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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 10 to 17 December 2018

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 (2019) 25.

Strasbourg, 11 July 2019

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EXECUTIVE SUMMARY

The purpose of this visit was to examine the treatment and conditions of detention of foreign nationals detained under aliens legislation. The CPT's delegation visited Border Police detention facilities in Elhovo, Sofia Airport and Svilengrad (Kapitan Andreevo) and carried out follow-up visits to the Special Homes for Temporary Accommodation of Foreigners in Busmantsi and Lyubimets. In Busmantsi, the delegation also paid a visit to the Closed-Type Premises run by the State Agency for Refugees (SAR).

Border Police establishments

The delegation heard no recent and credible allegations of physical ill-treatment of detained foreign nationals by Border Police officers. That said, a few persons interviewed at the Special Homes for Temporary Accommodation of Foreigners in Busmantsi and Lyubimets alleged that they had been verbally insulted while in the custody of the Border Police. The Committee recommended that a firm message be delivered to Border Police officers that all forms of ill-treatment (including verbal insults) of persons deprived of their liberty are unlawful and will be punished accordingly.

Material conditions in the Border Police establishments visited could on the whole be considered acceptable for the maximum period of 24 hours of custody. That said, the CPT recommended that steps be taken to ensure that neither of the two Border Police cells at Sofia Airport ever hold more than one person at a time. Further, considering their small size, the two cells should not be used to hold persons for more than a few hours, and never overnight. As regards the Border Police detention facility at Kapitan Andreevo, the CPT recommended that it be thoroughly refurbished and cleaned, cells be equipped with an effective heating system, and that detainees be offered food at normal meal times.

Persons detained by the Border Police were generally provided with written information on their rights (in several languages) and granted access to a lawyer (including *ex officio* lawyers) and an interpreter. It is also to be highlighted that the various custody records at the Border Police establishments visited were on the whole detailed and well kept. Further, the delegation's impression was that access to a doctor was generally granted to persons who asked for medical assistance. As for notification of custody, detention protocols examined by the delegation in the Border Police establishments visited contained relevant entries, indicating whether the person concerned had wished a relative or another person to be notified, stating the notified person's identity and the time when the person in question had been called. However, detainees received no feedback from Border Police officers as to whether notification had been performed, and some of them thought that it had not been done. The CPT recommended that steps be taken to ensure that all detained persons be provided with feedback on whether or not it has been possible to notify a close relative or other person of the fact of their detention.

Immigration detention facilities

The delegation heard no allegations of recent physical ill-treatment of detained foreign nationals by staff of the immigration detention facilities in Busmantsi (both the Home and the SAR Closed Unit) and Lyubimets. Further, only a few allegations were received of sporadic rude, disrespectful and dismissive behaviour by guards, mainly in response to detainees' requests (e.g. to be allowed to go to the toilet at night).

Overall, the delegation's impression was that there had been an improvement in detainee-staff relations as compared with the situation observed during previous visits to both Homes, although there was clearly still room for improvement in the area of staff's training in inter-cultural communication and foreign languages.

As for inter-detainee violence, the delegation was told about some tension and sporadic conflicts at Busmantsi and Lyubimets Homes, mostly due to persons of different nationalities, religions and backgrounds being obliged to share large-capacity dormitories with a complete lack of privacy, almost no activities and scant information about their legal situation and future prospects. The CPT recommended that the management and staff of both Homes remain vigilant and make use of all the means at their disposal to prevent inter-detainee violence and intimidation.

As regards material conditions, some improvements were observed by the delegation at Busmantsi and Lyubimets Homes since the CPT's previous visits, also thanks to the fact that both establishments were operating well below their official capacities. However, the accommodation continued to be dilapidated and the virtually bare large-capacity dormitories offered no privacy. Further, communal toilets for men were still run down and dirty in Lyubimets. In both Homes, the lack of access to a toilet at night for most of the detainees obliged them to use bottles or buckets, or to comply with their needs of nature through the windows. The accommodation areas were inadequately heated (especially in Busmantsi) and, in both Homes, detained foreign nationals complained of not being provided with clothing and shoes adapted to the season. Furthermore, as previously, many complaints were heard about the food (especially its quality) and about the ban on detainees cooking their own meals. The CPT recommended that urgent steps be taken to remedy the above-mentioned deficiencies.

As for the SAR Closed Unit, material conditions were generally acceptable, with cells in the detention area being recently refurbished, bright and airy, clean and adequately furnished. That said, the intended occupancy of the standard 12 m² cells was much too high. The CPT recommended that steps be taken to ensure that the cells at the SAR Closed Unit never accommodate more than three detained foreign nationals each.

In both Homes, the delegation observed some improvements since the CPT's previous visits in the activities provided. However, foreign nationals detained at Busmantsi and Lyubimets Homes still had to spend months on end in enforced idleness, with little to occupy their time. The situation was even worse at the SAR Closed Unit, where the only available distractions were the possibility to take outdoor exercise during one hour each day, watch television during one hour each day and read books and play board games inside the detention area. The CPT called upon the Bulgarian authorities to make further efforts to offer a range of constructive activities to foreign nationals detained at Busmantsi and Lyubimets Homes, as well as the SAR Closed Unit.

There had been hardly any change in the provision of health care to detained foreign nationals at Busmantsi and Lyubimets Homes; in short, the only positive aspects were that there was a 24/7 staff presence and that the infirmary in Lyubimets was clean and in a good state of repair (unlike in Busmantsi). However, the medical equipment was very scant and often out of order, the range of free-of-charge medication was extremely limited (some of it, including antibiotics, had expired a long time ago) and access to specialist care was very restricted. Further, the initial medical screening was perfunctory, the recording of injuries was virtually inexistent, and medical confidentiality was not observed. The delegation also noted the absence of proper individual medical files and the succinct and unreliable character of the existing medical documentation.

The CPT was particularly concerned by the detained foreign nationals' very poor access to psychiatric care, limited in fact to emergencies. This was additionally compounded by the lack of interpretation arrangements and by the fact that detained foreign nationals had no health insurance. The CPT called upon the Bulgarian authorities to take urgent steps to address the aforementioned serious deficiencies of health-care services and to strive to improve the level of psychological assistance to foreign nationals detained at Busmantsi and Lyubimets Homes, including the provision of professional interpretation.

With regard to staff, the situation at Busmantsi and Lyubimets Homes had improved compared with that observed during the CPT's previous visits. That said, considering the persistent problem of communication between staff and detained foreign nationals (which had a negative impact on the activities, health care and the overall atmosphere in both Homes), the CPT recommended that more efforts be made in the immigration detention establishments visited to improve staff's training in languages most commonly spoken by detained foreign nationals and inter-cultural communication.

At the two Homes visited (and the SAR Closed Unit), written and audio-video information on the house rules and applicable legislation was available in a range of languages. Further, detained foreign nationals received systematically copies of decisions concerning their detention and (as applicable) asylum procedure, and could keep them; however, these decisions were only in Bulgarian. The CPT reiterated its recommendation that steps be taken to ensure that foreign nationals detained at Busmantsi and Lyubimets Homes (and the SAR Closed Unit) receive, whenever necessary, the assistance of qualified interpreters. The use of fellow detainees as interpreters should be avoided.

As previously, legal assistance was left entirely to various NGOs. In this context, the CPT reiterated its recommendation that the system of legal aid (run by the National Legal Aid Bureau) be extended to detained foreign nationals, during all phases of the procedure. As for contact with the outside world, detained foreign nationals could send and receive correspondence and could use their mobile telephones (without cameras), pay-phones or, upon request and in justified circumstances, make calls using the staff's office phones. Visits were also allowed up to twice per week (upon request) and took place under open conditions but in the presence of staff. The CPT recommended that the Bulgarian authorities provide the possibility of unsupervised visits for detainees at Busmantsi and Lyubimets Homes (and at the SAR Closed Unit). Further, the CPT reiterated its recommendation that the Bulgarian authorities allow detained foreign nationals to use VoIP technologies free-of-charge basis to communicate with the outside world.

