committee had last visited Karvuna Hospital about six years previously; as regards Lovech Hospital, it had been receiving more frequent visits from this NGO.

**D. Establishments under the authority of the Ministry of Labour and Social Policy**

**1. Preliminary remarks**

186. The delegation carried out a follow-up visit to the “Home for men with psychiatric disorders” in the village of Pastra, Rila municipality and visited for the first time the “Home for men with intellectual retardation” in the village of Oborishte, Valchi Dol municipality.

187. From the outset, it should be stressed that the delegation received no allegations of ill-treatment of residents by staff at either establishment. The atmosphere at the establishments was relaxed and the delegation witnessed that staff had a caring attitude towards residents.

188. The representatives of the Ministry of Labour and Social Policy met during the visit informed the delegation of progress in the implementation of the national policy in the area of social assistance in respect of homes for persons with mental disorders and/or retardation. A system of uniform standards for the funding of the services provided to residents had been introduced, resulting in an improved quality in the services and better remuneration for staff. Regarding the de-institutionalisation strategy, the number of community-based services for persons with mental disabilities had increased and, by October 2010, there were 78 sheltered homes (with a total capacity of 688 places), six transitional facilities and seven family-type accommodation facilities. In the period 2004-2010, 1,835 persons had been taken out of specialised institutions for persons with mental disabilities. The aim was to complete the process of de-institutionalisation by 2013. **The CPT encourages the Bulgarian authorities to persevere in their efforts to reorganise the system for the provision of care to persons with mental disabilities.**

**2. Follow-up visit to the Home in Pastra**

189. When the CPT first visited the Home in Pastra in December 2003, conditions in the establishment could, on the whole, be considered to amount to inhuman and degrading treatment (see CPT/Inf (2004) 23). In the report on that visit, the Committee called upon the Bulgarian authorities to draw up a plan of concrete measures for the urgent replacement of the Home by a facility which is in conformity with the standards and criteria for the provision of social services listed in Decree No. 89 of 18 April 2003.

After the 2003 visit, the Bulgarian authorities announced plans to move the Home's residents to other establishments. However, despite the various attempts that had been made over the years, the Home remained in service. Its capacity had gradually been reduced from 105 to 80 and, at the time of the visit in 2010, it was accommodating 72 adult male residents (one of whom was on home leave). All of them had been diagnosed with schizophrenia and many had spent long years at the establishment. Every resident was assessed once a year by a commission which had concluded that five residents could be cared for by their families and five others could reside in sheltered homes. However, according to the Home's Director, there were difficulties in moving residents to alternative accommodation or returning them to their families.



190. Concerning residents' living conditions, some improvements were noted by the delegation. One of the accommodation buildings (referred to as Block 1 in the report on the visit in 2003) had benefited from a thorough refurbishment, including the fitting of new windows, flooring, modern sanitary facilities, and new furniture (beds with full bedding and cupboards). Residents were accommodated in spacious rooms with large windows (e.g. five persons in a room measuring some 26 m<sup>2</sup>). That said, due to the absence of any personal belongings or decoration, the rooms had an impersonal appearance.

Another building (Block 2) was no longer used for resident accommodation. As for the third building - which at the time of the visit in 2003 had offered relatively better conditions - no repairs had been made over the years and it was in an advanced state of dilapidation (damp on the walls, damaged flooring, old furniture). As a result, living conditions for the residents accommodated in that building (i.e. half of the Home's residents) remained unacceptable.

It should also be noted that the establishment's geographical isolation was exacerbated by the state of the access road, which was unpaved and full of potholes.

191. As regards food, the budget had been increased (to 5.50 BGL per resident per day) and most of the residents interviewed indicated that they were satisfied with the quantity and quality of the food provided. Further, the Home's kitchen had been refurbished and equipped with new cookers and fridges. Similarly, the dining room (which also served as a common room) had benefited from a refurbishment and was equipped with a TV set.

192. Some improvement was also noted as regards the sanitary arrangements for residents. There was a refurbished communal shower room in the basement of the third block, which was clean and had heating. In addition to indoor sanitary facilities, the Home's grounds had a small refurbished toilet block; however, the old outdoor toilets, located in a shelter at the far end of the grounds, had not been dismantled and appeared to be still in use.

193. As indicated in paragraph 8, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention and requested the Bulgarian authorities to draw up a plan for bringing conditions for all patients at the Home in Pastra in conformity with the standards and criteria for the provision of social services in Bulgaria.

By letter of 21 January 2011, the Bulgarian authorities informed the CPT that the Social Assistance Agency had taken measures to move the 41 residents accommodated in the above-mentioned third building to other premises. The Agency had addressed the mayors of several municipalities with a request to find appropriate housing. As regards 13 residents originating from the Blagoevgrad region, the Mayor of the Gotse Delchev municipality had proposed the setting up of protected housing on the territory of his community and the funds necessary for this project (some 50,000 BGL) were in the process of being secured. No response had yet been received from the Sofia municipality concerning the 13 residents originating from that area. Regarding the remaining 15 residents, a request had been made to move them to a building (a former orphanage) in the nearby town of Rila. The building in question, however, was in need of refurbishment and the necessary funds were in the process of being sought. In the meantime, a plan had been drawn up for bringing conditions at the Home in Pastra into conformity with the standards and criteria for the provision of social services.

The CPT would like to receive updated information on the outcome of the above-mentioned efforts to move residents to other premises. Further, the Committee would like to be informed of the progress made towards the implementation of the plan for bringing conditions at the Home in Pastra into conformity with the standards and criteria for the provision of social services.

The CPT also invites the Bulgarian authorities to upgrade the access road leading to the Home in Pastra.

### **3. Home for men with intellectual retardation in Oborishte**

194. The Home is situated in the village of Oborishte, some 15 km from the municipal centre of Valchi Dol. Having previously occupied an old and decrepit building for many years, the Home had been relocated to an adjacent three-storey building in 2006. At the time of the visit, the establishment was operating above its official capacity of 80 places, with 93 adult men (aged from 20 to 80). Some two-thirds of the residents had learning disabilities (which in several patients was combined with physical disabilities), and the rest were suffering from chronic schizophrenia. The turnover was said to be rather low; the Home had had only one admission and no discharges in the first ten months of 2010<sup>50</sup>.

195. Throughout the establishment, living conditions were generally satisfactory. The residents' rooms were sufficiently large for their intended occupancy<sup>51</sup>, had good access to natural light, artificial lighting and ventilation, and some had access to a balcony. They were equipped with beds (with full bedding), lockable wardrobes and a TV set, as well as with an adjacent sanitary annexe with a shower and toilet (shared by two rooms). Further, residents were allowed to keep their personal belongings and to personalise their living environment.

Hardly any complaints were received from residents as regards food, which was prepared in a well-appointed kitchen and served in a large canteen equipped with tables and chairs. The delegation was informed that, thanks to donations, it had been possible to maintain the daily food allowance at between 4 and 8 BGN.

