

Response

of the Bulgarian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Bulgaria

from 18 to 29 October 2010

The Bulgarian Government has requested the publication of this response. The report of the CPT on its October 2010 visit to Bulgaria is set out in document CPT/Inf (2012) 9.

Strasbourg, 15 March 2012

Note:

In accordance with Article 11, paragraph 3, of the Convention establishing the CPT, certain names have been deleted.

**RESPONSE OF THE AUTHORITIES OF THE
REPUBLIC OF BULGARIA**

TO THE

**REPORT ON THE VISIT TO BULGARIA CARRIED OUT BY THE EUROPEAN
COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR
DEGRADING TREATMENT OR PUNISHMENT (CPT) HELD FROM 18 TO 29
OCTOBER 2010**

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INTRODUCTION

Paragraph 6

Concerning the suggestions of officials during the 2010 visit that the delegation's findings should be supported by concrete evidence the "Execution of Punishments" General Directorate with the Ministry of Justice (EPGD) would like to assure the Committee that it is familiar with the confidential nature of the delegation's work, including with respect to the fact that the representatives of CPT do not provide information regarding the interviewed persons and that the prisoners may not be held liable for statements made and claims filed.

Paragraph 7

According to § 11 of the Execution of Punishments and Detention in custody Act (EPDCA) and in accordance with Article 43, paragraph 3 of that act, the Council of Ministers of the Republic of Bulgaria adopted at its meeting on 08.09.2010. a Program for the Improvement of the Conditions in Prisons for the period 2011 - 2013.

The program reflects the Government's intention to conduct a coherent and comprehensive policy in the criminal-executive area, with emphasis on the attention and efforts of the executive power on improving living conditions in Bulgarian penitentiary institutions in compliance with international standards adopted for the places of detention and the European Prison Rules of the Council of Europe.

To achieve the goal of the program - improving the living conditions in prison and ensuring a minimum living space per prisoner of 4 square meters two main priorities were set out towards which the efforts of the Ministry of Justice should be focused over the next three years in view of accelerated positive changes in Bulgarian penitentiary institutions:

1. Adducing housing, residential and public areas in places of detention in accordance with international standards on places of detention and European prison rules by expanding and modernizing the facilities of the penitentiary system.
2. Reducing of overcrowding of penitentiary facilities and creating conditions for humane treatment of offenders through effective implementation of new legislation concerning the activity of execution of punishments.

Council of Ministers adopted an Action Plan for implementing the program, which specifies the time, responsible institutions and the expected results.

The Programme for the Improvement of the Conditions in Prisons and the Plan for its implementation as adopted by the Council of Ministers of the Republic of Bulgaria are focused on two priorities:

1. Achieving compliance of the residential, service and common premises in prisons with the international standards applicable to prisons and with the European Regulations on Prisons through expansion and modernisation of the properties and equipment of penitentiaries.
2. Reduction of the number of prisoners held at penitentiaries and creation of conditions for humane treatment of prisoners through effective implementation of the new legal acts on the activities related to the enforcement of punishments.

For the purpose of further improvement of the residential conditions, an Investment Programme for Improvement, Construction and Re-construction and Modernisation of the properties and equipment of IDFs in Bulgaria for the period between 2009 and 2015 has been adopted. The priority of this programme is the construction of new IDFs in the town of Shumen (reconstruction and restoration of a building which was formerly used by the military services in Shumen) and Gabrovo (reconstruction and restoration of a building which was formerly used by the town's traffic police department).

As it is not possible to improve the residential conditions for the detained persons in Slivnitsa in architectural terms, a new building which is more suitable for such purposes is sought. The investment programme for the IDF in Svilengrad provides for design and reconstruction of the existing building with the aim of improving the residential conditions. A new building intended for an IDF is granted in Petrich, for the purpose of which, a technical assignment for the reconstruction and major repair works has been drafted.

The majority of the currently operating IDFs are built in terms of architecture in such a way that they could hardly be reconstructed and rebuilt so as to comply with the currently applicable standards for treatment of prisoners. With the purpose of providing more direct sunlight in the cells of the IDFs, wherever this has been possible, the internal windows have been extended and additional bars have been mounted on the doors. The artificial light in the cells has also been improved.

EPGD takes steps to unite and concentrate IDFs in the cities and to close down units which are located below the zero level; however, this shall only be possible after the necessary buildings, land plots and funds for the construction of new buildings which satisfy the European requirements as to the proper treatment of prisoners are provided.

EPGD makes efforts to provide sensible daily schedule for the detainees and to maintain the daily discipline in the IDFs; however, due to the lack of premises (and, respectively, free areas) and sufficient staff, as well as in view of the short-term (or undefined) duration of the detainees' stay and for security reasons, the organisation of joint events and the implementation of long-term programmes are not possible. In some IDFs, common areas in the open do not exist at all as it is technically not possible to construct them, and where there are areas, they are too small and can hardly be equipped so as to be used for fitness and sport purposes.

In view of the reduction of overcrowding, the construction of two new prisons in Varna and in Sofia is foreseen. The land plot in Varna has already been granted, and as regards Sofia, several projects are currently being discussed with the Sofia city municipality authorities. A work team of representatives of various institutions has been formed with the aim of establishing the most suitable land plot and drafting the financial accounts and the proposal for launching the relevant procedures for granting of the property to the Ministry of Justice.

The plan further provides for:

- reconstruction of buildings owned by the Ministry of Justice in the region of the village of Debelt for the purposes of the new penitentiary hostel of the Burgas prison with capacity to accommodate 450 prisoners;
- major repair works and reconstruction of the penitentiary hostel in the village of Razdelna of the Varna prison;
- reconstruction of buildings formerly used as a military stock-breeding complex, owned by the Ministry of Justice for the purposes of the new penitentiary hostel of the Vratsa prison with capacity to accommodate 150 prisoners, etc.

Due to the lack of sufficient financing, however, the implementation of this plan is significantly delayed.

We share CPT's concern in connection with the insufficient staff employed in prisons. At present there is no increase in the number of employees and in the improvement of the proportion between the number of prisoners and the number of staff. Currently staff cannot be increased due to restrictions in budget financing.

Due to budget limitations there are no significant changes in the number of the staff or improvement of the ratio between the number of persons deprived of liberty and the number of employees during the past years. In the conditions of financial crisis, the salaries of the staff have not been increased for the last two years. This makes the system unattractive and therefore there is a certain fluctuation, as well as lack of quality candidates.

Due to the impossibility of increasing the number of regular employees in prisons and in particular in IDFs, it turns out to be hard to ensure duty on holidays and days-off on the part of specialized staff (physicians, psychologists and social workers) and therefore only the supervision and security staff is relied upon. To overcome this shortage, in the recent years schedules have been drafted for duties of social workers from the prison and of psychologists from the probation services for crisis interventions and supporting activities in the IDFs.

The existing organisation of healthcare services in prisons corresponds to the current resources of EPGD, generally ensuring the necessary medical services thus maintaining the physical and mental health of detainees and prisoners. Emergency medical services are rendered by the permanent employees of the system in the framework of their working hours; upon necessity, the administration of the prisoners uses the services of emergency healthcare centres.

Serious difficulties are encountered in the rendering of medical care in the territorial units with reduced medical staff due to the lack of applicants possessing the required qualification for the announced vacancies. Sometimes it is necessary to announce the same competition several times due to the lack of applicants for the position. Therefore, more than half of the prisons currently do not dispose of psychiatrists and dentists

Paragraph 8

The first immediate observation of the Committee and the recommendation to suspend the use of two cells for the purposes of renovation (cells No 12 and 13) in the detention place in Varna were immediately fulfilled.

The use of the cells in question was suspended at the end of 2010. The cells were completely renovated. The performed repair works included: painting, flooring with granite, construction of sanitary unit (a sink with cold and hot water and a toilet), mounting of new opening windows with internal and external bars, installation of beds, shelves and dining tables (two tables per cell), installation of a 12V electricity supply system for appliances permitted for use in prisons (such as TV, electronic games, etc.), installation of 12V halogen lamps, mounting of a system for emergency calls from detained persons to the staff. The wooden doors of the two cells were replaced, and by the beginning of June 2011, the doors of all the cells in the IDF were replaced. As a result of these activities the conditions in the two cells can be considered the best within the whole IDF in Varna. There is sufficient light coming to the cells, both natural and artificial, and the physical needs of prisoners can easily be met.

The safety of use of appliances in the cells has been enhanced. In order to solve the problems related to the residential conditions, it is necessary to install an adequate ventilation system, or, even better, a central air conditioning system.

At present, due to the relatively small number of detainees, one of the cells hosts five detainees, and the other one – four.

The second immediate observation concerned the penalty cells in the prison in Plovdiv. It was recommended that their use should be immediately suspended and repaired, mostly due to their small surface, the lack of toilets and the poor light. In this regard, upon completion of the visit performed by the CPT, the nine currently existing penalty cells were renovated. The surface of each room was increased from 3 m² to a minimum of 7-8 m². Toilets with water supply and a sink were constructed. A ventilator and additional lamps were installed in each cell. Through the expansion of the windows, the access of direct sunlight to the cells was enhanced.

The reconstruction of all penalty cells was completed in December 2010. In its framework, toilets were built in three other sleeping rooms which did not have toilets and sinks before.

Paragraph 9

The EPGD has already submitted to the CPT the required information with respect to the measures taken in connection with the IDF located at G. M. Dimitrov Boulevard in Sofia aimed at the reduction of the negative impact of the isolation of one juvenile who was kept there alone in a cell for nearly a month.