As for discipline, there were no formal disciplinary sanctions and no disciplinary procedure in the immigration detention establishments visited. That said, foreign nationals at Busmantsi Home perceived placement in one of the two dormitories for persons representing a risk for public security as a form of punishment, and all detainees (in both Homes) were aware that in case of any serious violation of house rules they risked being transferred to the SAR Closed Unit. Furthermore, at Lyubimets Home the delegation learned that, approximately 10 days prior to the visit, the Director had ordered the removal of all mobile phones from detained foreign nationals, apparently because a mobile with a camera had been discovered in one of the dormitories. The CPT recommended that such collective punishment practices be stopped immediately. More generally, while acknowledging that it may on occasion be necessary to sanction detained foreign nationals for improper behaviour, the CPT stressed that any such sanction must be accompanied by appropriate procedural safeguards. Finally, the CPT recommended a review of the operation of the complaints procedures so as to make sure that detained foreign nationals are effectively enabled to send complaints in a confidential manner.

I. INTRODUCTION

A. The visit, the report and follow-up

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 carried out a visit to Bulgaria from 10 to 17 December 2018. The visit was one which appeared to the Committee “to be required in the circumstances” (see Article 7, paragraph 1, of the Convention) and its purpose was to examine the treatment and conditions of detention of foreign nationals detained under aliens legislation. It was the CPT’s 12th visit to Bulgaria.¹

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

- Ivona Todorovska (Head of the delegation)
- Alan Mitchell
- Davor Strinović
- Chila Van Der Bas.

They were supported by Borys Wódz, Head of Division at the CPT’s Secretariat, and assisted by:

- George Tugushi, former Public Defender (Ombudsman) of Georgia and former CPT member (expert)
- Elena Alexieva (interpreter)
- Radhia Ben Hassine-Zribi (interpreter)
- David Ieroham (interpreter).

3. The Committee’s delegation visited Border Police detention facilities in Elhovo, Sofia Airport and Svilengrad (Kapitan Andreevo) and carried out follow-up visits to the Special Homes for Temporary Accommodation of Foreigners in Busmantsi and Lyubimets. In Busmantsi, the delegation also paid a visit to the Closed-Type Premises run by the State Agency for Refugees (SAR).

¹ See the full list of visits and their dates on the CPT’s website, <https://www.coe.int/en/web/cpt/bulgaria>. All the Committee’s reports and responses of the Bulgarian authorities to date are in public domain, upon the authorities’ request and pursuant to the automatic publication procedure introduced by the Bulgarian authorities in 2015. According to this procedure, all documents related to CPT visits shall be published automatically, unless the Bulgarian authorities submit within one month a request to postpone (for a period of up to six months) the publication of the document concerned.

4. The report on the visit was adopted by the CPT at its 98th meeting, held from 4 to 8 March 2019, and transmitted to the Bulgarian authorities on 28 March 2019. The various recommendations, comments and requests for information made by the Committee are set out in bold type in the present report. The CPT requests the Bulgarian authorities to provide within three months a response containing a full account of action taken by them to implement the Committee's recommendations and replies to the comments and requests for information formulated in this report.

B. Consultations held by the delegation and co-operation encountered

5. In the course of the visit, the CPT's delegation held consultations with Krasimir Tsipov, Deputy Minister of Internal Affairs, as well as with senior officials from the Ministry of Internal Affairs, the National Police, the Border Police and the Migration Directorate.

The delegation also met Maya Manolova, Ombudsperson, and staff of the National Preventive Mechanism (NPM). Further, meetings were held with the Representative of the United Nations High Commissioner for Refugees (UNHCR) and with members of non-governmental organisations active in areas of concern to the Committee.

A full list of the authorities and organisations with which the CPT's delegation held consultations is set out in the Appendix to this report.

6. The delegation received very good co-operation in the establishments visited, including those for which the visit had not been notified in advance. In particular, the delegation had rapid access to all premises it wished to visit, was able to meet in private with persons with whom it wanted to speak and was provided with access to all the documents it required.

The Committee wishes to express its appreciation of the efficient assistance provided to its delegation before and during the visit by the Liaison Officers appointed by the Bulgarian authorities, Irina Kuzmanova and Dimitar Terziivanov from the Ministry of Justice, as well as by the contact persons appointed for the duration of this particular visit by the Ministry of Internal Affairs.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Border Police establishments

1. Preliminary remarks

7. Under the Law on Aliens in the Republic of Bulgaria (LARB), foreign nationals may be detained by the Border Police, on their own authority, for up to 24 hours.² If it is needed to prolong the period of detention beyond the 24 hours, the foreign national must be transferred, by decision of the Directorate of Immigration of the Ministry of Internal Affairs, to a Special Home for Temporary Accommodation of Foreigners³ or (if the person is suspected of a criminal offence e.g. forgery or human smuggling) to a National Police establishment, pursuant to the Law on the Ministry of Interior and the Code of Criminal Procedure.⁴ In the latter case, if the person concerned has applied for asylum, he/she may be transferred to the Closed-Type Premises run by the State Agency for Refugees (SAR), hereafter the SAR Closed Unit.⁵

8. It should be stressed as a positive fact that, with very rare exceptions,⁶ no violations of the above-mentioned 24-hour time-limit have been observed by the CPT's delegation in the Border Police establishments visited (and that, in most cases, detention periods were shorter). Nevertheless, **the Committee recommends that the Bulgarian authorities ensure that the 24-hour time-limit for the custody of persons by the Border Police is always duly respected.**

2. Ill-treatment

9. The delegation heard no recent and credible allegations of physical ill-treatment of detained foreign nationals by Border Police officers. The CPT welcomes this positive fact.

That said, a few detained foreign nationals interviewed at the Special Homes for Temporary Accommodation of Foreigners in Busmantsi and Lyubimets alleged that they had been verbally insulted while in the custody of the Border Police.

The Committee recommends that a firm message be delivered to Border Police officers that all forms of ill-treatment (including verbal insults) of persons deprived of their liberty are unlawful and will be punished accordingly.

² The grounds include unauthorised entry, irregular residence or lack of valid identity documents, as well as the need to secure the foreign national's removal from the country.

³ See paragraphs 14 and 15 below.

⁴ See the description of the relevant provisions in paragraph 18 of the report on the CPT's 2017 periodic visit to Bulgaria, document CPT/Inf (2018) 15, <https://rm.coe.int/16807c4b74>. Detention in a National Police establishment may not exceed the total cumulative detention period (as from the moment of apprehension) of 72 hours.

⁵ See paragraphs 14 and 15 below.

⁶ E.g. a case when a person had stayed at the Border Police detention facility at Sofia Airport for 26 hours.

3. Conditions of detention

10. Material conditions in the Border Police establishments visited could on the whole be considered acceptable for the maximum period of 24 hours of custody.

At the Regional Border Guard Directorate in Elhovo⁷ the cells were sufficiently large for their intended capacity,⁸ generally adequately lit and ventilated, suitably equipped (with beds and bedding), clean and in a good state of repair. Some of the cells (for women and minors) had partitioned in-cell sanitary annexes (comprising a toilet and a washbasin) and there were decent communal toilet, washing and shower facilities. Further, there were arrangements for the provision of food.

Conditions were also generally acceptable at Sofia Airport, but the two holding cells (measuring approximately 6 m² and equipped each with a bunk bed) were too small for their intended capacity. Further, in-cell toilets were not partitioned and there was no privacy given that the cells had barred doors (although there was an anti-chamber with “proper” doors so that detainees could not be seen from any of the airport’s general access areas). As in Elhovo, persons detained at Sofia Airport were offered food (and could also buy food from one of the airport’s restaurants, if they so wished).

The (relatively) worst conditions were observed at Kapitan Andreevo, where the whole detention area⁹ (in particular the communal toilets, washroom and showers) was very dilapidated, dirty and rather cold. That said, the cells were sufficient in size,¹⁰ furnished with sleeping platforms or beds with bedding and well lit and ventilated. However, the delegation heard a few allegations of delayed provision of food.¹¹

11. The CPT recommends that steps be taken to ensure that the two Border Police cells at Sofia Airport never hold more than one person each at a time. Further, considering their small size, the two cells should not be used to hold persons for more than a few hours, and never overnight. Ways should also be sought to improve the design of the cells so as to offer more privacy.

