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Communication from an NGO (Bulgarian Helsinki Committeee) (09/08/2021) in the cases of NESHKOV AND OTHERS and KEHAYOV v. Bulgaria (Applications No. 36925/10, 41035/98) and reply from the authorities (18/08/2021).

Information made available under Rules 9.2 and 9.6 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1411e réunion (septembre 2021) (DH)

Communication d'une ONG (Bulgarian Helsinki Committeee) (09/08/2021) relative aux affaires NESHKOV ET AUTRES et KEHAYOV c. Bulgarie (requêtes n° 36925/10, 41035/98) et réponse des autorités
(18/08/2021) ***[anglais uniquement]***

Informations mises à disposition en vertu des Règles 9.2 et 9.6 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables

COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE

DEPARTMENT FOR THE EXECUTION OF JUDGMENTS

1411th (DH) MEETING OF THE DELEGATES 14-16 SEPTEMBER 2021

9 August 2021

OBSERVATIONS

OF THE BULGARIAN HELSINKI COMMITTEE ON THE EXECUTION OF THE GROUP OF JUDGMENTS KEHAYOV V. BULGARIA (APPLICATION NO. 41035/98) AND NESHKOV AND OTHERS V. BULGARIA (APPLICATION NO. 36925/10)

These observations are prepared by the Bulgarian Helsinki Committee (BHC), a human rights NGO, which provided legal assistance to one of the applicants in the *Neshkov* case and a third party observations in the same case. The BHC has also been engaged in monitoring conditions of detention in the Bulgarian prisons since its foundation in 1992 and has an ongoing project on the assessment of the implementation of the legislative reform, which followed the *Neshkov* pilot judgment. In order to facilitate the delegates' appraisal of the execution of this group of judgments, the current submission provides:

- A short background to the subject-matter of this group of cases;
- A short assessment of the recent case-law of the Bulgarian courts and the problems with the use of the preventive and the compensatory remedy by prisoners;
- An account of the recent developments in the improvement of conditions of detention in Bulgaria and outstanding problems;

1. Background to the subject-matter of this group of cases

This group of cases concerns inhuman and degrading treatment of persons detained in Bulgarian prisons and investigative detention facilities (IDF) due to inadequate material conditions of detention, inappropriate medical care and restrictive detention regime. In the *Neshkov* judgment of 2015, the Court found a systemic problem with conditions of detention and required that the authorities create effective preventive and compensatory remedy available to the prisoners. Such a remedy was created with the legislative reform, which entered into force on 25 January 2017. It envisages a possibility for the prisoners to use two types of actions before the administrative courts: 1. to request termination of acts or omissions of detention authorities, which constitute inhuman and degrading treatment or to implement measures in order to achieve that aim (preventive remedy) and 2. to seek compensation for damages caused as a result of the violation of the prohibition of inhuman and degrading treatment (compensatory remedy). Article 3 of the *Execution of Punishment and Pre-Trial Detention Act* (EPA) prohibits torture, cruel, inhuman and degrading treatment and contains a non-exhaustive list of acts, which constitute such a treatment. The legislative reform envisages also changes in the implementation of the "special regime" and a possibility for the prisoners to request early release.

In the *Neshkov* judgment the Court set out criteria for the effectiveness of both remedies. These include: independence of the decision-making authority from the authorities in charge of the penitentiary system; securing the inmates' effective participation in the examination of their grievances; ensuring the speedy and diligent handling of the inmates' complaints; availability of a wide range of legal tools for eradicating the problems that underlie these complaints; rendering of binding and enforceable decisions; ensuring the accessibility of the remedy, including by appropriate alleviating of the burden of proof; conformity of the procedural rules governing the examination of claims for compensation to the principle of fairness enshrined in Article 6 § 1 of the Convention; possibility of domestic authority or court to deal with the case in accordance with the relevant principles laid down in the Court's case-law under Article 3 of the Convention; granting of appropriate relief.[1]

In its decision in *Atanasov and Apostolov v. Bulgaria* of June 2017, i.e. shortly after the legislative reform entered into force, the Court found that the scheme with the two remedies introduced "at this point" appears as an effective means to make good past breaches of Article

[1] ECtHR, *Neshkov and Others v. Bulgaria*, Nos. 36925/10 et al., Judgment of 27 January 2015, §§ 180-191.

3 of the Convention resulting from poor conditions of detention and offers a reasonable prospect of redress. The Court drew this conclusion when assessing the admissibility of the applicants' complaint, i.e. when considering whether the applicants need to exhaust these remedies before applying to the Court. It made it clear that the overall assessment of the effectiveness of the two remedies is "for the purposes of Article 35 § 1 of the Convention".[2] In subsequent judgments, the Court found violations of Article 3 due to the low amount of compensation awarded by the domestic courts. In these cases it concluded that the remedies are effective for the purposes of the assessment of alleged violations of Article 13 of the Convention.[3] A question thus arises whether the effectiveness of a remedy established for the above specific purposes would be sufficient for the purposes of closing of the supervision of the entire group of cases if other problems persist and appear to be of a systematic character.

In its last decision on this group of cases from March 2018 the Committee of Ministers

- welcomed the recent efforts made and the results obtained by the Bulgarian authorities and encouraged them to ensure the necessary political and financial support to guarantee the sustainability of the progress achieved;
- noted with interest that the European Court has considered that the domestic remedies introduced in response to the *Neshkov* pilot judgment can be regarded as effective, yet invited the authorities to provide information on their functioning;
- noted that further progress is still needed with improving conditions of detention to ensure the proper functioning of the preventive remedy;
- welcomed the significant progress achieved as concerns overcrowding in prisons and closed prison hostels and invited the authorities to provide information on the current situation in the investigative detention facilities;
- encouraged the authorities to finalise as soon as possible their projects concerning the improvement of conditions of detention and to provide their assessment of the results achieved;
- invited also the authorities rapidly to adopt and implement the national strategy and action plan for the improvement of medical care in prison;
- invited the authorities to provide information on the practice as regards the application, modification and judicial review of the "special regime";

[2] ECtHR, *Atanasov and Apostolov v. Bulgaria*, Nos. 65540/16 and 22368/17, Decision of 27 June 2017, § 72.
[3] ECtHR, *Ivanov and Others v. Bulgaria*, Nos. 2727/19 et al., Judgment of 4 June 2020, § 16; ECtHR, *Yordanov and Dzhelebov v. Bulgaria*, Nos. 31820/18 and 31826/18, Judgment of 4 June 2020, § 15.

