

## **Report**

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

**from 15 to 19 December 2008**

The Bulgarian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2010) 30.

Strasbourg, 30 September 2010

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

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Strasbourg, 31 March 2009

Dear Ms Doycheva

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Bulgarian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Bulgaria from 15 to 19 December 2008. The report was adopted by the CPT at its 68<sup>th</sup> meeting, held from 2 to 6 March 2009.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Bulgarian authorities to provide **within three months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Bulgarian authorities to provide, in the requested response, reactions to the comments formulated in this report which are listed in Appendix I as well as replies to the requests for information made.

The CPT would ask, in the event of the response being forwarded in the Bulgarian language, that it be accompanied by an English or French translation. It would be most helpful if the Bulgarian authorities could provide a copy of the response in a computer-readable form.

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

Yours sincerely

Mauro PALMA  
President of the European Committee for  
the prevention of torture and inhuman  
or degrading treatment or punishment

## I. INTRODUCTION

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT visited Bulgaria from 15 to 19 December 2008. The visit was one which appeared to the Committee “to be required in the circumstances” (cf. Article 7, paragraph 1, of the Convention), and was the sixth visit to Bulgaria to be carried out by the CPT<sup>1</sup>.

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

- Silvia CASALE (Head of delegation)
- Haritini DIPLA
- Roland MARQUET

who were supported by Petya NESTOROVA (Head of Division) of the CPT’s Secretariat.

They were assisted by:

- Derrick POUNDER, Professor of forensic medicine, University of Dundee, United Kingdom (expert)
- Gergana ALYAKOVA (interpreter)
- Vera GEORGIEVA (interpreter)
- Svetlana VOUTOVA-GROSS (interpreter).

3. The main objective of the visit was to review progress made as regards the implementation of previous CPT recommendations, in particular those contained in the report on the last periodic visit to Bulgaria, in 2006. The delegation focused on the situation of foreign nationals deprived of their liberty, and conditions of detention in investigation detention facilities (IDFs) and prisons.

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<sup>1</sup> The reports on the previous visits (in 1995, 1999, 2002, 2003 and 2006) have been made public at the request of the Bulgarian authorities, together with their responses (see documents CPT/Inf (97) 1, CPT/Inf (2002) 1, CPT/Inf (2002) 2, CPT/Inf (2004) 21, CPT/Inf (2004) 22, CPT/Inf (2004) 23, CPT/Inf (2004) 24, CPT/Inf (2008) 11 and CPT/Inf (2008) 12).

4. In the course of the visit, the CPT's delegation visited the following establishments:

*Establishments under the Ministry of Internal Affairs*

- Pernik Regional Directorate of Internal Affairs
- Slivnitsa District Police Directorate
- Sofia City Directorate of Internal Affairs
- 1<sup>st</sup> District Police Directorate, Sofia
- 5<sup>th</sup> District Police Directorate, Sofia
- Special Home for temporary placement of foreign nationals, Busmantsi

*Establishments under the Ministry of Justice*

- Pernik Investigation Detention Facility
- Slivnitsa Investigation Detention Facility
- Sofia Prison.

5. During the visit, the CPT's delegation held consultations with Roumen ANDREEV, Deputy Minister of Internal Affairs, Boyko RASHKOV, Deputy Minister of Justice, and Petar VASSILEV, Director of the Main Directorate for Execution of Sentences, as well as with senior officials from the Ministries concerned and from the State Agency for Refugees. The delegation also met Ginyo GANEV, Ombudsman of Bulgaria, and representatives of civil society.

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

6. The co-operation received during the visit - both from the national authorities and from staff at the establishments visited - was of a very high standard. The delegation enjoyed immediate access to all the places visited and was able to speak in private with persons deprived of their liberty, in compliance with the provisions of the Convention. Further, the delegation had access to all the necessary documentation. It was clear that information on the CPT's mandate and extracts from the Committee's previous visit reports had been circulated to relevant staff.

The CPT wishes to express its appreciation for the assistance provided to its delegation by the liaison officer designated by the national authorities, Ms Elena DOYCHEVA, Senior Expert, and by Ms Mariela YANEVA-DELIVERSKA, Expert, from the Ministry of Justice.

7. The CPT has previously stressed that the principle of co-operation between States Parties and the Committee, as set out in the Convention, 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 the light of the Committee's recommendations. In this respect, the 2008 visit revealed that, despite some welcome signs of improvement, the action taken so far in the areas of police custody and conditions in investigation detention facilities is not sufficient to fully address the concerns expressed by the CPT in the past. In other words, the substantive co-operation on the part of the responsible authorities leaves something to be desired.

The CPT urges the Bulgarian authorities to step up their efforts to improve the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention.

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

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

#### 1. Police custody

##### a. preliminary remarks

8. In the 2006 visit report, the CPT raised the issue of the duration of police custody and recommended certain measures to ensure that the time limits provided for in law are observed in practice. The Committee also invited the Bulgarian authorities to reduce to a maximum of 72 hours the total period during which persons may be deprived of their liberty prior to being brought before a judge (currently, the law provides for an initial period of 24 hours with the police, followed by up to 72-hour detention by a prosecutor's order).

At the outset of the 2008 visit, senior officials of the Ministry of Internal Affairs informed the delegation that it was not envisaged that there would be a change to the legal provisions in force as suggested by the CPT. The Committee reiterates its view that a detention period of 96 hours before a person is brought before a judge is at the outside limit of what has been deemed as acceptable by the European Court of Human Rights<sup>2</sup> in its case-law under Article 5, paragraph 3, of the European Convention of Human Rights (in relation to the interpretation of the notion of a person being brought "promptly" before a judicial authority). **The CPT once again invites the Bulgarian authorities to reduce to a maximum of 72 hours the total period during which persons may be deprived of their liberty prior to being brought before a judge.**

9. The delegation came across a detained person who had spent more than 24 hours in police custody. According to the documentation consulted by the delegation, the person in question had been apprehended at 2.30 p.m. on the preceding day and was still at the police station after 4 p.m. on the day of the visit. Police officers tried to explain this delay first by claiming that they were waiting for the prosecutor's order for a 72-hour detention and then, when it transpired that the order had already been received, by stating that they were expecting the detained person's lawyer to come to meet his client.

**The CPT reiterates its recommendation that the Bulgarian authorities take steps to ensure that the detention of persons by the police is carried out in strict conformity with the legal provisions.**

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<sup>2</sup> See, for example, the case of *Brogan and Others v. United Kingdom*, 29 November 1988.

b. ill-treatment

10. Given the purpose and scope of the visit, the delegation inevitably met only a few detained persons at the police establishments visited. These persons indicated that they had been correctly treated. Further, no allegations of recent physical ill-treatment by the police were received by the small number of persons interviewed at the two investigation detention facilities visited.

c. safeguards against the ill-treatment of persons detained by the police

11. Bulgarian legislation contains specific provisions guaranteeing the rights of notification of custody, access to a lawyer and access to a doctor from the very outset of deprivation of liberty<sup>3</sup>. In the report on the 2006 visit, the CPT welcomed this positive state of affairs. Following the 2006 visit, the Ministry of Internal Affairs adopted a new Instruction No. IZ-2451 of 29 December 2006 “On the procedures for detaining persons by the police, the equipment of police detention facilities and the rules applicable to them”. The instruction reiterates the duty of police officers to inform detained persons of their rights immediately after their detention.

12. The right of notification of custody appeared to be working reasonably well in practice. That said, a few detained persons stated that they had not been allowed to make a phone call themselves and were thus not aware whether the person indicated by them to the police had been notified of the fact of their detention. **The CPT recommends that the Bulgarian authorities take steps to ensure that persons detained by the police are systematically given feedback as to whether the notification of their custody has been performed.**

13. As regards access to a lawyer, it is noteworthy that, in addition to restating the right of persons in police custody to be assisted by a lawyer from the outset of deprivation of liberty, the above-mentioned new instruction contains specific reference to arrangements for contacting *ex officio* lawyers. The delegation saw lists of *ex officio* lawyers, with phone numbers, posted in the cells or corridors of police stations. The system of legal aid appeared to be working better than at the time of the 2006 visit<sup>4</sup>, with several detained persons indicating that they had had an *ex officio* lawyer present during questioning by police investigators.

That said, the delegation’s observations from the 2008 visit suggest that the system for access to a lawyer during the 24 hours of police custody was not always working in practice. The delegation heard allegations that some police officers had attempted to discourage detained persons from exercising their right to a lawyer by telling them that they did not need a lawyer or that this was “just a formality”. Further, there appeared to be delays in *ex officio* lawyers being contacted and coming to the police station. It emerged from discussions with police staff and detained persons that access to a lawyer during the 24 hours of police custody continued to be a reality for only a minority of persons held by the police, namely those who could afford a private lawyer and were able to contact the lawyer swiftly.

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<sup>3</sup> Namely, in the Code of Criminal Procedure and the Law on the Ministry of Internal Affairs.

<sup>4</sup> The Law on Legal Aid entered into force on 1 January 2006.

**The CPT reiterates its recommendations that:**

- **the Bulgarian authorities recall to all police officers the legal obligation to grant access to a lawyer from the very outset of a person's deprivation of liberty;**
- **the exercise of the right of access to a lawyer be recorded in writing (e.g. in a special register of visits by lawyers or as an entry in the general police custody register);**
- **steps be taken, in consultation with the Bar Association, to make the system of legal aid truly effective, inter alia through the provision of proper funding and practical arrangements to ensure that *ex officio* lawyers are contacted and meet their clients while in police custody.**

14. With regard to access to a doctor, the new Ministry of Internal Affairs instruction contains revised procedures for medical examination of persons detained by the police (which can take place at the detained persons' request as well as when their state of health requires it). It is regrettable that the Bulgarian authorities have failed to reflect all the recommendations made in paragraph 22 of the 2006 visit report as regards the procedure for recording injuries observed on detained persons, the subsequent action to be taken and the confidentiality of medical examinations. On the last-mentioned point, it is noteworthy that the instruction provides for the "presence of police staff if requested by the doctor" (which could imply their being not only within sight but also within hearing of the medical examination).

