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

from 16 to 22 December 2003

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 (2004) 24.

Strasbourg, 24 June 2004

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Copy of the letter transmitting the CPT's report

Strasbourg, 16 March 2004

Dear Ms Petrova,

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 16 to 22 December 2003. The report was adopted by the CPT at its 53rd meeting, held from 1 to 5 March 2004.

The CPT requests the Bulgarian authorities to provide within six months a response to the recommendations, comments and requests for information set out in **bold type** in paragraphs 10, 11, 13, 21, 35, 36, 42, 46, 47, 48, 52, 53 and 54. The Committee would also welcome any observations which the Bulgarian authorities might wish to make on other parts of the report. The CPT would be grateful if it were possible, in the event of the response forwarded being in Bulgarian, for it to be accompanied by an English or French translation. It would also be most helpful if the Bulgarian authorities could provide a copy of the response in an electronic 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,

Silvia CASALE
President of the European Committee for
the prevention of torture and inhuman
or degrading treatment or punishment

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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as "the Convention"), a delegation of the CPT visited Bulgaria from 16 to 22 December 2003. 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 CPT's fourth visit to Bulgaria.¹

2. The visit was carried out by two members of the CPT, Ingrid LYCKE ELLINGSEN, Head of the delegation, and Eric SVANIDZE. They were supported by Petya NESTOROVA of the CPT's Secretariat, and assisted by two interpreters, Petroushka TOMOVA and Mitko VELKOV.

B. Context of the visit and establishments visited

3. The purpose of the visit was to review the situation of persons placed by the public authorities in homes for persons with mental disorders and/or mental retardation, which fall under the authority of the Ministry of Labour and Social Policy. Two establishments for adults with mental disorders, in the villages of Terter and Razdol, had already been visited by the CPT in the past, and the conditions observed there had given rise to serious concerns by the Committee. The Home in Terter was subsequently closed down.

In the meantime, the Committee continued to receive from different sources disturbing reports of poor living conditions and inadequate care at homes for persons with mental disorders and/or mental retardation. In the light of this, the CPT decided to make an on-the-spot assessment of the treatment of persons placed in such establishments. The visit was also an opportunity to visit for the first time in Bulgaria a home for children and juveniles with mental retardation.

4. The delegation visited the following establishments:

- Home for adults with mental disorders in the village of Razdol, Strumyani municipality (follow-up visit);
- Home for adults with mental disorders in the village of Pastra, Rila municipality;
- Home for children and juveniles with mental retardation in the village of Vidrare, Pravets municipality.

¹ The three previous visits, which were of a periodic nature, took place respectively in 1995, 1999 and 2002. The CPT's reports on these visits, as well as the Bulgarian Government's responses to these reports, have been made public.

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

5. As had been the case during previous visits of the CPT to Bulgaria, the co-operation provided to the Committee's delegation – both at national and local level – was of a very high standard. The CPT is grateful for the time devoted to its delegation by Ivanka HRISTOVA, Deputy Minister of Labour and Social Policy, and Petko SALCHEV, Deputy Minister of Health. Fruitful discussions were also held with senior officials of the Ministry of Labour and Social Policy.

The CPT wishes to express its appreciation for the assistance provided to its delegation by the liaison officer designated by the national authorities, Romyana PETROVA, Expert at the Ministry of Justice.

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

6. There were no problems in gaining access to the establishments visited. Further, the delegation was granted ready access to all the information necessary for carrying out its task and was able to speak in private with persons placed at the establishments. It was also clear that the relevant extracts of the CPT's 2002 visit report had been circulated to the Home for adults with mental disorders in Razdol and staff were striving to implement the Committee's recommendations.

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

7. Before its departure from Sofia, the CPT's delegation held a final meeting at the Ministry of Labour and Social Policy, in order to acquaint the Bulgarian authorities with the main facts found during the visit. On this occasion, the delegation invoked Article 8, paragraph 5, of the Convention, and made an immediate observation in respect of the Home for adults with mental disorders in the village of Pastra. As a whole, the conditions witnessed at this establishment could be said to amount to inhuman and degrading treatment (cf. paragraphs 25 to 32). The delegation called upon the Bulgarian authorities to draw up a plan of concrete measures (including a timetable for their implementation) for the urgent replacement of the Home in Pastra with a facility which is in conformity with the standards and criteria for the provision of social services listed in Decree No. 89 of 18 April 2003.

The above-mentioned immediate observations were subsequently confirmed in a letter of 8 January 2004 from the President of the CPT, by which the Bulgarian authorities were requested to provide by 27 February 2004 an account of the action taken.

On 13 February 2004, the Bulgarian authorities responded to the Committee's request. In addition to information on the measures taken as a reaction to the delegation's immediate observation, the response provided details on action taken by the Ministry of Labour and Social Policy to improve the care of persons with mental disabilities in general. The CPT is grateful for the timely and constructive response of the Bulgarian authorities, and will consider the information contained in it later in the report.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

1. Preliminary remarks

8. In 2003, the functioning of homes for persons with mental disorders and/or mental retardation underwent certain changes, following amendments to the Law for Social Assistance (in force since 1 January 2003) and the adoption of Decree No. 89 of 18 April 2003 introducing changes to the Regulations for the implementation of the Law for Social Assistance.

