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Report

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

from 1 to 13 October 2021

The Government of Bulgaria has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2022) 21.

Strasbourg, 18 October 2022

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EXECUTIVE SUMMARY

The main objective of the 2021 periodic visit was to review the measures taken by the Bulgarian authorities in response to the recommendations made by the Committee after previous visits. In this connection, particular attention was paid to the treatment and conditions of detention of persons in police custody and penitentiary establishments. The delegation also examined the treatment, conditions and legal safeguards offered to patients with psychiatric disorders, and residents of social care institutions.

Police establishments

The great majority of the interviewed persons stated that they had been treated correctly by the police. However, the delegation again received several allegations of physical ill-treatment (mostly in Sofia). Nearly all of them concerned the excessive use of force by police officers upon apprehension, a few also referred to physical ill-treatment and psychological pressure during questioning by police officers.

As regards the fundamental safeguards against ill-treatment advocated by the CPT – namely the right to notify one's detention to a third party, the right of access to a lawyer and to a doctor, and the right to be informed of the above-mentioned rights – the Committee very much regrets the absence of any real progress in their application since the CPT's previous visits. In short, these safeguards were hardly ever applicable during the initial 24-hour police custody.

Material conditions in police directorates equipped with cells fitted with beds could generally be considered as acceptable for the maximum period of 24 hours of custody. That said, detained persons were not always given a mattress and a blanket for the night, food arrangements varied, and the level of cleanliness often left much to be desired. However, in virtually none of the police directorates were the material conditions satisfactory for any period exceeding 24 hours.

Penitentiary establishments

The delegation carried out follow-up visits to Plovdiv and Sofia Prisons as well as to the Investigation Detention Facilities (IDF) located in Plovdiv and on G.M. Dimitrov Boulevard in Sofia; further, a first-time visit was carried out to Kremikovtsi Prison Hostel.

The CPT wishes to highlight as a positive development since the 2017 periodic visit that the prison population had further reduced in Bulgaria, and the national legal norm of 4 m² per prisoner was generally respected in the establishments visited (except at Plovdiv Prison).

The delegation received hardly any credible allegations of recent deliberate physical ill-treatment of prisoners by staff in the penitentiary establishments visited (except at Plovdiv Prison); in general, staff-prisoner relations appeared relaxed and even almost cordial at times. However, inter-prisoner violence was a problem in all the establishments visited, as also acknowledged by their management.

The (relatively) best material conditions were observed at Plovdiv IDF; the worst – i.e., extremely poor and in some areas even unacceptable – were found in some parts of Sofia Prison and in most of the accommodation at Kremikovtsi Prison Hostel.

All the penitentiary establishments visited continued (to varying extents) to be infested with cockroaches and bedbugs. Clearly, efforts made so far to eradicate the vermin had not brought any real improvement.

As regards purposeful activities on offer, some (mostly unpaid) work was offered to sentenced prisoners, as was some basic education; however, this was still far from satisfactory. As for remand prisoners, they continued to be locked in their cells for up to 23 hours per day without being offered any organized activities.

In all the penitentiary establishments visited, the health-care services were severely understaffed. Further, as had been the case in the past, none of the penitentiary establishments visited had any health-care staff present after the regular working hours and on weekends.

The delegation again observed severe problems with the supply of medication (including, in some instances, long delays and interruptions of supply). In addition, as previously, prisoners or their families had to pay for most of the medicines, for which a separate permission was required (which rendered the procedure even slower and more cumbersome).

Access to psychiatric care was very insufficient, especially given the presence of many inmates with mental health issues, some related to drug use.

Several of the establishments visited were accommodating inmates with (sometimes severe) confirmed physical and/or learning disability. However, none of the establishments offered suitable material environment, adapted equipment, appropriate care and staff attention that those prisoners required. In practice, some of the prisoners concerned were forced to rely on the help of their cellmates and other fellow prisoners for the most basic life necessities such as eating, washing, and using the toilet. The CPT recommends that the Bulgarian authorities take steps to remedy this highly unsatisfactory state of affairs.

The Committee is also concerned about the lack of progress in addressing the widespread substance use problem among prisoners and the related health issues such as HIV and hepatitis.

Furthermore, the CPT stresses once again that inadequate staff complements found in the penitentiary establishments visited can only increase the risk of violence and intimidation between prisoners. They also undermine the quality and level of the activities offered to the inmates and jeopardise the prospect of preparation for release and social rehabilitation.

Psychiatric establishments

The delegation visited Kardzhali State Psychiatric Hospital for the first time, as well as Karlukovo State Psychiatric Hospital, last time visited by the CPT in 2006, and Lovech State Psychiatric Hospital, the forensic ward of which had been last time visited by the CPT in 2010.

Regarding ill-treatment of patients by staff, in Lovech and Kardzhali hospitals, although many patients were not critical of staff or even spoke positively of them, small numbers of complaints that staff would occasionally shout, push or slap patients were received by the delegation. However, in Karlukovo, a number of allegations were received that, apart from staff shouting at patients, orderlies would also push, slap and occasionally hit or kick them, with some such staff drinking alcohol whilst on duty.

As regards living conditions, the CPT delegation noted that in all three hospitals visited there had been substantial internal refurbishment with notably better conditions now being provided in Karlukovo and Lovech hospitals, compared to those found when they were last visited by the CPT.

However, despite the renovations, patients' accommodation remained generally bare, with very limited, if any, lockable personal space and a lack of privacy and personalisation. Moreover, none of the hospitals offered appropriately secure outdoor exercise areas, so patients were often restricted to one hour per day of outdoor exercise, when supervision was available.

The number of psychiatrists and other doctors represented some improvement compared to previous visits. However, the Committee remains concerned that many medical staff are approaching or beyond retirement age with no imminent replacements anticipated.

Furthermore, as during previous visits, the numbers of ward-based staff were still insufficient to offer the necessary level of personalised care and attention, and as regards multi-disciplinary clinical staff, such as psychologists, social workers, and occupational therapists, these were also notably insufficient in number to meet the many psycho-social treatment and rehabilitation needs of patients, which greatly hampered their effective therapeutic improvement.

As a result, opportunities for psychological, occupational, and creative therapies and recreation in all the hospitals visited were very limited, with most patients just laying on their beds or wandering idly around. Furthermore, many patients were not fully aware of their diagnosis and/or their medications and their side effects, nor had they apparently been sufficiently involved in their own treatment planning.

The Committee notes that seclusion, mechanical and chemical restraint of patients was practiced in all hospitals visited. There was no evidence of the widespread overuse of restraint measures and when mechanical restraint was applied, unlike during earlier visits, properly designed restraint belts were being used in all the hospitals visited. However, despite years of recommendations made by the Committee, the use of means of restraint still does not conform with international guidelines and is often recorded without respecting the relevant legal requirements or not recorded at all.

Moreover, it is of grave concern that in Kardzhali Hospital some patients (including voluntary patients) gave consistent and credible accounts to the CPT delegation of being placed alone in 4 or 5-point belt fixation to beds in seclusion rooms for over 48 hours, in incontinence pads throughout, into which they had to urinate and defecate, those pads being changed every six hours. Some patients also reported that their hands were fixed above their head, causing pain, swelling and loss of sensation in their upper limbs. Such painful interventions could be said to amount to ill-treatment.

Regarding legal safeguards, as during previous visits, a number of legally competent patients who had signed consent to hospitalisation forms and were still deemed voluntary, were nevertheless not truly consenting to their hospitalisation, stating that they wanted to leave but were not allowed to do so, and were thus *de facto* detained.

The Committee is further concerned to note that, as found during previous visits, significant numbers of patients had been identified by the Directors in all the hospitals visited as no longer requiring in-patient treatment. However, due to the continuing lack of effective community-based mental health support services, patients were remaining in inappropriate institutional environments, seemingly indefinitely, with greatly adverse effects upon their wellbeing.

Social care homes

The delegation visited, for the first time, the social care home for persons with learning disabilities in Banya and the social care homes for persons with psychiatric disorders in Gara Lakatnik and Petkovo.

In Gara Lakatnik, the delegation received no credible allegations of physical ill-treatment of residents by staff; indeed, the atmosphere appeared generally relaxed, and a number of residents spoke positively about the staff. By contrast, in Petkovo, numerous accounts were received from residents that orderlies would insult, frequently shout, and often slap residents.

In Banya, a number of consistent allegations were received that one of the guards would shout, drink alcohol on duty, carry a wooden stick with which he would threaten residents and on occasion would hit residents, including with the stick.

As regards living conditions, the Committee notes that, following two immediate observations invoked by the CPT delegation at the end of the visit, the Bulgarian authorities took measures in Banya Home to repair the roof of one of the accommodation blocks and to renovate a wing of another block as well as to substantially improve hygienic conditions therein.

Regarding care staff, in all homes visited, despite the official staff complements being deployed, the numbers of nurses and orderlies were insufficient or totally inadequate to provide proper individual, personalised, and safe care to residents on a 24-hour basis; in this sense, the findings were similar to those of the previous visits. The Committee is also concerned to note that residents are not provided with regular and consistent psychiatric and somatic health care.

With regards to mechanical restraint and seclusion, although such measures remain illegal in social care establishments under Bulgarian law, such restrictive practices were still found to be occurring in two of the three homes visited, despite the Committee's repeated recommendations to end such practice.

For more than 25 years now, the CPT has consistently expressed its deep concern regarding a number of issues concerning the treatment, conditions and legal safeguards offered to patients with psychiatric disorders and residents of social care institutions.

However, the findings of the 2021 visit have once again demonstrated the grave long-standing problems that have not been addressed systemically. The CPT is of the view that action in this respect is long overdue and that the approach to the whole issue of mental health care and institutional social care in Bulgaria should radically change.

For these reasons, the Committee has decided to make a public statement, pursuant to Article 10, paragraph 2, of the Convention; it took this decision at its 106th plenary meeting in October 2021.

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 1 to 13 October 2021. The visit formed part of the CPT's programme of periodic visits for 2021 and was the Committee's eight periodic visit to Bulgaria.[1]

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

- Alan Mitchell, President of the CPT (Head of delegation)
- Mykola Gnatovskyy
- Solvita Olsena
- Davor Strinović
- Marika Väli.

They were supported by Borys Wódz (Head of Division) and Dalia Žukauskienė of the CPT's Secretariat, and assisted by:

- Clive Meux, forensic psychiatrist, United Kingdom (expert)
- Tomáš Petr, mental health nurse, Czech Republic (expert)
- George Tugushi, lawyer and former Public Defender (Ombudsman) of Georgia (expert)
- Elena Alexieva (interpreter)
- Gergana Alyakova (interpreter)
- Iliana Atanassova (interpreter)
- David Ieroham (interpreter)
- Iliyana Sherkova (interpreter)
- Stanimir Stanchev (interpreter)
- Nelly Yakimova (interpreter).

[1] In addition, the CPT has so far carried out six ad hoc visits to Bulgaria. The reports on all previous Committee's visits and related Government responses are available on the CPT's website: https://www.coe.int/en/web/cpt/bulgaria. It is noteworthy that, as from 2015, Bulgaria has adopted an "automatic publication procedure" i.e. a general request to publish all future CPT's visit reports and responses of the Bulgarian authorities. See also the Committee's Public Statement concerning the police and prisons in Bulgaria, issued on 26 March 2015 (https://rm.coe.int/16806940ef), and the Public Statement concerning psychiatric and social care establishments, issued on 4 November 2021 (https://rm.coe.int/1680a465fa).

3. The list of police, penitentiary, psychiatric and social care establishments visited by the CPT's delegation can be found in Appendix I.

4. The report on the visit was adopted by the CPT at its 107th meeting, held from 28 February to 4 March 2022, and transmitted to the Bulgarian authorities on 17 March 2022. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Bulgarian authorities to provide within six 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 delegation held consultations with Mariya Pavlova, Deputy Minister of Justice, Ventislav Katinov, Deputy Minister of Interior, Toma Tomov, Deputy Minister of Health, Nadya Klisurska and Ivan Krastev, Deputy Ministers of Labour and Social Policy, as well as with senior officials from the aforementioned Ministries (see Appendix II for the full list). The delegation also met representatives of the Bulgarian Helsinki Committee.

6. The CPT wishes to express its appreciation of the efficient assistance provided to its delegation before, during and after the visit, by the Liaison Officer appointed by the Bulgarian authorities, Dimitar Terziivanov from the Ministry of Justice.

7. The CPT's delegation received excellent co-operation in the establishments visited, including those for which a 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 information it required.

8. However, as repeatedly stated by the CPT in the past, the principle of co-operation set out in the Convention is not limited to steps taken to facilitate the task of visiting delegations. It also requires that recommendations made by the Committee are effectively implemented in practice.

In this respect, the CPT is seriously concerned by the fact that many of the Committee's recommendations remain unimplemented or only partially implemented e.g., as regards the safeguards against ill-treatment of persons in police custody, inter-prisoner violence, infestation of prisons with cockroaches and bedbugs, inadequate regime for (especially) remand and life-sentenced prisoners, prison health-care services and prison staff corruption.

9. As for the situation in psychiatric and social care establishments, the persistent lack of the implementation of many of the CPT's long-standing recommendations caused the Committee to issue, on 4 November 2021,[2] a public statement concerning Bulgaria pursuant to Article 10, paragraph 2 of the Convention.[3] The CPT's aim in making this public statement was to motivate and assist the Bulgarian authorities, and in particular the Ministries of Health and Labour and Social Policy, to take decisive action in line with the fundamental values to which Bulgaria, as a Member State of the Council of Europe and the European Union, has subscribed. In furtherance of its mandate, the Committee is fully committed to continuing its dialogue with the Bulgarian authorities to this end.[4]

C. Immediate observations pursuant to Article 8, paragraph 5, of the Convention

10. 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 two immediate observations, in pursuance of Article 8, paragraph 5, of the Convention, concerning living conditions at the Banya social care home for persons with learning disabilities.

In the **first immediate observation**, the delegation requested the Bulgarian authorities to confirm, **within one month**, that an urgent structural assessment of the roof of Block 2[5] in Banya Home had occurred and to inform the Committee about actions that would be taken to make the building safe for the accommodation of residents.

In the **second immediate observation**, the Bulgarian authorities were requested – likewise **within one month** – to inform the CPT of steps taken to ensure that, at Banya Home, residents in the right wing of Block 1 are accommodated in clean, hygienic and dignified conditions.[6]

The aforementioned immediate observations were subsequently confirmed in a letter of 26 October 2021 from the Executive Secretary of the CPT. By a letter dated 6 December 2021, the Bulgarian authorities informed the Committee of the measures taken. Those measures will be assessed later in the report.

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2 See https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-issues-public-statement-on-bulgaria.

3 According to Article 10 (2) of the Convention, "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

4 In this context, it is noteworthy that an exchange of views on the subject of the public statement between the CPT's President and the Council of Europe's Committee of Ministers took place in Strasbourg on 2 February 2022.

5 See also paragraph 137 below.

6 See also paragraph 136 below.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

11. The legal framework governing police custody has remained basically unchanged since the 2017 periodic visit.[7] Pursuant to the Law on the Ministry of Interior (LMI), persons (including criminal suspects) may be detained by the police on their own authority for a maximum of 24 hours.[8] Further, Section 64 (2) of the Code of Criminal Procedure (CCP) stipulates that a prosecutor may order the detention for up to 72 hours of a suspect with a view to bringing him/her before the court competent to remand persons in custody.

The Ministerial Order concerning the procedure for detaining persons in police establishments[9] makes clear that the time of police custody is to be counted as from the very moment of the *de facto* apprehension; and that whenever the measure foreseen in Section 64 (2) of the CCP is applied by decision of the prosecutor, the initial period of police custody is to be systematically included into the 72-hour period. In other words, no one should be deprived of his/her liberty – prior to being brought before a judge – for longer than 72 hours.

These provisions appeared to be duly implemented in the vast majority of police establishments visited; however, as on previous visits, the delegation still heard allegations (albeit only very few and concerning exclusively Plovdiv) that persons had been held in different police directorates for successive 24-hour periods prior to being detained by a prosecutor's order.

The CPT once again calls upon the Bulgarian authorities to ensure that the detention of persons by the police is always carried out in conformity with the legislative provisions.

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7 See paragraph 18 of CPT/Inf (2018) 15, http://rm.coe.int/16807c4b74.

8 According to Section 63 (1) of the LMI, 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.

9 "Instruction on the procedure of detention of persons at the Ministry of Interior, equipment of the detention facilities and the order in them".

2. Ill-treatment

12. The delegation visited 17 police detention facilities in different parts of Bulgaria (in Ardino, Dimitrovgrad, Haskovo, Kardzhali, Lovech, Pazardjik, Plovdiv, Sofia and Troyan). In a number of these establishments the delegation spoke with persons currently in police custody. Further, the delegation interviewed numerous prisoners who had recently been detained by the police during its visits to investigation detention facilities (IDF) and prisons in Plovdiv and Sofia.

13. The great majority of the interviewed persons stated that they had been treated correctly by the police. However, the delegation again received several allegations of physical ill-treatment (mostly in Sofia). Nearly all of these allegations concerned the excessive use of force by police officers[10] upon apprehension (violently throwing the person on the ground, kneeling on the person, kicks, truncheon blows, punches, prolonged painful handcuffing, etc.). A few allegations also referred to physical ill-treatment (slaps, punches, kicks and truncheon blows) during questioning by police officers, both with the purpose of obtaining a confession or other statement and (more likely in the case of detained juveniles) as a form of "pedagogical measure".

In some cases, the delegation gathered corroborating medical evidence.[11] By means of an example, the following case may be mentioned here: a person interviewed by the delegation at the IDF at 42 G.M. Dimitrov Boulevard (in Sofia) on 1 October 2021 alleged having been pushed violently to the ground, sat on and struck with truncheons by officers from the Cobra squad after his car had been rammed on a highway on 28 September 2021. While he was immobilized lying with his face to the ground, he had reportedly been struck and kicked repeatedly during approximately two to three hours. He was then allegedly taken to a nearby medical emergency unit and then back to the place of arrest, following which the beating continued for an unspecified time. The beating allegedly stopped after he had been brought to the Ministry of Interior Hospital in Sofia[12] where he underwent a medical examination including an X-ray.

Upon examination by one of the delegation's forensic medical experts, the person concerned displayed: a 2 cm long laceration behind the right ear; on the back left shoulder and left scapula, multiple haematomas measuring 7 x 5 cm; in the middle of the back, two parallel haematomas measuring each 4 x 2 cm; two haematomas on the left side of the lumbar region; multiple small haematomas on the right side of the back lumbar region; on the right shoulder, a haematoma measuring 7 x 2 cm; on the right upper leg, a haematoma measuring 4 x 2 cm; on the right side of the neck, haematomas measuring 3 x 2 cm and 1 x 1 cm; on the frontal side of the shoulder, a haematoma measuring 4 x 3 cm; a large haematoma around the left eye covering the upper and lower eyelids which were swollen. The person also complained of severe pain in his chest on palpation but also while breathing especially when coughing and moving. He further complained about pain in both shoulders and both lumbar regions.

The forensic expert also observed a major swelling of the left knee, a laceration on the left ankle (on the inner side), traces of handcuffs (with linear abrasions) on the right wrist, a swelling of the nose (very painful on palpation and with a light haematoma over the whole nasal area), a swelling and tenderness of the lips and of both sides of the lower jaw, a superficial excoriation on the right

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10 Including, in particular, members of the SOBT special anti-terrorism unit (also referred to as Cobra squad).

11 Including through the examination of medical records (registers of injuries) in the investigation detention facilities (IDFs) and prisons visited (despite the generally poor quality of these records, see paragraph 19 below.

12 See paragraph 19 below.

cheek, and small (0.5 cm) excoriations on all toes of the right foot, which were very painful. The aforementioned injuries were consistent with allegations of physical ill-treatment inflicted three days before the examination.

14. At the 2nd District Police Directorate in Sofia,[13] the delegation saw a detained person who displayed fresh injuries suggestive of recent physical ill-treatment. It is noteworthy that the duty inspector at the above-mentioned establishment told the delegation that the person had been beaten upon apprehension by police officers from another unit.

The injuries included several brownish contusions to the head (on the forehead on the right side close to the hair line, around the right eyebrow and in the middle of the forehead); a swelling of the right eye with haematomas on the upper and lower eyelid (and beyond till the zygomatic area); a contusion on the left eyebrow with excoriation and swelling, and multiple haematomas around the left eye going down to the zygomatic area. The nose was swollen with a few contusions all over it. On the left side of the nose there were traces of blood. Both lips were swollen, covered in blood and with some small lacerations. On the left side of the neck there were at least 5 parallel haematomas measuring some 5 – 10 cm each, and a big linear haematoma (measuring approximately 15 x 2 cm) was observed on the person's back, going from the upper side of the scapula to the middle side of the spine. Below the aforementioned haematoma, there were two linear lacerations on the right side of the back. The delegation's forensic medical expert further observed a very superficial linear haematoma on the left side of the person's back; two horizontal parallel linear fresh haematomas (measuring each 10 x 2 cm) on the left side of the back in the area of the lowest ribs and, on the right knee, a haematoma going down on the front side and measuring approximately 10 x 3cm. All the injuries were fresh (10 – 12 hours old) and strongly suggestive of truncheon blows and punches on the face.

The extent of the aforementioned injuries was so severe that an ambulance had been called to the above-mentioned police establishment on three occasions within the preceding 12 hours, the last of these calls resulting in the person's hospitalisation.

15. At Plovdiv IDF, the delegation received two allegations of ill-treatment amounting to torture inflicted upon the persons concerned during questioning at the 6th District Police Directorate in Plovdiv, reportedly in order to force them to confess. The alleged ill-treatment included blows with truncheons on the soles of the feet ("falaka") and applying electric shocks using an electric discharge weapon. In both cases (dating back, respectively, to February and September 2021), medical evidence consistent with the allegations had been recorded in relevant medical journals[14] and, in the latter case, one of the delegation's forensic medical experts directly observed injuries[15] which led credence to the allegations made.

It is noteworthy that in the second case, the alleged victim had made an official complaint about his treatment by the police and the prosecutor's office had opened an investigation. **The Committee requests to be informed about the outcome of this investigation**.