As regards the Border Police detention facility at Kapitan Andreevo, the Committee recommends that it be thoroughly refurbished and cleaned, cells being equipped with an effective heating system, and that detainees be offered food at normal meal times.

⁷ There were two separate detention areas in two buildings, one primarily used by officers from Elhovo, the other, opened in 2014 but never used so far, was to serve as overflow facilities (in case if a large group of foreign nationals were to be apprehended) by Border Police officers from Bolyarovo and Sredets. These overflow cells measured from 50 to 200 m² and were equipped with sleeping platforms. The overall capacity was said to be 68 persons.

⁸ E.g. double cells measuring some 15 m² (sanitary annexe excluded, where applicable); cells for three persons measuring some 25 m².

⁹ With the exception of one cell, used to hold women, which had recently been repainted.

¹⁰ E.g. a cell for five persons measuring some 20 m².

¹¹ E.g. in the case of a foreign national who had been apprehended in the morning and had reportedly not been offered anything to eat until late in the afternoon.

4. Safeguards

12. The delegation observed that persons detained by the Border Police were generally provided with written information on their rights (in several languages)¹² and granted access to a lawyer (including *ex officio* lawyers)¹³ and an interpreter¹⁴ (though Border Police officers did acknowledge that they sometimes asked other detained foreign nationals to translate). It is also to be highlighted that the various custody records at the Border Police establishments visited were on the whole detailed and well kept.

Further, the delegation's impression was that access to a doctor was generally granted to persons who asked for medical assistance,¹⁵ although a few allegations were heard from foreign nationals detained at the two Homes in Busmantsi and Lyubimets that access to a doctor had been denied to them or significantly delayed (by several hours) while in the custody of the Border Police.

As for notification of custody, detention protocols examined by the delegation in the Border Police establishments visited contained relevant entries, indicating whether the person concerned had wished a relative or another person to be notified, stating the notified person's identity and the time when the person in question had been called.¹⁶ However, detainees received no feedback from Border Police officers as to whether notification had been performed, and some of them thought that it had not been done.

The Committee recommends that instructions be issued to all Border Police establishments to ensure that detained foreign nationals' requests to see a doctor are responded to quickly and positively, without any filtering by Border Police officers. As regards notification of custody, steps must be taken to ensure that detained persons are provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention. Further, the practice of relying on other detained foreign nationals to provide interpretation during interviews is to be avoided: apart from serious questions that arise about the reliability of interpretation thus provided, the aforementioned practice has a dubious impact on safeguarding detained persons' rights.

¹² In several filled-in detention protocols seen by the delegation in Border Police establishments visited, detained foreign nationals' rights (notification of custody, access to a lawyer including *ex officio* lawyer, right to contact a consular or diplomatic representative, right to interpretation, right to request to be examined by a doctor) were enumerated and the detained person was asked to tick the box (yes/no) and to sign under each of the aforementioned rights.

¹³ The delegation saw written proofs of *ex officio* lawyers' visits to detained persons at Border Police establishments, both in the visitors' logbooks at main entrances, the custody journals and the individual files of detained foreign nationals. It is noteworthy that lists of available *ex officio* lawyers (with names and mobile numbers) and the telephone number of the National Office of Free Legal Aid were seen posted on the walls in the corridors of detention areas of Border Police establishments visited (in particular at Elhovo and Kapitan Andreevo).

¹⁴ As confirmed by interpreters' signatures on detention protocols and/or entries in detention journals (in cases when interpreters were not physically present but provided interpretation by telephone).

¹⁵ The Regional Border Guard Directorate in Elhovo had its own full-time doctor (present from 8 a.m. to 5 p.m. on working days) and six feldshers (assuring a 24/7 coverage). In Kapitan Andreevo, the duty Border Police officer would call an ambulance (the delegation saw written records of such visits) and at Sofia Airport, recourse was had to the Airport Medical Centre.

¹⁶ Sometimes Border Police officers allowed detainees to use their own mobile phones to call their relatives or friends, in the officers' presence.

13. In a few cases, detained foreign nationals met at Busmantsi and Lyubimets Homes told the delegation that they had asked Border Police officers to inform a consular or diplomatic representative of their detention and their request to meet him/her but that no such meeting had taken place (and nobody from the consulate or embassy had called them). The CPT is not in a position to affirm that the Border Police have failed to inform the consular or diplomatic representative of the aforementioned detained persons' requests; it could well be that such notification was performed but that the consular or diplomatic representatives did not get in touch with the detainees concerned.

However, in order to eliminate any possible future controversy, **the Committee recommends that** – similar as with respect to notification of custody (see paragraph 12 above) – **the Border Police systematically provide detained foreign nationals with feedback on whether the consular or diplomatic representative has been informed of the detained person's wish to contact him/her. The fact (and the date and exact time) of having transmitted such information should be duly recorded in writing.**

B. Immigration detention facilities

1. Preliminary remarks

14. As already mentioned in paragraph 3 above, the CPT's delegation carried out follow-up visits to two immigration detention facilities run by the Directorate of Immigration of the Ministry of Internal Affairs, namely the Special Homes for Accommodation of Foreigners in Busmantsi (near Sofia, hereafter the Busmantsi Home)¹⁷ and Lyubimets (located close to the borders with Greece and Turkey, hereafter the Lyubimets Home).¹⁸ Both Homes are used to accommodate, for up to 18 months, foreign nationals subjected to administrative detention pursuant to the Law on Aliens in the Republic of Bulgaria (LARB).¹⁹

In Busmantsi, the delegation also paid a visit to the Closed-Type Premises run by the State Agency for Refugees (SAR), hereafter the SAR Closed Unit, adjacent to the Busmantsi Home. The facility is used to accommodate by decision of the Head of SAR, for up to 18 months (or until the final decision on asylum application), asylum seekers who have repeatedly violated house rules in one of the open reception centres run by the SAR or in one of the Homes (upon request of the Directorate of Immigration), those placed there upon request of the State Agency of National Security (because they are considered to represent a threat to national security) and those who, in addition to having applied for asylum, are also suspected or accused of a criminal offence (e.g. human smuggling or forgery of documents).²⁰

15. The general description of both Homes is to be found, respectively, in paragraph 25 of the report on the 2008 ad hoc visit,²¹ paragraph 34 of the report on the 2010 periodic visit²² and paragraph 43 of the report on the 2017 periodic visit.²³

¹⁷ Last visited by the CPT in October 2010, see paragraphs 34 to 56 of the report on the CPT's 2010 periodic visit to Bulgaria, document CPT/Inf (2012) 9, <https://rm.coe.int/09000016806940a3>.

¹⁸ Last visited in October 2017, see paragraphs 43 to 61 of the report on the CPT's 2017 periodic visit to Bulgaria, document CPT/Inf (2018) 15, <https://rm.coe.int/16807c4b74>.

¹⁹ See also paragraph 7 above. According to the LARB, administrative detention of foreign nationals can be ordered by the Border Police or the Migration Directorate on grounds of unauthorised entry, irregular residence or lack of valid identity documents with a view to their removal from the country. Following amendments to the LARB passed in the end of 2016, the Migration Directorate can initially order a detention of 30 calendar days within which period they should decide on continuous detention or referral of the individual to an open reception centre, if he or she has applied for asylum. The maximum detention period is 18 months, including extensions. Extensions beyond six months (three months for women and minors) can be ordered only by a court. Under the law, a foreign national shall be released as soon as the reasonable possibility for their deportation no longer exists due to legal or technical reasons. Since 2009, there has been an automatic six-monthly judicial review (three-monthly for women and minors) of all cases of administrative detention.

²⁰ See also paragraph 7 above.

²¹ CPT/Inf (2010) 29, <https://rm.coe.int/09000016806940a1>.

²² CPT/Inf (2012) 9, <https://rm.coe.int/09000016806940a3>.

