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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 25 September to 6 October 2017

The Bulgarian Government has requested the publication of this report.

Strasbourg, 4 May 2018

In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

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EXECUTIVE SUMMARY

The main objective of the seventh periodic visit to Bulgaria was to review the measures taken by the Bulgarian authorities in response to the recommendations made by the Committee after previous visits and after the Public Statement issued by the CPT in 2015. In this connection, particular attention was paid to the treatment and conditions of detention of persons in police custody and penitentiary establishments. The delegation also examined the treatment, conditions and legal safeguards offered to psychiatric patients, residents of social care institutions, as well as immigration detainees.

Police establishments

The Committee concludes that there might have been a slight improvement regarding the treatment of persons in police custody since the 2015 visit, especially as regards the severity of alleged ill-treatment.

That said, its delegation still received many allegations of physical ill-treatment from persons (including juveniles) who were or had recently been detained by the police. The majority of these referred to excessive use of force upon apprehension but there were also allegations of ill-treatment during subsequent interviews.

The Committee regrets the absence of any real progress in the application of safeguards against ill-treatment – namely the right to notify one's detention to a third party, the right of access to a lawyer and to a doctor, and the right to be informed of the above-mentioned rights. Furthermore, the CPT notes that, despite the adoption of new detailed instructions on medical examinations and notification to the prosecutor, there has been no real progress as regards the role played by health-care staff (and, in particular, medical doctors) in the prevention of ill-treatment.

Material conditions varied greatly between police establishments visited, from quite good through generally acceptable to very poor. Some systemic problematic issues were observed, e.g. no mattresses were issued for the night to persons in police custody and there was no standard practice as regards the provision of blankets and food.

Immigration detention

The delegation visited the Special Home for Accommodation of Foreigners in Lyubimets where it received a few allegations of physical ill-treatment by custodial staff; further, many complaints were received about custodial staff being disrespectful and unresponsive to detained foreign nationals.

Inter-detainee violence was common at the Home, there was a complete lack of privacy and activities, no clear information on the legal and practical situation and few custodial staff were present within the accommodation areas.

Material conditions were generally very poor, with large-capacity dormitories being dilapidated, filthy, and crammed with bunk beds. Absolutely nothing was provided for more than 40 minors (including infants) - no adapted food and clothes, no toys, and it was difficult to obtain nappies for infants and sanitary materials for women.

The delegation received many complaints from detained foreign nationals about insufficient access to health care, including dental and specialist care (e.g. gynaecology and obstetrics); furthermore, it appeared that detainees also had to pay for medical consultations.

The Committee is concerned about the absence of interpretation arrangements at the Home, negatively affecting the interaction between staff and detainees, and in particular when it came to medical examinations and psychological assistance.

Penitentiary establishments

The delegation carried out follow-up visits to Burgas, Sofia and Varna Prisons as well as to Investigation Detention Facilities (IDF) located in Burgas, Sliven and on G.M. Dimitrov Boulevard in Sofia; further, first-time visits were carried out to prison hostels in Debelt and Razdelna.

The Committee welcomes the steps taken by the Bulgarian authorities to improve the situation in penitentiary establishments and encourages them to pursue their efforts including, especially, the prison refurbishment programme. Furthermore, the Committee calls upon the Bulgarian authorities to continue their efforts to combat the phenomenon of corruption in prisons.

The CPT's delegation received very few complaints and allegations concerning ill-treatment by prison staff, and the allegations heard mostly referred to verbal abuse and rude behaviour. Inter-prisoner violence remained, by contrast, a serious problem in most of the establishments visited, especially at the IDF located on G.M. Dimitrov Boulevard in Sofia and at Sofia and Varna Prisons.

The delegation saw evidence of refurbishment (already completed, on-going or about to begin) in almost all penitentiary establishments visited, and material conditions in some of the accommodation areas were good (e.g. in Debelt, Burgas, Varna and to a lesser extent in Razdelna). However, the situation was totally unacceptable in the IDF in Sliven and in the building accommodating foreign prisoners at Sofia Prison.

More generally, the Committee notes that there is a severe problem of a generalised infestation with bugs, as well as a lack of maintenance and hygiene, including in recently refurbished facilities – unless this is tackled, the newly-renovated detention areas will deteriorate and become unacceptable very quickly.

The Committee acknowledges the Bulgarian authorities' efforts to offer work and education to sentenced prisoners, but it remained a fact that only a minority of sentenced inmates in the establishments visited had a job and even less followed any structured education or vocational training. Furthermore, the CPT's long-standing recommendation to develop a regime for remand prisoners remains, regrettably, unimplemented.

The CPT is also concerned by the continued lack of progress as regards the removal from the Criminal Code of the sentence of "life imprisonment without the right to substitution" (i.e. without possibility of parole). The Committee recalls yet again that, according to the case-law of the European Court of Human Rights, it is inhuman to imprison a person for life without any realistic hope of release.

The situation of prison health-care services remained difficult, especially as regards the serious shortage of health-care staff. The Committee calls upon the Bulgarian authorities to take decisive steps to reinforce health-care teams at the prisons visited.

Furthermore, the quality of medical documentation left much to be desired in most of the establishments visited, the quality of medical examinations on admission remained inadequate, and medical confidentiality was still not respected.

Staff complements and staff presence remained very low in all the penitentiary establishments visited. The CPT calls upon the Bulgarian authorities to take urgent steps to increase custodial staffing levels in prisoner accommodation areas.

Psychiatric establishments

The CPT's delegation visited two psychiatric establishments under the authority of the Ministry of Health: Sevlievo State Psychiatric Hospital and Radnevo State Psychiatric Hospital.

The delegation did not receive any credible allegations of physical ill-treatment of patients by staff at Sevlievo Psychiatric Hospital. By contrast, various allegations were received at Radnevo Psychiatric Hospital according to which patients were sometimes slapped and occasionally hit, kicked and punched by orderlies. Furthermore, orderlies at the latter establishment were said to carry sticks (later found by the delegation) to assert their authority and threaten the patients.

Regarding inter-patient violence, although some disputes and occasional fights between patients did occur, this was not a major problem in either of the hospitals visited.

Turning to material conditions, patient accommodation areas were in parts dilapidated, bare and lacking personalisation, especially on locked wards in both hospitals.

With regards to staffing, in Sevlievo, there was clear scope for improvement in the numbers of ward-based and multi-disciplinary clinical staff. The situation was even worse in Radnevo, where there was a lack of psychiatrists and ward-based and multi-disciplinary clinical staff. As a result, one of the hospital's wards has had to be taken out of operation; on some of the others, there was only one nurse and one orderly caring for over 30 seriously mentally ill patients.

The Committee recommends that the Bulgarian authorities take urgent measures to address the serious recruitment difficulties regarding medical, auxiliary and multi-disciplinary clinical staff at Sevlievo and Radnevo Psychiatric Hospitals and, as applicable, in other psychiatric hospitals in Bulgaria.

Turning to treatment, in both hospitals visited, this was predominantly based on pharmacotherapy. There was a significant lack of psycho-social therapies and occupational and recreational opportunities offered, resulting in many patients left lying in their beds or wandering idly around. Many of the patients on the locked wards in both hospitals had severely limited access to fresh air, sometimes not being able to go outside for weeks on end.

The delegation noted that seclusion of patients was not used in either hospital. By contrast, the mechanical restraint of patients to beds using straps occurred in both establishments visited. The delegation found *inter alia* that, contrary to the relevant standards, mechanical restraint was used in view of other patients or without continuous personal supervision by a member of staff. Furthermore, the use of chemical restraint was not recorded in a restraint register.

As regards safeguards in the context of involuntary hospitalization, the Committee found that a significant proportion of the patients, formally regarded as voluntary were *de facto* deprived of their liberty without benefiting from the safeguards provided for by the relevant legislation. The CPT recommends that, in the two hospitals visited, the legal status of all patients currently considered as “voluntary” be urgently reviewed.

Social care establishments

The delegation carried out first-time visits to homes for persons with psychiatric disorders in Tvarditsa and Radovets and homes for persons with learning disabilities in Batoshevo, Kachulka and Tvarditsa.

While at Batoshevo Home the delegation did not receive any credible allegations of physical ill-treatment of residents by staff, in Kachulka, Radovets and Tvarditsa Homes the delegation did receive some allegations, including that residents in all three homes were slapped by orderlies, were sometimes punched by more senior staff in Kachulka Home, and were hit with sticks (later found by the delegation) by orderlies in Tvarditsa and Radovets Homes.

As regards inter-resident violence, this was a significant problem in all social care establishments visited, which was hardly surprising in such unsupervised environments with completely insufficient numbers of staff.

Living conditions varied between and within the establishments visited. It was noted that all Homes had undergone differing degrees of renovation and refurbishment, and some accommodation, especially in Tvarditsa, was acceptable. However, most of the accommodation was still scruffy, bare, austere and lacking personalisation and privacy, especially for the less able residents.

Particular mention should be made of the unit at Radovets Home accommodating the most disabled residents, which contained only two large dormitories and no sanitary facilities. In one of the two dormitories hygiene conditions did not befit a care institution and could be described as inhuman and degrading. Residents were found lying on their beds, completely covered in flies, with the floor flooded with urine and littered with faeces.

Regarding the daily regime for residents, in Tvarditsa a range of occupational, recreational and social activities were available. However, in the other three Homes such opportunities were seriously lacking, with the main objective seemingly being containment and attempting to just meet the basic needs of the residents, many of whom were unable to maintain their dignity.

The numbers of the ward-based staff in all the establishments visited were grossly insufficient to provide adequate care, assistance and supervision and to ensure a safe environment for residents (and staff). Moreover, in all homes, with the exception of Tvarditsa, there was considerable scope for increased input from multi-disciplinary clinical staff. The CPT calls upon the Bulgarian authorities to take urgent steps to significantly increase the numbers of properly trained clinical care staff (nurses, orderlies and multi-disciplinary staff) in all social care establishments in the country.

As regards mechanical restraint (fixation), it appeared that it was not used in the social care establishments visited. However, the delegation was particularly concerned to find that – despite recourse to seclusion in social care homes being forbidden by Bulgarian law – three seriously mentally disabled residents of Kachulka Home, who were deemed especially dangerous, were placed by staff alone in reinforced locked rooms for days on end. In Radovets Home, staff acknowledged that one resident, deemed to be especially unpredictable, was sometimes placed for hours on end in a makeshift seclusion room under a set of outdoor stairs.

As during the previous visits, it was noted that the majority of residents deprived of their legal capacity were placed under the establishments' guardianship. The Committee reiterates that entrusting guardianship to the very same establishment that accommodates them may easily lead to a conflict of interest and compromise the independence and impartiality of the guardian.

I. INTRODUCTION

A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Bulgaria from 25 September to 6 October 2017. The visit formed part of the CPT’s programme of periodic visits for 2017 and was the Committee’s seventh periodic visit to Bulgaria.¹

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

- Mykola Gnatovskyy, President of the CPT (Head of delegation)
- James McManus
- Ilvija Pūce
- Davor Strinović
- Marika Väli
- Elisabetta Zamparutti.

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

- Clive Meux, forensic psychiatrist from Oxford, United Kingdom (expert)
- Elena Alexieva (interpreter)
- Iliana Atanassova (interpreter)
- David Ieroham (interpreter)
- Iliyana Sherkova (interpreter)
- Stanimir Stanchev (interpreter).

¹ In addition, the CPT has so far carried out four ad hoc visits to Bulgaria. The reports on all previous Committee’s visits and related Government responses are available on the CPT’s website: <https://www.coe.int/en/web/cpt/bulgaria>. See also the Committee’s Public Statement concerning Bulgaria, issued on 26 March 2015, <https://rm.coe.int/16806940ef>.

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

4. The report on the visit was adopted by the CPT at its 95th meeting, held from 5 to 9 March 2018, and transmitted to the Bulgarian authorities on 28 March 2018. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Bulgarian authorities to provide within six months a response containing a full account of action taken by them to implement the Committee's recommendations and replies to the comments and requests for information formulated in this report.

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

5. In the course of the visit, the delegation had consultations with Tsetska Tsatcheva, Minister of Justice, Nikolay Prodanov, Deputy Minister of Justice, Krassimir Tsipov, Deputy Minister of Interior, Svetlana Yordanova, Deputy Minister of Health, Rositsa Dimitrova, Deputy Minister of Labour and Social Policy, as well as with senior officials from the Ministries of Justice, Interior, Health, Labour and Social Policy, and the Prosecutor General's Office.

In addition, talks were held with the Ombudsperson Maya Manolova and staff of the National Preventive Mechanism (NPM) attached to her Office. The delegation also met representatives of non-governmental and international organisations active in areas of concern to the CPT.

A list of the national authorities, non-governmental and international organisations with which the delegation held consultations is set out in Appendix II.

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

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

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

8. At the end of the visit, the CPT's delegation met senior Government officials in order to acquaint them with the main facts found during the visit. On that occasion, the delegation made seven immediate observations, in pursuance of Article 8, paragraph 5, of the Convention, on certain particularly urgent matters.

9. The **first immediate observation** concerned the generalised infestation of penitentiary establishments with bed bugs (even in recently refurbished accommodation), linked with the problem of old, filthy and torn mattresses and blankets in all prisons. The Bulgarian authorities were requested to provide, within three months, a detailed and budgeted action plan comprising a precise time-frame for steps to replace all mattresses within the prison system (including in investigation detention facilities) with sealed, rip-proof mattresses and to thoroughly disinfect all the prisoner accommodation areas and all the furniture and blankets.

10. The **second immediate observation** concerned unacceptable conditions in the totally dilapidated building accommodating foreign prisoners at Sofia Prison (with leaking pipes, exposed wiring, damaged walls, floors and ceiling, missing window panes, broken toilets, etc.). The Bulgarian authorities were requested to confirm, within three months, that refurbishment of this building has begun (as was apparently already planned).

11. The **third immediate observation** concerned the Investigation Detention Facility (IDF) in Sliven, where the situation was unacceptable: the establishment was severely overcrowded, with filthy and dilapidated cells, and inmates had virtually no access to a toilet - never at night and often not even during the day. The Bulgarian authorities were requested to confirm, within three months, that steps have been taken to address these deficiencies.

12. The **fourth immediate observation** concerned the death of A., resident of the Home for Persons with Learning Disabilities in Tvarditsa, on 23 September 2017. He had absconded from the institution on 22 August 2017 and was found the next day. He required a period of in-patient medical care and a psychiatric assessment in early September 2017, following which he was transferred back to the Home in Tvarditsa and subsequently, on 21 September 2017, transferred with serious traumatic chest injuries to Sliven hospital, where he died two days later. No autopsy was reportedly performed. The Bulgarian authorities were requested to effectively investigate the circumstances surrounding (and the causes of) the death of A., and to inform the CPT of the outcome of this investigation within one month.

13. The **fifth immediate observation** concerned the building accommodating the most disabled residents at the Home for Persons with Psychiatric Disorders in Radovets. The building contained only two large dormitories and no sanitary facilities. In one of the two dormitories the hygiene did not befit a care institution and conditions could be described as inhuman and degrading. Residents were found lying on their beds, completely covered in flies, with the floor sprayed with urine and littered with faeces.

The Bulgarian authorities were requested to inform the CPT, **within one month**, of steps taken to ensure that residents in the above-mentioned dormitories are accommodated in clean and hygienic conditions, adequately supervised and assisted in meeting the needs of nature in a dignified manner using appropriate equipment, so as to eradicate human waste on their dormitory floors and the resultant insect infestation of themselves and the environment.

14. The **sixth immediate observation** also concerned the Home for Persons with Psychiatric Disorders in Radovets, where one resident, B., deemed to be especially unpredictable and to present a particular risk of injuring others, was sometimes placed in a makeshift seclusion area for hours on end. This was a small enclosed space under a set of outdoor stairs, the entrance to which was covered with a steel door which only had a small broken hole in it. The Bulgarian authorities were requested to inform the CPT, **within one month**, of steps taken to ensure that the aforementioned makeshift seclusion area is taken out of service and resident B. is relocated to an appropriate mental health care facility where his mental health care needs can be safely met.

15. The **seventh immediate observation** referred to the Home for Persons with Learning Disabilities in Kachulka, where three seriously mentally disabled residents, C., D. and E., who were deemed especially dangerous, had been placed by staff alone in seclusion, in reinforced locked rooms with solid doors, one behind an additional specially constructed steel gate, the rooms containing only a bed. These residents sometimes spent days within their silent, bare rooms, without any recreation or stimulation, only occasionally being offered very short periods of time outside their room. The Bulgarian authorities were requested to inform the CPT, **within one month**, of steps taken to ensure that the above-mentioned residents are relocated to appropriate mental health care facilities where their mental health care needs can be safely met.

16. The immediate observations referred to in paragraphs 9 to 15 above were subsequently confirmed in a letter of 13 October 2017 from the President of the CPT.

By letters dated 21 November 2017, 8 December 2017, as well as 4 and 8 January 2018, the Bulgarian authorities informed the Committee of the measures taken. Those measures will be assessed later in the report.

D. National Preventive Mechanism

17. The Committee has repeatedly stressed that the inspection of places of detention by an independent authority can make an important contribution towards the prevention of ill-treatment of detained persons and, more generally, help to ensure satisfactory conditions of detention.

At the time of the 2017 visit, the only independent outside monitoring body authorised to carry out visits to places of detention was the National Preventive Mechanism (NPM) which, as had been the case during previous visits,² continued to face serious budgetary constraints and was thus understaffed³ and only able to carry out a limited number of visits. Further, the NPM continued to be financed from the general budget of the Ombudsman's Office, and proposals to amend the relevant legislation so as to create the NPM's own separate budget had apparently not been followed by the National Assembly (Parliament).

The CPT again refers to paragraph 11 of the Guidelines on national preventive mechanisms adopted by the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) in November 2010,⁴ according to which: "The necessary resources should be provided to permit the effective operation of the NPM". **The Committee strongly encourages the Bulgarian authorities to comply with these SPT guidelines, in particular by ensuring that the National Preventive Mechanism is allocated sufficient resources (both human and financial) to permit its effective functioning.**

² See e.g. paragraph 10 of the report on 2015 ad hoc visit (CPT/Inf (2015) 36), <https://rm.coe.int/16806940c7>.

³ The Ombudsperson, Ms Maya Manolova, and the Head and staff of the National Preventive Mechanism (NPM) attached to her Office, stated that the existing NPM's staff of six would have to be increased to at least ten in order to be able to carry out the NPM's tasks effectively. Further, more financial resources were reportedly required to hire experts and for transportation.

⁴ UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), Document CAT/OP/12/5 of 9 December 2010.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Establishments under the authority of the Ministry of Interior

1. Preliminary remarks

18. The legal framework governing police custody has remained basically unchanged since the 2014 periodic visit.⁵ Pursuant to the Law on the Ministry of Interior (LMI), persons (including criminal suspects) may be detained by the police on their own authority for a maximum of 24 hours.⁶ Further, Section 64 (2) of the Code of Criminal Procedure (CCP) stipulates that a prosecutor may order the detention for up to 72 hours of a suspect with a view to bringing him/her before the court competent to remand persons in custody.

The Ministerial Order concerning the procedure for detaining persons in police establishments⁷ makes clear that the time of police custody is to be counted as from the very moment of the *de facto* apprehension; and that whenever the measure foreseen in Section 64 (2) of the CCP is applied by decision of the prosecutor, the initial period of police custody is to be systematically included into the 72-hour period. In other words, no one should be deprived of his/her liberty – prior to being brought before a judge – for longer than 72 hours.

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

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

⁵ See paragraph 11 of CPT/Inf (2015) 12, <https://rm.coe.int/16806940c4>.

⁶ According to Section 63 (1) of the LMI, the police may detain a person: 1) for whom there is information that he/she has committed a crime; 2) who, after due warning, deliberately obstructs the police from fulfilling their duties; 3) who demonstrates serious psychic disorder and, by his/her behaviour, violates public order or exposes his/her life or the life of others to obvious danger; 4) who is an underage offender who has left his/her home, guardian, trustee or specialised institution where he/she has been accommodated; 5) if it is impossible to establish his/her identity in the cases and manner provided for in Section 61 (2); 6) who has evaded prison sentence or escaped from a place where he/she was detained as an accused under the authority of the police or the judiciary; 7) in respect of whom there is an international search warrant in connection with his/her extradition or in fulfilment of the European arrest warrant; 8) in other cases determined by law.

⁷ "Instruction on the procedure of detention of persons at the Ministry of Interior, equipment of the detention facilities and the order in them", in force since January 2015.

Further, given the apparent controversy in the Bulgarian legal doctrine and jurisprudence about the legal status of the 24-hour detention in police establishments,⁸ **the option of amending the LMI and the CCP (so as to make clear that the initial period of police custody is to be systematically included into the 72-hour period) should be seriously explored.**

19. Regarding the provisions governing the detention of foreign nationals detained pursuant to aliens legislation, see paragraph 43 below. As for administrative detention of ‘hooligans’ on police premises, see paragraph 41 below.

2. Ill-treatment

20. The treatment of persons in police custody was one of the subjects of the public statement on Bulgaria issued by the CPT in March 2015.⁹ In some respects, the findings of the 2017 visit suggest that there might have been a slight improvement since the Committee’s previous visit to Bulgaria, in February 2015, especially as regards the severity of alleged ill-treatment.¹⁰

That said, the delegation still received many allegations of physical ill-treatment from persons (including juveniles) who were or had recently been detained by the police. In the main, the allegations referred to punches, kicks and truncheon blows, but there were also a few allegations of having been subjected to electric shocks by means of electric discharge weapons (tasers).

The majority of these allegations referred to excessive use of force upon apprehension but there were also allegations of ill-treatment during subsequent interviews.

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

⁸ Reportedly, domestic courts and some of the legal scholars tend to consider that detention as “administrative” in nature, thus not forming part of criminal procedure *sensu stricto* – which could partially explain the tendency amongst some police officers not to count the initial 24 hours into the total period of police custody of criminal suspects. Such interpretation also has negative consequences as regards the application of legal safeguards against ill-treatment (given that the administrative procedure offers much less protection to detained persons). See paragraph 32 below and the Bulgarian Helsinki Committee’s Alternative Report on the Implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, https://issuu.com/bghelsinki/docs/2017-alternative_report_cat, as from page 12.

⁹ See, in particular, paragraphs 5 to 7 of CPT/Inf (2015) 17, <https://rm.coe.int/16806940ef>.

¹⁰ See paragraph 13 of CPT/Inf (2015) 36, <https://rm.coe.int/16806940c7>.

21. The examination of medical records (registers of injuries) at the investigation detention facilities (IDFs) and prisons visited (especially in Burgas and Sofia) revealed several cases of newly-admitted persons who had borne injuries upon arrival and who had alleged ill-treatment by the police.¹¹

In a number of cases, the delegation's forensic medical experts directly observed lesions on the bodies of persons who were – or had recently been – in police custody, consistent with their allegations of police ill-treatment.

The following case may be mentioned here as an example: F., interviewed by the delegation at Debelt Prison Hostel, alleged having been ill-treated (punched, kicked and struck with a truncheon) by the police in Sliven upon his apprehension on 8 April 2017; he claimed to have sustained multiple injuries, including two broken ribs, as a result of the beating. He was reportedly struck again with truncheons at the police establishment during initial questioning by three plainclothes police officers who had allegedly taken turns in striking him, mostly on his back, for approximately 40 minutes, with the purpose of forcing him to confess to a criminal offence.

Upon examination by a medical member of the delegation, the person concerned was found to display: on the left buttock and left back signs of blows – thin linear traces about 15 cm long, greyish brown in colour. On the right side of the back, buttock and lumbar region, a horizontal trace of organised hematoma measuring approximately 12 cm x 1 cm, pink and brownish in colour.

F. told the delegation that he had made an official complaint about his treatment to the competent authorities. **The CPT would like to be informed about the outcome of this complaint.**

22. Further examples of directly-observed medical evidence consistent with allegations of physical ill-treatment (made by persons who had not complained officially and did not wish their identity to be revealed) merit being quoted here:

- a person interviewed by the delegation at the IDF at 42 G.M. Dimitrov Boulevard (in Sofia) on 25 September 2017 alleged that, following his apprehension on the street by plainclothes police officers on 18 September 2017, he had been handcuffed behind his back, pushed into an unmarked car and taken to an unspecified location (possibly on the premises of District Police Directorate No. 4 in Sofia) where he was taken to a basement room. Following that, he was reportedly subjected to repeated physical ill-treatment (kicks, truncheon blows and applications of a taser) during a period of approximately 10 hours. Upon examination by one of the delegation's forensic doctors, the person concerned was found to display: two red puncture wounds on the back area of the right shoulder, located in one line (diameter 0.1-0.2 cm); two similar dark red puncture wounds on the right hip area; on the right side of the scapula, a green-lilac colour bruise measuring 2 x 3 cm, and on the left forearm similar bruise measuring 1 x 3.5 cm;

¹¹ For example, there had been 37 cases (between 1 January and 25 September 2017) in which persons brought to the IDF at 42 G.M. Dimitrov Boulevard (in Sofia) were found to bear injuries, and in at least ten of these cases the detainees' explanations recorded by the health-care staff referred to ill-treatment by the police.