Currently there are nine juveniles kept at the IDF at G. M. Dimitrov Boulevard in Sofia. According to the requirements of the law, they are kept separately from the adults. In order to comply with CPT's recommendations, steps have been taken to enhance the social connections of the juvenile detainees through visits by probation officers and medical specialists. Juveniles are further granted two hours in the open each day.

Each weekend, the detained persons have the opportunity to meet their families and relatives; therefore, it is not possible to grant them a stay in the open during weekends. For this reason, the period to be spent in the open at weekends is usually compensated by prolonged periods in the open on weekdays. Thus, the total period spent by the detainees in the open within one whole week remains the same.

A. RESPONSES REGARDING OBSERVATIONS MADE IN ESTABLISHMENTS UNDER THE AUTHORITY OF THE MINISTRY OF INTERNAL AFFAIRS

1. Preliminary remarks

Paragraph 10

The case Zvezdev v. Bulgaria could be considered as definitely an isolated type of violation of Article 5, paragraph 3, of the European Convention of Human Rights. It happened mainly due to the coincidence of the specific circumstances of the case which deviates from the common practice of the criminal proceedings.

In accordance with art.64 para.2 of the Criminal Procedure Code the prosecution has the obligation to bring the accused and arrested person before a judge within 72 hours. The prosecutors have discussed the cases where a possibility for the accumulation of two types of detention exists and are at the opinion that in such cases the requirements and the standards of the Convention should be applicable and prevail. The arrested person should be brought before a judge promptly and without delay. It is a matter of procedural practice which should be strictly inline.

The above-mentioned judgment of the ECHR is translated in Bulgarian language and is disseminated to the competent authorities.

The government agent within the Ministry of Justice dealing with the case has sent the relevant information concerning the ECHR's judgment with instructions to the prosecutors and invited them to take measures to prevent violations of similar character and to guarantee the discontinuance of possible negative practices in the future.

Paragraph 11

Regarding differences between the actual detention time and the detention time noted at the detention order:

First, the information provided for the case in 08 Regional Directorate of Police – Sofia Metropolitan Directorate of Interior does not make clear whether the term “book for reception” means the Book for detained persons which is filled under a model (Annex № 2 to Art. 16 of Instruction № I3-1711/ 15.09.2009 for the equipment of the premises for placement of detained persons at the structural units of the Ministry of Interior and the order therein) or the Book for the examination regime (under Art. 13 of Instruction № I3-1625/19.10.2007 for the organization of the protection and the access regime at the sites of the Ministry of Interior), where the visitors at the structural units of the Ministry of Interior are entered.

In practice it is absolutely possible when starting to work with a person who visits a structural unit of the Ministry of Interior not to have data that he/she committed a crime of a general nature, but he/she to be interrogated as a witness. In the process of his interrogation if data is established that he/she has committed a crime, the competence under Art. 63, Para 1 of the Law on the Ministry of Interior could be exercised.

Regarding the statements for persons who were detained in several police departments for successive 24-hour periods before being detained under an order of the Prosecutor's Office:

Under the Bulgarian legislation, some practical hypotheses for such cases are available. *De jure*, a completely probable hypothesis is that a person who was detained at the moment of committing a crime at the territory of one structural unit of the Ministry of Interior to prove to be searched for crime committed on the territory of another structural unit of the Ministry of Interior or under pre-trial proceedings/ investigation. In these cases, after finishing working with the person, he/she has to be transferred to the other competent authority for executing investigation activities.

It is to be emphasized that even in presence of hypothesis for successive detention for 24 hours of a person in different structural units, he/ she is detained for different crimes, not for one and the same.

At the same time the detention of a person for 24 hours under Art.63, Para 2 of the Law on the Ministry of Interior is an independent police competence, which is in any way bond with the realization of the competence under Art.64, Para 1 of the Penal Procedure Code for issuing a detention ordinance by the prosecutor for detention of the accused person up to 72 hours.

The first type of detention (under Art. 63 of the Law on the Ministry of Interior) is a police detention outside the frameworks of the pre-trial proceedings and it is realized towards a person who is not an accused. The second type of detention (under Art. 64 of the Penal Procedure Code) is a competence realized by the prosecutor in the frameworks of already initiated pre-trial proceedings and towards a person who is already accused in these pre-trial proceedings. The prosecutor realizes this competence solely and only with the purpose of ensuring that the person will be brought and will appear in front of the court.

Regarding the given recommendation for undertaking measures which to guarantee always that in the detention order the exact time is entered, it has to be emphasized that the exact time of detention is a compulsory requisite (under Art. 63, Para 1, Point 4 of the Rules for the Implementation of the Law on the Ministry of Interior). In cases where it is established that this requirement has not been observed, under Art.226-228 of the Rules for the Implementation of the Law on the Ministry of Interior, with regard to the characteristics, the type and the burden of the violation, the officer is to be imposed a disciplinary sanction, including a disciplinary dismissing.

Under Art.63, Para 4 of the Law on the Ministry of Interior a judiciary control is provided for the issued detention orders and the detained person has the right to appeal before the court the legality of the detention. The court decides immediately on the appeal. In case an act is issued by which the detention order is proved to be unlawful, besides the disciplinary measures which will be compulsory imposed on the guilty officer, the detained persons has the right to seek compensation for damages that he/ she suffered and under the Law on the responsibility of the State and the municipalities for damages.

Regarding the recommendation that a copy of the detention order to be attached to the detained person's file, it has to be emphasized that this is explicitly envisaged in the regulation of Art.11, Para.2 of Instruction № I3-1711/ 15.09.2009. This regulation states that the detention order is issued in 3 copies, one is handed to the detained person immediately after it's issuing, one is attached to the file and one is archived in the relevant structural unit of the Ministry of Interior.

Immediately after the person is informed on the grounds for his/ her detention and the liability provided by the law and his/ her rights are explained:

1. Using health care;
2. Right to legal protection and to ask for defender under the Law on the legal aid;
3. To appeal before the court the legality of the measure of detention;
4. A person indicated by him/ her to be informed on the detention;
5. To get in touch with the consular services of the relevant state in case the person is a foreigner or Bulgarian with foreign citizenship. An interpreter is provided to him/ her.

In the framework of its competence the Prosecutor's Office performs monitoring and control over the activities of the Ministry of Interior. Internal control over the activities related to the detained persons is performed after a written order is issued. The possibility of the person to appeal the measure of detention is executed under the Administrative Procedure Code.

The detained person fills-in a declaration that he/ she is informed on his rights. In case the person is illiterate or is not able to fill-in the declaration on his own, it is filled-in by an officer in presence of a witness who certifies the document's authenticity by his/ her signature.

2. Ill-treatment

Paragraphs 14 and 15

The given recommendation to undertake measures for reviewing the training, procedures and measures for police interrogations in the light of the given notes could be perceived, but it has to be noted that in the framework of the ongoing professional training with or without absence from work, this is one of the main subjects, included in the planned schedules for special training. Currently the work is ongoing on adoption and implementation of all necessary measures, including enhanced training of police officers with regard to the use of force.

In the same time, the matter related to human rights is entirely integrated in the training conducted in the Police Faculty of the Academy of the Ministry of Interior. The absolute ban of all forms of violence and violation of human rights in different aspects is discussed in the framework of the subjects Protection of Human Rights, Constitutional Law, Criminal Law, Criminal Law, Police Law, Law of the EU and etc.

The training subject Protection of Human Rights is taught as compulsory in the baccalaureates' educational courses and the courses for initial training of officers from the Ministry of Interior in the Police Faculty. The syllabus on the stated subject includes topics related to the legal order of use of physical force, auxiliary devices and firearms. The international standards for use of force in order not to permit breaches of human rights are studied. An emphasis is put on the absolute interdiction to breach the human rights. Also the use of force and firearms is thoroughly discussed. The good police practices are presented. Examples of the everyday police activities are reviewed.

With the normative amendments to the Chapter VI of the Penal Procedure Code and more precisely the creation of new Point 3 to Para 1 of Art.53 (SG, issue 32 of 2010, in force since 28.05.2010) the scope of the officers of the Ministry of Interior with police competences who can perform investigation or particular activities related to the investigation has been broadened. The amendment was timely given account and noted at the educational documentation through inclusion of changes in the contents of the education of officers of the Ministry of Interior who pass initial training, as well as in the education in the framework of courses for professional qualification, specialization and actualization of professional training.

Good results in training are achieved through conducting simulation games in which the trainees are given the role of detained persons. This contributes for the even better implementation of the acquired knowledge and skills, related to the non-permission of maltreatment or humiliating treatment.

The instruction in shooting training is compulsory for all state officials in the Ministry of Interior who are enlisted to possess a service firearm. Besides the practical knowledge, it includes compulsory theoretical module in the framework of which the knowledge and the skills are maintained for implementing the legal regulations for the use of firearm by the police officers as an extreme measure.