- invited the authorities to indicate the measures envisaged to avoid violations due to the automatic application of a very restrictive regime in respect of certain categories of persons held on remand and to avoid violations related to the modalities of application of the "strict regime" in respect of detainees serving a life sentence.

2. Recent case-law of the Bulgarian courts and the problems with the use of the preventive and the compensatory remedy

In the course of its ongoing project on the assessment of the implementation of the legislative reform, the BHC reviewed administrative court decisions on hundreds of cases on the use of the preventive and the compensatory remedy by prisoners. The BHC research focused on the decisions of the administrative courts, which are final. These may be decisions of the first-instance courts, which had not been appealed, or decisions of the upper instance, which is final. From 2017 until 31 December 2019, the latter was the Supreme Administrative Court. Since 1 January 2020, following a legislative amendment, the decisions of the first-instance administrative courts are appealable before three-judge panels of the same courts. Their decisions are at present final. In addition, the BHC research reviewed other acts of the administrative courts – rulings and orders.

a. The preventive remedy

The preventive remedy is rarely used by the Bulgarian prisoners and detainees. According to official data provided to the BHC by the General Directorate of Execution of Punishments, in 2020 there have been only six orders of the administrative courts for termination of actions and inactions for the prevention of inhuman and degrading treatment.[4]

The prisoners do not receive legal aid when they bring their claims in the administrative courts. As a result, many of their claims are not very well prepared and are rejected either on admissibility or on merits. These e.g. are the cases where the prisoners request corrections in the reduction of their sentences, inclusion in specific correctional programs, protection against searches and checks of their correspondence, transfer to other facilities in order to be able to continue their education, prevention of the seizure of personal assets by bailiffs, etc.

[4] БХК, Правата на човека в България през 2020 г., София, БХК, с. 89.

In a number of cases, the administrative courts rejected prisoners' requests, which are within the scope of Article 3 of the EPA and are justified. Thus:

- The Varna Administrative Court rejected a claim for protection of life prisoners against physical ill-treatment by another prisoner;[5]
- The Pleven Administrative Court rejected a claim by a prisoner for protection after a refusal by the prison director to take measures against a prison guard who used physical force against him;[6]
- The Plovdiv Administrative Court rejected a claim by a prisoner to immediately terminate the immobilization of all his arms and legs to the bed during medical treatment and to remove the shackles when he is taken to see his lawyer;[7]
- The Plovdiv Administrative Court rejected a claim by a life prisoner not to be immobilized with handcuffs during his hospital treatment;[8]
- The Stara Zagora Administrative Court rejected a claim by a prisoner to ensure medical treatment in an external hospital of acute low back pain, shortness of breath and nausea.[9]

With few exceptions, the cases concern conditions of detention in the prisons. Although the conditions of detention in the investigative detention facilities are much worse, very few detainees use the preventive remedy to obtain improvement of their situation at the pre-trial stage. The main reason is the lack of better alternatives in the facility where they are detained, the only realistic prospect being the transfer to another city, where they will be deprived of regular contacts with their lawyers and relatives. Additional factors, which prevents detainees from using this remedy, are the possible victimization (see below), the threat of loss, in which case the detainee's money, whatever their source, may become a target of seizure by the authorities, lack of information about the remedy and high level of illiteracy among the detainees.

Pursuant to Article 278 of the EPA, within 14 days from the receipt of the request under the preventive remedy, the judge may check through the police, the prosecutor's office, the ombudsman, an expert or non-governmental organizations, as well as in any other way, the

[5] VnAC, Order No. 19986/12.12.2017.
[6] PlAC, Order No. 395/24.01.2018. The rejection of the claim related to the assault by the prison guard was motivated by the refusal of the district prosecution to institute criminal proceedings for lack of evidence.
[7] PdAC, Order No. 1890/25.03.2019.
[8] PdAC, Order No. 6404/5.10.2018.
[9] SzAC, Order No. 669/20.09.2019. In this case the claimant was ordered to pay 100 BGN expenses for the legal representation of the prison administration.

actions and omissions whose termination is sought and the grounds for them. A non-exhaustive review of the case law of the courts on the application of the preventive remedy indicated that Article 278 was very rarely applied. No cases were identified where the court collected information relevant to the proceedings through the Ombudsman or a non-governmental organization.

b. The compensatory remedy

The compensatory remedy is much more frequently used by prisoners. The problems relating to the use of the preventive remedy, such as the lack of legal assistance, victimization of claimants, lack of money to pay the fees, and the threat to become a target of seizure of assets in case of a loss, are also valid in the cases of the use of the compensatory remedy. In addition, two serious problems are to be mentioned, specific for the use of this remedy – the lack of consolidated case law of the administrative courts and the low amount of compensation for some serious violations.

Two cases may be cited as illustrative for the lack of consolidation of the case law on the use of the compensatory remedy. In June 2020 the Varna Administrative Court as a first instance awarded 50 000 BGN (25 641 Euro) for compensation to a former detainee in the investigative detention facility of Dobrich, where he was detained for almost six months. The court found that there had been a violation of Article 3 of the EPA due to the fact that the detainee had always lived with at least two other persons in his cell with less than 4 sq. m. living space per detainee. There had been no natural light in the cell, no bathroom, no running water, no furniture, no windows. The lighting, ventilation and heating had been inadequate. There had been no separate space in the detention center for outdoor exercise and therefore no outdoor exercise at all. Detainees were allowed to use the toilet for 10 minutes in the morning, at noon and in the evening. The rest of the time, they had to relieve themselves in plastic bottles that were kept in the cell next to the cell door. On appeal, a panel of three judges of the same court confirmed the findings of the lower court but reduced the compensation to 4 000 BGN (2 051 Euro).[10]

The second case is of the Veliko Turnovo Administrative Court. The first instance awarded a detainee 3 BGN (1.5 Euro) for compensation after it found that his treatment in the investigative detention facility of Veliko Turnovo had been inhuman and degrading due to bedbug bites

[10] VnAC, Decision No. 792/26.06.2020.

during his detention there (the claim was 2 000 BGN). On appeal, a three-judge panel of the same court raised the award 66 times – to 197 BGN (101 Euro).[11]

The BHC research of the case law on the use of the compensatory remedy found drastic cases of low amounts of compensations awarded to prisoners for serious violations. In fact, very few decision of the administrative courts offered compensations, which are at the level of the compensation for similar violations awarded by the ECtHR. The prisoners thus remain victims of inhuman and degrading treatment. The case law of the Supreme Administrative Court (SAC) has been particularly restrictive. Thus:

- The SAC upheld a decision of the Pernik Administrative Court in which the latter found a violation of Article 3 of the EPA. The claimant complained that his treatment in the investigative detention facility in Pernik had been inhuman and degrading because for a period of four months he had no free access to a toilet except for three times a day. The rest of the time, he had to relieve himself in plastic tubes in front of the other cellmates. The SAC lowered the amount of compensation initially awarded from 600 BGN to 200 BGN (102 Euro).[12]
- The SAC upheld a decision of the lower court to awarded 300 BGN (154 Euro) as compensation to a detainee who spent two months in a cell in an IDF where each cellmate had around 3 sq. m. space on average. There had been no access to natural light and hygiene had been inadequate. There was no possibility for outdoor exercise for the entire period. The detainee had to sleep on the floor for one week due to overcrowding. He also had to relieve himself in a bucket in front of the other cellmates.[13]
- The SAC upheld a decision of the Haskovo Administrative Court to award some compensation to a detainee who spent four months in the Haskovo investigative detention facility but lowered its amount from 360 BGN to 140 BGN (72 Euro). The claim of the detainee concerned one of the worst investigative detention facilities in Bulgaria with no access to natural light in the cells, overcrowding, use of buckets to relieve himself, lack of outdoor exercise and very bad hygiene.[14]

[11] VTAC, Decision No. 73/17.06.2020.
[12] SAC, Decision No. 16284/28.12.2018.
[13] SAC, Decision No. 15212/11.11.2019. The proceedings in this case lasted 24 months.
[14] SAC, Decision No. 15917/22.11.2019.

- The SAC upheld a decision of the Haskovo Administrative Court, which found a violation of Article 3 of the EPA in a case of a prisoner who spent two and a half years in the Pazardzhik prison where he was detained in an overcrowded cell, sometimes with 2.5 sq. m. space per person, with no free access to a toilet and running water as a result of which he had to relieve himself for a considerable period of time in a bucket in front of other cellmates, with bad hygiene, moisture and mice inside the cell. The SAC, however, lowered the amount of compensation awarded by the lower court from 1 900 BGN to 950 BGN (487 Euro).[15]
- The SAC upheld a decision of the Burgas Administrative Court but lowered the amount of compensation to a prisoner who was detained in the Burgas prison for five months between January and June 2015, i.e. at the time when the prison offered one of the worst material conditions in the Bulgarian prisons. The detainee complained of severe overcrowding, inadequate ventilation, and lighting of the cell, limited access to the toilet and running water and bad hygiene. The SAC awarded a compensation of 200 BGN (102 Euro).[16]
- The SAC upheld a decision of the Burgas Administrative Court and again lowered the amount of compensation to a prisoner who was detained in the Burgas prison for three months between May and August 2016, at a time when material conditions in that prison were very bad. The detainee complained and the court established overcrowding, lack of permanent access to the bathroom and running water, poor ventilation in the cell, insufficient natural light, bad conditions for maintaining personal hygiene, lack of detergents for cleaning and disinfection of the cell, bad hygiene in the toilet and bathroom. The court awarded 150 BGN (77 Euro) compensation.[17]

c. Access to justice of claimants

The introduction of the preventive and compensatory remedy in the legislation in 2017 was not accompanied by an explanatory campaign among the detainees about the new mechanisms for protection against inhuman and degrading treatment. The prison administration and the administration of the IDF has no obligation to provide such information to the detainee upon entering the IDF or the prison or at any other time during the imprisonment. There are no forms

[15] SAC, Decision No. 9252/6.07.2018.
[16] SAC, Decision No. 9085/14.06.2019. The proceedings in this case lasted 19 months.
[17] SAC, Decision No. 7907/27.05.2019. The proceedings in this case lasted 18 months.

in the IDFs and the prisons that facilitate the referral to the court under the EPA. There is no library in any IDF in the country and no legal acts or regulations are provided for use by the detainees. There are libraries in the prisons, but the legal acts in them are generally out of date, and where they are up-to-date, they are not easily accessible to prisoners. For example, in 2020, the BHC made a donation of legal literature, including of the EPA, to the Kremikovtzi closed prison dormitory to Sofia Prison. A visit to the library in 2021 revealed that the donation was locked in a warehouse and the publications themselves seemed unused. In July 2021, there were two editions of the EPA in the library at the Burgas Prison, one of which contained the 2017 amendments, but both books were kept in the librarian's desk instead of being displayed for use in the library. No legal literature was found in the library of the Debelt prison hostel. The library in Bobov Dol Prison, visited by the BHC in July 2021, contained several editions of the EPA, but all of them were out of date and did not contain the texts of the law on the remedies introduced in 2017. Prisoners throughout the country do not have access to the Internet, including for the purpose of access to legal information access to legal information, preparation of complaints or contacting lawyers, transmission of documents to the court or to other institutions.

Until August 2020, detainees did not have the opportunity to receive free legal advice from the National Legal Aid Telephone, organized by the National Legal Aid Bureau (NLAB). The reason was technical – it was impossible to dial the number with the prefix 0700 from the prison telephones. Following a BHC signal, access to the National Legal Aid Telephone from arrests and prisons was provided. According to a letter with instructions from the NLAB for the use of the National Legal Aid Telephone in prisons, announced publicly in several locations in the Burgas Prison and the Bobov Dol Prison, inquiries about the procedures for filing applications to the European Court of Human Rights are prohibited. Asked about the quality of the legal advice provided by BHC researchers, the detainees expressed dissatisfaction, sharing that the lawyers providing legal advice are not familiar with the procedures under the EPA. Neither the NLAB, nor the Supreme Bar Council offers training in criminal execution law and its legal remedies.

The modest lawyers' fees awarded by courts in lawsuits for compensation for inhuman conditions of detention is a major deterrent for lawyers to engage in such lawsuits. The basic rule on cost and fee allocation is that the losing party must reimburse the cost and expenses of the prevailing party. If the plaintiff's claim is partially successful, the losing party must reimburse the plaintiff's cost for legal assistance in proportion to the extent of their success. In

such cases, it is often the case that the attorneys' fees awarded by the court go below the statutory minimum lawyers' fees set out in the legislation. For example, in a case from 2017 a prisoner claimed monetary compensation of 5 000 BGN (2 564 Euro) for non-pecuniary damages suffered by him during a 6-month detention in the investigative detention facility in Haskovo (about the conditions in this IDF, see below) in conditions of overcrowding, as well as 400 BGN (200 Euro) for the lawyer's fee.[18] The Supreme Administrative Court ruled that while it was justified to award the applicant 200 BGN (100 Euro) as compensation for the breach of his right not to be subject to inhuman and degrading treatment, which was 25 times less than what he had claimed. Similarly, the amount, awarded for reimbursement of the lawyer's expenses was reduced by 25 times, in comparison to what was originally claimed, thus reaching the amount of 16 BGN (16 Euro).