- another remand prisoner interviewed by the delegation at the aforementioned IDF on the same day alleged that, upon his arrest in the street on 6 July 2017 by officers from District Police Directorate No. 4 in Sofia, he had been repeatedly punched and kicked despite offering no resistance and while being under control. Upon examination by one of the delegation's forensic doctors, the person concerned was found to display: an old dark haematoma on the left shoulder measuring 4 x 2 cm; on the left arm, a haematoma measuring 4 x 2 cm, dark in colour; linear scars on the right wrist, 2 cm in size; on the back right side close to the scapula, a whitish scar measuring 3 x 2 cm.

23. At the outset of the 2017 visit, the delegation was informed by the Bulgarian authorities of various steps taken to combat ill-treatment by the police, in the light of the recommendations made in the reports on the CPT's 2014 periodic and 2015 ad hoc visits. These steps included *inter alia* new training courses in the Police Academy on the relevant European Court of Human Rights case-law and on interviewing juveniles, reinforcement of the mandate of the Ministry's Internal Security Department so as to allow it to carry out its own investigations (however, see paragraph 26 below), improved co-operation with the Bulgarian Bar Association regarding *ex officio* legal assistance to persons in police custody,¹² and a pilot project consisting of installing 300 video surveillance cameras in police cars and body cameras on 300 police officers in Sofia.

Whilst the Committee takes due note of these different measures, its delegation's findings during the 2017 visit clearly indicate that persons taken into police custody in Bulgaria still run a considerable risk of being ill-treated. This is a source of serious concern for the CPT and demonstrates the need for the Bulgarian authorities to step up their efforts in this area.

The Committee calls upon the Bulgarian authorities to pursue rigorously their efforts to combat ill-treatment by the police. Police officers throughout the country should receive a firm message that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are unlawful and will be punished accordingly. It should also be reiterated to the police officers that no more force than is strictly necessary is to be used when carrying out an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them. Further, police officers must be trained in preventing and minimising violence in the context of an apprehension. In cases in which the use of force becomes necessary, they need to be able to apply professional techniques which reduce as much as possible any risk of harm to the persons whom they are seeking to apprehend.

24. In the light of some of the allegations received by the CPT's delegation during the visit (especially concerning the police in Sofia, see paragraph 22 above), **the Committee also recommends that particular attention be paid to reiterating to all police officers instructions regarding the proper use of electric discharge weapons (tasers) and to enforcing those rules. In this context, it should be made clear to all police staff that electric discharge weapons may only be used when there is a real and immediate threat to life or risk of serious injury. Recourse to such weapons for the sole purpose of securing compliance with an order is inadmissible.**

¹² See, however, paragraph 32 below.

The CPT considers that the use of electric discharge weapons should be subject to the principles of necessity, subsidiarity, proportionality, advance warning (where feasible) and precaution.¹³ Furthermore, recourse to such weapons should only be authorised when other less coercive methods (negotiation and persuasion, manual control techniques, etc.) have failed or are impracticable and where it is the only possible alternative to the use of a method presenting a greater risk of injury or death (e.g. firearms).

In this context, **the CPT would like to be informed about the training that Bulgarian police officers receive in the use of electric discharge weapons.**

25. The Committee has repeatedly called upon the Bulgarian authorities to establish a national system for compiling statistics on complaints, prosecutions and disciplinary and criminal penalties imposed on law enforcement officials related to ill-treatment.¹⁴ The CPT believes that if the data is correctly gathered and analysed, it would help to identify trends and facilitate the taking of adequate measures. Further, steps to provide information to the public on the outcome of investigations into complaints of ill-treatment by the police could help counter any perception of impunity.

It is most regrettable that, despite the Committee's long-standing recommendation, such a system has still not been introduced, as a result of which the authorities were not able to provide the delegation with clear and coherent information on the situation in the country.¹⁵ **The CPT calls upon the Bulgarian authorities to introduce such a system as a matter of urgency.**

Further, once the new system is up and running, **the Committee would like to receive the following information, in respect of the first year of the new system's operation:**

- **the number of complaints of ill-treatment made against police officers and the number of criminal/disciplinary proceedings which have been instituted as a result;**
- **an account of criminal/disciplinary sanctions imposed following such complaints.**

26. As regards combating impunity, the delegation had a constructive meeting with officials from the Internal Security Department of the Ministry of Interior and gained the impression that the Department was indeed determined to fight impunity amongst police officers, but the meeting also revealed that there was not much these officials could do: the existing legislative framework, especially the CCP, and the interaction with prosecutorial and judicial authorities left a lot to be desired.

¹³ See paragraph 69 of the 20th General Report on the CPT's activities, document CPT/Inf (2010) 28, <https://rm.coe.int/1680696a87>.

¹⁴ See e.g. paragraph 15 of CPT/Inf (2015) 36, <https://rm.coe.int/16806940c7>.

¹⁵ In particular, the data provided by the Ministry of Interior (45 reports of physical ill-treatment received in the period from 1 January to 1 September 2017, including 16 cases transmitted to the Prosecutor's Office) appeared incomplete, and representatives of the Office of the Prosecutor General stated that efforts to create unified statistics were still ongoing and thus it was impossible to present any statistical data to the delegation.

Among other things, disciplinary proceedings had to be terminated once criminal investigations began and, given the discontinuation of the system described in the reports on the 2014 and 2015 visits,¹⁶ such investigations were now handled by local district prosecutors in the same way as any other investigations, which posed legitimate questions regarding their independence and efficiency.

It is clear for the CPT that the legislative and institutional framework must change in order to meet Bulgaria's positive obligations under Article 3 of the European Convention on Human Rights, when it comes to effective investigations into allegations of ill-treatment by the police. **The Committee recommends that legislative and institutional measures be taken accordingly, taking into account the criteria which investigations into such cases must meet in order to be qualified as "effective".**¹⁷

27. The role to be played by health-care staff (and, in particular, medical doctors) in the prevention of ill-treatment has been repeatedly emphasised by the CPT in the past. In this context, the Committee notes the adoption by the Ministry of Justice, in October 2015, of new detailed instructions on medical examinations and notification to the prosecutor. The instructions follow, in the main, the CPT's previous recommendations on this subject:

- In case of complaints about ill-treatment, visible traces of violence and in case of use of force, the administration of a penitentiary establishment must ensure immediate access of the inmate to a health specialist for a thorough medical examination. After obtaining the inmate's consent, the injuries shall be photographed. The information obtained must be diligently recorded and the injuries indicated on a body chart. The examination must be carried out in strict confidentiality. The content of the record must be presented to the inmate for signing. All documents shall be stored in the medical file of the prisoner.
- The record drawn up after the medical examination shall contain: an account of the statements made by the person, a full account of the objective medical findings based on a thorough examination, the diagnosis, the health specialist's observations. The record shall also contain the results of any additional examinations, detailed conclusions of specialised consultations, a description of treatment and of any other procedures performed. The recording shall be made on a special form and be accompanied by indications of injuries on a body chart for traumatic injuries.

¹⁶ Under which the investigation of cases of alleged ill-treatment by law enforcement officials was the task of a special division at the Supreme Cassation Prosecutor's Office, see paragraph 20 of CPT/Inf (2015) 12 (<https://rm.coe.int/16806940c4>) and paragraph 16 of CPT/Inf (2015) 36, <https://rm.coe.int/16806940c7>.

¹⁷ As established through an abundant case-law of the European Court of Human Rights and as highlighted in the CPT's 14th General Report. In particular, the investigation should be thorough and comprehensive, it should be conducted in a prompt and expeditious manner, and the persons responsible for carrying out the investigation should be independent of those implicated in the events. Further, there should be a sufficient element of public scrutiny of the investigation or its results, including the involvement of the alleged victims in the procedures and the provision of information to the public on the status of ongoing investigations, to secure accountability in practice as well as in theory. In this regard, it is well-established through the case-law of the European Court of Human Rights that whenever a person was injured while in the hands of public officials, there is a strong presumption that the person concerned was ill-treated and the authorities' duty is to provide a satisfactory and convincing explanation of how the injuries were caused.

- In cases of identified injuries, the health specialists must immediately inform the relevant prosecutor's office, regardless of the wishes of the person concerned. The file must be sent there together with the relevant documents and photographs. When the inmate requests or the prosecutor makes an order, the person must be examined by an external forensic doctor.
- Further, medical specialists in penitentiary establishments shall be responsible for maintaining a special register for the injuries observed on inmates. The register shall contain the complaints regarding inflicted injuries as well as the actually established injuries. The register shall also contain: the number of the complaint, the name of the patient, anamnestic information, diagnosis of the injury and recommended treatment.

Unfortunately, the delegation's observations during the 2017 visit suggest that there has been no real progress in this area: medical examinations of newly-arrived detainees at the IDFs (and newly-arrived inmates in prisons) were still, as a rule, conducted in the presence of non-medical staff (police or prison officers); the examination was superficial and the recording cursory¹⁸ (with the exception of Varna Prison), and information on injuries often not reported to the competent authorities.¹⁹

The Committee calls upon the Bulgarian authorities to take urgent steps to remedy the aforementioned deficiencies and to ensure that the relevant Ministry of Justice instructions are duly implemented in all IDFs and prisons. More generally, the CPT reiterates all its general recommendations concerning the procedure for recording and reporting injuries on persons brought to IDFs and prisons, set out in paragraph 23 of the report on the 2014 visit.²⁰

¹⁸ There was no register of injuries at Debelt Prison Hostel.

¹⁹ See also paragraphs 33 and 93 below. Reporting to the prosecutor's office was relatively better done at Sofia Prison (the delegation was shown copies of 133 reports transmitted to Sofia City and District Prosecutor's Offices in the period between 1 January and 26 September 2016) but it was noteworthy that none of these reports had resulted in any investigation.

²⁰ "The CPT recommends that the steps be taken to ensure that:

- health-care professionals are as a rule not directly involved in the administrative procedure of handover of custody of detained persons to an IDF or to a prison; naturally, a health-care staff member should be consulted immediately whenever a newly-arrived detained person/inmate requires urgent medical assistance or if there are doubts as to whether the state of health of the person concerned is compatible with admission to an IDF or prison.
- persons found to display injuries upon admission are not questioned by anyone about the origin of those injuries during the above-mentioned handover procedure;
- any record made, and any photographs taken, of injuries during the handover-of-custody procedures are forwarded without delay to IDF or prison health-care professionals;
- all persons admitted to IDFs and prisons are properly interviewed and thoroughly examined by qualified health-care staff as soon as possible, and no later than 24 hours after their admission; the same approach should be adopted each time a person returns to an IDF or prison after having been taken back to the custody of another structure for investigative or other purposes;
- health-care staff may inform custodial officers on a need-to-know basis about the state of health of a detained person/prisoner; however, the information provided should be limited to that necessary to prevent a serious risk for the detained person/prisoner or other persons, unless the detained person/prisoner consents to additional information being given;

28. Despite earlier assurances to the contrary (given to the CPT's delegation during the 2015 ad hoc visit),²¹ persons detained in Sofia continued to be taken to the Ministry of Interior Hospital in order to be seen by a doctor and obtain a certificate confirming that they were "fit for placement" prior to transfer to the IDF. As already stressed in the reports on previous visits,²² this procedure did not in practice serve to identify or prevent police ill-treatment.

The Committee calls upon the Bulgarian authorities to abolish the above-mentioned system and ensure that detained persons are taken (prior to their transfer to an IDF) to establishments under the authority of the Ministry of Health.

29. Once again, unlabelled non-standard issue items (wooden sticks, metal bars, baseball bats, etc.) were found in detention areas and offices of police inspectors (used for interrogations of suspects) in several establishments visited (e.g. at Radnevo and Tvarditsa District Police Directorates, and at District Police Directorate No. 5 in Sofia). The CPT has repeatedly stressed that such objects must not be kept in places referred to above, but must be duly labelled and stored in a dedicated room (as the usual explanation provided by police officers is that such objects represent items of evidence in criminal proceedings). **The Committee recommends that steps be taken accordingly.**

3. Safeguards against ill-treatment

30. As regards the fundamental safeguards against ill-treatment advocated by the CPT – namely the right to notify one's detention to a third party, the right of access to a lawyer and to a doctor, and the right to be informed of the above-mentioned rights – the Committee very much regrets the absence of any real progress in their application since the CPT's previous visits.²³

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- health-care professionals advise the detained persons/prisoners concerned of the existence of the reporting obligation, explaining that the writing of such a report falls within the framework of a system for preventing ill-treatment and that the forwarding of the report to the relevant authority is not a substitute for the lodging of a complaint in a proper form;
 - detained persons/prisoners and, upon their request, their lawyers are fully entitled to receive a copy of the medical records. When possible, photographs of injuries should be made and appended to the medical records;
 - whenever a report on injuries is notified to the Prosecution Service, a forensic medical opinion is sought without delay and the detained person/prisoner is examined promptly, physically, thoroughly and in private by a forensic doctor.

The CPT further recommends that special training be offered to health-care professionals working in IDFs and prisons. In addition to developing the necessary competence in the documentation and interpretation of injuries as well as ensuring full knowledge of reporting obligations and procedures, this training should cover the technique of interviewing persons who may have been ill-treated."

²¹ See paragraph 24 of CPT/Inf (2015) 36, <https://rm.coe.int/16806940c7>.

²² See e.g. paragraph 30 of the report on the 2014 visit, document CPT/Inf (2015) 12, <https://rm.coe.int/16806940c4>.

²³ See e.g. paragraphs 18 to 25 of CPT/Inf (2015) 36, <https://rm.coe.int/16806940c7>.

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

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

32. Similar to the situation observed on previous visits, access to a lawyer was generally granted at best at the end of the 24-hour custody (i.e. the period when persons detained by the police faced the highest risk of being ill-treated) and, sometimes, only during the first court hearing. As already mentioned above,²⁴ this resulted from the wording of current legal provisions which continued to give grounds to an interpretation of the 24-hour police custody as a sort of “administrative” detention to which (in particular) free legal aid was not applicable.

Consequently, as a rule, lawyers (almost always *ex officio*) usually only arrived after the detained person had already been interviewed and after his/her confession or statement had already been drafted by the police. The delegation had the same impression as during the previous visits, namely that the lawyer’s presence was of a purely formal nature, aimed at ensuring that the detention protocol was “duly” filled in and that it contained the lawyer’s signature. Further, the delegation again heard complaints from detained persons (who had benefited from the services of *ex officio* lawyers) about the quality of the lawyers’ work.

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

Further, **the Committee reiterates its recommendation that appropriate steps be taken, in consultation with the Bulgarian Bar Association, to ensure the effectiveness of the system for free legal representation throughout the criminal procedure, including at the initial stage of police custody.**

²⁴ See paragraph 18.

33. Access to a doctor was generally provided to persons detained by the police²⁵ albeit in a manner excluding medical confidentiality, with superficial medical examinations, poor recording of injuries²⁶ and no reporting mechanism. For example, examinations witnessed by the delegation at District Police Directorate No. 5 in Sofia, performed in the corridor, in full view and within the hearing of police officers, clearly and completely failed to perform the role of a safeguard against ill-treatment.

As observed on previous visits, there seemed to be no uniform procedure and practice: while some police directorates (e.g. District Police Directorate No. 5 in Burgas) employed their own health-care staff (usually feldshers) performing systematic medical screening on arrival, other directorates (e.g. in Sredets) had the practice of offering to newly-arrived persons a medical examination in the local hospital (and, if they refused, carrying a cursory check for injuries by the non-medical duty officer), while systematic medical examinations were not practised at all in the majority of the police establishments visited.

34. The CPT reiterates its long-standing recommendation that every detained person brought to a police detention facility benefit from a full medical assessment, including a proper interview and physical inspection, and that the same be duly recorded. Further, it should be ensured that medical examinations of detained persons and recording of injuries respect the principle of medical confidentiality, taking due account of the above remarks.

Whenever injuries are recorded by a health-care professional which are consistent with allegations of ill-treatment made by a detained person, that information must be immediately and systematically brought to the attention of the relevant authority by the health-care professional concerned. As regards the procedure for the recording and reporting of injuries observed upon admission, reference is made to the comments and recommendations in paragraph 27 above.

Further, the Committee reiterates its recommendation that steps be taken to ensure that whenever a detained person presents injuries and/or makes allegations of ill-treatment, he/she is promptly seen by an independent doctor qualified in forensic medicine who will draw conclusions as to the degree of consistency between the allegations made and the objective medical findings. Such an approach should be followed whether or not the person concerned bears visible external injuries. In this connection, persons who allege ill-treatment by the police should be able to be examined by a forensic doctor at their own initiative, without prior authorisation from an investigator, a prosecutor or a judge, and regardless of whether they are deprived of their liberty. If necessary, the relevant legislation should be amended.

35. More generally, the CPT remains of the view that the current practice is primarily meant to protect the staff of police detention facilities against possibly unfounded allegations of ill-treatment, rather than serve as a fundamental right of the person detained.

²⁵ As previously observed by the CPT, the police did not hesitate to call an ambulance if a person in their custody appeared to require medical assistance.

²⁶ As a rule, there were no specific registers of injuries, information on which (as well as other medical data) was recorded in the medical logbook (very superficially) and either in the custody record or in the person's case file.

Consequently, **the Committee reiterates once again its long-standing recommendation that persons deprived of their liberty by the police be expressly guaranteed the right of access to a doctor (including a doctor of their own choice, it being understood that an examination by such a doctor may be carried out at the detained person's own expense) from the very outset of their deprivation of liberty. The relevant provision should make clear that a request by a detained person to see a doctor should always be granted; it is not for police officers, nor for any other authority, to filter such requests.**

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

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

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

Further, despite earlier Committee's recommendations (and assurances by the Bulgarian authorities given in their responses to previous reports and again at the outset of the 2017 visit), the forms available in most of the police establishments visited were still only in Bulgarian. Consequently, **the CPT reiterates its recommendation that the form on rights be made available in an appropriate range of languages.**

37. Several detained foreign nationals interviewed by the delegation claimed that they had been made to sign documents in the Bulgarian language without knowing their content. As mentioned above, no written information on rights was generally available in languages other than Bulgarian and some foreign nationals alleged that they had not been provided with any information (even verbal) in a language they understood. Of even more concern were the few allegations according to which detained persons had not been provided with an interpreter before the first court hearing, including during police interviews.

The Committee recommends that effective measures be taken to ensure that detained foreign nationals who do not understand Bulgarian are promptly provided with the services of an interpreter and are not requested to sign any statements or other documents without this assistance. Reference is also made to the recommendation in paragraph 36 above.

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

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

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

39. Unlike on previous visits, the custody records consulted by the delegation in police directorates visited were generally well kept. This is indeed a positive fact.

4. Conditions of detention

40. Material conditions varied greatly in police establishments visited: from quite good (e.g. at Elhovo District Police Directorate,²⁷ Sliven District Police Directorate,²⁸ District Police Directorate No. 7 in Sofia,²⁹ District Police Directorate No. 2 in Stara Zagora³⁰ and Tvarditsa District Police Directorate³¹), through generally acceptable (e.g. at District Police Directorates No. 1 and 2 in Varna³² and No. 5 in Burgas,³³ as well as District Police Directorate in Nova Zagora) to very poor (e.g. at District Police Directorates Nos. 3 and 5 in Sofia,³⁴ and Radnevo District Police Directorate³⁵). In all police directorates, persons detained had access to communal toilets and washing facilities albeit in various states of upkeep and hygiene (see below).

²⁷ Which was undergoing refurbishment at the time of the visit; the already refurbished cells (all for double occupancy) measured between 9 and 12 m² and were well lit and ventilated and suitably equipped (beds/sleeping platforms, tables, chairs, call system).

²⁸ Where the four cells used for overnight detention, equipped with sleeping platforms, tables and stools, were bright, airy and warm.

²⁹ Where the detention area had been built recently and possessed spacious, clean, well-lit and well ventilated cells equipped with beds, tables, stools and in-cell sanitary annexes.

³⁰ Where the detention area was located in a modern building brought into service in 2010.

³¹ With sufficiently spacious single (measuring some 7 m²) and double cells (measuring some 11 m²), reportedly refurbished approximately 2 years ago, which were clean, well-lit and ventilated.

³² Where the cells were spacious enough for their intended occupancy (e.g. double cells measuring between 9 and 15 m²), well-lit and ventilated, reasonably clean but somewhat dilapidated and equipped with only benches (except for the cell for juveniles, equipped with two beds).

³³ With recently refurbished and clean cells for up to 4 detainees measuring up to 20 m², which were nevertheless quite poorly lit.

³⁴ Where persons detained were held overnight in dark, dilapidated, dirty and smelly cage-like holding cells, obliged to sit on narrow benches.

³⁵ Where the whole detention area was dilapidated and dirty.

The delegation observed some systemic problematic issues, e.g. no mattresses were issued for the night to persons in police custody³⁶ and there was a lack of uniform practice as regards the provision of blankets³⁷ and food.³⁸ Further, there were no clear instructions and budgetary provisions concerning the maintenance of cleanliness of the cells and toilets, which resulted in very variable hygiene in the establishments visited.³⁹

The CPT recommends that the Bulgarian authorities take steps to remedy the aforementioned deficiencies. In particular, the relevant Ministerial Order should be amended so as to make clear that all persons in police custody (including criminal suspects) should be given a mattress for the night.

Uniform instructions should also be issued concerning the provision of blankets, food and the cleaning of police cells and toilets. More generally, efforts to upgrade and refurbish cells in police directorates should continue throughout the country, including in the establishments referred to above.

41. Overall though, conditions in most of the police establishments visited could be considered satisfactory for up to 24 hours of custody but not for any time exceeding this period; this includes administrative detention of ‘hooligans’ for up to 15 days (*inter alia* because of lack of exercise yards and any organised activities). **The Committee recommends that steps be taken to ensure that no one is held in police establishments for longer than 24 hours, unless they are equipped with proper outdoor exercise yards and suitably staffed.⁴⁰ For any stays in excess of 24 hours, some form of activity should be offered (e.g. TV, books, possibly some sports and work).**

Further, the CPT wishes to stress that there is a general trend (observed by the Committee in several countries) of either shortening the maximum term of administrative detention in police establishments or abolishing that type of sanction altogether. **The CPT would welcome observations of the Bulgarian authorities on this subject.**

42. Although this is expressly prohibited by the relevant Ministerial Order, the delegation again observed, in some of the police establishments,⁴¹ that detained persons continued to be held for prolonged periods (up to 24 hours) in offices or corridors, on benches or chairs, sometimes attached with handcuffs to fixed objects such as pipes or railings. **The Committee once again calls upon the Bulgarian authorities to stop this practice, without further delay.**

³⁶ The Ministerial Order concerning conditions in police cells (see paragraph 18 above) only foresees that blankets must be issued for the night to detained juveniles, pregnant women and administrative detainees (‘hooligans’).

³⁷ Which were e.g. not provided to detained persons at District Police Directorates Nos. 3 and 5 in Sofia, and at District Police Directorate No. 2 in Stara Zagora.

³⁸ E.g. food (standardised ‘packets’, to be heated up in a microwave oven) was offered systematically in Burgas, Elhovo, Sredets and Varna, but it appeared not always to be the case in the other establishments visited, especially in Sofia. In some establishments, e.g. in Tvarditsa, there were no ‘packets’ but police officers told the delegation that they would fetch something to eat in a shop if a detainee so requested.

³⁹ Cells and toilets at District Police Directorates Nos. 3 and 5 in Sofia, and at Radnevo District Police Directorate, were particularly dirty.

⁴⁰ Taking detained persons for a walk in the police car park or around the building (as was e.g. the case at District Police Directorate No. 5 in Burgas) cannot be considered an adequate solution.

⁴¹ E.g. at District Police Directorate No. 5 in Sofia and at Tvarditsa District Police Directorate.

5. Special Home for Accommodation of Foreigners in Lyubimets

a. preliminary remarks

43. The delegation visited, for the first time, one immigration detention establishment run by the Ministry of Interior, namely the Special Home for Accommodation of Foreigners in Lyubimets (hereafter, the Home). Located in a small town in the south of the country, close to the borders with Greece and Turkey, the Home is used to accommodate, for up to 18 months, foreign nationals subjected to administrative detention pursuant to the Law on Aliens in the Republic of Bulgaria (LARB).⁴²

Brought into service in 2011, the Home had an official capacity of 300⁴³ (with the possibility to increase the capacity by 400 places in movable containers, see paragraph 52 below) and was accommodating, at the time of the visit, 258 foreign nationals including 37 women and 43 minors (approximately 30 of whom were infants).⁴⁴ They represented 19 different nationalities, most of the detained foreign nationals coming from Afghanistan, Iraq, Pakistan and Syria. According to the Home's Director, the average detention period was 2 to 3 months, but the delegation spoke with several foreign nationals (mostly single adult males) who claimed having been at the establishment for much longer periods (more than a year).