On the whole, the level of hygiene within the Home was acceptable. Residents had unlimited access to the showers (and there was a permanent supply of hot water) and were provided with basic hygiene items. Further, residents' clothes and bed linen were regularly washed in the establishment's laundry. There were also enough special mattresses and disposable pads for incontinent residents.

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<sup>50</sup> The delegation was told by the Home's management that, despite their efforts, it had been possible to return only six residents to their families since 2006.

<sup>51</sup> By way of example, a room with three beds measured some 14 m<sup>2</sup> and a room with four beds some 18 m<sup>2</sup>.

#### 4. Staff and care of residents

196. The staff complement of the *Home in Pastra* had been increased compared to the situation in 2003 (42 as opposed to 36 staff members) and included six nurses, 15 orderlies, three social workers (one of whom was on maternity leave) and two occupational therapists. A psychiatrist visited the establishment once a week and a general practitioner was available on call from the nearby town of Rila. Staff worked 12-hour shifts. At night and at weekends, one nurse and three orderlies were present.

197. The staff of the *Home at Oborishte* included seven nurses, 19 orderlies, two part-time psychologists, three social workers and four occupational therapists. The establishment was also visited by a psychiatrist twice a week. Further, the Home received visits by a general practitioner on a weekly basis; in addition, residents in need of medical care were accompanied to the surgery of the general practitioner in the town of Valchi Dol. Staffing levels were clearly inadequate at night, when only one nurse and one orderly were expected to care for over 90 residents.

198. During the visit, the delegation was informed by the Bulgarian authorities that the necessary arrangements would be made to recruit two more social workers and two more occupational therapists at the Home in Oborishte. This was subsequently confirmed by the Bulgarian authorities in their letter of 21 January 2011. It was also indicated in that letter that Varna Regional Directorate for Social Assistance had been instructed to provide methodological assistance to the management of the Home in Oborishte in the development of work therapy programmes adapted to the needs and capabilities of each resident. The CPT welcomes these initiatives; **it would like to receive updated information on the concrete steps taken in this regard.**

199. In the light of the above, **the CPT recommends that steps be taken to significantly increase nursing staff levels at both establishments.** Further, given the importance of therapeutic and other activities for residents' rehabilitation, **the Committee recommends that the Bulgarian authorities increase the number of staff responsible for the provision of such activities at the Home in Pastra.**

200. As regards treatment at the *Home in Pastra*, all residents received psychotropic medication; no signs of over-medication were observed. The delegation was told that there was a sufficient supply of drugs, although Clozapine and new-generation psychotropics were not available. Each resident had an individual treatment plan which was reviewed once every six months. Attempts were being made to involve residents in occupational therapy (cleaning, serving food, working in the laundry) and art therapy (drawing). Further, a pleasant day room had been set up, with books, newspapers, games and a TV set. Residents were also taken on trips to places of interest and celebrations of national holidays were organised.

At the *Home in Oborishte*, residents' personal medical files were well kept and included a regularly updated individual treatment plan. Access to psychotropic medication did not pose any problem, and the delegation found no indication of excessive use of medication (some 85% of the residents were receiving psychotropic medication). The delegation also noted that some socio-rehabilitative and recreational activities were available to residents, including art therapy (such as drawing) and reading, singing and dancing classes, as well as daily accompanied walks in the open air. Further, trips to the nearby town and longer excursions were occasionally organised.

That said, at both Homes, there was clearly scope for developing therapeutic, occupational and leisure activities and involving more residents in them. **The CPT therefore recommends that steps be taken at both establishments to ensure that more residents benefit from psychosocial and occupational therapeutic activities adapted to their mental capacity and physical mobility. Achieving this goal will require recruiting additional qualified staff** (see paragraph 199).

201. The CPT has misgivings about the practice of mixing mentally ill residents with the learning disabled at the Home in Oborishte. The Committee is far from convinced that such a practice is beneficial for either category of residents. **The CPT would welcome the Bulgarian authorities' comments on this matter.**

## 5. Means of restraint

202. The policy at the *Home in Pastra* was to refrain from resorting to seclusion and means of mechanical restraint. The facility in the basement of Block 2 described in the report on the visit in 2003 (referred to by some residents as the "kartzet") was clearly not being used.

203. At the *Home in Oborishte*, there were no seclusion rooms. As for mechanical restraint, recourse was only very rarely had to fixation to a bed (using bandages) for highly agitated residents. Continuous supervision by a member of staff was apparently ensured. However, the establishment had no written policy on the use of means of restraint and no register for recording such instances.

The CPT considers it essential that the restraint of residents be the subject of a clearly-defined policy (see also the reference to Ordinance No. 1 of 28 June 2005 on "Temporary physical restraining of patients with established psychiatric disorders" in paragraph 173). That policy should make clear that initial attempts to restrain agitated or violent residents should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control. If, exceptionally, recourse is had to instruments of mechanical restraint, they should be removed at the earliest opportunity. Residents subject to means of mechanical restraint should, at all times, have their mental and physical state continuously and directly monitored by a member of the health-care staff. Further, every instance of the physical restraint of a resident (manual control, use of instruments of physical restraint) should be recorded in a specific register established for this purpose (as well as in the resident's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by residents or staff. **The CPT recommends that steps be taken at the Home in Oborishte to ensure that resort to means of restraint complies with these precepts.**

## 6. Safeguards

204. In its previous visit reports, the CPT concluded that in most cases placement in a specialised institution for persons with mental disabilities leads to a *de facto* deprivation of liberty, and made recommendations concerning the introduction of judicial review of placement. At the time of the 2010 visit, the amendments to the law which would enable such a review to take place had not yet been made. **The CPT reiterates its recommendation that the Bulgarian authorities take steps to ensure that:**

- **residents of homes for persons with mental disabilities have the effective right to bring proceedings to have the lawfulness of their placement decided by a court, and that they are duly informed of this right;**
- **the need for continued placement is automatically reviewed by a court at regular intervals or residents themselves are able to request at reasonable intervals that the necessity for continued placement is considered by a judicial authority.**

**Further, the Committee would like to receive detailed information concerning the procedure for consent to treatment in respect of persons admitted to institutions for persons with mental disabilities.**

205. In both establishments visited, contracts for the provision of social services were signed between the home (“provider”) and the resident (“user”) or his guardian. These contracts were reviewed and, if necessary, renewed once a year. At the Home in Oborishte, the delegation noted that 12 residents who had not been formally deprived of legal capacity had signed such contracts; however, at least some of them were suffering from severe learning disabilities and were thus manifestly unable to give valid consent to their placement. Staff admitted that convincing the resident to sign the contract was an “easy way out” given that the procedures for depriving a person of his/her legal capacity (and appointing a guardian) were apparently lengthy and cumbersome.

Further, as was the case during previous CPT visits, the above-mentioned contracts did not contain information on the possibilities for residents to lodge complaints.