In connection to elaborating the training in human rights during the 2010/2011 educational year the following measures were undertaken:

- Teachers for the Academy of the Ministry of Interior took part in a working group for drafting Ordinance for the rules for use of auxiliary devices by the police officers (published in the state gazette on 15.02.2011). The Ordinance is conformed to the international standards for the human rights. The experience from this participation is used directly in the process of education.
- In the framework of the education on the subject Protection of Human Rights, a meeting with the Ombudsman of the Republic of Bulgaria was held.
- The Minister of Interior approved the Methodical instructions for the use of the diverse auxiliary devices, technical characteristics and safety rules for their use and maintaining by the police authorities" (Registered under № I3-1469/03.06.2011). The Instructions are fully conformed to the international standards for the human rights.
- With the purpose of elaborating and updating the education, the syllabus for the subject Shooting Training was renewed (Decision of the Academic Council of the Academy of the Ministry of Interior of 26.05.2011).

In execution of an order of the Minister of Interior tests are drafted for evaluating and checking the knowledge of the normative acts which regulate the activities of the officers of the Ministry of Interior in detaining persons at the structural units of the Ministry of Interior, the organization and execution of escort activities and the use of auxiliary devices by the police officers.

“Zero tolerance” towards the bad or humiliating treatment by the police officers was declared.

The Minister of Interior issued Order № I3- 2931/10.12.2010 regarding the undertaking of measures for non-permitting maltreatment of detained persons, control over the activities of the officers with police competence and training of staff on subjects related to human rights.

Ethical Code for Conduct of State Officials of the Ministry of Interior has been approved and is now implemented, and currently a work is ongoing for its improvement. It contains ethical norms regarding the conduct of the state official in the society, conduct that does not allow acts of corruption.

Depending on the available financing, the stage-by-stage setting of the premises for police interrogations in the police directorates in accordance with the given recommendations is ongoing.

Paragraph 16

The recommendation of CPT for establishing a unified national system for preparing statistical information related to complaints and disciplinary and punitive sanctions against police officers, related to ill-treatment, will be taken in consideration.

In addition to the so far submitted statistics, we present the following data from the disciplinary inspections performed by MoI Inspectorate Directorate in the period 1 January 2010 – 1 April 2011:

Year	Performed investigations following a signal	Well-founded signals	Unfounded signals	Imposed disciplinary punishments	Submitted to the Prosecutor's office
2010	14	6	8	19 disciplinary punishments, of which 2 "dismissal"	1
2011 (until April)	4	1	3	3	1

Paragraph 17

With regard to the recommendation to perform a medical examination even if there is no complaint about ill-treatment, and in cases when there a no other grounds to consider that the person has been subjected to ill-treatment, it should be underlined that the Regulation on the Implementation of the Law on MoI (art. 63, Para. 2, item 5 – c, and Para. 3) and Instruction I3-1711/15.09.2009 (art. 20) contain procedural safeguards that every detained person exercise the right to medical assistance.

Paragraph 18

A detained person is given a medical examination on his request, or when his condition requires so. Requests for medical examination can be made by a parent, guardian, lawyer and representative of the diplomatic mission of the country whose citizen the person is.

After each medical examination a document is issued by the doctor who performed it. A copy of the medical document is given to the detained person or to the authorized by him legal counsel. If the detained person desires so, a possibility is provided for a medical check to be performed by a doctor of his choice and at his expenses. In practice persons detained under art.63 of the Law on MoI, are exempt from paying the sums for each visit to a doctor or hospital. Medical assistance is provided at the medical facilities of MoI Medical Institute on the territory of Sofia and in the country, including in the homes for temporary accommodation. Medical assistance is also provided by the Emergency Aid structures in the country.

Each Regional police department keeps a register of medical examinations under Instruction I3-1711/ 15.09.2009, art.20, Para. 3 /Appendix 4/.

The Ministry of Interior has no data for cases of injuring reported to the respective Prosecutor's Office, which have occurred in the pretrial detention facilities in 2010 in Plovdiv, Sofia and Varna.

Paragraph 19

The use of electroshock sticks and electroshock devices (TASER) is regulated by the Law on MoI, art.72, and Ordinance I3-325/07.02.2011 of the Minister of Interior, on the order of use of auxiliary devices by police authorities. Under art.72, Para.3 of the Law on MoI, police officers use only auxiliary devices that are approved by the Minister of Health.

Methodological instructions have been prepared on the use of the various types of auxiliary devices, the technical specifications and safety regulations for their usage and storage by the police (№ I3-1469/ 03.06.2011). According to the practice of the European Court, the use of force that threatens life is absolutely necessary only to prevent violation against the life and health of other persons or police officers. The absolute necessity also requires to use it if it is not possible to achieve the goal – detaining the suspect- in another manner.

Part II, art. 8 para.1 of the above mentioned Ordinance stipulates that electroshock sticks and electroshock devices (TASER) are used to block the sensory and nervous system through electricity. The effect can be by immediate contact or remote use (from a distance, by shooting electrodes or electronic charges). Art.8, para.2 stipulates that electroshock sticks and electroshock devices are used at detaining persons who show physical resistance, for preventing attacks against police authorities, as well as in cases of attempts of convoyed, accompanied, detained persons to escape, and when freeing hostages.

Electroshock sticks and electroshock devices (TASER) are used by the officers of the Specialized Police Forces Directorate, Chief Directorate Combating Organized Crime, Security police and other officers responsible for the security during mass events and performing patrol and guard activities, only after undergoing a training course.

3. Safeguards against the ill-treatment of persons detained by the police

Paragraph 20

One of the basic rights of a detained person is the right to legal counsel/defense.

The detained person is given the possibility to use lawyer defense from the moment of his detention. In case of an explicit request it is provided by:

1. Defense counsel chosen by the detainee, at his expenses.
2. Defense counsel under the Law on the Legal Support outside the cases related to item 1.

In prominent places in the Regional police departments are placed lists with telephone numbers of official lawyers of the National Legal Assistance Bureau.

The premises for visitors and meetings with lawyers are sound-insulated and also meet the following requirements:

1. The chairs, tables and other objects are immovably fixed to the floor and/or walls.
2. Confidentiality of the conversation is secured, whereby it is possible for the guards to perform visual control through glass door or other ways.

A basic right of a detainee is the right to medical assistance – refer to the comments on paragraph 18

Paragraph 21

According to art.63, para.6 of the Law on MoI, the detaining authority must immediately notify a person specified by the detainee. This right is strictly observed by MoI officers.

Paragraph 22

In cases of detention under art.63, para.5 of the Law on MoI, the detainee is entitled to legal assistance (lawyer) and this is strictly observed by the police authorities. All police officers are familiar with the legal obligation to provide access to a lawyer from the very moment of detaining the person. They strictly comply with this obligation and are subject to periodic control.

In 01 Regional Police Department in Varna as well as in other regional police departments in a prominent place is put a list with the official lawyers, and practical measures are undertaken to guarantee that the official lawyers will get in touch with their clients while they are in police custody.

In execution of its strategy for 2008-2013 the National Bureau for Legal Aid (NLAB) carried out a number of practical activities on the projects "Equal Access to Justice" and "Legal Aid in Police Custody," the "Open Society" Institute being a partner at national level for the latter:

1. All Bar Councils periodically prepare, update and promote lists of lawyers on duty.
2. All Bar Councils to prepare work schedules for lawyers on duty.
3. The lists and schedules under items 1 and 2 are available to the regional police directorates of the Ministry of Interior in view of detainees' rights to access to a lawyer and to a choice of legal council.
4. The project was presented to the media.
5. The standard form of the declaration to be completed by the detainee on his choice to authorize a lawyer or use legal aid to all regional police directorates of the Ministry of Interior.
6. A Manual for Legal Aid upon Police Custody was sent to the former "Pre-trial proceedings" Directorate General to MoI as well as to a number of police departments throughout the country, mainly in border regions.
7. Instructions regarding the order of action upon police custody in connection with the realization of the right of the detainee to legal aid by a lawyer on duty and the Manual for Legal Aid upon Police Custody were sent to Sofia Directorate of Internal Affairs.
8. Meetings with representatives of police departments throughout the country were held in order to introduce the procedure for providing legal aid upon police custody.

9. A form of the lawyer on duty was developed and distributed, with is filled in by the latter every time he has ensured legal aid upon police custody.
10. Training of lawyers in connection with the provision of legal aid in police custody, which include familiarization with the form of duty counsel, with their basic rights and obligations in this type of legal aid, the minimum actions that must be performed for customers, time of appearance of counsel.

Since October 2010 an increase of legal aid upon police custody has been observed, however, this type of legal assistance is unattractive to lawyers listed at the National Register for Legal Aid due to low remunerations, stipulated in the Regulation on Payment of Legal Aid (art. 14 of the same) and because of their frequent involvement in the dark hours of the day, i.e. after 12 o'clock at night, and the necessity for additional transport expenses in view of promptness which are not paid by the Bureau, because there is no such allocation in the budget.

The small number of cases in this type of legal aid is also due to the fact that very quickly, within 24 hours, in the presence of evidence, such cases are converted into pre-trial proceedings in which a higher percentage of legal aid occurs.

Another factor for the low percentage of legal aid upon police custody is the lack of technical possibility and financial resources to implement the procedure for communication between police departments and the Bar Association.

The insufficient awareness and training of MoI staff (mainly security and operational staff) with regard to the terms and conditions for legal aid upon police custody, is also a problem, however it is outside the duties of NLAB.

The lack of financial resources to raise public awareness about the right to legal aid upon police custody should be pointed out as well.

Paragraph 23

Regarding the order for the medical treatment of persons, detained by police officers, the provisions of art.20, para.7 of Instruction I3-1711/ 2009 are applied, according to which when performing medical examination or medical procedures, only in the cases when the doctor has required the presence of a police officer, the necessary security measures are taken in order to prevent escape, attack or acquisition of objects that can be later used for that purpose.