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13 And later at the hospital, both visited on 2 October 2021.

14 The entry concerning the September 2021 case referred to haematomas of various shapes on the face, body, arms, back, thigh, knee and lower leg, and haematomas and swelling of the soles on the feet. The IDF doctor had also recorded haematomas on the upper lip, bruises on the back and pain on the left side of the chest.

15 Including old, yellowish haematomas on the back and on the right knee.

16. Once again, an unlabelled non-standard issue item (i.e. a wooden club) was found in an office used for interviews of suspects at one of the police establishments visited, namely at Lovech District Police Directorate. The CPT has repeatedly stressed that such objects must not be kept in places referred to above, but must be duly labelled and stored in a dedicated room (as the usual explanation provided by police officers is that such objects represent items of evidence in criminal proceedings). **The Committee reiterates its recommendation that steps be taken accordingly.**

17. Further, a number of detained persons gave accounts of psychological pressure (which could in some cases amount to psychological ill-treatment) put on them in order to make them confess to a crime, in the form of verbal abuse, threats of physical ill-treatment, or of possible repercussions for family members. On the positive side, no allegations were heard concerning the behaviour of custodial officers deployed in police directorates.

18. At the end of the visit, the Deputy Minister of Interior acknowledged the persistence of the phenomenon of police violence and assured the delegation of the Ministry's determination to continue combating it. He referred to a task force set up within the Ministry with the view to elaborating an Action Plan to tackle the issue (as well as to implementing the relevant case-law of the European Court of Human Rights regarding the treatment of persons in police custody in Bulgaria)[16]. More efforts were also announced as concerns police training e.g., on anger management and on the Code of Police Ethics.

While welcoming these plans, **the Committee calls upon the Bulgarian authorities to pursue rigorously their efforts to combat ill-treatment by the police. In this respect, reference is made to the recommendations made in paragraphs 23 and 24 of the report on the 2017 visit.**

For the sake of clarity and for the reader's convenience, the full texts of the aforementioned recommendations are reproduced below.

Paragraph 23 of the report on the 2017 visit:

"Police officers throughout the country should receive a firm message that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are unlawful and will be punished accordingly. It should also be reiterated to the police officers that no more force than is strictly necessary is to be used when carrying out an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them. 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."

[16] See in particular *Boris Kostadinov v. Bulgaria*, application no. 61701/11, judgment issued on 21 January 2016.

Paragraph 24 of the report on the 2017 visit:

"The Committee recommends that particular attention be paid to reiterating to all police officers instructions regarding the proper use of electric discharge weapons (tasers) and to enforcing those rules. In this context, it should be made clear to all police staff that electric discharge weapons may only be used when there is a real and immediate threat to life or risk of serious injury. Recourse to such weapons for the sole purpose of securing compliance with an order is inadmissible. […] the use of electric discharge weapons should be subject to the principles of necessity, subsidiarity, proportionality, advance warning (where feasible) and precaution. Furthermore, recourse to such weapons should only be authorised when other less coercive methods (negotiation and persuasion, manual control techniques, etc.) have failed or are impracticable and where it is the only possible alternative to the use of a method presenting a greater risk of injury or death (e.g., firearms)."

19. Turning to the role to be played by health-care staff (and, in particular, medical doctors) in the prevention of ill-treatment, the delegation was concerned to note that – despite the existence of detailed and fully adequate instructions on medical examinations and notification to the prosecutor[17] – medical examinations of newly-arrived detainees at the IDFs (and newly-arrived inmates in prisons) were still, as a rule, conducted in the presence of non-medical staff (police or prison officers); the examination was superficial and the recording cursory, and information on injuries often not reported to the competent authorities. **The Committee calls upon the Bulgarian authorities to take urgent steps to remedy the aforementioned deficiencies and to ensure that the relevant Ministry of Justice instructions are duly implemented in all IDFs and prisons.**

Furthermore, persons detained in Sofia continued to be taken to the Ministry of Interior Hospital in order to be seen by a doctor and obtain a certificate confirming that they were "fit for placement" prior to transfer to the IDF.[18] As already stressed in the past,[19] this procedure did not in practice serve to identify or prevent police ill-treatment. **The Committee once again calls upon the Bulgarian authorities to abolish the above-mentioned system and ensure that detained persons are taken (prior to their transfer to an IDF) to establishments under the authority of the Ministry of Health.**

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17 The instructions, dating back to 2015, have already been commented upon in paragraph 27 of the report on the 2017 visit. They follow, in the main, the CPT's previous recommendations on this subject: A. In case of complaints about ill-treatment, visible traces of violence and in case of use of force, the administration of a penitentiary establishment 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. B. 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. C. 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. D. 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.

18 As required by Bulgarian law.

19 See paragraph 28 of the report on the 2017 visit, CPT/Inf (2018) 15, http://rm.coe.int/16807c4b74.

20. While interviewing at the trauma ward of Pirogov Hospital in Sofia[20] the person referred to in paragraph 14 above, the delegation met a man dressed in surgical scrubs who appeared at first instance to be a doctor but who subsequently explained that he was a police officer present in the emergency department whose task it was to interview persons who may have been injured. He had spoken to the person concerned prior to him being seen by the doctor and, in the delegation's presence, requested of the injured person that he should again report to him after the doctor's consultation.

The CPT finds this manner of proceeding of serious concern in the context of the investigation of any allegations of police ill-treatment, especially as the police officer in question was not clearly identifiable as such and appeared to have unrestricted access to confidential medical data. **The Committee requests to be provided with further information about the precise purpose of deploying police officers in trauma wards.** Further, **the CPT wishes to be informed whether any relevant information gathered by those police officers is duly reported to the competent prosecutor.**

3. Safeguards against ill-treatment

21. As regards the fundamental safeguards against ill-treatment advocated by the CPT – namely the right to notify one's detention to a third party, the right of access to a lawyer and to a doctor, and the right to be informed of the above-mentioned rights – the Committee very much regrets the absence of any real progress in their application since the CPT's previous visits.[21] In short, these safeguards were hardly ever applicable during the initial 24-hour police custody.

22. Concerning notification of custody, some allegations were again received of delayed notification, by periods of several to 48 hours after apprehension; in a few cases detained persons alleged that notification was only performed after they had been brought to the IDF or prison. Moreover, usually no feedback was provided by the police officers as to whether or not it was possible to contact the third person designated by the detained person.

The CPT calls upon the Bulgarian authorities to take, without further delay, effective steps to ensure that persons deprived of their liberty by the police are systematically accorded the right to inform a close relative or another third party of their situation, as from the very outset of their deprivation of liberty (that is from the moment when they are obliged to remain with the police). The exercise of this right should always be recorded in writing, with the mention of the exact time of the notification, the person who performed the notification and the person who was notified.

Further, **the Committee calls upon the Bulgarian authorities to ensure that detained persons are systematically provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention.**

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20 Multi-Profile University Hospital for Active and Emergency Medicine named after N.I. Pirogov, https://pirogov.eu/bg/.

21 See e.g., paragraphs 31 to 36 of the report on the 2017 visit, CPT/Inf (2018) 15, http://rm.coe.int/16807c4b74.

23. Similar to the situation observed on previous visits, access to a lawyer was generally granted at best at the end of the 24-hour custody and, sometimes, only during the first court hearing or even after the person's arrival at the IDF. Consequently, as a rule, lawyers (almost always *ex officio*) only arrived after the detained person had already been interviewed and after his/her statement or confession had already been drafted by the police.

The Committee must stress once again that access to a lawyer during police custody, including the right to have one's lawyer present during the questioning, is not only a fair trial issue but, even more importantly, a fundamental safeguard against ill-treatment. **The CPT once again calls upon the Bulgarian authorities to step up their efforts to ensure that the right of access to a lawyer for all persons deprived of their liberty by law enforcement officials is rendered fully effective in practice, as from the very outset of their deprivation of liberty.**

24. Access to a doctor was generally provided to persons detained by the police[22] albeit in a manner excluding medical confidentiality (i.e., with medical examinations performed in the presence of police officers and with any medical documentation openly available to non-medical staff), with superficial medical examinations, poor recording of injuries[23] and no mechanism in respect of the reporting of injuries to the competent authorities.

The Committee once again calls upon the Bulgarian authorities to ensure the full respect of medical confidentiality and the proper recording (including the name of the medical professional) and reporting the results of any medical examinations performed on police premises; reference is also made here to the recommendation in paragraph 19 above.

In some of the police establishments visited, especially in Dimitrovgrad and Haskovo, the delegation was – while consulting the relevant records – struck by the unusually high (over 50%) proportion of detained persons who had reportedly declined to be seen by a health-care professional.[24] As there were no persons in police custody present in the two aforementioned establishments while the delegation visited them, it was impossible to enquire with the persons concerned about the reasons for their refusals. **The CPT would welcome the Bulgarian authorities' observations on this *prima facie* surprising phenomenon.**

25. As for information on rights, similar to the situation observed on previous visits, the individual case files consulted by the delegation in police establishments and IDFs visited generally contained copies of forms ("declarations of rights") referring to detained persons' rights of access to a lawyer (including *ex officio*), access to a doctor and notification of custody (and, in the case of foreign nationals, to contact a consular office). Those forms were as a rule signed by the detained persons.

That said, the delegation again heard allegations from detained persons that they had not been informed of their rights – a situation that can probably be at least partially explained by the fact (*nota bene*, contrary to the regulations in force) that a copy of the above-mentioned "declaration of rights" was usually not given to the persons concerned (unless they expressly requested otherwise).

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22 As previously observed by the CPT, the police did not hesitate to call an ambulance if a person in their custody appeared to require medical assistance.

23 As a rule, there were no specific registers of injuries, information on which (as well as other medical data) was recorded in the medical logbook (very superficially) and either in the custody record or in the person's case file.

24 In other police establishments the percentage of such refusals was lower (at least as regards the statements that were recorded in the relevant documentation).

The CPT therefore reiterates its recommendation that information on rights be given systematically to all persons apprehended by the police, first verbally at the very outset of their *de facto* deprivation of liberty and, subsequently, in a written form as soon as they are brought into a police establishment. Steps should be taken to ensure that detained persons are always given a copy of the "declaration of rights" (and allowed to keep it in their cell).

26. Further, despite earlier recommendations of the Committee (and assurances by the Bulgarian authorities given in their responses to previous reports), the forms available in the police establishments visited were still only in Bulgarian. Consequently, **the CPT reiterates its recommendation that the form on rights be made available in an appropriate range of languages.**

27. Similar to what had been observed on previous visits, several detained foreign nationals interviewed by the delegation claimed that they had been made to sign documents in the Bulgarian language without knowing their content. As mentioned above, no written information on rights was generally available in languages other than Bulgarian and some foreign nationals alleged that they had not been provided with any information (even verbal) in a language they understood.

The Committee reiterates its recommendation that steps be taken to ensure that detained foreign nationals who do not understand Bulgarian are promptly provided with the services of an interpreter and are not requested to sign any statements or other documents without this assistance. Reference is also made to the recommendation in paragraph 26 above.

28. The delegation again received some allegations from detained juveniles that they had been questioned and made to sign documents (confessions or other statements) without the presence of a lawyer and/or another trusted person.

The CPT reiterates its recommendation that the Bulgarian authorities take steps to ensure that detained juveniles are not questioned, do not make any statements or sign any documents related to the offence of which they are suspected without the benefit of a lawyer and, in principle, of another trusted adult being present and assisting the juvenile.

The Committee also reiterates its recommendation that a specific information form, setting out the particular position of detained juveniles and including a reference to the presence of a lawyer/another trusted adult, be developed and given to all such persons taken into custody. Special care should be taken to explain the information carefully to ensure comprehension.

29. Overall, the custody records consulted by the delegation in police directorates visited were well kept.[25] This is indeed a positive fact.

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[25] Except as regards medical data, see paragraph 24 above.

4. Conditions of detention

30. Material conditions in police directorates equipped with cells fitted with beds could generally be considered as acceptable for the maximum period of 24 hours of custody. The cells in question were on the whole sufficiently large for their intended capacity[26] and were adequately lit and ventilated. Further, in all police directorates, persons detained had access to communal toilets and washing facilities.[27]

That said, detained persons were not always given a mattress and a blanket for the night, food arrangements varied[28] and the level of cleanliness often left much to be desired.[29]

The CPT recommends that the Bulgarian authorities take steps to remedy the aforementioned deficiencies. In particular, all persons in police custody should be given a mattress and a blanket for the night. Uniform instructions should also be issued concerning the provision of food and the cleaning of police cells and toilets.

31. In some of the police directorates small holding cells, equipped with nothing but a narrow bench, were frequently used for overnight detention.[30] The Committee must once again stress that such holding cells are not suitable for any periods of detention exceeding a few hours (and never for an overnight stay); **the CPT recommends that steps be taken to ensure that holding cells are never used for overnight custody.**

32. In virtually none of the police directorates[31] were the material conditions satisfactory for any period exceeding 24 hours; this includes administrative detention of 'hooligans' for up to 15 days (*inter alia* because of lack of exercise yards[32] and any organised activities). **The Committee reiterates its recommendation that steps be taken to ensure that no one is held in police establishments for longer than 24 hours, unless they are equipped with proper outdoor exercise yards and suitably staffed. For any stays in excess of 24 hours, some form of activity should be offered.**

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26 E.g., single-occupancy cells measuring some 10 m² at the 7th District Police Directorate and double-occupancy cells measuring approximately 12 m² at the 8th and the 9th District Police Directorates in Sofia.

27 Some police directorates (e.g., the 7th District Police Directorate in Sofia) had cells equipped with sanitary annexes.

28 In a number of police establishments (e.g., the 7th and the 9th District Police Directorates in Sofia) there was a stock of pre-packed ready meals; other establishments had a contract with a nearby café/restaurant or provided meals from the staff canteen, while in several police directorates (e.g., the 2nd and 3rd District Police Directorates in Sofia and the 6th District Police Directorate in Plovdiv) staff would reportedly buy something to eat in town if requested (or relatives would be allowed to bring food to the establishment).

29 Especially at the 2nd and 3rd District Police Directorates in Sofia.

30 E.g., at the 8th District Police Directorate in Sofia and at Ardino and Pazardjik District Police Directorates.

31 Perhaps with the exception of the 7th District Police Directorate in Sofia which, as the delegation was told by police officers working there, had originally been designed to serve as an Investigation Detention Facility (IDF, see paragraph 34 below) but had never operated as such.

32 Except at the 7th District Police Directorate in Sofia.

33. The delegation again observed in some of the police establishments[33] that detained persons continued to be held for prolonged periods (up to 24 hours) in offices or corridors, on benches or chairs, sometimes attached with handcuffs to fixed objects such as pipes or railings. **The Committee calls upon the Bulgarian authorities to stop this practice.**

33 E.g. at Pazardjik District Police Directorate.

B. Penitentiary establishments

1. Preliminary remarks

34. The delegation carried out follow-up visits to Plovdiv and Sofia Prisons as well as to the Investigation Detention Facilities (IDF)[34] located in Plovdiv and on G.M. Dimitrov Boulevard in Sofia; further, a first-time visit was carried out to Kremikovtsi Prison Hostel.[35]

General descriptions of Plovdiv and Sofia Prisons, as well as the IDFs visited in Plovdiv and Sofia, can be found in the reports on previous visits.[36] At the time of the 2021 visit, Plovdiv Prison (the main closed-type campus) was accommodating 369 male adult prisoners (including 71 on remand and eight sentenced to life imprisonment)[37] and had the official capacity of 359;[38] it was thus officially overcrowded. Sofia Prison (main closed-type campus) had 679 places[39] and was accommodating 512 male adult inmates[40] including 128 on remand, 80 foreign nationals and 24 lifers; Plovdiv IDF had 93 remand prisoners[41] (including four women and one juvenile) and 180 places;[42] and the IDF on G.M. Dimitrov Boulevard in Sofia had 203 remand prisoners[43] (including eight women and two juveniles) and 248 places.[44]

Kremikovtsi Prison Hostel (administratively attached to Sofia Prison) was located in a remote industrial suburb (approximately 20 km from the centre of Sofia) and occupied extensive grounds divided in two parts: the older part dating back to the 1960s, consisting of single-storey barrack-style buildings (some of them made of wood) originally built for prisoners who used to be employed in the nearby steel plant, and the newer part (in a three-level concrete building) located in a former school constructed in the early 1980s. It had the official capacity of 367 and was accommodating 309 adult male sentenced prisoners at the time of the visit, including 91 in the older part.[45]

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34 IDFs are in fact remand prisons, primarily used to hold persons remanded in custody during the period of investigation, i.e., prior to issuing an indictment, but also to accommodate sentenced prisoners who have been transferred in order to appear in court or undergo investigation related to other offences.

35 Historically, prison hostels (administratively attached to prisons) used to accommodate sentenced prisoners employed in large State-owned industrial facilities. After the end of the Communist period most of those industrial facilities had closed down and prison hostels *de facto* became prisons albeit tending to have larger-capacity dormitories and a more open regime (with more time out of cell and more freedom of movement within the secure perimeter).

36 See, for Plovdiv Prison, paragraphs 93 to 99 of the report on the 2010 periodic visit (CPT/Inf (2012) 9, http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806940a3); for Sofia Prison, see paragraph 70 and following of the report on the 2006 periodic visit (CPT/Inf (2008) 11), https://rm.coe.int/16806940a0; for Plovdiv IDF, see paragraph 62 of the report on the 2010 periodic visit (CPT/Inf (2012) 9); and for the IDF on G.M. Dimitrov Boulevard in Sofia, see paragraph 63 of the report on the 2010 periodic visit (CPT/Inf (2012) 9).

37 As compared with 619 in 2010, see paragraph 93 of CPT/Inf (2012) 9.

38 As compared with 405 in 2010, see paragraph 93 of CPT/Inf (2012) 9.

39 As compared with 924 in 2017 (but with the official capacity wrongly calculated at the time of the 2017 visit i.e., not in accordance with the national norm of 4 m² of living space per prisoner); see paragraph 62 of CPT/Inf (2018) 15.

40 As compared with 695 in 2017, see paragraph 62 of CPT/Inf (2018) 15.

41 As compared with 153 in 2010, see paragraph 62 of CPT/Inf (2012) 9.

42 The same official capacity as in 2010, see paragraph 62 of CPT/Inf (2012) 9.

43 As compared with 241 in 2017, see paragraph 62 of CPT/Inf (2018) 15.

44 As compared with 252 in 2017, see paragraph 62 of CPT/Inf (2018) 15.

45 Included in the number of 309 were 18 sentenced prisoners on open regime who were allowed to live and work outside the establishment's perimeter.

35. From the outset, the CPT wishes to highlight as a positive development since the 2017 periodic visit that the prison population had further reduced in Bulgaria, and the national legal norm of 4 m² per prisoner was generally respected in the establishments visited (except, as already mentioned in paragraph 34 above, at Plovdiv Prison). As of June 2021 (the most recent data available at the time of the 2021 visit), the total capacity of the prison system (based on the aforementioned 4 m² norm) was approximately 8.160 and the prison population approximately 6.150.[46] This was the result of major amendments to the Execution of Punishments and Pre-Trial Detention Act, the Criminal Code and the Criminal Procedure Code already described in paragraph 63 of the report on the 2017 visit.[47] The amendments included new rules for initial allocation and transfer of prisoners,[48] significant changes in the procedure for early conditional release;[49] and an official confirmation of the norm of 4 m^2 of living space per prisoner as a standard in all penitentiary establishments irrespective of the type, regime and category of inmates. Further, the introduction of electronic monitoring, which could *inter alia* be applied to inmates serving their sentences in open-type prison hostels, had additionally contributed to the reduction of prison population.

While welcoming the above-mentioned legislative developments, **the CPT recommends that further efforts be made to completely eradicate prison overcrowding, including at Plovdiv Prison and any pockets of local overcrowding in other penitentiary establishments.**

36. The delegation was also informed by the Bulgarian authorities of their ongoing efforts to refurbish and reconstruct the prison estate. These included the closing down of old IDFs and opening new IDF units on the premises of existing prisons in Sliven and Stara Zagora, the opening of a new Vereya Prison Hostel (administratively attached to Stara Zagora Prison), the refurbishment of Bobov Dol Prison, Pazardjik Prison, Cherna Gora Prison Hostel (administratively attached to Stara Zagora Prison) and Ruse IDF, the opening of new premises (within the existing buildings) in Blagoevgrad and Dobrich, and the opening of a new juvenile unit at Vratsa Prison (to which juveniles from the former establishment in Boychinovtsi[50] had been transferred). Further plans included the construction of new prisons in Kardzhali, Petrich and Veliko Tarnovo, renovation of Hebros Prison Hostel (administratively attached to Plovdiv Prison), Stroitel Prison Hostel (administratively attached to Burgas Prison) and prison hostels in Samoranovo and Vratsa, as well as – with the help of the Norwegian Financial Mechanism – the construction of a pilot prison and a half-way house attached to the Prison Staff Training Centre.

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46 Compared with approximately 8.300 at the time of the 2017 visit.

47 CPT/Inf (2018) 15.

48 The decision on the specific prison to which a sentenced prisoner is sent is now taken by the prison administration (General Directorate of Execution of Sanctions, GDIN). Subsequently, prison Directors (and not the internal prison commissions, like before) are in charge of transfers within the prison, and it is also easier to transfer inmates from prisons to prison hostels (there is no more the requirement of less than 5 years of the remaining sentence, and it is now possible e.g., to send a repeat offender to an open hostel).

49 Both the prison administration and the prisoner now have the right to bring an application to the court for early conditional release after a certain time of serving the sentence has passed, and the procedure itself has been simplified.

50 The conditions in which were criticized by the CPT in the report on the 2014 periodic visit, see paragraphs 69 to 72 of document CPT/Inf (2015) 12, http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806940c4.

While welcoming all these ongoing and planned measures, and in the light of its delegation's findings during the 2021 visit,[51] **the Committee recommends that the Bulgarian authorities pursue their efforts and, in particular, take resolute steps to improve the material conditions at Plovdiv and Sofia Prisons and at the G.M. Dimitrov IDF in Sofia. Regarding Kremikovtsi Prison Hostel, the CPT is of the view that this establishment should be closed and replaced by a new facility as soon as possible.[52]**

2. Ill-treatment

37. The delegation received hardly any credible allegations of recent deliberate physical ill-treatment of prisoners by staff in the penitentiary establishments visited; in general, staff-prisoner relations appeared relaxed and even almost cordial at times (e.g., at Kremikovtsi Prison Hostel).