**The CPT recommends that the Bulgarian authorities take steps to ensure that all persons admitted to specialised institutions for adults who are unable to give valid consent are notified to the competent court with a view to having a guardian appointed. Further, the Committee reiterates its recommendation that contracts for the provision of social services contain information on the possibilities for residents to lodge complaints with a relevant outside authority. Residents unable to understand the contracts should receive appropriate assistance.**

206. Specific reference should be made of the situation of residents deprived of their legal capacity. There were 81 such residents at Oborishte, and the delegation was concerned to learn that 62 of them were placed under the guardianship of the Home’s Director. At Pastra, in only one case was guardianship of the resident entrusted to a staff member (the previous Director of the Home).

It should be stressed in this context that one aspect of the role of a guardian is to defend, if necessary, the rights of incapacitated persons vis-à-vis the hosting institution. Obviously, granting guardianship to the very same institution may easily lead to a conflict of interest and compromise the independence and impartiality of the guardian. **The CPT reiterates its recommendation that the Bulgarian authorities strive to find alternative solutions which would better guarantee the independence and impartiality of guardians.**

207. In both establishments, the existing arrangements for residents to maintain contact with the outside world (i.e. their access to correspondence and the telephone, and visits from family members) were satisfactory and do not call for any particular comment.

208. Both Homes received regular inspection visits by the Inspectorate of the Agency for Social Assistance. Further, the Bulgarian Helsinki Committee visits social care establishments and is authorised to talk privately with residents; both Homes had been visited by representatives of this NGO and reports had been published after the visits. **The CPT invites the Bulgarian authorities to introduce a firm legal basis for regular visits to social care institutions by bodies which are independent of the social care authorities.**

## **APPENDIX I**

### **LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION**

#### **Establishments under the authority of the Ministry of Internal Affairs**

##### **Preliminary remarks**

##### comments

- the CPT urges the Bulgarian authorities to make additional efforts to ensure that the detention of persons by the police is always carried out in conformity with the legislative provisions. This should include measures to ensure that the precise moment at which a person has been deprived of his/her liberty is systematically noted in orders of detention by the police and prosecutors' detention orders. Further, a copy of the order of detention by the police should always be attached to the detained person's file (paragraph 11).

##### requests for information

- information on the steps taken by the Bulgarian authorities in the light of the judgment of the European Court of Human Rights in the case of *Zvezdev v. Bulgaria* (paragraph 10).

##### **Ill-treatment**

##### recommendations

- the Minister of Internal Affairs to deliver a firm message of "zero tolerance" of ill-treatment to all police staff, to be backed up by appropriate ongoing training activities. As part of this message, it should be made clear that the perpetrators of ill-treatment and those condoning or encouraging such acts will be subject to severe sanctions. Further, police officers must be trained in preventing and minimising violence in the context of an apprehension. In cases in which the use of force becomes necessary, they need to be able to apply professional techniques which reduce as much as possible any risk of harm to the persons whom they are seeking to apprehend (paragraph 14);
- measures to be taken to review training, procedures and arrangements for police interviews, in the light of the remarks made in the second subparagraph of paragraph 15 (paragraph 15);
- whenever a detained person brought before a judge alleges ill-treatment by police officers, these allegations to be recorded in writing, a forensic medical examination to be immediately ordered, and the necessary steps to be taken to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Moreover, even in the absence of an express allegation of ill-treatment, a forensic medical examination should be requested whenever there are other grounds to believe that a person could have been the victim of ill-treatment (paragraph 17);

- further steps to be taken to ensure that signs of injuries observed on detained persons and documented by doctors/feldshers are properly recorded, in keeping with the provisions of Order № L-6399 of 26 July 2010, and are duly investigated, even if the person concerned has not lodged a formal complaint. Whenever injuries are recorded by a doctor which are consistent with possible ill-treatment, the record should be systematically brought to the attention of the relevant prosecutor. Detained persons and their lawyers should be entitled to receive a copy of that record at the same time (paragraphs 18, 23 and 77);
- all medical examinations to be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers (paragraphs 18 and 23);
- the Bulgarian authorities to ensure that the points mentioned in the second subparagraph of paragraph 19 as regards the use of electrical discharge weapons are complied with when police officers or other law enforcement officials are issued with such weapons (paragraph 19).

#### comments

- the Bulgarian authorities are invited to introduce a uniform nationwide system for the compilation of statistical information on complaints and disciplinary and criminal proceedings and sanctions against police officers related to ill-treatment. Further, steps to provide information to the public on the outcome of investigations into complaints of ill-treatment by the police could help counter any perception of impunity (paragraph 16);
- due attention must be given to sensitising the relevant authorities to the important obligations which are incumbent upon them in relation to possible ill-treatment; there should be a more proactive stance and concerted action by senior police officers, prosecutors, judges and staff working at investigation detention facilities and prisons to make sure that no case of ill-treatment goes unnoticed or unpunished (paragraph 17).

#### requests for information

- the number of cases of injuries observed on persons admitted to IDFs which have been reported to the relevant prosecutors in Plovdiv, Sofia and Varna in 2010, and follow-up action taken in respect of each of these cases, including information on any criminal proceedings initiated (paragraph 18).



## **Safeguards against the ill-treatment of persons detained by the police**

### recommendations

- the Bulgarian authorities to take steps to ensure that persons detained by the police are systematically given feedback as to whether the notification of their custody has been performed (paragraph 21);
- the Bulgarian authorities to take additional steps to ensure that the right of access to a lawyer for persons deprived of their liberty applies effectively as from the very outset of deprivation of liberty by the police. In this context, the CPT reiterates its recommendations that:
  - the Bulgarian authorities recall to all police officers the legal obligation to grant access to a lawyer from the very outset of a person's deprivation of liberty;
  - steps be taken, in consultation with the Bar Association, to make the system of legal aid truly effective, *inter alia* through the provision of proper funding and practical arrangements to ensure that *ex officio* lawyers are contacted and meet their clients while in police custody (paragraph 22);
- verbal information on rights to be given systematically to all persons apprehended by the police, at the very outset of their de facto deprivation of liberty. As regards the information form on rights, it should be given to all detained persons as soon as they are brought into a police establishment, and should be properly explained to them to ensure that they are in a position to understand their rights and to exercise them effectively. The form on rights should also be made available in an appropriate range of languages (paragraph 24);
- the Bulgarian authorities to take further steps to ensure that custody registers are properly maintained, accurately record the times of actual apprehension, admission, placement in a cell, release or transfer, and reflect all other aspects of custody (precise location where a detained person is being held; visits by a lawyer, relative, doctor or consular officer; taking out of cell for questioning; any incidents related to a detained person, etc.) (paragraph 25);
- supervising prosecutors and senior police officials to exercise effective supervision of the accuracy of custody registers in police establishments (paragraph 25);
- the independent monitoring of police establishments to be placed on a permanent footing and to be extended to cover the whole country (paragraph 26).

### requests for information

- the practical implications of the project commissioned by the Chairman of the National Bureau for Legal Aid in 2008 in the field of "Equal Access to Justice" (paragraph 22).

