EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)

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Report

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

from 21 to 31 March 2023

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 (2024) 07.

Strasbourg, 31 January 2024

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EXECUTIVE SUMMARY

The objective of the 2023 ad hoc visit was to examine the implementation of the recommendations of the Committee formulated in the report on the periodic visit carried out in 2021 concerning psychiatric institutions and social care homes and of the public statement issued by the CPT in November 2021.

Psychiatric institutions

The delegation visited Tserova Koria State Psychiatric Hospital for the first time, as well as Byala State Psychiatric Hospital, previously visited by the CPT in 2020.

Regarding ill-treatment by staff, in Byala Hospital, the delegation received a number of allegations from patients on three of the four male wards that, apart from staff shouting at patients, orderlies would also slap, punch and kick patients (including in the groin). In Tserova Koria Hospital, staff shouting at patients was allegedly routine on all three wards; moreover, orderlies on two wards would reportedly also occasionally hit patients.

Such findings demonstrate, once again, a continuing serious failure by the Ministry of Health to prevent all forms of ill-treatment of patients, 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, and to act to eradicate such unacceptable behaviour.

Turning to material conditions, patients' accommodation in the two hospitals was generally bare, with very limited, if any, lockable personal space and a lack of privacy and personalisation. Many rooms were overcrowded, with beds touching. The environment in wards was distinctly carceral, with external bars on the windows and a lack of decoration in rooms as well as in common areas.

The prohibition to smoke inside the hospitals, which was not enforced, resulted, especially in Byala Hospital, in patients spending their days in thick cigarette smoke lingering in the rooms and corridors. Moreover, in Byala Hospital, despite the recommendation of the Committee following the 2020 visit to fully renovate the female chronic and male old-age wards as a matter of priority, this had not occurred, thus leading to a closure of a part of the female chronic ward as unsuitable to accommodate patients, putting further pressure on space.

As during previous visits, the staff numbers found in the two hospitals visited were grossly insufficient to adequately provide the necessary treatment for patients and to ensure a safe environment on the wards; Byala Hospital in particular continued to experience a dire shortage of psychiatrists.

Opportunities for psychological, occupational, and creative therapies continued to be very limited, with most patients just lying on their bed or wandering around idly. The conclusion remains that patients in Bulgarian psychiatric hospitals are not provided with anything even approaching the full range of modern psychosocial treatments which they require, which is neglectful and harmful. Furthermore, as the Committee stated in its report on 2021 visit, the absence of efficient and consistent therapy measures raises issues under both Article 3 and Article 5 (1) of the European Convention on Human Rights.

In Tserova Koria Hospital, a number of patients asked the delegation to provide them with information regarding the clinical trial within which they were participating. The patients told the delegation that once or twice a month they had to do blood and urine tests, "get an injection", and then they would receive 20 Leva (or chocolate). When asked, patients could not explain what this trial was about or what medication they were getting, a number of them were not sure if they had signed any consent forms, and even those who remembered signing something said they were not exactly sure what they had signed.

A psychiatrist member of the delegation did not find any information on the clinical trial in the medical files of the patients concerned. The delegation was refused access to the documents related to the clinical trial, including all the consent forms, allegedly due to the confidentiality rules of the company conducting the trial. Therefore, at the end of the visit, the delegation invoked Article 8, paragraph 5, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and requested that the Bulgarian authorities perform an audit into the clinical trial in line with the requirements of the relevant national legislation and inform the CPT of its results within one month (the results of the audit are described in the report).

Regarding means of restraint, seclusion, mechanical and chemical restraint of patients (including voluntary patients) was practiced in both hospitals visited. However, international guidelines regarding the use of restraint measures were not being adhered to, as found during the CPT's previous visits to the country. Moreover, as in the past, the recording of mechanical restraint measures was formulaic and did not reflect reality – absolutely all cases of such restraint were recorded as lasting exactly two hours (the maximum allowed under the Bulgarian law).

As during previous CPT visits to Bulgaria, a number of patients deemed *de jure* voluntary were not truly consenting to their hospitalisation and stated that they wanted to leave but were *de facto* deprived of their liberty. The majority of such patients did not seem to be informed of their rights as voluntary patients, including the right to be discharged upon their request.

Social care homes

The CPT delegation carried out first-time visits to the social care homes for persons with learning disabilities in Draganovo and Tri Kladentsi.

As regards ill-treatment by staff, in Tri Kladentsi Home, the delegation received a few complaints that some nurses would occasionally shout at residents, but otherwise the atmosphere appeared generally relaxed, and most residents spoke positively about the staff. In Draganovo Home, the delegation received no allegations of the physical ill-treatment of residents by staff or verbally inappropriate behaviour. On the contrary, all residents who were able to, spoke positively about the staff's kind and warm attitude towards them, which the delegation itself witnessed throughout the institution.

Turning to living conditions, in the two homes visited, residents were accommodated in dormitories which were generally clean, well-lit, and ventilated; however, the state of personalisation in the accommodation blocks varied considerably and many rooms were rather bare and austere, containing only beds and nightstands.

Regarding care staff, as found in other Bulgarian social care institutions in the past, despite the full official staff complements being deployed and there being no vacancies, the numbers of nurses and orderlies were totally inadequate to provide proper individual, personalised, and safe care to residents on a 24-hour basis. Further, although both homes employed staff of other clinical disciplines, such as psychologists, social workers and occupational therapists, their numbers were also insufficient to provide a proper range of psycho-social, occupational, and recreational input to residents.

The CPT notes the recent adoption of the Ordinance on the Quality of Social Services which determines a coefficient of the number of employees in each social service in relation to the number of residents, and that this coefficient has been increased compared to previous requirements, so that social service providers could now employ more staff than the previous minimum requirement. The delegation was pleased to note that the seclusion and mechanical restraint of residents was not practiced in the homes visited, thus respecting the provisions of the Bulgarian legislation.

As regards legal safeguards related to the placement of persons in social care homes, it was clear that the relevant legislation was generally applied at the homes visited, with the documentation kept by social workers at an acceptable level. That said, several issues remain of concern to the Committee.

First, contrary to the previous recommendations made by the CPT on many occasions, staff of social care homes visited by the CPT delegation (usually its director or other staff members) were still appointed as guardians of residents with no legal capacity and signed agreements on behalf of these residents with the home where those guardians were employed, thereby creating a clear conflict of interest, and compromising the independence and impartiality of the guardian.

Second, it was noted that in both social care homes visited a number of residents with severe learning disabilities were deemed legally competent. 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.

To conclude, the CPT notes that some progress appears to being made in social care institutions and, despite delays with the closure of some social care homes, it hopes that genuine deinstitutionalisation will continue, with proper community facilities and care being provided for service users.

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 21 to 31 March 2023.

The visit was considered by the Committee "to be required in the circumstances" (see Article 7, paragraph 1, of the Convention). The objective was to examine the implementation of the recommendations of the Committee formulated in the report on the periodic visit carried out in 2021 concerning psychiatric institutions and social care homes and of the public statement issued in November 2021. It was the Committee's 15th visit to Bulgaria.[1]

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

- Elsa Bára Traustadóttir (Head of delegation)
- Judith Öhri
- Chila Van Der Bas
- Victor Zaharia.

3. They were supported by Dalia Žukauskienė of the CPT Secretariat, and assisted by an expert, Andres Lehtmets, Head of the Psychiatry Clinic, Tartu University Hospital (Estonia).

4. The report on the visit was adopted by the CPT at its 111th meeting, held from 3 to 7 July 2023, and transmitted to the authorities of Bulgaria on 10 July 2023. 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 that the authorities of Bulgaria provide within three months a response containing a full account of action taken by them to implement the Committee's recommendations along with replies to the comments and requests for information formulated in this report.

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

5. During the visit, the delegation met Krum Zarkov, Minister of Justice, Maria Pavlova, Deputy Minister of Justice, Nadya Klisurska-Zhekova, Deputy Minister of Labour and Social Policy, Natalia Efremova, Deputy Minister of Labour and Social Policy, Katya Ivkova, Deputy Minister of Health, as well as other senior officials from the three above-mentioned Ministries.

The delegation also met Diana Kovatcheva, Ombudsperson, and staff of the National Preventive Mechanism. Further, meetings were held with members of non-governmental organisations active in areas of concern to the CPT.

6. Overall, the delegation received good cooperation during the visit by the Bulgarian authorities at all levels. It had rapid access to all the establishments it wished to visit (none of which had received prior notification of the visit) and was able to meet in private with those persons with whom it wanted to speak.

The Committee wishes to express its appreciation for the assistance provided to the delegation during the visit by the management and staff in the establishments visited as well as for the support offered by its long-standing liaison officer from the Ministry of Justice, Dimitar Terziivanov.