The only real exception was Plovdiv Prison where the delegation did receive a few isolated allegations of physical ill-treatment of prisoners by staff (consisting of punches and truncheon blows) while attempting to bring agitated inmates under control.[53]

The Committee recommends that it be reiterated to prison staff in Bulgaria (especially at Plovdiv Prison) that ill-treatment of prisoners is a criminal offence and will be punished accordingly. Further, **the CPT recommends that more emphasis be placed on training prison officers in dealing with high-risk situations and challenging inmates, including in verbal communication, de-escalation techniques and manual control.**

38. Inter-prisoner violence remained a problem in all the penitentiary establishments visited, as also acknowledged by the management and some of the staff.[54]

Generally, staff responded to such incidents in an appropriate manner by separating the inmates concerned and drawing up official reports (and prison Directors took further steps including the imposition of disciplinary sanctions and reporting the incident to the GDIN and to the competent Prosecutor's Office) but at Sofia Prison the response could reportedly be slow at times; in at least one case staff appeared to have encouraged inter-prisoner violence (including of a sexual nature)[55] which is obviously totally unacceptable and illegal.

The Committee once again calls upon the Bulgarian authorities to take resolute action to tackle the phenomenon of inter-prisoner violence in Bulgarian prisons and at Sofia Prison in particular. More has to be done to ensure that staff are trained and motivated to be proactive and prevent such violence, especially through early identification of vulnerable prisoners.[56]

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51 See paragraph 42 below.

52 See also paragraph 42 below.

53 See also paragraphs 56 and 58 below.

54 And corroborated by data found by the delegation in the medical documentation including injury registers (despite their poor quality, see paragraphs 54 and 55 below), incident reports and disciplinary journals in the establishments visited.

55 The inmate concerned was accused of sex offences committed vis-à-vis minors; reportedly, when brought to Sofia Prison he had initially been placed in a large-capacity cell and the custodial officer "introduced him" to other prisoners stating the type of his presumed offence. The following night he had allegedly been raped by two cellmates and his calls for help had apparently been ignored until the following morning (when he was transferred to a single cell).

56 Further, it is essential to put in place adequate programmes of activities (see recommendation in paragraph 49

39. Reference is also made to the comments made by the CPT in paragraph 36 of the report on its 2015 ad hoc visit to Bulgaria:

"The CPT wishes to emphasise that the prison authorities must act in a proactive manner to prevent violence by inmates against other inmates. Addressing the phenomenon of inter-prisoner violence and intimidation requires that prison staff be alert to signs of trouble and both resolved and properly trained to intervene when necessary. Both initial and on-going training programmes for staff of all grades must address the issue of managing inter-prisoner violence.

Furthermore, the management and staff of all the penitentiary establishments should be instructed to exercise constant vigilance and use all appropriate means at their disposal to prevent and combat inter-prisoner violence and intimidation. This should include implementation of an individualised risk and needs assessment of prisoners, on-going monitoring of prisoner behaviour (including the identification of likely perpetrators and victims), proper reporting of confirmed and suspected cases of inter-prisoner intimidation/violence and thorough investigation of all incidents."

The aforementioned comments remain fully valid in the light of the delegation's findings during the 2021 periodic visit.

40. The Committee continues to have misgivings about the semi-official role conferred upon certain prisoners (referred to differently in the establishments visited, e.g., as "mayor" (*kmet*) at Sofia Prison, and "responsible" (*otgovornik*) at Kremikovtsi Prison Hostel) whose tasks included at least some elements of disciplinary authority, such as reporting to staff on the conduct of fellow inmates and instructing them on how to behave. It is noteworthy that the prisoners concerned enjoyed the freedom to move within the accommodation areas without any restrictions (unlike all the other fellow inmates).

The CPT has stressed in the past[57] that it considers unacceptable any partial relinquishment of the responsibility for order and security, which properly falls within the ambit of custodial staff. It exposes weaker prisoners to the risk of being exploited by their fellow inmates. It is also contrary to the European Prison Rules, according to which no prisoner should be employed, in the service of the institution, in any disciplinary capacity.[58]

The Committee once again calls upon the Bulgarian authorities to ensure that no prisoner (in any penitentiary establishment in the country) is put in a position (even *de facto*) to exercise power over other prisoners.

41. Although they could not, arguably, be characterised as deliberate ill-treatment, certain aspects of the practice with respect to the application of mechanical restraint (fixation) vis-à-vis agitated inmates, observed by the CPT's delegation at Plovdiv Prison, could be considered as amounting *de facto* to such ill-treatment.[59] In this regard, **reference is made to the comments and the recommendation in paragraph 59 below.**

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below) and to ensure appropriate material conditions of detention in prisons (see recommendation in paragraph 43 below).

57 See e.g., paragraph 68 of the report on the 2017 visit, CPT/Inf (2018) 15, http://rm.coe.int/16807c4b74.

58 Rule 62.

59 See paragraph 58 below.

3. Material conditions of detention

42. The (relatively) best material conditions were observed at Plovdiv IDF, where the cells (generally accommodating up to three inmates and measuring approximately 12 m²) were bright, airy and suitably equipped.[60] Further, the establishment was in the process of undergoing gradual refurbishment, with 23 out of the total of 60 cells already fully renovated.

Conditions were also quite good in the (not yet opened) new unit (Group 7) at Sofia Prison,[61] where the cells measured between 20 and 25 m² and were supposed to accommodate three to four inmates each; they were well-lit and ventilated and adequately equipped (single or bunk beds, tables, benches or chairs, and fully screened sanitary annexes).

Unfortunately, in the remaining part of the old block at Sofia Prison the conditions had hardly changed since the 2017 visit[62] and remained poor (inadequate access to natural light and ventilation, broken windows, damaged floors and ceilings, walls covered with mould, dilapidated showers).

Also the conditions at Plovdiv Prison and at the IDF G.M. Dimitrov in Sofia had hardly improved since the last time the CPT had visited them (respectively in 2010[63] and 2017[64]). Furthermore, as already mentioned in paragraph 34 above, Plovdiv Prison remained officially overcrowded (albeit to a lesser extent than in 2010).

The worst – i.e., extremely poor and in some areas even unacceptable – material conditions were found at Groups 8, 10, 11 and 13 at Sofia Prison (with leaking pipes, exposed wiring, damaged walls, floors and ceiling, missing windowpanes, broken toilets, etc.)[65] and in most of the accommodation at Kremikovtsi Prison Hostel, in particular in the cramped, totally dilapidated and dirty wooden barracks in the old part,[66] which were only inefficiently heated using antediluvian wood and coal burning stoves. Inmates alleged that there was not enough wood and coal available and that they had to burn plastic waste to keep warm in the winter.

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60 Bunk and/or single beds, tables, stools, shelves, fully partitioned sanitary annexes and a call system.

61 Capacity 54.

62 See paragraph 77 of the CPT/Inf (2018) 15, http://rm.coe.int/16807c4b74.

63 See paragraph 95 of the report on the 2010 visit (CPT/Inf (2012) 9): "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)."

64 See paragraph 76 of CPT/Inf (2018) 15, http://rm.coe.int/16807c4b74: "Even the refurbished cells continued to display several previously criticised shortcomings: they were still too small for their intended occupancy (e.g., cells measuring some 15 m² (of which some 2 m² was unusable because of an additional metal grille fixed in front of the window wall) were supposed to accommodate up to five persons each, though at the time of the visit most of them were accommodating three or four inmates), and were poorly lit and ventilated. In addition, all windows continued to be fitted with opaque panes, preventing a view to the outside and obstructing access to natural light. The still unrefurbished cells were dilapidated and all in-cell sanitary annexes were still only partially screened."

65 See also paragraph 77 of the report on the 2017 visit, CPT/Inf (2018) 15, http://rm.coe.int/16807c4b74.

66 Conditions in the "new part" were somewhat better: the cells there measured between 18 and 80 m² and accommodated four to eight inmates each; they were adequately lit and ventilated and were equipped with bunk and/or single beds, tables, benches and fully screened sanitary annexes. However, as in the "old part", most of the cells were very dilapidated, humid and cold.

Especially as regards certain inmates (e.g., those who were HIV+ or those with disabilities), conditions in their barrack (Group 10) were appalling, with cold and wet damaged walls, floors and ceilings, broken beds, damaged bedding, a leaking roof and water pressure in the sanitary annexes being insufficient. It would be no exaggeration to call these conditions an affront to human dignity amounting to a violation of Article 3 of the European Convention of Human Rights.

43. **The Committee calls upon the Bulgarian authorities to continue their efforts to improve material conditions in penitentiary establishments, including the whole of Plovdiv and Sofia Prison and the IDF on G.M. Dimitrov boulevard in Sofia, in the light of the aforementioned remarks. Reference is also made here to the recommendation in paragraph 36 above.**

As regards Kremikovtsi Prison Hostel, the CPT recommends that steps be taken as a matter of priority to close it and to transfer the prisoners to other prison hostels offering better material conditions.[67] **Pending this, urgent action must be taken to alleviate the unacceptable situation of inmates accommodated in Group 10.**

44. All the penitentiary establishments visited continued (to varying extents) to be infested with cockroaches and bedbugs, inmates being obliged to use old, filthy and torn mattresses, blankets and pillows that posed a risk to their health. Clearly, efforts made so far to eradicate the aforementioned vermin had not brought any real improvement. **The Committee calls upon the Bulgarian authorities to take urgent steps to replace all mattresses within the prison system (including in IDFs) with wipeable sealed rip-proof mattresses and to thoroughly disinfect all the prisoner accommodation areas together with all the furniture and bedding.**

At Plovdiv Prison some prisoners complained that they had been exposed to the chemicals used to disinfect the premises. **The CPT recommends that steps be taken by the Bulgarian authorities to ensure that inmates' health is not put to risk in the aforementioned disinfestation process.**

45. The delegation also observed once again that prisoners continued to struggle to maintain their personal hygiene and the cleanliness in their cells, largely because they continued to receive from the establishments (free of charge) nothing but small quantities of soap and washing powder.[68]

The CPT calls upon the Bulgarian authorities to provide prisoners with an adequate range of personal hygiene items (including towels and sanitary protections for women's menstrual needs) and products to clean their cells. Steps should also be taken to refurbish the laundry facilities in the penitentiary establishments visited.

46. Another noteworthy aspect of material conditions is that the delegation has again received many complaints about the quality of prison food and – on a related matter, since prisoners had to buy most of their own food – about high prices (and limited range) of items for sale in prison shops. **The Committee reiterates its recommendation that the Bulgarian authorities review the quality of the food provided to inmates and the prices in prison shops.**[69]

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67 See also paragraph 36 above. It is noteworthy that the same recommendation has repeatedly been made by the Bulgarian Ombudsperson, see e.g., https://www.ombudsman.bg/news/5286.

68 For a variety of reasons, most prisoners preferred not to have their own clothes washed in the establishments' (dilapidated and inefficient) central laundry facilities.

69 See also paragraphs 64, 68, 70 – 71 and 78 of document CPT/Inf (2021) 5-part, "A decency threshold for prisons

4. Activities

47. Some (mostly unpaid[70]) work was offered to sentenced prisoners[71] in the establishments visited, as was some basic education;[72] however, this was still far from satisfactory. Most sentenced prisoners continued to have no purposeful activities and just roamed the corridors or stayed in their cells watching TV or playing board games with other inmates. The only other form of distraction was daily outdoor exercise (with access to some basic weightlifting equipment and a possibility to play ball games), lasting up to 2 hours in the two prisons and up to 4 hours at Kremikovtsi Prison Hostel, and occasional access to a gym[73] and table tennis.

48. As for remand prisoners, they continued to be locked in their cells for up to 23 hours per day without being offered any organized activities. The regime for remand prisoners placed under Article 248 of the Execution of Sentences Act[74] was particularly impoverished and, in some cases, resembled solitary confinement (for those prisoners accommodated alone in their cells, including juveniles).

49. The CPT wishes once again to emphasise that ensuring that sentenced prisoners are engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association) is not only an essential part of rehabilitation and resocialisation, but it also contributes to the establishment of a safer, more secure environment within prisons. Furthermore, remand prisoners should as far as possible be offered work, as well as other structured activities.

The CPT calls upon the Bulgarian authorities to intensify their efforts to develop the programmes of activities for both sentenced and remand prisoners, notably as regards work,[75] educational and vocational activities.[76]

As regards, more specifically, remand prisoners placed under Article 248 of the Execution of Sentences Act, steps must be taken to ensure that they are offered at least 2 hours of meaningful human contact every day.[77]

– criteria for assessing conditions of detention" (Extract from the 30th General Report of the CPT), https://rm.coe.int/1680a3e6a3.

70 Prisoners were generally willing to take unpaid jobs because having a workplace contributed to shortening the sentence and increased the likelihood of parole. See also paragraph 68 below.

71 Approximately 150 sentenced prisoners had a job at Sofia Prison (some 90 of them working without pay) and approximately 130 at Plovdiv Prison (including some 80 performing unpaid work). There were approximately 50 paid and some 90 unpaid workplaces at Kremikovtsi Prison Hostel, but all of them totalled 34 full-time equivalents. Most of the paid jobs were in a paper/carton packaging workshop and the unpaid work consisted of cleaning, tending to outdoor areas, operating the boiler and laundry equipment, and helping distribute the meals.

72 E.g., some 90 sentenced prisoners attended classes (up to the 12th grade) at Sofia Prison, some 50 at Plovdiv Prison and 87 at Kremikovtsi Prison Hostel.

73 Up to one hour three times per week.

74 I.e., remand prisoners accused of serious offences for which they may be sentenced to at least 15 years of imprisonment.

75 See also paragraphs 68 and 76 of document CPT/Inf (2021) 5-part, "A decency threshold for prisons – criteria for assessing conditions of detention" (Extract from the 30th General Report of the CPT), https://rm.coe.int/1680a3e6a3.

76 Reference is also made to the CPT's 26th General Report, see paragraphs 52 to 73 of CPT/Inf (2017) 5, http://rm.coe.int/doc/090000168070af7a.

77 See paragraph 80 of document CPT/Inf (2021) 5-part, "A decency threshold for prisons – criteria for assessing conditions of detention" (Extract from the 30th General Report of the CPT), https://rm.coe.int/1680a3e6a3.

50. Concerning life-sentenced prisoners, admittedly some of them[78] had benefitted from a transfer to the general accommodation (where they were no more segregated from other sentenced prisoners on closed regime), but still most of the lifers were spending the bulk of their time, alone or with one fellow prisoner, in their cells, save for association periods during outdoor exercise (one to two hours per day) and a few (up to 3) hours of joint leisure activities such as playing table tennis or using the gym. As previously, only very few lifers could work[79] – in practice, only those who were no longer accommodated in high-security units – and education opportunities were limited to correspondence courses.

The Committee remains of the view that the regime for life-sentenced prisoners in Bulgaria should be fundamentally reviewed, so as to include a structured programme of constructive and preferably out-of-cell activities; social workers and psychologists should be proactive in working with life-sentenced prisoners to encourage them to take part in that programme and attempt to engage them safely with other prisoners for at least a part of each day. Consequently, **the CPT calls upon the Bulgarian authorities to further develop the regime for life-sentenced prisoners, in particular by providing more communal activities (including access to work and education)**.[80]

The Committee would also request to be informed whether there has been any progress in adopting legislative amendments with a view to making conditional release (parole) 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.[81]

5. Health-care services

51. In all the penitentiary establishments visited the health-care services were severely understaffed.[82] The worst – indeed dramatic – situation was observed at Kremikovtsi Prison Hostel, where the post of feldsher was vacant and the establishment's dentist had been obliged to take on the role of a general medical practitioner over prolonged periods.[83]

Further, as had been the case in the past, none of the penitentiary establishments visited had any health-care staff present after the regular working hours[84] or on weekends. In this context, it was hardly surprising that the delegation again received numerous complaints from prisoners about access to and the quality of healthcare (both primary and specialist).

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78 Five at Sofia Prison and four at Plovdiv Prison.

79 Three at Sofia Prison and two at Plovdiv Prison.

80 See also Recommendation Rec (2003) 23 of the Council of Europe's Committee of Ministers to Member States on the management by prison administrations of life sentence and other long-term prisoners.

81 As recommended in paragraph 88 of the report on the 2017 periodic visit (CPT/Inf (2018) 15, http://rm.coe.int/16807c4b74).

82 For example, Sofia Prison (population 512) employed a GP, a dentist, a feldsher and two nurses (all full time). Plovdiv Prison (population 369) had a part-time GP (aged 78) employed on a civil law contract (see also paragraph 68 below), two other doctors who visited occasionally ("when needed") and a dentist; there were no feldshers or nurses. As for the two IDFs, the one on G.M. Dimitrov Boulevard in Sofia (population 203) employed three part-time doctors, two nurses and a part-time dentist (however, the doctors were also employed in the second IDF in Sofia and were often absent), and the one in Plovdiv (population 93) had a GP but no feldsher or nurse, and no dentist.

83 The establishment's GP was frequently on prolonged leave (and was not replaced in his absence).

84 I.e., after 4 p.m.

The Committee calls upon the Bulgarian authorities to reinforce health-care teams in the penitentiary establishments visited. As already stressed in the report on the 2017 periodic visit,[85] ways to render the job of prison health-care staff more attractive (in addition to increasing salaries) – such as offering good prospects for professional development – should be actively sought.

More specifically, **urgent steps must be taken to fill all the vacant health-care staff posts in the penitentiary establishments visited and to ensure that there is at least the equivalent of two full-time GPs' posts at Sofia Prison and one full-time GP's post at Kremikovtsi Prison Hostel. Steps must also be taken to recruit (and/or significantly increase the complement of) feldshers and nurses in all establishments visited, and to ensure access to a dentist at Plovdiv IDF.**

Furthermore, **the CPT reiterates its recommendation that the Bulgarian authorities ensure that a person competent to provide first aid (who holds a valid certification in training in the application of cardiopulmonary resuscitation and the use of an automated external defibrillator) is always present in every penitentiary establishment. The Committee also reiterates its view that at least a qualified nurse should be present in every penitentiary establishment at night and on weekends.**

The CPT further recommends that steps be taken to reinforce the provision of specific health-care for female inmates in the two IDFs visited (and, as applicable, in all other penitentiary establishments in Bulgaria accommodating women prisoners). In particular, measures should be taken to ensure that health-care is provided to female inmates by medical practitioners and nurses who have specific training in women's health issues;[86] this was far from being guaranteed in the two aforementioned IDFs.

52. At Sofia and Plovdiv Prisons, as well as at Kremikovtsi Prison Hostel, there were prisoners working as orderlies in the health-care units, despite the Committee's long-standing recommendations to abandon this practice.[87]

In particular, they assisted (and often actually replaced, especially at Plovdiv Prison and Kremikovtsi Prison Hostel) health-care staff in the distribution of medicines and performed certain medical tasks such as measuring temperature, blood pressure and pulse. Further, they had unhindered access to medical documentation concerning their fellow inmates.

As stressed on many previous occasions, the CPT considers this totally unacceptable; **the Committee once again calls upon the Bulgarian authorities to cease the practice of using prisoners as medical orderlies.**

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85 See paragraph 90 of CPT/Inf (2018) 15, http://rm.coe.int/16807c4b74.

86 See, for more guidance on the Committee's standards with respect to health-care services to be offered to female prisoners, paragraphs 32 and 33 of the 10th General Report of the CPT (CPT/Inf (2000) 13-part), https://rm.coe.int/16806cd381. See also document CPT/Inf (2018) 5, "Women in prison (factsheet)", https://rm.coe.int/168077ff14.

87 See e.g., paragraph 48 of the report on the 2015 ad hoc visit (CPT/Inf (2015) 36, https://rm.coe.int/16806940c7) and paragraph 91 of the report on the 2017 periodic visit (CPT/Inf (2018) 15, http://rm.coe.int/16807c4b74). Obviously, relying on prisoner orderlies was related to the very low health-care staffing levels.

53. The delegation again observed severe problems with the supply of medication (including, in some instances, long delays and interruptions of supply). In addition, as previously, inmates or their families had to pay for most of the medicines (including psychotropic and anti-epileptic drugs), for which a separate permission by GDIN was required (which rendered the procedure even slower and more cumbersome). The delegation also found a lot of expired medication in the prison pharmacies, including emergency drugs and antibiotics.

Both the premises and the equipment of the health-care units of the establishments visited were very poor, and in particular life-saving/emergency equipment (such as oxygen and automated external defibrillators) was systematically missing. The delegation also noted the absence of a dental X-ray at Kremikovtsi Prison Hostel.

The CPT calls upon the Bulgarian authorities to significantly improve the supply of free-of-charge medication and material conditions and equipment of health-care units in the penitentiary establishments visited, in the light of the above remarks.

54. Regarding the recording and reporting of injuries observed on prisoners, **reference is made to the comments and recommendations in paragraph 19 above**.

More generally, the quality of medical examinations on admission remained inadequate, the examinations being generally very superficial,[88] with serious medical conditions (e.g. epilepsy) going undetected. Moreover, several prisoners interviewed at Sofia Prison[89] and Kremikovtsi Prison Hostel stated that they had not been medically examined at all upon arrival.

The Committee reiterates its recommendation that steps be taken to ensure strict adherence to the rule that all prisoners must be seen by a health-care staff member immediately upon arrival. **The medical examination on admission should be comprehensive, including a physical examination and – in the establishments representing the points of entry to the prison system – systematic screening for transmissible diseases such as tuberculosis. Further, the initial examination should include mental health issues and should in particular help identify prisoners representing a risk of suicide or self-harm.**

The CPT also recommends that a gender-specific medical screening on admission for women should be introduced in all penitentiary establishments accommodating women prisoners (including in the two IDFs visited). Such screening should allow for the detection of vulnerabilities, including a history of any sexual abuse and other gender-based violence, and it should inform any care plan established for the woman to ensure appropriate care and avoid re-traumatisation.