There is widespread dissatisfaction among the prison governors and the prison administration against the changes in the EPA and the *Code of Criminal Procedure* from 2017. The reasons for the dissatisfaction among the prison authorities, repeatedly shared before the BHC, were mainly related to the increased workload for preparation of opinions, reports and other documents required by the courts, as well as to the obligation of the administration to notify detainees in writing about its decisions affecting their rights and interests.

Negative attitude towards the introduced possibilities for protection against inhuman or degrading treatment of detainees has been demonstrated at the highest level in the management of the places for deprivation of liberty. In 2018, during a national meeting with prison governors, convened on the occasion of escapes from Sofia Prison, the then Minister of Justice, Tsetska Tsacheva, stated that "[t] he rights of prisoners are more than their obligations",[19] referring to the amendments to the EPA from 2017. She also noted that the changes "demotivate the employees because they do not enable them to fully perform the organization of security and control in the prisons".[20] During the same meeting, the head of the Stara Zagora Prison complained that "every complaint or letter from a prisoner has to be answered in writing".[21] Dissatisfaction with the exercise of the right of the prisoners to complain is present in the annual activity report for 2020 of the General Directorate of Execution of Punishments:

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[18] SAC, Decision No. 13522/6.11.2018.
[19] „Заради голяма бумащина, шефовете на затворите поискаха законови промени", available at: https://news.lex.bg/, 10 April 2018.
[20] *Ibid.*
[21] *Ibid.*

"The abuse of requests and complaints by prisoners and detainees is a negative trend. Complaints to various institutions often try to put pressure on the administration in [places of detention] in order to achieve their goals. [...] Some detainees ignore their obligations, focusing mainly on the rights, granted them by law. They make unfounded claims and demand that they be satisfied by the administration."[22]

d. Inability of the claimants to pay court fees, seizures and court ordered liabilities

In some cases, the administrative courts terminate the proceedings because the prisoners fail to pay their court fees after filing the request, even though the fees are not high. This among others is the case where all prisoners' assets (including small monetary transfers from their relatives) are open to seizure by bailiffs because of court ordered liabilities either in the course of their criminal proceedings or after previous unfavorable outcomes of administrative or civil proceedings upon conviction.[23] This is a serious problem in all the prisons of Bulgaria and is sometimes itself a situation, which constitutes inhuman and degrading treatment (e.g. where a prisoner has no money to buy even toilet paper or shaving cream from the canteen for a long period of time, sometimes during his/her entire term of imprisonment). Such prisoners are effectively prevented from using the remedies against inhuman and degrading treatment envisaged by the EPA.

e. Victimization of claimants and witnesses

During its recent visits in the Bulgarian prisons, the BHC heard many complaints of prisoners who claimed that they have been victimized because they used the preventive or the compensatory remedy. Victimization may take a variety of forms – negative character reference in the course of early release proceedings; unwillingness of the prison administration to change the detention regime of the prisoner; failure of the prison authorities to offer work; undue harshness in applying disciplinary measures. The extreme form of victimization is criminal prosecution for perjury. Officially, very rarely the reasons for these acts or inaction of the administration refer to the prisoner's reliance to the preventive or the compensatory remedy.

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[22] Министерство на правосъдието, Главна дирекция „Изпълнение на наказанията" (2021). *Отчет за дейността на Главна дирекция „Изпълнение на наказанията" към Министерство на правосъдието през 2020 г.*, с. 12, available at: https://prisonreform.bg/wp-content/uploads/2021/04/2020-gdin-otchet-1-45.pdf.

[23] This includes also costs of the proceedings for the use of the preventive and the compensatory remedy when the prisoner's claim is rejected. E.g. the Kyustendil Administrative Court ruled that the claimant should pay 1167 BGN (598 Euro) for the expert opinion, which was ordered by the court (KyAC, Decision No. 149/28.05.2021).

But almost without exception the prisoners who complained had no doubts that these were the real motives of the prison authorities behind those stated in the respective documents.

The latest periodic report of the social worker of the Sofia Central Prison on Mr. Svetlomir Neshkov can serve as a relatively common form of victimization for complaining against the prison administration, although statement of the reasons in the official document cited below is an exception. The report was drawn up on the occasion of a request submitted by Mr. Neshkov to the competent court for early release. It views the complaints to the authorities as one of the main personal deficits of the prisoner, justifying the negative opinion of the prison administration regarding the requested early release. In particular, the report states the following:

> "One of the main elements characterizing the personality and the behavior of the prisoner Neshkov is related to the fact of his numerous complaints and grievances to various institutions related to food quality, food quantity, living conditions, correspondence, his health condition, his legal status, etc. If he fails in one instance, he focuses on another, third, etc. by constantly systematizing the notes and arguments that support his thesis. [...] The correctional work with the prisoner Svetlomir Nikolov Neshkov continues, but the change is difficult given the above personality traits – the constant search for "his" truth, which is the basis for writing numerous complaints and filing lawsuits on various occasions."[24]

Prisoners who are witnesses in the administrative proceedings too can be victimized. This e.g. is the case in an ongoing criminal prosecution against a prisoner, a witness in a case for compensation for damages caused by inhuman or degrading treatment in the Belene Prison, initiated by another prisoner from the same prison. The prisoner was charged and subsequently prosecuted for perjury, because as a witness he allegedly stated before the court: "The place for outdoor exercise is smaller than the hall we are in at the moment, about 25-30 square meters,... No benches,..., no shadow,..., it is muddy at this moment. ... No, the ground is not asphalt... our ground is currently sand and mud."[25] The criminal proceedings were instituted on the signal by the governor of the prison, in which the witness is serving his sentence.

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[24] Министерство на правосъдието, Главна дирекция „Изпълнение на наказанията“ (2021). Доклад за лишения от свобода Светломир Николов Нешков от 1 март 2021 г. This document was kindly offered by Mr. Neshkov for the specific purposes of this submission and with the knowledge of its public nature.