When a police officer is not asked to attend the examination, he guards in front of the door, is ready to assist and after the detainee leaves the doctor's office performs a check on him for acquired objects.

With regard to the medical examinations of detained persons we have already provided comments on paragraph 17.

Paragraph 24

Information on the rights of the detained person is immediately provided after the detention. If the detainee does not speak Bulgarian, he is informed about the grounds for his detention in a language that he understands.

With regard to the recommendations made it, should be underlined that legal safeguards are contained in the Law on MoI, the Regulation on the Implementation of the Law on MoI, as well as in the provisions of art.15, para.1 of Instruction I3-1711/15.09.2009, which explicitly stipulate that a detained person who does not understand the Bulgarian language or is deaf-and-dumb, deaf, dumb or blind, shall be acquainted with the grounds for his detention and the stipulated in the law responsibility, and his rights shall be explained to him in a language understood by him with the help of a translator or interpreter/sign interpreter, namely:

1. to have access to medical assistance;
2. to have access to legal defense and the right to request a defense counsel under the Legal Aid Act;
3. to appeal in court the legitimacy of the detention measure;
4. a designated by him person to be notified about his detention;
5. to contact the consular authorities of the respective country in case he is a foreign national, or a Bulgarian national with dual citizenship.

Paragraph 25

In order to control the strict observation of the stipulated regulations, thematic sudden or periodical checks are performed. In cases of established violations, the provided in the law disciplinary responsibility measures are applied.

Paragraph 26

The provisions in art.55 and 56 of Instruction I3-1711/15.09.2009 regulate the order for concluding agreements on the conditions for performing monitoring of the detention places on a specific territory by independent civil observers, as well as the requirements for the civil observers.

Inasmuch as the agreement is a contract, in which the desire of both parties is aimed at reaching a common goal, there is no obstacle, in case of an initiative on part of nongovernmental organizations, to extend this supervision on the territory of the whole country, provided this is financially possible.

It should be underlined that by all means the performance of civil monitoring should be done with full respect for the detainee's rights, including his right information about him not to be submitted to third parties without his explicit consent.

4. Conditions of detention

Paragraph 28

The detention premises of 01 Regional police department in Varna are equipped with the necessary artificial light.

In the process of supplying is the access to natural light in the adult detention premise of 02 Regional police department in Varna.

The available lists of official lawyers in the detention premises in 01 Regional police department in Sofia and 01 Regional police department in Varna are put on a prominent and easy to access place in order to provide timely lawyer defense.

In 08 and 09 Regional police departments in Sofia the problems with the artificial light have been removed and the detention premises are in good condition.

Balchik Regional police department Detention premises:

In view of the recommendation, urgent measures are going to be undertaken related to the detention premises at the Regional police department in Balchik, upon provision of the necessary financial means for reconstruction.

Paragraph 29

According to the Instruction I3-1711/15.09.2009, article 43, the detainees in the police detention facility are provided with food (three times a day) that is paid from the budget of the MoI. This right concerns all the detainees. They are provided with drinkable water and access to sanitary facility.

Paragraph 30

The recommendations of CPT are already taken into account and the results are described in the above paragraphs 27 and 28. All detainees are provided with clean mattresses and blankets. The reconstruction and the modernization of the premises for detention is carried out in a schedule, approved by the leadership of MoI.

Paragraph 33

The broken glass in the window in the Sobering-up facility is replaced and a shower in the bathroom is installed.

In their activity, the officers in the Sobering-up facility are guided by the Rules of Internal Procedures for the Sobering-up facilities (reg.№ 5425/28.05.2011- Chief Directorate of Public Order and Security-Sofia, approved by the Director of the Chief Directorate of Public Order and Security). According to Art.S13, para.2 from the Rules, persons who are found in grave condition due to alcohol or other drug abuse, and/or in the presence of trauma and injuries, are taken to emergency center for emergency medical aid or to the nearest hospital; after that on regard of them are following the instructions of medical specialists. In practice, people with intoxication are not accommodated in the Sobering-up facility.

For guaranteeing the necessary level of medical care by employees who have passed an adequate medical training, a proposal has been made to the Minister of Interior for four positions to be provided for paramedics, to be filled from the available staff at Varna Regional Directorate of the Interior.

The necessary financial funds are provided, the project has been done and the procedure for adapting the facilities for detention in the Regional Directorate of Police – Varna (in full compliance with the requirements of Instruction № I 3–1711/ 15.09.2009) is ongoing.

5. Special Home for Temporary Placement of Foreign Nationals in Busmantsi

Paragraph 35

On the basis of article 16, para.1, point 3 from the Ordinance of responsibility and coordination of state bodies engaged in actions for the implementation of regulations to ensure the effective application of the Dublin Convention, when a foreigner who has attempted illegal crossing of state border of Republic of Bulgaria is detained and he/she states that he/she wishes to obtain a status, the civil servants from the Border Police Chief Directorate transmit the foreigner to Migration Directorate for accommodation in the Special Home for Temporary Detention of Foreigners.

Currently the work is ongoing on the amendments of Art. 16, para.1, point 3 from the above mentioned Ordinance, in order to provide the opportunity to foreigners who are citizens of third countries and have stated their wish to obtain a status in accordance with the Law for the Asylum and the Refugees, to be directly accommodated in the Registration – and - reception Centers within the State Agency for Refugees - the Council of Ministers.

In the Specialized Homes for Temporary Accommodation of Foreigners are accommodated foreign citizens with imposed administrative measures on the Art. 41 or Art.42 of the Law for the Foreigners in the Republic of Bulgaria, for whom there are impediments for immediate implementation of the orders for forced taking to the border of Republic of Bulgaria or expulsion. The Specialized Homes for Temporary Accommodation of Foreigners-Sofia is working from 2006. On 15 March 2011 was inaugurated the second Specialized Home, which is situated in the town of Lyubimets, near the Bulgarian-Turkish border.

These homes are build and are functioning in accordance with the existing legislative framework: Law on the Ministry of Interior; Rules on the Implementation of the Law on the Ministry of Interior; the Law for the Foreigners in the Republic of Bulgaria; Rules on the Implementation of the Law for the Foreigners in the Republic of Bulgaria; Ordinance I3-1201/01.06.2010 on the Organization and Operation of the Specialized Homes for Temporary Accommodation of Foreigners; Rules on the Internal Order in the Specialized Homes for Temporary Accommodation of Foreigners; Rules on the Internal Order in the Specialized Home for Temporary Accommodation of Foreigners-Sofia and Lyubimets (according to these Rules towards the residents are applied the universally accepted standards for human right protection, of the international law and the ratified international contracts, in which Republic of Bulgaria is a party).

The accommodation of foreigners (in the Specialized Home for Temporary Accommodation of Foreigners) who had made a request in accordance with the Law for the Asylum and the Refugees and are waiting for the results, is done according to the Ordinance of the responsibility and coordination of the state authorities who are realizing activities on the application of Council Regulation (EC) No 343/2003 of 18 February 2003, approved with a governmental decree №332/28.12.2007. During the stay in the Specialized Home the foreigners have the right to enter an application to the State Agency for Refugees - the Council of Ministers for providing protection. After the obtainment of a refugee status, the exact date on which the foreigner will be taken out is responsibility of the State Agency for the Refugees.

As of the moment 131 foreigners are accommodated at the Specialized Home for Temporary Accommodation of Foreigners in Sofia and 59 foreigners at - the Specialized Home for Temporary Accommodation of Foreigners in Lyubimets.

On the territory of Specialized Home for Temporary Accommodation of Foreigners-Lyubimets are built two buildings – Building 1 /administrative building/, in which there are medical service and health station and Building 2 /for accommodation of foreigners/. The above mentioned Home has the capacity 320 foreigners: 270 men and 50 women. For the needs of the accommodated foreigners in Building 2 there are TV halls with an access to foreign TV channels, halls for quiet activities, billiards, table tennis, corner for children, etc. In the Home is provided the possibility for observance of religious rituals. Everyone according to his/her needs may visit the rooms designated for these purposes.

Two sport playgrounds are built within the territory of the Home, which allow playing of volleyball, football and basketball.

Paragraph 36

Regarding the two foreigners whose stay in the Home exceeds 18 months, we provide the following information: the two foreigners are with unconfirmed identity and do not wish to collaborate with the administration of Migration Directorate for the implementation of the court decision. In both cases numerous meetings are carried out with representatives from NGOs in order to resolve the case and up to the moment we are still looking for a decision on this case.

b. ill-treatment

Paragraph 39

All employees in the Specialized Home are daily instructed on the observance of all ethical norms of conduct towards the accommodated foreigners. In a case of physical or verbal maltreatment or abuse from the staff, the necessary measures are taken immediately according to the Law on the MoI. After 2009 no breaches are detected and there are no received complaints from the residents.

c. conditions of detention

Paragraph 43

The square surface, the number of metal beds and the type of the doors in the bedrooms in the Specialized Home-Sofia are considered with the approved project for building the Home. Fewer foreigners are accommodated in the bedrooms than stipulated. In this aspect, more than the minimum of 4m² is guaranteed to every foreigner.

According to the available funds measures are taken by the moment for improving the facilities, including repair of damaged furniture and repairs of the bedrooms and sanitary facilities.

According to the design project toilets are not included in the bedroom facilities. The access to the toilets is free at any time.