Considering that some of the detained foreign nationals had requested asylum while at the Home, the CPT must reiterate its view that, **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.**

44. Regarding the accommodation of minors at the Special Home for Accommodation of Foreigners in Lyubimets, the CPT wishes to stress that such detention can have a negative psychological effect on the minors' development and well-being. Consequently, the placement of minors and their parents in the Home (and, as applicable, other similar establishments in Bulgaria) should only occur as a last resort, and if, in exceptional circumstances, such placement cannot be avoided, its duration should be as short as possible. **The Committee recommends that the Bulgarian authorities strive to follow these principles in practice.**

⁴² According to the LARB, administrative detention of foreign nationals can be ordered by the Border Police or the Ministry of Interior's Migration Directorate on grounds of unauthorised entry, irregular residence or lack of valid identity documents with a view to their removal from the country. Following amendments to the LARB passed in the end of 2016, the Migration Directorate can initially order a detention of 30 calendar days within which period they should decide on continuous detention or referral of the individual to an open reception centre, if he or she has applied for asylum. The maximum detention period is 18 months, including extensions. Extensions beyond six months (three months for women and minors) can be ordered only by a court. Under the law, a foreign national shall be released as soon as the reasonable possibility for their deportation no longer exists due to legal or technical reasons. Since 2009, there is an automatic six-monthly judicial review (three-monthly for women and minors) of all cases of administrative detention.

⁴³ Reportedly calculated according to the norm of 4 m² of living space per detainee; however, the number of beds in most dormitories suggested intended occupancy levels which did not respect this norm, see paragraph 48 below.

⁴⁴ There were no unaccompanied minors; according to the Home's Director, they would never be accommodated there.

b. ill-treatment

45. The delegation received a few allegations of physical ill-treatment (punches, kicks and truncheon blows) by custodial staff at the Home, which had reportedly taken place in the basement and in the toilets (areas beyond the CCTV coverage); it was said to have occurred as response to detained foreign nationals' requests, especially to be allowed to go to the toilet at night.

Further, many complaints were received about custodial staff being disrespectful and unresponsive to detained foreign nationals, with a general lack of interaction and communication between staff and detainees. Indeed, the delegation itself observed that staff were not engaging with detained foreign nationals. This was also due to the insufficient numbers of staff⁴⁵ and their inadequate training⁴⁶ including in inter-cultural communication and foreign languages. The Director told the delegation that some of the staff spoke basic English and a few had notions of Arabic; however, the overwhelming majority of foreign nationals complained that it was close to impossible to communicate with the staff.

The CPT recommends that the management of the Special Home for Accommodation of Foreigners in Lyubimets deliver a clear message to all staff members that the ill-treatment of detained foreign nationals (whether of a physical or verbal nature) is not acceptable and will be the subject of severe sanctions.

The Committee also recommends that steps be taken to increase ongoing staff presence inside the accommodation areas, and that serious efforts be made to improve staff's training in languages and inter-cultural communication.

46. The special means available to custodial staff included truncheons and pepper spray. In this connection (and also in the light of the ill-treatment allegations received, see above), the CPT is concerned by the fact that some custodial staff carried truncheons permanently, including inside the accommodation areas and in full view of detained foreign nationals. This is an intimidating and unjustified practice; **the Committee recommends that it cease without delay.**

47. Inter-detainee violence was common at the Home, which was hardly surprising given the fact that persons of different nationalities and with different cultural and religious backgrounds had to share large-capacity dormitories for prolonged periods, with a complete lack of privacy and activities, without clear information on their legal and practical situation⁴⁷ and with few custodial staff being present within the accommodation areas. The Director informed the delegation of a mass brawl between adult men, which had taken place a few months before the visit and had resulted in injuries (one of the detained foreign nationals had required hospitalisation). Reportedly, a criminal investigation had been opened and was still ongoing at the time of the visit.

⁴⁵ There were 100 custodial officers, with 15 of them being present on each shift.

⁴⁶ For the biggest part, custodial staff were ordinary police officers without any special training for the job in an immigration detention facility. A few of them had received some additional training in interviewing techniques.

⁴⁷ See paragraph 58 below.

Accommodation was particularly dangerous for women and minors (including infants), who had to share the same dormitories with often unrelated adult men (the latter accommodated together with their respective families), locked at night in total darkness (electricity being switched off between 11 p.m. and 7 a.m.).

In the light of the above, **the CPT recommends that the management and staff of the Special Home for Accommodation of Foreigners in Lyubimets exercise increased vigilance and make use of all the means at their disposal to prevent inter-detainee violence and intimidation, paying particular attention to ensuring the safety of women and minors who should not share dormitories with unrelated male adult detainees. The Committee would also like to receive information on the outcome of the investigation into the incident referred to above.**

c. conditions of detention

48. Accommodation was provided in a single detention block with two levels, women and families with children being accommodated on the ground floor, and single men being accommodated in two units (one on the ground floor and one on the first floor).

Material conditions were generally very poor, with large-capacity dormitories⁴⁸ being crammed with bunk beds and occasionally some other furniture (mainly lockers). Though generally well-lit and ventilated, the dormitories and the furniture were dilapidated and filthy. The bedding was dirty and threadbare;⁴⁹ moreover, mattresses were infested with bed bugs,⁵⁰ disinfection measures (reportedly taken once a month) being obviously ineffective.

Many detainees complained that access to the communal toilets was problematic when the dormitories were locked at night, since it was not easy – or even dangerous – to summon staff (see also paragraph 45 above). The toilets and the showers for women and families with children, though freely accessible, were dilapidated, dirty and flooded. The collective showers for men, recently refurbished and located in the basement, were accessible in groups twice a day.

49. As already mentioned in paragraph 43 above, there were 43 minors (including infants) at the Home, and absolutely nothing was provided for them, no adapted food and clothes, no toys, and it was difficult to obtain nappies for infants and sanitary materials for women;⁵¹ more generally, hygiene items, clothes⁵² and other basic necessities of life were left for charities and NGOs to provide. In its current state, the Home did not offer appropriate conditions in which to accommodate minors, especially infants.

⁴⁸ Measuring from 65 to 100 m² and containing 25 to 45 beds each. There were also a few smaller rooms for up to four persons, measuring approximately 25 m².

⁴⁹ Clean bedsheets were provided to women and minors on the day of the delegation's visit.

⁵⁰ Some detained foreign nationals preferred to sleep on a blanket placed directly on the floor or just on bed frames, because this way they were bitten less frequently at night; the delegation saw several detainees (including infants) with skin rashes and allergic reactions caused by bed bugs.

⁵¹ Detained foreign nationals were not duly informed of the possibility of requesting staff for such items, and the delegation heard diverging replies from the staff as regards the procedure for such requests (some said detainees had to ask the doctor, others said it was the custodial staff, especially those who were in charge of interviewing detainees). It was unfortunately unsurprising that the stock of hygiene items, diapers and sanitary materials, most of them apparently donated by the EU and the Red Cross, was full and obviously little used.

⁵² Some detained foreign nationals had only light summer clothes and were complaining of the cold when outdoors and at night.

50. Food, which was delivered daily by a catering company from the town of Haskovo (some 60 km from Lyubimets), was reheated on the spot and served three times a day in a spacious dining room, and foreign nationals were allowed to make additional purchases in the shop. However, many of them complained about inadequate quality and temperature of the food provided and the high prices in the shop.

51. In the light of the remarks in paragraphs 48 to 50 above, **the CPT recommends that following steps be taken in respect of the Special Home for Accommodation of Foreigners in Lyubimets:**

- **reduce occupancy levels in the dormitories and remove spare beds;**
- **refurbish the detainee accommodation areas, replace or repair the broken furniture (and provide lockable space for personal belongings) and sanitary facilities (toilets, washrooms and showers) and make sure all these premises and installations are properly maintained and kept clean;**

carry out thorough and repeated disinfection measures and replace all mattresses with new, insulated and washable ones, so as to eliminate the problem of infestation with bed bugs;
- **ensure that detained foreign nationals have ready access to a toilet at all times, including at night;**
- **ensure the provision of personal hygiene items, sanitary materials for women, nappies for infants, appropriate clothing and shoes;**
- **provide detained foreign nationals with clear information, in languages they understand, about the procedures to be followed to obtain the above-mentioned items from the Home's administration.⁵³**

Further, **the Committee invites the Bulgarian authorities to review the food arrangements (including as regards baby food) in the Home in order to ensure that the dietary habits and needs of detained foreign nationals are being adequately catered for. Close attention should also be paid to the prices of items sold in the establishment's shop.**

52. As already mentioned in paragraph 43 above, approximately 400 additional places were provided in movable living containers, located on a part of the Home's extensive outside territory (within the secure perimeter). The containers were delivered following a peak in population in 2015 and 2016, when the Home had reportedly accommodated up to 600 detained foreign nationals, but had never been used (so far) and were not fully connected to water/sewage and electricity networks. Each container had two small rooms where detained persons would have to live in very cramped conditions indeed (two bunk beds on a surface of approximately 6 m²); further, the containers would be cold in the winter (as there was no proper heating system) and stuffy in the summer (they had no effective ventilation). There would be collective toilets and showers, located in separate containers specially adapted for the purpose. It was clear, however, that the extra accommodation was not ready for immediate use.

⁵³ See also paragraph 58 below.

In the CPT's view, if ever the above-mentioned containers were to be used to accommodate detained foreign nationals, the intended occupancy would have to be lowered dramatically (i.e. each of the small rooms in every container would have to be for one person only), and the containers would have to be provided with running water, electricity (not only lamps but also sockets), and a functioning heating and ventilation. **The Committee recommends that steps be taken accordingly.**

53. Turning to activities, the only positive features were an open-door policy during the day and the daily access (between 9 a.m. and noon and between 2 p.m. and 4 p.m.⁵⁴) to a spacious (but bare) asphalted outdoor area. There was, however, a total lack of any constructive activities: the delegation could not find a working radio or TV set, there was nothing to read and no board games, and there was no gym and no playground for children.

The CPT calls upon the Bulgarian authorities to offer a range of constructive activities to foreign nationals detained at the Special Home for Accommodation of Foreigners in Lyubimets, taking into consideration the fact that persons may – and often do – spend lengthy periods of time at the establishment. As a first step, TV sets must be repaired (and foreign nationals enabled to watch foreign TV channels), and radio sets, books, magazines, newspapers (in an appropriate range of languages) provided. Further, detained foreign nationals must be offered the possibility to engage in sports and play board games, and minors should have a playground (with toys) at their disposal. As regards the large outdoor area, it should be equipped with a suitable number of shelters against inclement weather.

d. health care

54. Regarding the health-care service, there was a 24/7 on-site coverage (the Home employed a doctor, three feldshers and a nurse) and, in case of emergency, detained persons could be transferred to general hospitals in nearby towns (Haskovo, Harmanli) or to the Ministry of Interior Hospital in Sofia (in more complex cases).

However, as the Home's Director himself acknowledged, the lack of a dentist was a problem and the arrangements complicated (the dentist had to come from Sofia, some 270 km away, from the Ministry of Interior Hospital). Further, there was little supply of basic medication and detained foreign nationals had to buy almost all the medicines. In practice, it appeared that they also had to pay for medical consultations.⁵⁵

In this context, it was hardly surprising that the delegation received many complaints from detained foreign nationals about insufficient access to health care, including dental and specialist (e.g. gynaecologist, obstetrician⁵⁶ and psychiatrist). Communication problems with health-care staff (due to the language barrier) did little to improve the situation.⁵⁷ Further, some of the female detainees (including some of the pregnant ones) told the delegation that they felt uncomfortable with the fact that the doctor was a man, and therefore did not go to see him.

⁵⁴ In the summer months, the outdoor area was also accessible from 6 p.m. to 8 p.m.

⁵⁵ Several interviewed detainees referred to the price for such 'free' consultations i.e. 5 or 10 BGN.

⁵⁶ A number of female detainees were pregnant.

⁵⁷ See also paragraph 45 above.

55. Foreign nationals were examined on arrival and each of them had an individual medical file. However, the medical screening was superficial,⁵⁸ the recording of injuries very poor and the medical files at best scant.

56. **The Committee recommends that steps be taken to strengthen the provision of health care to foreign nationals detained at the Special Home for Accommodation of Foreigners in Lyubimets, and in particular to:**

- **ensure that detained foreign nationals have reasonably rapid and free-of-charge access to the doctor and outside specialists, including to dental care and to a gynaecologist, an obstetrician, a paediatrician and a psychiatrist; efforts should also be made to offer to female detainees the possibility to see a female doctor;**
- **ensure appropriate supplies of free-of-charge medication;**
- **provide qualified interpretation in cases when detained foreigners and medical staff cannot communicate with each other;**
- **improve the quality of medical screening upon arrival (include the screening for TB, other transmissible diseases and mental disorders including signs of PTSD), and the quality of the recording of injuries; in this respect, reference is made to the recommendations in paragraph 27 above which apply *mutatis mutandis*.**

57. The establishment employed two psychologists, but none was present at the time of the visit (one was on maternity leave and the other on regular vacation, expected to return in two weeks' time). As with the other staff, detained foreign nationals referred to communication problems which limited severely the psychologists' possibilities to provide any assistance.

The CPT must stress once again the need for particular attention to be paid to the mental health and psychological state of foreign nationals in custody, some of whom are asylum seekers and may have experienced difficult situations – including torture or other forms of ill-treatment – in other countries. **The Committee recommends that the Bulgarian authorities strive to improve the level of psychological assistance to foreign nationals detained at the Special Home for Accommodation of Foreigners in Lyubimets, including the provision of interpretation.**

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

58. Detained foreign nationals had little access to information on house rules and their legal situation in languages that they understood. Apart from a few posters on relevant legislation (in 3 – 4 languages) received from the UNHCR and the Bulgarian Helsinki Committee and stuck on the walls in corridors, detainees were unable to receive any written information on their rights, obligations and applicable procedures; the house rules only existed in Bulgarian⁵⁹ and were supposed to be explained orally to newly-arrived detainees by the interviewing staff.

⁵⁸ It did not, for example, include screening for TB and mental health needs.

⁵⁹ After a long search, staff were able to produce texts of the house rules translated into Arabic, English and Urdu, but none of the interviewed foreign nationals confirmed having seen these translations.

Most of the detained foreign nationals complained about the lack of information on what was happening in their cases, how long they would spend in custody and whom they should turn to if they have any requests or complaints; understandably, this did not help defuse the tense atmosphere in the establishment.⁶⁰

The CPT recommends that steps be taken to ensure that all detained foreign nationals at the Special Home for Accommodation of Foreigners in Lyubimets are provided with adequate written information in languages they understand.

Further, it would be desirable for foreign nationals to receive a written translation in a language they understand of decisions regarding their detention/removal, as well as written and oral information on the modalities and deadlines for appealing against such decisions.

59. The delegation was told that the Home was sometimes visited by NGOs (especially the Bulgarian Helsinki Committee) whose representatives provided detained foreign nationals with information on their procedural rights and assisted them *pro bono* in their immigration and asylum procedures. However, there was no other form of legal assistance, as *ex officio* legal aid was (still) not foreseen in administrative proceedings.⁶¹ **Consequently, the Committee reiterates its recommendation that the Bulgarian authorities take steps to extend the system of legal aid to detained foreign nationals, in all phases of the procedure. For indigent foreign nationals, these services should be provided free of charge.**

60. As already mentioned in paragraphs 45 and 54 above, the absence of interpretation arrangements at the Home was a matter of concern, in particular when it came to medical examinations and psychological assistance. **The CPT recommends that steps be taken to ensure that foreign nationals detained at the Special Home for Accommodation of Foreigners in Lyubimets receive, when necessary, the assistance of qualified interpreters. The use of fellow detainees as interpreters should, in principle, be avoided.**

61. As for contact with the outside world, detained foreign nationals could send and receive correspondence and could use their mobile telephones or pay-phones. Visits were also allowed up to twice per week (upon request) and took place under open conditions but in the presence of staff.⁶²

The delegation was informed that new technologies such as VoIP (Voice over Internet Protocol) were not used at the Home to facilitate detained foreign nationals' contacts with their families. Because of this, some detained foreign nationals complained that they quickly spent all their money on long-distance telephone calls.

The Committee recommends that the Bulgarian authorities allow foreign nationals detained at the Special Home for Accommodation of Foreigners in Lyubimets to use the VoIP technologies on a free-of-charge basis to communicate with the outside world.

⁶⁰ See paragraph 47 above.

⁶¹ See also a similar issue in paragraph 32 above.

⁶² Visits by lawyers and NGOs were unrestricted and unsupervised.

B. Establishments under the authority of the Ministry of Justice

1. Preliminary remarks

62. The delegation carried out follow-up visits to Burgas, Sofia and Varna Prisons as well as Investigation Detention Facilities (IDF)⁶³ located in Burgas, Sliven and on G.M. Dimitrov Boulevard in Sofia; further, first-time visits were carried out to prison hostels in Debelt and Razdelna.

General descriptions of Burgas, Sofia and Varna Prisons, as well as the IDF visited in Sofia, can be found in the reports on previous visits.⁶⁴ At the time of the 2017 visit, Burgas Prison (the main closed-type campus) was accommodating 234 male adult prisoners (including approximately 50 on remand, 16 in transit and 22 sentenced to life imprisonment) and had the official capacity of 299;⁶⁵ Sofia Prison (main closed-type campus) had 924 places⁶⁶ and was accommodating 695 male adult inmates⁶⁷ including 124 on remand, 92 foreign nationals and approximately 30 lifers; Varna Prison (the main closed-type campus) had 254 prisoners⁶⁸ (including 35 on remand and 23 lifers) and 262 places; and the IDF on G.M. Dimitrov Boulevard in Sofia had 241 remand prisoners⁶⁹ (including five women and 22 foreign nationals) and 252 places.

Debelt Prison Hostel (administratively part of Burgas Prison) was opened in March 2017 on the premises of former police and fire brigade headquarters in a small town some 20 km from Burgas. At the time of the visit, it had the official capacity of 370⁷⁰ and was accommodating 307 adult sentenced prisoners, all of them with shorter sentences or longer sentences but with a good behaviour record.

⁶³ IDFs are in fact remand prisons, primarily used to hold persons remanded in custody during the period of investigation, i.e. prior to issuing an indictment, but also to accommodate sentenced prisoners who have been transferred in order to appear in court or undergo investigation related to other offences.

⁶⁴ See, for Burgas Prison, paragraphs 22 to 25 of the report on the 2012 ad hoc visit (CPT/Inf (2012) 32), <https://rm.coe.int/16806940c3>; for Sofia Prison, see paragraph 70 and following of the report on the 2006 periodic visit (CPT/Inf (2008) 11), <https://rm.coe.int/16806940a0>; for Varna Prison, see paragraphs 22 to 25 of the report on the 2012 ad hoc visit (CPT/Inf (2012) 32), <https://rm.coe.int/16806940c3>; for the IDF on G.M. Dimitrov Boulevard in Sofia, see paragraph 63 of the report on the 2010 periodic visit (CPT/Inf (2012) 9), <https://rm.coe.int/16806940a3>.

⁶⁵ This included the IDF located on the prison's premises, with 46 places and 23 inmates. Both the capacity and (especially) the population were significantly lower than during the 2015 visit, when the prison officially had 371 places and was accommodating 579 prisoners, see paragraph 39 of CPT/Inf (2015) 36, <https://rm.coe.int/16806940c7>.

⁶⁶ Though the Director acknowledged that the capacity was still wrongly calculated (i.e. not respecting the 4 m² norm, see paragraph 63 below).

⁶⁷ As compared with 816 in 2015, see paragraph 39 of CPT/Inf (2015) 36, <https://rm.coe.int/16806940c7>.

⁶⁸ As compared with 422 in 2015, see paragraph 39 of CPT/Inf (2015) 36, <https://rm.coe.int/16806940c7>.

⁶⁹ As compared with 235 in 2015, see paragraph 37 of CPT/Inf (2015) 36, <https://rm.coe.int/16806940c7>. ...

⁷⁰ Once the construction of an additional wing ("C") completed, it was planned to increase the capacity to 450 places.

Razdelna Prison Hostel (administratively attached to Varna Prison), reopened in 2016 after reconstruction,⁷¹ was located on the premises of a former hostel for workers employed in a quarry and brick factory in the small town some 30 km from Varna. It had the official capacity of 272 and was accommodating 213 sentenced prisoners at the time of the visit, including 95 on open regime.

Sliven IDF was located on the top floor of an old building in the city centre, also housing the regional police headquarters. At the time of the visit, the establishment, with the capacity of 42, was accommodating 35 remand prisoners including a woman and two juveniles.

63. The 2017 periodic visit took place some 2.5 years after the CPT's public statement concerning Bulgaria.⁷² The Committee had then had no other choice but to issue such a statement as many long-standing CPT's recommendations had remained unimplemented and the situation in Bulgarian prisons was indeed dramatic. The 2017 visit provided an opportunity to assess what had been done after the public statement and after the European Court of Human Rights judgment in the *Neshkov* case.⁷³

Following the public statement, the Bulgarian authorities adopted an action plan to implement the Committee's recommendations and the aforementioned European Court of Human Rights judgment; this was followed by several legislative, organisational and financial measures.

Among other things, on 25 January 2017 the National Assembly adopted the Law on Amendments to the Execution of Punishments and Pre-Trial Detention Act, the Criminal Code and the Criminal Procedure Code. Amongst the key provisions of this law, one should mention: new rules for initial allocation and transfer of prisoners, as a measure to tackle prison overcrowding;⁷⁴ significant changes in the procedure for early conditional release;⁷⁵ official confirmation of the norm of 4 m² of living space per prisoner as a standard in all penitentiary establishments irrespective of the type, regime and category of inmates; introduction of the compulsory annual review (by prison Directors) of decisions concerning the particular regime for each life-sentenced prisoner;⁷⁶ introduction of personal and confidential medical files for all prisoners and obligation for prison health-care staff to visit on a daily basis inmates held in disciplinary isolation.⁷⁷

⁷¹ The original buildings dating back to early 1970s.

⁷² See document CPT/Inf (2015) 17, <https://rm.coe.int/16806940ef>, especially paragraphs 8 to 16.

⁷³ *Neshkov and Others vs. Bulgaria* (applications nos. 36925/10, 21487/12, 72893/12, 73196/12, 77718/12 and 9717/13), judgment of 27 January 2015.

⁷⁴ The decision on the specific prison to which a sentenced prisoner is sent is now taken by the prison administration (General Directorate of Execution of Sanctions, GDIN). Subsequently, prison Directors (and not the internal prison commissions, like before) are in charge of transfers within the prison, and it is also easier to transfer inmates from prisons to prison hostels (there is no more the requirement of less than 5 years of the remaining sentence, and it is now possible e.g. to send a recidivist to an open hostel).

⁷⁵ Both the prison administration and the prisoner now have the right to bring an application to the court for early conditional release after a certain time of serving the sentence has passed, and the procedure itself had been simplified.

⁷⁶ See also paragraph 87 below.

⁷⁷ See also paragraph 104 below.

The adoption, in April 2016, of amendments to the Execution of Punishments and Pre-Trial Detention Act introducing electronic monitoring is also worth mentioning here. Electronic monitoring, which may *inter alia* be applied to inmates serving their sentences in open-type prison hostels, was not yet fully operational at the time of the visit, due to the pending tender for purchasing the equipment. **The CPT would like to receive, in due course, confirmation that the aforementioned measure is now fully in place.**

64. Indeed, the delegation has observed that the situation in penitentiary establishments had generally improved since the 2015 ad hoc visit, due to a number of factors: a significant drop in prison population⁷⁸ (in most establishments visited, except Sofia Prison and the IDFs in Sliven and Sofia, the official norm of 4 m² per prisoner was respected in practice); the aforementioned legal amendments making it easier to allocate inmates throughout the available accommodation⁷⁹ and to release prisoners on parole; and efforts to refurbish and reconstruct prison estate.⁸⁰

All the steps referred to above (and in paragraph 63) are to be commended. However, in the light of what the delegation saw during the 2017 visit, **the Committee strongly encourages the Bulgarian authorities to pursue their efforts including, especially, the prison refurbishment programme. Particular attention should be paid to Sofia Prison and the G.M. Dimitrov IDF in Sofia, where progress had so far been considerably slower.**⁸¹ Conditions at the IDF in Sliven will be commented upon in paragraph 78.

As regards the regimes for prisoners, especially those on remand and those sentenced to life imprisonment, reference is made to the comments and recommendations in paragraphs 84 and 87 below.