**The CPT reiterates its recommendations that the existing provisions concerning medical examinations of persons in police custody be complemented so as to make it clear that:**

- **the report filled out by doctors concerning injuries observed on persons in police custody should contain, in addition to a detailed description of the injuries observed, any allegations made by the detained person concerned and the doctor's conclusions as to the degree of consistency between those allegations and the objective medical findings;**
- **all medical examinations should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers;**
- **whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a detained person, the record should be systematically brought to the attention of the relevant prosecutor.**

**Further, the CPT recommends that the confidentiality of medical data be strictly observed, without prejudice to the right of the person concerned to make reference to that medical data.**

15. The delegation noted that the provision of information on rights to persons in police custody had improved. All persons detained by the police met during the 2008 visit had been given copies of the “declaration of rights”<sup>5</sup> and the order of police detention; both of these documents referred to the detained persons’ rights and had to be signed by the detained persons.

That said, the “declaration of rights” still did not exist in languages other than Bulgarian (see also paragraph 16). Further, an amended version of the declaration had not been produced for juveniles; as recommended by the CPT in the 2006 visit report, the options “does not wish the family to be informed” and “does not wish to use a lawyer” should not exist for juveniles. More generally, the delegation noted that further efforts are needed to ensure that the provision of information on rights at the very outset of deprivation of liberty is not just a bureaucratic exercise but a procedure for ensuring that detained persons really understand their rights and can benefit from them. **The CPT recommends that the Bulgarian authorities take steps in the light of the preceding remarks.**

16. With regard to the treatment of foreign nationals detained by the police, Ministry of Internal Affairs officials and police officers affirmed that interpreters (from an official list of interpreters) were called in, in every case when a person did not speak Bulgarian; the interpreter helped to explain the rights to the person concerned and had to sign the “declaration of rights”.

However, detained foreign nationals interviewed by the delegation complained that appropriate interpretation had not always been provided (either no interpreter had been present when the “declaration of rights” – in Bulgarian – was given, or the person called in to help was not a professional interpreter). This reinforces the need for written information on rights in foreign languages. **The CPT reiterates its recommendation that the “declaration of rights” be made available in the languages most commonly spoken by foreign nationals detained in Bulgaria, and be systematically given to them at the outset of deprivation of liberty.**

17. As regards juveniles in police custody, the delegation was pleased to note that the development within police directorates of specialised departments for juveniles had continued since the 2006 visit. At the Sofia City Police Directorate, part of the building was being refurbished to provide special rooms for interviewing children and young persons. **The CPT invites the Bulgarian authorities to extend the practice of setting-up specialised police units for juveniles across the country.**

18. The 2008 visit revealed that the keeping of custody records had generally improved. A number of registers were kept and the delegation noted that they were generally filled out properly (occasional omissions observed concerned the hour of detention, which was noted separately from the hour of admission to the police station). Further, the delegation found that practice varied as to recording the exercise of the right of access to a lawyer (some registers did not have space for recording such information, whereas others did). Police staff met during the visit complained about the amount of paperwork, often with the same information repeated in different registers.

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<sup>5</sup> See paragraph 30 of CPT/Inf (2008) 11.

The CPT considers that there is a need to rationalise the existing system of documenting police custody, by introducing a uniform, comprehensive register which records all important aspects of custody (including whether and when the rights of access to a lawyer and notification of custody have been exercised). This would contribute to greater clarity as to the operation of the safeguards during police custody, facilitate management oversight as well as independent monitoring, and streamline police paperwork.

19. As regards independent monitoring of police establishments, the Ombudsman told the delegation that a section of his office dedicated to the custody inspection programme had organised visits to all types of places where people are deprived of liberty, including police establishments. The Bulgarian Helsinki Committee also continued to be engaged in monitoring police detention. Further, the Open Society Institute in Sofia had co-ordinated a project on “Civil monitoring of the police”, involving regular visits to police stations in five Bulgarian cities (in the period from September 2007 to August 2008, 800 visits to 41 police stations had taken place).

The CPT takes note of the positive development of independent monitoring of police establishments and **recommends that these activities be placed on a permanent footing.**

d. conditions of detention

20. Almost invariably, the police cells seen by the delegation were not suitable for holding persons for more than a few hours.

At the *1<sup>st</sup> District Police Directorate in Sofia*, there was only one cell measuring some 5 m<sup>2</sup>. The cell was dimly lit, with bench, and a standard of hygiene which left much to be desired. Further, it was clear that mattresses and blankets were not provided to persons held overnight. In the corridor next to the cell, there was a bench with a metal rail fixed to the wall above it, and with several handcuffs hanging from the rail (see also paragraph 22).

The *5<sup>th</sup> District Police Directorate in Sofia* had two cells, neither of which had windows. One of the cells (measuring some 9 m<sup>2</sup>) contained wooden benches along three of the walls while the fourth wall was barred, giving on to the corridor; artificial lighting was very dim, the floor was dirty and disintegrating, and there was a smell of urine. In sharp contrast, the second cell – intended for holding juveniles – was larger (approximately 16 m<sup>2</sup>), had good access to artificial light, was furnished with three beds with blankets and pillows, and was clean.

*Pernik Regional Directorate of Internal Affairs* had five cells<sup>6</sup>, measuring between 3 and 4.5 m<sup>2</sup>. Three of the cells had no direct access to natural light, and artificial lighting (coming through a meshed opening into the corridor above the solid door) was dim; these cells had fans to assist ventilation. The other two cells, which were bar-fronted, had increased artificial lighting from the corridor through the bars and were not equipped with fans. All cells were furnished with wooden platforms, blankets, pillows and sheets. Further, there was CCTV in the corridor and in the cells.

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<sup>6</sup> The cells were serving both the Regional Police Directorate and the 1<sup>st</sup> District Police Directorate, until the completion of the construction of the new building for the latter.

21. Conditions in the one cell at *Slivnitsa District Police Directorate* had remained basically unchanged since the 2006 visit. Although the door of the cell consisted of metal bars, providing ventilation and a view beyond the cell, the cell remained very small (less than 3 m<sup>2</sup>); **its size alone renders the cell unsuitable for use as overnight accommodation.** An additional chair had been added to the existing furniture (a slatted bench 1 m long and approximately 0.3 m wide), providing a makeshift place of rest; two blankets lay on the bench.

The above-mentioned conditions were of all the greater concern since the practice had continued of transferring to Slivnitsa District Police Directorate - as the closest local police station - all foreign nationals detained at the nearby border crossing. Not only are conditions in the above-described cell totally inadequate for this purpose, but its use as an additional step in a multi-stage transfer of foreign nationals apprehended at the border increases the duration of the process of transfer. In 2008, some 200 foreign nationals had passed through Slivnitsa Police Directorate in this way. **The CPT recommends that the practice of transferring foreign nationals detained at the border to Slivnitsa District Police Directorate be stopped.**

22. It became clear during the 2008 visit that, due to the limited number of cells (usually one) at each police directorate, detained persons can still be handcuffed to immovable objects in the corridors of police directorates (e.g. at the 1<sup>st</sup> District Police Directorate in Sofia). **The CPT must stress once again that, while it may be necessary for a criminal suspect in police custody to be handcuffed at certain stages of the procedure, handcuffs should not be used as a substitute for proper holding facilities. The Committee recommends that the metal rails on police premises to which persons in police custody are handcuffed be removed.**

23. The new Ministry of Internal Affairs instruction pays specific attention to the provision of food to persons in police custody. Pursuant to Section 43 of the instruction, three meals a day are to be provided. The delegation was informed of the introduction of a specific food budget (2.40 BGL per adult person per day). This is a positive development. **The CPT invites the Bulgarian authorities to record the provision of food to detained persons in the police custody documentation.**

24. The CPT has noted the measures announced in the Bulgarian authorities' response to the 2006 visit report to improve conditions of detention in police establishments and bring them up to the standard requirements. However, it is clear from the findings from the 2008 visit that the action taken so far is far from sufficient. **The Committee calls upon the Bulgarian authorities to make serious efforts to bring conditions of detention in police establishments into line with the basic requirements set out in the reports on the CPT's previous visits (see, for example, paragraph 47 of CPT/(Inf(2002) 1). In particular, steps should be taken to ensure that:**

- **all cells are equipped with a means of rest suitable for overnight stays;**
- **all persons detained overnight are provided with clean mattresses and blankets;**
- **adequate in-cell lighting (access to natural light/artificial lighting), ventilation and heating are provided;**
- **police establishments are equipped with a sufficient number of cells which are of a reasonable size; all cells where persons may be held overnight should be enlarged to at least 6 m<sup>2</sup>.**

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

### a. preliminary remarks

25. The “Special Home for Temporary Placement of Foreign Nationals in Busmantsi” was opened in June 2006. It is located on the outskirts of Sofia, not far from Sofia International Airport, where it occupies several refurbished buildings (former military barracks) within a secure perimeter. With an official capacity of 400, at the time of the visit, the Home was holding 142 foreign nationals (of whom 8 were women). The delegation was informed that the Busmantsi Home had taken over the function of temporary detention<sup>7</sup> of foreign nationals from the facility in Drouzhba (Sofia), which had been visited by the CPT in 1995 and 1999.

26. The Busmantsi Home was used to hold a mixture of foreign nationals. Most had been detained pending execution of a coercive administrative measure pursuant to the Law on Foreigners<sup>8</sup> (expulsion or forcible removal to the border). This category included persons considered to pose a serious threat to national security or public order and detained by order of the State Agency for National Security; some of them had previously been granted refugee status or had applied for asylum. Another group consisted of foreign nationals who had served a prison sentence and were awaiting deportation, some with outstanding fines which prevented their deportation. Further, the Home was holding a number of persons who had lodged first-time applications for asylum and were awaiting an interview with the State Agency for Refugees (SAR) or the outcome of their applications. The Home’s management was not in a position to provide the delegation with a breakdown of foreign nationals according to legal status.