1. The visit reports and the responses of the Bulgarian authorities on all previous visits are available on the CPT's website: https://www.coe.int/en/web/cpt/bulgaria.

7. However, it is most regrettable that the delegation encountered problems in accessing information concerning a clinical trial being conducted on patients in Tserova Koria State Psychiatric Hospital involving the administration of unknown medication and the taking of blood and urine samples, with associated rewards given to patients. Of particular and serious concern was the withholding of the delegation's access to the documents confirming patients' informed consent (or its absence) to participation in the trial.[2] **The Committee urges the Bulgarian authorities to ensure that its visiting delegations henceforth have unrestricted access to all information related to the treatment of patients in psychiatric hospitals.**

8. Furthermore, in Byala State Psychiatric Hospital, the delegation received allegations that some staff had instructed the patients not to make any complaints to the delegation. The Committee wishes to stress that any action of intimidation of, or retaliation against a person, before or after contact with a CPT delegation, or any other similar attempts to interfere with the work of the delegation, constitutes a clear violation of the principle of cooperation under the Convention.

9. Moreover, the CPT must recall once again that the principle of cooperation between Parties to the Convention and the Committee is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in light of the CPT's recommendations. In this respect, the CPT remains concerned that many of its long-standing recommendations regarding the treatment, conditions and legal safeguards offered to patients in psychiatric hospitals are still unimplemented. These cover notably, physical and verbal ill-treatment by staff, the use of mechanical restraint which does not conform with international guidelines and is often recorded fraudulently or not at all, and a deplorable shortage of staff which, *inter alia*, prevents provision of the necessary range of modern and safe psychiatric treatments to patients. The Committee is deeply convinced that a profound and adequately financed reform of the Bulgarian mental health care system (including legislation, infrastructure, human resources and training, and the development of bio-psycho-social treatments in line with modern practices across Europe) remains long overdue.

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

10. During the end-of-visit talks with the Bulgarian authorities, on 31 March 2023, the CPT delegation made three immediate observations under Article 8, paragraph 5, of the Convention and requested that the Bulgarian authorities:

- inform the Committee, **within one month**, of the steps taken to provide Byala State Psychiatric Hospital with an appropriate budget for the renovation of the female longer-term and male old age wards;
- perform an audit into the clinical trial carried out in Tserova Koria State Psychiatric Hospital in line with the requirements of the relevant national legislation and inform the CPT of the results of such an audit **within one month**;
- devise a plan, **within two months,** to substantially increase the care staff quotas in social care institutions, including formulation of adequate numbers, resourcing, and timescales for its implementation.

These observations were confirmed by letter of 4 April 2023 when transmitting the delegation's preliminary observations to the Bulgarian authorities.

With letters received on 9 and 29 May 2023, the Bulgarian authorities informed the CPT of the actions taken in response to these immediate observations and on other matters raised by the delegation at the end-of-visit talks. These responses have been considered in the relevant sections of the present report.

2. See more in paragraphs 34-36.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Psychiatric Institutions

1. Preliminary remarks

11. The delegation visited Tserova Koria State Psychiatric Hospital for the first time, as well as Byala State Psychiatric Hospital, previously visited by the CPT in 2020.

Byala State Psychiatric Hospital, the second biggest state psychiatric hospital in the country, with an official capacity of 270,[3] was accommodating 154 adult patients at the time of the visit – 111 male and 43 female. There were *(de jure)* 27 civil involuntary patients[4] and eight forensic patients undergoing compulsory treatment. Regarding patients' diagnoses, schizophrenia and other psychotic disorders (acute and chronic) reportedly accounted for some 70% of patients, with other diagnoses including affective disorders, addictions and organic conditions, as well as some 30 patients with learning disabilities.

Tserova Koria State Psychiatric Hospital, with an official capacity of 120, was accommodating 90 adult patients at the time of the visit – 54 male and 36 female. There were (*de jure*) 16 civil involuntary patients[5] and six forensic patients undergoing compulsory treatment. The main diagnosis among the patients was schizophrenia in its various forms, followed by affective disorders.

12. In Byala Hospital, as during the visit in 2020, the delegation learned that some 20 per cent of patients no longer needed to be hospitalised but reportedly remained in the hospital as there was no alternative place for them to live nor appropriate facilities to allow for their care in the community.[6] As the Director explained, the hospital was not only providing psychiatric treatment but also acting as a social care home for persons with psychiatric disorders, a shelter for the homeless, and a hospice for the terminally ill.

It is noteworthy that according to the Ministry of Health, the number of patients who no longer needed inpatient treatment but continued to be hospitalised in state psychiatric hospitals due to a lack of effective community mental health support services was 211 in 2021 and 281 in 2022.

The Committee reiterates its view that for persons to remain in a psychiatric hospital purely because of the absence of appropriate community or healthcare facilities is highly regrettable.

13. The Committee notes the adoption of the Bulgarian National Strategy for Mental Health 2021-2030, which aims to strengthen mental health promotion, protection, and care provision across sectors, as well as the creation, in July 2022, of the National Council on Mental Health, which will be responsible for the implementation and monitoring of the National Strategy for Mental Health, including overseeing multi-sectoral coordination, cooperation, and consultation.[7]

Whilst acknowledging these developments, **the CPT once again calls upon the Bulgarian authorities to significantly step up their efforts 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 (CRPD).[8]

3. The Director informed the delegation that a part of the female longer-term ward (40 beds) had been closed since 2022 due to very poor material conditions.
4. See, however, paragraph 45 below.
5. See, however, paragraph 45 below.
6. According to the Director of Tserova Koria Hospital, there were no such cases in her hospital.
7. In January 2023, the National Council on Mental Health created a working group tasked with proposing changes in the legislation on involuntary and compulsory psychiatric treatment and other legal acts related to the effectiveness and quality of psychiatric care.
8. Ratified by Bulgaria in 2012.

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 reiterates that the Ministry of Health and the Ministry of Labour and Social Policy should work together closely to implement these precepts.

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

2. Ill-treatment

14. Regarding ill-treatment of patients by staff, in Byala Hospital, the delegation received a number of allegations from patients on three of the four male wards that, apart from staff shouting at patients, orderlies would also slap patients on the head, punch them in the kidney area, and kick them (including in the groin). Patients further complained that orderlies used obscene language, called them derogatory names, and threatened them.

The Committee is deeply concerned to learn that some of the orderlies mentioned by name by patients were the same individuals similarly indicated during the 2020 CPT visit, and whose names the delegation had then shared with the Director of the hospital, asking him to take immediate action.[9] In this context, the delegation was not surprised to hear from the patients that nurses and doctors in Byala Hospital were well aware of the unacceptable behaviour of the orderlies but chose to turn a blind eye, even when a patient went to them for help.[10] A number of patients were therefore quite reluctant to talk to the delegation about such behaviour of staff, as they were fearful about being punished "for snitching".

It is noteworthy that following the visit, the Committee received information from the Ministry of Health that a commission established by the Director of Byala Hospital to examine the allegations of ill-treatment had interviewed some patients on the male old-age ward and had established that "the complaint by patients of the medical facility was due to their expectation of receiving assistance from the CPT for discharge from the hospital."

The CPT is seriously perturbed to see that the Ministry of Health finds such an explanation acceptable and would like to draw the Ministry's attention to the fact that very specific and identical allegations of physical ill-treatment by staff were received from patients interviewed individually, accommodated in separate rooms, that they were consistent with specific behaviours by named staff reported during the CPT's previous visit and, further, that these patients were *de jure* voluntary, so should not in any case require assistance to be discharged.

15. Regarding Tserova Koria Hospital, there staff cursing and shouting at patients was allegedly routine on all three wards;[11] moreover, orderlies on Wards 1 and 3 would reportedly also occasionally slap and hit patients, including with a fixation belt.

16. Further, in both hospitals it was alleged that orderlies occasionally carried a stick to assert their authority.[12] Indeed, in Byala Hospital, on the locked ward for longer-term and old-age patients (Ward 4) and on the locked ward for longer-term patients in Tserova Koria Hospital (Ward 3), the delegation found, in staff offices, which were the locations suggested by patients, easily accessible wooden sticks which matched the descriptions provided.

9. During the 2023 visit, the Director informed the delegation that following the 2020 visit he had had "a serious talk" with the staff concerned.
10. According to those patients interviewed by the delegation who, exceptionally, had enough courage to talk about ill-treatment, the nurses had told them "not to complain", "not to annoy the orderlies", and "speak less".
11. As one patient told the delegation, "the nicest time of the day is when shifts change, then there is no staff on the ward for 20 minutes".
12. As explained by one patient, "the idea is to scare us, and it does".