65. The delegation has found that corruption remains a serious issue in prisons. As observed on previous visits, prison staff appeared to be the major source of contraband coming into prisons including drugs, alcohol, mobile phones and SIM cards; further, the delegation again heard allegations that some staff demanded payments for issues such as a positive assessment of the inmate's behaviour (important in the context of prison leaves and early release) and providing a work place.⁸²

⁷⁸ The number of inmates held in prisons and IDFs had fallen significantly: from respectively 9,371 and 1,244 in March 2013, 7,527 and 975 in June 2015 to 7,280 and 979 in December 2016. On 1 December 2016, the official capacity of the Bulgarian prison system, calculated on the basis of the norm of 4 m² of living space per person, was approximately 8,500 places.

⁷⁹ Although, despite the new provisions, some localised overcrowding persisted in the prisons visited, especially Sofia Prison, due to the remaining complex rules for separation of different categories of inmates.

⁸⁰ These efforts were most clearly visible at Burgas and Varna Prison, as well as in the newly-opened Debelt Prison Hostel. There was less evidence of refurbishment at Sofia Prison and the IDF on G.M.Dimitrov Boulevard, see paragraphs 77 and 76 below.

⁸¹ See paragraphs 77 and 76 below.

⁸² Having a work place contributes to shortening the sentence and increases the likelihood of parole.

Prison Directors did make strong efforts to combat this phenomenon, especially in Burgas and Varna,⁸³ but – according to them – the existing legislative framework did not support them in these efforts,⁸⁴ cases reportedly often ‘falling through’ in between disciplinary procedures and court proceedings.⁸⁵ Staff salaries remained very low⁸⁶ and thus the temptation of corruption was still very much present.

The CPT wishes to emphasise yet again that the existence of a widespread belief among prisoners that anything can be bought inevitably undermines attempts to create order within a prison and to develop positive staff-prisoner relations. Moreover, such an endemic level of corruption brings in its wake discrimination, violence,⁸⁷ insecurity and, ultimately, a loss of respect for authority.

The Committee calls upon the Bulgarian authorities to continue their efforts to combat the phenomenon of corruption in prisons. Prison staff and public officials associated with the prison system should be given the clear message that seeking advantages from prisoners or their relatives is illegal and will be punished severely; this message should be reiterated in an appropriate form, at suitable intervals. Tackling corruption will also require legislative amendments and a substantial increase in salaries of (especially junior) custodial staff.

2. Ill-treatment

66. The CPT’s delegation received only very few complaints and allegations concerning prison staff,⁸⁸ and the allegations heard mostly referred to verbal abuse and rude behaviour;⁸⁹ physical ill-treatment seemed much rarer than in the past. This positive development is to be welcomed. The only exception was Varna Prison where the delegation did receive a few isolated allegations of physical ill-treatment of prisoners by staff in the recent past, but it was clear that the Director was aware of these cases and had taken appropriate action.⁹⁰

⁸³ In Varna the Director had reportedly recently fired all the civilian kitchen employees because of the practice of ‘selling jobs’ to inmates.

⁸⁴ Directors at Burgas and Varna Prisons told the delegation that disciplinary proceedings against staff (including for corruption) had to be stopped when a criminal case was initiated and *vice versa* (pursuant to a decision by the Supreme Court). Further, only the Director of GDIN had the power to fire a prison officer disciplinarily.

⁸⁵ The delegation was told by prison Directors that staff fired disciplinarily frequently appealed the decisions to labour courts and many of them had won their cases and had to be reinstated in their positions, apparently because of a very high standard of proof imposed by courts (making it virtually impossible to part with a corrupt staff member unless caught red handed). It was also reportedly very hard to search a staff member while on duty, the procedure being both heavy and easily appealable.

⁸⁶ The starting salary for a junior custodial officer was about 700 BGN per month.

⁸⁷ See also paragraph 67 below.

⁸⁸ In particular, no direct, recent and credible allegations were received regarding custodial staff of the IDF located on G.M. Dimitrov Boulevard in Sofia, Burgas Prison and the Prison Hostels in Debelt and Razdelna.

⁸⁹ This was e.g. the subject of a few allegations heard at Sofia Prison.

⁹⁰ In particular, two custodial officers who had been found to have used excessive force (truncheon blows, kicks and punches) vis-à-vis an initially agitated inmate (who no longer offered any resistance) had been severely reprimanded and a report was sent to the prosecutor’s office. They had also been suspended from duty pending the outcome of the investigation. Both officers appealed the Director’s decision and the court quashed that decision for lack of sufficient motivation; nevertheless, the Director told the delegation that he had made sure that the two officers no longer worked in direct contact with prisoners.

Nevertheless, **the CPT recommends that prison staff in the establishments visited (and, more generally, in all penitentiary establishments in Bulgaria) be reminded at regular intervals that ill-treatment of prisoners is a criminal offence and will be punished accordingly.**

67. Inter-prisoner violence remained, by contrast, a serious problem in most of the establishments visited,⁹¹ especially at the IDF located on G.M. Dimitrov Boulevard in Sofia and at Sofia and Varna Prisons. This transpired from interviews with prisoners and from the examination of medical documentation⁹² and disciplinary records⁹³ in the establishments visited, but was also openly acknowledged by the management and some of the staff.

Custodial staff did not seem to be responding to incidents quickly and efficiently enough. Much of this could be the result of very low staff complements in all the establishments visited (see paragraph 99 below), the absence (for remand prisoners) or near-absence of organised activities⁹⁴ and the prevalence of drugs and thus drug trade and drug-related debts.⁹⁵

The Committee once again calls upon the Bulgarian authorities to take resolute action to tackle the phenomenon of inter-prisoner violence in Bulgarian prisons. More has to be done to ensure that staff are trained and motivated to be proactive and prevent such violence.⁹⁶ Reference is also made to the comments and recommendations in paragraphs 99, 84, 65 and 97.

68. The CPT has misgivings about the semi-official role conferred upon certain prisoners (referred to differently in the establishments visited, e.g. as “mayor” (*kmet*) at Sofia Prison, “ORD” (“in charge of public order”) at Varna Prison and “responsible” (*otgovornik*) at Debelt Prison Hostel) whose tasks appeared to include at least some elements of disciplinary authority, such as reporting to staff on the conduct of fellow inmates and instructing them on how to behave.

⁹¹ Though much less so in Debelt.

⁹² For example, 18 prisoners at Varna Prison – whose injuries sustained while in the establishment had been recorded by health-care staff between 1 June 2016 and 1 September 2017 – alleged that they had been assaulted by fellow inmates. In the same period, 15 prisoners with relatively serious injuries had declared to have been attacked by fellow inmates at Sofia Prison.

⁹³ E.g. at Razdelna Prison Hostel.

⁹⁴ See paragraphs 82 and 83 below.

⁹⁵ See also paragraph 65 above and paragraph 97 below. This was particularly striking in Varna Prison and Razdelna Prison Hostel, in the closed regime accommodation.

⁹⁶ See also paragraph 36 of the report on 2015 ad hoc visit (CPT/Inf (2015) 36, <https://rm.coe.int/16806940c7>): “The CPT wishes to emphasise that the prison authorities must act in a proactive manner to prevent violence by inmates against other inmates. Addressing the phenomenon of inter-prisoner violence and intimidation requires that prison staff be alert to signs of trouble and both resolved and properly trained to intervene when necessary. Both initial and on-going training programmes for staff of all grades must address the issue of managing inter-prisoner violence.

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

In this context, the Committee must stress that it considers unacceptable any partial relinquishment of the responsibility for order and security, which properly falls within the ambit of custodial staff. It exposes weaker prisoners to the risk of being exploited by their fellow inmates. It is also contrary to the European Prison Rules, according to which no prisoner should be employed, in the service of the institution, in any disciplinary capacity.⁹⁷

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

69. At Burgas Prison, the CPT's delegation discussed the case of a prisoner (G.) who had died in his cell on 25 March 2017, under unclear circumstances. The Committee had received reports according to which G. had been knowingly placed into a cell with a dysfunctional steam heating system and had died after having suffered major burns to his body. The Director of Burgas Prison stated that G.'s death had resulted from an accident caused by the inmate's own actions (G., a physically strong prisoner with a long record of violent behaviour, had reportedly ripped off a heating pipe through which the steam had penetrated to his cell); it was also reportedly likely that his death had resulted from acute cardiac insufficiency and not from the burns.⁹⁸

At the time of the visit, criminal investigation into the aforementioned incident was still ongoing. **The CPT requests the Bulgarian authorities to provide the Committee, in due course, with information on the outcome of this investigation. The CPT also requests the Bulgarian authorities to be provided, on the same occasion, with a copy of the autopsy report including photographs and results of the laboratory tests performed following G.'s death.**

70. The delegation noted that operational staff of the Ministry of Interior were regularly present in at least some of the penitentiary establishments visited (e.g. in Sofia and Varna). These officers fulfilled a variety of tasks including investigation of criminal offences committed by inmates prior to imprisonment and of any incidents bearing *prima facie* elements of crime inside the prison.⁹⁹ The officers in question were apparently not subordinated to the prison management and acted under the instruction of police investigators and prosecutors.

In the Committee's view, such ongoing presence of Ministry of Interior staff in penitentiary establishments can be detrimental to the protection of prisoners against ill-treatment (including inter-prisoner violence) and lends itself to abuse. It is also arguably contrary to Rule 84.3 of the European Prison Rules, according to which the prison administration must ensure that every institution is at all times in the full charge of the director, the deputy director or other authorised official.

⁹⁷ Rule 62.

⁹⁸ The Director also told the delegation that he had punished disciplinarily the custodial officer on duty and members of the night shift, for not having exercised sufficient supervision over the inmate. He added, however, that G.'s death occurred at the time of change of shift (from the night to the day shift), which might partially explain the staff's diminished vigilance.

⁹⁹ For the purpose, they had access to the detention areas at any time and could interview inmates without any restrictions. Further, it would appear that these officers could offer prisoners rewards for the provision of information (e.g. allocation to a better cell, home leave).

The CPT reiterates its recommendation that the Bulgarian authorities review the presence of Ministry of Interior staff in prisons, in the light of the above remarks. Reference is also made here to the comments in paragraph 151 of the report on the Committee's 2010 periodic visit to Bulgaria.¹⁰⁰

3. Material conditions of detention

71. As already mentioned in paragraph 64 above, the delegation saw evidence of refurbishment (already completed, ongoing or about to start soon) in almost all penitentiary establishments visited.

72. The best material conditions were observed at the recently-opened Debelt Prison Hostel,¹⁰¹ where the cells (generally accommodating up to four inmates and measuring approximately 20 m²) were bright, airy and suitably equipped.¹⁰² However, the delegation was struck by the low quality of the materials used and the work completed, and the already visible signs of wear-and-tear.¹⁰³ **The Committee recommends that steps be taken to address these deficiencies as a matter of urgency, for as long as the contractors' warranty remains valid.**

73. The already refurbished areas of Burgas Prison¹⁰⁴ (including the ground floor wing occupied by Burgas IDF) also offered good material conditions: standard cells measured between 12 and 14 m² and accommodated up to three inmates each;¹⁰⁵ they were well-lit and ventilated and adequately equipped (single or bunk beds, tables, chairs, wardrobes, lockers, fully screened sanitary annexes).

Conditions remained as poor as in 2015¹⁰⁶ in the not-yet-refurbished parts of the establishment, but the delegation was assured that these parts would be refurbished by the end of 2017. **The CPT would like to receive confirmation that the entire prisoner accommodation at Burgas Prison has now been refurbished.**

¹⁰⁰ CPT/Inf (2012) 9, <https://rm.coe.int/16806940a3>: "If it is necessary for police officers to interview prisoners within a prison in the context of the investigation of criminal offences, this should be surrounded by appropriate safeguards. In particular, any such interviews should be subject to prior authorisation by the competent judicial authorities and the police officers' access to the prisoners concerned should take place under the control of the prison management. This might involve the presence of a representative of the prison management whenever police officers interview prisoners. Furthermore, the right of the prisoner concerned to have access to a lawyer should be guaranteed."

¹⁰¹ See paragraph 62 above.

¹⁰² Bunk beds, tables, chairs, wardrobes, lockers, fully partitioned sanitary annexes comprising a toilet, a washbasin and a shower, and a call system.

¹⁰³ Broken water pipes, water damage in the walls, falling off plaster, etc.

¹⁰⁴ The refurbishment had so far included, among other things, installing a new roof, thermic insulation of the façade, replacement of water and sewage pipes, fitting new electric infrastructure and new ventilation, and replacing windows. The kitchen and boiler room were also completely new, as was part of collective showers.

¹⁰⁵ There were also some single-occupancy cells measuring approximately 8 m² and a few larger cells: for four inmates (measuring some 18 m²) and for five prisoners (measuring some 23 m²), as well as once cell for seven prisoners (measuring approximately 32 m²).

¹⁰⁶ See paragraph 40 of CPT/Inf (2015) 36, <https://rm.coe.int/16806940c7>.

74. Varna Prison had also been refurbished extensively since the 2015 visit (the refurbishment work had been completed in February 2017),¹⁰⁷ and conditions were indeed far better: cells, measuring between 8 and 30 m² and accommodating one to five inmates each,¹⁰⁸ were generally well-lit and ventilated, and suitably equipped (beds or bunk beds, tables, chairs, wardrobes, lockers, fully screened sanitary annexes).

The Committee welcomes this positive development and **invites the Bulgarian authorities to complete the refurbishment of the entire establishment, including the kitchen.**¹⁰⁹

75. Overall, material conditions could also be considered acceptable at Razdelna Prison Hostel, which had undergone comprehensive reconstruction in 2016.¹¹⁰ The standard cells measured approximately 20 m² and were designed to accommodate up to four inmates each; they were bright and airy and were equipped with beds, tables, stools, wardrobes, lockers, fully screened sanitary annexes and call bells. However, problems with the quality of reconstruction work and signs of wear-and-tear (especially in the closed regime units, e.g. Groups 2 and 3) were evident. **The CPT recommends that steps be taken to ensure proper maintenance of prisoner accommodation at Razdelna Prison Hostel, so as to prevent deterioration of material conditions.**¹¹¹

76. As already stated (see paragraph 64), there was much less evidence of progress at the IDF on G.M.Dimitrov boulevard in Sofia, despite ongoing refurbishment.¹¹² Even the refurbished cells continued to display several previously criticised shortcomings: they were still too small for their intended occupancy¹¹³, poorly lit and ventilated. In addition, all windows continued to be fitted with opaque panes, preventing a view to the outside and obstructing access to natural light. The still unrefurbished cells were dilapidated and all in-cell sanitary annexes were still only partially screened.

The Committee reiterates its recommendation that the above-mentioned shortcomings be eliminated and that the refurbishment of the entire prisoner accommodation at the IDF on G.M.Dimitrov boulevard in Sofia be completed; in the process of refurbishment, all in-cell toilets should be provided with a full partition (i.e. up to the ceiling).

¹⁰⁷ All the premises were concerned (including the communal showers) except for the kitchen, the visiting area and the exercise yards, which the Director hoped to be able to refurbish at a later date (albeit not very soon, given that the refurbishment of detention areas in other prisons had priority).

¹⁰⁸ Most of the cells were for two or four prisoners.

¹⁰⁹ Which was clean and in working order but would indeed benefit from renovation.

¹¹⁰ Which also included the kitchen, canteen, laundry and communal showers.

¹¹¹ See also the recommendations in paragraphs 79 and 80 below.

¹¹² One of the four floors containing cells was closed for renovation. The Director told the delegation that, since the CPT's 2015 visit, all the water and sewage pipes and some of the showers had been replaced; further, corridors had been repainted and small repairs carried out in some of the previously refurbished cells (e.g. placing tiles and fitting new electric and TV sockets).

¹¹³ E.g. cells measuring some 15 m² (of which some 2 m² was unusable because of an additional metal grille fixed in front of the window wall) were supposed to accommodate up to five persons each, though at the time of the visit most of them were accommodating three or four inmates.

77. Despite some ongoing refurbishment in different areas of the establishment,¹¹⁴ the overall material conditions had remained quite poor at Sofia Prison (poor access to natural light and ventilation, broken windows, damaged floors and ceilings, walls covered with mould, dilapidated showers),¹¹⁵ and there was still localised overcrowding, especially in Groups 2, 5, 7 and 12 accommodating sentenced prisoners.¹¹⁶

The worst situation was observed in the building accommodating foreign prisoners,¹¹⁷ with leaking pipes, exposed wiring, damaged walls, floors and ceiling, missing window panes, broken toilets, etc. As already mentioned in paragraph 10 above, at the end of the visit the delegation made an immediate observation pursuant to Article 8, paragraph 5, of the Convention and requested the Bulgarian authorities to confirm, within three months, that refurbishment of this building had begun (as was apparently already planned).

In their letter of 8 January 2018, the Bulgarian authorities informed the CPT that refurbishment of the aforementioned building (including the replacement of the roof, electric installations and water and sewage pipes, fitting new toilets and showers, replacing windows, repairing the floors and walls and repainting the cells) had started and was to be completed in August 2018. **The Committee would like to be informed, in due course, of the completion of these works. More generally, the CPT recommends that efforts be continued to refurbish the entire Sofia Prison; in this process, all in-cell toilets should be provided with a full partition (i.e. up to the ceiling). Further, the Committee recommends that more efforts be made to guarantee at least 4 m² of living space per prisoner in multi-occupancy cells (6 m² in single cells) throughout the establishment.**¹¹⁸

78. Material conditions observed at Sliven IDF were totally unacceptable: the establishment was severely overcrowded (cells, crammed with bunk beds, accommodated up to four inmates on a mere 7 m² of living space), with stuffy, filthy and dilapidated cells devoid of direct access to natural light (the small windows giving into the corridor), and inmates had no access to a toilet – never at night and often not even during the day.¹¹⁹ In short, conditions could be considered inhuman and degrading.

The facility as such was not acceptable for its function for structural reasons, and the delegation was told of plans to close it down. Meanwhile, however, the delegation invoked, at the end of the visit, Article 8, paragraph 5, of the Convention (see also paragraph 11 above) and requested the Bulgarian authorities to confirm, within three months, that steps have been taken to address these deficiencies.

¹¹⁴ Including, among others, partial renovation of the roof, replacing some of the windows and fitting of new sanitary annexes in some of the cells, partial refurbishment of the kitchen (tiles, ventilation), and new visiting premises (for prolonged visits).

¹¹⁵ Material conditions were particularly poor in Group 8 (admission and administrative detainees), although the delegation noted ongoing renovation in the cells (with approximately half of the accommodation having already been refurbished and offering decent conditions).

¹¹⁶ Group 2 (capacity 56) was accommodating 73 prisoners; Group 5 (capacity 53) was accommodating 77 prisoners; Group 7 (capacity 70) was accommodating 79 prisoners; and Group 12 (capacity 56) was accommodating 69 prisoners.

¹¹⁷ Group 10 (67 sentenced foreigners) and Group 13 (25 foreigners on remand).

¹¹⁸ Not counting the space taken by in-cell sanitary annexes. See also document “Living space per prisoner in prison establishments: CPT standards” (CPT/Inf (2015) 44), <https://rm.coe.int/16806cc449>.

¹¹⁹ There was no in-cell sanitation, prisoners keeping plastic bottles (to urinate into) and sanitary buckets in the corner of the cell next to the door.

In their letter dated 8 January 2018, the Bulgarian authorities informed the CPT that staff of Sliven IDF had received strict instructions to guarantee inmates' ready access to a toilet, including at night. Further, all prisoner accommodation areas were reportedly renovated and cleaned, and a tender procedure for the construction of a new IDF initiated. The Bulgarian authorities further declared that, in the event of impossibility to select the contractor and start construction work by the end of 2017, the prison administration (GDIN) would consider the option of moving the IDF to the premises of Sliven Prison. **The Committee would like to be informed whether the construction of the new IDF has now begun and – if so – when it is expected to bring the new establishment into service. The CPT would also like to receive more detailed information on the new facility (capacity, plans with details of the cellular accommodation, etc.). Further, the Committee would like to receive information on whether, pending the completion of construction works, inmates from Sliven IDF have been temporarily relocated to Sliven Prison.**

79. As already mentioned (see paragraph 9 above), the delegation was extremely concerned about the observed generalised infestation with bed bugs (even in recently refurbished accommodation), which was linked with the problem of old, filthy and torn mattresses and blankets in all prisons.

At the end of the visit, the delegation invoked Article 8, paragraph 5, of the Convention and made an immediate observation, requesting the Bulgarian authorities to provide, within three months, a detailed and budgeted action plan comprising a precise time-frame for steps to replace all mattresses within the prison system (including in IDFs) with sealed, rip-proof mattresses and to thoroughly disinfect all the prisoner accommodation areas and all the furniture and blankets.

In their letter of 8 January 2016, the Bulgarian authorities stated that an external company had recently carried out disinfection, disinsection and deratisation in all establishments, and specialised equipment (vaporisers) was being purchased and installed in prisons and IDFs. Further, steps were being taken to replace all mattresses, bedsheets, pillows and blankets in penitentiary establishments by the end of August 2018. **The CPT wishes to receive confirmation that this has indeed happened.**

80. It is regrettable that the ongoing refurbishment in the majority of the penitentiary establishments visited was not used as an occasion to replace most of the old, dilapidated (and often dirty) furniture.

More generally, the delegation observed that there was a severe problem of maintenance and hygiene in prisons, including in recently refurbished facilities. It was clear that, unless this problem was tackled, the newly-renovated detention areas would deteriorate and become unacceptable very quickly; this also meant that inmates should be given, free of charge, personal hygiene items, materials and products to clean, be made aware of the importance of hygiene (a task of health-care staff, first of all)¹²⁰ and strongly encouraged to clean their cells.

The Committee calls upon the Bulgarian authorities to take measures to replace furniture and improve maintenance and hygiene in prisons and IDFs, in the light of the above remarks.

¹²⁰ See also paragraph 89 below.

81. Another noteworthy aspect of material conditions is that the delegation has received very numerous complaints about the quality of prison food and – on a related matter, since prisoners had to buy most of their own food – about high prices (and limited range) of items for sale in prison shops. **The CPT recommends that the Bulgarian authorities review the quality of the food provided to inmates and the prices in prison shops.**

4. Activities

82. The CPT's long-standing recommendation to develop a regime for remand prisoners¹²¹ remains, regrettably, unimplemented.

As during the previous visits, the vast majority of persons held in IDFs and remand prisoners in the prisons visited spent up to 23 hours a day locked up inside their cells with no organised activities. Inmates at the IDFs in Burgas and Sofia had access to outdoor exercise for one hour per day;¹²² by contrast, prisoners at Sliven IDF were deprived of daily outdoor exercise (the establishment being devoid of exercise yards) and all they could hope for was occasional short walks in the corridor.¹²³ This unacceptable situation was one of the reasons why the delegation invoked Article 8, paragraph 5, of the Convention at the end of the visit.¹²⁴

The only other distractions for remand prisoners were watching TV or listening to the radio in their cells,¹²⁵ reading books and newspapers, and playing board games with their cellmates.

83. The Committee acknowledges the Bulgarian authorities' efforts to offer work and education to sentenced prisoners, but it remained a fact that, in the establishments visited, only a minority of sentenced inmates had a job¹²⁶ and even less followed any structured education¹²⁷ or vocational training.¹²⁸ Other activities included some language¹²⁹ and IT classes. However, most sentenced prisoners had no purposeful activities¹³⁰ and just roamed the corridors or stayed in their cells watching TV or playing board games with other inmates.

¹²¹ See e.g. paragraph 45 of the report on the 2015 visit (CPT/Inf (2015) 36), <https://rm.coe.int/16806940c7>.

¹²² 1.5 hour per day at Sofia Prison, 2 hours at Burgas Prison and, in general, 2 hours for women and juveniles.

¹²³ But usually their only time out from the cells was when they were escorted to the toilet, to the shower or to attend investigative activities, visits or medical consultations.

¹²⁴ See paragraphs 11 and 78 above.

¹²⁵ If they could afford a TV or radio set, or if they received one from their relatives.

¹²⁶ E.g. some 200 at Sofia Prison (including approximately 70 performing unpaid work), some 130 at Razdelna Prison Hostel (but this included some 70 occasional unpaid jobs, essentially reserved for prisoners on open regime), some 100 at Varna Prison, some 80 at Debelt Prison Hostel (including 25 unpaid positions), and approximately 70 at Burgas Prison (plus an unspecified number of prisoners performing occasional unpaid work).

¹²⁷ There were no classes at Sofia Prison. Approximately 60 inmates attended school (primary level, 1st to 4th grade) at Varna Prison, 47 at Debelt Prison Hostel and approximately 20 at Razdelna Prison Hostel.

¹²⁸ E.g. some 20 inmates had recently completed training for working with concrete and operating boilers at Razdelna Prison Hostel, and similar courses were attended by a few inmates at Burgas Prison.

¹²⁹ E.g. some 60 inmates at Sofia Prison attended English courses.

¹³⁰ As previously, the lack of work opportunities was yet another source of corrupt practices (see paragraph 65 above).