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88 E.g., there was no systematic screening for TB.

89 The relevant journal at Sofia Prison had only 21 entries concerning medical screening of newly-arrived prisoners between 25 August and 16 September 2021, and no entries at all between 17 and 29 September 2021. It would be extremely unlikely that Sofia Prison, the largest penitentiary establishment in Bulgaria, would receive no new prisoners for 12 days.

55. The quality of medical documentation left much to be desired in all of the establishments, and the delegation was concerned to note that not every inmate had his/her own individual medical file, especially at Plovdiv Prison.

As already mentioned above,[90] medical confidentiality was still not respected, as regards the procedure for requesting to see a doctor (inmates still had to pass such requests in an open form through custodial officers), the medical consultations (presence of non-medical prison staff) and medical documentation (which was accessible to custodial staff and prisoner orderlies, and – at Sofia Prison – fellow inmates). Further, prescribed medication – including psychiatric drugs[91] – continued to be usually distributed to prisoners by custodial officers (or prisoner orderlies).

The CPT calls upon the Bulgarian authorities to implement its long-standing recommendations to improve the quality of medical documentation[92] and to ensure medical confidentiality in all penitentiary establishments. Prisoners should be able to approach the health-care service on a confidential basis, for example, by means of a message in a sealed envelope; for this purpose, they should be provided with paper, a pen or a pencil and envelopes free of charge.[93]

All medical examinations should 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 (see also paragraph 19 above). Health-care staff may inform custodial officers on a need-to-know basis about the state of health of a prisoner; however, the information provided should be limited to that necessary to prevent a serious risk for the inmate or other persons, unless the prisoner consents to additional information being given.

56. Access to psychiatric care was very insufficient for prisoners in the establishments visited,[94] especially given (as acknowledged by Directors and staff) the presence of many inmates with mental health issues,[95] some related to drug use (see paragraph 62 below). Furthermore, it was difficult and rare in practice to secure a transfer of a prisoner to a psychiatric establishment. **The Committee calls upon the Bulgarian authorities to take decisive steps to improve the provision of psychiatric care to prisoners. Whenever necessary, prisoners concerned should be promptly transferred to an appropriate hospital facility.**

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90 See paragraph 19 above.

91 Such as Clozapine, see paragraph 57 below.

92 In particular, a personal and confidential medical file must be opened for each prisoner, containing diagnostic information as well as an ongoing record of the prisoner's state of health and of any special examinations he/she has undergone. In the event of transfer, the file should be forwarded to the doctors in the receiving establishment.

93 One inmate interviewed by the delegation at the IDF on G.M. Dimitrov Boulevard in Sofia alleged that she had been unable to request a medical consultation because she had not been given paper and a pen to write it.

94 The posts of psychiatrist had been vacant for a long time at both Sofia and Plovdiv Prisons. In the remaining establishments, whilst there theoretically existed (more or less official) arrangements for contacting consultant psychiatrists working in outside hospitals, the information gathered by the delegation (from interviews with medical professionals and prisoners, and from the examination of relevant medical documentation) suggested that in reality access to psychiatric care was at best sporadic and essentially limited to emergencies (i.e., transfers to the Prison Psychiatric Ward in Lovech).

95 In each of the establishments visited there were several prisoners who were regularly taking psychotropic medication including Clozapine (see paragraphs 55 above and 57 below).

57. At Plovdiv Prison, the delegation learned that Clozapine was being administered to some prisoners without following the appropriate protocol (especially without regular blood tests).

The CPT wishes to stress that Clozapine can have severe side-effects such as a potentially lethal reduction of white blood cells (granulocytopenia, with substantially reduced resistance to infection). Therefore, **the Committee recommends that the Bulgarian authorities take steps to ensure that a protocol for a system of mandatory monitoring of the white blood cell count of prisoners treated with Clozapine be drawn up at the national level.** Further, **staff should be educated, in particular, about the early signs of the potentially lethal side-effects of Clozapine.**

58. At Plovdiv Prison, the delegation found that agitated prisoners[96] could sometimes be placed in a special cell (which was dilapidated and dirty) and mechanically restrained (fixated) to the bed using metal cuffs.[97] The fixation was reportedly performed by custodial staff[98] and could last up to 6 days at a time. The prison's psychologist would apparently always be informed and would see the prisoner after placement and fixation, and a (non-medical) staff member (or a prisoner orderly) would come to check on the inmate concerned every 2 to 4 hours. The delegation learned that some prisoners would be placed in the cell and restrained repeatedly, even 2 – 3 times each month. This practice is unacceptable.

59. The CPT fully recognizes that it could be necessary, on rare occasions, to resort to mechanical means of restraint in a prison setting. However, in the Committee's opinion, the approach to mechanical restraint in prisons should take into consideration the following principles and minimum standards:

- regarding its appropriate use, mechanical restraint 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 satisfactorily to 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 mechanical restraint should always be either expressly ordered by a medical doctor or be immediately brought to the attention of a doctor in order to assess whether the mental state of the prisoner concerned requires hospitalisation or whether any other measure is required in the light of the prisoner's medical condition (as opposed to certifying the individual's fitness for the measure);

- the equipment used should be properly designed to limit harmful effects, discomfort and pain during restraint, and staff must be trained in the use of the equipment; metal cuffs should never be used;

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96 Of whom there were several, including five with an official diagnosis of schizophrenia.

97 Occasionally, when the fixation would not last longer than a few hours, the prisoner could also be fixated in his own cell (in the view of his cellmates).

98 The Director would have to be informed as soon as possible with a view to confirming the measure.

- the duration of mechanical restraint should be for the shortest possible time (usually minutes rather than hours); the exceptional prolongation of restraint should warrant a further review by a doctor. Restraint for periods of days at a time cannot have any justification and amount to ill-treatment;[99]

- prisoners subject to mechanical restraint should receive full information on the reasons for the intervention; further, a debriefing of staff and more specifically of the inmate should take place following each measure of mechanical restraint;

- prisoners subject to mechanical restraint should, at all times, have their 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 mechanical restraint. The staff member concerned should offer immediate human contact to the restrained prisoner, reduce his/her anxiety, communicate with the inmate and rapidly respond, including to the prisoner's personal needs regarding oral intake, hygiene and urination and defecation. Such individualised staff supervision should be performed from within the cell 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.;

- more generally, a dedicated register should be kept to record all cases in which recourse is had to mechanical restraint; 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 person who ordered or approved it, and an account of any injuries sustained by the prisoner or staff;
- further, the inmate 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 senior member of the health-care staff or another senior member of staff with appropriate training;

- the management of any establishment which might use mechanical restraint should issue formal written guidelines, taking account of the above criteria, to all staff who may be involved.

The Committee recommends that the Bulgarian authorities take the necessary steps to ensure that all the principles and minimum safeguards set out above are applied in prison establishments resorting to mechanical restraint, including through the adoption of the necessary regulations and the provision of appropriate training to staff. Pending this, the practice in question should be stopped.

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99 See paragraph 41 above.

60. As regards psychological assistance, each establishment visited employed one or more psychologists; that said, none of the psychologists was clinically trained. Furthermore, as had been the case in the past, the psychologists' role was essentially limited to carrying out risk assessment of prisoners.

The CPT again recommends that the Bulgarian authorities reinforce the provision of psychological care in prison and develop the role of prison psychologists, especially as regards therapeutic clinical work with various categories of inmates. In this context, efforts are needed to recruit, in due course, clinically trained psychologists who should form part of the health-care team and whose work should avoid combining two different roles i.e., risk assessment for administrative purposes and therapeutic clinical work.

61. Several of the establishments visited (including Plovdiv and Sofia Prisons, as well as Kremikovtsi Prison Hostel) were accommodating inmates with (sometimes severe) confirmed physical and/or learning disability. However, none of the establishments offered suitable material environment, adapted equipment, appropriate care and staff attention that those prisoners required. In practice, some of the prisoners concerned were forced to rely on the help of their cellmates and other fellow prisoners for the most basic life necessities such as eating, washing and using the toilet.

The Committee recommends that the Bulgarian authorities take steps to remedy this highly unsatisfactory state of affairs; in so doing, the authorities should *inter alia* refer to the Council of Europe's Committee of Ministers Recommendation R (98) 7 on the Ethical and Organisational Aspects of Health Care in Prison.[100] If it proves difficult to offer suitable conditions to a particular prisoner with a disability, the option of a transfer to a specialised outside institution should be duly considered.[101]

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100 See https://rm.coe.int/09000016804fb13c, in particular paragraph 50. It is also noteworthy that the European Court of Human Rights has, in some of its judgments, qualified the continuous imprisonment of (physically) disabled inmates as ill-treatment, see e.g. in *Vincent v. France* (application no. 6253/03, judgment of 24 October 2006). Reference is also made here to the Resolution of the Parliamentary Assembly of the Council of Europe 2223 (2018), "Detainees with disabilities in Europe".

101 See also paragraph 70 of the 3rd General Report of the CPT (CPT/Inf (93) 12-part), https://rm.coe.int/16806ce943.

62. The delegation gained the impression hardly anything was being done in the penitentiary establishments visited (apart from a very limited methadone programme at Sofia Prison[102] and at the IDF on G.M. Dimitrov Boulevard in Sofia[103]) to address the widespread substance use problem among prisoners[104] and the related health issues such as HIV[105] and hepatitis.[106]

In the CPT's view, treatment options for prisoners in relation to drug withdrawals as well as opioid agonist maintenance should be available in prison to the same extent as in the outside community; this is also in line with the Opioid Dependence Treatment Guidelines issued by the WHO in 2009.[107] More generally, the Committee must reiterate its view that the management of prisoners with a substance use problem must be varied – eliminating the supply of illicit substances into prisons, dealing with substance use through identifying and engaging the users, providing them with treatment options and ensuring that there is appropriate through care, developing standards, monitoring and research on substance use issues, and the provision of staff training and development – and linked to a proper national prevention policy. This policy should also highlight the risks of HIV or hepatitis B/C infection through substance use and address methods of transmission and means of protection. It goes without saying that the multi-disciplinary task of drawing up, implementing and monitoring the programmes concerned must be performed by prison staff in close co-operation with health-care personnel and other (psycho-socio-educational) staff involved. [108]

The CPT again calls upon the Bulgarian authorities to develop and implement a comprehensive strategy for the provision of assistance to prisoners with substance-related problems (as part of a wider national strategy) including harm reduction measures, in the light of the above remarks. Further, **the Committee calls upon the Bulgarian authorities to ensure, throughout the prison system, a systematic screening[109] and to improve inmates' access to treatment for blood-borne viral diseases such as HIV[110] and hepatitis B and C.[111]**

The CPT would also like to be informed whether there are plans to offer vaccination against hepatitis B to prisoners.[112]

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102 Where approximately 40 inmates were on methadone at the time of the visit.

103 With seven inmates on methadone at the time of the delegation's visit.

104 As acknowledged by Directors and staff (including health-care personnel) in the establishments visited. For example, at Plovdiv Prison approximately 60% of all inmates had a history of drug abuse.

105 E.g., there were 15 known HIV+ prisoners at IDF G.M.Dimitrov in Sofia and four at Plovdiv Prison.

106 Screening for hepatitis was not carried out systematically and was essentially left up for the NGOs to come up with initiatives of such screening (e.g., a recent NGO-performed screening for hepatitis C at Plovdiv Prison had reportedly resulted in some 25 inmates testing positive). At Sofia Prison, approximately 50 prisoners were known to have hepatitis B or C (because they had been tested previously and/or they had declared to be positive upon arrival).

107 See http://apps.who.int/iris/bitstream/10665/43948/1/9789241547543_eng.pdf.

108 See also "Drug Dependence Treatment: Interventions for Drug Users in Prison", UN Office on Drugs and Crime, www.unodc.org/docs/treatment/111_PRISON.pdf.

109 See also paragraph 54 above.

110 Anti-retroviral therapy was available at the IDF G.M. Dimitrov in Sofia (15 remand prisoners were receiving it at the time of the visit), Plovidv Prison (four inmates) and Kremikovtsi Prison Hostel, where a few inmates were on anti-retroviral medication. See however, paragraph 42 above regarding the conditions of their detention.

111 Treatment for hepatitis was hardly available (reportedly due to complex procedures requiring periods of hospitalisation in an outside specialised hospital) and the delegation spoke with several inmates (e.g. at Kremikovtsi Prison Hostel) who suffered from hepatitis and were receiving no treatment.

112 No such vaccination was available at the time of the 2021 visit.

63. In each of the establishments visited, the delegation observed that there was no routine testing for Covid-19 upon arrival,[113] no routine quarantining of newly-arrived prisoners pending test results[114] and no systematic use of masks;[115] in fact, there seemed to be a generalized denial of the pandemic including (in some cases) by health-care staff. Furthermore, the stock of antigen test kits was insufficient at the IDF G.M. Dimitrov in Sofia (which had as a consequence that even some symptomatic inmates could not be tested) and at Plovdiv IDF, the delegation was told that if a prisoner developed symptoms suggestive of Covid-19, it would be necessary that his/her relatives provide an antigen test kit since the establishment did not have any in stock. This is totally unacceptable.

In the Committee's view, the aforementioned practices exposed prisoners to the avoidable degree of risk of getting very ill and maybe even dying of Covid-19. The CPT must also stress that health-care professionals working in penitentiary establishments have a primary role in protecting and preventing Covid-19 exposure of their patients. Further, the Committee wishes to refer to the Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (Covid-19) pandemic, issued on 20 March 2020,[116] in which the CPT stressed *inter alia* that the relevant WHO guidelines must be respected and implemented fully in all places of deprivation of liberty.

The Committee recommends that steps be taken to remedy the aforementioned failings in all penitentiary establishments in Bulgaria.

64. As regards vaccination against Covid-19, the percentage of vaccinated staff and inmates was very low at the time of the visit (e.g. approximately 20% of prisoners and 30% of staff at IDF G.M. Dimitrov, 25% of staff and 35% of inmates at Sofia Prison). At Plovdiv Prison, approximately 100 prisoners and some 20 staff members had received a Covid vaccine so far (and apparently some 30 more prison officers had declared their willingness to get vaccinated).

The CPT would like to be informed about the current situation as regards the Covid-19 vaccination programme for staff and prisoners in Bulgarian penitentiary establishments.

65. Finally, the facts found during the 2021 visit confirm once again the Committee's previous conclusion, namely that there is a crucial need for a closer and more active involvement of the Ministry of Health in prison health-care.

In this context, **the CPT would like to be informed of the progress in the implementation of the Strategy on Provision of Health Care in Prisons and, in particular, whether a detailed and budgeted action plan for the implementation of the aforementioned Strategy has now been adopted.[117] The Committee maintains its view that a transfer of responsibility for prison health care from the Ministry of Justice to the Ministry of Health should be the final objective.**

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113 Only symptomatic inmates would be tested, and even in those cases a test would not be performed without the doctor's (or feldsher's) decision. It is noteworthy that there was no systematic testing for prison staff either.

114 If a prisoner developed symptoms and tested positive, he/she would be transferred to a specially set up temporary Covid ward at Sofia Prison Hospital (which was virtually empty at the time of the 2021 periodic visit).

115 Despite formal GDIN instructions issued on this subject, the delegation saw many inmates and staff in all the establishments visited who were either not wearing masks or wearing them in an incorrect manner.

116 See https://www.coe.int/en/web/cpt/-/covid-19-council-of-europe-anti-torture-committee-issues-statement-of-principles-relating-to-the-treatment-of-persons-deprived-of-their-liberty-.

117 As stressed by the Committee in its report on the 2017 periodic visit (see paragraph 98 of CPT/Inf (2018) 15, http://rm.coe.int/16807c4b74), the action plan should imply the Ministry of Health's more active involvement

6. Other issues

a. prison staff

66. Low staffing levels in Bulgarian penitentiary establishments have been of concern to the CPT for many years, and the Committee has repeatedly recommended that the Bulgarian authorities take steps to address this problem.[118] Unfortunately, the situation observed in the establishments visited in 2021 was hardly any better.[119]

The CPT must stress once again that inadequate staff complements can only increase the risk of violence and intimidation between prisoners. They also undermine the quality and level of the activities offered to the inmates, and jeopardise the prospect of preparation for release and social rehabilitation.[120]

Consequently, **the Committee calls upon the Bulgarian authorities to take urgent steps to increase custodial staffing levels and the presence of custodial staff inside prisoner accommodation areas of the penitentiary establishments visited (as well as in all the other penitentiary establishments in Bulgaria, as applicable).** Further, **much more effort is needed to recruit social workers,[121] psychologists[122] and probation officers.**

67. The Committee is concerned by the fact that, despite earlier plans to abolish this system, it had been decided to maintain the 24-hour shift pattern for custodial staff.[123] The CPT can only reiterate its opinion that such a shift pattern has an inevitable negative effect on professional standards; no-one can perform in a satisfactory manner the difficult tasks expected of a prison officer for such a length of time. **The Committee calls upon the Bulgarian authorities to reconsider their decision to continue this practice.**

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in supervising the standard of health care in places of deprivation of liberty (including as regards recruitment of health-care staff, their in-service training, evaluation of clinical practice, certification and inspection).

118 See e.g., paragraph 99 of the report on the 2017 visit (CPT/Inf (2018) 15, http://rm.coe.int/16807c4b74).

119 For example, there were only four custodial officers present on each floor (20 – 21 cells, each accommodating up to four inmates) at any given shift at the IDF on G.M. Dimitrov Boulevard in Sofia. At Sofia Prison (population 512), one shift comprised some 30 custodial staff (including officers in charge of securing the perimeter and in charge of escorts in and out of the prison). At Plovdiv Prison (population 369), 16 custodial officers worked inside the detention area during one shift. At Kremikovtsi Prison Hostel (population 309), there were up to 14 custodial staff present on any given shift, but four of them were guarding the perimeter. As for Plovdiv IDF (population 93), a shift comprised seven custodial officers.

120 See also paragraph 47 above.

121 E.g., there were four social workers at Kremikovtsi Prison Hostel and 14 at Plovdiv Prison (but they were also responsible for inmates from the two prison hostels administratively attached to the prison i.e., the total population of 576).

122 See paragraph 50 above.

123 Apparently due to the pressure by prison staff trade unions.

68. The delegation has found that corruption remains a serious issue in prisons. Corruption was mainly said to exist in the context of provision of work[124] and smuggling in prohibited items (such as mobile phones and drugs) but it sadly also concerned some health-care staff (e.g., the alleged practice of "selling" places in the in-patient unit at Plovdiv Prison).

The Committee again calls upon the Bulgarian authorities to continue their efforts to combat the phenomenon of corruption in prisons. **Prison staff and public officials associated with the prison system should be given the clear message that seeking advantages from prisoners or their relatives is illegal and will be punished severely; this message should be reiterated in an appropriate form, at suitable intervals.**

As regards the above-mentioned allegations of corrupt practices by a member of the health-care team at Plovdiv Prison, the establishment's Director told the delegation that he had informed the regional prison administration and the competent prosecutor. **The CPT would like to be informed whether any disciplinary and/or criminal proceedings have been initiated following these reports and if so, what was their outcome.**

b. contact with the outside world

69. The visiting entitlement for prisoners had remained unchanged since the CPT's previous visits.[125] In practice, inmates could receive a visit (lasting 40 minutes) twice per month. As a rule, visits were of a closed type (through a glass separation). Further, sentenced prisoners could receive exceptional prolonged visits (up to four hours) without supervision, as a reward for good behaviour.

The Committee calls upon the Bulgarian authorities to finally implement the CPT's long-standing recommendation and to increase the visit entitlement for all categories of prisoners to at least the equivalent of one visit per week. The permitted duration of each visit should be extended to at least one hour.

The Committee also calls upon the Bulgarian authorities to enable all prisoners, including those on remand, to receive visits under reasonably open conditions; the use of closed visiting facilities should be the exception rather than the rule.

70. All visits had been stopped temporarily at the beginning of the Covid-19 pandemic (during a few months in 2020) but compensation had been offered to prisoners in the form of video meetings (using the VoIP technology). The delegation was pleased to observe during the 2021 visit that despite the lifting of the ban on (physical) visits, access to video meetings continued to be provided in the establishments visited. **The CPT invites the Bulgarian authorities to make this access permanent.**

71. Inmates had unrestricted access to card-operated telephones and could send and receive an unlimited amount of correspondence, which is to be welcomed.

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[124] As already mentioned in paragraph 47 above, having a job contributed to shortening the sentence and increased the likelihood of parole.

[125] See e.g., paragraph 107 of the report on the 2014 visit (CPT/Inf (2015) 12), https://rm.coe.int/16806940c4.

c. discipline

72. Recourse to disciplinary sanctions (including isolation of up to 14 days[126]) appeared to be very rare indeed in the establishments visited – which is positive.[127] Further, the delegation observed the practice of delaying the enforcement of the sanction of disciplinary isolation due to weather conditions.[128] Considering, in particular, the conditions in disciplinary cells at Kremikovtsi Prison Hostel (see paragraph 75 below), this can be considered understandable. However, a question could be posed as to the rationale of enforcing a disciplinary isolation sanction many months after the violation had occurred (especially if the prisoner had not violated any rules subsequently). **The Committee would welcome the Bulgarian authorities' observations on this issue.**

73. As regards disciplinary procedure (which, as set out in the relevant legal provisions, call for no particular comments by the Committee),[129] prisoners were not always heard in person prior to the imposition of disciplinary sanctions. Further, inmates were not systematically given a copy of the disciplinary order, and information on the right of appeal was not provided to them in an adequate manner.[130]

The Committee reiterates its recommendation that the Bulgarian authorities ensure that the relevant provisions governing disciplinary procedure are duly applied in the establishments visited.

74. The delegation again observed that prison doctors remained involved in the disciplinary procedure and, in particular, were still required to certify prisoners' fitness for placement in disciplinary isolation (prior to the start of the measure).

The CPT wishes to reiterate its view that medical practitioners working in prisons act as the personal doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. Obliging prison doctors to certify that prisoners are fit to undergo punishment is scarcely likely to promote that relationship. This point was also recognised in the Committee of Ministers' Recommendation (2006) 2 on the European Prison Rules.

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126 It is noteworthy that, as had been the case in the past, the sanction of placement in a disciplinary isolation cell was not applied in IDFs (and consequently, there were no such cells in the two IDFs visited).