Regular meetings are held, in which the representatives of the accommodated foreigners, together with officials from the Specialized Home-Sofia discuss the possibilities and determine the week menus, according to the financial resources given per day. The aim is to offer a variety of food as well as compliance with the wishes of the representatives of different cultures and religions. After a consultation of an accommodated foreigner with the medical service in the Home or with the Medical Institute-MoI, he/she is provided with specialized menu according to his/her illness.

In the Specialized Home-Sofia a buffet is working in the Building. The aim is to broaden the possibilities of the accommodated foreigners to buy hot and cold drinks, snacks, etc.

There are separate facilities for drying clothes near the dormitories of the accommodated foreigners.

Paragraph 44

On every floor of Building 2 of the Busmantsi Home there are already 2 TV halls with foreign TV channels. There is literature provided in different languages for the library in the Home. The assistance of representatives from embassies and consulates is sought regularly for additional provision of books.

d. health care

Paragraph 47

Adequate medical service is guaranteed to every accommodated foreigner.

The medical care in the Home is carried out with the necessary precision – human care and professionalism from the medical team, which consists of a doctor (specialist in internal medicine and healthcare management), and a nurse (with professional university degree and postgraduate qualification “Endoscopic nurse”). From June 2001 a medical auxiliary is appointed. Every foreigner receives information on his/her health status and the prescribed treatment in understandable for him/her language.

In case of necessity of medical aid after the working hours and during the weekends, the accommodated foreigners are provided with medical aid by a medical team (doctor and nurse) from the units of Emergency Medical Aid. If a differential diagnosis is needed and a consultation with specialist, the ill person is transported to the Medical Institute-MoI.

Paragraph 48

In the Specialized Home-Sofia a team for psychological counseling and prevention is associated. The team consists of two psychologists who carry out the psychological support of the accommodated foreigners.

There is a good practice where experts from NGOs with whom Migration Directorate have signed agreements work with some of the foreigners with certain problems.

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

Paragraph 49

Regarding the vacancies, in 2011 the necessary steps were taken to complete the staff and the introduction of the new officers in the work.

Paragraph 51

Meetings with The State Agency for Refugees are held monthly in order to improve the cooperation between the two structures, and it is emphasized on the rapid accession of foreigners from the Agency.

Paragraph 52

Legal assistance is available for every person accommodated in the Home. The foreigners have the possibility to carry out meetings with NGOs weekly, in order to receive free legal assistance. When a foreigner engages a freelance lawyer, the lawyer has free access to the Home.

The meetings with the lawyers are confidential. The guards are realizing only visual control. There are not complaints for violating the principle of confidentiality.

Paragraph 53

During the current year the implementation of Activity 2 from the Annual Programme 2009 on the European Return Fund, co-financed by the EU continues. In accordance with this Activity interpretation services for the needs of Migration Directorate are provided.

The effective legal protection of foreigners, who are subject to compulsory administrative measures, is guaranteed by the Bulgarian legislation the observance of which is an explicitly imposed obligation to the Bulgarian law enforcement authorities.

With the last amendments from 2011, according to the Bulgarian legislation (article 46a from the Law for the Foreigners in the Republic of Bulgaria) the legal possibility is guaranteed for fast examination by the legal authorities of the lawfulness of accommodating foreigners at the Specialized Homes for Temporary Accommodation of Foreigners. The order for accommodation can be appealed under the order of the Administrative Procedure Code in a 7-day term from the actual accommodation. The appeal does not stop the execution of the order. The court considers the appeal in an open session and passes the judgment within one month from the initiation of the legal proceedings. The appearance of the person is not obligatory but by request from the appellant there is no obstacle for him to be heard orally. The decision of the first instance court may be appealed before the Supreme Administrative Court, which passes the judgment within two months.

The foreigners are explicitly informed and acquainted in an understandable language with the possible legal resources for effective law defense as well as with other concerning circumstances related to passing of decisions, appointing courts, summons and other types of notices by the judiciary and the authorities of the pretrial proceedings. The legal requirement to provide an interpreter if necessary, noted in the answer under Paragraph 10, is observed.

The situation concerning foreigners who have been imposed the compulsory administrative measure of “expulsion” on the grounds of national security is identical. No one of them is denied judicial defense before the court competent to consider the compulsory administrative measure (which is explicitly regulated in the Law for the Foreigners in the Republic of Bulgaria). There are no practices of breaching the cited legislation, leading to violation of the legal rights and interests of the foreigners who have been imposed a compulsory administrative measure.

Paragraph 54

The legal means for protection offered by the Bulgarian legislation and judicial system to foreign citizens, which are subject to compulsory administrative measures (CAM), are effective and available at the time of occurrence of the necessity to apply them in order to correct the circumstances, subject to the argument as well as providing reasonable perspective for success to the foreigner in the process of protecting the claimed impaired right.

The State Agency for National Security (SANS), which under the Law on the Foreigners in the Republic of Bulgaria (LFRB) is tasked with explicit competences to impose CAM in line with art. 39a of LFRB, has at its disposal the necessary range of powers as well as procedural means for abiding by and protection of the rights to effective legal defense of foreigners in the process of imposing CAM.

In compliance with the provisions of art.39a of LFRB, CAMs imposed on a foreigner in line with the law are:

1. Deprivation of the right to reside in the Republic of Bulgaria;
2. Compulsory lead away to the border of the Republic of Bulgaria;
3. Expulsion;
4. Ban on entry in the Republic of Bulgaria
5. Ban on leaving the Republic of Bulgaria.

Every administrative procedure in SANS on imposing of compulsory administrative measure is imperatively developed in a way providing the necessary guarantees for protection of the rights of the foreigners subject to the applied field of the quoted special law as follows:

The orders imposing CAM are issued in compliance with the requirements under art. 59 of the Administrative Procedure Code (APC) with regard to their content: motivation from legal and factual aspect, necessary identifying part about the author (SANS chair) and the addressee – the person subject to the CAM, the imperative instructions concerning this person, the instructions on the execution of the order.

The legal grounds stated of the order obligatory correspond to the evidence collected within the legal procedures. In the order the administrative authority (the SANS chair), perceives the motivation from the Proposal, on which the issuing of the order is based and the Proposal itself serves as motivation part to the order. This is the reason why the order does not have in its content the detailed lay out of the legal and factual reasons for its issue, but refers to the Proposal on imposing of CAM.

The orders on imposing CAM under the LFRB are subject to appeal before the Supreme Administrative Court under the procedure and conditions of APC within 14 days after the foreigner or his legal representative is informed about it. The appeal does not cancel their execution as far as they are issued on the grounds of national security. The foreigner is granted with access to the Proposal on imposition of the specific CAM (art.39 of the Law on the Protection of Classified Information, LPCI).

When presenting the order to a person subject of CAM who is does not use Bulgarian language, he or she is allowed to use his/her native or other language in which the person is fluent, following from art.14, par.2 of APC. For this purpose an interpreter is appointed. In such cases a note is included in the order stating that an interpretation was provided and the person has understood what is the administrative measure imposed on him/her, after which the person has to sign it.

With regard to the granting of the opportunity for defense of the foreigner to whom the CAM was imposed, the provisions of art.23 of the Law on Legal Aid provide for defense by a lawyer, spare lawyer or representation in cases where such defense is mandatory by law. Concerning administrative proceedings legal help is provided in cases when on the grounds of the presented evidence the court judges that the party, in this case the foreigner, does not have financial aids to pay for the lawyer's fee.

The order under art.44, par. 6 of the LFRB on the compulsory accommodation of a foreigner in the Specialized Home for Temporary Accommodation of Foreigners (SHTAF) at the Migration Directorate – Ministry of the Interior (MoI), may be issued by the chair of the SANS in order to remove any obstacles and to organize the implementation of the orders under art.39a, it.2 and 3 of LFRB. In its essence this order is a kind of provisional measure as far as it is imposed by the chair of SANS in order to ensure the execution of the imposed compulsory administrative measures with regard to particular foreigners.

The conformity with the law of the order on compulsory accommodation is guaranteed by the availability of the conditions and the substantive preconditions, envisioned in art.44, par.6 of LFRB, as follows:

- legal ground to issue the order in the cases when the foreigner – subject to a compulsory administrative measure under art.39a, it. 2 and 3 of LFRB, is with unknown identity, interferes with the execution of the order or there is danger of absconding;
- The term for compulsory accommodation is in force until the above mentioned circumstances under art.44, par.6 of LFRB drop out, but not more than 6 months. As an exception the term for the compulsory accommodation could additionally expanded to up to 12 months (art.44, par.8 of the LFRB), whenever the person refuses assistance to the competent authorities and this leads to delays in receiving the necessary documents on the compulsory take away or expulsion or whenever the person poses a threat to the national security or public order.

In compliance with art.46a of LFRB, an appeal could be submitted against the ordinance within seven days as of the factual accommodation as per the proceedings of APC before the Sofia Administrative Court.

When presenting the order to the foreigner, the latter could use his/her native or other understandable language, under art.14, par.2 of APC. For this purpose, an interpreter is is appointed. In such cases a note is included in the order stating that an interpretation was provided and the person has understood what is the administrative measure imposed on him/her, after which the person has to sign it.

Paragraph 55

CAMs are imposed in explicit conformity to the specificity and functional competences of the SANS authorities on counteracting threats to national security as defined in art.14, par.1 of the Law on SANS.

CAMs affect directly and essentially the legal sphere of persons towards whom they are imposed.