The only other form of distraction was daily outdoor exercise, lasting one hour (at Varna Prison), one-and-a-half hours (at Sofia Prison) and two hours (at Burgas Prison and Debelt and Razdelna Prison Hostels), and occasional access to a gym¹³¹ and table tennis.

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

More efforts are also needed to develop sentence planning¹³² and preparation for release (and prevention of reoffending). Ultimately, the success of parole schemes depends on opportunities for prisoners to change their behaviour prior to release – at present this is only offered to a very limited extent.

The CPT calls upon the Bulgarian authorities to intensify their efforts to develop the programmes of activities for both sentenced and remand prisoners, notably as regards work, educational and vocational activities.¹³³ More efforts should also be deployed to develop individual sentence plans and preparation for release.

5. Life-sentenced prisoners

85. Three of the penitentiary establishments visited (Burgas, Sofia and Varna Prisons) were accommodating life-sentenced prisoners.¹³⁴

86. Material conditions in the high-security units in the three prisons were neither better nor worse than in the rest of the accommodation, although it should be noted that (apart from Varna) the lifers were amongst the inmates who still had to wait for refurbishment of their units. In this context, **reference is made to the recommendations and requests for information in paragraphs 73 and 77 above.**

Life-sentenced prisoners at Burgas Prison continued to have to resort to buckets, as their cells had no sanitary annexes. They were taken to the toilet six times per day, but access was less frequent at night. The Director assured the delegation that, after refurbishment, the lifers' cells would all have fully-screened sanitary annexes. **The Committee would like to receive confirmation that this is now the case.**

¹³¹ E.g. up to one hour per day at Sofia Prison, once per week for one hour in Razdelna.

¹³² The delegation was told, in the prisons and prison hostels visited, that there were not enough social workers and psychologists, and staff were too busy with various administrative tasks (e.g. processing transfer, leave and parole requests, dealing with complaints, etc.), making it impossible for them to get involved in proper individual sentence planning. Staff interviewed by the delegation acknowledged that, in reality, individual sentence plans were only drafted for inmates who already had a job.

¹³³ Reference is also made to the CPT's 26th General Report, see paragraphs 52 to 73 of CPT/Inf (2017) 5.

¹³⁴ 22 at Burgas Prison, some 30 at Sofia Prison and 23 at Varna Prison (as well as 15 remand prisoners likely – according to the Director – to receive a life sentence, who were accommodated in the same unit).

87. Concerning the regime, the CPT is concerned to note that progress has been very modest indeed since the 2015 ad hoc visit.¹³⁵ Admittedly, some life-sentenced prisoners¹³⁶ had benefitted from a transfer to the general accommodation (where they were no more segregated from other sentenced prisoners on closed regime), but still most of the lifers were spending the bulk of their time, alone or with one fellow prisoner, in their cells, save for association periods during outdoor exercise (one to two hours per day) and a few (up to 3) hours of joint leisure activities such as playing table tennis or using the gym. As previously, only very few lifers could work – in practice, only those who were no longer accommodated in high-security units – and education opportunities were limited to correspondence courses. Inside their cells, life-sentenced prisoners could have TV and/or radio sets, books, newspapers and (sometimes) DVD players and PlayStation.

The Committee remains of the view that the regime for life-sentenced prisoners in Bulgaria should be fundamentally reviewed, so as to include a structured programme of constructive and preferably out-of-cell activities; social workers and psychologists should be proactive in working with life-sentenced prisoners to encourage them to take part in that programme and attempt to engage them safely with other prisoners for at least a part of each day. Consequently, **the CPT calls upon the Bulgarian authorities to further develop the regime for life-sentenced prisoners, in particular by providing more communal activities (including access to work and education). The Committee also calls upon the Bulgarian authorities to ensure, in the light of recent legal amendments,¹³⁷ that the segregation of lifers is always based on an individual risk assessment and is applied for no longer than strictly necessary.**

88. The CPT is concerned by the continuous lack of progress as regards the removal from the Criminal Code of the sentence of “life imprisonment without the right to substitution” (i.e. without possibility of parole)¹³⁸. This is very regrettable indeed.

The Committee must recall yet again that, according to the case-law of the ECtHR,¹³⁹ it is inhuman to imprison a person for life without any realistic hope of release. Reference should also be made here to paragraph 4(a) of the Committee of Ministers’ 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 CPT calls upon 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. Reference is also made here to the CPT’s 25th General Report.¹⁴⁰

¹³⁵ On a positive note, the delegation was satisfied that the application of security measures (such as handcuffs) to life-sentenced prisoners was exceptional and based on an individual risk assessment.

¹³⁶ Nine in Burgas, eight in Sofia and two in Varna.

¹³⁷ See paragraph 63 above.

¹³⁸ At the time of the visit, there were e.g. seven such “real lifers” at Varna Prison.

¹³⁹ See the judgment of 9 July 2013 of the Grand Chamber of the European Court of Human Rights in the case of *Vinter and Others v. the United Kingdom*. See also the judgment in the case of *László Magyar v. Hungary* (application no. 73593/10), issued on 20 May 2014.

¹⁴⁰ See paragraphs 67 to 81 of CPT/Inf (2016) 10 (<https://rm.coe.int/16806cc447>) and in particular paragraph 73.

6. Health-care services

89. Based on what its delegation saw in the establishments visited, the CPT must conclude that the situation of prison health-care services remains difficult, especially as regards health-care staff. Indeed, there was still a shortage of doctors, feldshers and nurses in the establishments visited.

The worst situation was observed in the two prison hostels visited: Debelt Prison Hostel¹⁴¹ had *de facto* no doctor,¹⁴² which meant that the health-care service was run by a feldsher and a nurse; further, access to a dentist appeared to be problematic (inmates had to be taken to Burgas Prison). The doctor employed at Razdelna Prison Hostel¹⁴³ was about to retire and no replacement had yet been found; there was no feldsher or nurse, and a dentist (employed on a civil law contract) attended once a week.

Health care staff shortages were also manifest at Varna Prison,¹⁴⁴ which theoretically employed two GPs but one was on long-term sick leave prior to his retirement (scheduled for January 2018) and the other was on leave too; meanwhile, the task of running the prison's health-care service had fallen upon the feldsher and a third doctor (temporarily hired on a civil law contract) who only came for three mornings a week. There was another vacant post for a feldsher and a vacant post for a dentist (as a stopgap measure, the Director decided to hire, on a temporary civil law contract, a dentist who attended three times per week).

As for the two investigation detention facilities visited, the IDF on G.M. Dimitrov Boulevard in Sofia¹⁴⁵ theoretically had a full-time GP (and another doctor who attended once per week), a full-time feldsher, a full-time nurse and a part-time dentist; however, in reality it was the feldsher and the nurse who were actually present every working day, the full-time doctor being on long-term leave and the other doctor only attending irregularly. Sliven IDF only had a feldsher working from 8.30 a.m. to 5 p.m. on weekdays.

The health-care staffing situation was somewhat better at Burgas Prison¹⁴⁶ and Sofia Prison.¹⁴⁷

Further, as had been the case in the past, none of the penitentiary establishments visited had any health-care staff present after the regular working hours¹⁴⁸ and on weekends. In this context, it was hardly surprising that the delegation received numerous complaints from prisoners about access to and quality of health-care.

¹⁴¹ Population at the time of the visit – 307.

¹⁴² A GP employed on a civil law contract visited only infrequently.

¹⁴³ Population at the time of the visit – 213.

¹⁴⁴ Population at the time of the visit – 254.

¹⁴⁵ Population at the time of the visit – 241.

¹⁴⁶ Burgas Prison (population at the time of the visit – 234) employed a GP on a civil contract, attending during 4 hours on every working day (another GP, paid for by the National Health Insurance Fund, held consultations twice a week) and had a full-time feldsher and a full-time nurse; there was also a dentist present three times a week for 4 hours.

¹⁴⁷ Sofia Prison (population at the time of the visit – 695) had two GPs (one full-time, the other part-time on a civil law contract), three feldshers and two nurses (both the feldshers and the nurses also working at the two prison hostels – in Kazichene and Kremnikovtsi – administratively belonging to the prison), but in case of need reliance was had on health-care staff from the nearby Prison Hospital; further, there was a full-time dentist and several specialists (ORL, dermatologist, cardiologist, neurologist) who came to the prison once a month.

¹⁴⁸ I.e. after 4 p.m. (3.30 p.m. at Sofia Prison).

90. The CPT is well aware of the difficulties (referred to *inter alia* by senior officials from the Ministry of Justice at the outset of the visit) in recruiting health-care staff in penitentiary establishments, due to low salaries and the general shortage of medical professionals in Bulgaria. Nevertheless, the present highly unsatisfactory state of affairs, which – as already stated in previous reports¹⁴⁹ – hampered to a considerable extent the provision of health care worthy of the name in the establishments visited, cannot be allowed to persist any longer. **The Committee calls upon the Bulgarian authorities to take decisive steps to reinforce health-care teams at the prisons visited; if necessary, legislative amendments should be considered such as abolishing the requirement of Bulgarian citizenship for prison health-staff.**¹⁵⁰ Further, ways to render the job of prison health-care staff more attractive (in addition to increasing salaries) – such as offering good prospects for professional development – should be actively sought.

More specifically, urgent steps must be taken to:

- fill all the vacant health-care staff posts in the penitentiary establishments visited;
- ensure that there is *de facto* at least the equivalent of two full-time GPs' posts at Sofia Prison and at least the equivalent of a full-time GP's post at Burgas and Varna Prisons, as well as at Debelt and Razdelna Prison Hostels and at the IDF on G.M. Dimitrov Boulevard in Sofia;
- recruit a visiting GP at Sliven IDF;
- significantly increase the complement of feldshers and nurses in all establishments visited (and recruit such professionals at Razdelna Prison Hostel);
- improve access to a dentist at Debelt Prison Hostel.

Further, the CPT reiterates its recommendation that the Bulgarian authorities ensure that a person competent to provide first aid is always present in every penitentiary establishment, including at night and on weekends; preferably, this person should be a qualified nurse.

91. At Sofia and Varna Prisons, there were still prisoners working as orderlies in the health-care units, despite the Committee's long-standing recommendations to abandon this practice.¹⁵¹ In particular, they assisted health-care staff in distribution of medicines and performed certain simple medical tasks such as measuring temperature, blood pressure and pulse. Further, they had unhindered access to medical documentation concerning their fellow inmates.

As already stressed in the past, the CPT considers this totally unacceptable; **the Committee once again calls upon the Bulgarian authorities to cease the practice of using prisoners as medical orderlies. If needed, the relevant regulations should be amended.**

¹⁴⁹ See e.g. paragraph 47 of the report on the 2015 ad hoc visit (CPT/Inf (2015) 36), <https://rm.coe.int/16806940c7>.

¹⁵⁰ Other than the staff working on civil law contracts. To illustrate the problem, reference can be made to Debelt Prison Hostel, where the delegation was told that the only two doctors who had expressed interest in working there, following 4 unsuccessful competitions to fill the GP's post, could not be recruited because they were foreign nationals (one was a citizen of the Former Yugoslav Republic of Macedonia, another a Syrian national who had studied medicine in Bulgaria).

¹⁵¹ See e.g. paragraph 48 of the report on the 2015 ad hoc visit (CPT/Inf (2015) 36), <https://rm.coe.int/16806940c7>. Obviously, relying on prisoner orderlies was related to the low health-care staffing levels.

92. The delegation again observed severe problems with the supply of medication (except in Burgas and Varna) and, as previously, inmates or their families had to pay for most of the medicines.¹⁵²

The standard of health-care premises varied in the establishments visited, from quite decent (e.g. in Burgas and Razdelna), through just about acceptable (e.g. the still unrefurbished premises at Sofia and Varna Prisons) to inadequate (especially the already dilapidated medical isolation rooms at Debel) or even simply absent, as at Sliven IDF (where inmates were examined in the corridor and there was not even a place to keep the medicines).

The CPT recommends that steps be taken to improve the supply of free-of-charge medication and material conditions and equipment of health-care units in all the penitentiary establishments visited.

93. Regarding the recording and reporting injuries observed on prisoners, **reference is made to the comments and recommendations in paragraph 27 above.** More generally, the quality of medical examinations on admission remained inadequate, the examinations being generally very superficial.¹⁵³ Moreover, on occasion such examinations could be significantly delayed¹⁵⁴ and, at Debel Prison Hostel, it would appear that some inmates were not at all medically examined upon admission.

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

94. The quality of medical documentation left much to be desired in most of the establishments visited¹⁵⁵ and especially at Debel Prison Hostel. Further, as already mentioned above,¹⁵⁶ medical confidentiality was still not respected, as regards the procedure for requesting to see a doctor (inmates still had to pass such requests in an open form through custodial officers), the medical consultations (presence of non-medical prison staff, especially for life-sentenced prisoners) and medical documentation (which was accessible to custodial staff and prisoner orderlies). Further, prescribed medication continued to be usually distributed to prisoners by custodial officers (or prisoner orderlies).

¹⁵² E.g. this was the case for up to 98% of the medication stored in the pharmacy at Sofia Prison.

¹⁵³ E.g. there was no systematic screening for TB at Sofia and Varna Prisons, as well as Debel Prison Hostel.

¹⁵⁴ E.g. up to 5 days at the IDF on G.M. Dimitrov Boulevard in Sofia.

¹⁵⁵ Except at Varna Prison where it was found to be generally satisfactory.

¹⁵⁶ See paragraphs 27 and 93.

The CPT reiterates its long-standing recommendations to improve the quality of medical documentation¹⁵⁷ and to ensure medical confidentiality in all penitentiary establishments. Prisoners should be able to approach the health-care service on a confidential basis, for example, by means of a message in a sealed envelope. All medical examinations should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical staff (see also paragraph 27). Health-care staff may inform custodial officers on a need-to-know basis about the state of health of a prisoner; however, the information provided should be limited to that necessary to prevent a serious risk for the inmate or other persons, unless the prisoner consents to additional information being given.

95. Access to psychiatric care was highly insufficient for prisoners in the establishments visited,¹⁵⁸ especially given (as acknowledged by Directors and staff) the presence of many inmates with mental health issues, some related to drug abuse (see paragraph 97 below). **The Committee reiterates its recommendation that the Bulgarian authorities improve the provision of psychiatric care to prisoners. Whenever necessary, prisoners concerned should be promptly transferred to an appropriate hospital facility.**

96. As regards psychological assistance, each establishment visited – with the exception of the IDFs – employed one or more psychologists;¹⁵⁹ that said, none of the psychologists was clinically trained. Furthermore, as had been the case in the past, the psychologists' role was essentially limited to carrying out risk assessment of prisoners.

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

¹⁵⁷ In particular, a personal and confidential medical file must be opened for each prisoner, containing diagnostic information as well as an ongoing record of the prisoner's state of health and of any special examinations he/she has undergone. In the event of transfer, the file should be forwarded to the doctors in the receiving establishment.

¹⁵⁸ There was a visiting psychiatrist at Sofia Prison, attending twice a week. At Varna Prison, the post of psychiatrist had been vacant for over 10 years but an outside specialist employed on a civil law contract visited the prison once a week. As far as the delegation could ascertain, arrangements for visits by psychiatrists were more random and uncertain in the other penitentiary establishments visited.

¹⁵⁹ E.g. three in Varna (but only one of them actually worked with inmates), and one in Burgas, Debelt (and another vacant post), Razdelna and at the IDF on G.M. Dimitrov Boulevard in Sofia.

97. The delegation gained the impression that very little was being done in the penitentiary establishments visited (apart from some initial plans to distribute sterile needles at Varna Prison and a very limited methadone programme at Sofia Prison¹⁶⁰ and at the IDF on G.M. Dimitrov Boulevard in Sofia¹⁶¹) to address the widespread drug addiction problem among prisoners¹⁶² and the related health issues such as hepatitis.¹⁶³

In the CPT's view, treatment options for prisoners in withdrawal as well as opioid agonist maintenance should be available in prison to the same extent as in the outside community; this is also in line with the Opioid Dependence Treatment Guidelines issued by the WHO in 2009.¹⁶⁴

More generally, the Committee wishes to stress that the management of drug-addicted prisoners must be varied – eliminating the supply of drugs into prisons, dealing with drug abuse through identifying and engaging drug misusers, providing them with treatment options and ensuring that there is appropriate through care, developing standards, monitoring and research on drug issues, and the provision of staff training and development – and linked to a proper national prevention policy. It goes without saying that health-care staff must play a key role in drawing up, implementing and monitoring the programmes concerned and must co-operate closely with the other (psycho-socio-educational) staff involved.

The CPT calls upon the Bulgarian authorities to develop and implement a comprehensive strategy for the provision of assistance to prisoners with drug-related problems (as part of a wider national drugs strategy) including harm reduction measures, in the light of the above remarks. Further, the Committee recommends that efforts be made to ensure, throughout the prison system, systematic screening¹⁶⁵ and to improve inmates' access to treatment for blood-borne viral diseases such as hepatitis B and C.¹⁶⁶

98. Finally, the facts found during the 2017 visit confirm the CPT's previous conclusion, namely that there is a crucial need for a closer and more active involvement of the Ministry of Health in prison health-care. In this context, the Committee is aware of the existence of the draft Strategy on Provision of Health Care in Prisons, elaborated with the assistance of Council of Europe experts, which was supposed to be adopted in the autumn of 2017. **The CPT would like to be informed whether the Strategy has now been adopted and would like to receive its final text.**

¹⁶⁰ Where 25 inmates were on methadone therapy at the time of the visit.

¹⁶¹ With five inmates on methadone therapy at the time of the delegation's visit.

¹⁶² As acknowledged by Directors and staff (including health-care personnel) in the establishments visited. For example, at Varna Prison approximately 30% of all inmates had a history of drug abuse, and approximately a fifth of them had hepatitis B or C. The percentage of known drug addicts was higher among the inmates at Sofia Prison (approximately 40%) and Razdelna Prison Hostel (approximately 60%). The prevalence of drugs was an additional source of conflicts and insecurity for inmates, see also paragraph 67 above.

¹⁶³ Spread *inter alia* through sharing unsterilized needles, as the delegation was told, among others, at Razdelna Prison Hostel and at Varna Prison. At Sofia Prison, approximately 50 prisoners were known to have hepatitis B or C. At Varna Prison, there were approximately 25 prisoners known to have hepatitis.

¹⁶⁴ See http://apps.who.int/iris/bitstream/10665/43948/1/9789241547543_eng.pdf.

¹⁶⁵ See also paragraph 93 above.

¹⁶⁶ As far as the delegation could ascertain, such treatment was only available to a small number of prisoners at Sofia Prison (where five inmates were receiving treatment for hepatitis C at the time of the visit) and Varna Prison, as well as – sporadically – at Burgas Prison.

The Committee also calls upon the Bulgarian authorities to adopt, as a matter of priority, a detailed and budgeted action plan for the implementation of the aforementioned strategy. The action plan should imply the Ministry of Health's more active involvement in supervising the standard of health care in places of deprivation of liberty (including as regards recruitment of health-care staff, their in-service training, evaluation of clinical practice, certification and inspection).

7. Other issues

a. prison staff

99. Low staffing levels in Bulgarian penitentiary establishments have been of concern to the CPT for many years, and the Committee has repeatedly recommended that the Bulgarian authorities take steps to address this problem.¹⁶⁷ Unfortunately, the situation observed in the establishments visited in 2017 was hardly any better.¹⁶⁸ Directors of these establishments acknowledged that this was highly unsatisfactory and attributed it mainly to low salaries combined with recent loss of some social and retirement privileges for prison staff. An additional challenge was posed by high staff turnover and resulting loss of experience.¹⁶⁹

The Committee must stress once again that inadequate staff complements can only increase the risk of violence and intimidation between prisoners. They also undermine the quality and level of the activities offered to the inmates, and jeopardise the prospect of preparation for release and social rehabilitation.¹⁷⁰

Consequently, **the CPT calls upon the Bulgarian authorities to take urgent steps to increase custodial staffing levels in prisoner accommodation areas at Burgas, Sofia and Varna Prisons, Debelt and Razdelna Prison Hostels and, to a lesser extent, in the IDFs visited. Naturally, recruiting more (especially junior level) custodial staff will be very difficult, if not impossible, without increasing salaries** (see also paragraph 65 above). Further, **much more effort is needed to recruit social workers,¹⁷¹ psychologists¹⁷² and probation officers.**

¹⁶⁷ See e.g. paragraph 105 of the report on the 2014 visit (CPT/Inf (2015) 12), <https://rm.coe.int/16806940c4>.

¹⁶⁸ At Sofia Prison, there were 164 posts for custodial staff but 19 vacancies (the Director hoped to be able to fill them soon). Burgas Prison experienced, according to its Director, serious staffing problems caused by the fact that the total staff complement had not been increased after the entry into service of Debelt Prison Hostel (40 custodial officers had to be transferred there, which meant that only approximately 70 custodial staff were available at Burgas Prison). The situation was rendered even more difficult by the numerous vacant posts (82) and the fact that many of the recently recruited staff were away on training. Varna Prison had 87 posts for custodial staff and 16 vacancies (competition for 13 posts had just been announced). There were supposed to be 21 officers per shift but in fact there were only 14 present on the day of the delegation's visit, due to leaves, sick leaves and training. Razdelna Prison Hostel had 72 posts for custodial staff but 3 posts were vacant; furthermore, 40 of the custodial staff had only recently been recruited and were still undergoing training. As a result, the custodial staff presence was very low (seven officers per shift); it was planned to have shifts of 15 officers after all the newly-recruited staff returned from training at the prison staff training centre in Pleven. Staffing situation was somewhat better at the IDF on G.M. Dimitrov Boulevard in Sofia where there were 169 custodial staff, approximately 30 per shift. There seemed to be enough custodial staff at Sliven IDE, at least given the present (lack of) activities for inmates.

¹⁶⁹ E.g. only seven custodial officers at Varna Prison had more than 10 years of work experience.

¹⁷⁰ See also paragraph 84 above.

¹⁷¹ E.g. there were only seven social workers at Sofia Prison and each was expected to follow approximately 100 inmates, which they found an excessive caseload. There were, likewise, only seven social workers at Varna

100. The Committee is concerned by the fact that, despite earlier plans to abolish this system, it had been decided to maintain the 24-hour shift pattern for custodial staff.¹⁷³ The CPT can only reiterate its opinion that such a shift pattern has an inevitable negative effect on professional standards; no-one can perform in a satisfactory manner the difficult tasks expected of a prison officer for such a length of time. **The Committee calls upon the Bulgarian authorities to reconsider their decision to continue this practice.**

b. contact with the outside world

101. The visiting entitlement for prisoners had remained unchanged since the CPT's previous visits.¹⁷⁴ In practice, inmates could receive a visit (lasting 45 minutes to one hour) twice per month. As a rule, visits were of a closed type (through a glass separation). Some of the establishments visited¹⁷⁵ also offered sentenced prisoners the possibility of receiving exceptional prolonged visits (2 hours in Varna, 4 hours in Sofia) without supervision, as a reward for good behaviour. Visiting premises were renovated in Sofia Prison and at Razdelna Prison Hostel but were rather poor in the other establishments.¹⁷⁶

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

The Committee also calls upon the Bulgarian authorities to refurbish and improve the visiting facilities in all the penitentiary establishments visited. As stressed by the CPT many times in the past, the aim should be to enable all prisoners, including those on remand, to receive visits under reasonably open conditions; the use of closed visiting facilities should be the exception rather than the rule.

102. Inmates had access to card-operated telephones, between two and five times per week for up to 15 minutes at a time, in all the establishments visited.¹⁷⁷ That said, at Sofia Prison the delegation heard numerous complaints that the sale of telephone cards to prisoners had recently been interrupted. The Director explained that it was a temporary problem due to the departure on annual leave of the staff member in charge. **The CPT would like to receive confirmation that the aforementioned problem has now been solved.**

Prison (three further posts were vacant) and three social workers at Razdelna Prison Hostel. The situation was better at Debelt Prison Hostel, where five social workers had been recruited recently (they were being trained by their three more experienced colleagues).

¹⁷² See paragraph 96 above.

¹⁷³ Apparently due to the pressure by prison staff trade unions.

¹⁷⁴ See e.g. paragraph 107 of the report on the 2014 visit (CPT/Inf (2015) 12), <https://rm.coe.int/16806940c4>.

¹⁷⁵ Sofia and Varna Prisons, and Debelt and Razdelna Prison Hostels.

¹⁷⁶ See e.g. paragraph 74 above.