In this regard, the Committee wishes to stress that the practice of staff carrying sticks in the view of the patients is anti-therapeutic and in no way conducive to the welfare of the patients. Quite to the contrary, such behaviour can only create an atmosphere of intimidation and fear.

17. Despite repeated calls for action, the findings of the 2023 visit demonstrate, once again, a continuing serious failure by the Ministry of Health to acknowledge the problem first and foremost, and then to finally take measures to prevent all forms of ill-treatment of patients and convey the 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 once again calls upon the Bulgarian authorities, and especially the Ministry of Health, to take decisive steps to stop ill-treatment of patients by staff, including, *inter alia* by improving the recruitment, training, and supervision of staff, as well as ensuring a prompt, thorough and independent investigation of allegations of ill-treatment, rather than to deny or minimise its existence, or explain it away.

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 (that is, a framework for the legal protection of individuals who disclose information on ill-treatment and other malpractice).

Further, as in any place of deprivation of liberty, an effective complaints procedure is a basic safeguard against ill-treatment in psychiatric establishments; patients need to be able to make complaints easily, reliably, and safely.[13]

18. As regards inter-patient violence, although some conflicts and occasional fights between patients did occur, this was not a major problem in either hospital.

3. Patients' living conditions

19. Byala Hospital is situated just outside the small town of Byala, some 60 km north of the city of Veliko Tarnovo. The hospital is in a fenced area of wooded grounds. As described in a previous report, the main building dates from the early 20th century (having originally been constructed as army barracks), the site opening as a psychiatric hospital in about 1911. As was the case during the CPT's visit in 2020, the hospital had six wards accommodating patients – four male wards (acute, longer-term, old-age and addictions) and two female wards (acute and longer-term); all were locked wards.

20. Tserova Koria Hospital is situated in the village of Tserova Koria, approximately 15 km east of the city of Veliko Tarnovo. The hospital, which reportedly opened some 70 years ago, accommodated patients within three locked wards situated in one three-storey block – two acute (male and female) and a mixed rehabilitation ward – surrounded by a fenced area.[14]

13. See paragraph 46 below.
14. It is noteworthy that the first floor of the administration building housed a family-type home accommodating 13 residents, some of whom were previously patients in the hospital.

21. Patients' accommodation in the two hospitals was generally austere, with very limited, if any, lockable personal space (often with not even enough bedside cabinets for every patient) and a lack of privacy and personalisation. Patients stayed in multiple-occupancy rooms (up to five beds per room in Byala Hospital and up to eight beds per room in Tserova Koria Hospital). Many rooms were overcrowded,[15] with beds touching, although both hospitals were operating under official capacity; in several of them there was a strong smell of urine.

The environment in wards was distinctly carceral, with external bars on the windows and a lack of decoration in rooms as well as in common areas. The windows lacked window shades or curtains, which were particularly necessary in summer when the dormitories got very hot from the sunlight.

22. Furthermore, in Byala Hospital, patients from the female acute ward told the delegation that their personal clothes had been taken away upon admission and they had been issued pyjamas to wear.

The Committee considers the practice of continuously dressing patients receiving psychiatric inpatient care in pyjamas can have a stigmatising effect. It is conducive to strengthening personal identity and self-esteem that patients wear their own clothes; 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 washed regularly.

23. To sum up, living conditions in psychiatric hospitals should be conducive to the treatment and welfare of patients; in psychiatric terms, they should provide a positive therapeutic environment. Therefore, **the CPT recommends that the Bulgarian authorities take the necessary measures to improve living conditions in Byala and Tserova Koria hospitals, and in particular to ensure that:**

- **they contribute to the treatment and welfare 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 patients' rooms are equipped with window shades or curtains;**
- **multiple-occupancy rooms accommodate no more than four patients and offer adequate space and privacy;**
- **patients are allowed and encouraged to wear their own clothes. If necessary, indigent patients should be provided with appropriate, non-uniform clothing;**
- **appropriate standards of environmental and personal hygiene are maintained.**

24. Material conditions in the female longer-term and male old-age wards in Byala Hospital were especially poor, with floors and walls crumbling. However, the delegation learned that, despite the recommendation of the Committee following the 2020 visit to fully renovate these two wards as a matter of priority, this had reportedly not occurred due to a lack of financial resources, despite repeated requests being made by the Director to the Ministry of Health. During the last three years the material conditions in these two wards had further deteriorated to the extent that a decision had been made to close a part of the female longer-term ward (40 beds) as it was unsuitable to accommodate patients, putting further pressure on the remaining space available to patients.

At the end of the visit, the delegation therefore invoked Article 8, paragraph 5, of the Convention and made an immediate observation, requesting that the Bulgarian authorities provide Byala Hospital with an appropriate budget for the renovation of the female longer-term and male old-age wards, informing the Committee of the steps taken within one month.

15. For example, in Byala Hospital, some 14 m^2 for four beds, in Tserova Koria Hospital, some 27 m^2 for eight beds, some 18 m^2 for six beds.

In their letter received by the CPT on 9 May 2023, the Ministry of Health merely acknowledged the facts already known to the Committee, namely, that a part of the female longer-term ward was closed due to the need for a major renovation and that the management of Byala Hospital had submitted its proposal to the Ministry for targeted funding for capital expenditures to improve the living conditions in the institution.

The CPT would like to receive information on whether this request has been granted by the Ministry of Health and on when the renovation of the female longer-term and male old-age wards in Byala Hospital is scheduled to start.

25. Furthermore, the prohibition to smoke inside all hospitals in Bulgaria was not enforced in Byala Hospital, resulting in patients there spending their days in an atmosphere of thick cigarette smoke in the rooms (with piles of ash on the floor between the beds) and corridors, making it difficult to breathe.[16] This is a threat to the health of both patients and staff and is unacceptable.

The Committee finds it highly unlikely that (as informed by the Ministry of Health following the visit), during the inspection to Byala Hospital on 18 April 2023, the Regional Health Inspectorate from Ruse did not detect the presence of cigarette smoke on the wards. In the Committee's opinion this could only be possible if the inspection had been announced a few days in advance and all patients had been strictly warned to abstain from smoking inside for one day.

In the Committee's view, the management of any psychiatric hospital has an obligation to provide an environment free from passive smoking, known to have negative consequences to health, and to ensure that there are designated smoking areas. The living quarters of patients should be smoke free, and strategies to ensure this should include (therapeutic) activities and other measures (for example, nicotine replacement therapy) to assist persons suffering from nicotine addiction; such strategies should include gradual steps, taking due consideration of the stress which quitting may cause for many patients. **The CPT recommends that the prohibition to smoke inside psychiatric hospitals (in the living quarters of patients) in Bulgaria be ensured as a matter of priority. Furthermore, any measures assisting patients to quit smoking should be made available free of charge.**

4. Staff and treatment

26. As during previous visits, the staff numbers found by the delegation in the two hospitals visited were grossly insufficient to adequately provide the necessary treatment for patients and to ensure a safe environment on the wards.

The Committee notes that, as of 13 March 2023, even within their own meagre quotas, there were 93 vacancies in the 12 state psychiatric hospitals – 23.5 psychiatrists, 45.5 nurses, 19 orderlies, two psychologists, and three social workers.

27. Byala Hospital continued to experience a dire shortage of psychiatrists – there were only five full-time equivalent psychiatrists for 154 patients[17] (including the Director who, in addition to his clinical responsibilities with patients and managing the hospital, was also the only psychiatrist responsible for out-patient care for the local area with a population of some 32,000 people); four full-time positions for psychiatrists remained vacant, as they had been during the 2020 visit, despite the Committee's recommendation to fill the vacancies urgently.[18]

16. When asked why they did not smoke in the bathroom (the designated smoking area beyond their daily outdoor exercise of one or two hours per day), the patients in Byala Hospital explained that there they were constantly begged to give a cigarette to those who could not afford one, making it more peaceful to just smoke in their rooms. The patients in Tserova Koria Hospital, on the other hand, were mostly smoking in the bathrooms.

17. For an official capacity of 270 beds.

18. Byala Hospital also employed five other doctors (including two half-time general practitioners (GP), a neurologist, a surgeon, and a doctor with no specialty).

As regards ward-based staff, there were seven feldshers, 28 nurses[19] and 52 orderlies (plus one vacancy), and their presence on the wards was critically low. For example, on the male old-age ward, during the day there was only one nurse and one orderly caring for 25 patients, almost all of them in need of incontinence products. During the night (from 19:00 until 07:00) and on weekends, there was only one nurse for the entire hospital and one orderly in each of the six wards.