Legal proceedings on imposing CAMs start with the preparation of a Proposal by the competent SANS directorate (specialized or regional).

The Proposal is prepared as per the Law on the Protection of Classified Information (LPCI) and contains the factual grounds for imposition of the particular administrative measure.

The description of the factual background from where the motives are drawn up supported by evidence, which justify the imposition of the proposed CAM, is structured so that to be corresponding to the noted legal grounds.

The Proposal and the materials relevant to the case contained in the court file are available to the foreigner and / or his/her legal representative under APC and art.39a of LPCI.

Paragraph 56

The provisions of art.44, par. 2 of LFRB compel that whenever there is imposition of CAM under art. 39a of LFRB, authorities should take into account the duration of the stay of the foreigner in Bulgaria, the categories of vulnerable persons, the presence of legal procedures under the Law on the Asylum and Refugees or legal procedures on renewal of the permission to stay or any other permission providing for the right to stay, marital status as well as the presence of any family, cultural and social relations to the country of origin of the relevant person.

The imperative nature of the provisions of art.44, par.2 of LFRB obliges SANS authorities in charge with preparation of the Proposal and the order to consider in their motives the estimation of each circumstance noted in the abovementioned provisions. This consideration is an obligatory element of the motives, respectively of the evidence.

In the cases when the foreigner has had the status of permanently residing in the country, the motives for the presence of the circumstances under art. 8, par. 2 of the Convention on the Protection of Human Rights and Freedoms (LPHRF) are stated, which could justify the interference of the state into his/her personal and family life. According to this provision everybody has the right of inviolability of his personal and family life and the interference of the state authorities in exercising of this right is inadmissible except in the cases envisioned by law and necessary in a democratic society – in the interest of national and public security or economic prosperity of the state, in order to prevent riots or crimes, to protect the health and moral or the rights or freedoms of others.

The provision of art.1 2 of Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents provides to the long-term residing citizens protection against expulsion, and allows it only on the grounds of considerations on the public order and security. This circumstance is also obligatorily is considered within the motives on imposing CAM.

According to art.66, par.1 of the Law on the Asylum and refugees (LAR) with regard to a foreigner subject to a decision which has entered into force on refusal, cancellation or deprivation of the status, or where the proceedings have been terminated, the provisions of LFRB shall be applied.

The provision of art.67, par.1 of the LAR *ex lege* forbids execution of the CAM "deprivation of the right of stay", "compulsory takeaway to the border", "expulsion" and "ban on entry in the country" under the LFRB for the time during which the proceedings under LAR are ongoing until their conclusion with a decision which has entered into force. The postponement of the execution occurs *ex lege* regardless of whether the measure is due to an order in force or an order subject to preliminary execution.

In case of an order in force on imposed CAM under LFRB, such order shall *ex lege* be revoked, if the legal procedure under LAR has had a positive outcome for the foreigner in accordance to art.67, par.3 of the LAR.

When the measure concerns a juvenile person – a child as per art.2 of the Law on the Protection of the Child (LPC), the procedures set by LPC are observed as well as the provision of art.3, par.1 of the Convention on the Rights of the Child (CRC), which is part of the Bulgarian legislation, under which "...*In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*". The provisions of art.15, par. 3, 5 and 7 of LPC regulate the procedure, protection and involvement in the administrative procedure of the child, the rights of which are affected by the issued administrative act – the Order on imposition of the CAM "expulsion".

The provision of art.44a of LFRB enforces ban on the expulsion of a foreigner, subject to CAM "expulsion" in a country where his life and freedom will be in danger of persecution, torture or inhuman or degrading treatment.

Any failure on behalf of SANS to execute the obligation to lay out and assess all the related circumstances in each particular case, in violation of the abovementioned regulations, would bring up to insufficient motivation of the order on the imposition of CAM, thus violating basic principles of the administrative legal procedures as well as the guarantees for legal means for protection of foreign citizens subject to CAM. This is a substantial violation of the administrative procedural rules, which causes insufficient motivation of the imposed CAM and is a sufficient reason for the court to revoke the CAM.

B. RESPONSES REGARDING OBSERVATIONS MADE IN ESTABLISHMENTS UNDER THE AUTHORITY OF THE MINISTRY OF JUSTICE

1. Investigation detention facilities

a. preliminary remarks

Paragraph 57

The problem referred to in connection with the long-term detention of persons (above 6 months) does actually exist, but its solution is beyond the scope of competences of the Ministry of Justice and the administration of the IDF. This fact has been frequently stated in the reports of the checks performed by the regional and District Prosecutor's office in Varna.

In order to keep the terms for preliminary custody within its control, the Department for Security of IDFs at the EPGD sends to the Supreme Prosecutor's Office of Appeal on a three-month-basis a list of the names of the defendants and detained persons kept at the places of detention for a period longer than 6 months.

b. ill-treatment

Paragraph 59

As regards the statements that some detained persons from the IDF in Plovdiv that they have been beaten by guards as they had refused to get up from their beds when the door was opened it should be pointed out that upon obvious failure to obey or upon refusal to comply with a legal provision or upon breach of prohibition (item 43.1 of Order No 6399), on the grounds of art.113 para.1, item 1 of the Execution of Punishments and Detention in Custody Act (EPDCA), the staff of the security department is entitled to use force. Such measures are taken after all other methods for obtaining the target result have been applied without success.

On the grounds of art.254, para.2 of EPDCA, during their meetings with their lawyers, the accused and the defendants may give and receive only written materials in connection with the case, the contents of which are not subject to checks. As per art.74 para.8 of the Regulation on the Application of EPDCA, after the completion of the meetings with their lawyers, the detained persons are searched for prohibited objects and substances or money, whereby all documents from the lawyer are checked within this search. The refusal to comply with the orders of an official from the surveillance and guard staff in connection with this search, as well as the attempt to hide and import prohibited objects and substances represent a ground to apply physical force according to art.113, para.1, item 1 of EPDCA.

According to the information from the IDF in Plovdiv, no physical force was applied with respect to the detained persons in any of these cases. Most probably the guardians warned the detained persons that failure to comply with the orders and breach of prohibition may lead to the application of physical force against them.

In another IDF which was visited, namely the one in Veliko Tarnovo, no cases of application of physical force against detained persons have been registered. In order to prevent such incidents in the future, the head of the Places of Detention Department at the District Office for Execution of Punishments in Veliko Tarnovo checks the records of the video surveillance system on an daily basis. At the formal meetings of the surveillance and guard staff, the employees are constantly advised of their rights and obligations under the applicable legal acts (EPDCA, the Regulations on the Application of EPDCA), and they are reminded of the circumstances under which they are permitted to use physical force according the aforementioned acts.

At the places of detention under the authority of the District Office for Execution of Punishments in Veliko Tarnovo (which comprises Veliko Tarnovo and Svishtov), a special registry has been created to account of cases where physical force has been applied, in which also the reasons for such measures are reported. With order by the head of the District Office for Execution of Punishments, each established case of application of physical force against a detained person should be immediately reported to him by phone or by fax. After that, a detailed report on the case by the employee in charge should be drafted with the purpose of conducting a timely check-up.

In the IDF in Varna, auxiliary means are applied against detained persons in abstinence only if the prisoners show aggression and in full compliance with the provisions of the applicable legal acts. To this end, the documentation of the department is strictly kept and references are submitted to the EPGD and to the District Prosecutor's Office in Varna.

Paragraph 60

The statement that the personnel in the IDF in Varna were not sufficient in view of the average work load and the activities performed in terms of security, is correct. The fact that the commission “has heard” of some incidents does not mean that such incidents are tolerated or that their occurrence has been neglected. The officials at the IDF make efforts to prevent potential conflicts and aggression in advance. Unfortunately, in some cases this is hardly obtainable. In this regard, the methods introduced and applied in connection with the evaluation of the risk with respect to detainees contribute to the early establishment and the prevention of conflicts between the detainees; therefore, no such incidents have been reported lately.

For the period between 06.06.2011 and 10.06.2011 training was organized for the guards at the IDF department at the training centre of the EPDG in Pleven. The training included issues related to early diagnostics at admission of the accused to the IDFs, estimation of the risks, non-verbal behaviour of potentially dangerous detainees, communication skills, the way a conversation with a detainee should be conducted, conducting of hard conversations, application of the diagnostics mechanism, as well as self-protection and personal well-being

Paragraph 61

EPGD makes constant efforts to employ female guards in each IDF with the purpose of servicing the female detainees. However, on the one hand, this profession is not too attractive and prestigious to most of the women.

Thus, in the IDF in Plovdiv, where 12 to 17 women are kept daily, there is currently only one woman employed. In the IDF in Veliko Tarnovo there is also only one woman guard. If she is absent, she is replaced by the chief technical assistant at the District Office for Execution of Punishments, who is female. Upon admission, search, hygiene maintenance, and execution of activities relating to the personal integrity of the arrested women, there is always a woman among the representatives of the respective District Office for Execution of Punishments.

- c. conditions of detention

Paragraph 62

In the new IDF in Plovdiv with capacity for 120 detainees new beds and sheets and blankets were provided according to this capacity. In the first few months this capacity had to be extended to 180 detainees due to the high density of the prisoners at the institution, which required the provision of sheets and blankets for another 60 beds. Due to the lack of sufficient financial resources, the new beds were equipped with the available old mattresses and blankets. These shall be replaced with new ones on the first possible occasion.