## **Conditions of detention**

### recommendations

- steps to be taken to ensure that:
  - all police cells where persons may be held overnight are enlarged to at least 7 m<sup>2</sup> (see also Instruction No. Iz-1711 of 15 September 2009);
  - any person detained overnight is provided with a clean mattress and clean blankets;
  - the cells at the 1<sup>st</sup> District Police Directorate in Varna, and the 8<sup>th</sup> and 9<sup>th</sup> District Police Directorates in Sofia, are provided with adequate artificial lighting;
  - access to natural light in the adults' cell at the 2<sup>nd</sup> District Police Directorate in Varna is improved;
  - police establishments are allocated a specific budget to cover the cost of providing food to detained persons;
  - detained persons are guaranteed ready access to drinking water (paragraph 30);
- the cell at Balchik Police Directorate to be urgently replaced by proper detention facilities (paragraph 30).

### comments

- steps should be taken at the Sobering-up centre in Varna to replace the broken window pane in the larger room and to equip the common sanitary facility with a shower (paragraph 33).

### requests for information

- whether staff working at the Sobering-up centre in Varna receive specialised training in the care of intoxicated persons, including details on the content of this training, and what instructions are given to staff as regards action to be taken when an intoxicated person is accommodated at the centre, including steps to ensure that there is an appropriate level of medical supervision (paragraph 33).

## **Special Home for Temporary Placement of Foreign Nationals in Busmantsi**

### recommendations

- the Bulgarian authorities to act in accordance with the precepts set out in the third subparagraph of paragraph 35 as regards deprivation of asylum seekers of their liberty. In those instances where there are exceptional reasons for depriving an asylum seeker of his/her liberty while awaiting the outcome of his/her application, such reasons should be fully documented (paragraph 35);
- the management of the Special Home for Temporary Placement of Foreign Nationals in Busmantsi to continue to deliver a clear message to all staff members that the ill-treatment of detained persons (whether of a physical or verbal nature) is not acceptable and will be the subject of sanctions (paragraph 39);
- the management and staff of the Busmantsi Home to exercise increased vigilance and to make use of all the means at their disposal to prevent inter-detainee violence and intimidation (paragraph 39);
- steps to be taken at the Busmantsi Home to:
  - ensure occupancy levels in the dormitories which guarantee a minimum of 4 m<sup>2</sup> per detained person;
  - restore the broken furniture and sanitary facilities to a good state of repair and provide sufficient funding for running repairs;
  - ensure that detained persons have ready access to a toilet at all times, including at night;
  - review the provision of personal hygiene products and appropriate clothing and footwear to detainees(paragraph 43);
- the Bulgarian authorities to further develop the activities on offer at the Busmantsi Home, taking into consideration the fact that persons may – and often do – spend lengthy periods of time at the establishment. In this context, the Home’s library should be provided with more books and recent newspapers in various foreign languages. Further, the TV sets should be repaired and detained persons should have access to foreign TV channels. As regards the outdoor exercise facilities, they should be equipped with a shelter against inclement weather (paragraph 44);
- steps to be taken to strengthen the provision of health care to foreign nationals detained at the Busmantsi Home, and in particular to:
  - reinforce the health-care team by appointing at least one more nurse;
  - ensure that detained persons have unrestricted and reasonably rapid access to the doctor and outside specialists, including to dental care;
  - provide interpretation in cases when medical staff cannot communicate with detained foreign nationals;
  - ensure that detained foreign nationals are fully informed of their treatment(paragraph 47);

- the Bulgarian authorities to reinforce the provision of psychological care to foreign nationals detained at the Busmantsi Home (paragraph 48);
- the Bulgarian authorities to take steps to fill the vacant posts at the Busmantsi Home and develop further specialised training for this type of work (paragraph 49);
- the Bulgarian authorities to seek ways to improve channels of communication between the State Agency for Refugees and the Busmantsi Home with a view to better informing detainees of their situation (paragraph 51);
- the Bulgarian authorities to take steps to extend the system of legal aid to detained foreign nationals (paragraph 52);
- the Bulgarian authorities to take steps to ensure that foreign nationals detained at the Busmantsi Home receive, when necessary, the assistance of qualified interpreters. The use of fellow detainees as interpreters should, in principle, be avoided (paragraph 53);
- the Bulgarian authorities to take effective steps to ensure that foreign nationals subject to coercive administrative measures (including those facing expulsion on grounds of national security) benefit from an effective legal remedy enabling them to have the lawfulness of their detention decided speedily before a judicial body. This judicial review should entail an oral hearing with legal assistance, if necessary provided free of charge to the person concerned, and interpretation. Moreover, detained foreign nationals should be expressly informed of this legal remedy (paragraph 54).

#### comments

- the Bulgarian authorities are invited to review the food arrangements in the Busmantsi Home in order to ensure that the dietary habits and needs of detained persons are being adequately catered for. It would be useful to involve detainees in the setting up of food menus, to reflect better the range of different dietary habits (paragraph 43).

#### requests for information

- detailed information on the new facility for the temporary placement of foreign nationals in Lyubimets (e.g. capacity, structure, categories of persons held, etc.) (paragraph 35);
- further action taken to find a solution to the situation of the two persons who had been detained at the Busmantsi Home for over 18 months at the time of the CPT's visit (paragraph 36);
- comments of the Bulgarian authorities on the fact that foreign nationals detained by order of the State Agency for National Security had no access to their files and the evidence held against them (paragraph 55);

- a detailed account of the precise practical steps taken by the Bulgarian authorities to ensure that, when a national security order is issued against a person with refugee status, the State Agency for National Security always informs the State Agency for Refugees and consults it concerning the risk of persecution or ill-treatment if the person were expelled (including information on the applicable procedures and, in particular, the means of appeal) (paragraph 56).

## **Establishments under the authority of the Ministry of Justice**

### **Investigation detention facilities**

#### recommendations

- staff working at investigation detention facilities (IDFs) to be reminded at regular intervals that the ill-treatment of detainees is prohibited and will be severely punished. All complaints of ill-treatment made by detained persons should be properly investigated. Further, managers and supervising prosecutors should be particularly vigilant when examining cases of the use of force to ensure that it is only used when – and to the extent – strictly necessary, and never as a form of physical punishment. In this connection, a specific register recording the use of force should be set up at each IDF (paragraph 59);
- the Bulgarian authorities to establish clear rules (including appropriate safeguards) as regards disciplinary procedures in IDFs (paragraph 59);
- additional steps to be taken to ensure that whenever female detainees are held in an IDF, female staff are deployed in the IDF detention area (paragraph 61);
- the Bulgarian authorities to take steps without further delay at investigation detention facilities to:
  - reduce cell occupancy rates to an acceptable level, applying a minimum standard of 4 m<sup>2</sup> per detainee in multiple occupancy cells; all cells of less than 6 m<sup>2</sup> (e.g. at Balchik and Lovech IDFs) should be either withdrawn from service or enlarged and cells measuring 6 m<sup>2</sup> should be used for accommodating one person;
  - improve cell lighting (by providing access to natural light and adequate artificial lighting and, as far as possible, introducing differentiated day/night lighting systems) and ventilation in the cells;
  - improve the state of the beds and bedding provided to detained persons;
  - guarantee strict compliance with the instructions given to custodial staff to grant detainees ready access to the toilet at any time of day or night, and gradually to introduce in-cell toilets in the context of refurbishment;
  - increase the frequency of showers for inmates, in the light of Rule 19.4 of the European Prison Rules;
  - ensure that detainees have access to essential personal hygiene products;
  - provide detainees with sufficient materials to clean their cells;
  - review the quantity and quality of the food provided and ensure that cooked meals are appropriately heated when served(paragraph 71);