127 Most of the disciplinary sanctions were warnings or reprimands, and placement in a disciplinary cell was often suspended and, if effective, then rarely longer than a week. It was clear that sanctions were being applied in a gradual and proportional manner, and placement in a disciplinary cell was a measure of last resort.

128 Several disciplinary decisions seen in the relevant records contained a remark "enforcement suspended until the weather improves" i.e., until it became warmer or colder, depending on the season.

129 See also paragraph 142 of the report on the 2010 visit (CPT/Inf (2012) 9), https://rm.coe.int/16806940c4. To recall, prisoners should be granted an oral hearing before the imposition of a disciplinary sanction, may call witnesses and should be informed of their right to appeal the disciplinary decision, as well as being given a copy of the disciplinary order. As regards decisions for placement in a disciplinary cell, they can be appealed to the district court, which should consider the case in the presence of the prisoner concerned and/or his lawyer.

130 Inmates could only read this information when they received a copy of disciplinary order, for their signature; the copy was (usually) subsequently taken away from them and put to their administrative file, as a result of which inmates had no written information with them in their cells (and it was clear that many of those whom the delegation interviewed, and who were or had recently been placed in disciplinary isolation, had not had sufficient time to read and understand the information on the right to appeal printed out on the standard disciplinary order form).

Consequently, **the Committee reiterates its recommendation that the role of prison doctors in relation to disciplinary matters be reviewed. In so doing, regard should be had to the European Prison Rules[131] and to the above remarks.**

75. Material conditions in disciplinary isolation cells were found to be generally acceptable[132] except at Kremikovtsi Prison Hostel where the cells were extremely dilapidated and cold. For as long as the latter establishment continues to operate,[133] **the CPT recommends that steps be taken to improve material conditions in the cells concerned.**

76. Concerning the regime for inmates placed in disciplinary isolation, it could be considered acceptable: prisoners were allowed to take one hour of outdoor exercise per day and could have access to reading matter.

d. complaints and inspection procedures

77. Prisoners interviewed by the CPT's delegation in the establishments visited were generally aware of the avenues of complaint at their disposal.

However, the delegation noted that there was no written information on this subject available in languages other than Bulgarian. Further, the delegation again received allegations that complaints were not always duly and speedily dealt with by the prisons' administration, and a few inmates (especially at Kremikovtsi Prison Hostel) claimed that their official complaints had gone unanswered for months.

The Committee recommends that appropriate remedial steps be taken by the Bulgarian authorities in the light of the above remarks.

78. Regarding the independent monitoring of prisons, this was performed by the Ombudsman (and her staff), in her capacity as the NPM. Further, based on an agreement with the Ministry of Justice and the GDIN, prisons continued to be visited on a regular basis by representatives of the Bulgarian Helsinki Committee.

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131 Rule 43.3: "The medical practitioner shall report to the director whenever it is considered that a prisoner's physical or mental health is being put seriously at risk by continued imprisonment or by any condition of imprisonment, including conditions of solitary confinement".

132 E.g., the disciplinary cells at Sofia Prison were clean, well-lit and ventilated; they measured some 8 m² each and were equipped with a bed (with bedding), a small table and a semi-partitioned sanitary annexe comprising a toilet and a washbasin. Disciplinary cells at Plovdiv Prison were similar, only slightly larger (approximately 9 m²) and in a worse (but still acceptable) state of repair and cleanliness.

133 See the recommendation in paragraph 43 above.

C. Psychiatric establishments

1. Preliminary remarks

79. The delegation visited Kardzhali State Psychiatric Hospital for the first time, as well as Karlukovo State Psychiatric Hospital, previously visited by the CPT in 2002 and 2006, and Lovech State Psychiatric Hospital, the forensic ward of which had been previously visited by the CPT in 1995, 1999, and 2010.[134]

80. Kardzhali State Psychiatric Hospital, a former prison which opened as a psychiatric hospital in 1954, is situated in an area of grounds within a residential suburb of the town of Kardzhali in southern Bulgaria, some 45 km north of the Greek border.

With an official capacity of 270 beds, at the time of the visit, the hospital was accommodating 243 adult patients – 139 male and 104 female.[135] There were only three civil involuntary patients (two men and one woman)[136], plus eight patients undergoing compulsory treatment under Article 89(b) of the Criminal Code (seven men and one woman). According to the Director, some 60% of the patients suffered from schizophrenia, with other diagnoses including substance use disorder, affective disorders, dementia, and a small number of patients with a learning disability.

81. Karlukovo State Psychiatric Hospital, once an army barracks and lying on the site of a former monastery, is situated in rural north-western Bulgaria, in large grounds within a wooded gorge, next to the River Iskar (and a railway line), some 70 km west of Lovech.

With an official capacity of 175 beds,[137] at the time of the visit, the hospital was accommodating 139 adult patients – 89 male and 50 female. There were 67 civil involuntary patients (48 men and 19 women), plus 18 patients undergoing compulsory treatment under Article 89(b) of the Criminal Code (16 men and two women). Regarding patients' diagnoses, approximately 90% of the patients reportedly suffered from schizophrenia, with the rest having a learning disability (less than ten patients), affective disorders, organic disorders, or alcohol dependency.

82. Lovech State Psychiatric Hospital, which dates from 1894, is situated in an area of grounds within a residential suburb of the city of Lovech in northern Bulgaria.

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134 Reports on previous CPT visits can be found at https://www.coe.int/en/web/cpt/bulgaria.

135 The hospital also provided day care to 54 outpatients who were offered nursing and psychology input, including individual or group psychotherapy, and the services of the hospital's laboratory facilities.

136 See, however, paragraph 122 below.

137 A significant reduction from the official capacity of 250, found by the CPT during the 2006 visit.

With an official capacity of 240 beds, at the time of the visit, the hospital was accommodating 160 adult patients – 105 male and 55 female.[138] There were 11 civil involuntary patients (four men and seven women), 13 patients undergoing compulsory treatment under Article 89(b) of the Criminal Code (11 men and two women), and 33 male patients undergoing compulsory treatment under Article 89(c) of the Criminal Code. According to the Director, some 50% of patients suffered from schizophrenia, with approximately 10% having each of the diagnoses of a learning disability, dementia, affective disorder, personality disorder, and substance use disorder.

83. The Committee is concerned to note that, as found during previous visits, significant numbers of patients had been identified by the Directors in all the hospitals visited as no longer requiring in-patient treatment.[139] However, due to the continuing lack of effective community-based mental health support services, patients were remaining in inappropriate institutional environments, seemingly indefinitely, with greatly adverse effects upon their wellbeing.

The lack of mental health care and support for patients in the community in Bulgaria is causing widespread suffering to those often held without hope in hospitals and is also promoting premature admission for others. This primitive situation adds further to the impression that Bulgaria remains decades behind expectations regarding a modern state's provision of mental healthcare and continues to demonstrate a seeming lack of regard and priority for the mental health of its citizens.

The Committee reiterates its view that the provision of proper psychiatric care in the community can not only shorten or avoid in-patient admission or readmission and thus reduce the potential for ill-treatment, but it also allows for the speedy re-integration of in-patients back into the community, as well as improving treatment experiences and outcomes for patients.

The CPT calls upon the Bulgarian authorities to continue to make every effort to develop and organise a full and appropriate range of residential, day and out-patient psychiatric care in the community, including developing fully functioning and responsive community mental health teams; this is also relevant in the context of the country's obligations stemming from the UN Convention on the Rights of Persons with Disabilities.[140]

For patients without family support, supported social care accommodation in the community should be in small living units, ideally in urban areas, with all the relevant facilities close at hand. The CPT recommends that the Ministry of Health and the Ministry of Labour and Social Policy work together closely to implement these precepts.[141]

As such de-institutionalisation progresses, the Bulgarian authorities must take concrete and urgent measures (acting upon the recommendations in the report), without further delay, aimed at upholding the human dignity of all patients still residing in their psychiatric hospitals.

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138 A further five patients attended the hospital's Day Centre.

139 According to their respective Directors, there were some 15 such patients in Kardzhali Hospital, 32 in Lovech, and some 40-50 (almost a third) in Karlukovo.

140 Ratified by Bulgaria in 2012.

141 See also paragraph 141 below.

2. Ill-treatment

84. Regarding ill-treatment of patients by staff, in Lovech and Kardzhali hospitals, although many patients were not critical of staff or even spoke positively of them, small numbers of complaints that staff would occasionally shout, push or slap patients were received by the delegation. Unlike during the last visit to the forensic ward of Lovech Hospital in 2010, no reports of the use of sticks against patients were received and no such items were found there.

However, in Karlukovo, a number of allegations were received from patients on four of the five wards that, apart from staff shouting at patients, orderlies would also push, slap and occasionally hit or kick them, with some such staff drinking alcohol whilst on duty. Further, credible and consistent allegations were received that orderlies on one of the wards sometimes carried a length of plastic pipe and would very occasionally hit patients with it.[142]

85. The CPT has repeatedly expressed its deep concern regarding ill-treatment of patients by staff in Bulgarian psychiatric hospitals. However, the findings of the 2021 visit demonstrate a continuing lack of action by the Bulgarian authorities to prevent any form of ill-treatment, and to convey a clear and unambiguous message to the staff of psychiatric hospitals that the ill-treatment of patients will not be tolerated and will be the subject of appropriate sanctions. **The CPT calls upon the Bulgarian authorities to take decisive steps to finally change this situation, including, inter alia, by improving the recruitment, training, and supervision of staff.**

Furthermore, **an atmosphere must be created in which it is accepted that the right thing for staff to do is to report any ill-treatment to managers through appropriate channels. This implies the existence of a clear reporting line as well as the adoption of "whistle-blower" protective measures (i.e., a framework for the legal protection of individuals who disclose information on ill-treatment and other malpractice). Further, patients need to be able to make complaints easily and reliably.[143]**

86. The CPT must also express its serious concern about the allegations regarding the use of restraint in Kardzhali Hospital, where some patients reported that their hands had been fixed to the bed frame above their head, causing pain, swelling and loss of sensation in their upper limbs. Such painful interventions could be said to amount to ill-treatment. In this regard, reference is made to the remarks and recommendations made in paragraphs 112 and 113.

87. As regards inter-patient violence, although some disagreements and conflicts between patients did occur, this was not a major problem in any of the hospitals visited.

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142 Similar ill-treatment was occurring when the CPT visited the hospital in 2002; and during the 2021 visit the Director informed the delegation that he had dismissed an orderly two years previously for hitting a patient with a stick.

143 See paragraph 126 below.

3. Living conditions

88. The CPT delegation noted that in all three hospitals visited there had been substantial internal refurbishment with notably better conditions now being provided in Karlukovo and Lovech hospitals, compared to those found when they were last visited by the CPT.

However, despite the renovations, patients' accommodation in all three hospitals remained generally bare, with very limited, if any, lockable personal space and a lack of privacy and personalisation.[144] Moreover, none of the hospitals offered appropriately secure outdoor exercise areas (with shelter from inclement weather), so patients were often restricted to one hour per day of outdoor exercise, when supervision was available.

89. Kardzhali Hospital had three blocks ("Sectors") of different ages, accommodating patients across seven wards (with capacity from 30 to 40 beds); two of these three blocks (Acute and Second Sectors) had considerable external dilapidation.

The three-storey original, but extended, Acute Sector had three locked wards: the old-age ward on the ground floor, the acute male ward on the first floor, and the acute female ward on the second (top) floor. The multiple-occupancy dormitories (from two to seven beds) were sufficiently spacious,[145] with acceptable hygiene conditions, furnished with beds and some bedside cabinets.

The original two-storey Second Sector contained one open ward, the second male ward, situated across both floors. The ward was quite dilapidated, dormitories (mostly four or five beds) lacked ventilation (with windows onto a corridor, rather than to the outside) and were rather cramped, lacking privacy.[146]

The three-storey Rehabilitation Sector (dating from the 1970s) had three open wards: the addictions ward (and electro-convulsive therapy treatment area) on the ground floor, the third male ward on the first floor, and the borderline (personality disorder) ward on the second (top) floor. These wards provided the newest, most refurbished, and best conditions available in the hospital.

90. Karlukovo Hospital accommodated patients in five wards within two blocks (with approximately 30 beds per ward). The First Accommodation Block contained three wards – the closed first male acute ward, the closed first female acute ward, and the open chronic male ward. The two-storey Second Accommodation Block contained two open wards - the second male and second female.

All parts of the hospital in use showed clear signs of external renovation (e.g., new roofs, windows, doors, and external plastering). Multiple-occupancy dormitories (three to seven beds) were warm, well-lit, and sufficiently ventilated, many of them had en-suite facilities. However, the rooms were rather bare, with only beds, some bedside cabinets, and TVs only in some rooms.

None of the wards had dayrooms for socialisation, recreation, TV etc., and patients were spending most of their time lying in bed or congregating in the corridors.

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144 In the absence of personal lockable space, many patients just kept their personal belongings in plastic bags under their beds.

145 5-6 m² per patient.

146 Less than 4 m² per patient.

91. Finally, in Karlukovo, all patients wore identical sets of pyjamas 24-hours a day (with no access to day clothes)[147] which were colour coded for the ward they resided upon (for example, all patients on the male chronic ward wore light blue pyjamas with a grey elephant pattern, all those on the first female acute ward wearing bright pink pyjamas with an Eiffel Tower print). This was infantilising and added to the pervading sense of depersonalisation in the hospital.

It is noteworthy, that dressing patients in Karlukovo Hospital in pyjamas had been criticised by the CPT as far back as 2002. The Committee considers the practice of continuously dressing patients in pyjamas not to be conducive to strengthening personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process. Even patients who prefer to wear pyjamas should be encouraged to change into other clothes during the day to preserve a sense of normal routine which contributes to a therapeutic environment. If necessary, indigent patients should be provided with appropriate, individualised and non-uniform, clothing adequate for the season, and all patients clothes should be regularly cleaned.

92. Lovech Hospital had three blocks of different ages and dilapidation, containing six wards (each with 40 beds). The four-storey Male Block (dating from the 1950s) had offices on the ground floor, plus three wards - the open second male ward on the first floor, the closed first male acute ward on the second floor, and the closed forensic ward on the third (top) floor.[148] There was evidence of material refurbishment and the multiple-occupancy dormitories (mostly four to six beds) appeared light and sufficiently ventilated, although some were rather cramped (less than 4 m² per patient).

The two-storey Female Block contained two wards – the open second female ward on the ground floor and the closed first female acute ward on the first floor. Some multiple-occupancy dormitories (mostly three or four beds) were a little dilapidated and some a little cramped (less than 4 m² per patient).

The Administration Block contained an open "Depression ward" situated across two floors (one male and one female section) with satisfactory material conditions.

Patients in Lovech Hospital complained about the quantity, quality, and variety of food, including a lack of meat, which is, perhaps, not surprising given the fact that only a very low budget (reportedly, 2.60 BGN[149] per patient per day) was allocated for this there.

Further, in Lovech Hospital, the delegation was informed that patients were only able to shower three days per week, when hot water was available. In the Committee's opinion, patients should have unrestricted access to a shower, should they so wish. Maintaining personal hygiene is important, not least in a hospital setting.

147 A situation not found in the other two hospitals visited.

148 It is the only dedicated forensic psychiatry unit in Bulgaria.

149 Approximately €1.3.

93. In the light of the above, **the CPT recommends that the Bulgarian authorities take the necessary measures to further improve living conditions in Kardzhali, Karlukovo and Lovech hospitals, and in particular to ensure that:**

- **conditions are conducive to the treatment, welfare and privacy of the patients, provide visual stimulation and allow personalisation;**
- **all patients are provided with personal lockable space in which they can keep their belongings;**
- **all three hospitals provide dedicated and appropriately secure outdoor exercise areas which should be reasonably spacious, easily accessible to patients and equipped with a means of rest and a shelter against inclement weather;**
- **the two dilapidated accommodation blocks in Kardzhali Hospital are renovated;**
- **all wards in Karlukovo Hospital are provided with dayroom areas sufficient for the number of patients being accommodated therein;**
- **in Karlukovo Hospital (and, as applicable, in other psychiatric hospitals in Bulgaria) patients are allowed and encouraged to wear their own clothes. If necessary, indigent patients should be provided with appropriate non-uniform clothing;**
- **in Lovech Hospital, the quantity and quality of the food is improved (including via the allocation of greater funds for food, as appropriate).**
- **in Lovech Hospital, the supply of hot water is ensured, and patients have unrestricted access to a shower.**

Finally, the Committee recommends that the Bulgarian authorities take the necessary steps to ensure that in all psychiatric hospitals multiple-occupancy rooms accommodate no more than four patients.

4. Staff and treatment

94. In the three hospitals visited, the number of psychiatrists and other doctors represented some improvement compared to previous visits.[150] However, there remain concerns that many medical staff are approaching or beyond retirement age with no imminent replacements anticipated.

A robust broad strategic approach to the recruitment of medical staff into mental health care, including a succession strategy, is required to safeguard adequate future psychiatric care for patients. The Committee would like to receive the observations of the Bulgarian authorities on this matter.

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150 In Kardzhali, there were 14 psychiatrists (who also saw out-patients) and four doctors on contract (two emergency physicians, one internist, and one anaesthetist), all attending for a half day per week.
In Karlukovo, there were five psychiatrists, four doctors with no specialisation, and one general practitioner.
In Lovech, there were ten psychiatrists, one neurologist, one dermatologist, one doctor with no specialisation, and a part-time general practitioner on contract who visited three mornings per week.

95. However, regarding ward-based staff, as during previous visits, despite full complements of staff being employed, the numbers were still insufficient to offer the level of personalised care and attention that such patients deserve.[151] For example, both in Kardzhali and Lovech, one nurse and one orderly were caring for up to 40 patients on an acute ward for the majority of the time. Indeed, in Kardzhali Hospital, some patients interviewed by the delegation described feeling neglected by the staff.

Apart from creating a stressful working atmosphere for staff, such staffing deficiencies also increase the risk of harm to patients, including via ill-treatment and neglectful treatment, as well as of an overuse of strict, oppressive regimes and excess resort to measures of both mechanical and chemical restraint.

The Committee also notes that nurses in psychiatric hospitals in Bulgaria reportedly have not received specialist mental health training.

96. Regarding multi-disciplinary clinical staff which could offer psycho-social rehabilitation, such as psychologists, social workers, and occupational therapists, these were also notably insufficient in number to meet the many psycho-social treatment and rehabilitation needs of patients, which greatly hampered their effective therapeutic improvement (see also paragraph 99 below). For example, only two psychologists, two social workers and no occupational therapist were available to all 160 patients at Lovech Hospital, with proportionally even less input at Kardzhali Hospital,[152] where only three psychologists, one social worker and no occupational therapist were available for all 243 patients.

97. **The CPT once again calls upon the Bulgarian authorities to finally take decisive steps to ensure that the necessary numbers of ward-based and multi-disciplinary clinical staff of appropriate quality are deployed to provide adequate and safe therapeutic input and care for the many needy and dependent patients in their mental healthcare hospitals.**

The Bulgarian authorities should take measures to sustainably increase recruitment, training (initial and ongoing) and retention of ward-based and multi-disciplinary clinical staff (and therefore the quotas for those staff), with the aid of enhanced terms and conditions, including further enhancement of salaries, as appropriate.

The Committee would also like to receive the observations of the Bulgarian authorities regarding their plans for specialist training for nurses working in mental health area.

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151 Kardzhali Hospital employed 55 nurses and 41 orderly, Karlukovo Hospital – 40 nurses and 42 orderlies, and Lovech Hospital employed four feldshers, 49 nurses (plus one vacancy), and 39 orderlies (plus two vacancies).

152 Which provides in-patient care for the whole of southern Bulgaria.

98. The delegation noted with concern the fact that a security guard was deployed as part of the ward-based staff team within the clinical areas of the forensic ward in Lovech Hospital.

Whilst recognising that the entry and exit of persons to the forensic ward must be controlled, that adequate security must be maintained when caring for patients with psychiatric disorders who potentially present a risk to others and realising that clinical staff may exceptionally need to call upon security staff for assistance in case of an untoward incident, the Committee is of the view that core security in the clinical areas of a healthcare facility should be provided by clinical staff utilising appropriate environmental and dynamic security means. The routine presence of a security guard, not just on the perimeter, but actually within the clinical areas of a healthcare facility, is concerning and potentially unnecessarily intimidating to patients. It is also not conducive to the establishment of a therapeutic environment.

Furthermore, staff assigned to security-related tasks in a psychiatric hospital should be carefully selected and receive appropriate training before taking up their duties, as well as in-service training, and any interactions with patients should be subject to the authority of, and closely supervised by, qualified health-care staff.

The CPT recommends that the practice of having a security guard routinely present within the clinical areas of the forensic ward of Lovech Hospital be stopped; a guard should only be deployed at the perimeter of the ward, with a limited and clearly defined role (such as relating to the entry and exit of persons). Furthermore, the role, training, and supervision of the security guards should be reviewed in the light of the above remarks.

99. With regards to treatment and therapeutic programmes available to patients, in all the hospitals visited, as found in 2017 and 2020, this still consisted almost exclusively of pharmacotherapy and physical containment. The 2021 visit once again confirmed the impression of the Committee that patients with psychiatric disorders in Bulgaria are not provided with a range of modern psychiatric treatments, which is in itself neglectful and harmful. Furthermore, it raises issues under both Article 3 and Article 5 (1) of the European Convention on Human Rights (see paragraph 117 below).

Opportunities for psychological, occupational, and creative therapies and recreation in all the hospitals visited were very limited (indeed, occupational and creative therapy was non-existent in Kardzhali Hospital), with most patients just laying on their beds or wandering idly around, describing their treatment regime to the CPT delegation as "excruciatingly boring" or as "pills, eat and sleep". For many patients, the only available distraction was assisting the staff with cleaning, bringing the food, sweeping the yard, etc.

Furthermore, as found during previous visits, in all hospitals visited, daily access to outdoor exercise was not ensured, especially for patients on acute wards (including voluntary patients), with some patients remaining indoors for many weeks or even months,[153] due to fears they would escape combined with a lack of secure exercise yards or sufficient staff to supervise them outside.