[25] Районна прокуратура Плевен, Обвинителен акт по досъдебно производство 1904/2020 г.

3. Recent developments in the improvement of conditions of detention in Bulgaria and outstanding problems

Since 2017, the Bulgarian authorities invested in renovations and reconstructions of buildings to improve conditions of detention in the prisons and in the investigative detention facilities. Several new prison hostels were opened and a number of prisons underwent renovations and expansions. Some of the worst investigative detention facilities were closed, others were renovated and some new facilities were built. Yet, there is still a long way to go in order to achieve material conditions in all prisons and investigative detention facilities, which can ensure that the detainees in each institution are held in conditions that are in compliance with Article 3 of the Convention. The problem is more serious as regards the investigative detention facilities than with the prisons. In the prisons it concerns specific wings and groups of prisoners, rather than the prison as a whole.

A number of the investigative detention facilities, however, offer material conditions of detention that are manifestly substandard as a whole. This means that the mere placement of a detainee in such facilities, no matter for how long and no matter in what parts of them would amount to inhuman and degrading treatment, contrary to Article 3 of the Convention. Some of the worst investigative detention facilities include:

- Gabrovo investigative detention facility. This is probably the worst IDF in Bulgaria in terms of material conditions of detention. It is located below ground level in a building in the city center - next to the pedestrian zone. The floor is a basement of an old building, built in the first half of the 20th century. All cells are dark, narrow and damp. With the exception of the one-hour outdoor exercise, detainees spend the remaining 23 hours of the day locked in their cells. There are small windows in each of the cells, which, however, do not let light in due to the fact that they are at ground level, have solid bars, and a metal fence is installed on the street in front of the detention center to restrict access to the building. There are no sanitary facilities in the cells, the detainees have to relieve themselves in bottles and buckets in front of other cellmates most of the time. The yard for outdoor exercise is a narrow metal cage measuring about 1.80 m by 5.00 m, located in the courtyard of the building. Apart from a small bench, the cage is not equipped with anything else. It has no roof to protect from rain and snow.
- Haskovo investigative detention facility. It is located on the 4th floor, above the headquarters of the local police. The detention facility consists of two corridors –

northern and southern. The cells in the northern corridor have small external windows that cannot open and are sealed with perforated metal panels through which no natural light penetrates. The cell doors have opening windows that face the corridor, which is internal and has no windows. The southern corridor is external and has windows. The cells located there, however, have no external windows, but have openings to the corridor through which some natural light penetrates. The cells do not have a toilet and running water. The detainees have to relieve themselves in a bucket in front of the other cellmates. There is no outdoor exercise yard. There is a separate room for walking, with two windows that are kept open.[26] It is located at the bottom of the northern corridor. Detainees can stay there for up to an hour a day on a schedule - one cell per hour. The room is 14.5 sq. m.

- Svilengrad investigative facility. This is the most overcrowded detention facility in Bulgaria. It is located on part of the second floor of the local police station. There are five cells, each with two bunk beds, which can accommodate up to 20 people. In the cases before the administrative courts, the prison administration declared on a number of occasions that the capacity for accommodation in one cell, calculated on the basis of 4 sq. m. per person, was one person or 5 persons for the entire detention facility. The size of the cell is 6.5 sq. m., which means 1.63 sq. m. per detainee when it is full. It should be noted that this is the area of the entire cell, including the area permanently occupied by the two bunk beds, the size of which is approximately 4 sq. m. Administrative court rulings mention drastic cases of cell overcrowding in Svilengrad - up to seven detainees in a cell. There is no possibility for out-of-cell exercise, not even in a separate cell. As there are no toilets in the cells, the detainees often have to relieve themselves in bottles.
- Veliko Turnovo investigative detention facility. The capacity of this IDF is 22 persons but it has 44 beds, which are often occupied. Each cell is around 8 sq. m. and has four bunk beds. The cells have no windows. There is only artificial lightening. As the IDF uses the heating system of the local police department, in non-working days it is switched off. The heating at that time is ensured by three air conditioners located in the corridor but they are insufficient, especially during the cold winters. There is no toilet and running water in the cells. The detainees use the common toilets when they are

[26] For this and for some other IDFs these rooms are designated as "closed type" "places for walk" in the Government's Action Plan.

allowed to. At night, they relieve themselves in bottles. There is no outdoor exercise in the IDF. The detainees use a room measuring around 24 sq. m. for a brief out-of-cell walk.

Although material conditions in the prisons improved as whole, in some prisons and prison hostels there are wings that are overcrowded, others that are unhygienic and infested with bedbugs, or where the prisoners are held in regimes, which are excessively stringent. This e.g. is the case in the Sofia Central Prison, the prison hostel of "Kremikovtsi" in Sofia, the Pazardzhik Prison, the Plovdiv Prison and the prison hostel in Debelt, which, although relatively new, is overcrowded in some wings and the relationships between the staff and the prisoners are often tense.

One of the serious problems in the Bulgarian prisons and IDFs is the health care. In its Action plan of 2018, the Bulgarian government submits that it is currently working on the development of a national strategy on the provision of health care in prisons together with an action plan for its implementation. Such documents were indeed developed but were never adopted by the Ministry of Justice, nor were the measures listed in them implemented.

Prisons and IDFs are systematically understaffed with health care practitioners and those who still agree to work there for salaries that are manifestly below the market rates provide services that are of a poor quality. As employees of the Ministry of Justice, the supervision of their work and the compliance with the national health care standards by the Ministry of Health is negligible. Often health care practitioners working in these institutions ignore the complaints of the detainees who suffered torture and other ill treatment in the hands of the police or actively persuade them not to seek justice. It is alleged in the Government's Action Plan that "the tendency of providing medical care by specialist from hospitals outside the penitentiary system and practitioners is permanent and constantly expanding". The Government, however, does not provide any statistics to substantiate this statement. The BHC, on the contrary, received numerous complaints by prisoners that during the COVID-19 pandemic the referrals of prisoners to external medical facilities were reduced.