It was therefore not surprising that, as communicated during interviews, patients felt obliged to assist the staff in their daily duties – cleaning, preventing conflicts (and interfering when they did occur), and even helping to mechanically restrain other patients. Indeed, according to patients, almost every ward had a so-called "mayor", usually a physically strong patient who "distributed" the tasks to other patients and acted to ensure "law and order". Such a situation, whereby patients take on responsibilities for the care and supervision of other patients, as found during previous visits, is clearly unacceptable.

28. Tserova Koria Hospital (with an official capacity of 120 beds and 90 patients on the day of the visit), on the other hand, employed eight full-time psychiatrists (plus one vacancy), plus a GP specialising in psychiatry, and a dermatologist.

The ward-based staff included one feldsher, 23 nurses and 33 orderlies. Their presence on the wards, however, was far too low, usually one nurse and one or two orderlies in every 40-bed ward during the day and one nurse and one orderly during the night.

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 increasing the risk of an overuse of strict, oppressive regimes and excessive resort to measures of both mechanical and chemical restraint.

29. Regarding multi-disciplinary clinical staff who could offer psycho-social rehabilitation, such as psychologists, social workers, and occupational therapists, these were also notably insufficient in number. Consequently, this led to treatment, as found during previous visits to psychiatric hospitals in Bulgaria, consisting almost exclusively of pharmacotherapy and containment.

For example, only one psychologist, one social worker and one occupational therapist were available for all 154 patients at Byala Hospital,[20] and many of the patients interviewed said they had never met the psychologist or participated in any activities.

30. The Committee has repeatedly stated in its reports on previous visits to Bulgaria that staff resources in psychiatric hospitals should be adequate in terms of number, category, and quality of staff (psychiatrists, nurses, psychologists, occupational therapists, social workers, etc.). Following every visit since 2017, the CPT has recommended to the Bulgarian authorities that they take urgent measures to address deficiencies in this area.

However, the findings of the 2023 visit show once again that the Bulgarian authorities still fail to fully understand the importance of adequate staff numbers and the need to act assertively to rectify this deficiency. If patients are to recover and reintegrate into the community, it is of paramount importance that there are enough staff to provide proper, decent, safe, and individualised care, including offering a full range of psychosocial therapies and rehabilitation activities. The Committee reiterates its view that such persistent staff shortages (and staff quotas which are simply too low) give the impression that, in the Ministry of Health, mental health care is not sufficiently valued; it clearly needs to be given a higher priority for investment and development.

The CPT once again calls upon the Bulgarian authorities to finally take decisive steps to ensure that the necessary numbers of psychiatrists, ward-based and multi-disciplinary clinical staff of appropriate quality are deployed to provide adequate and safe therapeutic

19. According to the Director, almost 75% of the nurses were of retirement age.
20. In Tserova Koria Hospital, there were two psychologists, two social workers, and one occupational therapist.

input and care for the many needy and dependent patients in their psychiatric hospitals. Dependence upon patients to support staff by providing supervision or even care to other patients must be eradicated.

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.

31. Opportunities for psychological, occupational, and creative therapies continued to be very limited, with most patients just lying on their bed or wandering around idly. Patients' responses as to what they do day after day seem not to have changed over the years – "we eat, take medication, and sleep". Multi-disciplinary clinical specialists interviewed by the delegation acknowledged that there were no regular constructive meaningful activities on offer,[21] and they did not offer any particular programmes, partly because there was no money to buy necessary materials. For example, in Byala Hospital, due to the lack of money to buy colouring books, the occupational therapist was drawing pictures herself and giving them to patients to colour; female patients were being given free cosmetics advertising catalogues to leaf through; and the scarves which patients knitted had to be periodically unravelled because there was no money to buy more yarn.

The conclusion remains that patients in Bulgarian psychiatric hospitals are not provided with anything even approaching the full range of modern psychosocial treatments which they require, which is neglectful and harmful. Furthermore, as the Committee stated in its report on 2021 visit, the absence of efficient and consistent therapy measures raises issues under both Article 3 and Article 5 (1) of the European Convention on Human Rights.

Further, in both hospitals visited, the patients' right to daily outdoor exercise was not always ensured, especially during the winter months. Even when patients were allowed to go outside, very often it was only to the kiosk inside the fenced territory of the hospital to buy some cigarettes or sweets and back, instead of having genuine time outside in the fresh air.

32. **The CPT reiterates its recommendation that the Bulgarian authorities take the necessary steps in all psychiatric hospitals 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 undergoing compulsory treatment, 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 undergoing compulsory treatment, 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**

21. For example, in Byala Hospital, patients could go to the fitness room or occupational therapy room twice a week (to draw, knit, sing, etc.) but only very few actually did this.

activities which 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.

33. Individual written treatment plans seen by the delegation were often very basic and formulaic; many patients were not fully aware of their diagnosis and/or their medications and their side effects, nor engaged with staff in their treatment. As during past visits to Bulgaria, 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 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 written treatment plan should be drawn up for each patient (considering the special needs of acute, long-term patients, and patients placed in a forensic psychiatric facility, 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 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, and focus on treatment objectives and how, in broad terms, these will be achieved.

For patients placed in rehabilitation wards, the plans should identify early warning signs of relapse along with 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 regarding individual written treatment plans and patients' involvement in their treatment are effectively followed in practice as regards patients in all psychiatric hospitals in Bulgaria where this is not yet the case.

34. In Tserova Koria Hospital, a number of patients asked the delegation to provide them with information regarding the clinical trial within which they were participating. The patients told the delegation that once or twice a month they had to do blood and urine tests, "get an injection", and then they would receive 20 Leva[22] (or chocolate). When asked, patients could not explain what this trial was about or what medication they were getting, a number of them were not sure if they had signed any consent forms, and even those who remembered signing something said they were not exactly sure what they had signed.

A psychiatrist member of the delegation did not find any information on the clinical trial in the medical files of the patients concerned. Naturally, the delegation asked the management to see the documents related to the clinical trial, including all the consent forms, but was refused access (except for a few files selected by the hospital and offered at the very end of the visit to the institution), allegedly due to the confidentiality rules of the company conducting the trial.

[22] Approximately 10 Euro.

35. The delegation left Tserova Koria Hospital without having had an opportunity to ascertain whether this clinical trial was conducted in line with the necessary provisions of medical ethics and relevant international and Bulgarian legislation and guidance for such trials, including the key principle of informed consent. Therefore, the delegation invoked Article 8, paragraph 5, of the Convention and made an immediate observation, requesting that the Bulgarian authorities perform an audit into the clinical trial in line with the requirements of the relevant national legislation and inform the CPT of its results within one month.

36. In their letter received by the CPT on 9 May 2023, the Ministry of Health informed the Committee that following the CPT visit, the Bulgarian Drug Agency carried out an urgent inspection in Tserova Koria Hospital.

The inspection reportedly found that Tserova Koria Hospital was authorised to conduct seven clinical trials of medicinal products and that they were all ongoing at the time of the inspection.

According to the Ministry of Health, no inconsistencies were found in the documentation of the clinical trials – informed consent forms for all participants (preceding the dates of the performed trial procedures) were available in the main documentation. In addition, according to one trial protocol, each participant received compensation of 100 Leva[23] per visit for travel expenses.

The CPT would like to receive a copy of the conclusions of the inspection carried out by the Bulgarian Drug Agency as well as the following information:

- **copies of the ethical approvals of all seven clinical trials ongoing in Tserova Koria Hospital;**

- **how many inpatients were privately interviewed during the inspection regarding their participation in all seven clinical trials, so as to understand how well informed of them they actually were;**

- **how did the Agency assure itself that all patients who participated in the trials had the necessary mental capacity and understanding to give fully informed consent to participation, including understanding all possible side- or other adverse effects which they could experience;**

- **how many personal medical files of inpatients participating in the clinical trials were checked and did inspectors find in these files any information on the clinical trial (it should be recalled that a psychiatrist member of the delegation did not find any);**

- **was it established that inpatients participating in the trials were receiving compensation for travel expenses (to recall, a number of patients told the delegation that they periodically received 20 Leva) and if so, what travel expenses were being compensated to such patients, who did not need to travel anywhere as they were residing in the hospital all the time.**

Finally, the Committee wishes to emphasise that, when conducting a clinical trial, each patient's information and informed consent should be systematically documented in the patient's individual medical file. In addition, it must be ensured that the management of the hospital systematically registers and keeps all information on ongoing trials. All clinical trials must be conducted in compliance with the Helsinki declaration on ethical principles regarding medical research involving human beings.

[23] Approximately 50 Euro.