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153 One patient in Kardzali Hospital said he had only been allowed for a first walk outside on the 64th day of his stay in the hospital. A patient on the female acute ward in Lovech Hospital alleged that the only time she went out was when she would volunteer to bring the food from the kitchen or when walking across to the small patients' club twice a week.

100. **The CPT reiterates its recommendation that the Bulgarian authorities take the necessary steps in all psychiatric hospitals in Bulgaria to:**

- **develop a range of therapeutic options (including group therapy, individual psychotherapy and creative therapies such as art, drama and music, as well as sporting activities) and involve all patients, including involuntary patients and patients placed in a forensic psychiatric institution, in clinically appropriate rehabilitative psycho-social activities, in order to prepare them for more independent living and/or return to their families; further, occupational therapy should be an important part of the rehabilitation programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improvement of self-image. It is axiomatic that this will require the recruitment of specialists qualified to provide therapeutic and rehabilitation activities (psychologists, occupational therapists, and social workers);**

- **ensure that all patients are offered a range of recreational activities suited to their needs;**

- **ensure that all patients, including involuntary patients and patients placed in a forensic psychiatric institution, are offered daily access to outdoor exercise (with appropriate supervision or security if required). The aim should be to ensure that all patients benefit from unrestricted access to outdoor exercise during the day unless there are clear medical contraindications or treatment activities require them to be present on the ward. Appropriate clothing and footwear, as well as shelter, should be made available to patients who wish to take outdoor exercise in inclement weather.**

101. As regards individual written treatment plans covering all aspects of a patient's care (pharmacotherapy, psychosocial and rehabilitative activities, etc.), they were often very basic with clear scope for improvement. For example, in all the closed wards of the hospitals visited, except for the forensic ward of Lovech Hospital, there generally existed identical "treatment plans" for all patients, regardless of their legal status, limited to several short lines, which had never been reviewed.

Furthermore, many patients were not fully aware of their diagnosis and/or their medications and their side effects,[154] nor had they apparently been sufficiently involved in their own treatment planning. The precepts of patient centred care – enhancing patient autonomy by providing them with better and transparent information, engaging patients more effectively and collaboratively in consultations, empowering patients to participate more actively in their treatment and properly considering their viewpoints – were simply not applied.

The Committee once again reiterates its view that psychiatric treatment should be based on an individualised approach which must cover both pharmacotherapy and psycho-social activities. An individual treatment plan should be drawn up for each patient (taking into account the special needs of acute, long-term patients, and patients placed in a forensic psychiatric institution, including the need to reduce any risks they may pose), indicating the diagnosis, the goals of treatment, the therapeutic means used and the staff member responsible, with timescales. The treatment plan should

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154 In Karlukovo, when asked about the psychotropic medication he was receiving, one patient said – "they tell us it is Vitamin C".

also ensure regular review of the patient's mental health condition and a review of the patient's medication. Patients should be informed of their individual treatment plans and progress; further, they should be involved in the drafting and implementation of these plans.

For patients accommodated in acute wards, the plans should clearly address the patient's immediate needs and identify any risk factors, as well as focus on treatment objectives and how in broad terms these will be achieved. For patients placed in the rehabilitation wards, the plans should identify early warning signs of relapse and any known triggers, and an action plan that a patient and family members should take in response to relapse. The plan should also identify the objectives to be achieved for discharge and specify the follow-up care.

The CPT once again calls upon the Bulgarian authorities to finally take measures to ensure that the aforementioned precepts are effectively followed in practice as regards patients in all psychiatric hospitals in Bulgaria where this is not yet the case.

102. In Kardzhali, as per hospital policy, courses of modified bifrontal electro-convulsive therapy (ECT) were being administered,[155] by ECT-trained psychiatrists, to small numbers of patients with treatment-resistant schizophrenia.[156] Patients gave informed consent to the ECT and to the anaesthesia before each treatment. If the patient was unable to consent, their guardian would be asked to do so; if neither were possible, the Director could authorise treatment in urgent circumstances.[157]

The treatments occurred in a dedicated, private ECT area; they were fully recorded in the patients' clinical records and a register. Patients were physically examined before treatments (including electrocardiographically), full anaesthesia was administered by an anaesthetist contracted to the hospital and pulse oximetry occurred during treatment. However, continuous electroencephalogram (EEG) monitoring was not occurring during the administration of each treatment and the hospital did not possess a defibrillator.

The CPT recommends that the Bulgarian authorities take steps to ensure that necessary equipment is available to allow continuous EEG monitoring of patients while they are undergoing ECT. Further, a defibrillator must be immediately available when ECT is being administered. The necessary items need to be procured without delay at Kardzhali Hospital.

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155 In Karlukovo and Lovech Hospitals, ECT had reportedly not been used for two decades.

156 Six patients in 2020, three patients until mid-October in 2021.

157 In his capacity as a senior psychiatrist not directly involved in the treatment of the patient and giving a second opinion.

103. In Kardzhali Hospital, the delegation also found that patients receiving Clozapine were not having blood tests with the regularity recommended in international guidelines (some had no blood tests for three-to-nine-month periods).

The Committee wishes to emphasize that Clozapine can have severe side-effects such as a potentially lethal reduction of white blood cells (granulocytopenia, with substantially reduced resistance to infection) and, therefore, it **recommends that the Bulgarian authorities take steps to ensure that a protocol for a system of mandatory monitoring of the white blood cell count of patients treated with Clozapine be drawn up at the national level. Further, staff should be educated, in particular, about the early signs of the potentially lethal side-effects of Clozapine.**

104. Furthermore, in all the hospitals visited, patients with a learning disability were accommodated together on the same wards or even in the same dormitories with patients whose primary diagnosis was a mental illness. The CPT has on many occasions expressed its serious misgivings about this practice. There should be stratification of patients separating those suffering from mental illnesses from those with a learning disability, so that both categories benefit from tailored individualised treatment.

The Committee calls upon the Bulgarian authorities to take measures to ensure that the aforementioned precepts are effectively implemented in practice as regards patients in all psychiatric hospitals in Bulgaria where this is not yet the case; the relevant legal provisions should be amended if necessary.

105. With regards to the Covid-19 pandemic, patients in psychiatric hospitals remain at risk of infection. Indeed, all three hospitals had treated patients with Covid-19 since the beginning of the pandemic; Karlukovo Hospital was treating 10 patients with Covid-19 during the CPT's visit to the hospital. A member of staff who worked at Karlukovo Hospital had reportedly died from Covid-19, as had a staff member who worked at Lovech Hospital.

106. Regarding the response of the hospitals to the pandemic, although social distancing and mask wearing was not practised by the vast majority of patients, all hospitals had taken measures, such as restricting leave from the hospital and the presence of visitors, enhanced disinfection, staff use of PPE (personal protective equipment), some ad hoc Covid-19 testing and planning for quarantine areas if required.

The delegation noted that relatively small numbers of patients in the hospitals visited had been vaccinated against Covid-19 (ranging from one in Karlukovo to over 30 in Lovech), as well as some staff (between 20 to 50 percent). As staff are a key vector that can bring the virus into the hospitals, these low vaccination rates were concerning, along with the fact that mitigation of risks such as frequent and regular antigen testing of staff was also not occurring.

If the trajectory of the Covid-19 pandemic in Bulgaria does not significantly improve, the CPT invites the Bulgarian authorities to seriously consider the institution of a State-funded regime of regular Covid-19 testing of all staff (and any patient who enters or re-enters the hospital) in all psychiatric hospitals in Bulgaria.

Moreover, **the Committee would like to receive information from the Bulgarian authorities on how they intend to increase the protection of patients with psychiatric disorders from Covid-19 by ensuring vaccination of hitherto unvaccinated patients (including those who lack capacity to consent).**[158]

107. The delegation was told that there had been no patient deaths caused by Covid-19 in the hospitals visited. However, after examining relevant medical records, a member of the delegation (who was one of the delegation's forensic medical experts) formed the opinion[159] that a patient might have died from Covid-19 in Lovech Hospital in June 2021, and another patient might have died of Covid-19 in Karlukovo Hospital in April 2021.

108. The Committee notes with concern that not a single autopsy has been performed in any of the 30 cases of death that have occurred in Karlukovo Hospital since 2019.[160] According to the medical records seen by the delegation, in all cases the death certificate had been issued by a hospital (duty) doctor and in all 30 cases the cause of death, reportedly, had been cardiovascular insufficiency. The delegation's medical experts found this hardly plausible.

In the Committee's opinion, just as is the case for other establishments in which persons may be deprived of their liberty by a public authority, when a patient in a psychiatric hospital dies unexpectedly, an autopsy should follow, unless a medical authority independent of the establishment indicates that an autopsy is unnecessary.

Further, when a psychiatric patient dies after having been hospitalised in an outside health-care facility, the clinical causes of his/her death (and if an autopsy is performed, its conclusions) should be systematically communicated to the psychiatric hospital.

The CPT recommends that the Bulgarian authorities take the necessary steps – including at the legislative level – to ensure that, whenever a patient dies in a psychiatric hospital or, following a transfer from a psychiatric hospital, in a general hospital:

- **the death is promptly certified by a medical doctor on the basis of the patient's medical history, the circumstances of their death and a physical examination;**
- **an autopsy is carried out unless a clear diagnosis of a fatal disease has been established prior to death by a doctor and that disease led to their death. In order to prevent any potential conflict of interest, this assessment should be performed by a medical authority that is independent of the hospital;**
- **whenever an autopsy is performed, its conclusions are systematically communicated to the management of the psychiatric hospital, with a view to ascertaining whether there are lessons to be learned as regards operating procedures;**
- **a record of the clinical causes of patients' deaths is kept at the psychiatric hospital.**

Further, **when a patient dies under suspicious circumstances or following an injury, relevant investigative authorities should always be informed.**

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158 Following the visit, the Bulgarian authorities informed the Committee that on 20 October 2021 the Ministry of Health had issued an Order according to which only employees with a green certificate (confirming vaccination, Covid infection in the past, or a negative test) were allowed to work in the hospitals.

159 Based *inter alia* on the analysis of chest X-ray images found in the medical files of the patients concerned.

160 The last autopsy in Kardzhali Hospital had been performed in 2016. In Lovech Hospital, there had been 16 deaths since 2019, and autopsy had been performed in nine cases (in the other seven cases, relatives had refused to give their consent).

109. In this context, **the Committee also requests to be provided with information on the outcome of the post-mortem examination (including a copy of the autopsy report) into a death of a 24-year-old patient from Lovech Hospital who had died on 4 August 2019 and whose cause of death had, reportedly, been hypothermia.**

5. Means of restraint

110. The Committee notes that seclusion, mechanical and chemical restraint of patients was practiced in all hospitals visited. There was no evidence of the widespread overuse of restraint measures and when mechanical restraint was applied, unlike during earlier visits, properly designed restraint belts were being used in all the hospitals visited. However, despite years of recommendations made by the Committee, the use of means of restraint still does not conform with international guidelines and is often recorded without respecting the relevant legal requirements or not recorded at all.

111. As seclusion rooms did not have en-suite facilities, it is very unfortunate that patients in Karlukovo and Lovech Hospitals were sometimes provided with buckets to satisfy the needs of nature rather than being escorted to a toilet. This situation was persisting for over a week for some female patients in Karlukovo Hospital upon admission (possibly relating to Covid-19 quarantine rules, although in that case rooms with en-suite facilities could have been used).

It is noteworthy that in their letter dated 6 December 2021, the Bulgarian authorities informed the CPT that, following the visit, Lovech Hospital had purchased five chemical toilets and the practice of using buckets in seclusion rooms had been discontinued there.

112. It is of grave concern that in Kardzhali Hospital some patients (including voluntary patients) gave consistent and credible accounts to the CPT delegation of being placed alone in 4 or 5-point belt fixation to beds in seclusion rooms for over 48 hours, in incontinence pads throughout, into which they had to urinate and defecate, those pads being changed every six hours. Some patients also reported that their hands were fixed above their head, causing pain, swelling and loss of sensation in their upper limbs. Such painful interventions could be said to amount to ill-treatment.

Furthermore, in the absence of any continuous personal supervision by staff, patients thus held had no reliable way to call for staff attention, being left to call out in vain from within the locked room or try and wave their tied hands at a CCTV camera, the screen of which was in a distant and often unattended office; this is clearly unacceptable. Moreover, patients on wards were able to see into seclusion rooms where patients were residing, including when they were mechanically restrained.

113. Whilst the Committee understands that agitated patients, who represent a danger to themselves or others, might occasionally need to be restrained, the safeguards surrounding such restrictive measures are of great importance and therefore **the CPT once again calls upon the Bulgarian authorities to ensure that, in all psychiatric hospitals in the country:**

- **fixation of patients with their hands tied above their head ceases immediately;**

- **patients are only restrained as a measure of last resort, to prevent imminent harm to themselves or others, and restraints are always used for the shortest possible time (usually minutes rather than hours). When the emergency resulting in the application of restraint ceases to exist, the patient should be released immediately;**

- **if it is deemed necessary to restrain a voluntary patient and the patient disagrees, the legal status of the patient is reviewed;**

- **patients are not subjected to mechanical restraint in view of other patients (unless the patient explicitly expresses a wish to remain in the company of a certain fellow patient); visits by other patients should only take place with the express consent of the restrained patient;**

- **every patient who is subjected to mechanical restraint or seclusion is subjected to continuous supervision. In the case of mechanical restraint, an appropriately qualified member of staff should be permanently present in the room in order to maintain a therapeutic alliance with the patient and provide him/her with assistance. If patients are held in seclusion, the staff member may be outside the patient's room (or in an adjacent room with a connecting window), provided that the patient can fully see the staff member and the latter can continuously observe and hear the patient. Clearly, video surveillance cannot replace continuous staff presence;**

- **the member of staff who supervises the patient maintains a log in which the condition of the patient is noted down at regular intervals, e.g. every 30 minutes;**

- **patients undergoing restrictive measures are able to satisfy the needs of nature in a dignified way;**

- **once means of restraint have been removed, a debriefing of the patient takes place, both to explain to the patient why they have been subjected to restraint and to offer the patient an opportunity to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour.**

- **existing written guidelines on the use of means of restraint are amended (or new guidelines adopted where there are none) to include the requirements listed above.**

114. Regarding the recording of restraint measures, as found during previous visits, although the restraint of patients was recorded in ward-based registers giving relevant details, this was formulaic and did not reflect reality. Even episodes of seclusion and mechanical restraint which had lasted throughout a number of days were still being recorded as lasting exactly six hours in case of seclusion and exactly two hours in cases of mechanical restraint (the allowed maximum under Bulgarian law). In addition, a number of incidents of seclusion and mechanical restraint which were clearly described to have occurred, especially in Kardzhali Hospital, had not been recorded at all.

The Committee understands that, in exceptional circumstances patients sometimes need to be secluded or mechanically restrained for clinical reasons for longer than is allowed in Bulgarian law but the current inaccurate recording of such measures is at best incompetent and at worst unlawful.

The CPT reiterates the recommendation to the Bulgarian authorities to ensure that all restraint interventions are accurately recorded, i.e., reflecting their actual length and not the legally allowed maximum, so that the use of such measures can be properly assessed and integrated into a patient's on-going treatment. The frequency and duration of instances of restraint should be reported on a regular basis to a supervisory authority and/or a designated outside monitoring body. This will facilitate a national overview of existing restraint practices, with a view to implementing a strategy of limiting the frequency and duration of the use of means of restraint.

Furthermore, **as restraint is sometimes clinically required for longer than 2 hours, the CPT also reiterates the recommendation that the relevant legislation should be amended to reflect that, allowing, with careful review, clearly delineated longer periods in exceptional circumstances; this would also facilitate more accurate recording and thus monitoring of its use.**

6. Safeguards

115. The legal framework governing compulsory psychiatric hospitalisation and treatment has not evolved since the 2020 ad hoc visit. In particular, courts continued to order compulsory measures of treatment in accordance with Article 89 of the Criminal Code, which provided for three options: (a) out-patient treatment supervised by a next-of-kin; (b) compulsory treatment at a general psychiatric hospital; (c) compulsory treatment at a secure forensic psychiatric hospital or a secure forensic ward at a general psychiatric hospital. In practice, male patients underwent compulsory treatment under Article 89(c) at the forensic ward of Lovech Psychiatric Hospital, whereas female patients underwent compulsory treatment under Article 89(c) at closed wards of other psychiatric hospitals under the same conditions as those undergoing treatment under Article 89(b).

116. In terms of applicable procedures in Bulgaria, it should be recalled that a request to apply compulsory treatment is made by a public prosecutor after expert consultation and investigation. The presence of a lawyer in the court is obligatory; the decision on compulsory treatment can be appealed within seven days.

As regards discharge procedures, the Bulgarian law provides that placement for compulsory treatment is for an indefinite period of time. That said, the need for compulsory treatment must be subject to an *ex officio* review every six months by a competent court, which shall decide, on the basis

of a psychiatric assessment, whether to extend, modify (including replacement of an in-patient compulsory measure with an out-patient one) or terminate the compulsory treatment. As was underlined in some of the court decisions examined by the delegation, the six-months term for the review could be shortened if the persons concerned or their relatives initiated such a review earlier in order to terminate or change the compulsory measure.

117. As regards legal safeguards surrounding detention of patients with psychiatric disorders placed in a forensic psychiatric institution, the CPT notes that the conditions in which a person suffering from a psychiatric disorder receives treatment are not without significance in assessing the lawfulness of his or her detention, as emphasized by the European Court of Human Rights in its case-law.[161]

Further, the Court has stressed the need to accompany any such placement by efficient and consistent therapy measures, in order not to deprive the individuals in question of a prospect of release. The Court has also made it clear that the absence of appropriate treatment raises issues under both Article 3 and Article 5 (1) of the European Convention on Human Rights.[162] These approaches are fully shared by the CPT and provide basis for its work on the subject.

In this respect, as already mentioned in paragraph 101, individual written treatment plans were mostly very basic and identical for all patients in the hospitals visited, and as observed by the delegation, the treatment actually provided to patients consisted almost exclusively of pharmacotherapy.

118. Similar to the situation observed by the CPT's delegations during 2017 and 2020 visits, the examination of patients' files confirmed that reviews of their cases by the hospitals' internal psychiatric commissions and then by the court were indeed as a rule carried out every six months. That said, patients indicated that they were neither given copies of the psychiatric assessment reports nor copies of the relevant court decisions.

The Committee further notes that in the context of the review of the measure, the court may request a psychiatric opinion independent of the establishment where the patient is placed. However, none of the files of forensic patients examined by the delegation contained any such independent opinion.

The CPT recommends that the Bulgarian authorities take steps to ensure that the patients concerned receive copies of the psychiatric assessment reports as well as copies of any court decisions on the review of the forensic psychiatric placement. Particular efforts should be made to explain the contents of these reports and court decisions to patients and to ensure that they understand them. Furthermore, the patients concerned should be asked to sign a statement attesting that they have received a copy of the court decision.

Moreover, **the CPT considers that commissioning, at reasonable intervals, in the context of the review of the forensic psychiatric placement, a psychiatric expert opinion which is independent of the hospital in which the patient is held would offer an additional, important safeguard. This is of all the more relevance in respect of patients who have already spent lengthy periods of time in that hospital.**

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161 In this respect, the Court has attached increasing weight to the need to provide appropriate treatment to persons who have been deprived of their liberty for the purpose of relieving their illness or reducing their dangerousness (see Grand Chamber judgment in *Rooman v. Belgium*, paragraph 194).

162 Ibid., paragraphs 212–214.

119. Furthermore, the delegation once again came across cases when the courts were occasionally unable to accept the recommendation of the hospital to release a forensic patient from the hospital on the condition of his or her subsequent out-patient treatment as such a possibility depended on the existence of a next-of-kin and/or of their willingness to assume such a responsibility as envisaged by Article 89(a) of the Criminal Code. As observed by the CPT in its report on the 2020 ad hoc visit, in cases when there was no such family member available or willing to assume responsibility for the out-patient treatment of a forensic patient, the courts had no choice but to continue in-patient compulsory treatment under Article 89(b) of the Criminal Code. Such a situation is unacceptable as it runs counter to the very purpose of detention of forensic psychiatric patients.

The Committee regrets to note that the response of the Bulgarian Ministry of Health following the 2020 visit report was limited to acknowledging the problem and simply stating that the issue belongs to the competence of the Ministry of Justice.

The CPT reiterates its request to the Bulgarian authorities, and especially the Ministry of Justice, to inform the Committee what steps, including possible amendments to the legislation, are taken to ensure that forensic patients who no longer need treatment in a psychiatric hospital are offered appropriate care and support in the community.

120. The legal framework governing "civil" involuntary placement of persons to psychiatric hospitals in Bulgaria remained unchanged since the 2020 visit and continued to be based on Chapter 5 of the Health Act.[163]

Similar to the situation found in 2020, the examination of the patients' files at the three hospitals visited confirmed that the time limits as well as relevant procedures were respected by all the relevant actors. Patients and their lawyers (in virtually all cases *ex officio* ones) were systematically present at the relevant hearings. Further, the examination of court decisions demonstrated that judges were increasingly basing their reasoning not only on the applicable domestic law but also on the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and the European Convention on Human Rights as interpreted by the European Court of Human Rights. The Committee welcomes this.

121. By contrast, the CPT finds it regrettable that there has still been no progress in ensuring that patients hospitalised in psychiatric hospitals have the possibility to give their free and informed consent to treatment.[164]

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163 According to the Health Act, persons subject to involuntary hospitalisation are those with severe mental and/or personality disorders or severe intellectual deficit who, due to their disorder, may commit an offence, endanger the health of their relatives, neighbours or society and/or their own health.
A hospital manager may decide to place the person involuntarily in the hospital for a maximum period of 24 hours. A judge may decide that this period be exceptionally prolonged up to 48 hours. A request for involuntary hospitalisation can be made by a public prosecutor or by a head of the local psychiatric hospital in cases of emergency and is decided by a district court. The person has a right to appeal within seven days. In all stages of the procedure, the participation of a lawyer, a psychiatrist and a public prosecutor is obligatory.
The decision must be reviewed every three months by a court based on an expert psychiatric assessment in the medical facility within which the person is placed. The person concerned, a prosecutor or a head of the medical establishment can at any time request the court to orer the discharge of the patient on the grounds that the circumstances which prompted involuntary hospitalisation have ceased to apply.