The delegation’s discussions with representatives of the SAR revealed that, because of the insufficient capacity of the refugee centre run by the SAR, persons who had applied for asylum at the border might be held at Busmantsi as the overspill facility. This appears to be in violation of the provisions of the Bulgarian Law on Asylum and Refugees<sup>9</sup>. In this connection, the CPT wishes to stress that deprivation of liberty of asylum seekers should be resorted to only exceptionally, after a careful examination of each individual case, and should be applied for the shortest possible time; further, the lawfulness of such a measure should be open to challenge before a judicial authority<sup>10</sup>. When asylum seekers are deprived of their liberty as an exceptional measure, they should be kept separately from foreign nationals who have not lodged an application for international protection. **The CPT recommends that the Bulgarian authorities act in accordance with these precepts. In those instances where there are exceptional reasons for depriving a person from his liberty while awaiting an outcome of his asylum application, such reasons should be fully documented.**

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<sup>7</sup> The terms used in Bulgarian legislation and the Home’s Regulations are coercive “placement” or “accommodation” of foreign nationals.

<sup>8</sup> In particular, Sections 41 and 42 of the Law on Foreigners.

<sup>9</sup> Section 29(2) of which states that “the accommodation of foreigners seeking protection shall be carried out by the State Agency for Refugees in a centre or another sheltering place upon assessment of the health condition, family and material status of the foreigner, according to requirements and procedures determined by the SAR”.

<sup>10</sup> See Recommendation Rec(2003)5 of the Committee of Ministers of the Council of Europe on measures of detention of asylum seekers, which defines *inter alia* the situations in which the detention of asylum seekers may be resorted to.

27. It should be noted that Bulgarian legislation does not fix a time limit for the detention of foreign nationals under aliens legislation. The delegation was informed that 19 persons had been held at the Busmantsi Home for over a year; one of them had been in detention since 2004 (having previously been held at the temporary detention facility in Drouzhba, Sofia) and another 8 had been detained since 2006.

b. ill-treatment

28. The delegation heard several allegations of physical ill-treatment of detained foreign nationals by police staff working at the Home. The ill-treatment alleged (consisting of slaps and kicks) had apparently taken place in the establishment's solitary confinement unit. Further, some detained persons complained about verbal abuse from certain staff members and a lack of respect. The frequent lack of a common language and the resulting problems of communication clearly did not help matters.

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

29. The delegation learned that certain persons held at the Busmantsi Home periodically announced hunger strikes, their main demand being to be given a clear indication of their length of detention. Suicide attempts and acts of self-harm were also reported, linked to the same demand. As already noted in paragraph 27, Bulgarian legislation does not provide for a maximum length of detention pending deportation.

The CPT is of the view that the prolonged detention of persons under aliens legislation, without a time limit and with unclear prospects for release, could easily be considered as amounting to inhuman treatment. **The Committee invites the Bulgarian authorities to amend the legislation with a view to introducing a time limit for the detention of foreign nationals under aliens legislation (as is already the case in the majority of European countries).**

c. risk of ill-treatment after expulsion

30. Some foreign nationals met at the Busmantsi Home who had national security orders for expulsion issued against them also had documentation confirming their refugee status. None of them had a document indicating that their refugee status had been withdrawn and the national security orders did not address this question. The foreign nationals were confused and anxious about what would happen to them, feeling themselves to be "in limbo". Certain of them stated that they feared return to their country of origin.

From discussions with representatives of the SAR, it transpired that, when a national security order was issued against a person with refugee status, there was no obligation to inform the SAR. The chairperson of the SAR centre in Sofia indicated that, if the State Agency for National Security wanted the refugee status to be withdrawn, it had to request this. According to him, the State Agency for National Security was under no obligation to consult the SAR concerning the risk of persecution, torture or inhuman or humiliating treatment if the person were expelled.

The CPT is concerned by the possible risk, in case of withdrawal of refugee status of persons subject to a national security order, of being sent to a country where the persons concerned may be subjected to torture or inhuman or degrading treatment or punishment. Pursuant to Section 44a of the Law on Foreigners, a foreign national subject to a coercive administrative measure shall not be expelled to a country where his life and freedom are jeopardised and he is exposed to the danger of persecution, torture or inhuman or humiliating treatment. **The Committee wishes to receive a detailed account of the precise practical steps taken by the Bulgarian authorities to ensure that such a situation does not occur (including information on the applicable procedures and, in particular, the means of appeal).**

d. conditions of detention

31. Material conditions at the Busmantsi Home were an improvement on those observed by the CPT in the past at the facility in Drouzhba, previously used for the temporary accommodation of foreign nationals. Accommodation was provided in a 4-storey building divided into a male and a female section (the latter section included a room for families). The dormitories had large windows, providing good access to natural light and ventilation, and were adequately heated. The equipment consisted of bunk beds (usually 10 to 15 in each room), with full bedding, and personal lockers. To obtain a minimal degree of privacy, the foreign nationals had put up makeshift partitions between the beds, using blankets and sheets.

Most of the beds were unused at the time of the visit and although no overcrowding was observed (e.g. 15 persons in a room measuring some 80 m<sup>2</sup> in the male section; 8 persons in a room of 56 m<sup>2</sup> in the female section), the dormitories would become overcrowded if the establishment were to be used to its full capacity. Further, although the Home was only opened in 2006, the delegation observed a deterioration of the facilities (e.g. broken beds, dilapidated shower and toilet rooms). The delegation was informed that there was a lack of funding for running repairs and that the Home's management had turned to NGOs for assistance in replacing broken furniture.

The establishment had modern technology for security and safety, including CCTV. That said, the call bells in some of the dormitories were out of order.

32. There was no integral sanitation in the dormitories but detainees had unlimited access during the day to communal toilet and washing areas (including showers, with constant supply of hot water). Many detained men complained that access to the toilet was problematic when the dormitories were locked at night, since it was not easy to summon staff, and alleged that they sometimes had to resort to urinating in a bottle. In contrast, no complaints about access to the toilet at night were heard from the women.

Detainees washed their own clothes in a laundry room equipped with washing machines, but the facilities to dry the laundry were inadequate. The delegation was informed that detained persons were provided with materials to clean their own rooms.

33. The Home's management indicated that every new arrival was provided with a toiletry kit and clothing (from donations). However, the lack of personal hygiene items was a recurring complaint of detainees. Moreover, some detainees complained of not having appropriate clothing and footwear for the climate. The management reassured the delegation that every person who had asked for warm clothing had been given some, "but not many ask". This can be seen as an indication of the lack of good communication at the Home.

34. As regards food, a catering company provided three meals a day, at a daily per capita cost of 5.15 BGL. Meals were taken in a spacious dining room and the delegation observed that the menu was varied (including fresh vegetables and fruit). However, some foreign nationals complained about the food served and the fact that they could not buy foodstuffs and prepare meals themselves. Food is always a difficult issue when different cultures are concerned; **it would be useful to involve detainees in the setting up of food menus, to reflect better the range of different dietary habits.**

35. **The CPT recommends that steps be taken at the Busmantsi Home to:**

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

**Further, the Committee invites the Bulgarian authorities to review the food arrangements in the Busmantsi Home in order to ensure that the dietary habits and needs of detained persons are being adequately catered for.**

36. Turning to activities, the open-door policy during the day was a positive feature of the regime at the Busmantsi Home and appropriate to the status of the population detained. Inside each section of the accommodation building, detained foreign nationals had access to an association room with TV and coffee-making facilities; further, in the men's section, there was a billiards room, two rooms for religious practice and a small library (which, however, detained persons reported that the library was not functioning and staff took some time finding the key). Further, detained persons could spend 2 hours a day outdoors and there were good sports facilities (for football, basketball and tennis) and grounds to walk in. The doors were locked at night after detainees stopped watching television to prevent them from moving among the dormitories.

The delegation noted that there could be much greater use of the available facilities, which had potential for the provision of a more varied programme of activities. Improvement clearly depended upon having sufficient numbers of specialised staff available. Bearing in mind the detained persons' legal status and the fact that they may – and often do – spend lengthy periods of time at the Busmantsi Home, the paucity of purposeful activities might engender further frustration and stress and even provoke tensions among persons held in the establishment.

**The CPT recommends that the Bulgarian authorities make efforts to expand the offer of purposeful activities at the Busmantsi Home (e.g. work, education, games, provision of books and recent newspapers in various foreign languages, access to foreign TV channels). The longer the period for which persons are detained, the more developed should be the activities which are offered to them.**

**The Committee would also like to know if women held at the Busmantsi Home have access to the rooms for religious practice and the library.**

e. health care

37. Health-care provision at the Busmantsi Home was generally good, due to the presence of a full-time doctor and nurse. There were no health-care staff present at the weekend or after 5.30 p.m. on weekdays, but the Home had an ambulance vehicle available for transfers to the Ministry of Internal Affairs hospital.

Foreign nationals were examined on arrival as well as departure and health care was reportedly provided free of charge. Further, there were possibilities for referral to outside specialists and hospital facilities. That said, some detained persons complained about access to the doctor, which was effectively dependent on custodial staff, as the doctor did not make a practice of going around the accommodation building and, in particular, did not visit the solitary confinement unit. Some complaints were also heard about insufficient attention to detainees' health problems (the lack of interpretation engendered poor communication with health-care staff) and delays in access to a dentist.

38. The system for keeping medical records left something to be desired. Each arrival and departure examination involved the completion of a one-page form which was filed by date. The doctor also kept a new arrivals register, a departures register, and a note book with information on consultations in diary form. However, there were no personal medical files, which made it difficult to follow the medical history of individual detainees.

39. **The CPT recommends that steps be taken at the Busmantsi Home to ensure that:**

- **detained persons have unrestricted and reasonably rapid access to the doctor and outside specialists;**
- **personal medical files are opened in respect of all detained persons.**

Further, the Committee wishes to stress that the health-care service should be very attentive to the situation of foreign nationals placed under conditions of solitary confinement. **In this regard, the CPT recommends that such placement be immediately brought to the attention of the health-care service. Further, a doctor or nurse reporting to the doctor should visit on a daily basis persons held under conditions of solitary confinement and provide them with prompt medical assistance and treatment at the request of such persons or staff.**

40. The delegation noted that as a positive point that psychological and psychiatric support was available to foreign nationals held in the Busmantsi Home. As already noted, the establishment employed two psychologists. Further, consultations with a psychiatrist (with the assistance of an interpreter) and transfer to a psychiatric hospital were in principle possible. That said, the delegation came across a number of foreign detainees who appeared to have significant psychological problems.