5. Seclusion and means of restraint

37. Regarding means of restraint, seclusion, mechanical and chemical restraint of patients (including voluntary patients) was practiced in both hospitals visited. However, international guidelines regarding the use of restraint measures were not being adhered to, as found during the CPT's previous visits to the country. Following medical authorisation, patients were usually mechanically restrained (and medicated) in dedicated rooms using one to four-point fixation with magnetic belts but, despite some CCTV coverage, were not subject to continuous personal supervision by staff. Additionally, patients were also sometimes restrained in sight of other patients in their own beds. Further, as referred to in paragraph 27 above, patients would sometimes assist staff in the restraint of other patients.

38. Moreover, as in the past, the recording of mechanical restraint measures was formulaic and did not reflect reality – absolutely all cases of such restraint were recorded as lasting exactly two hours (the maximum allowed under the Bulgarian law).

It seems astonishing that, as the Committee was informed by the Ministry of Health following the visit, the inspection in Byala Hospital by the Regional Health Inspectorate from Ruse did not apparently seem to find this questionable, despite such a situation being highly unlikely to occur in reality when dealing with multiple different clinical situations, and when, as was clear from interviews with both patients and staff, mechanical restraint sometimes actually occurred for considerably longer periods, such as overnight (with a number of cases not even seeming to be recorded at all).[24] Further, patients subjected to such lengthy restraint measures described having to urinate and/or defecate into incontinence pads, into which they had been placed by staff, or into their clothes.

39. 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:**

- **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;**
- **patients are never involved in the restraint of other patients;**
- **every patient who is subjected to mechanical restraint or seclusion is subject 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 them 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;**
- **patients undergoing restrictive measures can satisfy the needs of nature in a dignified way.[25]**

24. It is noteworthy that the Director of Byala Hospital acknowledged to the delegation that when he was "not there, nurses recorded it for two hours only".
25. A more comprehensive overview of the principles which, in the CPT's view, should be respected when resort is had to means of restraint, can be found in the document "Means of restraint in psychiatric establishments for adults (Revised CPT standards)", doc. CPT/Inf (2017) 6.

The CPT reiterates the recommendation to the Bulgarian authorities to ensure that all restraint interventions are accurately recorded, namely, 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 ongoing 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, **the CPT recommends that the relevant legislation be amended to reflect that means of restraint are always used for the shortest possible time rather than setting allowed maximum duration; this would also facilitate more accurate recording and thus monitoring of its use.**

6. Safeguards

40. The legal framework governing forensic compulsory psychiatric hospitalisation and treatment has not evolved since the CPT's 2021 periodic visit. In particular, courts continued to order compulsory measures of treatment in accordance with Article 89 of the Criminal Code, which provides for three options: (a) out-patient treatment supervised by 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 in a general psychiatric hospital.[26]

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, Bulgarian law provides that placement for compulsory treatment is for an indefinite period. 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.

41. Similar to the situation observed by the CPT during previous visits, the examination of compulsorily detained patients' files confirmed that reviews of their cases by the hospitals' internal psychiatric commissions and then by the court were indeed generally carried out every six months. However, it was still the case that patients were neither given copies of the psychiatric assessment reports nor 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 reiterates its recommendation for the Bulgarian authorities to take steps to ensure that compulsorily detained patients receive copies of the psychiatric assessment reports on them provided to court, as well as copies of any court decisions on the review of their 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 and can challenge them. Furthermore, the patients concerned should be asked to sign a statement attesting that they have received a copy of the court decision.

26. 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).

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 hospital.

42. The legal framework governing civil involuntary placement of persons to psychiatric hospitals in Bulgaria continued to be based on Chapter 5 of the Health Act.

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, or society and/or their own health.

A head of a psychiatric hospital may decide to place a person involuntarily in the hospital for a maximum period of 24 hours. A district judge may decide that this period is exceptionally prolonged up to 48 hours. A request for further 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 mandatory.

The decision on involuntary hospitalisation 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 order the discharge of the patient on the grounds that the circumstances which prompted involuntary hospitalisation have ceased to apply.

43. Similar to the situation found during previous visits, the examination of the patients' files at the two hospitals visited confirmed that the time limits as well as relevant procedures were generally respected by the relevant actors. Patients and their lawyers (in virtually all cases *ex officio* lawyers) were systematically present at the relevant hearings.

44. It is concerning that, despite numerous CPT recommendations, the Health Act still does not guarantee the right to consent to treatment to all patients. According to Article 162, if the court deems that the person lacks capacity, it shall order involuntary treatment and appoint a person from the circle of the patient's relatives to give informed consent to treatment. In the event of a conflict of interest or in the absence of relatives, the court shall appoint a representative of the municipal health service, or a person designated by the mayor of the municipality to express informed consent to treatment.

The CPT reiterates that, as a general principle, all categories of psychiatric patients, namely, voluntary or involuntary, civil or forensic, with legal capacity or legally incapacitated, should be placed in a position to give their free and informed consent to treatment.[27] Consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient's condition, the treatment which is proposed and its possible side effects, and the possibility to withdraw consent, as well as if the patient concerned has the capacity to give valid consent at the moment when it is sought.

Further, it is essential that all patients who have given their consent to treatment are continuously informed about their condition and the treatment applied to them and that they are placed in a position to withdraw their consent at any time. In addition, every patient capable of discernment should be entitled to refuse a particular 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 and should be accompanied by appropriate safeguards.

27. That is, the admission of a person to a psychiatric hospital on an involuntary basis, be it in the context of civil or criminal proceedings, should not preclude seeking informed consent to treatment.

In particular, the relevant legislation should require a second psychiatric opinion (namely, from a psychiatrist independent from the hospital where the patient concerned is treated) in any case where a patient does not agree with the treatment proposed by the establishment's doctors (even if their guardian consents to the treatment); further, patients should be able to challenge an involuntary treatment decision before an independent outside authority and must be informed in writing of this right (including using alternative modes, means and formats of communication).

The CPT once again calls upon the Bulgarian authorities to take the necessary steps to ensure that the relevant legislation and practice are brought in line with the above-mentioned precepts regarding informed consent to treatment. In particular, any exception to the principle of free and informed consent to treatment with regard to involuntary patients should apply only in exceptional circumstances clearly defined by law and should be accompanied by appropriate safeguards.

Furthermore, **the CPT recommends that the Bulgarian authorities ensure that all psychiatric hospitals have access to information regarding patients' legal capacity.** This was not the case in Tserova Koria Hospital, which raised additional concerns there regarding the validity of patients' informed consent to treatment, participation in clinical trials, etc.

45. As during previous CPT visits to Bulgaria, a number of patients deemed *de jure* voluntary were not truly consenting to their hospitalisation and stated that they wanted to leave but were *de facto* deprived of their liberty.[28] The majority of such patients did not seem to be informed of their rights as voluntary patients, including the right to be discharged upon their request.

Furthermore, as communicated to the delegation by medical staff in Tserova Koria Hospital, a voluntary patient's request to be discharged was not always deemed enough. Reportedly, sometimes such a patient would not be allowed to leave (even though no action would be taken to change their status to involuntary) if a treating doctor did not believe that the treatment goals had been achieved and/or if the family was not willing to accept the patient home.

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.

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 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 inpatient 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.

46. As found during previous CPT visits, there was considerable scope for improving the accessible formal complaints mechanisms for patients in the hospitals visited. Very few patients appeared aware of how to safely and confidentially raise their concerns or complain to the hospital authorities or beyond, and reliable formal and responsive complaints mechanisms appeared to be

28. Such patients reported that when they requested to be discharged, doctors responded by telling them to "wait until it is warmer", "wait until your mother/father/brother comes for you" etc.

lacking;[29] according to the management of both hospitals, patients preferred to complain orally and received oral responses.

In the Committee's view, there should be a more trusted and effective formalised complaints system, with a central register of complaints that records complaints/themes (including oral ones), responses within agreed timescales, and actions taken. There should also be clear access for patients to external and independent bodies which also have the power to investigate complaints. Psychiatric hospitals should have systems in place, using clinical governance principles, which demonstrate multi-disciplinary learning from complaints and investigations, so as to improve the quality of patient care.

Further, patients should be provided with information brochures (in a language they understand, including using alternative modes, means and formats of communication) regarding the hospital's routine, patients' rights (including the right of voluntary patients to be discharged upon their request), legal assistance, review of placement (and the patient's right to challenge this), consent to treatment and complaints procedures; such a brochure was not available in Tserova Koria Hospital. **The CPT reiterates its recommendation that the Bulgarian authorities take measures to ensure that the aforementioned requirements regarding complaints mechanisms and information for patients are effectively implemented in all psychiatric hospitals in Bulgaria where this is not yet the case.**

47. Turning to contact with the outside world, patients had unrestricted possibilities to receive visitors in both hospitals. However, access to a telephone was rather limited – patients, even voluntary ones, were not allowed to keep their mobile phones (they were retained by nurses) and most of them were not sure what the rules were for accessing a telephone.