164 As in the past, the examination of patients' personal files revealed that, while ordering involuntary hospitalisation, courts frequently appointed a person (usually a patient's relative) authorised to give consent to treatment on behalf of the patient deprived of legal capacity.

The CPT once again reiterates its view that patients with psychiatric disorders should, as a matter of principle, be placed in a position to give their free and informed consent to treatment as well as to withdraw it at any time. The admission of a person to a psychiatric establishment on an involuntary basis – whether it be in the context of civil or criminal proceedings – should not preclude seeking informed consent to treatment. Every patient, whether voluntary or involuntary, should be informed about the intended treatment. Further, every patient capable of discernment should be given the opportunity to refuse 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. The CPT also considers that appropriate rules for establishing patients' decision-making capacity including their informed consent to treatment should be put in place and implemented by all psychiatric hospitals in Bulgaria.[165]

The relevant legislation should require an external psychiatric opinion (i.e., outside that of the treatment team) in any case where a patient does not agree with the treatment proposed; further, patients should be able to appeal against a compulsory treatment decision to an independent outside authority and should be informed in writing of this right.

The Committee reiterates the recommendation that the Bulgarian authorities ensure that the above-mentioned precepts are effectively implemented in practice. If necessary, the relevant legal provisions should be amended.

122. Unfortunately, the CPT has once again been faced with the fact that a number of legally competent patients who had signed consent to hospitalisation forms and were still deemed voluntary, were nevertheless not truly consenting to their hospitalisation, stating that they wanted to leave but were not allowed to do so, and were thus *de facto* detained. In a number of cases the consent forms existing in the patients' files were either not completed or outdated, i.e., signed on the occasion of a previous hospitalisation of the same person several years previously. Some of the consent forms were also clearly signed by persons other than the patient, who was, however, deemed to be fully legally competent. Further, as found on previous visits, many patients who were formally deemed to be voluntary, were *de facto* denied going out for exercise, let alone leaving the hospital, and some voluntary patients had even been secluded and restrained in belts (e.g., for more than 48 hours in seclusion rooms).

As already mentioned in paragraphs 80 to 82 above, in terms of numbers of involuntary patients, the situation varied significantly at the three hospitals visited, the most striking being at Kardzhali Hospital where only three patients (out of 243, including eight forensic patients) were placed involuntarily under the provisions of the Health Act. The figures appeared to be far more realistic at Karlukovo Hospital with 67 involuntary patients (out of the total number of 139 persons including 18 forensic patients) and even at Lovech Hospital with 11 involuntary patients (out of 160 persons including 46 forensic patients).

The CPT once again calls upon the Bulgarian authorities to ensure that proper information and relevant training is given, as a matter of priority, to all structures and persons involved (in particular, psychiatrists, hospital management and judges) on the legal provisions pertaining to civil involuntary placement of patients in psychiatric hospitals in Bulgaria.

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[165] Reference is also made to Article 12 of the UN Convention on the Rights of Persons with Disabilities, ratified by Bulgaria on 22 March 2012.

Further, the CPT once again urges the Bulgarian authorities to ensure that persons admitted to psychiatric establishments be provided with full, clear and accurate information, including on their right to consent or not to consent to hospitalisation, and on the possibility to withdraw their consent subsequently. Moreover, patients deemed to be voluntary and legally competent should be informed of their right to leave whenever they want, including departing the establishment without delay should they wish to discharge themselves. If the provision of in-patient care to a voluntary patient who wishes to leave the hospital is considered necessary, the involuntary civil hospitalisation procedure provided by the law should be fully applied.

As regards more specifically Kardzhali Hospital, the Committee recommends that the legal status of all patients currently considered as "voluntary" be urgently reviewed by an independent external authority which ensures that consent to hospitalisation is a fully informed decision and appropriately implementing involuntary hospitalisation when that is indicated, including providing patients with information on safeguards guaranteed to involuntary patients by the law.

123. Finally, at Kardzhali Hospital, a significant number of patients at the Second Sector (18, according to the ward-based staff) were informally referred to as "social cases". These long-term patients were "discharged" on paper every three months and then formally "re-admitted" three days later, in most cases never leaving the hospital (which was confirmed by clinical staff). When asked about the rationale behind such actions and their legal basis, the hospital's Director could not provide any response.

The Committee notes the explanation of the Bulgarian authorities regarding this issue,[166] namely, that Kardzhali Hospital is involved in two projects for the de-institutionalisation of patients with mental disorders. The Committee, however, fails to see the connection between a de-institutionalisation project and a discharge of patients that is done only on paper.

The CPT would like to receive Bulgarian authorities' comments on this concerning situation.

124. With regard to contact with the outside world, visits were allowed respecting Covid-19 safety rules (e.g., meeting visitors outside, keeping a safe distance, wearing facemasks, etc.).

The vast majority of patients (most of them voluntary) were not allowed to keep their own mobile phones, and the delegation received many complaints that access to a telephone was very limited, sometimes with no access for months on end, especially in Karlukovo, the acute wards in Kardzhali, and the female acute ward in Lovech.[167] Such a situation is even more concerning given the fact that there has been disruption to patient visits due to the Covid-19 pandemic.

Furthermore, in Kardzhali Hospital, some patients complained that even when they were allowed to make a phone call, a nurse was present throughout the call, either listening to it or even talking to the relatives instead of the patient who was just standing beside her.

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166 Provided in the response to the CPT's delegation's preliminary observations at the end of the 2021 visit.

167 When asked by the delegation about their access to a phone, some patients said, "the staff speak to your family", or that they were not allowed to call out but that their families could call in to them.

125. The Committee reiterates its view that, even if additional security procedures are required, daily access to a telephone should be permitted, and ensured, for all patients, except under very exceptional circumstances (e.g., threatening recipients).

Given how much a mobile phone can often be an integral part of a person's daily life, used not just for recreation but to maintain social and community contact and manage day to day activities, unless there are serious security concerns, those patients who have a mobile phone should be allowed at least daily access to it, even if that requires supervision. A patient's access to their mobile phone should only be withheld following a clearly documented clinical risk assessment that confirms its usage would harm the patient's health, place the patient or others at risk of harm or would present serious security concerns.

In order to offer clarity to patients and staff regarding phone and mobile phone usage on a ward, clinically based guidance via a clear, written ward-level policy should be adopted and made accessible to patients.

The CPT recommends that the Bulgarian authorities ensure that all patients with psychiatric disorders are allowed access to a phone or their mobile phone on a daily basis, unless there are serious security contraindications or there is a lawful and reasoned doctor's order based on an individual risk assessment or a court order to the contrary. Furthermore, steps should be taken to ensure that there are clear, written, and accessible ward-level policies in psychiatric hospitals in Bulgaria.

Moreover, **all patients should be able to communicate by telephone under conditions allowing privacy, unless there is a reasoned doctor's order to the contrary for safety or security reasons.**

126. As during previous visits to Bulgaria, the majority of patients interviewed by the delegation appeared to be generally unaware of the existing formal avenues for complaint. The long-established informal rule seemed to be waiting until one saw a Head Nurse, a treating doctor, or the Director, and complaining verbally. Indeed, the condescending and paternalistic approach of the management to patients' complaints could be summarised by quoting the response of the Director of Kardzhali Hospital to concerns regarding informal complaints structures – "well, patients come to realise later that their complaints are not reasonable".

Moreover, although some hospitals had information brochures, patients were still not provided, consistently and personally, with accessible information on their rights in writing (i.e., via leaflets/brochures), nor were they assisted in understanding their rights.

The CPT recommends that the Bulgarian authorities take measures to establish, in all psychiatric hospitals, more formalised complaints systems, which are safe, confidential, and reliable, with a central register of complaints that records complaints/themes, responses and actions taken to then improve the quality of patient care.

Furthermore, easily accessible information brochures should be provided to all patients, outlining useful information regarding their stay and treatment, including information on their rights and the complaints systems.

D. Social care homes

1. Preliminary remarks

127. The delegation visited, for the first time, the social care home for persons with learning disabilities in Banya and the social care homes for persons with psychiatric disorders in Gara Lakatnik and Petkovo.

128. Banya Social Care Home for Persons with learning disabilities is situated in a semi-wooded and rocky countryside area at the foot of a range of hills in central Bulgaria, some 5 km east from the small town of Banya.

With an official capacity of 120 beds, at the time of the visit, the establishment was accommodating 119 adult residents with learning disabilities - 15 men and 104 women.[168] According to the management of the home, all residents' primary difficulty was a learning disability (including that associated with Down's Syndrome, Turner syndrome, cerebral palsy, etc.), with no residents having a primary diagnosis of a mental illness. Many residents were dependent, some 40 had reduced mobility or were bedridden, over 60 residents were incontinent of urine.

129. Gara Lakatnik Social Care Home for Persons with psychiatric disorders is situated in the north of Sofia Province, some 5 km east from the small village of Gara Lakatnik. It lies in an isolated position on a small hillside, in a gorge next to the River Iskar.

With an official capacity of 70 beds,[169] at the time of the visit, the establishment was accommodating 70 adult female residents. According to the Director, 59 residents suffered from paranoid schizophrenia, two had bipolar affective disorder, and nine experienced a learning disability.[170] Regarding residents with physical disabilities and reduced mobility, one was bed-bound, one suffered from cerebral palsy, and two required wheelchairs (as they had had hip joint replacements); several residents suffered from urinary incontinence.

130. Petkovo Social Care Home for Persons with psychiatric disorders is situated on a semi-wooded hillside above the village of Petkovo, in the mountainous countryside of southern Bulgaria, some 25 km north of the Greek border.

With an official capacity of 100 beds, at the time of the visit, the establishment was accommodating 98 adult male residents.[171] According to the Director, all the residents suffered from schizophrenia, except for two with learning disabilities. There were three bedbound residents and some ten that were incontinent.

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168 Two residents were on home leave at the time of the visit.

169 Capacity was reduced from 82 in 2017, when new admissions were stopped.

170 Apparently, there was a plan to have the needs of these nine residents assessed and to transfer them to another, more suitable, institution.

171 Two more residents were elsewhere at the time of the visit (one in Kardzhali Psychiatric Hospital for treatment, another, with learning disability, on agreed home leave, testing his ability to cope there).

2. Ill-treatment

131. In Gara Lakatnik, the delegation received no credible allegations of physical ill-treatment of residents by staff; indeed, the atmosphere appeared generally relaxed, and a number of residents spoke positively about the staff.

132. By contrast, in Petkovo, numerous accounts were received from residents that orderlies would insult, frequently shout, and often slap residents in an attempt to address perceived indiscipline within a strictly enforced regime. Such behaviour sometimes also involved nurses or a gateman.

In Banya, no complaints of physical ill-treatment were received regarding care staff, indeed, some residents were positive about them. However, in this home, guards were employed to supervise residents within the care areas and were even left alone, in charge, inside two locked residential blocks throughout the night. In this context, a number of consistent allegations were received that one of these guards (who was named by many residents and referred to as "the beater" by one)[172] would shout, drink alcohol on duty, carry a wooden stick with which he would threaten residents and on occasion would hit residents, including with the stick. A stick very closely matching the residents' descriptions was found in a guards' office in one of the residential blocks.

133. The phenomenon of physical ill-treatment of residents by staff in Bulgarian social care homes and the continuing failure to fully eradicate it is a matter of long-standing concern for the Committee. It appears to reflect a wider deeply rooted tradition of attempting to maintain discipline and achieve residents' obedience by often deploying strict regimes and coercive measures and frequently reminding the residents of possible retributions. This is clearly unacceptable in a social care environment.

The CPT once again calls upon the Bulgarian authorities to reiterate to staff of all grades in all social care establishments that any form of ill-treatment of residents, including verbal abuse, is totally unacceptable, will not be tolerated and will be the subject of appropriate sanctions.

The Bulgarian authorities should seriously increase their efforts to prevent future ill-treatment by improving the recruitment, training, and supervision of staff.

Further, the Committee once again calls upon the Bulgarian authorities to ensure that any non-standard issue objects capable of being used for inflicting ill-treatment or threatening residents are removed from the premises of all social care establishments in Bulgaria.

134. In their letter dated 6 December 2021, the Bulgarian authorities informed the CPT that the guard mentioned by many residents at Banya Home as abusive had been dismissed and that video surveillance cameras had been installed in all three residential blocks. Furthermore, according to the Bulgarian authorities, from November 2021, the guards at Banya Home were working outside the care environments only and did not have access to the residents' accommodation areas any longer; their presence during the night in Blocks 1 and 2 was reportedly replaced by two orderlies.

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[172] The identity of this guard was disclosed to the management of the establishment who promised the delegation that appropriate action would be taken.

The Committee welcomes this step and **recommends that the Bulgarian authorities to take country-wide measures to ensure that any guards employed in social care homes are not operating within the care environments of such homes and are only deployed at the perimeter of the institution, with limited and clearly defined roles (such as relating to the entry and exit of persons). They should never be responsible for the care of residents nor left in charge of residents unaccompanied by clinical staff.**

135. As regards inter-resident violence, quarrels and physical conflicts occurred between residents in all homes. In Banya and Petkovo, physical assaults between residents appeared to be a pervasive problem and, in Petkovo, the delegation observed a recent facial injury[173] to a particularly vulnerable resident, which staff reported had been sustained following an assault by another resident. It remains very concerning that residents in social care homes continue to be at risk of inter-resident violence, within environments that are unsafe and lack sufficient supervision.

In the Committee's opinion, the authorities' obligation to care for residents includes the responsibility for protecting them from other residents who might cause them harm. This means, in particular, that staff should be alert to residents' behaviour and be both resolved and properly trained to intervene when necessary. Likewise, an adequate staff presence should be ensured at all times, including at night and weekends. **The CPT recommends that the Bulgarian authorities take appropriate steps to protect residents from other residents who might cause them harm, in the light of the above remarks.**

3. Living conditions

136. Banya social care home for persons with learning disabilities has three blocks accommodating residents, set within an area of grounds. Apparently, the home was formerly a military barracks (with Block 1 being constructed in 1948, Block 2 in 1957, and Block 3 in 1963), transforming into a social care home in 1968.

Block 1 had two wings (right and left) and was said to accommodate the most disabled residents. The multiple-occupancy rooms (two to four beds) were not overcrowded,[174] and contained just beds and the occasional small piece of furniture; some had TV sets in them. The rooms on the left wing were generally clean, well-lit, and ventilated. However, within the right wing of Block 1, residents were found in small, bare, dirty dormitories with broken doors, alone or in groups of two or three; some were bedridden and one of them was blind. The residents in this area were lying without dignity on rusted beds, upon dirty and torn foam mattresses soaked with urine, some directly on plastic covers with no sheets or pillows. Without staff to comfort them, they were left there - some in silence, some talking to themselves or shouting - surrounded by an all-pervading nauseating stench of urine, with large numbers of flies crawling on residents, on their beds, and all nearby surfaces. Such repulsive hygiene conditions do not befit a care institution and could only be described as inhuman and degrading.

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173 A haematoma surrounding one eye.

174 Approximately 12 m² for three, in some cases, four beds, or 9 m² for two beds.

As already mentioned in paragraph 10 above, at the end of the visit the delegation invoked Article 8, paragraph 5, of the Convention and requested the Bulgarian authorities to confirm, within one month, that residents in the right wing of Block 1 at Banya Home were accommodated in clean, hygienic, and dignified conditions.

In their letter dated 6 December 2021, the Bulgarian authorities informed the CPT that a renovation of the right wing of Block 1 had been carried out, including partial plastering and painting of all the rooms, the corridor, and the sanitary facility. Furthermore, 30 beds, 30 mattresses, 30 mattress protectors and 30 pillows had reportedly been delivered and replaced, and 60 sets of bed linen and 60 blankets had been also provided. The Committee welcomes this positive response to the aforementioned immediate observation.

137. Block 2 provided basic and rather bare but not unacceptable living conditions, some renovation having occurred (e.g., new windows and floors). Multiple-occupancy rooms were not overcrowded[175] and were furnished with beds, tables, and wardrobes; TV sets were seen in some of them.

However, in Block 2, staff reported that the roof of the building appeared on the point of imminent collapse. This major structural problem was directly observed by the delegation and appeared to place residents at potential risk of serious injury or death should the roof collapse, the staff fearing such an occurrence as the weather worsened during the forthcoming autumn and winter.

As already mentioned in paragraph 10 above, at the end of the visit the delegation invoked Article 8, paragraph 5, of the Convention and requested the Bulgarian authorities to confirm, within one month, that an urgent structural assessment of the roof of Block 2 at Banya Home had occurred, and to inform the Committee about the actions that would be taken to make the building safe for the accommodation of residents.

In their letter dated 6 December 2021, the Bulgarian authorities informed the CPT that the repair of the roof of Block 2 had been completed by mid-November 2021. The Committee welcomes this.

138. Block 3 provided acceptable living conditions (and notably better than elsewhere in the Home) and was said to accommodate the most able residents. The bedrooms were colourfully decorated and personalised, had new furniture (better quality beds with clean bed linen, tables, wardrobes) and, in general, offered a much more positive atmosphere.

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175 Approximately 12 m² for three beds.

139. In the light of the above, **the CPT recommends that the Bulgarian authorities take the necessary measures to improve living conditions in Banya Home, and in particular to ensure that:**

- **the continuing renovation of the establishment leads to conditions that are conducive to the welfare of the residents, provide visual stimulation and allows for personalisation;**
- **all residents are offered personal lockable space in which they can keep their belongings;**
- **proper hygiene conditions are maintained throughout the establishment, specifically by regular cleaning and disinfection of the areas accommodating the most disabled residents.**

140. At the time of the visit, Gara Lakatnik social care home for persons with psychiatric disorders had a single two-storey accommodation block and a range of other buildings. Apparently, the home opened at the end of the 1960s, having initially been a boarding home for delinquent juveniles and then for railway workers. The Director informed the delegation that the institution was undergoing a significant reform - an EU-funded project to replace the current institution with three "family-type" accommodation buildings,[176] with capacities of 15 beds each. Reportedly, the construction began in April 2020 and was supposed to be finished by March 2022. Some old buildings, including accommodation blocks, had already been demolished and, since April 2020, all residents were accommodated in the home's last remaining two-storey accommodation block, in rather cramped conditions, waiting to be transferred to the new premises. Given these plans, the Committee will not dwell in any detail upon the material conditions in Gara Lakatnik Home.

The CPT requests the Bulgarian authorities to provide information as to whether the construction of the "family-type" accommodation has been completed and residents of Gara Lakatnik Home have been transferred; also, to provide information on the number of staff (and their positions) caring for these residents in the new family-type accommodation.

141. The Director of Gara Lakatnik Home confirmed that the on-going construction was a project of de-institutionalisation. Nevertheless, she agreed with the delegation's observations that the new family-type accommodation was being built immediately adjacent to an existing remote social care establishment, with no nearby relevant facilities nor actual community within which residents could integrate. Further, she confirmed that the current challenges in finding staff willing to travel big distances and for current staff to commute, etc., would persist. The Director explained that the local population of Svoge municipality had opposed an alternative location closer to the residential areas due to the deeply rooted stigmas regarding persons with learning disabilities.

In the Committee's opinion, the building of (or even conversion of existing buildings into) "family-type" accommodation in the grounds of remote social care homes, which are to be occupied by the same residents, supervised by the same staff, is at best trans-institutionalisation rather than any meaningful attempt at true de-institutionalisation. As emphasised by the CPT previously, for persons without family support, social care accommodation in the community should consist of more personal, small group home living units, in areas where all the relevant facilities are close at hand. Such accommodation should be appropriately intensively staffed with well trained personnel who can

[176] Such accommodation is promoted by the Ministry of Labour and Social Policy as a key foundation of their de-institutionalisation strategy.

entirely fulfil the care needs of the residents in a decent environment. Trans-institutionalisation of residents from social care homes into "family homes" situated in the grounds of existing institutions or in other remote locations, is not true de-institutionalisation, nor does that allow for the appropriate re-integration of service users into the community.

The CPT would like to receive the observations of the Bulgarian authorities on this matter.

142. Petkovo social care home for persons with psychiatric disorders is a purpose-built social care home for persons with psychiatric disorders, originally opening in 1955.

The Home has two accommodation blocks. Block 1 (for higher dependency residents) is a relatively new five-storey building, opened in 2009, with multiple-occupancy rooms on its upper three floors (two to four beds); the first two floors are dedicated for the administration, a nurses' station, a barber's room, a kitchen/canteen, and a laundry. Block 2 (for lower dependency residents) is a three-storey building which underwent refurbishment seven years ago, with two daytime activity rooms on its ground floor and two floors of bedrooms above.

Most bedrooms had en-suite facilities; in some cases, facilities were shared between two rooms. There was no overcrowding,[177] the rooms were well-lit and ventilated and cleanliness and hygiene were generally satisfactory (a reflection of staff effort and strictly enforced house rules preventing residents from staying in their rooms for a significant part of the day;[178] only bed-bound residents and those with somatic health conditions were allowed to remain). The bedrooms were furnished with beds and bedside cabinets, wardrobes, tables, and chairs; although some had TVs, pictures, and plants, they were generally rather bare.

The CPT recommends to further improve living conditions in Petkovo Home in order to create a less austere and more personalised environment, which offers greater personal privacy to residents.

Whilst recognising the importance of encouraging residents' social interaction and maintaining hygienic living conditions in the home, the Committee has concerns regarding the above-mentioned restrictive daily routine which severely limits residents' ability to seek comfort and privacy in their bedrooms. Therefore, **the CPT would also like to receive the observations of the Bulgarian authorities regarding the rationale for such a seemingly unnecessarily prohibitive regime.**

143. Regarding indoor day areas for residents to socially congregate during inclement weather, these were either cramped and chaotic, such as in Petkovo, or were lacking, with residents staying outside, in their bedrooms or loitering in the corridors.

The CPT recommends that steps are taken in all homes visited to provide suitably spacious and comfortable indoor day areas for residents to congregate, should they so wish.

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177 Approximately 15 m² for two beds, 17 m² for three beds, 21 m² for four beds.