²³ CPT/Inf (2018) 15, <https://rm.coe.int/16807c4b74>.

At the time of the 2018 ad hoc visit, Busmantsi Home (capacity 400²⁴) was accommodating 150 foreign nationals of 19 nationalities (mostly from Afghanistan, Iraq and Pakistan) including seven women and four minors; 70 of them were asylum seekers.²⁵ The average stay of detained foreign nationals was said to be 25 days.

Lyubimets Home (capacity 300²⁶) was accommodating 95 detained foreign nationals²⁷ including two women (there were no minors at the time of the visit); 16 of the detainees had applied for asylum in Bulgaria.²⁸ The average stay at the Home was said to be 27 days.

As regards the SAR Closed Unit, attached to the Busmantsi Home but with a separate secure perimeter and entrance, it had the official capacity of 80 and was accommodating six adult detained foreign nationals (all Afghan asylum seekers) at the time of the visit.²⁹

16. The Bulgarian legislation (LARB and Law on Asylum and Refugees, LAR) differentiates between the detention of irregular migrants and asylum seekers, prescribing timelines for ensuring their separate accommodation (a principle which is also advocated by the CPT).³⁰ Namely, Section 58 (4) of the LAR stipulates that when an asylum application is made to another State authority than the SAR (e.g. to Border Police or Directorate of Immigration), the detained foreign national must be transferred to a SAR open reception centre³¹ within 6 days.

However, the delegation observed at Busmantsi and Lyubimets Homes that the aforementioned deadline was frequently not respected in practice and many detained foreign nationals had to wait several months before being transferred to an open reception centre, even if they had applied for asylum shortly after having been detained. After having examined the relevant documentation and spoken with some detained foreign nationals, the delegation found that detainees had on occasion spent up to 17 months at a Home before being transferred to a SAR open reception centre; during this time, they had often been through all stages of the asylum procedure (including all appeal phases).

²⁴ Corresponding to the number of beds in the main detention building, excluding approximately 300 extra beds in storage.

²⁵ Busmantsi Home had accommodated 188 detained foreign nationals, including eight women and 21 minors, only 5 days before the delegation's visit. The Director explained that many foreign nationals had been transferred to open SAR reception centres a few days before the delegation's arrival. Consultation of the relevant registers demonstrated such important population changes were not exceptional.

²⁶ Plus 400 additional beds in containers placed on the Home's territory (never used so far), on which see the CPT's comments and recommendations in paragraph 52 of the report on the 2017 visit (document CPT/Inf (2018) 15, <https://rm.coe.int/16807c4b74>).

²⁷ 20 of them subjected to the 30-day initial detention order.

²⁸ On 5 December 2018 Lyubimets Home had accommodated 167 detained foreign nationals; the Director said that four had since been deported, two released and the rest transferred to SAR open reception centres.

²⁹ Two had violated house rules in a SAR open reception centre, three had been involved in a fight at Busmantsi Home several months before, and one had been placed at the SAR Closed Unit upon request by the State Agency of National Security. The Unit's Director told the delegation that the establishment had only been filled up to its capacity for a short time after its opening in 2016, following a riot and a fire at the SAR open reception centre in Harmanli. Since then, the Unit had reportedly never accommodated more than ten foreign nationals at a time.

³⁰ As recommended in the past to the Bulgarian authorities, see e.g. paragraph 35 of the report on the 2010 periodic visit, document CPT/Inf (2012) 9, <https://rm.coe.int/09000016806940a3>.

³¹ Save in exceptional cases, e.g. when the applicant is also suspected/accused of having committed a criminal offence, see paragraphs 7 and 14 above.

In a few cases, foreign nationals would spend several months in a Home, then move to a SAR open reception centre and, after a second negative decision on their asylum application, return to a Home to await deportation for another period of several months. This meant that, although each period of detention did not exceed the legal time-limit of 18 months, the total cumulative detention period could be much longer.

The Committee recommends that steps be taken to ensure that Section 58 (4) of the LAR is always duly applied and that, more generally, no foreign national is detained at a Home for a total/cumulative period exceeding the maximum time-limit of 18 months.

17. Regarding the accommodation of minors at Busmantsi and Lyubimets Homes, the CPT notes some positive legislative developments since the 2017 visit, which have contributed to the reduction in the number of minors detained in both establishments. A new Ordinance implementing the LARB makes it more difficult to detain minors (and reiterates strongly the principle of non-detention of unaccompanied minors), clarifying the procedure and the tasks of different organs and agencies including the Ministry of Labour and Social Policy.

Given that such detention can have a negative psychological effect on the minors' development and well-being and that, consequently, the placement of minors and their parents in the Homes (and, as applicable, other similar establishments in Bulgaria) should only occur as a last resort (and if, in exceptional circumstances, such placement cannot be avoided, its duration should be as short as possible), **the CPT strongly encourages the Bulgarian authorities to continue their efforts in the light of the aforementioned principles.**

2. Ill-treatment

18. The delegation heard no allegations of recent physical ill-treatment of detained foreign nationals by staff of the immigration detention facilities in Busmantsi (both the Home and the SAR Closed Unit) and Lyubimets. Further, only a few allegations were received of sporadic rude, disrespectful and dismissive behaviour by guards, mainly in response to detainees' requests (e.g. to be allowed to go to the toilet at night).³² It is to be noted that some of the detained foreign nationals interviewed by the delegation spoke positively of the staff, especially as regards the interviewers/case officers (e.g. in the unit for women and families at Lyubimets Home).³³

Overall, the delegation's impression was that there had been an improvement in detainee-staff relations as compared with the situation observed during previous visits to both Homes,³⁴ although there was clearly still room for improvement in the area of staff's training in inter-cultural communication and foreign languages.³⁵

³² See paragraph 22 below.

³³ I.e. specially trained police investigators whose task was to clarify and process each detained person's case. They were also detainees' persons of primary contact for all matters relating to their cases but also to their daily lives in the establishments.

³⁴ See paragraph 37 of the report on the 2010 visit (document CPT/Inf (2012) 9, <https://rm.coe.int/09000016806940a3>) as regards Busmantsi Home, and paragraph 45 of the report on the 2017 visit (document CPT/Inf (2018) 15, <https://rm.coe.int/16807c4b74>) as regards Lyubimets Home.

³⁵ See the recommendation in paragraph 38 below.

The Committee recommends that the management of Busmantsi and Lyubimets Homes continue to deliver a clear message to all staff that the ill-treatment of detained persons (whether of a physical or verbal nature) is illegal and will be punished accordingly.

19. The delegation noted that, despite the CPT's recommendation made in the report on the 2017 visit,³⁶ some (not all) of the guards in the immigration detention establishments visited in Busmantsi and Lyubimets continued to carry truncheons permanently, including inside the accommodation areas and in full view of detained foreign nationals. **The Committee calls upon the Bulgarian authorities to cease this intimidating and unjustified practice immediately.**

20. As for inter-detainee violence, the delegation was told by Directors, staff and detained foreign nationals about some tension and sporadic (generally only verbal) conflicts at Busmantsi and Lyubimets Homes,³⁷ mostly due to persons of different nationalities, religions and backgrounds being obliged to share large-capacity dormitories with a complete lack of privacy,³⁸ almost no activities³⁹ and scant information about their legal situation and future prospects.⁴⁰

The CPT recommends that the management and staff of Busmantsi and Lyubimets Homes remain vigilant and make use of all the means at their disposal to prevent inter-detainee violence and intimidation.⁴¹

3. Material conditions

21. Some improvements to material conditions were observed by the delegation at Busmantsi and Lyubimets Homes since the CPT's previous visits.⁴² In particular, the premises in Busmantsi (including communal toilets and showers) had been repainted⁴³ and some new furniture and bedding provided, and in Lyubimets the unit for women and families had been partially refurbished, as well as some of the communal toilets and showers. Further, both Homes were cleaner than in the past although bedbugs had not been completely eradicated.⁴⁴ There were also less problems with access to hygiene items, sanitary materials for women and nappies for infants, although the delegation did hear a few complaints; further, some detained foreign nationals complained that they had received no toothbrush and no towel, and that they had to buy products to clean their dormitories.