Pursuant to the amended legislation, the national policy in the area of social assistance is developed, co-ordinated and executed by the Minister of Labour and Social Policy, in co-operation with the regional administrations, the municipal authorities and non-profit organisations. An Agency for Social Assistance has been set up under the authority of the Minister for Labour and Social Policy with the purpose of executing State policy in the area of social assistance and ensuring compliance with the standards for the provision of social services. An Inspectorate within the Agency exercises control over the functioning of “specialised institutions for social services” (such as homes for persons with mental disabilities) and the Agency’s divisions. In addition, the State Agency for Child Protection controls the observance of standards at homes for children.

The system for financing the homes for persons with mental disabilities has also changed since 1 January 2003: instead of being dependent on municipal funds, they are currently financed from the State budget on the basis of a standard upkeep cost per resident². In this manner, the State assumes responsibility for the standard of care provided at such homes. At the same time, the management of homes for persons with mental disabilities (including the appointment of staff) has been entrusted to the mayors of the municipalities where these homes are located.

Some changes have also been made to the procedure for placement at homes for persons with mental disabilities (cf. the report’s section on “Safeguards”.)

9. The above-mentioned Decree No. 89 of 18 April 2003 introduces comprehensive standards and criteria for the provision of social services at specialised homes. These standards and criteria concern the homes’ material environment (in particular, accessible location, sufficient premises for accommodation and social interaction, sanitary facilities with easy access, provision of heating, lighting, water and ventilation in accordance with the sanitary and safety regulations); the nutrition of residents; the provision of health care; education and access to information; the organisation of residents’ free time and the maintenance of personal contacts; and staff.

Further, pursuant to Decree No. 89, an individual plan should be drawn up in respect of each resident (“user”) on the basis of an assessment of his/her needs. The plan should define the aims sought and include activities aimed at meeting the resident’s needs in terms of daily requirements, health care, education, rehabilitation, free time and contacts with the outside world. The individual plan should also include measures for taking the resident out of the specialised home and social integration. If necessary, a detailed plan for the provision of health care by qualified medical staff should also be drawn up. The establishment (“provider of social services”) should evaluate the implementation of the individual plans once every six months and revise them in case of need.

² In 2003, this amounted to 1,143 Bulgarian Lev (BGL) per person in a home for mental disorders and 1,446 BGL per person in a home for mental retardation.

10. At the three homes visited, the delegation observed that management and staff were making efforts to fulfil the requirements introduced by the amended legislation. In particular, steps were being taken at the homes in Razdol and Pastra to draw up individual plans on the basis of an assessment of the needs of every resident. However, it appeared that staff lacked appropriate methodological guidance and external support in the process, and worked in a rather isolated way.

In their response of 13 February 2004, the Bulgarian authorities informed the CPT of various measures taken with a view to ensuring a uniform implementation of the amended legislation. These measures have involved the holding of working meetings at regional level for the provision of methodological assistance to specialised establishments and the organisation of seminars on improvement of the working practices of the municipalities and the establishment of social services in the community. Further, an inter-institutional working group has been set up at the Ministry of Labour and Social Policy with the purpose of drawing up methodological materials and elaborating instructions for the provision of care to people with mental disabilities placed in specialised establishments.

The CPT recommends that the Ministry of Labour and Social Policy continue to provide as a matter of priority methodological guidance to staff working at homes for persons with mental disabilities. Such staff should also be offered additional training, possibilities to increase their qualifications and external stimulation.

11. In their response of 13 February 2004, the Bulgarian authorities also make reference to plans for the de-institutionalisation of people with mental disabilities. Provision has been made in the draft budget for 2004 for the establishment of 10 new protected homes for people with mental disabilities. A project on improving the quality of life of people with mental disabilities is being launched under the European Union's PHARE programme, the main objective of which is to develop alternatives to institutional care through the establishment of day-care centres and protected homes and the integration of children with mental disabilities in kindergartens and general schools. The project also includes the elaboration of methodological guidelines for diagnosing children and adults with mental disabilities, programmes for their rehabilitation and re-socialisation, and the training of management, medical staff, social workers and other specialists working with persons with mental disabilities, etc.

The CPT welcomes the Bulgarian authorities' efforts to reorganise the system of provision of care to persons with mental disabilities and **would like to receive more information on the implementation of the above-mentioned plans.**

2. Ill-treatment

12. The CPT's delegation did not receive any allegations of physical ill-treatment of persons placed in the homes visited by staff working there. It is particularly noteworthy that at the Home for adults with mental disorders in Razdol, where during the visit in April 2002 there had been allegations of some orderlies using sticks and treating patients in a rough manner, no such allegations were heard during the December 2003 visit. The CPT welcomes this improvement.

At each of the establishments visited, and especially at the Home for children and juveniles with mental retardation in Vidrare, the delegation observed a caring and dedicated attitude on the part of staff, which is all the more praiseworthy given the difficult working conditions and limited resources.

13. However, at the Home for adults with mental disorders in Pastra, a certain number of allegations were heard of violence between residents themselves (in particular, the delivery of punches and kicks). Considering the low staffing levels, in particular at night (cf. paragraph 30), it was clear that the level of supervision by staff was inadequate.