- the Bulgarian authorities to take steps to develop the regime of activities for persons held in IDFs, particular attention being paid to the special needs of juveniles. Immediate action must be taken to ensure that detainees are guaranteed their entitlement of at least one hour of genuine outside exercise per day (two hours for juveniles) (paragraph 74);
- the Bulgarian authorities to take steps to ensure that:
  - appropriate medication in sufficient quantities is supplied to all IDFs in the country;
  - detained persons in need of medical care are promptly seen by a doctor and, if required by their state of health, transferred to an outside medical facility (paragraph 76);
- further steps to be taken to improve the quality of medical records and ensure the observance of their confidentiality. All medical examinations should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of custodial staff (paragraph 78);
- steps to be taken to:
  - equip Balchik and Veliko Turnovo IDFs with a proper visiting room, as well as any other IDFs where such rooms are still missing;
  - enable persons detained in IDFs to receive visits under open conditions. Open visiting arrangements should be the rule and closed ones the exception, based on well-founded and reasoned decisions following individual assessment of the potential risk posed by a particular prisoner or visitor (paragraph 79);
- the Bulgarian authorities to ensure that persons detained in IDFs have access to telephone communications at prices analogous to those in the community (paragraphs 80 and 141).

#### comments

- the management and staff of IDFs are invited to exercise continuing vigilance and make use of all the means at their disposal to prevent inter-detainee violence and intimidation (paragraph 60);
- the bedding provided to some detainees at Plovdiv IDF was very worn-out (paragraph 62);
- the efforts made by the staff of Sofia and Plovdiv IDFs to counteract the negative effects of isolation on juveniles should be underpinned by the issuing of instructions which make it clear that, in the case of there being only one juvenile detained in an IDF, he/she should be provided with appropriate human contact, including opportunities to participate in out-of-cell activities with adults, under appropriate supervision by staff, and should not be left locked up alone in a cell for extended periods of time (paragraph 73).

requests for information

- confirmation that the repair works have been completed at the IDF in Varna as well details on conditions in the refurbished cells (paragraph 64);
- detailed information (including a timetable) on the implementation of the plans to close the existing premises of the IDF in Lovech and transfer the IDF to a building on the premises of Lovech Prison (paragraph 66).

**Prison establishments**

recommendations

- the Bulgarian authorities to pursue vigorously the application of all the different measures designed to combat prison overcrowding. In this context, the drafting of a new Criminal Code should be used as an opportunity to examine certain features of the legislation which may be contributors to the overcrowding problem (paragraph 84);
- efforts to be made to step up the training provided to prosecutors and judges, with a view to promoting the use of alternatives to imprisonment (paragraph 84);
- the Bulgarian authorities to improve prison staffing levels as a priority. Further, to obtain personnel of the right calibre, the authorities must be prepared to invest adequate resources into the process of recruitment and training and to offer adequate salaries (paragraph 85);
- the Bulgarian authorities to step up their efforts to develop the programmes of activities for prisoners. The aim should be to ensure that both sentenced and remand prisoners are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activities of a varied nature (paragraph 86);
- the management of Plovdiv and Varna Prisons and Lovech Prison Hospital to take steps to ensure that prison staff do not abuse their authority and resort to ill-treatment. All staff members should be reminded at suitable intervals that both the physical ill-treatment and verbal abuse of inmates are not acceptable and will be the subject of severe sanctions (paragraph 87);
- the situations in which prison officers may use physical force and truncheons to be defined more precisely, and detailed instructions concerning the use of such means to be issued. It must be made clear in these instructions that physical force and truncheons can only be applied when – and to the extent – strictly necessary to maintain security and good order, and never as a form of punishment. Further, all cases of the use of physical force and truncheons should be recorded in a separate register and the prison management and prosecutors should be particularly vigilant when examining them (paragraph 87);
- the Bulgarian authorities to carry out a thorough investigation into the nature and scale of the problem of inter-prisoner violence in each prison establishment and to develop as a matter of priority a national strategy to address this phenomenon, with a view to ensuring that all prisoners can serve their sentences under safe conditions (paragraph 89);

- prison staff not to carry truncheons in a visible manner inside detention areas (paragraphs 90 and 137);
- the Bulgarian authorities to take the necessary steps to ensure that all the principles and minimum safeguards set out in paragraph 92 are applied in prisons when resort is had to immobilisation (paragraph 92);
- the Bulgarian authorities to take vigorous steps to reduce the occupancy rate of the closed part of Plovdiv Prison and the prison hostel “Hebros”, the objective being to provide a minimum of 4 m<sup>2</sup> per prisoner (paragraph 101);
- steps to be taken at Plovdiv Prison to:
  - improve access to natural light in the cells referred to in paragraph 96;
  - ensure that all prisoners have ready access to the toilet and to discontinue the use of buckets;
  - increase the frequency of showers for inmates, in the light of Rule 19.4 of the European Prison Rules;
  - ensure that all inmates have access to a range of basic hygiene products and are provided with materials for cleaning the cells;
  - expand the prison laundry;
  - review the quality and quantity of food provided to prisoners;
  - improve the hygiene and equipment of the dining rooms, allow sufficient time for the taking of meals and ensure that meals are taken at normal meal times;
  - ensure that the disinfection of the establishment’s premises is carried out in an effective manner and at suitable intervals;
  - carry out a rolling programme of refurbishment of the cells(paragraph 101);
- the Bulgarian authorities to strive to further develop the programme of activities for prisoners – both sentenced and remand – in the closed part of Plovdiv Prison. In this context, vigorous efforts should be made to increase work opportunities and educational activities, and involve more prisoners in vocational training courses. As regards the allocation of work places to prisoners, it should follow a transparent procedure (paragraph 105);
- the Bulgarian authorities to do everything within their powers in order to provide a lasting solution to the problem of overcrowding at Varna Prison and the other ensuing deficiencies. Given the state of dilapidation of the building, the replacement of Varna Prison should be considered as a priority (paragraph 110);