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 (for example, threatening recipients of the call).

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.

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 in psychiatric hospitals are allowed access to a phone or their mobile phone daily, 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 all psychiatric hospitals in Bulgaria.

29. For example, in Tserova Koria Hospital, a complaints box, with the label "for complaints and signals for corruption", was at the very end of the corridor on the ground floor of the administration building, which patients almost never visited. It is noteworthy that on the frame of a staff office door next to the complaints box there was a printed notice with a pictogram of a person hitting another person with a stick and words below "Do not enter. They beat badly." The last written complaint had been received some five years ago.
In Byala Hospital, there was no register of complaints and, although many patients made complaints to the delegation, the complaints box, apparently opened every week, contained only litter.

B. Social Care Homes

1. Preliminary remarks

48. In Bulgaria, a large-scale reform for the deinstitutionalisation of care for people with disabilities and the elderly is in progress which, in addition to the plans to close all specialised institutions for persons with disabilities by 2035, seeks to provide a qualitatively new approach in the organisation of care for such persons, as well as to introduce quality standards with which all social services should comply by 2025.[30] According to the Ministry of Labour and Social Policy, specialised training on the implementation of quality standards for social services, intended for employees of social service providers, was launched throughout the country in October 2022.

In July 2022, an Action Plan for the period 2022-2027 for the implementation of the National Strategy for Long-Term Care (adopted in 2014) was adopted by the Council of Ministers. The plan covers measures of the second stage of implementation of the process of deinstitutionalisation of care for people with disabilities and the elderly. It focuses on provision of support at home to persons with disabilities and elderly people dependent on care, development of quality and affordable social and integrated health and social services, closing 41 homes for people with disabilities and reforming homes for the elderly, increasing the efficiency of the long-term care system, and building the infrastructure required to provide the necessary services.[31]

The planning of social services provision throughout the country is underway and is expected to be completed by the end of 2023 with the adoption of the National Map of Social Services by the Council of Ministers.

49. During the 2023 visit, the CPT delegation carried out first-time visits to the social care homes for persons with learning disabilities in Draganovo and Tri Kladentsi.

Draganovo Social Care Home for Persons with learning disabilities, with an official capacity of 80 beds, was accommodating 77 adult women with learning disabilities at the time of the visit.[32] According to the home's management, the majority of the residents had mild to moderate learning disability; many were dependent, some 15 had reduced mobility or were confined to their beds due to illness, while over 20 residents had urinary incontinence.

Tri Kladentsi Social Care Home for Persons with learning disabilities, with an official capacity of 41 beds, was at the time of the visit accommodating 40 adult residents with learning disabilities – 18 men and 22 women.[33] Reportedly, some 25 residents had severe learning disability and the rest had mild to moderate disability. One resident was confined to their bed due to illness; some 20 residents had urinary incontinence.

30. In June 2022, the Council of Ministers adopted the Ordinance on the Quality of Social Services. It sets the standards for the organisation and management of social services, qualification and professional development of employees, the minimum staffing requirements, etc. The Ordinance also sets specific standards and criteria for guaranteeing the rights of residents and for developing a procedure for protection from violence, abuse, harassment, and discrimination. Also included are standards for access to advocacy, mediation, and legal protection services.

31. According to the Bulgarian authorities, since January 2020, 54 new social services facilities were established in the community, including 36 for residential care in which support is provided to adults with psychiatric disorders and learning disabilities (day care centres, centres for social rehabilitation and integration, and family-type homes).

32. Two more were expected to arrive in the near future.

33. One more resident was absent at the time of the visit – he was hospitalised in Karlukovo State Psychiatric Hospital.

2. Ill-treatment

50. As regards ill-treatment by staff, in Tri Kladentsi Home, the delegation received a few complaints that some nurses would occasionally shout at residents, but otherwise the atmosphere appeared generally relaxed, and most residents spoke positively about the staff. Nonetheless, **it is important that staff of all grades in all social care establishments are regularly reminded that any form of ill-treatment of residents, including verbal, is totally unacceptable and will not be tolerated.**

51. In Draganovo Home, the delegation received no allegations of the physical ill-treatment of residents by staff or verbally inappropriate behaviour. On the contrary, all residents who were able to, spoke positively about the staff's kind and warm attitude towards them, which the delegation itself witnessed throughout the institution. The staff's high commitment is especially commendable considering the challenges faced by the extremely low numbers of staff caring for many residents requiring personal assistance (see more in paragraph 58 below).

52. As regards inter-resident violence, some quarrels and physical conflicts allegedly occurred between residents in the two homes, but staff seemingly intervened immediately and adequately to calm the situation down and to prevent further escalation.

During the meeting with the Ministry of Labour and Social Policy, the delegation mentioned a resident from Tri Kladentsi Home who was often physically abusive and presented significant risks to other residents and asked that steps be taken to relocate him to a more appropriate facility where his mental health care needs could be properly and safely met.

Following the visit, the Ministry of Labour and Social Policy informed the Committee that, following the inspection carried out in April 2023 by the Agency for the Quality of Social Services, action was initiated to refer this resident for re-examination by the Territorial Expert Medical Commission and subsequent transfer to more appropriate social services. Further, the Ministry stated that methodological guidelines had been provided regarding 20 residents identified during the inspection to Tri Kladentsi Home who needed reassessment of their diagnosis. The CPT welcomes the results of this inspection and encourages the Bulgarian authorities to continue regular inspections of this kind.

53. In the Committee's view, it is important to remember that violence in an institution for persons with learning disabilities might be hidden. Institutionalisation carries inherent risks for residents' safety and well-being (for example, mixed-sex wards, shortages of staff to provide sufficient supervision, social isolation of some residents and their limited ability to communicate and complain, etc.), therefore not only a reactive but also a proactive approach is necessary to protect them from harm.

However, as the delegation learned during their interviews with staff, they lacked training on how to prevent, identify and report forms of exploitation, violence, and abuse, as well as other forms of training relevant to the prevention of violence, such as de-escalation techniques.

To strengthen the identification and prevention of ill-treatment by staff, as well as the prevention of violence between residents, **the CPT recommends that steps be taken in all social care institutions to provide staff with ongoing relevant training.**

Furthermore, **bearing in mind that the prevention of ill-treatment and violence is only fully effective if residents are enabled to communicate and to express their feelings and needs, programmes should be developed to enable residents to express themselves and to be understood (see more in paragraph 62 below).**

3. Residents' living conditions

54. Draganovo Home is situated in a remote area, on the outskirts of the village of Draganovo, some 30 km from the city of Veliko Tarnovo. Reportedly, the home was opened in 1958 as an institution for women with learning disabilities. Apparently, there were plans to transform the institution into family-type homes, although the Director did not have information on the estimated timescale for such a reform. Such trans-institutionalisation, especially in remote locations, is of concern to the Committee.[34]

The residents were accommodated in three buildings. Block 1 housed the administration on the ground floor as well as the only day room in the institution, an occupational therapy room, a rehabilitation room, and a hairdresser's studio. The rooms on the first floor, for the most able residents, accommodated three women each and had en-suite facilities. Block 2 had a kitchen/canteen, a psychologist's office, and a medical office, plus a laundry and large shower area (both renovated in 2023) on the ground floor, with residents' rooms (up to six beds) on the first floor. The single-storey Block 3 accommodated residents with reduced mobility or confined to their beds due to illness, in rooms with up to five beds.

The rooms were generally not overcrowded,[35] but were well-lit and ventilated and the cleanliness and hygiene were mostly satisfactory; all residents interviewed were very positive about the quality of the food. The bedrooms were furnished with beds and bedside cabinets, wardrobes, tables, and chairs and all had TVs. Rooms in Block 1 were personalised with pictures, personal items and plants. The rooms in the other two blocks, however, were generally rather bare and many did not have curtains on the windows.

55. Tri Kladentsi Home is also situated in a remote area, in the village of Tri Kladentsi, 30 km from the city of Vratsa. It was reportedly opened in 1961, initially as a rehabilitation hospital for persons with lung diseases. In 1981, it was transformed into an institution for children with learning disabilities aged three to five years. Since then, the institution "grew" together with its residents, becoming a home for children with learning disabilities aged five to ten, and then 10 to 18 years, then for young adults, and is now finally a home for adults with learning disabilities.

The residents were accommodated in two buildings. Block 1 with administration, a medical office, and psychologist's and occupational therapy rooms on the ground floor and multiple-occupancy rooms (up to five beds) on the first floor for the most able residents; some of these were connecting rooms. Block 2 (with an adjacent kitchen block built in 2009) accommodated residents with the most severe disabilities on the ground floor and the more able residents on the first floor (in rooms with up to five beds, some overcrowded)[36], with a day room on each floor.