The authorities' obligation to care for residents includes responsibility for protecting them from other residents who might cause them harm. This means in particular that staff should be alert to residents' behaviour and be both resolved and properly trained to intervene when necessary. Likewise, an adequate staff presence should be ensured at all times, including at night and weekends. Further, appropriate arrangements should be made for particularly vulnerable residents, by taking care, for example, not to accommodate them or leave them alone with residents identified as behaving in an aggressive manner.

The CPT recommends that the Bulgarian authorities take the necessary measures in the light of the above remarks to protect residents at the Home for adults with mental disorders in Pastra from other residents who might cause them harm.

3. Home for adults with mental disorders in the village of Razdol, Strumyani municipality

14. The visit to the Home for adults with mental disorders in the village of Razdol, Strumyani municipality was of a follow-up nature, its main purpose being to assess the progress made since the visit in April 2002.

There were 118 female residents at the time of the visit, for an official capacity of 120. Practically all the residents had been at the establishment at the time of the CPT's first visit, very few admissions and discharges having taken place in the meantime.

15. The delegation observed that certain improvements to the material conditions had been made since the previous visit. Signs of repairs were noticeable around the establishment: walls had been painted, broken window panes replaced, and linoleum put on the floor in some of the residents' rooms. Several of the rooms used for storage had been converted into bedrooms. Further, works were underway on the installation of toilets and bathrooms on each floor of the main building. The establishment had received wheel chairs for bedridden residents as well as new mattresses and lockers where residents could keep their personal possessions. Moreover, the laundry had been equipped with three new washing machines and a dryer. The supply of incontinence pads had also improved.

Nevertheless, conditions in the two large dormitories which accommodated the majority of the residents remained practically unchanged (cf. paragraph 164 of the report on the visit in 2002). When examined by the delegation, the dormitories were empty (all the residents having been taken to the day-rooms) and the temperature in them was very low (around 10° C). Staff explained that the wood stoves would be lit after 4 pm and residents given extra blankets for the night; however, the heating clearly remained inadequate, due to the badly adjusted window frames and some broken window panes.

Despite the installation of sanitary facilities on the second floor of the main building, residents continued to use the shower room located some 200 m from the sleeping quarters.

16. The Home spent 1.70 to 1.80 BGL per day per resident for the provision of food (i.e. some 50% of the budgetary allocations). The delegation was informed that, with donations, the daily food allowance went up to 2.50 BGL. Nevertheless, residents complained about the quality and quantity of the food, which rarely included meat, milk, fresh fruit and vegetables. Further, some complaints were heard that orderlies tended to rush residents to eat quickly and leave the canteen.

17. As regards staff, the situation concerning the nursing resource was even worse than that observed in 2002: two of the four available posts were vacant, despite efforts to recruit new staff. However, some positive developments had reportedly taken place in respect of the staff's qualifications. Training seminars for nurses, social workers and occupational therapists had been organised in 2003. Further, the establishment's orderlies had benefited from a two-day specialised training course in the regional centre of Blagoevgrad.

18. The outside arrangements for providing treatment to residents had somewhat improved since the visit in 2002. The Home was visited twice a month by a GP and at least monthly by a psychiatrist, who often stayed for a couple of days. In case of emergency, residents were transported to the GP's surgery or taken to hospital. Once a year, an external medical commission visited the Home and made prophylactic examinations of all residents. The Home reportedly experienced no problems with the supply of medication. However, the provision of dental care remained problematic.

19. Some efforts were being made to develop daily activities for residents: detailed individual plans based on an assessment of each resident's needs were in the process of being introduced; attempts were being made to develop occupational therapy (sewing, cooking); some fifty residents had been taken on a two-day trip to Smolyan. However, in general the situation remained much the same as in 2002 (cf. paragraphs 171 and 172 of the report on the visit in 2002). Only some 30 of the least disabled residents were engaged in activities (for the most part, reading, knitting and drawing). On the positive side, the day-room used for the most severely retarded residents had been refurbished; however, the residents in question were still left to their own devices.

20. The above-mentioned improvements are to be commended. However, as stressed in the CPT's report on the visit in 2002, the Home in Razdol has neither the material environment nor the human resources necessary to provide appropriate care to residents. Further, in spite of the goodwill of staff, the establishment continues to lack facilities and programmes for recreational or constructive socio-therapeutic activities. Moreover, nothing has been done to introduce a better differentiation between and separation of mentally retarded and mentally ill residents.

The delegation was informed that some progress has been made in the direction of the envisaged gradual relocation of the Home. The municipality of Strumyani had allocated land and a project had been submitted to the Ministry of Labour and Social Policy for the construction of protected homes for some 40 mentally retarded women. The works were due to start in 2004. In parallel, the Agency for Social Assistance was said to be looking for appropriate buildings to accommodate the rest of the women.

21. In their response of 13 February 2004, the Bulgarian authorities state that "the overall evaluation of the situation in the Home for adults with mental disabilities in the village of Razdol is positive with a view to the undertaken measures for provision of care of good quality for residents of this home, training of the staff, etc." Nevertheless, it is indicated that the Home will be transferred to a renovated building in 2004, together with the Home in Pastra (cf. paragraph 34). In this connection, the response makes reference to vacant buildings in the village of Kachulka, Sliven municipality (south-western Bulgaria).