A particularly serious problem is the Specialized Hospital for Active Treatment of Prisoners (SHATP), located in the Sofia Prison. It is a medical institution, which for years works in violation of basic medical standards. In 2015, the Executive Agency "Medical Audit" undertook an inspection of its work and of the work of other medical centers in the prisons. Among its findings were:

- There is a chronic collapse of the activity of the hospital;
- The hospital is essentially a medical center with an inpatient facility and is by no means a multidisciplinary hospital for active treatment;
- The quality of health care in the hospitals in the prison system is much lower, which is why the prisoners are harmed. The long hospitalizations in the SHATP actually mask the fact that the prisoners are not provided with timely, quality and sufficient medical care. The care is put "on hold" in a hospital setting, thus giving the false impression that the patient is being medically "cared for";
- The SHATP, like all other medical institutions in the prison system, is completely isolated from the civil health care system, both administratively and methodologically. This is the reason for the lack of both financial resources, which are absolutely necessary to deal with the situation, and the information security of the penitentiary system. Isolation is also the reason for the lack of adequate control and methodological assistance from the competent institutions.[27]

Six years later, the BHC's observations are that the situation in SHATP - Sofia not only has not improved, but on the contrary - it is constantly deteriorating. None of the problems identified during the inspection of 2015 were resolved. The hospital does not meet the requirements of the national medical standards for internal medicine, surgery, clinical laboratory and physiotherapy. There is a chronic lack of staff and equipment. The quality of medical services, to the extent they are offered at all, is much lower than the national average.

An ongoing problem in the Bulgarian prisons is the treatment of life prisoners placed on "special regime", i.e. in permanently locked cells, located in the high security zones of the prisons, isolated from the other prisoners and usually with no access to activities, except for the one-hour outdoor exercise.[28] At present, many prisoners have served their sentences under such regime for more than 20 years. The 2017 amendments of the EPA obliged prison governors to review their regime every year. In the overwhelming majority of the cases, however, the review does not result in a change. The amendments introduced also a possibility for judicial review of the prolongation orders before the administrative courts. The courts,

[27] Изпълнителна агенция „Медицински одит", Протокол № 27-61/21.03.2015.
[28] It is alleged in the Government's Action Plan that "in the specially designated wards in prisons, conditions have been created for work – making frames for beehives, pencils, paper bags and others". The Government, however, does not provide any statistics on the scope of such activities. The 2021 visits of the BHC in more than one half of the Bulgarian prisons revealed that providing work for life prisoners under "special regime" is a rare exception.

however, are reluctant to reverse the orders. In the rare cases where they reverse, they cite technical and procedural reasons and never – the effects of the on-going isolation as inhuman and degrading treatment.

In 2020, the BHC reviewed 34 administrative court cases initiated by prisoners to whom the prison governors refused to change the "special regime". In only eight of them the applicants or their representatives argued that the continuation of the "special regime" led to a breach of the prohibition of torture or inhuman or degrading treatment. The administrative courts, however, did not seem to be impressed by these arguments. Thus:

- Decision in case 290/2018 of the Lovech Administrative Court did NOT comment on the applicant's argument that he was placed in prison in a permanently locked cell and under 24-hour control and monitoring.
- Decision in case 220/2017 of the Gabrovo Administrative Court made the following conclusion regarding the arguments of the applicant:

  "The objection that a year and six months after his regime was changed to "special", he suffered isolation, inhuman conditions – poor lightening, 2 sq. m. living area, 22 hours and 30 minutes a day of permanent isolation, open bathroom, lack of cultural and sports activities and conditions that are contrary to Art. 41 and 36 of the Criminal Code, as well as with the EPA ... is unfounded."

- Decision in case 378/2018 of the AC of Stara Zagora does NOT comment on the arguments of the applicant that placing the prisoner in the conditions of prolonged isolation of a special regime is inhuman and degrading treatment, leading to a violation of Article 3 of the ECHR.
- Decision in case 350/2018 of the Stara Zagora Administrative Court did NOT comment on the applicant's arguments about the detrimental effect of the prolonged solitary confinement on the detainees, including the reference to the ECtHR judgment of July 2014 in the case of *Harakchiev and Tolumov v. Bulgaria*.
- In its decision in case 95/2018 the Stara Zagora Administrative Court did NOT comment on the argument of the applicant that the prolonged isolation constituted a violation of Article 3 of the ECHR, although it found that the order of the prison governor is invalid for technical and procedural reasons.
- In its decision in case 302/2018 the Stara Zagora Administrative Court did NOT comment in any way on the applicant's arguments against his long-term isolation based

on *Recommendation Rec(2003)23* of the Committee of Ministers to member states on the management by prison administrations of life sentence and other long-term prisoners.

- In its decision in case 2195/2019 the Burgas Administrative Court did NOT comment on the arguments of the applicants on the consequences of his isolation and the deteriorating of his health, as it found the order of the governor invalid because of the lack of a psychologist's opinion.
- In its decision No. 90/2018 of the Stara Zagora Administrative Court did NOT comment on the arguments related to the continued isolation of the applicant although it found the governor's order invalid on procedural grounds.

As is clear from the analysis of the administrative court decisions, only in the case of the Gabrovo Administrative Court did the court mention the applicant's arguments related to his alleged inhuman and degrading treatment for a year and a half. In this case, however, no discussion of his arguments was made. The court just stated that the allegations of the applicant were unfounded.

The analysis of the case law of the administrative courts makes it clear that at this initial stage of its development it does not focus on the subject-matter for which the appeal on the prison governors' orders for the prolongation of the "special regime" was introduced in 2017. It thus cannot serve as an effective remedy against Article 3 violations due to prolonged isolation under such conditions.

Remand prisoners, who are charged with a crime, punishable with a term of imprisonment no less than 15 years are automatically considered being of a high security risk and are placed in individual cells, without opportunity to participate in common activities (education, work, group programmes, etc.), regardless of their actual security risk or other individual circumstances (Article 248, (1)1 EPA). This category of prisoners do not have access to the mechanism for review of the regime, introduced in 2017 in Article 198 of EPA as remand prisoners are not formally classified in regimes and because the remand measure is imposed by the court, not by the prison administration. Depending on the case, the isolation could last for years. For example, in January 2020, the BHC received a complaint by a remand prisoner from Vratsa prison, who was detained in *de facto* strict regime since October 2014.

CONCLUSION AND RECOMMENDATIONS

Although some progress was made in the improvement of material conditions and in the use of preventive end compensatory remedy, there is a long way to go for the Bulgarian system of execution of punishments and pre-trial detention to attain the necessary level of sustainability of the changes. The ongoing enhanced supervision of this group of cases therefore should continue. All the recommendations formulated by the Committee of Ministers after the March 2018 review of this group of judgments remain entirely valid. I.e. the Bulgarian Government should:

- Finalize all their projects for the improvement of conditions of detention;
- Make further progress with improving conditions of detention to ensure proper functioning of the preventive remedy;
- Implement national strategy and action plan for the improvement of medical care in prison;
- Implement measures to avoid violations due to the automatic application of a very restrictive regime in respect of persons held on remand.