Paragraph 63

In the IDF located at G. M. Dimitrov Boulevard there are 83 cells, each with capacity for four persons, altogether providing accommodation to a maximum of 332 persons. Each cell is equipped with its private toilet and running water. There are eight cells for the personal belongings of the arrested persons beneath the windows. In 2010 and at the beginning of 2011 some partial repair works were completed, including replacement of the joinery and installation of transparent glasses (for the purposes of safety, some of them are blurred). In each cell, there is a window that can be opened, which is also a source of fresh air. Thus, there is direct sunlight and fresh air coming into the cells of the IDF.

There are no special penalty rooms (cells) in this IDF. The lack of official penal procedure for the IDFs leads to the impossibility of preventing ill-intentioned actions on part of the detained persons. Thus, for example, their actions often result in destruction of property and equipment, to flooding of cells and administration offices. This deteriorates the general condition of the building and leads to spending huge amounts for repair works.

As far as the observations of CPT on the bad hygienic conditions and the humidity and bad air in the cells are concerned, the problem was solved through replacing the joinery and the windows which can be opened.

In connection with the complaints about food being served cold, it should be taken into account that the food is prepared in the Sofia prison and is then transported in special boxes and delivered twice daily. The food is kept in a refrigerator until being served. There is no option to warm up the supplied food at the place of detention and no such option has been foreseen.

The statement that the IDF has three open air areas is not true. Since its opening, the institution has seven areas guarded by video surveillance systems and staff. In the hall, there are two telephones, which provide the detainees with the daily opportunity to connect with their families and relatives.

Upon admission to the IDF, each detainee is examined and an evaluation of the risk relating to his accommodation with other prisoners is performed by specially trained staff. Upon necessity, when the risk is medium or high, additional tests are run by a psychologist at the EPDG or by a probation officer. This applies also to the juveniles.

Paragraph 64

We hereby inform the Committee that the repair works at two cells in the IDF in Varna were completed. The IDF was visited by Mr. Stanimir Petrov, a representative of the Bulgarian Helsinki Committee, on 24 March 2011. He expressed his sincere satisfaction with the condition of the two cells and stated that he would share his impressions with Mrs. Petya Nestorova, the member of CPT's delegation who visited the IDF.

Paragraph 65

The conclusions from CPT's visit of in the IDF in Balchik concern most of all the residential conditions. The following is necessary to improve them:

- Purchasing of new mattresses, sheets and blankets.
- Completion of some current repair works, which include painting, cleaning of the existing air-conditioning system and replacement of lamps.
- Increasing the access of natural light to the cells through repair of the doors and forming wider apertures to let light in.

The above repair works will be completed, when the necessary funds are available.

The dimensions of the cells are too small, but if they are united by two, there will be only three cells left in the IDF.

The only possibility to generally solve the daily problems and the problem of the small capacity of the IDF is to build a new IDF in Dobrich, which is currently not feasible for financial reasons.

Paragraph 66

The IDF in Lovech is the only one in the district. It is located on the fifth floor (which is the last) of the Regional Police Department in Lovech. The surface of the cells is approximately 5 m². Sometimes their capacity is not enough to accommodate all detainees. In such case, the supervising prosecutor at the District Prosecutor's Office in Lovech is notified.

In view of the upcoming construction of a new IDF in the building of the hospital at the prison of Lovech, it is neither possible, nor expedient in financial terms to install an air-conditioning system and a toilet in each cell, as well as to provide the access of direct sunlight to the cells and common areas in the open in the currently operating IDF. At present, the conditions there are the following:

- The cells are ventilated through metal bar doors, whereby, at the bottom of the hall there is an air absorber. On two of the windows in the hall in front of the cells, which are behind bars, there is a section for natural ventilation of the rooms during the warm summer months.
- The detainees kept in the IDF use a common toilet and bathroom at all times.
- The access of direct sunlight is only possible through the metal bar door of the cells through the windows in the hall in front of them.
- The stays in the open are held in a specially intended area within the territory of the IDF (the service room in front of the bathroom and the toilets).

As at the moment, the EPDG is not able to provide precise information as to the schedule and the deadline for implementation of the two plans for transferring the IDF to another building in Lovech. The project for the implementation of the reconstruction of the building, which corresponds to all European requirements, was adopted by the expert committee at the Ministry of Justice. Currently its funding is expected.

The employees of the surveillance and guard staff are regularly advised that the abuse of detainees is prohibited and is severely punished. Force is used as a final resort, only when it is absolutely necessary, and never in the form of physical punishment. Upon recommendation, after the visit of CPT in the IDF in Lovech, a registry of the cases of application of physical force by the employees of the surveillance and guard staff was started.

The condition of the beds and the sheets and blankets given to the detainees upon their admission, is good. The beds are regularly checked for damages, which, once established, are immediately removed, and the torn and damaged sheets and blankets are replaced with new ones, and the old ones are discarded.

Each new detainee undergoes a medical examination and a medical reference is drafted by the medical specialist, which is kept in his file together with all other medical documents issued during his stay in the IDF.

The medical office is located outside the area of the IDF, on the fifth floor in the hall next to the investigators' offices. For the sake of security, medical examinations are performed in the office of the officer in charge and the head of department. In the medical office only manipulations are performed under the supervision of the surveillance and guard staff.

All arrested persons have a personal medical file.

The food is received warm from the prison in Lovech according to a menu which is made each week. The food corresponds to the requirements for quantity and nutritional value.

The cells are kept clean by the arrested persons themselves, whereby they are provided with sufficient detergents and other necessary materials.

Paragraph 67

The place of detention in Veliko Tarnovo has a capacity for 44 detained persons, kept in 11 cells with a surface of 8 m² each. In each of the cells, up to 4 detained persons can be kept. The conditions in the cells are good, but due to the overcrowding, the cells cannot be repaired. The construction of a new air-conditioning system is necessary.

As regards the statement that the detainees used dirty and damaged mattresses, an order for new mattresses has already been placed.

It is true that most of the cells do not have a window and there is no direct sunlight, but this is due to the construction and architectural design of the cells. However, they have a window (aperture) above the door.

The compliance with the European requirement for a minimum surface of 4 m² per detainee within the IDF in Veliko Tarnovo can only be achieved if the IDF in Gorna Oryahovitsa is transferred back to EPDG together with its staff. It was transferred to the "Security" General Directorate in 2002 together with its staff with the aim of establishing a temporary escort department, which has already been constructed and disposes of 20 places, but it is not used as intended. Through the restoration of the IDF in Gorna Oryahovitsa (together with its staff), the detainees under the authority of the Regional Prosecutor's Office in Gorna Oryahovitsa will be accommodated in rooms with toilets, running water and direct sunlight.

In the same IDF, the detainees escorted by the "Security" General Directorate can be accommodated. Thus, the place of detention in Veliko Tarnovo will be facilitated through the possibility of removing one row of watch towers, thus providing a surface of 4 m² for each detainee, as, according to the current statistic data, the detainees accommodated in the IDF in Veliko Tarnovo are not expected to be more than 20. This will also ensure the possibility of constructing private toilets and sinks in the cells, whereby the prisoners will be granted permanent access to toilets and running water.

The alternative opportunity is that the IDF in Gorna Oryahovitsa be announced for a 24-hour temporary escort department, which will release the place of detention in Veliko Tarnovo from the temporary detainees.

The detained persons are accompanied by an employee of the surveillance and guard staff whenever they want to go to the toilet.

Paragraph 68

As regards the statement that the people in the IDFs in Balchik and Veliko Tarnovo do not have direct access to the common toilets and are thus forced to resort to plastic bottles and buckets in their cells, it should be taken into account that the IDF in Veliko Tarnovo has only one toilet. The guards always respond to the detainees' requests to go to the toilet. The 24-hour team on duty comprises only 3 employees (one employee in charge, one assistant and one security guard), therefore, due to the insufficiency of staff and in view of the security requirements, the employee in charge cannot accompany more than one detainee at a time, especially before and after the working hours and on weekends and official holidays

Paragraph 69

In all places of detention, the employees supervise if the detained persons maintain their personal hygiene. The taking of a shower is made according to a schedule, three to four times a week. Regular efforts are made to establish good habits in detainees, mostly as regards hand washing with soap before meals and after using the toilet.

The instructions provided by the Medical Services Rendered in Prisons at the GDPE as regards the established violations with respect to the supply of soap, washing powder and detergents for sanitary and hygiene needs and for washing, as well as disinfection solutions and other materials for personal hygiene, the washing and cleaning services in prisons, reflect the recommendations made by CPT. Nevertheless, in all places for detention this problem is due to the insufficiency of funds for these purposes.

For example, the detainees in Plovdiv are supplied with free soap and toilet paper, and the women are supplied with sanitary napkins. The quantity and variety of the personal hygiene supplies are restricted due to the lack of sufficient funds. The washing machines are used only for washing of sheets and blankets.

All detainees in Plovdiv are bathe according to a schedule once a week in the common bathrooms. In compliance with the European Regulations on Prisons, each detainee is granted the opportunity to take a shower every day in the cell toilet, whereby, to this end, hot water is supplied to the cells each morning and evening.

In the IDF in Veliko Tarnovo, detainees take a shower once a week. The room is large enough for one more shower to be installed, which will be done on the first possible occasion.

EPDG has issued instructions to all heads of units in the IDFs to provide the detainees with the opportunity to take a shower at least twice a day during the hot summer months.