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

f. other issues of relevance to the CPT's mandate

41. With regard to staff, the Busmantsi Home employed 7 heads of sections, 4 interviewers, 2 psychologists, 54 police officers (security staff) and 42 house-keeping staff. The delegation was informed that there were a number of vacancies (e.g. one psychologist post, 56 police officers' posts). Thirty more police officers were being trained and about to start working at the Home. Only the security staff worked at weekends (on 12-hour shifts).

42. The delegation noted that in the men's section, there was little communication between staff and detainees; by contrast, in the female section, communication between staff and detainees appeared to be significantly better. It was noteworthy that no interpreters were included in the staff. The delegation met several foreign nationals whose stress was aggravated by their inability to communicate with staff (most of whom spoke only Bulgarian) and understand the documentation provided to them. The current situation, in which the majority of staff present (and the only staff present at weekends) are police officers exercising a guarding function, with a small team of specialised staff handling all substantive interactions with foreign nationals, is not the most appropriate model.

The Home's management indicated that security staff received on-going training on a quarterly basis according to a programme applied to all Ministry of Interior officers. Whereas the provision of on-going training is a positive feature, the CPT considers that staff working at a centre for foreign nationals should form a separate service from the police service. Staff recruitment (with specifications to include some people who can speak languages other than Bulgarian) and training should distinguish the specific work with foreign detainees from general police work. In particular, staff need to develop their knowledge about the legal status of foreign national detainees and the procedures applicable to them, as well as to be sensitised to cultural differences.

**The CPT recommends that the Bulgarian authorities take steps to improve the selection of staff employed at the Busmantsi Home and to develop specialised training for this type of work, in the light of the preceding remarks.**

43. The Home's management followed a policy of minimal restriction on contacts with the outside world in keeping with the legal status of the foreign nationals. The delegation observed that they were allowed to retain mobile telephones (without camera functions) and had access to card-operated fixed telephones. Visits from family or friends were possible twice a week. Further, there were reportedly no restrictions on visits from lawyers and consular representatives.

44. The Internal Regulations of the Busmantsi Home envisage placement in a solitary confinement cell as a disciplinary sanction. The solitary confinement unit, located in a separate building, comprised 3 cells which were quite large, with an open barred front facing onto a corridor with good natural light, a toilet and sink. A mattress and blankets were placed on the floor of the cell which was in use at the time of the visit.

The delegation heard allegations from persons who had been held in the solitary confinement unit (sometimes for months on end) that they had had no access to daily outdoor exercise. Further, it was alleged that access to a shower was not guaranteed.

The lack of a dedicated register for placements in the unit and the absence of time limits on such placements are additional issues of concern. It also appeared from interviews with detained persons that the procedure for placement in a solitary confinement cell was not transparent and that staff had a wide margin of discretion to impose such placement.

**The CPT recommends that:**

- **conditions in the solitary confinement unit at the Busmantsi Home be improved, in the light of the above remarks;**
- **persons placed in the solitary confinement unit be guaranteed one hour of outdoor exercise per day as well as access to a shower;**
- **a clear disciplinary procedure be adopted, affording detained persons the rights to be informed in writing of the charges against them, to call witnesses on their own behalf, to be heard on the subject of the offence of which they are accused, and to appeal to a higher authority against any sanctions imposed;**
- **placement in the solitary confinement unit be time-limited;**
- **a separate register be established for the use of the solitary confinement unit, setting out the full details of the persons held in it: date and time of entering and leaving, grounds for placement, etc.**

- g. safeguards for persons detained under aliens legislation

45. The order for detention of persons held at Busmantsi specified the right to legal assistance. Some foreign nationals reported having private lawyers. Further, the Bulgarian Helsinki Committee visited once a week to provide pro bono legal assistance. Despite NGO involvement, some foreign nationals complained of needing more information on their legal situation. Further, several persons alleged that meetings with lawyers were not confidential as the door remained open. **The CPT would like to know if the system of legal aid extends to detained foreign nationals.**

46. The delegation noted that many foreign nationals lacked information on their rights, the procedure applicable to them and the internal rules of the Home. The internal regulations which were posted around the detention areas were, as a rule, available only in Bulgarian and Arabic. The delegation was given by the Home's management a leaflet produced in various languages (Bulgarian, Russian, Arabic, Persian, French, English) with excerpts of the internal rules. That said, none of the foreign nationals with whom the delegation spoke recalled having seen the leaflet.

A positive aspect was the involvement of NGOs in the provision of assistance and information to foreign nationals. However, the fact that outside bodies have been contracted to help foreign detainees does not discharge the State from its responsibility to provide information and assistance to such detainees. **The CPT recommends that steps be taken to ensure that written information on detainees' rights, the internal rules and applicable procedures are available in a variety of languages and given to detainees upon admission to the Busmansti Home.**

**The Committee also recommends that the Bulgarian authorities ensure that foreign detainees are duly informed about the state of their case. In this context, the CPT invites the Bulgarian authorities to seek ways to improve channels of communication between the Busmantsi Home and the State Agency for Refugees (SAR).**

47. Concerning the provision of interpretation, as already noted in paragraph 42, the Busmantsi Home did not employ interpreters, and language barriers represented a significant problem. The practice of fellow detainees occasionally providing interpretation is highly questionable. The problem of absence of interpreters amongst the Home's staff was compounded by the SAR's reported lack of interpreters in all languages. **The CPT recommends that the Bulgarian authorities take steps to ensure that foreign nationals detained at the Busmantsi Home receive, when necessary, the assistance of qualified interpreters. The use of fellow detainees as interpreters should, in principle, be avoided.**

48. The CPT acknowledges that following amendments made in 2007 to Section 46 of the Law on Foreigners, orders imposing coercive administrative measures may now be appealed before the Supreme Administrative Court whose decision is final.

The CPT considers that foreign nationals detained under aliens legislation should benefit from an effective legal remedy enabling them to have the lawfulness of their detention decided speedily before a judicial body. This judicial review should entail an oral hearing with legal assistance, if necessary provided free of charge to the person concerned, and interpretation. Moreover, detained foreign nationals should be expressly informed of this legal remedy. **The Committee would like to be informed if the previously-mentioned guarantees are offered to foreign nationals subject to coercive administrative measures (including those facing expulsion on grounds of national security).**

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

### **1. Investigation detention facilities (IDFs)**

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

49. Since the previous visit in 2006, the Bulgarian authorities have closed down a number of investigation detention facilities located in basements and/or offering an inadequate material environment, and have replaced them in some towns (e.g. Elhovo, Smolyan) with newly constructed buildings. At the time of the 2008 visit, a total of 43 IDFs were operational in the country (compared to 51 in 2006). According to information provided by the authorities, there had been a further drop in the number of persons held in IDFs (945 on 11 December 2008, for a total capacity of 1,822 places). Further, the delegation was informed that the positive trend of reducing the amount of time spent in IDFs had been maintained.

Despite efforts to improve conditions of detention and pursue refurbishment, there remained 17 IDFs without an open-air exercise yard and 5 without rooms for visits. Further, cells in only 11 of the IDFs had integral sanitation. The authorities envisaged further improvements as part of a long-term programme for bringing conditions of detention in IDFs in line with international standards. However, it was admitted that the structural limitations of a number of facilities - which had been constructed many years ago following an outdated concept - made it difficult to achieve this goal.

**The CPT would like to receive up-to-date information on the programme for improvement of the IDF system, including a time schedule for its implementation.**

50. The CPT's delegation visited two IDFs, in Pernik and Slivnitsa (the latter visit was of a follow-up nature).

The delegation chose not to re-visit Plovdiv IDF in the light of information received at the outset of the 2008 visit. In the report on the 2006 visit, the CPT had called upon the Bulgarian authorities to transfer without delay the Plovdiv facility - conditions in which could fairly be described as inhuman and degrading - to an appropriate building. The fundamental inadequacy of the IDF in Plovdiv had already been the subject of recommendations emanating from previous CPT visits (namely, in 1999 and 2002). Over the years, the Committee had received a series of accounts of plans to replace the existing facility in Plovdiv, with various reports of administrative delays. At the outset of the 2008 visit, the delegation learned that temporary measures had been taken to alleviate the problems at Plovdiv IDF. One floor of the facility had been taken out of use and two-thirds of the detained persons had been transferred to a refurbished wing of Plovdiv Prison; in the meantime, construction works had started on the prison site with a view to transforming a former workshop into a building which would house the IDF. The expected date of entry into service of the new facility was April 2009. **The CPT would like to receive confirmation of the entry into force of the new IDF in Plovdiv and details on its capacity and conditions of detention.**

b. ill-treatment

51. Detainees interviewed at the two IDFs visited made no complaints about their treatment by custodial staff and there were no other indications of physical ill-treatment.

c. conditions of detention

52. As regards material conditions of detention, both Pernik and Slivnitsa IDFs were located in old buildings and had a similar outdated design. The cells had no windows and therefore no direct access to natural light, a deficiency somewhat mitigated by the presence of grilled doors (in addition to the outer solid doors) or apertures in the cell doors which, when left opened, allowed the entry of some natural light and ventilation from the corridor. Further, the cells had no integral sanitation.

The *IDF in Pernik* had a capacity of 26 beds distributed among 9 cells (measuring between 4 and 7 m<sup>2</sup>). Even though only 10 persons were in detention at the time of the visit, overcrowding was observed in some of the cells (e.g. 4 persons in a cell of some 7 m<sup>2</sup>). In addition to the above-mentioned absence of windows in the cells, artificial lighting and ventilation left something to be desired. Further, some of the cells were rather dirty.

*Slivnitsa IDF* had previously been visited by the CPT in 2006<sup>11</sup>. There had been no physical changes since the 2006 visit other than minor redecoration. The 4 cells continued to offer cramped conditions: although the number of persons detained at the time of the visit (5) was lower than in 2006, the cells still had 2 bunk beds (i.e. 4 sleeping places) each and one of them, measuring some 5 m<sup>2</sup>, was accommodating 3 persons. Further, artificial lighting was poor, the bedding filthy, and the mattresses thin and tattered.

53. Detainees at both IDFs had access to a shower once a week. Hardly any complaints were heard about access to the toilet, including during the night. That said, at both IDFs visited, conditions in the toilet/shower rooms displayed certain deficiencies: in Pernik, the “shower” was a hole in the ceiling above the floor-level toilet, and in Slivnitsa, there was no artificial lighting and the sink had only a cold water tap.