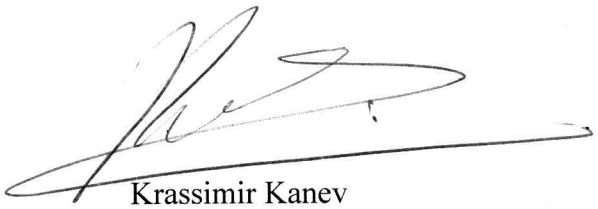
The 2018 requests for information should result in recommendations. I.e. the Bulgarian Government should:

- Close immediately all IDFs in which placement of detainees automatically results in violations of Article 3 and relocate the detainees there to other institutions;
- Implement further legislative reforms to make the judicial review of the "special regime" effective;
- Implement further reforms to ensure that the detainees receive compensation for treatment in breach of Article 3, which is adequate.

We suggest that the Committee of Ministers adds the following recommendations in addition to the above:

- The Government should implement necessary legislative reforms in order to ensure that detainees who use the preventive and the compensatory remedy have access to information on the respective mechanisms;
- The Government should implement necessary legislative and other reforms to ensure that the claimants using the remedies receive adequate legal assistance, including legal advice and representation;

- The Government should implement necessary legislative measures to ensure that claimants and witnesses in proceedings related to the use of the preventive and the compensatory remedies are not victimized;
- The Government should implement legislative measures to ensure that not all prisoners' assets become object of seizure as a follow up of court ordered liabilities and that the prisoners are left with certain minimum to meet their basic needs.



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RESPONSE

of the Bulgarian Government concerning the Bulgarian Helsinki Committee's communication on the execution of the judgments in the cases of *Neshkov and Others* and *Kehayov* group of cases

In reply to the communication of the Bulgarian Helsinki Committee of 9 August 2021, the Bulgarian Government submit the following observations.

In their communication the Bulgarian Helsinki Committee questioned the effectiveness of the preventive and compensatory remedies introduced in 2017 in the Execution of Punishments and Pre-Trial Detention Act with the new provisions of Articles 276 to 286 and contested the adequacy of the material conditions in some IDFs.

As regards the preventive remedy, the Government refer to their action plan where it was pointed out that 120 requests under Article 276 were submitted by 1 June 2021 and 29 of them were allowed. In case the request has some deficiencies, the court gives detailed instructions to the claimant to make the necessary clarifications. The claimants are also entitled pursuant to Article 95 of the Civil Procedure Code to ask the respective court for legal aid. This opportunity is applicable both in the proceeding under Article 276 and Article 284 (Ruling 4130/08.06.2021 on Adm. case No 626/2021 of Sofia Administrative Court, Ruling No 190/23.01.2020 on Adm. case No 196/2020 of the Varna Administrative Court, Ruling No 24/04.01.2019 of the Pleven Administrative Court).

The preventive and the compensatory remedies were introduces almost simultaneously with amendments in the same piece of legislation. The number of claims under Article 284 submitted by 1 June 2021 is 1074 which means that the prisoners are well aware of the new procedures. Therefore, the BHC's allegations that the smaller number of requests under Article 276 is due to the fact that the prisoners are not aware of this possibility are speculative.

In their presentation of some courts' decisions BHC substitutes the respective courts' conclusions with its own assessment on whether the concrete request is justified. It should be reminded in this respect that the fact that the outcome of the proceedings is not in favour of the claimant does not render the remedy ineffective. On numerous occasions the courts have allowed the requests and ordered the penitentiary authorities to perform specific actions to prevent or discontinue the imputed action or inaction in violation of Article 3. Here are a few examples which are worth mentioning:

- With a Ruling of 18 December 2019 the Sofia Administrative Court[1] ordered the prison governor to provide the claimant with the medicines prescribed to him. Subsequently with decision of 15 April 2021 the Sofia Administrative Court[2] also allowed the applicant's claim under Article 284 and awarded him compensation for non-pecuniary damages in the amount of BGN 1000.

[1] Adm. case No 7895/2019
[2] Judgment No 2534/15.04.2021 on adm. case No 8677/2020

- With a Ruling of 15 March 2021[3] the Sofia Administrative Court ordered the penitentiary authorities to discontinue the unlawful inaction of not letting the claimant's grandson to visit him without an accompanying adult.

- In a case of 2020 the Plovdiv Administrative Court[4] considered on the merits a request under Article 276 to order the transfer of the claimant to another premise. The court rejected the request after a thorough analysis of the material condition in the said premise and the claimant's behavior.

- The Stara Zagora Administrative Court[5] ordered the respective prison governor to discontinue the unjustified ban on the plaintiff to work in the kitchen.

- In a case of 2020 the Plovdiv Administrative Court[6] ordered the Head of the respective Regional Service for the Execution of Punishments to discontinue assigning the claimant to clean certain areas and also ordered him not to allow officials to subject the claimant to humiliating treatment.

- With a Ruling of 16 October 2020 the Plovdiv Administrative Court[7] ordered that the claimant be provided with the diet he was prescribed due to medical condition.

- With a Ruling of 7 July 2020 the Sofia Administrative Court[8] ordered the prison governor to issue instructions, if necessary, and to reconstruct the room for visits in order to prevent checks of the correspondence between the detainees and their lawyers and potential eavesdrop of their communication.

In conclusion, the Government submit that the preventive remedy is used by the detainees in relation to various situations and wide range of problems and the requests often result in court orders to the prison authorities.

As regards the compensatory remedy, the Government refer to the Court's reasoning that the mere fact that occasionally the compensation awarded to an applicant following the use of an otherwise effective compensatory remedy is too low does not in itself call into question the effectiveness of that remedy. As already noted in the action plan, in order to prevent similar situations, which indeed may eventually call into question the effectiveness of the remedy, the Agent's Office submitted to the Supreme Administrative Court analysis of the ECHR's case-law pointing out to the judgments in the cases of *Yordanov and Dzelebov v. Bulgaria* and *Ivanov and Others v. Bulgaria* as well as to the case-law of other member states and shed light on what would potentially constitute adequate compensation for such violations (see Appendix). There is already some positive development in the domestic case-law concerning the amount of the compensations awarded under Article 284:

[3] Adm. case No 6307/2020
[4] Ruling No 163/12.01.2021 on adm. case No 3225/2020
[5] Ruling No 520/14.12.2020 on adm. case No 722/2020
[6] Ruling 7093/24.11.2020 on adm. case No 2381/2020
[7] Ruling No 6284/16.10.2020 on Adm. case No 2361/2020
[8] Ruling No 4971/07.07.2020 on Adm. case No 7624/2019

- In a judgment of 15 April 2021 (cited above) the Sofia Administrative Court allowed the applicant's claim under Article 284 and awarded him BGN 1000 as compensation for non-pecuniary damage because for about 4 months he was not allowed to take prescribed medication.