- pending its replacement, steps to be taken at Varna Prison to:
  - remove the third tier of the bunk beds;
  - ensure that each prisoner has a mattress, blankets and bed linen;
  - ensure that all prisoners have ready access to the toilet and to discontinue the use of buckets;
  - improve the state of the common sanitary facilities;
  - provide the in-cell toilets with a full partition;
  - refurbish and enlarge the prison bathroom;
  - increase the frequency of showers for inmates, in the light of Rule 19.4 of the European Prison Rules;
  - ensure that all inmates have access to a range of basic hygiene products and are provided with materials for cleaning the cells;
  - ensure that the disinfection of the establishment's premises is carried out in an effective manner and at suitable intervals(paragraph 110);
- steps to be taken to review the quality and quantity of the food provided at Varna Prison (paragraph 111);
- the management of Varna Prison to step up its efforts to develop activity programmes for inmates at the establishment, in particular as regards work, education and vocational training, taking account of the specific needs of different groups of the inmate population. Further, the outdoor exercise and sports facilities should be expanded (paragraph 115);
- the Bulgarian authorities to review the legal provisions in order to ensure that the segregation of lifers is based on an individual risk assessment and is applied for no longer than strictly necessary (paragraph 119);
- steps to be taken in the special units for lifers to:
  - improve access to natural light in the cells at Varna Prison;
  - ensure that life-sentenced prisoners at both Plovdiv and Varna Prisons have ready access to the toilet and to discontinue the use of buckets;
  - refurbish the lifers' cells and improve the state of the common sanitary facilities at both Plovdiv and Varna Prisons;
  - ensure that all inmates have access to a range of basic hygiene products and are provided with materials for cleaning the cells.(paragraph 120);
- the Bulgarian authorities to continue to develop the regime of activities of the life-sentenced prisoners currently held in special units, in particular by providing more communal activities (including access to work and education) (paragraph 120);

- urgent steps to be taken at Plovdiv and Varna Prisons to:
  - considerably reinforce the health-care teams. As a first step, the vacant posts should be filled, which will require providing working conditions that are sufficiently attractive to recruit and retain staff. Further, given the current inmate population, both prisons should have an additional doctor's post and several nurses' posts should be created at each establishment;
  - review the provision of dental care to inmates;
  - ensure that prisoners in need of diagnostic examination and/or hospital treatment are promptly transferred to appropriate medical facilities (paragraph 122);
- the position of prisoners employed in health-care units as orderlies to be reviewed, in the light of the remarks made in paragraph 123 (paragraph 123);
- steps to be taken to ensure the supply of appropriate medication in sufficient quantities to all prison establishments (paragraph 124);
- steps to be taken to improve the medical record-keeping at Plovdiv and Varna Prisons (paragraph 125);
- the Bulgarian authorities to implement the CPT's long-standing recommendation that all medical examinations be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical staff (paragraph 126);
- the Bulgarian authorities to develop a comprehensive policy for the provision of care to prisoners with drug-related problems, combining medical detoxification, psychological support, life skills, rehabilitation, substitution programmes and a prevention policy (paragraph 127);
- steps to be taken in the psychiatric unit of Lovech Prison Hospital to ensure that:
  - patients have ready access to a toilet at any time of the day or night;
  - regular maintenance works are carried out;
  - patients' rooms are properly furnished;
  - the quantity of food provided to patients is increased and that cooked meals are served at an appropriate temperature;
  - all patients have access to a range of basic hygiene products and are provided with materials for cleaning the cells (paragraph 131);
- steps to be taken at Lovech Prison Hospital to engage psychiatric patients in a range of psychosocial therapeutic activities adapted to their individual needs; this will require, *inter alia*, the recruitment of more staff qualified to provide such activities (paragraph 133);
- an individual treatment plan to be drawn up for each psychiatric patient at Lovech Prison Hospital, defining the goals of the treatment, the therapeutic means used and the staff member responsible. Patients should be involved in the drafting of their individual written treatment plans and the evaluation of their progress (paragraph 133);

- the exercise yard at Lovech Prison Hospital to be equipped with a shelter against inclement weather (paragraph 133);
- steps to be taken at Lovech Prison Hospital to ensure that the psychiatric patient serving a life sentence is provided with appropriate human contact (paragraph 134);
- the nursing staff resources at the psychiatric unit of Lovech Prison Hospital to be significantly increased in the light of the remarks made in paragraph 135 (paragraph 135);
- a clearly-defined policy to be drawn up on the use of means of mechanical restraint at Lovech Prison Hospital, in the light of the provisions of Ordinance No. 1 of 28 June 2005 on “Temporary physical restraining of patients with established psychiatric disorders” and taking into account the remarks made in paragraph 136 (paragraph 136);
- the Bulgarian authorities to take urgent steps to increase staffing levels in prisoner accommodation areas at Plovdiv and Varna Prisons, in the light of the remarks made in paragraph 138 (paragraph 138);
- the Bulgarian authorities to increase the visit entitlement for all prisoners to at least one visit per week (paragraphs 79 and 139);
- the visiting arrangements at Plovdiv and Varna Prisons and Lovech Prison Hospital to be reviewed so as to allow prisoners to receive visits under less restrictive conditions; resort to visits under closed conditions should be based on an individual risk assessment (paragraph 140);
- the Bulgarian authorities to take steps to ensure that the placement of prisoners in disciplinary cells does not include a total prohibition on family contacts. Moreover, any restrictions on family contacts as a form of punishment should be used only where the offence relates to such contacts (paragraph 143);
- immediate steps to be taken at Varna Prison to:
  - refurbish the two disciplinary cells and ensure that each of them never accommodates more than one prisoner;
  - provide each prisoner placed in a disciplinary cell with a mattress and blankets;
  - ensure that prisoners placed in disciplinary cells have ready access to a toilet (paragraph 145);
- the 4 m<sup>2</sup> isolation cell at Varna Prison to be immediately taken out of service until such time as it is enlarged and renovated; concerning its size, the cell should measure at least 6 m<sup>2</sup>. As regards the isolation cell at Plovdiv Prison, it should never be used to accommodate more than two prisoners (paragraph 147);

- the Bulgarian authorities to take steps to ensure that:
  - a prisoner who is segregated for administrative reasons is informed in writing of the reasons for that measure and, if necessary, its renewal (it being understood that the reasons given could exclude information which security requirements reasonably justify withholding from the prisoner);
  - a prisoner in respect of whom such a measure is envisaged is given an opportunity to express his views on the matter;
  - the placement of a prisoner in an isolation cell is as short as possible and is reviewed by a higher authority at least once every three months;
  - prisoners segregated for administrative reasons are ensured appropriate human contact with staff and/or other inmates(paragraph 147);
- the Bulgarian authorities to review Section 248 (1) of the Law on the Implementation of Sentences and Preliminary Detention, in the light of the remarks made in paragraph 148 (paragraph 148);
- the Bulgarian authorities to take further steps to ensure that the right of prisoners to lodge confidential complaints and to receive replies to them in due time is fully respected, by guaranteeing in practice that complainants will be free from reprisals (paragraph 149);
- the Bulgarian authorities to review the presence of police officers in prisons in order to ensure that the precepts set out in the second subparagraph of paragraph 151 are complied with (paragraph 151).