As regards personal hygiene items, only soap was provided. Detained persons washed their clothes and bed linen themselves and dried them on the radiators in the corridor.

54. The situation as regards food at the Slivnitsa IDF remained the same: no cooked food was provided and a detainee who had spent 3 months at the facility complained that he had lost weight. The situation was better in Pernik where cooked food was brought in from the municipal kitchen. The daily food allowance was said to be 1.50 BGL in Slivnitsa and 2.50 BGL in Pernik.

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<sup>11</sup> See paragraph 49 of CPT/Inf (2008) 11.

55. The total lack of activities (with the exception of one hour of outdoor exercise which, at Slivnitsa, was allegedly not offered at weekends) remains a matter of serious concern. No changes had been made to the facility for outdoor exercise at Slivnitsa (a roofless room measuring some 5 m<sup>2</sup>). As for the Pernik IDF, it had an outdoor exercise area divided into two parts (measuring respectively some 14 and 20 m<sup>2</sup>), equipped with a shelter.

Inside the cells, detainees were allowed reading matter, but only a few of them had books and old newspapers provided by their families.

56. Conditions of detention in IDFs have been a major theme of the CPT's dialogue with the Bulgarian authorities over the years. Although the Committee has witnessed certain progress, the pace of improvement is slow. The conditions witnessed during the 2008 visit are indicative of failure to meet the CPT's long-standing recommendations. Moreover, they are in violation of Bulgarian legislation. The Committee understands that an important investment is required to make a difference and **calls upon the Bulgarian authorities to step up their efforts to bring IDFs up to the required standards. Measures should be taken without further delay at the Pernik and Slivnitsa IDFs, as well as other investigation detention facilities throughout the country, to:**

- **reduce cell occupancy rates to an acceptable level, applying a minimum standard of 4 m<sup>2</sup> per detainee in multiple-occupancy cells; cells of less than 6 m<sup>2</sup> should be withdrawn from service and cells measuring 6 m<sup>2</sup> should be used for accommodating one person;**
- **improve cell lighting, by providing access to natural light and adequate artificial lighting, and ventilation in the cells;**
- **improve the state of the beds and bedding provided to detained persons;**
- **introduce a standard food budget for IDFs and ensure that detained persons are provided with three meals a day, including at least one cooked meal;**
- **ensure that detainees are in a position to maintain their personal hygiene and are provided with essential personal hygiene products;**
- **provide detainees with sufficient materials to clean their cells;**
- **ensure that detainees are guaranteed their entitlement of one hour of genuine outside exercise per day (two hours in the case of juveniles);**
- **provide other purposeful activities to detainees; particular attention should be paid to the special needs of juveniles.**

d. health care

57. A positive point noted during the 2008 visit was that all detainees were medically screened soon after their admission (either on the day of admission or, if the person arrived at the weekend, on the Monday).

The *IDF in Pernik* employed a full-time feldsher (working from 8.30 a.m. to 5 p.m. on weekdays). At night and weekends, staff could call an ambulance if necessary. Further, a local GP had a contract to provide consultations but admittedly rarely came to the facility.

No health-care staff was employed at the *Slivnitsa IDF* but staff from the medical centre of the Sofia IDF attended the facility periodically to conduct examinations. The delegation was told that the local emergency service ensured initial screening and emergency care in the first 24 hours of detention.

58. The delegation was informed that there was an obligation to report injuries observed on newly-arrived detainees to the Prosecutor's Office in writing. The feldsher/doctor who performed the initial examination recorded the injuries (as well as the detained person's allegations concerning their origin) and informed the Director of the IDF, who in turn transmitted the medical report to the supervising prosecutor. This is a welcome development which is in line with the recommendation made by the CPT in the 2006 visit report.

59. Detainees could be transferred to an outside medical facility in case of need. As in 2006, authorisation was needed from a prosecutor for such transfers, but the delegation was informed that if the case was urgent, the Director of the Main Directorate for Execution of Punishments could be contacted and could give consent. Nevertheless, some detainees indicated that they had had to wait a long time before receiving medical assistance (e.g. dental care in case of toothache). **The CPT recommends that further steps be taken to ensure that detained persons in need of specialised medical care or hospitalisation are promptly transferred to an outside medical facility.**

It should also be noted that some detained persons indicated that they had to buy medication themselves. **The Committee would like to receive the comments of the Bulgarian authorities on this matter.**

60. The delegation's observations from the 2008 visit suggest that the keeping of medical records and the observance of their confidentiality continue to leave something to be desired. At the Slivnitsa IDF, the so-called "ambulatory book" was kept openly on a shelf in the staff room and thus available for all to view. Further, the medical form drawn up in respect of all new arrivals (containing the diagnosis and examination results) was placed in detainees' personal (legal) files.

The keeping of medical information was better at the Pernik IDF where, in addition to the medical form for the first examination (which, as in Slivnitsa, was filed in the detainee's personal file), a separate medical file was maintained for each detainee; these individual files included diagnosis, treatment and a drug chart, and were kept secure and confidential. The "ambulatory book" contained the same information as was recorded in the personal files chronologically by date of examination.

**The CPT recommends that the Bulgarian authorities take steps to introduce a more consistent system for keeping medical documentation at IDFs throughout the country, which takes into account the need to respect medical confidentiality and to maintain continuity of care.**

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

61. Although possibilities for persons detained in IDFs to maintain contact with the outside world have improved over the years, there remain some matters of concern.

The visit entitlement of persons held in IDFs has remained unchanged (at least two visits of up to 45 minutes each per month, unless a restriction has been imposed by a prosecutor). Neither of the two IDFs visited had a dedicated room for visits.

As regards access to the phone, it continued to be limited to twice a week, and a special request had to be filed for each phone call. Although staff affirmed that this requirement did not apply to contacts with lawyers, detainees complained that they could not freely telephone their lawyers (the lawyers apparently had to be contacted by the investigators). **The CPT would like to receive the comments of the Bulgarian authorities on this matter.**

**Further, the Committee recommends that steps be taken to equip the Pernik and Slivnitsa IDFs with proper visiting rooms.**

62. At the time of the visit, the IDF in Slivnitsa was holding 3 foreign nationals who had been apprehended while trying to cross the Bulgarian border illegally (according to staff, the holding of foreign nationals at that facility was quite a frequent occurrence). From the delegation's interviews with the detained foreign nationals, it appeared that there were problems of obtaining information on their rights and the procedures applicable to them and of communicating with staff. Information on the IDF's internal rules was posted inside the cells in Bulgarian and English (languages which two of the detained foreign nationals did not understand). Further, upon examination of the detainees' personal files, the delegation noted that they had been asked to sign various legal documents and information sheets in Bulgarian.

**The CPT recommends that the provision of information to foreign nationals detained in IDFs about their rights be improved, by means of translating the information sheet and the internal regulations into a variety of languages.**

63. The CPT welcomes the fact that independent monitoring (by the Ombudsman and NGOs) is carried in IDFs. However, non-governmental bodies such as the Bulgarian Helsinki Committee continue to be obliged to seek the prosecutor's permission in every case when they wish to speak in private with a pre-trial detainee. **The CPT considers that, in order for independent monitoring to be effective, there should be confidential access to persons deprived of their liberty. Any restrictions on such access should be exceptional and decided case by case, based on the particular circumstances.**

## 2. Prisons

### a. preliminary remarks

64. At the outset of the visit, the Director of the Main Directorate for the Execution of Punishments informed the delegation of progress made in tackling the problem of prison overcrowding. The total number of inmates in the country had dropped by some 18% since the CPT's previous visit (there were 9,343 prisoners on 11 December 2008, as compared to 11,452 in September 2006). The reduction in the prison population was mainly attributed to the increased use of non-custodial measures, notably probation. With a view to further decreasing the number of prisoners, the Main Directorate had submitted to Parliament a proposal for amnesty which, if approved, would result in the release of some 3,300 inmates.

The Ministry of Justice had also adopted a "Strategy for development of the system of places of deprivation of liberty" in the period 2009 - 2015, including an implementation plan and an investment programme for the expansion and modernisation of the prison estate. As part of this strategy, the construction of two new prisons (in Sofia and Varna) and the conversion of former army buildings into prisons (in Haskovo, Pleven and Veliko Turnovo) was envisaged. At the same time, the delegation was told that an overall problem was the lack of financing from the state budget, there being insufficient money for prisoners' food, clothing, health care and the refurbishment of the prison estate.

Another development concerned the drafting of a new Law on Execution of Punishments which was being examined by the Council of Ministers. The law introduces, *inter alia*, a requirement of 4 m<sup>2</sup> of living space per prisoner. It also contains provisions enabling the Ministry of Justice to conclude private-public partnership agreements for the prison-building programme and envisages the restoration of the independent legal status of the Main Directorate for the Execution of Punishments.

65. The CPT appreciates the measures already taken or planned with a view to reforming the Bulgarian penitentiary system. **As regards in particular efforts to combat prison overcrowding, the Bulgarian authorities should be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole), and Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse.**

As regards the draft Law on Execution of Punishments, **the Committee trusts that the recommendations and comments made in this and previous CPT visit reports will be taken into account during its consideration.**

66. Prison staffing was an issue of particular concern for the CPT at the time of the 2006 visit. The Committee recommended that the Bulgarian authorities reconsider this issue as a matter of urgency, with a view to increasing the level of staffing in the prisons visited and in other prisons where similar low levels of staffing occur.

The above-mentioned decrease in the prisoner population could have been an opportunity to achieve a better staffing ratio. Instead, the delegation was informed that, contrary to the CPT's recommendation, the number of prison staff had decreased as a result of 236 staff members being made redundant in April 2008. It appeared that the financing of much needed material improvements in the prison system had been made at the expense of other provision, in particular staff. This is not a viable path to overall improvement of the treatment of prisoners. **The CPT calls upon the Bulgarian authorities to improve prison staffing levels as a priority and to develop a recruitment strategy based on proper funding and enhanced conditions of service.**

67. The Bulgarian authorities informed the delegation that there were 148 life-sentenced prisoners in the country (according to May 2008 statistics); about half of these prisoners were not eligible for parole consideration. A working group was in the process of drafting amendments to the Criminal Code which included provision to eliminate the sentence of life imprisonment without possibility of parole. This is a welcome development. Indeed, the CPT has serious reservations about the very concept according to which life-sentenced prisoners are considered once and for all to be a permanent threat to the community and are deprived of any hope of being granted conditional release.