¹⁷⁷ They were also allowed one free telephone call upon admission to the establishment.

c. discipline

103. Recourse to disciplinary sanctions (including isolation of up to 14 days) appeared to be very rare indeed in the establishments visited – which is positive.¹⁷⁸

However, as regards disciplinary procedure (which, as set out in the relevant legal provisions, call for no particular comments by the Committee),¹⁷⁹ prisoners were not always heard in person prior to the imposition of disciplinary sanctions. Further, inmates were not systematically given a copy of the disciplinary order, and information on the right of appeal was not provided to them in an adequate manner.¹⁸⁰

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

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

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

Consequently, the Committee reiterates its recommendation that the role of prison doctors in relation to disciplinary matters be reviewed. In so doing, regard should be had to the European Prison Rules¹⁸¹ and to the above remarks.

¹⁷⁸ Most of the disciplinary sanctions were warnings or reprimands, and placement in a disciplinary cell was often suspended and, if effective, then rarely longer than a week. It was clear that sanctions were being applied in a gradual and proportional manner, and placement in a disciplinary cell was a measure of last resort.

¹⁷⁹ See also paragraph 142 of the report on the 2010 visit (CPT/Inf (2012) 9), <https://rm.coe.int/16806940c4>. To recall, prisoners should be granted an oral hearing before the imposition of a disciplinary sanction, may call witnesses and should be informed of their right to appeal the disciplinary decision, as well as being given a copy of the disciplinary order. As regards decisions for placement in a disciplinary cell, they can be appealed to the district court, which should consider the case in the presence of the prisoner concerned and/or his lawyer.

¹⁸⁰ Inmates could only read this information when they received a copy of disciplinary order, for their signature; the copy was (usually) subsequently taken away from them and put to their administrative file, as a result of which inmates had no written information with them in their cells (and it was clear that many of those whom the delegation interviewed, and who were or had recently been placed in disciplinary isolation, had not had sufficient time to read and understand the information on the right to appeal printed out on the standard disciplinary order form).

¹⁸¹ Rule 43.3: "The medical practitioner shall report to the director whenever it is considered that a prisoner's physical or mental health is being put seriously at risk by continued imprisonment or by any condition of imprisonment, including conditions of solitary confinement".

105. Material conditions in disciplinary isolation cells were found to be generally acceptable at Sofia and Varna Prisons¹⁸² and quite good at Debelt and Razdelna Prison Hostels.¹⁸³ That said, at the latter establishment the delegation noted the presence of ligature points and visible dilapidation (rust, etc.) in disciplinary cells that had in fact been hardly used (last time in June 2017).

By contrast with the above, the disciplinary cells at Burgas Prison had not yet been renovated and were as poor as in the past.¹⁸⁴ **The CPT recommends that steps be taken to improve material conditions in disciplinary isolation cells in the establishments visited, in the light of the above remarks.**¹⁸⁵

106. At Debelt Prison Hostel, the delegation saw that two of the disciplinary cells were temporarily used to accommodate inmates with suspected TB, pending the results of laboratory tests (and possible transfer to the prison hospital). Staff explained this was due to the state of repair of the medical isolation rooms (see paragraph 92 above). **The Committee recommends that this practice be stopped, as soon as the medical isolation rooms have been refurbished.**

107. Concerning the regime for inmates placed in disciplinary isolation, they were allowed to take one hour of outdoor exercise per day and could have access to reading matter; this is to be welcomed.

d. complaints and inspection procedures

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

However, the delegation received some allegations that complaints to outside bodies were not always duly and speedily transmitted by the prisons' administration; in this context, a few inmates claimed that it was easier and more reliable to bribe the prison staff so that they allowed them to send an e-mail, rather than counting on the formal complaint being dispatched to the addressee. Moreover, in some establishments (e.g. at Varna Prison and Razdelna Prison Hostel), the delegation heard allegations that staff had attempted to threaten inmates (with loss of privileges such as leaves) or offered them some privileges (e.g. facilitating transfer to an open prison hostel) so that they did not make any official complaint. At Debelt Prison Hostel, staff told the delegation that any complaints would first have to be handled by social workers, which could *a priori* mean that such complaints would not be confidential.

In the light of the above remarks, **the Committee reiterates its recommendation that the Bulgarian authorities review the operation of complaints procedures in penitentiary establishments, so as to ensure that inmates are genuinely enabled to send complaints to outside bodies in a free, expeditious and confidential manner.**

109. As regards independent inspections, **reference is made to the comments in paragraph 17 above.**

¹⁸² In the latter establishment, the disciplinary cells measured approximately 8 m², were well-lit and ventilated, clean and equipped with beds.

¹⁸³ Bright and airy cells measuring some 10 m², equipped with a sanitary annexe, a bed with full bedding and a call bell.

¹⁸⁴ See e.g. paragraph 115 of the report on the 2014 visit (CPT/Inf (2015) 12), <https://rm.coe.int/16806940c4>.

¹⁸⁵ See also paragraph 73 above.

C. Establishments under the authority of the Ministry of Health

1. Preliminary remarks

110. The CPT's delegation visited two psychiatric establishments under the authority of the Ministry of Health: Sevlievo State Psychiatric Hospital and Radnevo State Psychiatric Hospital.

111. Sevlievo State Psychiatric Hospital was established in 1941, originally as a shelter for epileptic children; in 1943, it was designated as a psychiatric hospital. The establishment occupied a spacious compound within the town boundaries comprising of a number of buildings of different purpose, many of them unused and derelict.

With an official capacity of 118 beds, at the time of the visit, the hospital was accommodating 85 adult patients – 56 male and 29 female.¹⁸⁶ There were (officially) seven civil involuntary patients¹⁸⁷ and no forensic patients undergoing compulsory treatment. The main diagnosis among the patients was schizophrenia in its various forms, followed by organic disorders and a small percentage of patients with learning disability.

112. Radnevo State Psychiatric Hospital, the largest psychiatric establishment in Bulgaria, had previously been visited by the CPT in 1995.¹⁸⁸ As had been the case 22 years ago, the establishment was situated in extensive grounds on the outskirts of the city. The numerous buildings comprising the hospital, criticized by the CPT for their poor state of repair after the 1995 visit, had, seemingly, just been left to deteriorate further.

At the time of the 2017 visit, the establishment, with an official capacity of 510, was accommodating 295 adult patients – 188 male and 107 female. There were (officially) 47 civil involuntary patients¹⁸⁹ and ten forensic patients were undergoing compulsory treatment. As for the diagnoses, they comprised mainly various types of schizophrenia, as well as mental and behavioural disorders due to psychoactive substance use, bipolar disorders and a small number of patients with learning disability.

113. The average length of hospitalisation was approximately 47 days in *Sevlievo Psychiatric Hospital* and 77 days in *Radnevo Psychiatric Hospital*. However, the delegation was informed in Radnevo that there were a number of patients (including forensic patients undergoing compulsory treatment) who had been staying there for much longer (sometimes up to 5 years) and not because they actually still needed to be hospitalised, but because of the lack of adequate care/accommodation in the community. In the Committee's view, for persons to remain *de facto* deprived of their liberty as a result of the absence of appropriate community facilities is a highly questionable state of affairs.

¹⁸⁶ Within the compound, there was also a protected community residence unit with the capacity of eight beds (opened in May 2017) and a day-care centre.

¹⁸⁷ See, however, paragraph 135 below.

¹⁸⁸ See paragraphs 179 and 188 to 196 of CPT/Inf (97)1[Part 1], <https://rm.coe.int/1680694039>.

¹⁸⁹ See, however, paragraph 135 below.

In order to improve the quality of life of service users and reduce the potential for ill-treatment, **the CPT encourages the Bulgarian authorities to make every effort to promote, as a matter of priority, de-institutionalisation and to substantially develop psychiatric care in the community.**¹⁹⁰ Such community accommodation should be provided in small living units, ideally located in towns, with all the relevant facilities close at hand, and not larger units situated in the grounds of long standing psychiatric establishments.¹⁹¹ The latter solution cannot be considered as representing true de-institutionalisation or proper re-integration of patients into the community.

2. Ill-treatment

114. The delegation did not receive any credible allegations of physical ill-treatment of patients by staff at *Sevlievo Psychiatric Hospital*. By contrast, various allegations were received at *Radnevo Psychiatric Hospital* according to which patients were sometimes slapped and occasionally hit, kicked and punched by orderlies (referred to as ‘sanitars’). Furthermore, orderlies at the latter establishment were said to carry sticks to assert their authority and threaten the patients.

Indeed, on the locked Ward 4 of *Radnevo Psychiatric Hospital* (for the most seriously disabled longer term patients), the delegation found sticks in the location suggested by patients; the sticks exactly matched the descriptions provided by patients, including written inscriptions on the sticks, one saying “Manager”, the other saying “Wolf’s smile – Chlorazine – Ward 4 male”. The hospital’s Director was informed of the findings and asked to remove the sticks and take further appropriate action.

In the letter dated 28 November 2017,¹⁹² the Bulgarian Ministry of Health stated that an internal inquiry in *Radnevo Psychiatric Hospital* revealed that “the sticks had been brought to the ward incidentally but they had never been used for punishing or beating the patients”.

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

The CPT recommends that any non-standard issue objects capable of being used for inflicting ill-treatment be removed from the premises of Radnevo Psychiatric Hospital, as well as all other psychiatric establishments in Bulgaria.

Further, **the Committee recommends that the managements of psychiatric hospitals in Bulgaria act in a proactive manner to prevent ill-treatment of patients by staff, and also exercise continuous vigilance and remind the staff at regular and frequent intervals that any form of ill-treatment of patients, whether verbal or physical, is totally unacceptable and will be punished accordingly.**

¹⁹⁰ This should also be seen in the context of the UN Convention on the Rights of Persons with Disabilities, ratified by Bulgaria in 2012.

¹⁹¹ As was the case in both hospitals visited by the delegation.

¹⁹² The letter provided the comments of the Bulgarian authorities to the preliminary observations made by the CPT’s delegation at the end of the visit, see paragraph 8 above.

Moreover, **it is essential that ward-based staff be carefully selected and given suitable training on managing patients humanely and safely, receive regular supervision and be provided with appropriate support and counselling to avoid burn-out and ensure good quality care.**

115. Regarding inter-patient violence, although some disagreements and occasional fights between patients did occur, this was not a major problem in either of the hospitals visited.

3. Patients' living conditions

a. Sevlievo State Psychiatric Hospital

116. Patients at Sevlievo State Psychiatric Hospital were accommodated on four wards: Ward 1 for acute male patients, Ward 2 for acute female patients, Ward 3 for long stay and old-age male patients, and Ward 4 for both male and female patients receiving psycho-social rehabilitation.

The first three wards, with 30 beds each, were located in a three-storey building; Ward 4 was situated in a separate two-storey block. Patient accommodation consisted of multi-occupancy rooms, up to six beds per room. Despite some minor dilapidation, the rooms were generally well lit, ventilated and clean but did not provide patients with any personal lockable space and essentially contained beds only, and sometimes a few cupboards per room. Furthermore, the absence of any decoration or personal belongings contributed to an impersonal and austere atmosphere.

b. Radnevo State Psychiatric Hospital

117. The living conditions at Radnevo Psychiatric Hospital were described by the CPT in the report on its 1995 visit as "leaving a great deal to be desired"; during the 2017 visit, the hospital gave the impression of being deserted and just left to fall into disrepair. The large grounds, which under other circumstances could have been an ideal place for patients to spend their time outdoors, were seriously overgrown despite the efforts of some patients who were seen by the delegation sweeping pathways or collecting leaves. Some thirty hospital buildings scattered around the grounds were in different stages of dereliction, with many no longer used (and usable) for human accommodation.

Patients were accommodated on 8 wards, with 30 to 75 beds each - five wards for male patients (one for acute, two for longer stay, one for patients on addiction treatment, and one for patients on rehabilitation) and three for female patients (one for acute, one for longer stay (with a unit for patients on addiction treatment), and one for patients on rehabilitation). Patient rooms contained four to ten beds and were generally not overcrowded, with the exception of male wards 1 and 4.¹⁹³

¹⁹³ E.g. some 18 m² for 6 beds or some 30 m² for 8 beds.

Despite all the premises being decrepit and shabby, the wards were generally clean, well-lit and ventilated. Of the different levels of dilapidation throughout the hospital, the male Ward 4 for longer stay patients was the worst (with crumbling walls and floors, and incomplete bedding) and in dire need of improvement.¹⁹⁴ Furthermore, patient rooms throughout the hospital were very bleak and impersonal and offered no privacy; in particular, patients did not have individual lockable space. The delegation also noted that access to a shower was inadequate (once a week).

118. The CPT recommends that the Bulgarian authorities take the necessary measures to improve living conditions at Sevlievo and Radnevo Psychiatric Hospitals, and in particular ensure that:

- **occupancy levels are reduced on the male Wards 1 and 4 at Radnevo Psychiatric Hospital;**
- **Ward 4 at Radnevo Psychiatric Hospital is fully refurbished as a matter of priority;**
- **all patients at Radnevo Psychiatric Hospital are given full bedding (mattresses, blankets, sheets and pillows), which are cleaned at regular intervals;**
- **conditions in the rooms are conducive to the treatment and welfare of the patients and provide visual stimulation and personalisation;**
- **all patients at Radnevo Psychiatric Hospital have access to a shower at least twice a week and more frequently if needed;**
- **all patients are provided with personal lockable space in which they can keep their belongings.**

4. Staff and treatment

119. *Sevlievo Psychiatric Hospital* employed seven full-time and two half-time psychiatrists and one half-time general practitioner; one position of a psychiatrist was vacant. The delegation noted that two of the seven full-time psychiatrists were pensioners¹⁹⁵ and two more were supposed to retire by the end of 2017. The Director of the hospital stated that the shortage of psychiatrists was a huge problem.

There was one feldsher, 37 nurses and 31 orderlies working in three shifts on weekdays and two shifts on weekends; one position of a nurse was vacant. The weekday morning shift on the wards comprised two nurses and two orderlies, other shifts were one nurse and one orderly per shift. Other clinical staff included one clinical psychologist and one occupational therapist.

To conclude, there was a clear scope for improvement of the numbers of ward-based and multi-disciplinary clinical staff at Sevlievo Psychiatric Hospital.

¹⁹⁴ The only positive fact was that new windows had recently been installed on the ward.

¹⁹⁵ The two had reportedly been repeatedly asked by the Director not to retire and to continue their work at the hospital.

120. The situation was even worse at *Radnevo Psychiatric Hospital*. The establishment had the following number of full-time equivalent medical and ward based staff: nine psychiatrists, four general practitioners, nine feldshers, 52 nurses, and 26 orderlies. Four positions of psychiatrists were vacant; the Director informed the delegation that it was extremely difficult to find them. Indeed, one of the wards had had to be taken out of operation after its head psychiatrist left.

As regards multi-disciplinary clinical staff, there were 1.5 full-time psychologists, one occupational therapist and four social workers (one half-time psychologist position was vacant). Ward-based staff worked in three shifts and comprised a head nurse, two nurses and two orderlies on the morning shift on weekdays, and only one nurse and one orderly during the other two shifts. This meant that on some wards there would only be one nurse and one orderly caring for 60-70 patients for the majority of the time. This is grossly insufficient to provide adequate care, assistance and supervision and to ensure a safe environment for patients (and staff).¹⁹⁶ According to the Director, 24 nurses were already of retirement age and the hospital was struggling to find replacements for them, as well as to employ more orderlies.

121. Indeed, the inability to recruit orderlies at *Radnevo Psychiatric Hospital* was such that the unacceptable practice of employing a number of in-patients from the male addictions ward to act as orderlies¹⁹⁷ on that and other wards in the hospital and provide a 24-hour emergency response group to help control and restrain other patients still continued, despite this practice having been strongly criticised by the Committee following its visit to Radnevo 22 years ago.¹⁹⁸

In the letter dated 28 November 2017, the Bulgarian Ministry of Health stated that the practice of employing patients as orderlies as a form of occupational therapy has a long history and has proved to be effective. In the Bulgarian authorities' view, "this shortens the treatment in the hospital, improves re-socialisation, and stimulates patients' creativity and self-esteem".

The CPT can only repeat that it has very serious misgivings about such practices; it is of particular concern that patients are formally put in a position of authority over other patients, including being placed in control of their security by holding keys to the locked ward doors and being involved in the restraint of disturbed mentally ill others in the hospital.

122. In the light of the above remarks, **the Committee recommends that the Bulgarian authorities take urgent measures to address the serious recruitment difficulties regarding medical, auxiliary and multi-disciplinary clinical staff at Sevlievo and Radnevo Psychiatric Hospitals and, as applicable, in other psychiatric hospitals in Bulgaria. This may well require a review of the salaries and terms and conditions offered to such personnel to ensure that the necessary numbers of staff of appropriate quality are deployed to properly care for patients and thus permit adequate therapeutic input for the many needy and dependent patients, so that the use of patients as orderlies is phased out as soon as possible.**

¹⁹⁶ According to one bed-ridden patient on a ward for longer stay male patients, he was paying another patient from an open ward to come and change his diapers at least once a day and help him take a shower once a week.

¹⁹⁷ Such an employment was recorded as an occupational therapy in their personal files. Patients were receiving approximately 30 BGN (15 EUR) per month for this work.

¹⁹⁸ The practice was so institutionalised that before starting the job the patients had to meet a head doctor and a head nurse of a relevant ward for "a job interview", have a training/simulation on the use of mechanical restraint, and a week-long on-job training alongside an orderly from the official staff.

123. Turning to treatment, in both hospitals visited, this was predominantly based on pharmacotherapy. There was a significant lack of psycho-social therapies and occupational and recreational opportunities offered, resulting in many patients lying or wandering idly around. At *Radnevo Psychiatric Hospital*, the delegation was informed about the existence of art therapy, theatre, physical education and different occupational opportunities;¹⁹⁹ however, these were available only to a relatively small number of patients who were allowed to leave the wards. The situation was similar at *Sevlievo Psychiatric Hospital*, where the majority of patients were pacing the corridors of the locked wards despite, reportedly, there being available art therapy or occupational therapy of clearing the grounds or gardening.

Furthermore, patients under closed regime²⁰⁰ (both voluntary and involuntary) on the locked wards in both hospitals were severely limited in accessing fresh air, sometimes not being able to go outside for weeks or even months on end.²⁰¹

124. At both hospitals visited, the delegation noted an absence of comprehensive individual written treatment plans which would cover both pharmacotherapy and psycho-social activities.

The CPT wishes to stress that psychiatric treatment should be based on an individualised approach, which implies the drawing up of a treatment plan for each patient (taking into account the special needs of acute, long-term and forensic patients, including, with respect to the latter, the need to reduce any risk they may pose), indicating the diagnosis, the goals of treatment, the therapeutic means used and the staff member responsible with timescales. The treatment plan should also contain the outcome of a regular review of the patient's mental health condition and a review of the patient's medication. Patients should be involved in the drafting of their individual treatment plans and be informed of their progress.

125. The Committee recommends that the Bulgarian authorities take the necessary measures to:

- **ensure that all patients, including involuntary and forensic patients, at Sevlievo and Radnevo Psychiatric Hospitals (and, as appropriate, in all other psychiatric facilities in Bulgaria) benefit from unrestricted access to outdoor exercise (with appropriate supervision or security if required) during the day unless treatment activities require them to be present on the ward. In this respect, patients should be provided with appropriate clothes and shoes;**

¹⁹⁹ The occupational therapies offered to patients included clearing the grounds, working as security guards on the entrance to the wards, taking care of the stray dogs in the territory, bringing the food from the canteen.

²⁰⁰ Regime (open or closed) was decided by a treating doctor and reviewed regularly.

²⁰¹ Patients at Radnevo Psychiatric Hospital told the delegation that, in order to be allowed to take outdoor exercise, one had to agree to take part in occupational therapy.

- **develop, at the two hospitals, a range of therapeutic options and thus involve patients in clinically appropriate rehabilitative psycho-social activities, in order to prepare them for more independent living and/or return to their families; occupational therapy should be an important part of the long-term treatment programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improving self-image. It is axiomatic that this will require the recruitment of specialists qualified to provide therapeutic and rehabilitation activities (psychologists, occupational therapists, and social workers);**
- **draw up an individual written treatment plan for each patient (taking into account the special needs of acute, long-term and forensic patients), including the diagnosis, the goals of treatment, the therapeutic means used and the staff members responsible. Patients should be involved in the drafting of their individual treatment plans and be informed of their progress.**

126. The delegation noted that electroconvulsive therapy (ECT) was sometimes, albeit very rarely, offered to patients at *Sevlievo Psychiatric Hospital*, always in a modified form (i.e. with anaesthetic and muscle relaxants). The Committee notes, however, that the establishment did not have a detailed written policy on recourse to ECT.

The CPT recommends that the Bulgarian authorities take measures to ensure that a clear and detailed written policy on recourse to ECT is elaborated and distributed to each psychiatric establishment where this treatment is used, and that it includes the following safeguards:

- **ECT is administered only by staff who have been specifically trained to provide it;**
- **a fully qualified anaesthetist, appropriate physical monitoring (including electroencephalography and electrocardiography), and resuscitation equipment is present throughout;**
- **a written informed consent of the patient (or of the guardian, if the person concerned is deprived of legal capacity by a court) to the use of ECT and the associated anaesthesia, based on full and comprehensible information, is sought and kept in the patient's file and that, save for exceptional circumstances clearly and strictly defined by law, the treatment is not administered until such time as written consent has been obtained on the occasion of each treatment in the course;**
- **ECT is administered out of the view of other patients (preferably in a room which has been set aside and equipped for this purpose);**
- **recourse to ECT is recorded in detail in a specific register and is a part of a written individual treatment plan, included in the patient's medical record.**

5. Means of restraint

127. The delegation noted that seclusion of patients was not used in either hospital. By contrast, the mechanical restraint of patients to beds using straps occurred in both establishments visited.

The restraint of agitated psychiatric patients, who represent a danger to themselves or others, may exceptionally be necessary. However, this is a subject of particular concern to the CPT, given the potential for abuse and ill-treatment.²⁰² Restraint should certainly not occur, as found, in view of other patients (which is undignified, potentially unsafe and may be threatening to other patients) or without continuous personal supervision by a member of staff to respond to any immediate needs of the patient. The CCTV monitoring existing in both hospitals is not sufficient, and locking restrained and agitated fixated patient alone in a room, as practised at *Radnevo Psychiatric Hospital*, is not acceptable, neither is assistance by other patients when applying the means of restraint (see paragraph 121 above).

Furthermore, although the mechanical restraint of patients in both hospitals was recorded in ward-based registers, these formulaically recorded all restraints as lasting two hours; however, it was clear from interviews with both patients and staff that, regardless of the law, restraint sometimes occurred for considerably longer, occasionally for 12 or even 24 hours. It also appeared that on occasion instances of restraint were not recorded in the register or the patient's file. In the Committee's view, restraint interventions need to be accurately recorded in a detailed, standardised form (name, time, means of restraint, reason for restraint, medication given, time terminated, debrief given) so that the use of such measures can be properly assessed and integrated into a patient's on-going treatment.

There was also no practice of recording the use of chemical restraint in a restraint register in the two hospitals visited, which made it impossible for the delegation to obtain a clear overview of the frequency and duration of its use.

128. The CPT recommends that the Bulgarian authorities take urgent measures to modify the current practice of the use of means of restraint at Sevlievo and Radnevo Psychiatric Hospitals, and, as applicable, in all other psychiatric establishments in Bulgaria so as to ensure that:

- **patients are only restrained as a measure of last resort, to prevent imminent harm to themselves or others, and restraints are always used for the shortest possible time (usually minutes to a few hours). When the emergency situation resulting in the application of restraint ceases to exist, the patient should be released immediately;**
- **all types of restraint and the criteria for their use are regulated by law;**
- **means of restraint are never used as punishment, for convenience, because of staff shortages or to replace proper care or treatment;**

²⁰² See also "Means of restraint in psychiatric establishments for adults (Revised CPT standards)", document CPT/Inf (2017) 6, <https://rm.coe.int/16807001c3>.

- every resort to means of restraint is always expressly ordered by a doctor after an individual assessment, or immediately brought to the attention of a doctor with a view to seeking his/her approval. To this end, the doctor should examine the patient concerned as soon as possible. No blanket authorisation should be accepted;
- means of restraint are always applied with skill and care, in order not to endanger the health of the patient and to minimise the risk of causing pain to the patient. Staff should be properly trained before taking part in the practical application of means of restraint;
- patients are not subjected to mechanical restraint in view of other patients (unless the patient explicitly expresses a wish to remain in the company of a certain fellow patient); visits by other patients should only take place with the express consent of the restrained patient;
- staff are not assisted by other patients when applying means of restraint to a patient;
- every patient who is subjected to mechanical restraint or seclusion is subjected to continuous supervision. In the case of mechanical restraint, a qualified member of staff should be permanently present in the room in order to maintain a therapeutic alliance with the patient and provide him/her with assistance. If patients are held in seclusion, the staff member may be outside the patient's room (or in an adjacent room with a connecting window), provided that the patient can fully see the staff member and the latter can continuously observe and hear the patient. Clearly, video surveillance cannot replace continuous staff presence;
- once means of restraint have been removed, a debriefing of the patient takes place, both to explain to the patient why they have been subjected to restraint and to offer the patient an opportunity to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour;
- a specific central register is established to record all instances of recourse to means of restraint in order for the management to be able to monitor the frequency of their use. This is in addition to the records contained within the patient's personal medical file. The entries in the register should include the time at which the measure began and ended; the circumstances of the case; the reasons for resorting to the measure; the name of the doctor who ordered or approved it; and an account of any injuries sustained by patients or staff. Patients should be entitled to attach comments to the register, and should be informed of this entitlement; at their request, they should receive a copy of the full entry.