#### comments

- a major improvement of the employment situation in prisons will require a fundamental change in approach, based on the concept of prisoners' work as geared towards rehabilitation and resocialisation rather than towards financial profit (paragraph 86);
- it is inadmissible for staff to put a prisoner in a position of control and authority vis-à-vis other prisoners (paragraph 89);
- the Bulgarian authorities are invited to ensure that all prisoners' religious needs are catered for (paragraph 115);
- the CPT urges the Bulgarian authorities to strive to increase the number of life-sentenced prisoners integrated into the general prisoner population (paragraph 119);
- the practice of obliging psychiatric patients to wear pyjamas throughout the day is not conducive to strengthening a sense of personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process (paragraph 132);
- the practice of routinely handcuffing prisoners when outside their cells is highly questionable, all the more so when it is applied in an already secure environment (paragraph 134);

- the Bulgarian authorities are invited to review the 24-hour shift system for custodial staff (paragraph 138).

requests for information

- confirmation that, following the adoption of the new Criminal Code, conditional release (parole) has been made available to all life-sentenced prisoners, subject to a review of the threat to society posed by them on the basis of an individual risk assessment (paragraph 116);
- whether the handcuffing of a psychiatric patient at Lovech Prison Hospital, who was serving a life sentence, is based on an individual risk assessment (paragraph 134).

**Establishments under the authority of the Ministry of Health**

**Ill-treatment**

recommendations

- staff of the forensic ward at Lovech State Psychiatric Hospital to be regularly reminded that all forms of ill-treatment of patients, including verbal abuse, are unacceptable and will be the subject of severe sanctions (paragraph 156);
- the Bulgarian authorities to take appropriate measures to combat the phenomenon of inter-patient violence at Karvuna Hospital and the forensic ward at Lovech Hospital, in the light of the remarks made in the second subparagraph of paragraph 158 (paragraph 158).

requests for information

- whether criminal proceedings had been initiated against the orderly implicated in the alleged beatings of patients with a stick at the forensic ward of Lovech Hospital (paragraph 156);
- a copy of the instruction referred to in paragraph 157 (paragraph 157).

## **Patients' living conditions**

### recommendations

- steps to be taken at Karvuna State Psychiatric Hospital to:
  - thoroughly refurbish all patient accommodation areas, including communal sanitary facilities;
  - offer more congenial and personalised surroundings for patients (in particular by providing them with personal lockable space);
  - reduce occupancy levels in the rooms on the male acute ward (paragraph 162);
- steps to be taken to install additional ultraviolet lights in the TB unit at Karvuna Hospital (paragraph 162);
- the Bulgarian authorities to take resolute action to improve the provision of food to patients in Karvuna Hospital and the forensic ward of Lovech Hospital, in order to ensure that the food is adequate in terms of both quantity and quality (paragraph 163);
- steps to be taken at Karvuna Hospital and the forensic ward of Lovech Hospital to enable patients to take more frequent showers (paragraph 164).

### comments

- more effort should be made to personalise the living environment for patients in the forensic ward of Lovech Hospital (paragraph 159).

## **Staff and treatment**

### recommendations

- the Bulgarian authorities to take steps to:
  - fill the vacant psychiatrists' posts at Karvuna Hospital;
  - increase the number of nurses and orderlies at Karvuna Hospital and the forensic ward of Lovech Hospital;
  - employ additional specialists qualified to provide psychosocial and occupational therapeutic activities in both establishments (paragraph 167);
- the practice at Karvuna Hospital of staff delegating certain security tasks (e.g. guarding the gate to the hospital) to selected patients to be discontinued without delay; carrying out security tasks should be the exclusive responsibility of the staff (paragraph 168);

- greater efforts to be made at Karvuna Hospital and the forensic ward of Lovech Hospital to provide more comprehensive and individualised care with a wide range of psychosocial activities, to better prepare patients for their return to the community. An individual treatment plan should be drawn up for each patient (taking into account the special needs of acute, long-term and forensic patients), including the goals of the treatment, the therapeutic means used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and be informed of their progress (paragraph 169);
- the necessary measures to be taken at Karvuna Hospital to offer all patients, health permitting, at least one hour a day of outdoor exercise in a reasonably spacious and appropriately secure setting (paragraph 172).

#### comments

- the CPT trusts that reinforcing the team of nurses and orderlies at Karvuna Hospital will make it possible to abolish the practice of using more able patients to perform various orderlies' tasks (paragraph 168).

#### requests for information

- more information on the precise arrangements made at Lovech State Psychiatric Hospital to enable all patients to take outdoor exercise (paragraph 171).

### **Means of restraint**

#### recommendations

- the Bulgarian authorities to ensure that immobilisation of a patient does not take place in the sight of other patients, unless the patient concerned explicitly requests otherwise or when the patient is known to have a preference for company. Further, staff should not be assisted by other patients when applying means of restraint (paragraph 175);
- the requirement of Ordinance No. 1 of 28 June 2005 on "Temporary physical restraining of patients with established psychiatric disorders" for a permanent staff presence when patients are restrained to be strictly adhered to (paragraph 175);
- steps to be taken at the forensic ward of Lovech Hospital to ensure that instances of seclusion are always recorded accurately (paragraph 176);
- patients held in seclusion rooms to have ready access to a toilet (paragraph 176).

#### comments

- only very exceptional circumstances could justify the isolation of a psychiatric patient for a period of days (paragraph 176).

## **Safeguards in the context of involuntary hospitalisation**

### recommendations

- the Bulgarian authorities to take steps to ensure that the legal provisions governing civil involuntary hospitalisation – and in particular the time limits as regards emergency hospitalisation – are fully respected in practice (paragraph 180);
- steps to be taken at the forensic ward of Lovech Hospital to ensure that appropriate informed consent procedures are put in place, in the light of the remarks made in the first subparagraph of paragraph 181 (paragraph 181);
- the Bulgarian authorities to take appropriate steps to ensure that patients are not detained in hospital for longer than their medical condition requires (paragraph 182);
- a brochure setting out the establishment's routine and patients' rights – including information about complaints bodies and procedures – to be drawn up and systematically provided to patients and their families upon admission to Karvuna Hospital and the forensic ward of Lovech Hospital (paragraph 184);
- steps to be taken at Karvuna and Lovech Hospitals and, as appropriate, in other psychiatric establishments to ensure that visits are carried out, on a regular basis, by a body which is independent of the health authorities (paragraph 185).

### comments

- steps should be taken to ensure that forensic patients always receive copies of the psychiatric assessment reports as well as copies of the relevant court decisions (paragraph 178).

### requests for information

- comments of the Bulgarian authorities on the point raised in paragraph 179 as regards external psychiatric expertise (paragraph 179);
- detailed information on the planned amendments to the Law on Health and the Law on Medical Establishments which would enable psychiatric hospitals to provide social services by means of establishing day-care centres and shelters (paragraph 182);
- clarification as regards claims made by some forensic patients at Lovech Hospital that they were not allowed to use pay phones (paragraph 183).