The CPT would like to be informed whether the announced transfer of the Home for adults with mental disorders in Razdol to a new location will have any impact on the project for the construction of protected homes in Strumyani municipality. In this connection, the Committee trusts that the closing down of the Home in Razdol will be used as an opportunity to introduce a better differentiation and stop the mixing of mentally retarded and mentally ill residents.

Further, **the CPT wishes to receive detailed information on the new facilities to which it is proposed to transfer residents from the Home in Razdol (in particular, accessibility of the location, living conditions, sanitary arrangements, availability of premises for social interaction), the staffing arrangements (numbers and qualifications) and the envisaged programmes for constructive socio-therapeutic activities and recreation.**

4. Home for adults with mental disorders in the village of Pastra, Rila municipality

a. introduction

22. The Home for adults with mental disorders in Pastra is located in a secluded mountainous area (some 800 m above sea level), near a hydroelectric power station. Set up in 1980, it occupies a large estate with three buildings constructed in the 1920s to accommodate the workforce which constructed the power station. The country road connecting the Home with the nearest inhabited place, the village of Pastra, was difficult to access at the time of the visit because of snow.

With an official capacity of 105, the Home had 92 registered adult male residents, of whom 86 were actually present during the visit³. Some 90% of the residents were suffering from schizophrenia and the remainder were mentally retarded. The majority had spent many years at the establishment, discharges being quite uncommon.

b. living conditions

23. At the outset of the visit, the Home's Director informed the delegation that the establishment had not benefited from refurbishment or investment since its setting up. The delegation observed for itself that the premises were in a deplorable state of repair and hygiene. Staff were aware of the constraints of the material environment and had submitted a project to the Agency for Social Assistance for the complete overhaul of the buildings. However, after assessing the situation, the Agency had decided that it would be cheaper to construct a new home. Discussions were underway with the municipality of Rila for the allocation of land for the purpose.

24. Residents were allocated to the buildings according to their mental health status: residents with a less serious condition were accommodated in Block 3 (part of which served as administrative offices), those with a more serious condition in Block 1 (which also housed the canteen and kitchen), and the most disabled or disturbed residents, likely to abscond or considered dangerous, in Block 2. Each block had a yard surrounded by a high metal fence. Residents in Block 3 could move freely around the Home's territory and were allowed to go to the nearby village. In Block 1, there was also an open door policy in the daytime. In view of the specificity of the population of Block 2, its residents only had access to the adjacent yard, the gate of which was kept locked.

25. In Block 1, residents were accommodated on the second floor in six dormitories of varying size (15 to 38 m²) equipped with 4 to 9 beds. The dormitories had large windows, but this was their only positive feature. Artificial lighting was dim and the premises as a whole were very dilapidated and dirty. Walls, ceilings and window panes were covered by a thick layer of dust, and missing or broken floorboards made walking dangerous. The mattresses were filthy and the bed linen worn out; further, the delegation observed that some residents lacked sheets. More generally, the dormitories were devoid of any personal possessions or decoration and were extremely austere.

³ Two registered residents had absconded (one of whom in 2001), one resident had been in a psychiatric hospital for the last three years, and the remainder were on home leave.

Residents in Block 2 were accommodated in three dormitories containing respectively 2, 5 and 9 beds. Conditions were similar to those found in Block 1. In addition to being dilapidated and dirty, the dormitories were permeated by a smell of urine: according to staff, residents did not go out to the toilet at night but urinated directly on the floor (no receptacles were provided and incontinence pads were not available for incontinent residents.). Further, no bed linen was made available and residents slept on soiled mattresses, using one or two old blankets to cover themselves. The largest dormitory, which had a wood stove in addition to a radiator, was used during the day as a common room by the block's residents, who huddled around the stove for warmth.

The state of repair and cleanliness of Block 3 were slightly better than those observed in the other two blocks. Residents were accommodated in rooms with 4 to 6 beds and had a full set of bedding.

26. Central heating had been installed at the Home two years ago and all dormitories were fitted with radiators. However, the temperature in Blocks 1 and 2 was generally low (e.g. 12° C at midday on 18 December). According to residents, the heating was switched on only for a couple of hours in the morning and the evening, and apparently not every day. Staff indicated that they were compelled to save fuel because of budgetary constraints. Block 3, which was visited on the second day of the visit, left the impression of somewhat better heating (residents indicated that it had been on all the time since the delegation's arrival).

27. The arrangements for enabling residents to maintain their personal hygiene were inadequate. There was no running water in the blocks and residents used sinks with cold water taps in the yards. Many of the residents were unshaven, with dirty faces and hands. Residents reportedly had access to the establishment's bathroom once a week, and there was said to be no shortage of hot water. However, the bathroom, located in the basement of Block 3, was a rudimentary and dilapidated facility.

The so-called "toilets", also located in the yards, represented decrepit shelters with holes dug in the ground. The state of these facilities was execrable; further, walking to them on the frozen, slippery ground was potentially dangerous, especially at night. Residents visibly used the surrounding outside area as a toilet.

Further, the provision of basic hygiene items appeared to be erratic.

28. The Home had substantial stocks of clothing provided by donors. However, the clothing was markedly depersonalised and interchangeable among residents, many of whom were wearing poorly fitting old military uniforms. All residents had recently received new winter shoes, but some of them had no socks.

The laundry was equipped with two antiquated washing machines, only one of which was working. The supply of washing powder was said to be sufficient.