Furthermore, steps should be taken to ensure that every psychiatric establishment has a comprehensive, carefully developed written policy on restraint. Such a policy should be aimed at preventing as far as possible the resort to means of restraint and should make clear which means of restraint may be used, under what circumstances they may be applied, the practical means of their application, the supervision required and the action to be taken once the measure is terminated. The policy should also contain sections on other important issues such as: staff training; complaints policy; internal and external reporting mechanisms; and debriefing. Further, patients should be provided with relevant information on the establishment's restraint policy.

The frequency and duration of instances of restraint should be reported on a regular basis to a supervisory authority and/or a designated outside monitoring body. This will facilitate a national overview of existing restraint practices, with a view to implementing a strategy of limiting the frequency and duration of the use of means of restraint.

129. Furthermore, in the Committee's view, if recourse is had to chemical restraint such as sedatives, antipsychotics, hypnotics and tranquillisers, it should be subject to appropriate safeguards. Only approved, well-established and short-acting drugs should be used. Most importantly, chemical restraint should never be applied without prior authorisation by a doctor. The side-effects that such medication may have on a particular patient need to be constantly borne in mind, particularly when medication is used in combination with mechanical restraint or seclusion. Further, patients subjected to mechanical restraint should never be medicated without consent, except in situations where they may be in danger of suffering serious health consequences if medication is not administered and then only with appropriate safeguards.

The CPT recommends that the Bulgarian authorities take the necessary measures to ensure that the above-mentioned principles are respected when deciding to administer chemical restraint to a patient.

6. Safeguards in the context of involuntary hospitalisation

130. The legal framework related to compulsory treatment in the context of criminal proceedings is provided by Chapter 34 of the Code of Criminal Procedure and Chapter 11 of the Criminal Code. The request to apply compulsory measures of treatment is made by a public prosecutor after expert consultation and investigation. The presence of a lawyer in the court is obligatory; the decision on compulsory treatment can be appealed within seven days.

As regards discharge procedures, the law provides that placement for compulsory treatment is for an indefinite period of time. That said, the need for compulsory treatment must be subject to an *ex officio* review every six months by a competent court, which shall decide, on the basis of a psychiatric assessment, whether to extend, modify (including replacement of an in-patient compulsory measure with an out-patient one) or terminate the compulsory treatment.

131. Based on the examination of patients' files, the delegation concluded that reviews of forensic patients' cases by the hospitals' internal psychiatric commissions and then by the court were indeed as a rule carried out every six months.

The CPT is of the view that commissioning, at reasonable intervals, in the context of the review of the measure of compulsory hospitalisation in a psychiatric establishment, a psychiatric expert opinion which is independent of the hospital in which the patient is held would offer an additional, important safeguard. This is of all the more relevance in respect of patients who have already spent lengthy periods of time in that hospital.

The Committee invites the Bulgarian authorities to consider introducing such an external psychiatric input in the light of the above comments.

132. In the absence of a separate law on mental health in Bulgaria, “civil” involuntary hospitalisation and treatment are regulated by the Health Act (Chapter 5).

According to this law, persons subject to involuntary hospitalisation are those with severe mental and/or personality disorders or severe intellectual deficit who, due to their disorder, may commit an offence, endanger the health of their relatives, neighbours or society and/or their own health. A request for involuntary hospitalisation can be made by a public prosecutor or by a head of the local psychiatric hospital in cases of emergency, and is decided by a district court. The person has a right to appeal within seven days. In all stages of the procedure, the participation of a lawyer, a psychiatrist and a public prosecutor is obligatory.

The court has to arrange for an expert psychiatric examination within 14 days (24 days exceptionally). During that time, no treatment should be administered, except in cases of emergency or after obtaining informed consent of the person. The court then decides on a form (in-patient or out-patient) and the duration of the treatment. The decision has to be reviewed every three months by a court on the basis of an expert psychiatric assessment in the medical facility within which the person is placed. The person concerned, a prosecutor or a head of the medical establishment can at any time request the court to order the discharge of the patient on the grounds that the circumstances which prompted involuntary hospitalisation ceased to apply.

133. As regards the procedure of involuntary hospitalisation, relevant provisions of the Health Act appeared to be observed in both hospitals. Patients were systematically brought to the court to be heard at the hearing. They could also use the services of their private or an *ex officio* lawyer appointed by the court. The court heard the psychiatrist and psychologist who had signed an expert psychiatric and psychological assessment of the person concerned, the patient and his/her lawyer.

134. The examination of patients’ personal files revealed that, while ordering involuntary placement, courts frequently appointed a person (usually a patient’s relative) authorised to give consent to treatment on behalf of the patient deprived of legal capacity.

The CPT wishes to stress that psychiatric patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment as well as to withdraw it at any time. The admission of a person to a psychiatric establishment on an involuntary basis – whether it be in the context of civil or criminal proceedings - should not preclude seeking informed consent to treatment. Every patient, whether voluntary or involuntary, should be informed about the intended treatment. Further, every patient capable of discernment should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

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

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

135. It became clear during the visits to both hospitals that a significant proportion of the patients, formally regarded as voluntary, were locked up in the wards and were not allowed to leave the ward or the hospital of their own free will. Many patients described being strongly encouraged on admission to consent to hospitalisation and submit to paternalistic control by staff, so as to avoid involuntary placement, thus losing the protection offered by formal legal safeguards. In fact, the delegation met several patients who were clearly expressing their wish to leave the establishment (but staff considered that their hospitalisation was necessary), and also noted that, in some cases at least, when voluntary patients “escaped” from the closed units, their absence would be notified to the police with a view to having them brought back to the hospital.

Under these circumstances, the CPT considers that a number of patients were *de facto* deprived of their liberty without benefiting from the safeguards provided for by the relevant legislation.

Furthermore, many patients had not been informed about their diagnosis or details of the treatment offered including the side effects of medication.

In the light of the above, the CPT recommends that the Bulgarian authorities take effective steps to ensure that the provisions of the Health Act are fully implemented in practice. The Bulgarian authorities must also ensure that proper information and training is given, as a matter of priority, to all structures and persons involved (in particular, psychiatrists, hospital managements and judges) on the legal provisions pertaining to civil involuntary placement of patients in psychiatric hospitals in the country.

Persons admitted to psychiatric establishments should be provided with full, clear and accurate information, including on their right to consent or not to consent to hospitalisation, and on the possibility to withdraw their consent subsequently at any time. Furthermore, as regards more specifically Sevlievo Psychiatric Hospital and Radnevo Psychiatric Hospital, the Committee recommends that the legal status of all patients currently considered as “voluntary” be urgently reviewed.

136. The delegation noted that there was considerable scope for improving accessible formal complaints mechanisms for patients in the hospitals visited. Patients were, reportedly, advised to raise their concerns informally – to a treating doctor, to hospital management staff during their round on the wards, to their relatives and friends during phone calls, etc. However, few patients were aware of how to formally, safely and confidentially complain to the hospital authorities or beyond (such as, to the Ombudsman or the court). For example, at *Radnevo Psychiatric Hospital*, the only complaint box was located in the administration building which was hardly accessible for many patients.

In the CPT’s view, an internal complaints system should ensure that patients are able to make confidential written complaints at any moment and place them in a locked box designed for this purpose (to which only the establishment’s Director and/or a designated delegate has the key), located in each accommodation unit. Patients should receive, within a reasonable time, written acknowledgement of every complaint they make and reasoned answers in writing to written complaints (feedback on the outcome of their complaints in a timely manner). Further, a proper record should be maintained of every complaint.

The Committee recommends that measures be taken to put in place a proper internal complaints system at Sevlievo Psychiatric Hospital and Radnevo Psychiatric Hospital, and in other psychiatric hospitals in Bulgaria where it does not yet exist. Further, psychiatric patients should be provided with the necessary information, in a language they understand, on all existing internal and external complaints mechanisms.

137. In both hospitals visited, there was some information on the hospital rules provided to the patients upon admission (either verbally or on wall posters) but it was not in the form of a comprehensive introductory brochure. **The CPT recommends that the Bulgarian authorities ensure that an introductory brochure, setting forth the hospital routine and patients' rights (including information on avenues of complaint), is produced and issued to each psychiatric patient and their families/guardians on admission as well as explained orally. Any patients unable to understand this brochure should receive appropriate assistance.**

138. Turning to contact with the outside world, patients had unrestricted possibilities to receive visitors in both hospitals. However, the delegation received many complaints that access to a telephone was limited. At *Sevlievo Psychiatric Hospital*, patients had access to the phone twice a week, on Tuesday and Friday, from 10 to 11 a.m. At *Radnevo Psychiatric Hospital*, patients under the closed regime could use the phone for half an hour every day, from 1 till 2 p.m.; patients under the open regime, were allowed to keep their own mobile phones.

The Committee invites the Bulgarian authorities to facilitate psychiatric patients' access to a telephone under conditions allowing privacy, unless there is a lawful and reasoned doctor's order to the contrary.

D. Establishments under the authority of the Ministry of Labour and Social Policy

1. Preliminary remarks

139. The main legal acts regulating the provision of social services in Bulgaria are the Social Assistance Act (SAA) and the Regulations on Implementation of the Social Assistance Act. According to the SAA, the provision of social services is delegated by the State to the municipalities and they are the ones responsible for compliance with the relevant criteria and standards. The delegation noted that, at the time of the visit, there were 27 homes for persons with learning disabilities with a total capacity of 2,083 and accommodating 2,065 residents, and 13 homes for persons with psychiatric disorders with a total capacity of 1,020, all places being filled.²⁰³

140. At the outset of the visit, senior officials from the Ministry of Labour and Social Policy informed the delegation of the existence of a working group comprising representatives from the Ministries of Health and Labour and Social Policy. The task of the working group was to revise the chapter on mental health in the Health Act and draft an Action Plan on long-term care for 2018-2025, in order to improve the integration of health and social care sectors and thus better provide for patients' and residents' needs through improved communication and provision of psychiatric after-care. A draft Action Plan was, reportedly, to be finalized by the end of 2017.²⁰⁴ **The CPT requests to be provided with an update regarding the progress of the aforementioned working group, as well as information on the main provisions of the Action Plan.**

Further, **the Committee recommends that the Bulgarian authorities continue their efforts towards the development of social care in the community, as this can not only shorten or avoid institutional stay and reduce the potential for ill-treatment, but also improve experiences and outcomes for service users. Such community accommodation should consist of small group home living units in the community, ideally in towns, with all the relevant facilities close at hand, and not larger units situated on the grounds of long-standing social care establishments (which do not allow genuine de-institutionalisation and proper re-integration into the community).**

141. The delegation was also informed about a new legal act being drafted regarding the management and transfer of disturbed residents from social care institutions to psychiatric hospitals. **The CPT requests to be provided with an update regarding the adoption of this legal act and the information on its main provisions.**

²⁰³ Reportedly, there were also 144 Protected Homes (with maximum occupancy of 10 persons) housing 1,265 less dependent learning disabled residents with better skills and 96 Family Type Homes (with maximum occupancy of 15 persons) housing 1,270 residents who were more dependent.

²⁰⁴ According to the Bulgarian authorities, the Action Plan would also identify social care establishments with the worst living conditions, which would be closed.

142. The Committee's delegation carried out first-time visits to homes for persons with psychiatric disorders in Tvarditsa and Radovets and homes for persons with learning disabilities in Batoshevo, Kachulka and Tvarditsa.

143. Batoshevo Home for Persons with Learning Disabilities is situated in a remote location near the village of Batoshevo, approximately 20 km from the nearest bigger town, Sevlievo, and is under the authority of Sevlievo municipality. Originally a hostel for power plant workers, it had been a social care institution since 1962; it shared its grounds with two family-type homes in an adjacent block (with 11 and 15 male residents respectively) established in 2013.

With an official capacity of 41 beds, at the time of the visit the establishment was accommodating 41 adult male residents,²⁰⁵ of whom 39 were deemed fully legally incompetent.

144. The biggest social care establishment in Bulgaria, Kachulka Home for Persons with Learning Disabilities, is situated in another very isolated mountainous location, near the village of Byala. The establishment is run by the municipality of Sliven and is approximately 20 km from this town. Originally a village complex for 6,000 people that operated as a centre for language and military training for foreign citizens until the 1980s, it was later transformed into a children's village – with a school, an orphanage and a social care establishment for disabled children. In 2002, another reorganisation resulted in the setting up of the current social care establishment - a home for persons with learning disabilities.

The initial official capacity of 600 beds had been gradually reduced to its current capacity of 240. At the time of the visit, the establishment was fully occupied and was accommodating 175 adult female residents and 65 adult male residents; of all the residents, only 21 were deemed legally competent.

145. Outside the little town of Tvarditsa and under the authority of its municipality, two social care establishments were operating on the same site - Tvarditsa Home for Persons with Learning Disabilities and Tvarditsa Home for Persons with Psychiatric Disorders. The site had reportedly previously operated as a production facility for mining explosives,²⁰⁶ transformed in 1960 into a home for mentally disordered men. Initially one single establishment, in 2005 it was reorganised and divided in two – with separate budgets, separate staff, but one Director and an integrated site.

At the time of the visit, the home for persons with learning disabilities (capacity 100) was accommodating 99 adult male residents, and the home for persons with psychiatric disorders (capacity 120) was accommodating 119 adult male residents. The majority of the residents in both homes were deemed fully legally incompetent.

²⁰⁵ One resident had been transferred to Sevlievo State Psychiatric Hospital at the time of the visit.

²⁰⁶ One could still clearly see tunnels dug into the rocks where explosives had reportedly been stored and a large industrial brick chimney in the centre of the facility.

146. Radovets Home for Persons with Psychiatric Disorders is situated in a remote location, only a few kilometres from the border with Turkey and approximately 30 km from the nearest bigger town, Topolovgrad. Originally army barracks, in 1980 it was transformed into a home for persons with psychiatric disorders. With an official capacity of 75 places, all the establishment's beds were occupied at the time of the visit, accommodating 75 adult male residents, of whom 36 were deemed legally competent.²⁰⁷

147. On 24 January 2018, the CPT was informed by the Bulgarian authorities that the Agency for Social Assistance under the Ministry of Labour and Social Policy had carried out inspections to all social care establishments visited by the delegation; the conclusions of these thorough inspections concurred to a very large extent with the delegation's preliminary observations presented to Ms Rositsa Dimitrova, Deputy Minister of Labour and Social Policy, at the end of the 2017 visit.

The Committee welcomes the decision to carry out these inspections and their conclusions. **The CPT requests to be provided with detailed information regarding any further action taken by the Bulgarian authorities to address the various shortcomings identified after the inspections, as well as those described further in this report.**

The Committee would also like to be informed whether similar inspections will be carried out to all other social care establishments in Bulgaria and whether there are plans to do it on a regular basis.

2. Ill-treatment

148. Although at *Batoshevo Home* the delegation did not receive any credible allegations of physical ill-treatment of residents by staff,²⁰⁸ in *Kachulka*, *Radovets* and *Tvarditsa Homes* the delegation did receive some allegations, including that residents were slapped by orderlies in all three homes, were sometimes punched by more senior staff in *Kachulka Home*, and were hit with sticks by orderlies in *Tvarditsa* and *Radovets Homes*.

Indeed, in the latter two homes sticks were found in the locations suggested by residents to the delegation and they exactly matched their descriptions. In *Tvarditsa*, the delegation found four sticks in the orderlies' room in one of the residential buildings (a plastic one, a tree branch and two bamboo sticks) - three behind the door and one in the corner where staff coats were hung.²⁰⁹ In *Radovets*, two sticks (a piece of hollow plastic piping and a wooden black rubber covered police style truncheon, both fitted with string wrist straps) were found hanging from the radiator by the door in the orderlies' room.

²⁰⁷ The other 39 were deemed fully legally incompetent.

²⁰⁸ However, the Director stated that last year an orderly had slapped a resident and disciplinary action was taken as a result.

²⁰⁹ A number of sticks were also found throughout the establishment during the inspection carried out by the Agency for Social Assistance following the CPT's visit. Furthermore, during conversations with the residents, some of them told the Agency's inspectors that they had been hit with sticks by orderlies or had witnessed other residents being hit. Reportedly, the Director of the establishment explained to the inspectors that the sticks were used "to collect walnuts and to clean the spider webs".

The Directors of both establishments were immediately informed of these findings and asked to remove the sticks; in Tvarditsa, the sticks were removed and an investigation initiated even before the delegation had left. During the final talks with the Deputy Minister of Labour and Social Policy, the delegation suggested that the Director in Tvarditsa be provided with external support with his investigation and actions in this regard, due to the challenges in confronting this situation in his establishment.

The CPT requests the Bulgarian authorities to provide information regarding the results of the aforementioned investigation at Tvarditsa Home, and action taken by the management and other relevant authorities in Tvarditsa and Radovets establishments regarding the use of sticks by staff.

149. The Committee wishes to stress that, given the challenging nature of their job, it is essential that ward-based staff in the social care institutions be carefully selected and given suitable training on managing challenging residents humanely and safely before taking up their duties, as well as on-going training later. While carrying out their duties, such staff should also be subject to regular supervision. It is also important that staff themselves be provided with the necessary support and counselling to avoid burn-out and to maintain high standards of care.

The CPT recommends that the procedures for the selection of ward-based staff and their initial and on-going training, supervision and support be reviewed at Kachulka, Tvarditsa and Radovets Homes, in the light of the above remarks. Further, the management of these establishments should remain vigilant and make it clear to the staff of all grades that all forms of ill-treatment of residents, including verbal abuse, are totally unacceptable and will be severely punished by the appropriate authorities.

The Committee also recommends that the Bulgarian authorities ensure that any non-standard issue objects capable of being used for inflicting ill-treatment are removed from the premises of all social care institutions in Bulgaria.

150. In the context of its findings at *Tvarditsa Home*, the delegation was very concerned to learn about the death of a 30 year-old male resident, A., on 23 September 2017. During interviews, residents told the delegation that A. had been beaten by staff a few days before his death. Reportedly, he had absconded from the establishment on 22 August 2017 and was found the next day. Apparently, in early September 2017, he required a period of in-patient medical care (diagnosis: concussion following a fall two days previously, which was said to have caused a loss of consciousness, weakness, dizziness and vomiting), following which he was transferred back to Tvarditsa, where he had a psychiatric assessment on 13 September 2017, the diagnosis being concussion. Subsequently, on 21 September 2017, the resident was transferred with serious traumatic chest injuries (fractured rib, bruise, and pneumothorax) to a hospital in Sliven, where he died two days later. No autopsy was reportedly performed; according to the Director of *Tvarditsa Home*, autopsies were performed upon family request only and in cases when the death was due to violent or unnatural causes.

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

151. In the light of the facts described above, the delegation invoked, at the end of the visit to Bulgaria, Article 8, paragraph 5, of the Convention and requested the Bulgarian authorities to effectively investigate the circumstances surrounding, and the causes of, the death of A.

In their letter dated 4 January 2018, the Prosecutor General's Office of the Republic of Bulgaria stated that, at the time, Sliven District Prosecutor's Office had not received a report from the Director of Tvarditsa Home or the doctors from the hospital in Sliven on the traumatic injuries and the death of A., and that a request for the inquiry into the circumstances of the death, submitted by the Mayor of the Tvarditsa Municipality, was received only after the CPT's visit, on 2 November 2017. According to the Bulgarian authorities, on 13 December 2017 Sliven District Prosecutor's Office had initiated a pre-trial investigation into a crime under Section 124 (1) of the Criminal Code.²¹⁰

The Committee requests to be provided, in due course, with information on the outcome of the aforementioned investigation, including a copy of the autopsy report.

152. Moreover, **the CPT recommends that the Bulgarian authorities take the necessary steps – including at the legislative level – to ensure that, whenever a resident/patient dies in a social care establishment or, following a transfer from a social care establishment, in a hospital:**

- **the death is promptly certified by a medical doctor on the basis of a physical examination;**
- **an autopsy is carried out unless a clear diagnosis of a fatal disease has been established prior to death by a doctor;**
- **whenever an autopsy is performed, its conclusions are systematically communicated to the management of the social care establishment, with a view to ascertaining whether there are lessons to be learned as regards operating procedures;**
- **a record of the clinical causes of residents'/patients' deaths is kept at the social care establishment.**

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

153. As regards inter-resident violence, this was a significant problem in all social care establishments visited, which was hardly surprising in such unsupervised environments with completely insufficient numbers of staff (see paragraphs 160 to 165 below). Many residents in all the homes complained of being shouted at, pushed and sometimes hit and injured by other residents, a situation witnessed by the delegation on several occasions. At *Kachulka Home*, a number of residents, especially women, were visibly distressed and very frightened due to frequent attacks by fellow residents.

²¹⁰ “A person who through negligence causes the death of another, as the result of an intentionally inflicted bodily injury, shall be punished by imprisonment for three to twelve years in cases of grave bodily injury, for two to eight years in case of medium bodily injury, and up to five years in case of trivial bodily injury.”

Both in *Kachulka* and *Radovets*, there were residents who would – according to staff – often become so aggressive that they would pose a risk both to other residents and staff, and thus were, subsequently, placed in seclusion for prolonged periods (see more in paragraph 168 below).

The Committee wishes to emphasize that 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; at present, this is not guaranteed. 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 social care establishments visited, as well as in other social care establishments if relevant, from other residents who might cause them harm. This requires not only an adequate staff presence and supervision at all times, but also that staff be properly trained in handling challenging situations/behaviour by residents.

3. Residents' living conditions

a. Batoshevo Home for Persons with Learning Disabilities

154. *Batoshevo Home* consisted of a small administration block and a kitchen/canteen block near the entrance gate, a three-storey accommodation block,²¹¹ a separate one-storey day room, and a small medical and occupational therapy block, all set within relatively limited grounds adjoining a stream.

The establishment had been partially renovated in recent years – it had new windows, doors, sanitary facilities and beds; in some parts the renovation was still on-going. Apart from a few dilapidated and smelly rooms, the majority of rooms were generally sufficiently spacious,²¹² clean, well-lit and ventilated. They were properly furnished with beds, bedside tables, chairs, wardrobes, and TV sets; there were also enough special mattresses and disposable pads for incontinent residents. However, the majority of the rooms lacked personalisation and privacy.

By contrast, the day-room was absolutely unfit for the purpose. It was bare and extremely dilapidated, poorly lit and cold.

In the light of the above, **the Committee recommends that the Bulgarian authorities take steps at Batoshevo Home:**

- to complete the renovation of the accommodation block;**
- to offer more congenial and personalised surroundings for residents, in particular by providing them with lockable space and allowing a reasonable number of personal belongings in their rooms;**
- to properly furnish and decorate the day room, and ensure that it is properly heated.**

²¹¹ The third floor was derelict and not used for accommodation of residents.

²¹² E.g. some 12 m² for 2 beds.

b. Kachulka Home for Persons with Learning Disabilities

155. The establishment consisted of two five-storey pyramidal accommodation blocks for residents (Block 5A/B and Block 3), a small administration block nearer the site's entrance and a range of other, derelict, buildings, all set within an extensive area.

The residents' rooms were situated off small vestibules adjoining the corridor, each vestibule containing a bathroom with a toilet and a washbasin. Some of the rooms were bare and bleak; some beds had no sheets, exposing dirty mattresses. The rooms had balconies, the doors to which were often locked.²¹³ In some rooms the glass in the windows and/or balcony doors was replaced with wooden panels, reportedly as residents had broken it. The rooms on the top floors for more able residents had been recently renovated and had TV sets. Most rooms throughout the establishment were locked during the day, but a few on the upper floors were accessible to the residents who had their own keys.

The CPT recommends that the Bulgarian authorities make efforts to improve living conditions at Kachulka Home for Persons with Learning Disabilities, in the light of the above remarks. Efforts should also be made to provide residents with personal lockable space for their belongings, as well as more visual stimulation and personalisation in their rooms.

c. Tvarditsa Homes for Persons with Learning Disabilities and Psychiatric Disorders

156. The establishment covered a large area and consisted of many buildings, including accommodation blocks, a medical centre, workshops, recreational centres, stores, a canteen and a kitchen, as well as some derelict buildings. The buildings were connected by made up roads and pavements, giving the institution the appearance of a small self-contained village.

Living conditions were mostly adequate, especially in the residential blocks for more able residents where rooms were spacious,²¹⁴ well-lit and ventilated, properly furnished (beds with full bedding, lockers, tables, chairs, wardrobes, TV sets, etc.), clean and decorated. The delegation noted, however, that toilets in one small residential block had no doors.