In this regard, the CPT would like to refer to the Committee of Ministers' Recommendation Rec (2006) 2 on the European Prison Rules of 11 January 2006<sup>12</sup> as well as to paragraph 4.a of its Recommendation Rec (2003) 22 on conditional release (parole) of 24 September 2003, which clearly indicates that the law should make conditional release available to all sentenced prisoners, including life-sentenced prisoners. The explanatory memorandum to the latter recommendation emphasised that life-sentenced prisoners should not be deprived of the hope of being granted release. Firstly, no one can reasonably argue that all lifers will always remain dangerous to society. Secondly, the detention of persons who have no hope of release poses severe management problems in terms of creating incentives to co-operate and address disruptive behaviour, the delivery of personal development programmes, the organisation of sentence plans and security.

In the light of the above, **the CPT invites the Bulgarian authorities to amend the legislation with a view to making conditional release (parole) available to all life-sentenced prisoners, subject to a review of the threat to society posed by them on the basis of an individual risk assessment.**

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<sup>12</sup> See in particular Rule 6, according to which all detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty.

b. follow-up visit to Sofia Central Prison

i. *introduction*

68. The follow-up visit to Sofia Prison was of a targeted nature and was aimed at assessing progress made on specific issues of concern which had been raised in the report on the 2006 visit<sup>13</sup>.

With an official capacity of 650, at the time of the 2008 visit, the closed section of Sofia Prison was holding 875 prisoners, which represented a reduction of some 15% compared to the numbers held in September 2006<sup>14</sup>. The inmate population included 18 prisoners serving life sentences (of whom 10 were without the right to parole) and 114 foreign prisoners who were accommodated separately from other prisoners.

The CPT's delegation concentrated on Group 1 (lifers), Group 2 (sentenced prisoners) and Group 10 (foreign prisoners). Other aspects on which the delegation focused were staffing levels, conditions in the kitchen and in the basement of the main prison building.

69. The delegation heard no allegations of physical ill-treatment of prisoners by staff, which is a positive reflection on those working at the establishment.

ii. *staffing and management issues*

70. Low staffing levels at Sofia Prison were an issue of serious concern for the CPT at the time of the 2006 visit. In the report on that visit, the Committee stressed that an inadequate staff complement (especially at night) and the system which required staff to work for 24 hours at a time, coupled with overcrowding, could easily compromise the safety of staff and prisoners alike.

The Director of Sofia Prison informed the delegation which carried out the 2008 visit that the number of staff posts had remained unchanged since 2006. There were 152 basic-grade officers ("guards") in the closed section of the prison<sup>15</sup>, with some 30 guards working on each 24-hour shift. A pilot scheme to introduce a 12-hour shift pattern had not succeeded. It would appear that the pattern of 24-hour shifts, followed by a 72-hour break, was an opportunity for prison officers to take on another job during off-duty time and thus supplement their low salaries.

Another factor inhibiting the development of a more professional prison service was recruitment according to the system established by the Ministry of the Interior. As the Director himself pointed out, the job description is inappropriately based on the work of police officers, whereas recruitment to the prison service should be about custody and care of prisoners.

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<sup>13</sup> See paragraphs 70 and following of document CPT/Inf (2008) 11.

<sup>14</sup> In addition, 1,177 inmates were being held in the three prison hostels which form part of Sofia Prison (622 in Kremikovtsi, 330 in Kazichene and 225 in Sofia).

<sup>15</sup> Two posts of "guards" were vacant.

In the CPT's view, a low staff complement impedes the development of positive relations between staff and prisoners, precludes the emergence of dynamic security and has a negative influence on the quality and level of the activities provided to prisoners. Further, the Committee considers that the above-mentioned 24-hour shift pattern negatively affects professional standards. An alternative shift pattern would succeed if prison officers were paid sufficiently to allow them to adhere to the rule of only working as prison officers. This might also enhance their standing in the community and attract candidates from a wider pool<sup>16</sup>. To obtain personnel of the right calibre, the authorities must be prepared to invest adequate resources into the process of recruitment and training. **The CPT recommends that the Bulgarian authorities take steps to increase staffing levels and change the staff attendance system at Sofia Prison, in the light of the preceding remarks.**

*iii. conditions of detention*

71. Despite the decrease in the number of inmates, the main building of Sofia Prison remained overcrowded (e.g. in Group 2, the delegation saw 7 prisoners in a cell measuring some 15 m<sup>2</sup> and 14 prisoners in a cell of some 40 m<sup>2</sup>; in Group 10, there were 8 prisoners in a cell of some 27 m<sup>2</sup>).

On a more positive note, cells throughout the prison now have integral sanitation which has resolved the problems experienced by prisoners in the past of access to the toilet at night. That said, the delegation observed that not all in-cell toilets in Group 2 had appropriate partitioning. **The CPT recommends that steps be taken to remedy this failing.**

72. The delegation was pleased to observe that the basement of the main building was no longer used for holding prisoners in transit, as recommended by the CPT in the report on the 2006 visit<sup>17</sup>. Refurbishment was underway, with one room having been transformed into a meeting room for the board of inmates, and another one being equipped for screening prisoners for contagious diseases. **The CPT would like to receive information on the entry into service of the latter facility.**

73. The extremely poor hygiene in the kitchen, food storage, serving and eating areas had been a matter of serious concern during the 2006 visit. In their response to the 2006 visit report, the Bulgarian authorities indicated that the kitchen and associated areas had been refurbished and the prisoners working in the kitchen had undergone a programme of training.

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<sup>16</sup> In this connection, see Rules 76, 78 and 79 of the European Prison Rules and the comments hereto.

<sup>17</sup> See paragraphs 73 and 77 of CPT/Inf (2008) 11.

The delegation which carried out the 2008 visit saw signs of repainting and other improvements, such as new ovens, stainless steel tables and other equipment. Nevertheless, there remained hygiene problems. Not all the kitchen equipment had been replaced (e.g. the table on which bread loaves were cut had a surface which was disintegrating), and some of the new equipment was beginning to show problems deriving from high usage and lack of proper cleaning. In the meat storage room, the delegation saw pieces of recently boiled veal which had been stored in large open containers and hanging over the sides of the containers, and in the fruit and vegetable storage areas, a box of apples beginning to decay. The delegation saw a mouse scurry away in the kitchen corridor. Further, the washing-up room still had water on the floor (a rubber hose attached to the sink led across the floor to an open drainage hole in the centre of the room).

Only a small number of prisoners continued to take their meals in the dining area (the rest of the inmates were served food inside their cells). The area contained fewer tables and benches and appeared cleaner, although by no means clean.

It is undoubtedly a substantial undertaking to cater for the number of inmates at Sofia Prison. This, together with the constraints caused by the fact that the kitchen is housed in an old building, pose particular challenges for the maintenance of food hygiene. Nonetheless, food hygiene supervision and health and safety standards must be properly maintained. **The CPT recommends that the Bulgarian authorities take further steps to improve the hygiene standards in the kitchen and associated areas of Sofia Prison, in the light of the preceding remarks.**

*iv. prisoners sentenced to life imprisonment*

74. As noted in paragraph 68, at the time of the visit, there were 18 life-sentenced prisoners at Sofia Prison. Three of the them had been integrated into the mainstream prisoner population, while the remainder were being held in a separate unit (Group 1).

75. Material conditions of detention in the lifer unit had remained basically unchanged since the 2006 visit<sup>18</sup>. The installation of integral sanitation in the cells, with a shower head over the toilet and access to hot water all day, was a positive feature; however, as a result, prisoners had less occasions to leave their cells and interact with staff.

Some of the lifers had their own television sets and playstations in their cells. At the time of the 2006 visit, lifers had had hot plates in their cells, to cook food, which increased their sense of independence and helped to pass the time. The hot plates had reportedly been withdrawn a few weeks before the visit for safety reasons, and lifers had immersion coils for heating water.

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<sup>18</sup> See paragraph 101 of CPT/Inf (2008) 11.

76. As regards activities, one notable change since the 2006 visit was the entry into operation of a social room (“club”) in the lifer unit. This good facility was decorated in pleasant light colours and furnished with bookcases, a chess table with two chairs, a larger table with five chairs, a cupboard with games including a backgammon board, a television set with DVD player and a sink. Lifers were divided into three subgroups on the basis of common interests (playing cards, chess, discussing legal matters, etc.) and each group was allowed to use the social room for one hour each weekday. At weekends, there were only the two officers present, which made it difficult to organise activities.

Lifers who were willing to work (12 of the 15 in the lifers unit) worked in their cells on the same kinds of piece work as was observed on the 2006 visit (e.g. putting strings on boutique bags).

Further, outdoor exercise for one and a half hours per day was offered to all lifers. The delegation noted that a shelter had been provided at one end of the exercise yard.

Despite the above-mentioned welcome introduction of a social room, which increased the amount of time spent out of the cells and in association with other prisoners, the daily regime in the lifer unit remained monotonous. **The CPT recommends that the Bulgarian authorities strive to enhance the programme of activities provided to life-sentenced prisoners at Sofia Prison, if necessary, by increasing staffing.**

77. Staff on the lifer unit indicated that two of the inmates were in their first 5 years of a life sentence and were therefore subject to particular security restrictions. The two lifers were escorted in handcuffs and were not allowed television. It was up to the Director to review the use of handcuffs, but there was no time limit on their use and no regular review period.

As already stated in the report on the 2006 visit, the CPT considers that there can be no justification for routinely handcuffing a prisoner within a secure environment, provided there is proper staff supervision. **The Committee recommends that the Bulgarian authorities review the policy of handcuffing life-sentenced prisoners when outside their cells.**

78. The CPT has in the past expressed its serious misgivings about the current legal provisions whereby lifers are systematically subjected to a strict and segregated regime for an initial period ordered by the sentencing court (i.e. 5 years). This approach runs counter to the generally accepted principle that offenders are sent to prison as a punishment, not to receive punishment.