29. The daily expenditure for food per resident averaged 1.50 BGL and could go up to 2 BGL when there were donations. The food provision had reportedly improved since the beginning of 2003 when social homes started being financed from the State budget. However, the funds allocated for food continued to be low. Residents received three meals a day, including 750 g of bread. The delegation was told that meat was served five times a week. Milk and eggs were practically never supplied, and fresh fruit and vegetables could be afforded only in the summer. No provision was being made for special diets.

The Home's kitchen was modestly equipped (only one freezer was working) but seemed to function satisfactorily.

Residents took their meals in a large canteen equipped with tables and benches, using metal plates and spoons. The refectory was also used as a common room for watching TV.

c. care of residents

30. The care of residents was provided by 36 staff members, including 7 nurses, 1 social worker, 15 orderlies and a number of auxiliary staff. All the available posts were filled. However, none of the nurses had received training in psychiatry. On work days, the shift comprised three nurses and three orderlies. At night and at weekends, a nurse and three orderlies (one for each block) were on duty. Such a level of presence is not satisfactory in view of the potential for inter-resident violence (cf. paragraph 13) and the problems related to patients' personal hygiene (cf. paragraph 25).

31. The only form of treatment at the Home consisted of the provision of medicines. Residents were considered as chronic psychiatric patients in need of maintenance therapy and were registered as outpatients with a psychiatrist in Dupnitsa. The delegation was informed that the psychiatrist visited the Home once every two to three months, as well as on request. Residents could also be taken to the psychiatrist – who held weekly surgeries in the nearby town of Rila – if changes in their mental condition were observed. All residents underwent a psychiatric examination twice a year, which was an occasion for them to have their medication reviewed and, if necessary, adjusted. At the time of the visit, practically all residents were receiving psychiatric medication, which was recorded on a special card and administered by the nurses.

As regards somatic care, a general practitioner with a private practice in the town of Rila visited the Home twice a month and was available in case of emergency. Residents in need of specialist treatment were transported in the Home's minibus to the health centre in Rila or to a hospital. The delegation was told that, twice a year, all residents underwent an overall medical examination (however, it appeared that the last such examination had taken place on 8 October 2002).

Residents were reportedly taken to a dentist in the town of Rila in case of emergency. Dental care was clearly problematic and residents' teeth were in a deplorable state.

32. No therapeutic activities whatsoever were organised for the residents, whose lives were characterised by passivity and monotony. The Home employed one social worker who, in keeping with the new legislation, was making attempts to draw up plans of activities based on an assessment of the residents' needs. However, the establishment clearly lacked staff, facilities and programmes for the development of therapeutic, occupational or leisure activities. At the time of the visit, a mere six residents assisted staff in the distribution the food, and a few more residents were said to be helping in the pig farm.

A small TV set (owned by one of the residents) in the refectory provided the only source of entertainment. However, the delegation was informed of plans to set up a small library in Block 3, with donated books, newspapers and games.

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* *

33. The deficiencies in the living conditions and care of residents at the Home in Pastra described above created a situation which could be said to amount to inhuman and degrading treatment. As already mentioned (cf. paragraph 7), at the end of the visit the delegation invoked Article 8, paragraph 5, of the Convention and requested the Bulgarian authorities to draw up a plan of concrete measures (including a timetable for their implementation) for the urgent replacement of the Home in Pastra. In the meantime, the delegation called upon the authorities to take steps as a matter of urgency to address the most pressing problems at the establishment: i) to ensure that the dormitories were adequately heated during the day and the night; ii) to take better care of the incontinent patients; iii) to ensure that all residents had a full set of bedding; iv) to make new arrangements for the toilet facilities.

34. In their response of 13 February 2004, the Bulgarian authorities agreed that the Home in Pastra was not in conformity with European standards and requirements for care, and indicated that it would be closed as a matter of priority and the residents transferred to another building. The Agency for Social Assistance has already inspected vacant buildings offered by the municipal authorities of the town of Sliven (in the village of Kachulka) with the purpose of assessing the need for reconstruction. It is envisaged to transfer the residents of Pastra and Razdol there in the first half of 2004.

In the meantime, it is stated that immediate measures have been taken in reaction to the delegation's observations concerning the Home in Pastra. By letter of 29 December 2003, the Director of the Agency for Social Assistance instructed the mayor of Rila to ensure the uninterrupted heating of the Home's buildings. The maintenance of an adequate temperature was checked by the Kyustendil Regional Directorate for Social Assistance on 6, 10 and 26 January 2004. It is also indicated that each resident has been provided with a new bed, a set of bedding and extra blankets, and that all rooms have been equipped with chairs, wardrobes and curtains.

35. The CPT welcomes the decision to close down the Home in Pastra and the steps taken by the Bulgarian authorities in the meantime. In view of the pending replacement of the Home in Pastra with a new facility, the Committee will not make recommendations at this stage as regards living conditions and care for residents. However, **the CPT wishes to be kept informed of the progress made towards replacing the home in Pastra with a new facility and the measures taken to ensure conformity in that facility with the standards and criteria for the provision of social services listed in Decree No. 89 of 18 April 2003 (cf. paragraph 9).**

5. **Home for children and juveniles with mental retardation in the village of Vidrare, Pravets municipality**

a. **introduction**

36. The Home for children and juveniles with mental retardation in Vidrare is one of 29 specialised establishments of this type in Bulgaria. It occupies a two-storey building constructed in the 1950s and surrounded by extensive grounds, partly shared with the local health centre. The village of Vidrare is situated some 20 km from the municipal centre of Pravets, near a highway, and has good road connections.