The rooms were generally clean, well-lit, and ventilated; however, the state of personalisation in the accommodation blocks varied considerably and rooms in Block 2 were rather bare and austere, containing only beds and nightstands, with no curtains on the windows.

34. See paragraph 141 of the CPT report on the 2021 visit to Bulgaria (CPT/Inf (2022)20) on the Committee's view regarding the conversion of existing social care homes into "family-type" accommodation. 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.
35. For example, some 24 m^2 for five beds or some 17 m^2 for four beds.
36. For example, some 16 m^2 for five beds.

56. It is noteworthy that during the meeting at the Ministry of Labour and Social Policy at the end of the visit, the delegation was informed that Tri Kladentsi Home would be closed by the end of 2023. However, during the visit of the CPT delegation just a week prior, the management of the institution was not aware of such plans and informed the delegation that the home would be closed by 2027.

Having in mind the stress and anxiety that a lack of information and the absence of a carefully planned timetable for the deinstitutionalisation process can cause, to both residents and staff alike, **the Committee trusts that the Bulgarian authorities will take immediate steps to provide both the residents and the staff of Tri Kladentsi Home with a clear perspective on their future. The Committee would also like to receive confirmation of the closure once it occurs.**

As regards the living conditions in Draganovo Home, **the CPT recommends that the Bulgarian authorities take the necessary measures to ensure that:**

- **living conditions are conducive to the welfare of the residents, provide visual stimulation and allow for personalisation;**
- **all residents are offered personal lockable space in which they can keep their belongings;**
- **every accommodation block is provided with a suitably spacious and comfortable indoor day area for residents to congregate, should they so wish;**
- **all rooms are equipped with window shades or curtains;**
- **multiple-occupancy rooms accommodate no more than four residents.**

4. Staff and care provided to residents

57. Regarding care staff, as found in other Bulgarian social care institutions in the past, despite the full official staff complements being deployed and there being no vacancies, the numbers of nurses and orderlies were totally inadequate to provide proper individual, personalised, and safe care to residents on a 24-hour basis.

58. Draganovo Home employed one feldsher, six nurses and 11 orderlies; day and night, there was only one nurse and two orderlies to care for 77 residents with learning disabilities across three accommodation blocks, many of whom were incontinent and required assistance with dressing and some even with eating and drinking. The delegation learned during interviews, and was also able to observe, that the more able residents assisted the staff with laundry and cleaning, as well as with dressing and changing residents with reduced mobility, and bringing them food from the kitchen.

As regards other staff, there were two social workers, one psychologist, two occupational therapists, and one pedagogue (a half-time position for a logopaedist and a half-time position for a rehabilitator were vacant).

59. In Tri Kladentsi Home, there were seven nurses and six orderlies. During the day, two nurses and two orderlies provided care for 26 residents with severe learning disability in Block 2, at night (from 16:00 to 08:00), there was only one nurse and one orderly. In Block 1, where residents had the best self-care skills, there were no care staff except for the nurse on duty who visited when doing rounds.

The psycho-social rehabilitation staff included one social worker, one psychologist, one pedagogue, and one occupational therapist.

60. The findings of the 2023 visit have once again confirmed that the care staff (nurses and orderlies) quotas established by the Ministry of Labour and Social Policy are simply unrealistic. They not only place an extremely heavy and potentially unsustainable workload on the staff involved but also do not allow for the level of attention required for each resident. The quotas for the unit-based staff numbers should, as a minimum, be doubled as a matter of absolute priority.

At the end of the visit, the CPT delegation therefore invoked Article 8, paragraph 5, of the Convention and made an immediate observation, requesting that the Bulgarian authorities devise a plan to

substantially increase the care staff quotas in social care institutions, including formulation of adequate numbers, resourcing, and timescales for implementation. The Bulgarian authorities were requested to inform the CPT of the steps taken within two months.

In their response received by the Committee on 29 May 2023, the Ministry of Labour and Social Policy informed the CPT that the number and qualifications of the specialists and employees involved in the social services system in Bulgaria had been legally re-established in the standards and criteria for the quality of social services in the Ordinance on the Quality of Social Services adopted in 2022.

According to the Ministry, all providers of social services, including the municipalities, which were the main providers and managers of social services at the local level, were in the process of bringing the services they provided into line with these recent quality standards, the period of 12 months for their implementation expiring in June 2023. By then, all providers of social services and homes must fulfil the statutory requirements, including as regard the number and qualifications of their specialists and employees.

The Ministry further informed the Committee that according to the standards and quality criteria, the number of employees in each social service was determined by a coefficient in relation to the number of residents who used it, and noted that for homes and social services for residential care for people with disabilities, this coefficient has been increased compared to previous requirements, so that social service providers could now employ more staff than the previous minimum requirement. Further, they stated that the quality standards now enabled providers to attract social service volunteers and trainees, which should not only increase staff numbers, but also have the effect of "opening up" services to the community.

Additionally, the Ordinance on the Quality of Social Services also determines minimum individual basic monthly salaries for the different classes of employees, these being calculated as a percentage ratio of the minimum wage (MW) for the country and are in a range of up to 250% of the MW. With the adoption of the Ordinance, according to the Ministry, conditions have been created for an increase in the remuneration of employees engaged in the provision of social services, which was seen to be one of the prerequisites for increasing their quality and efficiency.

The CPT would like to receive information from every home for persons with psychiatric disorders and home for persons with learning disabilities comparing the care and multidisciplinary staff numbers (including feldshers, nurses, orderlies, social workers, psychologists, occupational therapists, pedagogues, etc., all categories separately) on 1 October 2023 with the numbers of such staff before the implementation of the Ordinance on the Quality of Social Services.

61. Both homes employed staff of other clinical disciplines, such as psychologists, social workers and occupational therapists, but their numbers were also insufficient to provide a proper range of psycho-social, occupational, and recreational input to residents. The CPT understands that the new standards and criteria for the quality of social services will address this issue as well.

62. The delegation gained the impression that many of the unit-based care staff had received no specialised training and therefore lacked some of the knowledge and skills necessary to care for persons with moderate and severe learning disabilities, particularly as regards sign language and other forms of communication support, support in decision making, and prevention and management of challenging behaviour.[37]

In the Committee's view, it is important to enable persons with speech/language impairments to communicate with alternative communication methods. If people are not enabled to communicate, their needs might not be properly identified, and this may lead to frustration, social isolation, and challenging behaviour. Further, it might affect staff's ability to detect and prevent abuse and/or aggression.

37. Reportedly, there was a recent training provided to all staff in both homes by an external psychologist on individual and group supervision.

Bearing in mind the challenging nature of their work, it is of crucial importance that care staff receive appropriate initial and on-going training, as well as continuous supervision and support. **The CPT recommends that the Bulgarian authorities take urgent steps to ensure that training on communication support, support in decision making, and prevention and management of challenging behaviour is provided in all social care institutions where this is not yet the case.**

63. As regards somatic healthcare, arrangements were in place for all residents to have at least one annual general somatic healthcare check. The need for preventive mammographic or cervical screening for female residents was reportedly decided by a GP during such annual medical examinations.

The Committee notes that the newly adopted Ordinance on the Quality of Social Services requires the social service providers to ensure that all residents, according to their age, receive the necessary preventive medical examinations, including dental.

64. In Draganovo Home, a GP from the village visited as required (or examined residents brought to his office). Visits from a half-time psychiatrist, according to the medical documentation examined by the delegation, occurred from between once per week to once in three weeks.[38]

In Tri Kladentsi Home, residents were taken to a GP in the village as required; a half-time psychiatrist reportedly visited only once a month, even though almost all the residents (33, according to the head nurse) were receiving psychotropic medication. **The visiting hours of the psychiatrist at Tri Kladentsi Home should be increased to allow greater therapeutic input, as well as greater involvement in the work of the multi-disciplinary clinical team.**

Furthermore, given the fact that social care residents can be more prone to physical health problems such as inadequate nutrition, hypertension, diabetes, etc., a proactive approach is needed to ensure that their needs are met. Therefore, **the CPT recommends that the Bulgarian authorities take steps to ensure that every social care institution is regularly visited by a general practitioner, in addition to residents being taken to a doctor as needed.**

65. At the homes visited, individual needs assessments and individual support plans were drawn up for every resident by the multi-disciplinary teams. Such plans were generally updated on a yearly basis (involving the resident whenever possible). The delegation was especially impressed by the quality of these plans in Draganovo Home.