178 Residents interviewed by the delegation indicated that they had to leave their rooms (and were not allowed to stay inside the accommodation blocks either) from 6.30 a.m. till 1 p.m. and then again from 4 p.m. till 7 p.m. (and till 9 p.m. in the summer).

4. Staff and care provided to residents

144. Regarding medical staff input in the social care homes visited, residents were not provided with regular and consistent psychiatric and somatic health care. There were weekly visits by a general practitioner in Petkovo and by a psychiatrist in Gara Lakatnik, and monthly visits by a psychiatrist in Petkovo; however, there was no regular input at all from a psychiatrist or a general practitioner in Banya, and the general practitioner in Gara Lakatnik was visiting only once a year.

Furthermore, although in Banya and Gara Lakatnik there was mammographic screening available for female residents and preventive gynaecological screening in Banya, the latter had not been available in Gara Lakatnik for three years. There was also no preventive/conservative dental treatment available in Gara Lakatnik, it was limited to tooth extraction.

Moreover, despite the fact that social care residents are more prone to physical health problems such as inadequate nutrition, hypertension, diabetes, etc., there was no regular and systematic monitoring of their blood pressure, weight, nutritional status, and fluid intake.

145. In the light of the above, **the CPT recommends that the Bulgarian authorities take steps in Banya, Gara Lakatnik and Petkovo Homes (and, as applicable, in other social care homes in Bulgaria) to:**

- **provide a regular and consistent medical and psychiatric input, if necessary, with the aid of enhanced terms, conditions and salaries;**

- **to provide all social care residents with adequate dental care (including preventative/ conservative treatment);**

- **ensure that all social care residents have at least one annual general somatic health-care check and that female residents also undergo regular health screening (e.g., cervical smears, mammography) as appropriate;**

- **ensure a regular and systematic monitoring of important physical health indicators of all social care residents and, in particular, bedridden residents.**

146. Regarding care staff, in all homes visited, despite the official staff complements being deployed, the numbers of nurses and orderlies were insufficient or totally inadequate to provide proper individual, personalised, and safe care to residents on a 24-hour basis; in this sense, the findings were similar to those of the CPT visits in 2017 and 2020. For example, in Gara Lakatnik, on the day of the visit, there was one nurse and one orderly caring for 70 residents.[179] In Banya Home, from 8 p.m. until the next morning, there was only one nurse and two guards to care for 119 needy residents[180] with learning disabilities across three accommodation blocks.[181] And even during the day, with more care staff present, the delegation witnessed residents at Banya Home delivering food and feeding bedridden residents; in some cases, it was done in such a way that increased the serious risk of food aspiration.

Further, although all homes employed staff of other clinical disciplines, such as psychologists, social workers, and occupational therapists, their numbers were also demonstrably insufficient to provide a proper range of psycho-social, occupational, and recreational input to residents.[182]

The Committee reiterates its view that many of the serious systemic problems occurring in Bulgarian social care homes will only be solved, in advance of further de-institutionalisation, when adequate numbers of properly trained clinical care staff (nurses, orderlies and multi-disciplinary clinical staff) are deployed therein. The difficulties in achieving this, especially in remote establishments, cannot be underestimated; however, this must be done as a matter of necessity.

In order to provide good quality, proper care, avoid neglect and also reduce the risks of ill-treatment, **the CPT once again calls upon the Bulgarian authorities to further increase staff quotas and further improve the recruitment (including terms and conditions, and salaries), training and supervision of staff to ensure that there are sufficient numbers of clinical staff of appropriate quality across all grades and disciplines in the residential units.**

147. With regards to the daily regime, although in Banya there was a range of occupational and recreational activities offered to residents, such opportunities were rather unstructured in Gara Lakatnik[183] and fairly limited in Petkovo. In these two homes, the main objective seemed to be containment, maintenance of order and attempting to just meet the basic needs of the residents. The situation had been compounded by the fact that, although there were no restrictions on daily outdoor exercise within the grounds, possibilities for recreational trips outside the homes had been suspended since the beginning of the Covid-19 pandemic. In Petkovo, for example, most residents just spent much of their days subjected to a rigid regime that resulted in them wandering the grounds, weather permitting, or sitting in two noisy crowded rooms staring at a television (with only one channel available in one of the rooms); rather than engaging in any meaningful pursuit.

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179 As the Director explained, the majority of care staff were above retirement age and there were many instances of sick leave. It is noteworthy, that the majority of care staff in the other two homes visited were also above retirement age.

180 Of whom some 40 were said to have reduced mobility and some 60 were said to be incontinent of urine.

181 See also paragraph 132 above.

182 In Banya, there was one part-time psychologist, six occupational therapists, three social workers, and one part-time physiotherapist. In Gara Lakatnik, there were five occupational therapists, three social workers, and no psychologist. In Petkovo, there was one psychologist, five occupational therapists, and two social workers. One more psychologist was reportedly recruited to visit once a week following the CPT's visit.

183 On the day of the visit, there were five occupational therapists present (none of them had any special training) but there were no actual activities going on. The delegation noted that residents were not encouraged to participate in activities, there was nothing structured, and potential activities did not follow any re-socialisation plan. Indeed, the core part of the occupational therapists' work seemed to be helping the care staff with whatever was necessary – serving meals, feeding, and bathing the residents, or changing the beds. In this sense, they did

As already stated by the Committee on numerous occasions, a full range of occupational and recreational activities should be offered to social care residents by appropriately qualified staff.

The CPT calls upon the Bulgarian authorities to take measures to significantly increase the programmes of psycho-social rehabilitative activities in social care establishments; in the CPT's view, as an absolute minimum, every resident should be offered the opportunity and be encouraged to participate in one organised activity every day.

148. At the homes visited, individual needs assessment and individual support plans were drawn for every resident by multi-disciplinary teams. Such individual assessment and plans were generally updated on a yearly basis.

149. The Covid-19 pandemic clearly continues to present serious risks to the vulnerable residents in social care homes; indeed, a resident had already died of Covid-19 in Banya and another in Petkovo.

Regarding the response of the homes to the pandemic, they had received guidance from state authorities and had taken measures, such as stopping community leave, limiting visits, enhanced disinfection, staff use of personal protective equipment (PPE), some regular and/or ad hoc Covid-19 testing of staff and residents, and had developed plans for quarantine areas, if required.

Although social distancing and mask wearing was not practised by residents, it was noted that all homes had vaccinated residents against Covid-19, ranging from all clinically eligible residents vaccinated in Banya and 55 in Gara Lakatnik, to around one third in Petkovo. In the latter, the delegation was told that 64 residents could not be vaccinated because their families either had not responded to the request to consent to vaccination or had not given such permission. Such a situation raises important questions as to the rights of these residents to receiving potentially life-saving health protection, especially given the fact that, for 50 of these residents, a social worker of the institution was empowered by the families to exercise guardianship rights.

The CPT would like to receive the observations of the Bulgarian authorities on this matter. Further, the Committee would like to receive information on steps envisaged to speedily rectify this failing.

150. Furthermore, most unfortunately, only a small proportion of staff in the homes visited had been vaccinated at the time of the visit, such as only two members of staff in Petkovo and 10 in Gara Lakatnik.[184]

The Committee is concerned about the low vaccination rates amongst staff in social care establishments in Bulgaria, especially because staff members are the key vector that can transmit the virus into the homes. Although mitigation such as frequent and regular antigen testing of staff can assist, such testing was not stringent in the homes visited. This places their residents at serious risk.

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not differ much from the orderlies. A similar situation was also observed in Petkovo Home.

184 In their letter dated 6 December 2021, the Bulgarian authorities informed the CPT that, following the visit, in Banya, there were 30 vaccinated staff members, in Gara Lakatnik - 39, and in Petkovo - 11.

If the trajectory of the Covid-19 pandemic in Bulgaria does not significantly improve, the CPT invites the Bulgarian authorities to seriously consider the institution of a State-funded regime of regular Covid-19 testing of all staff (and any social care resident who enters or re-enters the establishment) in all social care institutions.

Moreover, **the Committee would like to receive the information from the Bulgarian authorities on how they intend to increase the protection of social care residents from Covid-19 by ensuring vaccination of hitherto unvaccinated residents and of staff in all social care institutions in the country.**

151. The examination of relevant documentation revealed that, despite repeated recommendations by the Committee, autopsies were still not being carried out following the death of a resident; there being only a death certificate written by a general practitioner. As in the past, autopsies were reportedly performed upon family request only. In this context, the delegation's medical experts found it difficult to believe that, for example, out of 15 deaths that occurred in the Gara Lakatnik Home since 2019, the cause of death in all cases was acute or chronic cardiovascular insufficiency.

The Committee reiterates its view that, just as is the case for other establishments in which persons may be deprived of their liberty by a public authority, when a resident in a social care home dies unexpectedly, an autopsy should follow, unless a medical authority independent of the establishment indicates that an autopsy is unnecessary.

Further, when a social care home resident dies after having been hospitalised in an outside health-care facility, the clinical causes of his/her death (and if an autopsy is performed, its conclusions) should be systematically communicated to the social care home.

The CPT calls upon the Bulgarian authorities to take the necessary steps – including at the legislative level – to ensure that, whenever a resident dies in a social care establishment or, following a transfer from a social care establishment, in a hospital:

- **the death is promptly certified by a medical doctor on the basis of the patient's medical history, the circumstances of their death and a physical examination;**

- **an autopsy is carried out unless a clear diagnosis of a fatal disease has been established prior to death by a doctor and that disease led to their death. In order to prevent any potential conflict of interest, this assessment should be performed by a medical authority that is independent of the social care establishment;**

- **whenever an autopsy is performed, its conclusions are systematically communicated to the management of the social care establishment, with a view to ascertaining whether there are lessons to be learned as regards operating procedures;**

- **a record of the clinical causes of residents' deaths is kept at the social care establishment.**

Further, **when a resident dies under suspicious circumstances or following an injury, relevant investigative authorities should always be informed.**

5. Means of restraint

152. With regards to mechanical restraint and seclusion, although such measures remain illegal in social care establishments under Bulgarian law, as found by the CPT during its visits in 2017 and 2020, such restrictive practices were still found to be occurring in two of the three homes visited, despite the Committee's repeated recommendations to end such practice.

In Banya, in the right wing of Block 1, an agitated resident was found by the delegation locked alone in a room with a bucket to satisfy the needs of nature. Another single room there, with barred windows, was said to be used for the seclusion of a very challenging male resident whose manual restraint by staff was witnessed by the delegation.

Further, in Petkovo, residents reported that other residents were sometimes locked in their rooms, and staff described how they, one month prior, had had to seclude a highly agitated resident on two occasions; during the latter occasion, also having to mechanically restrain the resident to a bed using five-point fixation with leather belts and padlocks for over eight hours.

The described restraint measures, as in the past, were informal, had no medical oversight, were not recorded, and had no surrounding safeguards. Despite repeated recommendations by the Committee, the Bulgarian authorities have not taken action to introduce alternative methods to manage agitated residents (those being within the current law, acceptable clinical practice, and international guidelines).

The CPT calls upon the Bulgarian authorities to take urgent measures to ensure that all informal and illegal restraint measures (seclusion and mechanical restraint) cease in all social care institutions in Bulgaria and arrangements are made to ensure that staff are able to manage aggressive and agitated residents without such restraint measures or that such residents are transferred to, and receive treatment in, a properly staffed and equipped hospital environment, with surrounding safeguards.

153. During the inspection of residents' medical records and interviews with health care staff, the delegation noted that nurses were sometimes administering injections of sedative psychotropic medication based on PRN prescriptions[185] for agitated residents, based on telephone advice from a psychiatrist or on prescriptions written by a psychiatrist in the past.

In Gara Lakatnik, staff confirmed that they would initiate chemical restraint (an injection of sedative psychotropic medication) for an agitated resident following a phone consultation with the home's psychiatrist, who would then arrive and assess the state of the resident (although this could be up to six days later, since the psychiatrist visited only once a week). In Banya, nursing staff also called for medical authorisation over the phone when emergency sedation was required.

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185 "PRN" - pro re nata, Latin for "for something that occurred"; in this context: "as needed".

The CPT must underline that the administration of rapid tranquillisers requires close medical supervision and adherence to strict protocols by all staff involved, as well as the necessary skills, medication and equipment. The application of rapid tranquillisers on the basis of an old PRN prescription without the explicit re-confirmation of a medical doctor may place too much responsibility on nurses as regards the assessment of the resident's mental state and the provision of an adequate response, in the absence of a medical doctor, to potential complications of any medication administered. It may also reduce the nursing team's motivation to attempt de-escalation of the situation by other means and consequently open the door to inappropriate practices.

In the Committee's opinion, in the event of a resident presenting a state of agitation which cannot be dealt with by the nursing staff, the resident's psychiatrist (or a duty psychiatrist) should be called immediately and intervene promptly to assess the state of the resident and issue instructions on the action to be taken.

Only in exceptional situations, when a resident's agitation cannot be controlled by nursing staff and the intervention of a psychiatrist is not possible within minutes, may the administration by nursing staff of rapid tranquillisers under a "conditional" PRN prescription be justified, meaning that a medical doctor must be contacted (e.g., by phone) and must confirm the prescription prior to its use. Further, the resident should be medically reviewed regarding their ongoing treatment needs as soon as possible thereafter, preferably the same day or, if overnight, the following day at the latest.

Moreover, the use of a PRN prescription for rapid tranquillisers must be accompanied by specific safeguards: as a minimum, any such PRN prescription should be drawn up by an experienced doctor after having thoroughly assessed the resident's physical status, should only be valid for a limited time (i.e., days rather than weeks or months) and should be re-assessed each time it is used or where there is a change in the resident's medication or mental state. Indeed, other more general safeguards accompanying any use of means of restraint (such as the existence of a comprehensive policy on restraint, the use of restraint as a measure of last resort and the choice of the most proportionate method, as well as the recording of the event in the resident's medical file and in a central register of restraint measures and a debriefing of those involved) should also apply when rapid tranquillisers are administered on the basis of a PRN prescription.

The Committee recommends that the Bulgarian authorities ensure that the above-mentioned precepts are effectively implemented in practice.

6. Safeguards

154. The new legal provisions on the social services in Bulgaria described in the CPT's report on its 2020 ad hoc visit have continued to be implemented.[186] They included the three-year limit for placement of persons to social care homes following which the placement should be reviewed by the relevant social care services and by the court and could only be prolonged if no other care arrangement was available. Pending a completion of the three-year review by the court, a decision on a provisional placement to the social care home was issued by the social services.

155. At the three homes visited, the above-mentioned procedures were complied with. The hearings were conducted pursuant to the request filed by the Social Support Department of the relevant municipality in the presence of the individual concerned, his/her guardian and a representative of the social care home. Having ascertained the existence of the conditions required by the Social Assistance Act and having heard the opinions of the parties, the relevant court granted a "social protection measure" consisting of the placement of the individual concerned for residential care at the social care home for the next three years, following which term, according to the legislation, the next review would have to be carried out.

However, as mentioned in the CPT's 2020 report, the recent legislative changes did not appear to change the essence of the social care homes visited. All of them, as was the case with similar establishments seen during previous visits of the CPT to Bulgaria, remained closed institutions, the residents of which were not allowed to leave the premises without prior permission, and, if they absconded, they would be searched for and forcibly returned to the institution. As during the 2020 visit, a number of residents told the delegation that they wanted to leave the institution.

The CPT would like to receive the observations of the Bulgarian authorities on this matter.

156. From the examination of residents' personal files, it transpired that, once again, the vast majority of residents deprived of their legal capacity were placed under their own establishments' guardianship. There were 12 such residents at Gara Lakatnik, 52 residents at Banya, and 24 residents at Petkovo Home. The duties of a guardian were carried out by staff members of the relevant institution, mostly either by its director or by social workers. In cases where guardians were a resident's family members, they would usually provide the director or a social worker of the home concerned with a fully-fledged power of attorney, effectively making them the *de facto* guardians.

The CPT remains of the opinion expressed in its previous reports that entrusting guardianship to staff of the very same establishment may easily lead to a conflict of interest and compromise the independence and impartiality of the guardian. This is relevant, *inter alia*, in the context of the procedure for termination, at the initiative of the person concerned, of placement to a social care home envisaged in Section 100 of the Social Services Act, for which the guardian's opinion is sought.

The Committee once again calls upon the Bulgarian authorities to search for alternative solutions which would better guarantee the independence and impartiality of guardians. It would also like to be informed of any plans to change the legislation on legal guardianship in Bulgaria.

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186 See paragraphs 57 and 80 of CPT/Inf (2020) 39.

157. The CPT also remains concerned by the fact that there was a significant number of residents with severe learning disabilities, at Gara Lakatnik and Banya Homes, who were deemed legally competent. Both the managers and the social workers of those homes acknowledged that they could have initiated a procedure leading to the appointment of the guardian for those residents. However, at both establishments staff were reluctant to do so as, according to them, "this would not only create unnecessary paperwork but would also entail financial expenses for the establishments" which would need to pay for the relevant procedures, in particular, the social needs assessment of the residents concerned. In the CPT's view, such a situation is unacceptable as it deprives the residents concerned of the key legal safeguards pertaining to their status.

The CPT would like to receive the observations of the Bulgarian authorities on this matter.

158. The existing arrangements for contact with the outside world were generally satisfactory at the social care homes visited. The very few residents whose families still stayed in touch had access to a telephone or were allowed to keep their own mobile phones and could receive visits respecting the Covid-19 safety rules in place.

159. Despite previous CPT recommendations, complaints mechanisms and provision of information on rights to residents appeared to be lacking in the homes visited.

The Committee reiterates its view that although some residents have comprehension and communication difficulties, whenever possible, they should be informed of their rights, if necessary, using repeated, simplified, individualised, verbal formats. Similarly, accessible and comprehensible complaints systems should be in place. **The CPT calls upon the Bulgarian authorities to ensure that the above-mentioned precepts are effectively implemented in practice.**

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160. For more than 25 years now, the CPT has consistently expressed its deep concern regarding a number of issues concerning the treatment, conditions and legal safeguards offered to patients with psychiatric disorders and residents of social care institutions.

In its reports, the Committee has many times drawn the Bulgarian authorities' attention to the fact that the principle of co-operation between State Parties and the CPT, as set out in Article 3 of the Convention establishing the Committee, requires that decisive action be taken to improve the situation in the light of the CPT's recommendations.

161. In its previous reports, the Committee has taken due note of the repeated assurances given by the Bulgarian authorities that action would be taken to improve the treatment of persons in psychiatric hospitals and social care institutions. However, the findings of the 2021 visit have once again demonstrated the grave long-standing problems that have not been addressed systemically. This situation highlights a persistent failure by the Bulgarian authorities to address most of the fundamental shortcomings and to implement the specific recommendations repeatedly made by the Committee for many years. The CPT is of the view that action in this respect is long overdue and that the approach to the whole issue of mental health care and institutional social care in Bulgaria should radically change.

For these reasons, the Committee has decided to make a public statement, pursuant to Article 10, paragraph 2, of the Convention; it took this decision at its 106th plenary meeting in October 2021.[187]

162. The CPT fully acknowledges the political and economic challenges that the Bulgarian authorities are facing. However, after being neglected for decades, mental health care and institutional social care must finally be given the priority they deserve. Urgent action is needed in all areas – legislation, infrastructure, human resources and training, and the development of bio-psycho-social treatments in line with modern practices across Europe. And it must include fundamentals – fighting the stigma related to mental health, changing the paternalistic, controlling attitude towards patients with psychiatric disorders and social care residents, involving them in their treatment and care, and making genuine efforts to integrate persons with psychiatric disorders and learning disabilities into communities instead of shamefully hiding them in remote locations as has been done for so long. The continuing ill-treatment and neglect of such vulnerable service users in Bulgaria cannot continue and must be eradicated without delay.

[187] See paragraph 9 above and https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-issues-public-statement-on-bulgaria.

APPENDIX I:

List of the establishments visited by the CPT's delegation

Police establishments

- Ardino District Police Directorate
- Dimitrovgrad District Police Directorate
- Haskovo District Police Directorate
- Kardzhali District Police Directorate
- Lovech District Police Directorate
- Pazardjik District Police Directorate
- 3rd District Police Directorate, Plovdiv
- 6th District Police Directorate, Plovdiv
- 2nd District Police Directorate, Sofia
- 3rd District Police Directorate, Sofia
- 4th District Police Directorate, Sofia
- 5th District Police Directorate, Sofia
- 6th District Police Directorate, Sofia
- 7th District Police Directorate, Sofia
- 8th District Police Directorate, Sofia
- 9th District Police Directorate, Sofia
- Troyan District Police Directorate

Penitentiary establishments

- Kremikovtsi Prison Hostel
- Plovdiv Prison
- Sofia Prison
- Investigation detention facility in Plovdiv
- Investigation detention facility at 42 Blvd. G.M. Dimitrov, Sofia

Psychiatric establishments

- Kardzhali State Psychiatric Hospital
- Karlukovo State Psychiatric Hospital
- Lovech State Psychiatric Hospital

Social care homes

- Home for persons with learning disabilities in Banya
- Home for persons with psychiatric disorders in Gara Lakatnik
- Home for persons with psychiatric disorders in Petkovo

APPENDIX II:

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

A. National authorities

Ministry of Justice

Mariya Pavlova	Deputy Minister
Ivaylo Yordanov	General Director of the Main Directorate for the Execution of Sanctions (GDIN)

Ministry of Interior

Ventsislav Katinov	Deputy Minister

Ministry of Labour and Social Policy

Nadia Klisurska-Zhekova	Deputy Minister
Ivan Krastev	Deputy Minister
Stanimira Parapunova	Director, European Affairs and International Cooperation Directorate
Teodora Lyubenova	State Expert in the Department of Policies for Social Inclusion, Children and the Family, Social Inclusion Directorate
Rumyana Petkova	Executive Director of the Social Assistance Agency
Victoria Tahova	Executive Director of the Agency for Quality of Social Services

Ministry of Health

Toma Tomov	Deputy Minister
Lidia Chorbanova	Head of the Cabinet of the Minister
Zlatka Atanasova	State Expert, Therapeutic activities Directorate

B. <u>Non-Governmental organisations</u>

Bulgarian Helsinki Committee