³⁶ See paragraph 46 of CPT/Inf (2018) 15, <https://rm.coe.int/16807c4b74>.

³⁷ No such information/allegations were received at the SAR Closed Unit.

³⁸ See paragraph 22 below.

³⁹ See paragraph 28 below.

⁴⁰ See paragraph 39 below.

⁴¹ See also the recommendations in paragraphs 25 and 29 below, which are equally relevant in this context.

⁴² See paragraphs 40 to 42 of CPT/Inf (2012) 9, <https://rm.coe.int/09000016806940a3> (as regards Busmantsi Home), and paragraphs 48 to 50 of CPT/Inf (2018) 15, <https://rm.coe.int/16807c4b74> (as regards Lyubimets Home).

⁴³ Although the showers in the unit for women and families at Busmantsi Home were already in a poor condition and malodorous.

⁴⁴ It is noteworthy that two of the detained minors the delegation saw at Busmantsi Home had bedbug bites and visible allergic skin reactions caused by the bites.

Overall, conditions were better than previously, also thanks to the fact that both establishments were operating well below their official capacities.⁴⁵

22. However, accommodation continued to be provided in dilapidated (especially in Lyubimets) and virtually bare (equipped with nothing but single or bunk beds and a few old rusty cupboards) large-capacity dormitories,⁴⁶ offering no privacy.⁴⁷ It is also noteworthy that none of the dormitories had a functioning call system. Further, communal toilets for men were still run down and dirty in Lyubimets and, in both Homes, the lack of access to a toilet at night⁴⁸ for most of the detainees (apart from the women and families at Busmantsi Home and the men accommodated on the ground floor at Lyubimets Home) obliged them to use bottles or buckets, or to comply with their needs of nature through the windows. The accommodation areas were inadequately heated (especially in Busmantsi)⁴⁹ and, in both Homes, detained foreign nationals complained of not being provided with clothing and shoes adapted to the season.

Furthermore, as previously, many complaints were heard about the food (especially its quality) and about the ban on cooking own meals.

23. The Committee recommends that urgent steps be taken to remedy the above-mentioned deficiencies at Busmantsi and Lyubimets Homes. In particular, all the remaining accommodation areas (as well as toilets and washing facilities) should be refurbished, adequately equipped (including with new beds, mattresses, pillows, bed sheets, blankets and call-bells) and heated, and maintained in a clean condition (free from vermin including bedbugs); occupancy levels should be reduced in all dormitories (to provide the minimum of 4 m² of living space per person) and spare beds removed. More efforts are also required to ensure adequate supply of free-of-charge personal hygiene items, cleaning materials and products, and suitable clothing and shoes for detained foreign nationals.

Further, **the CPT invites the Bulgarian authorities to review the food arrangements at both Homes in order to ensure that the dietary habits and needs of detained foreign nationals are being adequately catered for. The possibilities of involving detainees in the setting up of food menus and allowing them to cook their own meals should be seriously considered.**

24. At Lyubimets Home, the delegation was told that there were plans to build a completely new detention facility with a better design (smaller rooms, communal areas, space for activities), on a parcel of land adjoining to the present establishment. **The Committee would like to receive more detailed information on these plans and the timeline for their implementation.**

⁴⁵ According to the information provided to the delegation at the outset of the visit, as of 10 December 2018, both Homes were operating at 44% of their combined official capacities. The delegation saw that the dormitories were generally accommodating only a few detainees (less than ten) each.

⁴⁶ Measuring up to 90 m² and containing up to 30 beds.

⁴⁷ In some dormitories, detained foreign nationals had tried to create some private space by hanging bed sheets around the beds; this was however a difficult choice because it meant that persons concerned had to sleep without bed sheets (only with a mattress, pillow and blanket) since they would not be allowed to get a second set of sheets.

⁴⁸ Dormitories were locked between 11 p.m. and 7 a.m. in Busmantsi, and between 10.30 p.m. and 6.30 p.m. in Lyubimets.

⁴⁹ The central heating was only switched on a few hours per day.

More generally, **the CPT recommends that any further refurbishment/reconstruction of both Homes include the transformation of large-capacity dormitories into smaller living units, offering more privacy.**

25. As for the SAR Closed Unit, material conditions were generally acceptable, with cells in the detention area being recently refurbished, bright and airy, clean and adequately furnished (including beds with full bedding). Detained foreign nationals had unrestricted access to decent communal toilet, washing and shower facilities, and according to some of them (those who had previously been accommodated there), the food was more varied and tastier than at the next-door Busmantsi Home.⁵⁰

26. That said, the standard 12 m² cells had a much too high intended occupancy (each had three bunk beds, thus a capacity of six) and the delegation could indeed observe that the six detained foreign nationals present during the CPT's visit shared the same cell and lived in very cramped conditions.⁵¹ It should nevertheless be added that detainees were never locked in their cell (not even at night) although they could not leave the corridor of the detention area without staff's authorisation.⁵²

The Committee recommends that steps be taken to ensure that the cells at the SAR Closed Unit never accommodate more than three detained foreign nationals each. The unused spare beds should be removed.

4. Activities

27. In both Homes, the delegation observed some improvements in the offer of activities since the CPT's previous visits.⁵³ More TVs had been installed,⁵⁴ there were more books in the libraries (in a wider range of languages) and more board games. Further, new playrooms (with some toys) had been set up for the children⁵⁵ in both Homes and a brand new indoor gym with modern machines (paid for by the EU funds) was about to get officially commissioned in Lyubimets. There were also ongoing tender procedures to build an indoor gym in Busmantsi and an outdoor playground in Lyubimets, and both establishments had just received some PCs (but they were not yet available to detained foreign nationals because, according to staff, they still had to be "certified"). Lyubimets Home had also received several ping-pong tables, although the delegation received conflicting accounts from detainees as to whether they could play table tennis (some claimed they had no rackets and balls, and the tables were actually for the staff).

⁵⁰ Food was brought to the Closed Unit from the SAR open reception centre in Sofia, not from Busmantsi Home.

⁵¹ Admittedly, they told the delegation that they had requested the Unit's Director to be allowed to live in the same cell together, as they came from the same region of Afghanistan and spoke the same language.

⁵² See also paragraph 28 below.

⁵³ See paragraph 44 of CPT/Inf (2012) 9, <https://rm.coe.int/09000016806940a3> (as regards Busmantsi Home), and paragraph 53 of CPT/Inf (2018) 15, <https://rm.coe.int/16807c4b74> (as regards Lyubimets Home).

⁵⁴ Although no foreign channels were available and the TVs were mostly used to play DVDs with information films produced by the UNHCR and the IOM. It is also noteworthy that there was no TV set in the unit for women and families at Busmantsi Home.

⁵⁵ In Busmantsi access to the playroom was reportedly limited to 1.5 hours per week.

28. Despite all the above-mentioned improvements and plans, it remained the fact that foreign nationals detained at Busmantsi and Lyubimets Homes had to spend months on end in enforced idleness, with little to occupy their time apart from daily access (between one and three hours) to large asphalted outdoor areas (without shelters against inclement weather) and occasional activities organised by NGOs and charities such as Caritas (including English language classes).

The situation was even worse at the SAR Closed Unit, where the only available distractions were the possibility to take outdoor exercise during one hour each day, watch television (in a TV room/canteen located beyond the locked corridor of the detention area) during one hour each day and read books and play board games inside the detention area.

29. The Committee calls upon the Bulgarian authorities to make further efforts to offer a range of constructive activities to foreign nationals detained at Busmantsi and Lyubimets Homes, as well as the SAR Closed Unit. As a first step, all detainees (including women and families in Busmantsi) should be enabled to watch foreign TV channels, and more radio sets, books, magazines and newspapers (in an appropriate range of languages) should be made available. Further, detained foreign nationals must be offered the genuine possibility to engage in sports and play board games on a daily basis, and minors should have adequate access to the playgrounds (i.e. much more than it is currently the case). As regards the outdoor areas, to which access should be granted for at least 2 hours per day (and possibly more), they should be equipped with a suitable number of shelters against inclement weather.