With an official capacity of 105, at the time of the visit the Home was accommodating 91 residents (51 boys and 40 girls) suffering from moderate to profound mental retardation, often combined with other disorders and/or disabilities (including epilepsy in 25 cases). The majority of the residents were aged from 3 to 18, which is the formal age range envisaged by law. However, there were eighteen residents older than 18 (the oldest was 31). The establishment's Director justified these exceptions by concerns about the residents' well-being. According to him, these residents, whose mental and physical development did not correspond to their calendar age, were better cared for at the Home than they would be at establishments for adults with mental retardation, which in most cases offered inadequate conditions. In this connection, the Director indicated his intentions to submit a proposal to the municipal social services to have the age limit formally extended to 25 years. **The CPT would like to have the Bulgarian authorities' comments on this matter.**

37. It should be stated at the outset that the CPT's delegation received a positive overall impression of the Home in Vidrare. The dedication of its staff and their efforts to provide a homely environment and motivating activities for the residents and to integrate them as much as possible in society are commendable. However, the existing potential was unfortunately not fully realised due to limitations flowing from the physical structure of the building, the shortage of staff and the budgetary allocations. Many of the material improvements already introduced or underway at the Home were made possible thanks to the assistance of donors.

b. **living conditions**

38. Residents were allocated to five groups according to their age and needs, with up to 20 children in a group. One of the groups was for bedridden children (of whom there were 18, including 5 permanently bedridden). Each group was assigned two or more dormitories as well as a room for daily activities (except for the bedridden children, whose dormitories were also used for activities).

The dormitories had good access to natural light, artificial lighting and ventilation. They were furnished with beds or bunk beds, tables, chairs and an occasional cupboard. The mattresses and bedding were in a good condition. Further, the presence of toys, pictures and posters created a personalised atmosphere.

That said, conditions in many of the dormitories (which admittedly were used only for sleeping purposes) were cramped: for example, eleven residents in a room of 21 m²; six bunks and one single bed in a room measuring 15 m². Further, the ceilings and walls of some of the dormitories on the ground floor were damaged by water leaking from the bathroom.

Staff and residents indicated that the building was usually adequately heated (however, on the first day of the visit there was a failure of the heating system which was in the process of being repaired). The delegation was informed that funds for the replacement of the current heating system with a more economical one had recently been allocated by a donor.

The Homes' sanitary facilities were of an appropriate standard to meet the residents' needs. The equipment was clean, generally in good condition and suited to persons with physical disabilities.

39. The delegation's observations on the spot (including a study of the menus and food stocks) suggested that residents received adequate food in both qualitative and quantitative terms. The staff indicated that, with the help of donations, the daily food expenditure from the budget was sufficient to provide a reasonable diet. Further, the kitchen was adequately equipped, the meals were well-presented and taken in a pleasantly decorated canteen.

40. Residents wore clothes and footwear which were appropriate for the season, clean and personalised. Further, the Home had sufficient materials and equipment for the needs of residents with physical disabilities (wheelchairs for bedridden children; incontinence pads).

41. The establishment had a quarantine room (7.5 m²) which was used for newly arrived residents in the first week after their admission. The room had a large window and was equipped with two beds.

The Home's facilities also included a well-equipped laundry, a greenhouse and a small animal farm.

42. The CPT encourages the Bulgarian authorities to persevere in their efforts to create material conditions at the Home in Vidrare which are conducive to the treatment and well-being of residents and provide a positive educational and therapeutic environment, and in so doing, to take into account the above remarks. Creating such an environment involves, first of all, providing sufficient living space per resident.

c. care of residents

43. The Home's staff complement consisted of 56 posts, all of which were filled at the time of the visit. There were 7 nurses, 8 educators, one physiotherapist, one speech therapist, one occupational therapist, one social worker, 14 orderlies, 3 night wardens, and a number of technical and auxiliary staff. The doctor's post was filled by a feldsher who was on sick leave at the time of the visit and was about to retire; an advertisement for his post had already been published.

Physical care was being provided by a general practitioner from the adjacent community health centre who periodically examined the residents and could be called in case of emergency. Dental care was provided by a dentist from the health centre.

The delegation was told that the nurses had received training in psychiatry and caring for children with epilepsy. However, finding qualified staff was admittedly a problem; as a result, some of the educators did not have sufficient qualifications. Efforts were being made to organise professional courses.

The nurses worked in two 12-hour shifts, and the orderlies in three shifts. The night shift comprised a nurse, an orderly and a warden. At the weekend, educators were present in addition to nurses and orderlies.

44. The delegation was informed that before 2002, the residents' diagnoses had not been reviewed for years. Following the appointment of the present Director some two years previously, an expert commission from a psychiatric clinic in Sofia had examined all the residents and had redefined their diagnoses. There were plans to organise a new review of the diagnoses by a group of Greek psychiatrists. Further, the Home received visits by a psychiatrist from Botevgrad (once a month) and a psychiatrist from Sofia (once every three months).