The Committee does not question that it may be necessary for some prisoners to be subject, for a certain period of time, to a special security regime. However, the decision whether or not to impose such a measure should lie with the prison authorities, be based on an individual risk assessment and be applied only for the shortest period of time. A special security regime should be seen as a tool of prison management, and not be made part of the catalogue of criminal sanctions to be imposed by courts.

In many countries, lifers are not viewed as necessarily more dangerous than other prisoners; many of them have a long-term interest in a stable and conflict free environment. Therefore, the approach to the lifer management should proceed from individual risk and needs assessment to allow decisions concerning security, including the degree of contact with others, to be made on a case-by-case basis.

Whereas lifers should not be systematically segregated from other prisoners, special provision should be made to assist lifers and other long-term prisoners to deal with the prospect of many years in prison. In this respect, reference should be made to Rule 103.8 of the European Prison Rules which states that “particular attention shall be paid to providing appropriate sentence plans and regimes for life-sentenced prisoners”, taking into consideration the principles and norms laid down in the Council of Europe Recommendation on the “management by prison administrations of life-sentence and other long term prisoners”.

Pursuant to Bulgarian law, after the initial 5 years of their sentence, lifers are eligible for allocation within the mainstream prisoner population if they have behaved well and have had no disciplinary punishments. However, in practice, only a minority of lifers (3 out of 18 at Sofia Prison) had found their way into the mainstream, some after many years served in the lifer unit. **The CPT invites the Bulgarian authorities to build on the success of the “experiment” of integrating some life-sentenced prisoners into the mainstream prison population, which should be considered as an appropriate part of the management of this category of prisoner and reinforced by legislative measures.**

**More generally, the CPT recommends that the Bulgarian authorities review the legal provisions and practice concerning the treatment of life-sentenced prisoners, in the light of the above remarks.**

v. *foreign prisoners*

79. The delegation was informed that a number of foreign national prisoners had left Sofia Prison since the 2006 visit: some had been granted parole, while others had been transferred to open and semi-open facilities. Further, although the legislation in force still required foreign prisoners to be held separately, they reportedly enjoyed the same regime as Bulgarian prisoners.

It transpired from interviews with foreign prisoners that many of them had work (e.g. in the printing workshop, a new workshop for producing PVC window frames, the kitchen, etc.). Further, they had access to a newly opened gym (with weight-lifting equipment) and a computer room. As for outdoor exercise, foreign prisoners confirmed that it lasted for one and a half hours a day, as for the rest of inmates at Sofia Prison.

That said, the delegation again received some complaints about difficulties to obtain home leave and be granted conditional leave (parole). Further, several foreign prisoners complained about the fact that they did not have work and hence had no money to buy basic necessities, including stamps for sending letters and phone cards. **The CPT recommends that the Bulgarian authorities make further efforts to improve the situation of foreign national prisoners at Sofia Prison.**

80. The delegation learned that, following the signing of a contract between the Ministry of Justice and a Hungarian telephone provider approximately a year before the visit, the price of telephone calls had substantially increased. Although foreign prisoners claimed to be particularly affected by the change, this would appear to be an issue for prisoners throughout the country. **The CPT invites the Bulgarian authorities to review prisoners' access to reasonably-priced telephone communications.**

*vi. health care*

81. The delegation was pleased to note that several of the recommendations made in the report on the 2006 visit had been implemented. In particular, the dental surgery had been refurbished and properly equipped, and the psychiatrist previously working at the prison hospital had been transferred to the medical centre of Sofia Prison some 1.5 months prior to the visit. That said, the latter change was still too recent to have made an impact on the provision of psychiatric care to prisoners.

Further, the delegation was informed that pursuant to an instruction given by the prison Director, doctors were reporting to him in writing all cases of serious injuries observed on prisoners (both upon arrival and during imprisonment).

82. As regards staff resources, the number of doctors had remained unchanged (2) and there were only 2 nurses. Consequently, **the CPT reiterates its recommendations that:**

- **one more doctor be appointed at Sofia Prison;**
- **the number of nurses be increased.**

**APPENDIX I**

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

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

**1. Police custody**

*Preliminary remarks*

recommendations

- the Bulgarian authorities to take steps to ensure that the detention of persons by the police is carried out in strict conformity with the legal provisions (paragraph 9).

comments

- the Bulgarian authorities are invited to reduce to a maximum of 72 hours the total period during which persons may be deprived of their liberty prior to being brought before a judge (paragraph 8).

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

recommendations

- the Bulgarian authorities to take steps to ensure that persons detained by the police are systematically given feedback as to whether the notification of their custody has been performed (paragraph 12);
- the CPT reiterates its recommendations that:
  - the Bulgarian authorities recall to all police officers the legal obligation to grant access to a lawyer from the very outset of a person's deprivation of liberty;
  - the exercise of the right of access to a lawyer be recorded in writing (e.g. in a special register of visits by lawyers or as an entry in the general police custody register);

- steps be taken, in consultation with the Bar Association, to make the system of legal aid truly effective, inter alia through the provision of proper funding and practical arrangements to ensure that ex officio lawyers are contacted and meet their clients while in police custody

(paragraph 13);

- the existing provisions concerning medical examinations of persons in police custody to be complemented so as to make it clear that:

- the report filled out by doctors concerning injuries observed on persons in police custody should contain, in addition to a detailed description of the injuries observed, any allegations made by the detained person concerned and the doctor's conclusions as to the degree of consistency between those allegations and the objective medical findings;

- all medical examinations should be conducted out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers;

- whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a detained person, the record should be systematically brought to the attention of the relevant prosecutor

(paragraph 14);

- the confidentiality of medical data to be strictly observed, without prejudice to the right of the person concerned to make reference to that medical data (paragraph 14);

- the Bulgarian authorities to take steps to improve the provision to persons in police custody of information on their rights, in the light of the remarks in paragraph 15 (paragraph 15);

- the "declaration of rights" to be made available in the languages most commonly spoken by foreign nationals detained in Bulgaria, and to be systematically given to them at the outset of deprivation of liberty (paragraph 16);

- the independent monitoring of police establishments to be placed on a permanent footing (paragraph 19).

#### comments

- the Bulgarian authorities are invited to extend the practice of setting-up specialised police units for juveniles across the country (paragraph 17);

- there is a need to rationalise the existing system of documenting police custody, by introducing a uniform, comprehensive register which records all important aspects of custody (including whether and when the rights of access to a lawyer and notification of custody have been exercised). This would contribute to greater clarity as to the operation of the safeguards during police custody, facilitate management oversight as well as independent monitoring, and streamline police paperwork (paragraph 18).

### *Conditions of detention*

#### recommendations

- the practice of transferring foreign nationals detained at the border to Slivnitsa District Police Directorate to be stopped (paragraph 21);
- the metal rails on police premises to which persons in police custody are handcuffed to be removed (paragraph 22);
- the Bulgarian authorities to make serious efforts to bring conditions of detention in police establishments into line with the basic requirements set out in the reports on the CPT's previous visits. In particular, steps should be taken to ensure that:
  - all cells are equipped with a means of rest suitable for overnight stays;
  - all persons detained overnight are provided with clean mattresses and blankets;
  - adequate in-cell lighting (access to natural light/artificial lighting), ventilation and heating are provided;
  - police establishments are equipped with a sufficient number of cells which are of a reasonable size; all cells where persons may be held overnight should be enlarged to at least 6 m<sup>2</sup> (paragraph 24).

#### comments

- the size of the cell (less than 3 m<sup>2</sup>) at Slivnitsa District Police Directorate renders it unsuitable for use as overnight accommodation (paragraph 21);
- while it may be necessary for a criminal suspect in police custody to be handcuffed at certain stages of the procedure, handcuffs should not be used as a substitute for proper holding facilities (paragraph 22);
- the Bulgarian authorities are invited to record the provision of food to detained persons in the police custody documentation (paragraph 23).

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

### *Preliminary remarks*

#### recommendations

- the Bulgarian authorities to act in accordance with the precepts concerning deprivation of liberty of asylum seekers referred to in paragraph 26. In those instances where there are exceptional reasons for depriving a person from his liberty while awaiting an outcome of his asylum application, such reasons should be fully documented (paragraph 26).

### *Ill-treatment*

#### recommendations

- staff working at the Special Home for Temporary Placement of Foreign Nationals in Busmantsi to be given the clear message that the ill-treatment of detained persons (whether of a physical or verbal nature) is not acceptable and will be the subject of sanctions (paragraph 28).

#### comments

- the Bulgarian authorities are invited to amend the legislation with a view to introducing a time limit for the detention of foreign nationals under aliens legislation (as is already the case in the majority of European countries) (paragraph 29).

### *Risk of ill-treatment after expulsion*

#### requests for information

- a detailed account of the precise practical steps taken by the Bulgarian authorities to ensure that a foreign national subject to a coercive administrative measure is not expelled to a country where his life and freedom are jeopardised and he is exposed to the danger of persecution, torture or inhuman or humiliating treatment (including information on the applicable procedures and, in particular, the means of appeal) (paragraph 30).

### *Conditions of detention*

#### recommendations

- steps to be taken at the Busmantsi Home to:
  - ensure cell occupancy levels in the dormitories which guarantee a minimum of 4 m<sup>2</sup> per detained person;
  - restore the broken furniture, call bells and sanitary facilities to a good state of repair and provide sufficient funding for running repairs;
  - ensure that detained persons have ready access to a toilet at all times, including at night;
  - review the provision of personal hygiene products and appropriate clothing and footwear to detainees (paragraph 35);
- the Bulgarian authorities to make efforts to expand the offer of purposeful activities at the Busmantsi Home (e.g. work, education, games, provision of books and recent newspapers in various foreign languages, access to foreign TV channels). The longer the period for which persons are detained, the more developed should be the activities which are offered to them (paragraph 36).

#### comments

- it would be useful to involve detainees in the setting up of food menus, to reflect better the range of different dietary habits (paragraph 34);
- the Bulgarian authorities are invited to review the food arrangements in the Busmantsi Home in order to ensure that the dietary habits and needs of detained persons are being adequately catered for (paragraph 35).