The CPT would also like to be informed about the outcome of the tender procedures referred to in paragraph 27 above, and to receive confirmation that the new indoor gym is now operational in Lyubimets and that detained foreign nationals in both Homes have access to PCs.

5. Health care

30. The delegation found that there had been hardly any change in the provision of health care to detained foreign nationals at Busmantsi and Lyubimets Homes;⁵⁶ in short, the only positive aspects were that there was a 24/7 staff presence⁵⁷ and that the infirmary in Lyubimets was clean and in a good state of repair (unlike in Busmantsi).

⁵⁶ See the description of the situation observed at Busmantsi Home during the CPT's 2010 visit in paragraphs 45 to 48 of document CPT/Inf (2012) 9 (<https://rm.coe.int/09000016806940a3>) and, as regards Lyubimets Home, in paragraphs 54 to 57 of the report on the 2017 visit (document CPT/Inf (2018) 15, <https://rm.coe.int/16807c4b74>).

⁵⁷ Busmantsi Home employed a full-time doctor, a cardiologist by training (present from 8.30 a.m. to 5.15 p.m. from Monday to Friday) and three full-time feldshers (there was one additional vacant post). Lyubimets Home employed a full-time doctor (present at the establishment from 7.30 a.m. to 5.30 p.m. from Monday to Friday), a full-time nurse and four full-time feldshers. In both Homes, the feldshers' duty hours were organised in such a way that there was always a feldsher present in the establishment, including at night and on weekends.

However, the medical equipment was very scant (essentially limited to a stethoscope, a blood pressure monitoring machine and a thermometer) and often out of order (e.g. the ECG machine in Lyubimets), the range of free-of-charge medication was extremely limited (obliging detained foreign nationals to pay for most of the medicines) and some of it, including antibiotics, had expired a long time ago (up to five years), and access to specialist care (including dental, gynaecological and paediatric) was very restricted.⁵⁸

Further, the initial medical screening was perfunctory (consisting essentially of asking newly-arrived detainees about any health problems, without a clinical examination and without testing for transmissible diseases⁵⁹ and assessing any vulnerability), the recording of injuries was virtually inexistent,⁶⁰ and medical confidentiality was not observed.⁶¹

The delegation also noted the absence of proper individual medical files and the succinct and unreliable character of the existing medical documentation (e.g. doctors' notes, consultation records and discharge forms).⁶²

31. The CPT is particularly concerned by the detained foreign nationals' very poor access to psychiatric care, limited in fact to emergencies. Moreover, in at least one case (of a Nigerian national met in Busmantsi, who had developed psychotic symptoms and had been briefly – for one week – hospitalised in a psychiatric hospital but had subsequently been brought back to Busmantsi Home and was to be deported the day after the visit), the delegation noted that the Home's doctor (who was not specialised in psychiatry) had on his own initiative changed her psychiatric medication prescribed by a psychiatrist at the psychiatric hospital (from olanzapine 10 mg orally to intra-muscular haloperidol 5 mg twice per day and intramuscular diazepam 10 mg twice per day)⁶³ which was less well-adjusted and provoked strong secondary effects, the person concerned displaying clear signs of overmedication.⁶⁴

⁵⁸ Although, according to the doctor working at Busmantsi Home, a group of specialists from the Ministry of Internal Affairs Hospital did visit the establishment every few months, and examined all the detainees.

⁵⁹ There was, in particular, no symptomatic screening for tuberculosis upon arrival (e.g. checking for the presence of dry or productive cough, weight loss or coughing up blood); instead, a specialist team from the Ministry of Internal Affairs came to both Homes every three months (with a mobile X-ray machine) to undertake TB testing of all detainees present. It is also noteworthy that it was impossible to carry out blood tests at both Homes.

⁶⁰ For example, no injuries whatsoever had been recorded for the past 3 years at Busmantsi Home.

⁶¹ Custodial staff was often present during medical examinations (standing in the open door) and medical documentation and other information (e.g. reports by interviewers/case officers on detainees' transfers for outside consultations and on their diagnoses) was put in administrative files.

⁶² As an illustration of the poor and unreliable quality of medical documentation, the delegation noted that – at Lyubimets Home – absolutely identical data concerning the body temperature, blood pressure and pulse had been filled concerning ten detainees. Confronted with this fact, the doctor admitted that he and other health-care staff sometimes just copied and pasted data from the computerised pro forma record, without this having anything to do with each person's actual temperature, blood pressure and pulse.

⁶³ Reportedly because olanzapine was not on the list of medicines available free of charge at the establishment.

⁶⁴ In this context, the delegation was also struck by the fact that the doctor who was supposed to accompany the Nigerian national during her deportation (an anaesthetist from the Ministry of Internal Affairs Hospital) had signed in the relevant form that she was fit to travel without actually seeing and examining her, and wrote down in the relevant medical documentation that she was taking oral olanzapine; the delegation spoke with the doctor concerned and he acknowledged this fact. He also agreed, after some discussion, that it was inappropriate that she had been prescribed intramuscular haloperidol and diazepam shortly before deportation and that at the very least she should have been given the opportunity of taking oral medication, and provided with a few days' supply of pills for the time needed for her to seek psychiatric care upon return to Nigeria.

Further, the person concerned told the delegation's doctor that while she had agreed to take olanzapine orally (which had improved her medical condition), she had not given her consent to the changed intra-muscular medication.

32. In short, the situation was highly unsatisfactory. This was additionally compounded by the lack of interpretation arrangements (resulting in communication problems between health-care staff and detained foreign nationals, sometimes addressed by asking fellow detainees to help, in breach of medical confidentiality) and by the fact that detained foreign nationals had no health insurance; as a result, outside hospitals (other than the Ministry of Internal Affairs Hospital, which provided free-of-charge services but of a rather limited range) and other specialists (e.g. dentists) sometimes refused to take patients for consultations and treatment without payment. There was reportedly no clear answer to the question of who should pay in such cases: sometimes it was the detainee him/herself (e.g. in the case of all but emergency dental treatment), sometimes the Homes paid and sometimes the hospital/outside specialist eventually agreed not to demand payment. But in any case, the lack of clear rules meant that access to specialist care was further hampered and delayed.

33. The Committee calls upon the Bulgarian authorities to take urgent steps to address the aforementioned serious deficiencies of health-care services at Busmantsi and Lyubimets Homes. In particular:

- **the infirmary (both the in-patient premises and the staff offices) at Busmantsi Home must be refurbished and kept clean;**
- **both Homes must be provided with adequate equipment (including life-saving equipment such as defibrillators, oxygen and nebulisers) in working order;**
- **appropriate supplies of free-of-charge medication must be ensured, and all the expired medicines destroyed;**
- **detained foreign nationals at both Homes must be given reasonably rapid and free-of-charge access to outside specialists, including to dental care and to a gynaecologist and a psychiatrist;**
- **qualified interpretation must be provided in cases when detained foreigners and health-care staff cannot communicate with each other;**
- **confidentiality of medical consultations and documentation must be ensured;**
- **the quality of medical documentation must be improved at both Homes; in particular, a single and comprehensive individual medical record must be created for every detained foreign national;**
- **the quality of medical screening upon arrival must be improved (including the screening for tuberculosis, other transmissible diseases and mental disorders including signs of PTSD);**

- **as for the recording and reporting of injuries, the rules applicable should be aligned *mutatis mutandis* with those described in paragraph 27 of the report on the 2017 visit;**⁶⁵
- **regarding the reporting obligation, health-care staff must advise detained foreign nationals of its existence, explaining that the writing of such a report falls within the framework of a system for preventing ill-treatment and that the forwarding of the report to the competent prosecutor is not a substitute for the lodging of a complaint in a proper form.**

34. As concerns the issue of involuntary psychiatric hospitalisation and treatment (in the light of the case of the Nigerian national, described in paragraph 31 above), the CPT can see no reason why the rules applicable to detained foreign nationals should be any different than those applicable to Bulgarian citizens, set out in Chapter 5 of the Health Act.⁶⁶