Transfers to hospitals, whether for psychiatric or somatic treatment, were said to pose no particular problems.

45. Residents were engaged in a variety of activities according to their group and on the basis of individual rehabilitation plans which included elementary schooling, physiotherapy, speech therapy, music, the acquisition of social skills, as well as various games and crafts. Educators, nurses and orderlies formed a team which worked with each group. In addition, the physiotherapist, speech therapist and occupational therapist had individual and group sessions with the children. Celebrations of the holidays and birthdays, excursions and summer camps for the less disabled residents were also organised.

The activities took place in a series of rooms which were appropriately equipped (with a variety of teaching and occupational materials, toys, games, TV sets, etc.) and pleasantly decorated. However, because of the restricted premises, most activities with children took place in large groups (up to 20 children), which made it difficult to take into consideration their individual needs.

Further, the Home had a spacious yard in which the children spent time when the weather permitted. In summer, tents and an inflatable swimming pool were installed in the yard and bedridden children taken out.

Seven of the residents attended the local primary school and were hoping to continue their studies in a vocational school. This initiative, which was made possible by the commitment of the Home's management to arrange the residents' admission and daily escort to the school, clearly had a positive impact on their development and integration into society.

46. The CPT welcomes the diversified approach to the provision of care to residents at the Home in Vidrare. **The Committee encourages the Bulgarian authorities to make further efforts in this direction. In this connection, with a view to taking better account of the residents' individual needs, it would be desirable to work with them in smaller groups.**

6. Means of restraint

47. No resort was had to instruments of physical restraint at the homes visited. At the two establishments for adults, the handling of agitated or violent residents was limited to manual control and the use of medication. At the Home for children and juveniles in Vidrare, a "time out" system was used (i.e. agitated residents were sent to the dormitories to calm down).

Further, the delegation was informed that isolation was not practised at the establishments visited. The so-called "kartzer" in respect of which the CPT had received allegations in 2002 at the Home in Razdol was clearly no longer in use. At the Home in Pastra, a facility in the basement of Block 2 – currently used as a warehouse – consisted of two dark rooms of some 6 m² which had previously been used for isolation. Residents continued to refer to this facility as the "kartzer" and there seemed to be a widespread belief amongst residents that it was still possible to be punished by placement there. **The CPT recommends that steps be taken to ensure that this facility – which is unsuitable for holding human beings – is never again used for such a purpose.**

48. More generally, the amended legislation applicable to specialised establishments for social services contains no provisions for the isolation or punishment of persons placed at such establishments.

In their response of 13 February 2004, the Bulgarian authorities informed the CPT that, pursuant to directives of the Executive Director of the Agency for Social Assistance dated 30 September 2003, the municipality mayors had given instructions to the directors of homes for persons with mental disorders to remove all facilities for isolation and to cease all use of isolation.

The CPT welcomes this measure and **invites the Bulgarian authorities to verify that isolation facilities have been taken out of service at all homes for persons with mental disorders across the country.**

7. Safeguards

49. Pursuant to section 36 (4) of the amended Regulations for the implementation of the Law for Social Assistance, the admission of persons with mental disabilities to specialised institutions should take place only when the possibilities for care in the community have been exhausted.

According to the new approach to the provision of social assistance, adults placed in specialised institutions are considered as “users” and the specialised institutions as “providers” of social services. Contracts for the provision of social services should be signed between the institution and the “user” or his legal guardian, describing, inter alia, the services to be provided, the conditions and rules for their use, and the procedure for submitting complaints. The procedure preceding the signature of a contract includes an evaluation of the social grounds for admission to a home and the presence of medical indications (i.e. an opinion by a specialised commission assessing the person’s health and needs). The admission of a person to a specialised institution is made by order of the director of the social assistance directorate responsible (in the case of state-run homes) or the mayor of the respective municipality (in the case of municipally-run homes).

Further, with a view to preventing arbitrary placement, the Executive Director of the Agency for Social Assistance has issued instructions according to which the admission of persons with mental disabilities to specialised institutions can take place only after prior co-ordination with him.

50. The delegation’s on-site observations suggest that there is a gap between the above-mentioned legal provisions and the factual situation in respect of placement in homes for adults with mental disabilities.

It transpired during the visit that the requirement for contracts to be signed with residents or their legal guardians was not always fulfilled. In this connection, it should be noted that the majority of the adult residents at the establishments visited (including some profoundly mentally retarded persons) had not been formally deprived of their legal capacity.⁴ However, no evaluation was made of their ability to understand adequately the nature of the placement and the related procedures, including the signature of a contract. Staff admitted that in some cases the signing of a contract was a spurious exercise.

Further, a number of residents who were not declared legally incompetent complained to the delegation that they were not allowed to leave the establishments. According to instructions by the Executive Director of the Agency for Social Assistance, one of the grounds for discharge is the resident’s personal wish. However, in practice residents were discharged only on their relatives’ or guardians’ request. The arguments put forward by staff were of an important nature (i.e. no place to live, inability to survive in the community); nevertheless, this meant that residents were de facto deprived of their liberty for an indefinite period.

It should also be noted that the standard contracts seen at the homes in Razdol and Pastra did not specify the rights of the “users” which follow from the legislation and in particular the possibilities for lodging complaints concerning the manner in which they are treated in the institution.