66. Regarding the daily regime for residents, although in Draganovo Home there was a range of occupational and recreational activities offered to residents, including regular visits to a Day Centre in Gorna Oryahovitsa, such opportunities were more limited in Tri Kladentsi Home. **The CPT recommends that the range of activities available to residents in Tri Kladentsi Home is increased.**

Moreover, activities and stimulation specifically tailored to persons with severe learning disabilities were lacking in both institutions and should be developed. Such activities should be personalised, focused on maintaining normality in daily regime, including getting outdoors regularly and development in basic abilities. **The CPT recommends that steps be taken to develop activities tailored to persons with severe learning disabilities in all social care institutions where this is not yet the case.**

38. According to the management, out of 77 residents, five were taking psychotropic medication.

67. The delegation was pleased to note that, contrary to the findings of previous visits, seclusion and mechanical restraint of residents was not practiced in the homes visited, thus respecting the provisions of the Bulgarian legislation. However, when asked, the care staff told the delegation that they lacked training in manual control (holding) techniques of agitated residents.

The Committee notes that the Ordinance on the Quality of Social Services foresees special training of employees on containing unacceptable behaviour or aggression of a resident and **urges the Bulgarian authorities to develop the training on safe holding techniques as a matter of priority and to train relevant care staff accordingly.**

5. Safeguards

68. It should be recalled that in 2016, the Social Assistance Act and the Regulations on Implementation of the Social Assistance Act were amended to introduce different procedures for placement in a social care home or in a "residential service" in the community, depending on whether the person is under partial or full guardianship. The amended provisions indicate that the use of social services by all persons is voluntary and the will of the person under full or partial guardianship should prevail in case of disagreement between them and their guardian. The duration of a period of placement in a social care institution cannot exceed three years. The court may grant a request for placement only in the event that the proceedings do not establish any possibility of taking care of and providing support to the person concerned in the home environment or in the community.

69. Following these reforms, the placement of a person under partial guardianship takes place via an administrative decision adopted "in accordance with the wishes and the personal choice" of the person, and based on an individual needs assessment and support plan.

To place a person under full guardianship in a social care institution, social services must submit a request to the district court. The request must be based on the wishes expressed by the person concerned, put in writing, and accompanied by the guardian's position. The court must examine the will of the person concerned and determine the duration of the placement. The court's decision is subject to appeal before the regional court within seven days.

The district court is also competent to terminate the placement, transfer the person under full guardianship or prolong their placement.[39] The law also provides for the possibility for the director of social services to terminate the placement on a provisional basis, by an administrative decision adopted before the decision of the district court, at the request of the person concerned.

70. It is concerning that the law does not require the person concerned to be represented by a lawyer during the court proceedings on placement or stay in the social care institution. The court reviews the requests in a public hearing with the participation of the Social Assistance Directorate, the person concerned, and the person's guardian.

The Committee considers that all residents who are placed in social care institutions, whether or not they have a legal guardian, must enjoy an effective right to bring proceedings to have the lawfulness of their placement and stay decided speedily and reviewed regularly by a court and, in this context, must be given the opportunity to be heard in person by a judge and to be represented by a lawyer.

The CPT recommends that the Bulgarian authorities amend relevant legislation governing the placement and stay of residents in social care institutions and introduce a requirement for a person concerned to be represented by a lawyer. Indigent residents should benefit from free legal representation and be exempted from court fees incurred in the context of judicial appeal/review procedures.

39. The procedure to be followed is identical to the one foreseen for placement.

71. Similar to the situation found during previous visits, the examination of the residents' files at the two homes visited showed that the relevant legislation was generally applied, with the documentation kept by social workers at an acceptable level. However, two issues remain of concern to the Committee.

72. First, despite recommendations made by the CPT on many occasions, staff of social care homes visited by the CPT delegation (usually its director or other staff members) continued to be appointed as guardians of residents with no or partial legal capacity[40] and signed agreements on behalf of these residents with the home where those guardians were employed, thereby creating a clear conflict of interest, and compromising the independence and impartiality of the guardian.[41]

The Committee notes that the Ordinance on the Quality of Social Services requires that persons under partial or full guardianship have legal representatives other than the employees of their social care institution. **The CPT calls upon the Bulgarian authorities to put effort into ensuring the implementation of the new legislation and finding alternative solutions to placing residents under the guardianship of the institution, which would better guarantee the independence and impartiality of the guardians.**

73. Second, it was noted that in both social care homes visited there were residents with severe learning disabilities who were deemed legally competent and were not granted adequate support in exercising their legal capacity. In the CPT's view, such a situation is unacceptable as it deprives the residents concerned of key legal safeguards pertaining to their status.

An opposite situation was also found by the delegation. In Tri Kladentsi Home, the most able and self-sufficient female resident was deemed legally incompetent based on an almost 20-year-old decision of the district court which deemed her legally incompetent when taking a decision on her initial placement in a social care institution in 2005. Both the Director and the multi-disciplinary staff of the institution acknowledged that this was unsatisfactory but lacked the necessary means to assist the resident in reviewing her legal capacity.[42]

The CPT recommends that, in cooperation with the management of Draganovo and Tri Kladentsi Homes, the Bulgarian authorities ensure the review of the legal capacity status of residents with learning disabilities, bearing in mind the severity of their disability and whether they are able to take care of themselves, and provide appropriate support in exercising their legal capacity.

74. In neither of the homes visited was any attempt made to obtain written consent to treatment from those residents who were receiving psychotropic medication.

In this context, **the CPT recommends that all residents (and, in parts they are incompetent, also their guardians) be provided systematically with information about their condition and the treatment prescribed for them, and that doctors be instructed that they should always seek the resident's consent to treatment prior to its commencement. This could be done by means of a special form for informed consent to treatment, signed by the resident and (if they are incompetent) by their legal representative. If a resident is competent and refuses treatment, legal provisions should set conditions for treatment against their wishes and guarantee the possibility of another, independent, medical assessment to authorise administration of specific medication on an involuntary basis for the shortest possible time. Relevant information should also be provided to residents (and their legal representatives) both during and following treatment.**

40. In Tri Kladentsi Home, the Director was a guardian for all 36 residents with no legal capacity. In Draganovo, the psychologist was a guardian for the majority of the 51 residents with no or partial legal capacity.
41. It is noteworthy that the United Nations Convention on the Rights of Persons with Disabilities (CRPD) requires that any measures relating to the exercise of legal capacity should be free from conflict of interest to avoid decisions contrary to the wishes and preferences of individuals.
42. It is noteworthy that during the latest review of her placement, in 2021, the district judge wrote: "she is well oriented and gives correct answers but as a result of her diagnosis is fully incompetent."

75. As regards complaints mechanisms, both institutions had an internal procedure which required that complaints were addressed to the director in writing, that they were registered in a complaint register and investigated by a complaint commission (in Tri Kladentsi Home) or the Director (in Draganovo Home), informing the resident of the decision afterwards.

The complaints registers checked by the delegation were empty, there were no complaint boxes (it being noted that many residents could not write), and residents were not properly informed about the complaints procedure. According to the management in both homes, residents did not have many complaints and when they did, they complained orally and would receive an oral response.

76. The Committee would like to stress that although some residents have comprehension and communication difficulties, wherever possible, they should be informed of their rights, using repeated, simplified, individualised, verbal or picture formats, if necessary; having their rights listed as a part of a placement contract (which is then kept in their personal file) is not sufficient.

An easy-to-understand information brochure, setting out the establishment's routine, the rules for admission and discharge, and the possibilities for lodging formal complaints on a confidential basis with clearly designated outside bodies, should be issued to the residents and their families/guardians, with assistance provided in comprehending this as appropriate given the fact that many residents could not read. Such a brochure was lacking in both homes visited by the delegation. Similarly, accessible and comprehensible complaints systems should be in place, including the registration of oral complaints in a complaint register. **The CPT recommends that the Bulgarian authorities ensure that the precepts described above regarding complaints mechanisms and information to residents are effectively implemented in practice.**

77. Arrangements concerning contact with the outside world were satisfactory in both homes visited. Residents had a virtually unrestricted possibility to receive visits, could keep their mobile phones, and could also use one of the institution's phones.

78. To conclude, the Committee notes that some progress appears to being made as regards care in social care institutions, especially with the help of dedicated managers and staff, and, despite delays with the closure of some social care homes, the CPT hopes that genuine deinstitutionalisation will continue, with proper community facilities and care being provided for service users.

APPENDIX I – ESTABLISHMENTS VISITED

The delegation visited the following places of deprivation of liberty:

Psychiatric institutions

- State Psychiatric Hospital (Byala)
- State Psychiatric Hospital (Tserova Koria)

Social care homes

- Home for persons with learning disabilities (Draganovo)
- Home for persons with learning disabilities (Tri Kladentsi)