⁶⁵ Document CPT/Inf (2018) 15, <https://rm.coe.int/16807c4b74>. Paragraph 27 states *inter alia* as follows: “The role to be played by health-care staff (and, in particular, medical doctors) in the prevention of ill-treatment has been repeatedly emphasised by the CPT in the past. In this context, the Committee notes the adoption by the Ministry of Justice, in October 2015, of new detailed instructions on medical examinations and notification to the prosecutor. The instructions follow, in the main, the CPT’s previous recommendations on this subject:

- In case of complaints about ill-treatment, visible traces of violence and in case of use of force, the administration [...] must ensure immediate access of the inmate to a health specialist for a thorough medical examination. After obtaining the inmate’s consent, the injuries shall be photographed. The information obtained must be diligently recorded and the injuries indicated on a body chart. The examination must be carried out in strict confidentiality. The content of the record must be presented to the inmate for signing. All documents shall be stored in the medical file of the prisoner.
- The record drawn up after the medical examination shall contain: an account of the statements made by the person, a full account of the objective medical findings based on a thorough examination, the diagnosis, the health specialist’s observations. The record shall also contain the results of any additional examinations, detailed conclusions of specialised consultations, a description of treatment and of any other procedures performed. The recording shall be made on a special form and be accompanied by indications of injuries on a body chart for traumatic injuries.
- In cases of identified injuries, the health specialists must immediately inform the relevant prosecutor’s office, regardless of the wishes of the person concerned. The file must be sent there together with the relevant documents and photographs. When the inmate requests or the prosecutor makes an order, the person must be examined by an external forensic doctor.
- Further, medical specialists in penitentiary establishments shall be responsible for maintaining a special register for the injuries observed on inmates. The register shall contain the complaints regarding inflicted injuries as well as the actually established injuries. The register shall also contain: the number of the complaint, the name of the patient, anamnestic information, diagnosis of the injury and recommended treatment.

[...]

The Committee calls upon the Bulgarian authorities to take urgent steps to [...] ensure that the relevant Ministry of Justice instructions are duly implemented [...]. More generally, the CPT reiterates all its general recommendations concerning the procedure for recording and reporting injuries on persons brought to IDFs and prisons, set out in paragraph 23 of the report on the 2014 visit.”

⁶⁶ See the description in paragraph 132 of the report on the CPT’s 2017 periodic visit to Bulgaria (document CPT/Inf (2018) 15, <https://rm.coe.int/16807c4b74>).

Consequently, **reference is made here to recommendations in paragraphs 134 and 135 of the report on the 2017 periodic visit,⁶⁷ which apply *mutatis mutandis*.**

35. Both Homes employed psychologists (two in each establishment).⁶⁸ However, it was clear that the psychologists' task was, in the first place, to assist the interviewers/case officers and the administration (with psychological testing and assessments), supporting the staff in the second place and offering some psychological support (including crisis interventions) to detained foreign nationals only in the third place, if there was any spare time. In addition, and similar to what was the case for doctors, feldshers and the nurse, communication problems between detained foreign nationals and psychologists limited severely the possibilities to provide any psychological assistance.

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 calls upon the Bulgarian authorities to strive to improve the level of psychological assistance to foreign nationals detained at Busmantsi and Lyubimets Homes, including the provision of professional interpretation.**

36. As for the SAR Closed Unit, a doctor from the SAR open reception centre in Sofia visited twice a week and, if necessary, the doctor or one of the feldshers from the adjoining Busmantsi Home could be asked to come. In case of emergency, an ambulance would be called. These arrangements seemed sufficient at the time of the visit, considering the Unit's low occupancy (six persons). However, **if the Unit were to accommodate more detained foreign nationals, the health-care provision would need to be reinforced. Further, the recommendations in paragraph 33 above concerning in particular access to specialist care, medical documentation, medical confidentiality, interpretation and psychological assistance apply with equal force to the SAR Closed Unit.**

37. More generally, as regards the independence of health-care staff working in immigration detention facilities (especially in the light of the delegation's findings described in paragraphs 30 and 31 above), **the CPT would like to know whether the Bulgarian authorities have considered the option of placing such staff under the authority of a structure other than the Ministry of Internal Affairs (e.g. the Ministry of Health).**

⁶⁷ CPT/Inf (2018) 15, <https://rm.coe.int/16807c4b74>.

⁶⁸ One of the psychologists at Busmantsi Home was away on training, the other on sick leave (but he volunteered to come to the establishment to speak with the delegation).

6. Other issues of relevance to the CPT's mandate

38. With regard to staff, the delegation was informed that the situation at Busmantsi and Lyubimets Homes had improved compared with that observed during the CPT's previous visits,⁶⁹ and there were almost no vacant posts. Busmantsi Home had 102 full-time custodial staff⁷⁰ (18 to 24 per shift) and seven interviewers/case officers⁷¹ (two per shift), while Lyubimets Home had 80 custodial staff (between 14 and 20 per shift) and likewise seven interviewers/case officers. The SAR Closed Unit employed, in addition to the aforementioned guards coming from Busmantsi Home, a social worker attending two days per week (on Tuesdays and Thursdays).

According to the Directors of both Homes, most of the staff spoke some English and Russian, and there were a few able to communicate in Arabic, French, German, Greek and Turkish. As already mentioned, a small number of staff had recently been offered the possibility to study Arabic and it was planned to offer Farsi courses in the near future.

Considering the persistent problem of communication between staff and detained foreign nationals, which had a negative impact on the activities, health care and the overall atmosphere in both Homes (see paragraph 18 above), **the Committee recommends that more efforts be made in the immigration detention establishments visited to improve staff's training in languages most commonly spoken by detained foreign nationals (including also Pashto and Urdu) and inter-cultural communication.**

39. At the two Homes visited (and the SAR Closed Unit), written⁷² and audio-video⁷³ information on the house rules and applicable legislation was available in a range of languages.⁷⁴ Further, detained foreign nationals received systematically copies of decisions concerning their detention and (as applicable) asylum procedure, and could keep them. The decisions contained information on appeal procedures and deadlines; however, they were only in Bulgarian (although interviewers/case officers briefly explained them orally when handing over the written decisions, if necessary with the help of an interpreter or a fellow detainee).

In this context, it was not very surprising to the delegation that many interviewed detained foreign nationals appeared uncertain about what was happening in their cases and how long they would spend in custody; understandably, this did not help defuse the somewhat tense atmosphere in the establishments.⁷⁵ Furthermore, a few detainees alleged having been given misleading information (e.g. that unless they made a written request to be sent back to their country of origin, they would have to spend 18 months in detention).

⁶⁹ See, regarding Busmantsi Home, paragraph 49 of CPT/Inf (2012) 9, <https://rm.coe.int/09000016806940a3>, and – regarding Lyubimets Home – paragraph 45 of CPT/Inf (2018) 15, <https://rm.coe.int/16807c4b74>.

⁷⁰ Two of them working on any given shift at the next-door SAR Closed Unit.

⁷¹ Two of whom were on long-term special leave (attending an Arabic language training course).

⁷² Posters printed by the UNHCR and the Bulgarian Helsinki Committee, stuck on the walls in accommodation areas, and copies of the house rules available on request.

⁷³ DVDs prepared by the IOM and the UNHCR (see paragraph 27 above).

⁷⁴ Arabic, Dari/Farsi, French, English, Kurdish, Pashto, Russian, Turkish and Urdu.

⁷⁵ See paragraph 20 above.

The CPT recommends that further steps be taken to improve access to information to foreign nationals detained at Busmantsi and Lyubimets Homes (and the SAR Closed Unit). In particular, detainees should receive a written translation in a language they understand of decisions regarding their detention/removal, and of the information on modalities and deadlines for appealing against such decisions.