- In a judgment of 2 August 2021[9] the Plovdiv Administrative Court awarded the claimant BGN 3 870 as compensation for overcrowding and lack to unrestricted access to hot water in the Plovdiv Prison for a period of 620 days. The Plovdiv Administrative Court specifically relied on the ECHR's practice on the reasonable amount of compensation in similar cases.

- In a judgment of 30 July 2021 the Plovdiv Administrative Court[10] awarded BGN 15 672 as compensation for overcrowding, insects in the premises, not providing dietary food and medical care.

- In a judgment of 30 July 2021 the Dobrich Administrative Court[11] awarded BGN 700 as compensation for non-pecuniary damage because of the material conditions in Dobrich Detention Facility where the claimant has been detained for 2 month and 7 days between 4 May 2018 and 11 July 2018.

- In a judgment of 10 July 2021[12] the Pazardzhik Administrative Court awarded BGN 1000 as compensation for the claimant's 2-month detention in the Kardzhali Detention Facility in an overcrowded premise without sanitary facility.

In conclusion, the compensatory remedy is broadly used by the prisoners and detainees. The number of allowed claims is higher than the rejected ones and the national courts' practice continue to develop in a positive direction.

As for the alleged inability of claimants to use effectively these remedies due to lack of assets to pay the court fees, the Government underline that according to Article 83 (2) of the Civil Procedure Code the claimants have the possibility to ask for exemption of fees and expenses. This opportunity has been used by prisoners/detainees (see for example Ruling No 612/28.03.2019 on Adm. case No 243/2019 of the Pleven Administrative Court, Ruling No 1568/07.08.2018 on Cassation Administrative Case No 2450/2018 of the Plovdiv Administrative Court, Ruling No 797/23.11.2017 on Adm. case No 704/2017 of the Vratsa Administrative Court.) In most of these cases the claimants have been legally represented by lawyers and the courts' have awarded them expenses in compliance with the applicable legislation.

Furthermore, the courts have accepted that where the claim under Article 284 is dismissed the claimant is not obliged to reimburse the legal fees for legal adviser (Ruling No 13554/11.10.2019 on Adm. case No 13715/2018 of the Supreme Administrative Court, Decision No 1626/20.08.2021 on Adm. case No 208/2021 of the Plovdiv Administrative Court,

[9] Judgment No 1626/02.08.2021 on Adm. case No 761/2021
[10] Judgment No 1615/30.07.2021 on Adm. case No 1111/2020
[11] Judgment No 265/30.07.2021 on Adm. case 637/2020
[12] Judgment No 532/10.07.2021 on Adm. case No 309/2021

Decision No 1615/30.07.2021 on Adm. case No 1111/2020 of the Plovdiv Administrative Court).

As to the alleged existence of victimisation of prisoners after they used the preventive or the compensatory remedy, the Government submit that this claim seem to be based to a great extent on subjective perceptions and assumptions.

In response of the BHC's observations concerning the improvement of the material conditions in prisons and IDFs the Government would like to present the following information:

- Gabrovo IDF's was closed on 28.06.2021.

- Haskovo IDF has a capacity of 42 persons, calculated on a 4 sq.m basis, and on 13 August 2021 there have been 34 detainees accommodated there.

- Svilengrad IDF is located in a building of the Ministry of Interior and negotiations with the Ministry of Interior are underway in order to turn a MoI property into a new Detention Facility and Probation Service. The current IDF has a capacity of 9 persons, calculated on a 4 sq.m basis, and on 13 August 2021 there have been 8 detainees accommodate there.

Numerous activities have been envisaged under the Norwegian Financial Mechanism:

- Construction of a Pilot prison. The new prisons' capacity will be 400 persons;

- Reconstruction of the Open-type prison hostel "Hebros" and establishment of a Half way house, as well as improving the material conditions in Plovdiv Prison;

- Renovation of the Open-type prison hostel Samoranovo at the Bobov Dol Prison and establishment of a Half way house, as well as building an IDF;

- Reconstruction and change of a status of a building into an arrest and probation service in Petrich;

- Reconstruction of Prison hostel "Stroitel" with the establishment of a half-way house;

As already noted in the action plan, the Open-type prison hostel "Keramichna Fabrika" has been moved and renamed to a prison hostel "Vratsa" and at Pazarzhik Prison a new Education Centre was established in order to support the social inclusion of the prisoners after their release.

The Government would like to point out also that on 04.08.2021 г. the Council of Ministers adopted Road Map for the implementation of the ECHR's judgments in cases against Bulgaria. On account of the *Kehayov* group of cases, it is envisaged that the improvement of the material conditions in prisons and IDFs shall continue. Additionally, up to April 2022 the national strategy on health care in prison should be reviewed and eventually finalised. Within the same time-limit analysis should be performed on the functioning of the new remedies, as well as on the implementation of the new rules for the special regime and inclusion in common activities of life prisoners.

According to the latest information from GDIN the provisions of Article 198 have been strictly applied. The numbers of prisoners which have resided in common premises through the years is pointed out in the updated action plan.

As regards life prisoners the Government refer to the action plan and point out that the refusals to change the special regime into a lighter one are subject to judicial review. Also, the prison governor's refusals to accommodate life prisoners in common premises or to include them in common activities under Article 198 (5) and (6) are subject to judicial review under the general rules (Decision No 3034/17.06.2020 on Adm. Case No 11819/2019 of the Sofia Administrative Court, Decision No 100/26.03.2018 on Adm. Case No 46/2018 of the Stara Zagora Administrative Court).

In conclusion, the Government underline their commitment, also entrenched in the above Road Map and the activities under the Norwegian Financial Mechanism, to continue the improvement of the material conditions in prisons and IDFs and to continue following the development of the case-law on the application of the remedies (under articles 198, 276, 284). The criticism of the BHC, albeit mostly unfounded, would be taken into account in the further development of the envisioned activities and reforms.