⁴ Only 23 women at Razdol and 14 men at Pastra were deprived of legal capacity by a court decision.

51. Further, it appeared during the visit that the measures taken to prevent arbitrary placement are not always sufficient. For example, it was not always clear from the certificates issued by the specialised commissions – on the basis of which persons were placed at the homes – whether a psychiatrist had been involved in the assessment of the person's health and needs (including his ability to understand the nature and consequences of placement in a specialised institution). Moreover, an examination of the documentation revealed that some residents had been admitted exclusively at their relatives' request without any documents proving the existence of their guardianship of the person concerned.

52. From the facts found during the visit, it is clear that in most cases a placement in a specialised institution for persons with mental disabilities leads to a de facto deprivation of liberty. It follows that the placement procedure must be surrounded by appropriate safeguards. One such safeguard is that placement must be made in the light of objective medical expertise, including of a psychiatric nature. **In the light of the remarks made in paragraph 51, the CPT wishes to be informed whether such medical expertise is guaranteed.**

Further, it is essential that persons placed in a specialised institution have the right to bring proceedings by which the lawfulness of their placement could be decided speedily by a court. The delegation's observations from the visit indicated that in practice, such a right is not ensured at present. **The Committee recommends that steps be taken without delay to ensure that persons placed in specialised institutions have the effective right to bring proceedings to have the lawfulness of their placement decided by a court.**

Moreover, having regard to the information gathered during the visit, **the CPT recommends that steps be taken to ensure that residents are informed of their rights and possibilities to lodge formal complaints, on a confidential basis, with clearly designated outside bodies. This information should form part of the contracts signed by residents or their legal guardians. Residents unable to understand the contracts should receive appropriate assistance.**

It is also axiomatic that placement in a specialised institution should cease as soon as it is no longer required by the resident's mental state. **Consequently, the CPT recommends that the need for continued placement be automatically reviewed at regular intervals. Further, the resident himself should be able to request at reasonable intervals that the necessity for placement be considered by a judicial authority.**

53. The placement of children and juveniles in specialised institutions for social services is regulated by the Law on Child Protection. Pursuant to amendments made to this Law in 2003, such placement should take place only when all possibilities for care in the family have been exhausted. The decision to place a child in a specialised home is taken by a court, following a request by the relevant directorate of social assistance, prosecutor or parent, and on the basis of a medical certificate by a specialised commission. Following placement, parents who do not contact their child for a period of six months lose their parental rights and a guardianship council (involving the home's director, a social worker, an educator and a medical professional) is established.

However, the law does not provide for a periodic review of the placement. Further, the provision for court involvement has no retrospective effect on children admitted prior to the entry into force of the new procedure. At the Home in Vidrare, only one child had been admitted on a court decision. **The CPT recommends that the Bulgarian authorities take steps to ensure that all cases of children admitted to specialised institutions prior to the entry into force of the new procedure are notified to and reviewed by a court, and that the need for continued placement is automatically reviewed at regular intervals.**

54. The delegation was pleased to note that in 2003 there had been inspections of the establishments by the Inspectorate of the Agency for Social Assistance and/or its regional branches. The Home in Pastra had also been visited once a year by the Bulgarian Helsinki Committee. Further, the Home in Vidrare had received frequent visits by foreign embassies, NGOs and private donors.

In their response of 13 February 2004, the Bulgarian authorities provided information about the activities of the Inspectorate of the Agency for Social Assistance. In 2003, thirty-five regular inspections had been carried out to specialised institutions for the provision of social services, as well as five checks upon complaints and one visit for reasons of methodological support. All inspections had been followed by the drawing up of reports with findings, recommendations and deadlines for implementation. Copies of the reports were sent to the directors of the institutions and the mayors of the respective municipalities. In some cases, further checks had been carried out to verify the implementation of the recommendations.

The CPT welcomes the fact that homes for persons with mental disabilities are regularly visited by outside bodies. **It invites the Bulgarian authorities to explore the possibility of introducing a firm basis for regular visits to such institutions by bodies which are independent of the social care/health authorities.**

APPENDIX

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

National authorities

Ministry of Labour and Social Policy

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|----------------------|---|
| Mrs Ivanka HRISTOVA | Deputy Minister |
| Mrs Maria TOMOVA | Director of Directorate Social Protection Policy and Strategy |
| Ms Elena KREMENLIEVA | Chief expert, Division Social Protection and Integration of Risk Groups |
| Mrs Tatyana TODOROVA | Head of Division Specialised Institutions and Humanitarian Assistance |
| Mrs Inna PAVLOVA | Senior expert, Division Methodology of Child Protection |
| Ms Yana DIMITROVA | Expert, Division Specialised Institutions and Humanitarian Assistance |

Ministry of Health

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| Mr Petko SALCHEV | Deputy Minister |
| Mrs Anna VARSANOVA | Head of Department Out-patient Treatment |

Ministry of Justice

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| Mrs Romyana PETROVA | Senior expert, Directorate of International Legal Co-operation and International Legal Assistance |
| Mrs Galina VASSILEVA | Head of Sector Information, Analysis and Secretariat |
| Mr Boris STRATIEV | Head of Division Penitentiary Centre |

Non-governmental organisations

Bulgarian Helsinki Committee