The other blocks, for "more difficult residents", were somewhat dilapidated. The rooms were bleaker, lacked personalisation and some smelled of urine.

The dining room was warm and bright and there was music playing while residents were taking their lunch. A large day room accommodating over 50 residents was light and airy, with a lot of benches, pictures, and a functioning TV.

The Committee recommends that the Bulgarian authorities improve living conditions in the accommodation blocks for less able residents at Tvarditsa Homes, in the light of the above remarks. Further, measures must be taken to provide sufficient privacy in the sanitary facilities in all residential blocks.

²¹³ The balconies appeared hazardous for confused residents. Indeed, staff confirmed that in the past there had been residents who had injured and even killed themselves after jumping from a balcony. There was also a case described some five years ago when two residents threw a third one from a balcony and he died as a result.

²¹⁴ E.g. some 36 m² for 8 beds.

d. Radovets Home for Persons with Psychiatric Disorders

157. The establishment consisted of one long accommodation block with dormitories, a separate block containing a day room, a storeroom/makeshift mortuary²¹⁵, an under-stairs seclusion area²¹⁶ and a staff office, a small administrative block, a kitchen/canteen block and a small visit bungalow. All this was set within an area of grounds in parts littered with what appeared to be human faeces and also inhabited by a number of stray dogs.

The accommodation block had been recently fitted with new windows; the sanitary facilities had, reportedly, also been renovated. The dormitories (with the exception of the two described in the following paragraph) were generally sufficiently spacious,²¹⁷ adequately furnished, clean, well-lit and ventilated. However, the rooms lacked personalisation and privacy.

The CPT recommends that necessary measures be taken to secure elementary hygiene in the grounds of Radovets Home for Persons with Psychiatric Disorders. Efforts should also be made to provide residents with personal lockable space for their belongings, as well as more visual stimulation and personalisation in their rooms.

158. Particular mention should be made of the unit accommodating the most disabled residents, which contained only two large dormitories and no sanitary facilities. In one of the two dormitories hygiene conditions did not befit a care institution and could be described as inhuman and degrading. Residents were found lying on their beds, completely covered in flies, with the floor flooded with urine and littered with faeces.

One elderly resident, with a facial injury caused by another resident, was seen urinating on the floor from his bed; other residents lay either in silence or occasionally shouting. This place was known to the residents of the home as the “pissy room”.²¹⁸

In light of the situation, the delegation invoked, at the end of the visit to Bulgaria, Article 8, paragraph 5, of the Convention and requested the Bulgarian authorities to ensure that at Radovets Home for Persons with Psychiatric Disorders residents in the two dormitories described above are accommodated in clean and hygienic conditions, adequately supervised and assisted in satisfying the needs of nature in a dignified manner using appropriate equipment, so as to eradicate human waste on their dormitory floors and the resultant insect infestation of themselves and the environment.

In their letter dated 21 November 2017, the Bulgarian Ministry of Labour and Social Policy stated that two new sanitary facilities had been constructed in the establishment, new bedding was ordered, and measures were being taken to ensure compliance with sanitary standards.

²¹⁵ Beneath the first-floor staff office there was a storage area containing, amongst other things, a small garden bench. Residents told the delegation that it was the mortuary where a resident’s body would be kept until the relevant services would arrive to take it.

²¹⁶ See paragraph 168 below.

²¹⁷ E.g. some 25 m² for 5 beds.

²¹⁸ Information provided by the Bulgarian authorities on 24 January 2018 (see paragraph 148 above) confirmed that the same situation was found during the inspection to the establishment carried out by the Agency for Social Assistance following the CPT’s visit.

4. Staff and treatment

159. The number of nurses and orderlies available to provide care, comfort and supervision to residents in all the establishments visited was inadequate and sometimes woefully low.

160. At *Batoshevo Home for Persons with Learning Disabilities*, there were five nurses and a feldsher, working in two shifts,²¹⁹ and seven orderlies working in three shifts. Ward-based staff meant to care for 40 learning disabled residents comprised only one nurse and two orderlies in the morning shift²²⁰ and one nurse and one orderly for the rest of the day. The psycho-social rehabilitation staff included one social worker and one occupational therapist.

Regarding medical staff input, the delegation was informed that psychiatric care was provided in liaison with Sevlievo Psychiatric Hospital and occurred twice a week or as required via a part-time psychiatrist. Upon need, residents were taken to see a general practitioner or a dentist. The institution also received neurologist input from Sevlievo Psychiatric Hospital as 12 residents suffered from epilepsy.

161. *Kachulka Home for Persons with Learning Disabilities* employed one feldsher, one physiotherapist, 12 nurses working in two shifts, and 49 orderlies working in three shifts. As regards other staff qualified to provide therapeutic activities, there was one psychologist, eight social workers, a teacher, and 18 occupational therapists.

At the time of the visit, there were two nurses²²¹ and six orderlies attempting to care for all 240 seriously mentally disabled and needy residents, the majority of whom were incontinent with many needing assistance with dressing and some even with feeding. Indeed, the delegation saw staff sometimes running between residents in order to try and meet their most basic needs. Furthermore, the delegation was informed that the imminent departure of three nurses would result in nurse numbers becoming critically low.²²²

Problems created by the lack of care staff were compounded by the absence of any regular visits by either a general practitioner or a psychiatrist, with residents needing to be taken to Sliven, accompanied by one nurse and one orderly, if they needed medical assessment or treatment.

162. At *Tvarditsa Home for Persons with Learning Disabilities* there was one feldsher, four nurses, and 12 orderlies. The psycho-social rehabilitation staff comprised a psychologist, a speech therapist, a teacher, four social workers, and six occupational therapists.

²¹⁹ The shifts were from 7 a.m. to 5 p.m. and from 7.30 p.m. to 7.30 a.m. The gap in the late afternoon was, reportedly, due to there being no public transport to reach the establishment.

²²⁰ There were two orderlies instead of one in the morning because one of them was responsible for changing the diapers of some 20 incontinent residents.

²²¹ Reportedly, during the preceding year there had been only one nurse on the night shift and, on some days, only one nurse on the day shift.

²²² According to the report of the inspection to the establishment carried out by the Agency for Social Assistance following the CPT's visit (see paragraph 147 above), "as of November 2017, the medical service of 240 users will be performed by one medical auxiliary, one chief nurse, three nurses and one rehabilitation therapist".

At *Tvarditsa Home for Persons with Psychiatric Disorders* there was one feldsher, three nurses and 20 orderlies. The psycho-social rehabilitation staff comprised a teacher, three social workers and ten occupational therapists.

Ward-based staff worked in three shifts and comprised (in the two establishments together, i.e. for 218 residents in total) three nurses and eight or nine orderlies on the two day shifts and one nurse and three orderlies on the night shift.

A general practitioner and a psychiatrist from Sliven visited once a week (or more, if required); a dentist was called to visit upon need.

163. *Radovets Home for Persons with Psychiatric Disorders* employed one feldsher, and seven nurses and 12 orderlies working in two shifts. At the time of the delegation's visit, there was one nurse and two orderlies trying to manage all 75 seriously mentally ill patients within the establishment.

As regards other staff, there were two social workers and four occupational therapists. Reportedly, a psychiatrist and a general practitioner were visiting the establishment once a month and, if necessary, residents were taken to see them between the visits.

164. To conclude, the numbers of the ward-based staff in all the establishments visited were grossly insufficient to provide adequate care, assistance and supervision and to ensure a safe environment for residents (and staff). Moreover, in all homes, with the exception of *Tvarditsa*, there was considerable scope for increasing input from multi-disciplinary clinical staff.

More generally, the CPT cannot escape the sober conclusion that residents in the social care establishments visited had *de facto* been abandoned by the State, which had manifestly totally failed to provide those vulnerable persons with the human contact, comfort, care and assistance they required, as well as the dignity they deserved. It is equally regrettable that staff (and the management) of these establishments had been left to struggle from day to day with totally insufficient human resources, without adequate funding and without any attention or support from the Bulgarian authorities.

In the Committee's view, many of the serious problems occurring in social care establishments in Bulgaria will only be solved, in advance of further de-institutionalisation, when adequate numbers of properly trained clinical care staff (nurses, orderlies and multi-disciplinary staff) are deployed therein. The difficulties in achieving this, especially in remote establishments, and also when offering the current low salaries and unfavourable terms and conditions, should not be underestimated; however, this must be done as a matter of urgency. All efforts should be made to improve the recruitment (including terms and conditions), training and supervision of staff, ensuring there are sufficient numbers of clinical staff of all grades and disciplines in the residential units and regularly and easily accessible visiting medical staff. Furthermore, in the CPT's opinion, the historical staffing allocation norms of 0.54 staff :1 resident²²³ need to be urgently re-visited in the light of the Committee's findings.

²²³ As defined by the "Methodology for determining the positions of the staff in the specialised institutions and the social services in the community" approved in 2012 by the Ministry of Labour and Social Policy.

The CPT calls upon the Bulgarian authorities to take urgent steps to significantly increase the numbers of properly trained clinical care staff (nurses, orderlies and multi-disciplinary staff) in all social care establishments in the country, in the light of the above remarks.

165. Regarding the daily regime for residents, in *Tvarditsa* a range of occupational, recreational and social activities was available.²²⁴ However, in the other three homes such opportunities were seriously lacking, with the main objective seemingly being containment and attempting to just meet the basic needs of the residents, many of whom were unable to maintain their dignity.

In *Batoshevo*, almost half of the residents, many of whom suffered from serious mental disabilities, had been left alone throughout the day in a large, bare, gloomy, chilly and silent day room where they pressed themselves against ancient lukewarm radiators; a few disappointingly pointing at a small broken television in the corner. Other residents, reportedly, attended art therapy classes in the workshop, cleaned the grounds, and did gardening.

In *Kachulka*, many residents were locked out of their rooms in the daytime. The establishment was visited by the CPT's delegation at the weekend and the residents were found wandering the corridors of the locked buildings or sitting in the disturbed, chaotic, overcrowded, bare, unsupervised day rooms, some rocking and withdrawn, others overexcited and challenging their co-residents. Moreover, their access to outdoor exercise appeared more limited than in the other homes visited by the delegation, reportedly due to the lack of staff to supervise the residents.

In *Radovets*, visited likewise at the weekend, residents just lay on their beds or wandered in the small grounds where some also clearly defecated. A few residents described to the delegation how another resident had recently eaten the meat of a dead incinerated dog in the grounds and offered it to others. Some residents were going to a nearby village (though it was unofficially forbidden), to look for some work in the farms or to exchange the cigarettes they had for alcohol.²²⁵ The occupational therapies described as being available to the residents were 'flower gardening', 'music therapy' (listening to music), 'laundry therapy' (washing clothes), and 'skills therapy' (self-care and making the bed).

166. The delegation examined a number of personal files in the establishments visited and noted that every resident had an individual care plan, which was established after a detailed assessment, and regularly reviewed. However, given the aforementioned scarcity of occupational, recreational and social activities available at the homes in *Batoshevo*, *Kachulka* and *Radovets*, the care plans tended to be quite succinct.

In this context, the Committee wishes to emphasise that particular attention should be given to developing programmes of rehabilitative activities with a view to improving the quality of life of residents, as well as re-socialisation programmes preparing residents to fulfil their potential to live in the community.

²²⁴ The activities on offer included cooking, hygiene, music, games, IT, gardening, sports, tourism, carpentry, broomstick making, reading and writing.

²²⁵ Residents explained to the delegation that these trips to the village were "the only way to get some distraction, to get closer to civilisation".

Occupational therapy should play an important part in the long-term treatment programme, provision being made for motivational work, evaluation of learning and relational skills, and the acquisition of specific knowledge and improvement of self-esteem.

The CPT recommends that the Bulgarian authorities take urgent steps to ensure that a systematic and regular evaluation of the residents' individual needs is carried out at Batoshevo, Kachulka and Radovets Homes (and in other homes for persons with learning disabilities and psychiatric disorders where such evaluations are not yet being carried out) with a view to offering them adapted psycho-social rehabilitative activities and improving their quality of life, as well as offering re-socialisation programmes designed to prepare residents to live in the community. This will, in the first place, require more staff qualified to provide such activities (e.g. occupational therapists, special educators, physiotherapists, etc.).²²⁶

Further, the Committee recommends that the Bulgarian authorities take measures to ensure that all residents at Kachulka Home (and other homes for persons with learning disabilities and psychiatric disorders, as applicable) whose state of health permits it, benefit from unrestricted access to outdoor exercise during the day unless treatment activities require them to be present inside the building. In this respect, the management of Kachulka Home must ensure the residents' safety when outdoors and provide the necessary assistance to all residents suffering from physical impairments.

167. At *Kachulka Home for Persons with Learning Disabilities* the delegation was informed that, despite a clearly defined profile of the establishment, there were some 40 residents who suffered from psychiatric disorders only. **The CPT has serious misgivings about this practice and recommends that steps be taken to ensure a better allocation of residents, so that those suffering from mental illnesses are separated from those suffering from learning disabilities and that both categories benefit from better targeted and specific care regimes.**

5. Means of restraint

168. As regards mechanical restraint (fixation), it appeared that it was not used in the social care establishments visited.

However, the delegation was particularly concerned by the fact that – despite recourse to seclusion in social care homes being forbidden by law – three seriously mentally disabled residents of *Kachulka Home*, C., D. and E., who were deemed especially dangerous, were placed by staff alone in reinforced locked rooms with solid doors and bars on the windows, one behind an additional specially constructed barred steel gate,²²⁷ the rooms containing only a bed.²²⁸

²²⁶ See also the recommendation in paragraph 164 above.

²²⁷ This room was known both to residents and the staff as the “C.’s prison” since it was, reportedly, reinforced with additional security measures especially for the resident C. It should be noted, that the delegation discussed the case of C. during its subsequent visit to Radnevo Psychiatric Hospital where he was treated in the beginning of 2017. According to his former treating doctor, C. presented a rare case of therapy-resistant psychosis. He would suddenly become agitated, aggressive and destructive, and also demonstrated great physical strength and agility (the restraint register showed that C. had been restrained 30 times during a few months in the hospital). In the doctor’s opinion, the only establishment where C. would receive appropriate care was Lovech Prison Hospital, although, allegedly, it was legally impossible to transfer him there. “Until he kills someone”, added the doctor.

²²⁸ The delegation observed that staff were visibly afraid of these residents. The plates with food were pushed into

These residents sometimes spent days on end within their silent, bare rooms, without any recreation or stimulation, only occasionally being offered very short periods of time outside their room.²²⁹

In *Radovets*, one resident, B., was deemed to be especially unpredictable, present a particular risk of injuring others and unmanageable in a social care establishment; as a result, staff acknowledged that he was sometimes placed in a makeshift seclusion room for hours on end.²³⁰ This was a small enclosed space under a set of outdoor stairs, the entrance to which was covered with a metal door with tiny holes drilled in it and the corner broken (the only source of light or ventilation). Inside, the room was nearly entirely dark and only just allowed an occupant to stand,²³¹ it therefore being normal to just sit or lie there on the bare stone floor. Reportedly, the room in question was also used to place residents who had entered into conflicts in the nearby village or returned to the home intoxicated.²³²

169. In the light of the above-mentioned facts, the delegation invoked, at the end of the visit to Bulgaria, Article 8, paragraph 5, of the Convention and requested the Bulgarian authorities to ensure that, at Radovets Home, the makeshift seclusion room is taken out of service and that the three residents from Kachulka Home for Persons with Learning Disabilities (C., D. and E.) and the resident B. from Radovets Home for Persons with Psychiatric Disorders, who were requiring periods of seclusion, are transferred to adequate mental health care facilities where their mental health care needs could be properly and safely met.

In their letter dated 21 November 2017, the Bulgarian Ministry of Labour and Social Policy stated that, at Radovets Home, the metal door had been removed and the area was now used for storing sanitary materials. Further, B. had been transferred from Radovets Home to Radnevo State Psychiatric Hospital.

As regards the three residents from Kachulka Home, the Bulgarian Ministry of Labour and Social Policy stated that:

- D., with a leading diagnosis of schizophrenia, would be relocated to an appropriate care facility for persons with psychiatric disorders;
- C., upon his re-certification, would be accommodated in an appropriate care facility corresponding his health condition;
- E. did not need to be relocated to another facility. According to the authorities, given his worsened condition, a psychiatrist had recommended his placement in a secure individual room but he was involved in activities with other residents.

their rooms without entering and the rare instances of outdoor exercise were only possible when staff were willing to take the risk and a male orderly was on duty. Reportedly, in July 2017, 42 staff members signed a petition to the Director asking to transfer C. to another care facility due to the stress caused by caring for him.

²²⁹ The seclusion of these three residents was also confirmed during the inspection to the establishment carried out by the Agency for Social Assistance following the CPT's visit.

²³⁰ Some of his fellow residents interviewed by the delegation confirmed they had assisted the staff in placing B. in this room.

²³¹ The room was 1.5 m wide, 2.55 m long and 1.7 m high at the door and only 0.2 m high in its farthest end.

²³² These various cases of seclusion were also confirmed in the report of the inspection to the establishment carried out by the Agency for Social Assistance following the CPT's visit.

The CPT would like to be provided with updated information on steps taken to relocate D. and C., residents of Kachulka Home for Persons with Learning Disabilities, to appropriately safe mental health care facilities. Further, the Committee would like to be provided with information on steps taken to safely and satisfactorily care for E. without recourse to seclusion.

More generally, the CPT would like to receive clarification from the Bulgarian authorities as to the legal basis for the seclusion of residents at Kachulka Home, taking into account the fact that seclusion in a social care establishment is not foreseen by the relevant legislation.

6. Safeguards

170. In 2016, the Social Assistance Act and the Regulations on Implementation of the Social Assistance Act were amended to exclude involuntary placement in a social care establishment and to introduce different procedures for voluntary placement in a social home or in a “residential service” in the community depending on whether the person is under partial or full guardianship. The amended provisions indicate that the will of the person under full or partial guardianship should prevail in case of disagreement between him/her and his/her guardian. The duration of the placement in a social care establishment cannot exceed three years. It can be prolonged only if no other care arrangement is available.

Following these reforms, a voluntary placement of a person under partial guardianship should take place by an administrative decision adopted “in accordance with the wishes and the personal choice” of the person and on the basis of an individual assessment of needs and a support plan.²³³ The person should receive a draft contract and information concerning, *inter alia*, the avenues of complaint.

In order to place a person under full guardianship in a social care establishment or in a facility offering “residential services” in the community, social services must submit a request to the district court. The request must be based on the wishes expressed by the person concerned, put in writing and accompanied by the guardian’s opinion. The court must explore the will of the person concerned and determine the duration of the placement. The court’s decision is subject to appeal before the regional court.²³⁴

The district court is also competent to terminate the placement, transfer the person concerned or prolong the placement. The procedure to be followed is identical to the one foreseen for placement (a request from the social services based on the wishes of the person concerned put in writing and with the opinion of the guardian, as well as an individual assessment of needs and a support plan). The law also provides for a possibility for the director of social services to terminate the placement on a provisional basis, by an administrative decision adopted before the decision of the district court, at the request of the person concerned.

²³³ An individual assessment of needs and a support plan for the use of social services has to be prepared by a multidisciplinary team. These documents should be updated at least once per year. The person concerned should be involved in their preparation and his/her wishes should be respected. If the person refuses certain services recommended by the multidisciplinary team, the support plan should reflect this refusal.

²³⁴ Temporary administrative placement is possible on the basis of the wishes of the person concerned, expressed in writing. This placement is appealable to an administrative court after exhaustion of an appeal to the higher authority. A request for a permanent placement must be submitted to a district court within one month.

The CPT recommends that the Bulgarian authorities review, in due course, the legal status of all the residents of social care establishments in the light of the above-mentioned new legislation.

171. Written information (e.g. in the form of a brochure) on daily routine, residents' rights, and complaints bodies and procedures was not available to residents at any of the social care establishments visited. **The Committee recommends that such a brochure be drawn up and systematically provided to residents and their families on admission to all social care establishments in Bulgaria. Any residents unable to understand this brochure should receive appropriate assistance.**

172. The existing arrangements for contact with the outside world were generally satisfactory at the social care homes visited. The very few residents whose families still stayed in touch, were able to send and receive correspondence, had access to a telephone, and could receive visits.

173. The CPT notes that a draft Law on Physical Persons and Support Measures has been introduced before the Bulgarian Parliament in August 2016. It foresees the abolition of full and partial guardianship and its replacement by support measures (such as support for the accomplishment of legal acts or decision-making jointly with another person). It is foreseen that an *ex officio* judicial review of the support measures will be carried out every two years. The persons concerned will be able themselves to request a judicial review at any time. However, the delegation noted that the draft law had not yet been put to a vote. **The Committee requests to be provided with an update regarding the adoption of this law and the information on its main provisions.**

174. The delegation noted that the majority of residents deprived of their legal capacity were placed under the establishments' guardianship. In these cases, the duties of the guardians were carried out either by the home's Director or by another staff member.

The CPT wishes to stress in this context that one aspect of the role of a guardian is to defend, if necessary, the rights of the incapacitated person vis-à-vis the hosting establishment. Obviously, entrusting guardianship to the very same establishment may easily lead to a conflict of interest and compromise the independence and impartiality of the guardian. **The Committee calls upon the Bulgarian authorities to search for alternative solutions which would better guarantee the independence and impartiality of guardians.**

APPENDIX I

List of the establishments visited by the CPT's delegation

Establishments under the authority of the Ministry of Interior

- 5th District Police Directorate, Burgas
- Elhovo District Police Directorate
- Nova Zagora District Police Directorate
- Radnevo District Police Directorate
- Sliven District Police Directorate
- 3rd District Police Directorate, Sofia
- 5th District Police Directorate, Sofia
- 7th District Police Directorate, Sofia
- Sredets District Police Directorate
- 2nd District Police Directorate, Stara Zagora
- Tvarditsa District Police Directorate
- 1st District Police Directorate, Varna
- 2nd District Police Directorate, Varna

Immigration detention

- Special Home for Accommodation of Foreigners in Lyubimets

Establishments under the authority of the Ministry of Justice

- Burgas Prison
- Debelt Prison Hostel
- Razdelna Prison Hostel
- Sofia Prison
- Varna Prison

Investigation detention facilities at:

- Burgas
- Sliven
- 42 Blvd. G.M. Dimitrov, Sofia

Establishments under the authority of the Ministry of Health

- Sevlievo State Psychiatric Hospital
- Radnevo State Psychiatric Hospital

Establishments under the authority of the Ministry of Labour and Social Policy

- Home for persons with learning disabilities in Batoshevo
- Home for persons with learning disabilities in Kachulka
- Home for persons with learning disabilities in Tvarditsa
- Home for persons with psychiatric disorders in Radovets
- Home for persons with psychiatric disorders in Tvarditsa

APPENDIX II

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

A. National authorities

Ministry of Justice

Tsetska Tsatcheva	Minister
Nikolay Prodanov	Deputy Minister
Svilen Tsvetanov	Director of the Main Directorate for the Execution of Sanctions (GDIN)
Mitko Dimitrov	Deputy Director, GDIN
Nina Dimitrova	Head of the Department of Financial and Resource Assurance, GDIN
Nadya Radkovska	Head of International Co-operation and Training Unit, GDIN
Julian Shemshirov	Head of the Department of Social Activities and Educational Work with Offenders, GDIN
Tsetska Simeonova	Head of Health Care Unit, GDIN
Boris Stratiev	Head of Legal, International, Qualification and Medical Activities Department, GDIN
Dimitar Terziivanov	Chief Expert, Directorate of International Legal Cooperation and European Affairs

Ministry of Interior

Krassimir Tsipov	Deputy Minister
Rumen Ganev	Director of Internal Security Directorate

Ministry of Health

Svetlana Yordanova	Deputy Minister
Zlatka Atanasova	State Expert at the Medical Activities Directorate
Emilia Lolova	State Expert at the Medical Activities Directorate

Ministry of Labour and Social Policy

Rositsa Dimitrova	Deputy Minister
Nikolina Ivanova	Head of the Department for Social Services for Adults, Agency for Social Assistance
Teodora Lyubenova	State Expert in the Policies for Social Inclusion, Children and the Family, Department of Social Inclusion

Supreme Cassation Prosecutor's Office

Nikolay Georgiev	Head of Analytical Department
Valentin Kirilov	Prosecutor, Pre-trial Department
Plamen Pachev	Prosecutor, Unit on Supervision of the Execution of Penalties and Other Coercive Measures

Office of the Ombudsman

Maya Manolova	Ombudsperson
Dimitar Bongalov	Director of the National Preventive Mechanism

B. International Organisations

National Office of the United Nations High Commissioner for Refugees (UNHCR)

C. Non-Governmental organisations

Bulgarian Helsinki Committee