40. Regarding interpretation, the delegation was informed that the Ministry of Internal Affairs had very recently (a month before the visit) signed agreements with several translation companies and individual interpreters. However, it was clear that recourse to interpreters' services (either with the interpreters being physically present or – more often – providing interpretation via telephone or video-conference) was essentially had for the purpose of investigating the cases (i.e. during interviews) but not for daily life situations including medical and psychological consultations.⁷⁶

The Committee reiterates its recommendation that steps be taken to ensure that foreign nationals detained at Busmantsi and Lyubimets Homes (and the SAR Closed Unit) receive, whenever necessary, the assistance of qualified interpreters. The use of fellow detainees as interpreters should be avoided.

41. As previously,⁷⁷ the issue of legal assistance was left entirely to various NGOs (e.g. Bulgarian Helsinki Committee, Centre for Legal Aid – Voice in Bulgaria and Foundation for Access to Rights) whose representatives visited both Homes⁷⁸ and assisted detained foreign nationals *pro bono* in their immigration and asylum procedures; a few detainees could also afford to hire a private lawyer but the delegation was told that this was highly exceptional. In this context, **the CPT reiterates its recommendation that the system of legal aid (run by the National Legal Aid Bureau) be extended to detained foreign nationals, in all phases of the procedure. For indigent foreign nationals, these services should be provided free of charge.**

42. As for contact with the outside world, detained foreign nationals could send and receive correspondence and could use their mobile telephones (without cameras),⁷⁹ pay-phones (if they had any money) or, upon request and in justified circumstances (e.g. an important family event) make calls using staff's office phones. Visits were also allowed up to twice per week (upon request) and took place under open conditions but in the presence of staff.⁸⁰

The Committee recommends that the Bulgarian authorities provide the possibility of unsupervised visits for detainees at Busmantsi and Lyubimets Homes (and at the SAR Closed Unit).

⁷⁶ See paragraphs 32 and 35 above.

⁷⁷ See e.g. paragraph 59 of CPT/Inf (2018) 15, <https://rm.coe.int/16807c4b74>.

⁷⁸ Frequently in Busmantsi but much more rarely (due to travel costs and time constraints) in Lyubimets.

⁷⁹ Mobile phones with cameras were kept in locked central storage and detainees could ask to use them in the presence of the staff. See, however, paragraph 45 below.

⁸⁰ Visits by lawyers and NGOs were unrestricted and unsupervised.

43. Despite the CPT's previous recommendation,⁸¹ detained foreign nationals had still no access to PCs equipped with VoIP (Voice over Internet Protocol). Because of this, many detainees complained that they quickly spent all their money on long-distance telephone calls or by using the Internet installed on their mobile phones. **The Committee reiterates its recommendation that the Bulgarian authorities allow detained foreign nationals to use the VoIP technologies on a free-of-charge basis to communicate with the outside world.**

44. As for discipline, there were no formal disciplinary sanctions and no disciplinary procedure in the immigration detention establishments visited. That said, foreign nationals at Busmantsi Home perceived placement in one of the two dormitories for persons representing a risk for public security⁸² as a form of punishment, and all detainees (in both Homes) were aware that in case of any serious violation of house rules they risked being transferred to the SAR Closed Unit (see paragraph 14 above), which was reputed to have a much stricter regime. It is noteworthy that both types of placement occurred without an oral hearing and other procedural safeguards (such as legal assistance, provision of a copy of written decision or information on appeal possibilities), and there was no dedicated register (mentions of transfers being made instead in the detainees' individual files).

45. Furthermore, at Lyubimets Home the delegation learned that, approximately 10 days prior to the visit, the Director had ordered to take away all mobile phones from detained foreign nationals, apparently because a mobile with a camera had been discovered in one of the dormitories.⁸³ Detainees with whom the delegation spoke invariably interpreted this decision as a form of collective punishment. **The Committee recommends that such collective punishment practices be stopped immediately.**

46. More generally, while acknowledging that it may on occasion be necessary to sanction detained foreign nationals for improper behaviour, the CPT wishes to stress that any such sanction (including the transfer to a "high-security dormitory" or to the SAR Closed Unit) must be accompanied by appropriate procedural safeguards such as those mentioned in paragraph 44 above. **The Committee recommends that the relevant legislation and the house rules in Busmantsi and Lyubimets Homes be amended accordingly.**

47. Busmantsi and Lyubimets Homes (and the SAR Closed Unit) received frequent visits by a range of bodies including the Ombudsperson/NPM⁸⁴ and the relevant international⁸⁵ and non-governmental⁸⁶ organisations.

⁸¹ See paragraph 61 of CPT/Inf (2018) 15.

⁸² These two dormitories, referred to by staff as "high-security", were located on the ground level, next to the entrance and the guards' duty office, but other than that they did not differ in any important aspects from the other dormitories (see paragraph 22); it is also important to add that persons placed in them were not really segregated as they could associate with other detainees during meal times and outdoor exercise.

⁸³ Strictly speaking, the mobiles were not confiscated but taken into storage, and detainees could still use them but only upon request and in staff's presence.

⁸⁴ The most recent visit had taken place a few days before the CPT's visit.

⁸⁵ Especially the IOM and the UNHCR.

⁸⁶ See paragraph 41 above.

As regards complaints (both the official and informal complaints channels), telephone numbers of outside bodies and organisations such as the Ombudsperson/NPM, the IOM and the UNHCR were posted in corridors of accommodation areas (and in canteens)⁸⁷ and foreign nationals could call them using their mobile phones or pay-phones. That said, possibilities to make confidential calls depended on one's financial resources, and in Lyubimets confidential calls were (temporarily) impossible because all calls had to be made in the presence of the staff (see paragraph 45 above).

Furthermore, it was impossible to send confidential written complaints (as there were no complaints boxes and any letters would have to be handed over to staff in an open form) and there was no formal procedure for internal complaints. The delegation also noted the absence of complaints registers, copies of any written complaints being kept in detainees' individual files.

48. The CPT recommends that the Bulgarian authorities review the operation of the complaints procedures at Busmantsi and Lyubimets Homes (and the SAR Closed Unit) so as to make sure that detained foreign nationals are effectively enabled to send complaints in a confidential manner (and are duly informed of this possibility). Detainees should be able to make written complaints at any moment and place them in locked complaints boxes (to which only the Director and/or another designated management member has the key) located in each accommodation unit. All written complaints should be recorded in a dedicated register. Internal complaints should be processed expeditiously (with any delays duly justified in writing) and detainees should be informed within clearly defined time periods of the action taken to address their concerns or of the reasons for considering the complaint not justified. In addition, statistics on the types of internal complaints made should be kept as an indicator to the management of areas of discontent within the establishments.⁸⁸

⁸⁷ The telephone numbers were also shown in the DVDs referred to in paragraph 39 above.

⁸⁸ Reference is also made here to the substantive section on complaints mechanisms published in the CPT's 27th General Report, see paragraphs 68 to 91 of document CPT/Inf (2018) 4, <https://www.coe.int/en/web/cpt/complaints-mechanisms>.

APPENDIX:

List of the national authorities, other bodies, international and non-governmental organisations with which the CPT's delegation held consultations

A. National authorities

Ministry of Internal Affairs

Krasimir Tsipov	Deputy Minister
Svetlan Kichikov	Chief Commissioner of Border Police
Emilia Nikolova	Readmission Department, Border Police
Mariana Marinova	Deputy Director of Migration Directorate
Boris Petkov	Head of Department, Migration Directorate
Penka Stoyanova	Security Police Department, National Police
Marieta Angusheva	EU and International Co-operation Directorate

Ministry of Justice

Irina Kuzmanova	Chief Expert, Department of International Legal Co-operation and European Affairs
Dimitar Terziivanov	Senior Expert, Department of International Legal Co-operation and European Affairs

Ombudsperson's Office

Maya Manolova	Ombudsperson
Dimitar Bongalov	Head of the National Preventive Mechanism (NPM) Department
Hristo Atanasov	Chief Expert, NPM Department

B. International Organisations

Office of the UNHCR Representative in Bulgaria

C. Non-Governmental organisations

Bulgarian Helsinki Committee

Center for Legal Aid – Voice of Bulgaria

Foundation for Access to Rights