#### requests for information

- do women held at the Busmantsi Home have access to the rooms for religious practice and the library? (paragraph 36).

### ***Health care***

#### recommendations

- steps to be taken at the Busmantsi Home to ensure that:
  - detained persons have unrestricted and reasonably rapid access to the doctor and outside specialists;
  - personal medical files are opened in respect of all detained persons (paragraph 39);
- the placement of foreign nationals under conditions of solitary confinement to be immediately brought to the attention of the health-care service. Further, a doctor or nurse reporting to the doctor should visit on a daily basis persons held under conditions of solitary confinement and provide them with prompt medical assistance and treatment at the request of such persons or staff (paragraph 39).

#### comments

- the Bulgarian authorities are invited to reinforce the provision of psychiatric and psychological care to foreign nationals detained at the Busmantsi Home (paragraph 40).

### ***Other issues of relevance to the CPT's mandate***

#### recommendations

- the Bulgarian authorities to take steps to improve the selection of staff employed at the Busmantsi Home and to develop specialised training for this type of work, in the light of the remarks in paragraph 42 (paragraph 42);
- the CPT recommends that:
  - conditions in the solitary confinement unit at the Busmantsi Home be improved, in the light of the remarks in paragraph 44;
  - persons placed in the solitary confinement unit be guaranteed one hour of outdoor exercise per day as well as access to a shower;
  - a clear disciplinary procedure be adopted, affording detained persons the rights to be informed in writing of the charges against them, to call witnesses on their own behalf, to be heard on the subject of the offence of which they are accused, and to appeal to a higher authority against any sanctions imposed;
  - placement in the solitary confinement unit be time-limited;

- a separate register be established for the use of the solitary confinement unit, setting out the full details of the persons held in it: date and time of entering and leaving, grounds for placement, etc.  
(paragraph 44).

### *Safeguards for persons detained under aliens legislation*

#### recommendations

- steps to be taken to ensure that written information on detainees' rights, the internal rules and applicable procedures are available in a variety of languages and given to detainees upon admission to the Busmansti Home (paragraph 46);
- the Bulgarian authorities to ensure that foreign detainees are duly informed about the state of their case (paragraph 46).
- the Bulgarian authorities to take steps to ensure that foreign nationals detained at the Busmantsi Home receive, when necessary, the assistance of qualified interpreters. The use of fellow detainees as interpreters should, in principle, be avoided (paragraph 47).

#### comments

- the Bulgarian authorities are invited to seek ways to improve channels of communication between the Busmantsi Home and the State Agency for Refugees (SAR) (paragraph 46).

#### requests for information

- does the system of legal aid extend to detained foreign nationals? (paragraph 45);
- are the guarantees mentioned in paragraph 47 offered to foreign nationals subject to coercive administrative measures (including those facing expulsion on grounds of national security)? (paragraph 48).

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

### **1. Investigation detention facilities (IDFs)**

#### *Preliminary remarks*

##### requests for information

- up-to-date information on the programme for improvement of the IDF system, including a time schedule for its implementation (paragraph 49);
- confirmation of the entry into force of the new IDF in Plovdiv and details on its capacity and conditions of detention (paragraph 50).

#### *Conditions of detention*

##### recommendations

- the Bulgarian authorities to step up their efforts to bring IDFs up to the required standards. Measures should be taken without further delay at the Pernik and Slivnitsa IDFs, as well as other investigation detention facilities throughout the country, to:
  - reduce cell occupancy rates to an acceptable level, applying a minimum standard of 4 m<sup>2</sup> per detainee in multiple-occupancy cells; cells of less than 6 m<sup>2</sup> should be withdrawn from service and cells measuring 6 m<sup>2</sup> should be used for accommodating one person;
  - improve cell lighting, by providing access to natural light and adequate artificial lighting, and ventilation in the cells;
  - improve the state of the beds and bedding provided to detained persons;
  - introduce a standard food budget for IDFs and ensure that detained persons are provided with three meals a day, including at least one cooked meal;
  - ensure that detainees are in a position to maintain their personal hygiene and are provided with essential personal hygiene products;
  - provide detainees with sufficient materials to clean their cells;
  - ensure that detainees are guaranteed their entitlement of one hour of genuine outside exercise per day (two hours in the case of juveniles);

- provide other purposeful activities to detainees; particular attention should be paid to the special needs of juveniles (paragraph 56).

### ***Health care***

#### recommendations

- further steps to be taken to ensure that detained persons in need of specialised medical care or hospitalisation are promptly transferred to an outside medical facility (paragraph 59);
- the Bulgarian authorities to take steps to introduce a more consistent system for keeping medical documentation at IDFs throughout the country, which takes into account the need to respect medical confidentiality and to maintain continuity of care (paragraph 60).

#### requests for information

- the comments of the Bulgarian authorities on the allegations made by some detained persons that they had to buy medication themselves (paragraph 59).

### ***Other issues related to the CPT's mandate***

#### recommendations

- steps to be taken to equip the Pernik and Slivnitsa IDFs with proper visiting rooms (paragraph 61);
- the provision of information to foreign nationals detained in IDFs about their rights to be improved, by means of translating the information sheet and the internal regulations into a variety of languages (paragraph 62).

#### comments

- in order for independent monitoring to be effective, there should be confidential access to persons deprived of their liberty. Any restrictions on such access should be exceptional and decided case by case, based on the particular circumstances (paragraph 63).

#### requests for information

- the comments of the Bulgarian authorities on the complaints made by detainees that they could not freely telephone their lawyers (paragraph 61).

## 2. Prisons

### *Preliminary remarks*

#### recommendations

- the Bulgarian authorities to improve prison staffing levels as a priority and to develop a recruitment strategy based on proper funding and enhanced conditions of service (paragraph 66).

#### comments

- as regards efforts to combat prison overcrowding, the Bulgarian authorities should be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures (paragraph 65), Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse;
- the Committee trusts that the recommendations and comments made in this and previous CPT visit reports will be taken into account during the consideration of the draft Law on Execution of Punishments (paragraph 65);
- the Bulgarian authorities are invited to amend the legislation with a view to making conditional release (parole) available to all life-sentenced prisoners, subject to a review of the threat to society posed by them on the basis of an individual risk assessment (paragraph 67).

### *Follow-up visit to Sofia Central Prison*

#### *staffing and management issues*

#### recommendations

- the Bulgarian authorities to take steps to increase staffing levels and change the staff attendance system at Sofia Prison, in the light of the remarks in paragraph 70 (paragraph 70).

*conditions of detention*

recommendations

- steps to be taken to provide appropriate partitioning of all in-cell toilets in Group 2 (paragraph 71);
- further steps to be taken to improve the hygiene standards in the kitchen and associated areas of Sofia Prison, in the light of the remarks in paragraph 73 (paragraph 73).

requests for information

- information on the entry into service of the room for screening prisoners with contagious diseases (paragraph 72).

*prisoners sentenced to life imprisonment*

recommendations

- the Bulgarian authorities to strive to enhance the programme of activities provided to life-sentenced prisoners at Sofia Prison, if necessary, by increasing staffing (paragraph 76);
- the Bulgarian authorities to review the policy of handcuffing life-sentenced prisoners when outside their cells (paragraph 77);
- the Bulgarian authorities to review the legal provisions and practice concerning the treatment of life-sentenced prisoners, in the light of the remarks in paragraph 78 (paragraph 78).

comments

- the Bulgarian authorities are invited to build on the success of the “experiment” of integrating some life-sentenced prisoners into the mainstream prison population, which should be considered as an appropriate part of the management of this category of prisoner and reinforced by legislative measures (paragraph 78).

*foreign prisoners*

recommendations

- the Bulgarian authorities to make further efforts to improve the situation of foreign national prisoners at Sofia Prison (paragraph 79).

comments

- the Bulgarian authorities are invited to review prisoners' access to reasonably-priced telephone communications (paragraph 80).

*health care*

recommendations

- the CPT reiterates its recommendations that:
  - one more doctor be appointed at Sofia Prison;
  - the number of nurses be increased (paragraph 82).

**APPENDIX II**

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

**National authorities**

**Ministry of Justice**

Mr Boyko RASHKOV	Deputy Minister
Mr Petar VASSILEV	Director of the Main Directorate for Execution of Sentences
Mr Plamen KOSTADINOV	Deputy Director of the Main Directorate for Execution of Sentences
Mr Emil MADJAROV	Deputy Director of the Main Directorate for Execution of Sentences
Mr Dimitar TAKOV	Deputy Director of the Main Directorate for Execution of Sentences
Mrs Galina VASSILEVA	Head of Division "Information, analysis and secretariat"
Mrs Lyubomira KOLEVA	Inspector, Division "Information, analysis and secretariat"
Mrs Elena DOYCHEVA	Senior Expert, International Legal Co-operation and European Affairs Directorate, Liaison Officer of the CPT
Mrs Mariela YANEVA-DELIVERSKA	Expert, International Legal Co-operation and European Affairs Directorate

**Ministry of Internal Affairs**

Mr Roumen ANDREEV	Deputy Minister
Mr Nikolay SPASSOV	Director, Inspectorate Directorate
Mr Stefan HRISTOV	Director, Migration Directorate
Mr Milcho ENEV	Head of Division, Main Directorate for Security Police
Mr Emil VLADIMIROV	Deputy Head of Division, Main Directorate for Security Police
Mr Tomi ILIEV	Commissioner, Main Directorate for Security Police
Mr Vasko STOYCHEV	Commissioner, Main Directorate for Criminal Police
Mrs Rossitsa STOYCHEVA	Chief Inspector, Division for Security Police
Mrs Marieta ANGYUSHEVA	Expert, Directorate for European Union and International Co-operation

Office of the Ombudsman of the Republic of Bulgaria

Mr Ginyo GANEV

Mr Lyubomir KRILCHEV

Ombudsman

Head of Division, Directorate “Signals and monitoring of rights violations by the police, judiciary and penitentiary system”

State Agency for Refugees

Mr Svetoslav MILCHEV

Mrs Anna ANDREEVA

Chairman, State Agency for Refugees

Director, Reception and Integration of Refugees Directorate

Non-governmental organisations

Bulgarian Helsinki Committee

Open Society Institute, Project “Civil monitoring of the police”