## **Establishments under the authority of the Ministry of Labour and Social Policy**

### **Preliminary remarks**

#### comments

- the CPT encourages the Bulgarian authorities to persevere in their efforts to reorganise the system for the provision of care to persons with mental disabilities (paragraph 188).

### **Follow-up visit to the Home in Pastra**

#### comments

- the Bulgarian authorities are invited to upgrade the access road leading to the Home (paragraph 193).

#### requests for information

- updated information on the outcome of the measures taken by the Social Assistance Agency to move 41 of the Home's residents to other premises (paragraph 193);
- the progress made towards the implementation of the plan for bringing conditions at the Home into conformity with the standards and criteria for the provision of social services (paragraph 193).

### **Staff and care of residents**

#### recommendations

- steps to be taken to significantly increase nursing staff levels at the Homes in Pastra and Oborishte (paragraph 199);
- the Bulgarian authorities to increase the number of staff responsible for the provision of therapeutic and other activities at the Home in Pastra (paragraph 199);
- steps to be taken at the Homes in Pastra and Oborishte to ensure that more residents benefit from psychosocial and occupational therapeutic activities adapted to their mental capacity and physical mobility. Achieving this goal will require recruiting additional qualified staff (paragraph 200).

requests for information

- updated information on the concrete steps taken by the Bulgarian authorities at the Home in Oborishte to recruit more social workers and occupational therapists and to develop work therapy programmes for residents (paragraph 198);
- comments of the Bulgarian authorities on the practice of mixing mentally ill residents with the learning disabled at the Home in Oborishte (paragraph 201).

**Means of restraint**

recommendations

- steps to be taken at the Home in Oborishte to ensure that resort to means of restraint complies with the precepts set out in the second subparagraph of paragraph 203 (paragraph 203).

**Safeguards**

recommendations

- the Bulgarian authorities to take steps to ensure that:
  - residents of homes for persons with mental disabilities have the effective right to bring proceedings to have the lawfulness of their placement decided by a court, and that they are duly informed of this right;
  - the need for continued placement is automatically reviewed by a court at regular intervals or residents themselves are able to request at reasonable intervals that the necessity for continued placement is considered by a judicial authority (paragraph 204);
- the Bulgarian authorities to take steps to ensure that all persons admitted to specialised institutions for adults who are unable to give valid consent are notified to the competent court with a view to having a guardian appointed (paragraph 205);
- contracts for the provision of social services to contain information on the possibilities for residents to lodge complaints with a relevant outside authority. Residents unable to understand the contracts should receive appropriate assistance (paragraph 205);
- the Bulgarian authorities to strive to find alternative solutions which would better guarantee the independence and impartiality of guardians (paragraph 206).

comments

- the Bulgarian authorities are invited to introduce a firm legal basis for regular visits to social care institutions by bodies which are independent of the social care authorities (paragraph 208).

requests for information

- detailed information concerning the procedure for consent to treatment in respect of persons admitted to institutions for persons with mental disabilities (paragraph 204).

**APPENDIX II**

**LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL  
AND INTERNATIONAL ORGANISATIONS WITH WHICH  
THE CPT'S DELEGATION HELD CONSULTATIONS**

**National authorities**

**Ministry of Justice**

|                     |   |
|---------------------|---|
| Ms Margarita POPOVA | Minister  |
| Mr Hristo ANGELOV   | Deputy Minister   |
| Ms Daniela MASHEVA  | Deputy Minister   |
| Mr Petar VASSILEV   | General Director of the General Directorate Execution of Punishments (GDEP)     |
| Mr Emil MADJAROV    | Deputy Director of the GDEP   |
| Ms Galina VASILEVA  | Head of the Administrative and Legal Service and Human Resources Division, GDEP |
| Ms Iva STANCHEVA    | State Expert, International Legal Cooperation and European Affairs Directorate  |

**Ministry of Internal Affairs**

|                       |  |
|-----------------------|--|
| Mr Stanislav TEOFILOV | Vice Director of the Chief Directorate Public Order Police                     |
| Ms Boyka CHERNEVA     | Associate Professor, lecturer at the Ministry of Internal Affairs Academy      |
| Ms Vanya STOILOVA     | Head of Administrative Service Sector, Chief Directorate Pre-Trial Proceedings |
| Mr Yotko ANDREEV      | Director a.i. of the Special Home for Temporary Placement of Foreign Nationals |
| Mr Georgi DALEV       | State inspector, Inspectorate Directorate                                      |
| Mr Ivan ALEXANDROV    | Expert, EU and International Co-operation Directorate                          |

**Ministry of Health**

|                        |   |
|------------------------|---|
| Ms Anna VARSANOVA      | Director of the Medical Activities Directorate                  |
| Ms Milena GRIGOROVA    | State expert, International Activities and Projects Directorate |
| Ms Zoya VALEVA         | Head of the Budget and Finance Sector                           |
| Mr Marin VASSILEV      | Chief expert, Property Management Directorate                   |
| Ms Stela ZDRAVKOVA     | Chief Legal Adviser, Medical Activities Directorate             |
| Ms Radostina GEORGIEVA | Expert, International Activities and Protocol Division          |

Ministry of Labour and Social Policy

|                    |  |
|--------------------|--|
| Ms Petya DEMIREVA  | Head of Division, Social Protection Directorate                    |
| Ms Iliana MALINOVA | Deputy Director of the Social Assistance Agency (SAA)              |
| Ms Anna ANGELOVA   | Head of Division, International Cooperation Directorate, SAA       |
| Ms Tanya TODOROVA  | Head of Specialised Institutions Division, SAA                     |
| Ms Yulia ILCHEVA   | Expert, European Affairs and International Cooperation Directorate |

Supreme Cassation Prosecutor's Office

|                  |   |
|------------------|---|
| Mr Plamen PACHEV | Head of Execution of Punishments Sector |
| Mr Ivan PETKOV   | Consultant                              |

Office of the Ombudsman

|                      |   |
|----------------------|---|
| Mr Ginyo GANEV       | Ombudsman   |
| Mr Borislav TSEKOV   | Chief Secretary   |
| Mr Lyubomir KRILCHEV | Head of Division, Division for Signals and Monitoring of Rights Violations by the Police, Judiciary and Penitentiary System             |
| Mr Damyan ATANASSOV  | Expert-consultant, Division for Signals and Monitoring of Rights Violations by the Police, Judiciary and Penitentiary System            |
| Ms Eva ZHECHEVA      | Chief expert, Administrative Service, Labour and Social Activities Division   |
| Ms Zdravka KRASTEVA  | Expert consultant, coordinator of the Working Group for Observation and Assessment of Violations of Citizens' Rights and Discrimination |
| Mr Hristo HALACHEV   | Expert consultant   |

**Non-governmental organisations**

Assistance Centre for Torture Survivors (ACET)  
"Adaptatsiya" Society  
Bulgarian Helsinki Committee  
Bulgarian Lawyers for Human Rights  
Legal Clinic for Refugees and Immigrants

**International organisations**

UNHCR Representation in Sofia