Paragraph 70

The problems relating to the serving of cold food mostly concern the IDFs and are connected with the deteriorated conditions through the years (offices which are not fit for warming up food in technical terms or old and worn out appliances).

Paragraph 71

Whenever the capacity of the IDFs is reached or exceeded, the heads of the relevant administrative units send a reference to the heads of the relevant administrative units of the district prosecutor's offices in view of accelerating the preliminary proceedings and the imprisonment of convicts. The problem related to the insufficient capacity of IDFs will become huge after the entry into force of the provisions of art.43, para.3 of EODCA in accordance with the major purpose, as defined in the Programme for Improvement of the Conditions in Places of Detention, as adopted by the Council of Ministers of the Republic of Bulgaria, item III: „improvement of the residential conditions in penitentiaries and provision of a minimum residential surface of 4 square metres per prisoner.”

In all cells of the IDFs suction and pressure air-conditioning systems have been installed. There is local heating and air-conditioning. The cells are supplied with a differential day-and-night illumination system. The laundry is maintained, whereby the blankets are washed each six months, and the sheets are changed every week. The detained persons are responsible for maintaining the good hygienic condition of their cells; to this end, they are supplied with detergents and hygiene materials.

Most IDFs have areas for stay and walk of closed and open type, which are enough to provide the daily stay in the open of detainees. Most IDFs are supplied with separate rooms for private meetings between the detainees and their lawyers in private, as well as with meeting rooms and rooms serving the purposes of the proceedings. These equipped rooms are completely enough to grant the lawyers and relatives access to the detainees.

For more information on this paragraph, please see also Paragraphs No 68, 69 and 70.

Paragraph 72

It is true that the daily activities in the IDFs are restricted due to the lack of sufficient and qualified staff and due to the lack of premises and equipment. Besides, detainees are often taken out to attend legal proceedings. For example, the IDF in Varna has only one room which the detainees can use for walks and exercise, which, considering the number of detainees (that has reached 125 in the last 3 years) is hardly enough to fulfill the requirements for at least one hour in the open (in general), given that the persons from only one cell can be taken out. The assembling of prisoners from two or three cells provides the necessary one-hour stay in the open, but in such case, the area is not enough for them to walk and exercise. The only possible solution to this problem is the construction of an additional open area.

As a rule, if several detainees express their desire to spend their stay in the open at the same time, the employees of the surveillance and guard staff are prevented from performing their other duties. On the other hand, sometimes the detainees themselves wouldn't like to spend their whole hour in the open.

Paragraph 73 and 74

Juvenile detainees are entitled to additional meetings with their families and relatives. In the cases where there is only one juvenile in the IDF, he is offered social contacts for the avoidance of isolation such as opportunity to participate in outdoor activities with the adults under the supervision of the competent staff.

Juvenile detainees are paid special attention both in terms of surveillance performed by the guards and in terms of medical examinations conducted once a week by the competent medical specialists at the IDF.

After the visit and the recommendations to avoid the negative impact of isolation on juveniles (accommodation of only one person in a cell), the directors of the two IDFs in Sofia maintain constant contact and, in case there is only one juvenile in one of the IDFs, whereby the other one has more, the respective competent prosecutor is requested to allow the assembling of the juveniles at one IDF so that they can maintain social contacts and communicate with each other.

- d. health-care services

Paragraph 75

There is only one medical specialist with permanent position in the IDF in Veliko Tarnovo, and a general practitioner and a dentist have been chosen according to the general procedure. Due to the fact that 90 % of the detainees' healthcare insurance rights have been suspended upon their admission to the IDF, their examinations by a medical specialist is problematic. Problems arise as well when the medical specialist of the IDF is on leave and when detainees with suspended health insurance rights from other regions are admitted, as the doctor appointed by the Regional Health Insurance Fund refuses to perform the examination. Other difficulties are related to referring detainees with suspended health insurance rights to specialized physicians due to the fact that there is no one to cover the expenses for the examination and further treatment of such detainees.

Paragraph 76 - 78

Each detained person is examined by a medical specialist upon his/her admission to prison, correctional home or IDF in order to establish his general condition and to undergo sanitary processing. If the prisoner has bruises and traumas as a result of physical abuse, he is registered as sick and steps are taken to provide the necessary medical services, whereby the director in charge is immediately notified.

Detained persons who need medical care are immediately examined by a doctor and referred to a hospital whenever their general condition so requires. The difficulties related to the provision of transport from the places of detention to external healthcare centres only exists for the large number of prisoners with suspended health insurance rights even before they enter the respective detention institution, as the provision of healthcare services is conducted on equal terms with the provision of healthcare services to free citizens. Those who do not have health insurance are not entitled to the services rendered by the National Health Insurance Fund such as provision of free prescriptions (for example for insulin, which is a life-saving substance) and hospitalization according to a clinical pathway in an external hospital. This leads to increased additional expenses for medical services, the covering of which is a problem and takes some time.

The functioning of the healthcare centres in the places of detention needs to comply with the following requirements, the fulfillment of which is regularly supervised within the overall checks performed by the EPDG.

A complete and well-structured medical file with legible documents is to be kept for each prisoner. These documents should contain all the information available to the healthcare centre regarding this patient. In these medical files, the documents received from consulting specialists and hospitals are included. The medical specialists regularly enclose to the medical files of patients with chronic diseases the stage medical reports on the development of the disease and on the evaluation of the patient's condition, drafted at the healthcare centre of the respective prison.

The healthcare centres keep a special registry of the medical files and only the authorized staff is granted access to the documents contained therein. A system for the keeping, selection and searching of medical files of patients which are no longer subject to treatment has been developed in order to guarantee the safe keeping of these documents. The medical reports and the forms of administrative and other formal documents which can be subject to misuse are kept in rooms with restricted access.

As regards the supply of medicines and medical consumables for the needs of the altogether 13 prisons and the IDFs in Sofia, the necessary medicines are delivered according to a contract concluded between the Ministry of Justice and a pharmaceutical company following the specifications prepared in advance on the grounds of the updated costs of the previous year.

The necessary medicines and supplies allowed for use within the country are delivered to the remaining places of detention upon necessity and according to the relevant prescriptions by doctors and dentists. There is no specific requirement for an "annual plan for medicines and limit of the funds for medicines". This is a financial and economic issue rather than a medical one. It once again pertains to the principle of equal treatment of detained persons and free citizens in the sphere of healthcare.

According to the provisions of EPDCA, art.149, para.3 „Persons deprived of their liberty may receive medicines from external sources with the approval of the medical specialist at the respective prison and under his supervision.”

In the healthcare centres of the places of detention, the quality standards applicable to the individual performance of the medical specialists and to the conditions of rendering of healthcare services are complied with, and the human rights of patients are respected, which means that the results of the medical examinations which prisoners undergo are not revealed.

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

Paragraph 79

As regards the established lack of suitable premises for meetings and the recommendation for conducting the meetings between detained persons and their visitors in the open, it should be noted that most places of detention are built in terms of construction and architectural design in such a way that there is no possibility to create separate areas for outdoor meetings.

Paragraph 80

In thirty three of the functioning 42 IDFs in the country the payphones of one of the existing telecommunication operators are placed. The call prices are the same as for civilians.

With regard to prisons, the correctional home in Boychinovtsi and the three biggest IDFs (in Varna, Plovdiv and Sofia - on "Major Vekilski") an agreement was concluded between the Ministry Justice and "BiVifon Bulgaria", which established the "Contel" system. These prices of phone are competitive with the services other operators provide to the civilian population especially having in mind that civilian population is bound by contracts for a fixed period of time, and a monthly tariff plan consistent with his monthly subscription fee.

When comparing the prepaid phone card systems "Betkom" and "Bulfony" and "Contel" it should be noted that the latter is based on counting seconds while other operators is the charge by minutes. Furthermore, given the terms of the contract in November this year there will be a price renegotiation in compliance with rates established in the EU.

It should be pointed out that the system "Contel", through its two sub-systems - telephone and shopping services provides benefits in two directions. Its implementation and operation serves mainly and mostly for the monitoring and control over either telephone conversations and purchases/cashless payments and thus counteracts the possibility of abuse, the conclusion of value transactions and gambling in places of detention.

2. Prison establishments

- a. preliminary remarks

Paragraph 85

The restricted number of permanent employees in the prisons is a concern not only for CPT. In 2010 after the review and analysis of the staff employed within the whole system, some employees were dismissed, and others were transformed in view of the effective use of the available human resources and for the purpose of optimization of the work process. Wherever this was possible, the dismissed employees were such whose position overlaps with this of other employees or whose duties can be undertaken by another employee. Thus, for example, the check of the permanent positions at the GDPE showed that there were some overlapping between the professional duties of the head of the service department and the head of the central warehouse; therefore, these two positions were united in one position called head of the central warehouse and services.

The analysis of the performance of the division for serving the religious necessities of prisoners revealed that the professional duties of the employees do not correspond to the requirements for optimal use of administrative capacity and for the restriction of the number of state officials. They do not possess the required religious education, whereas their functions overlap to a very high extent with those of the employees of the social department; therefore, the division for serving the religious necessities of prisoners was closed down, and its employees were transferred to other positions.

In the regional offices for execution of punishments, the position of the senior inspector from category G was removed. The grounds therefore were that the functions relating to this position overlap with the functions attributed to two other positions. The main duties of these employees were to maintain contact with the regional offices of the Ministry of Interior and to control the compliance with the restriction measures. These functions were undertaken by the junior inspectors at these territorial units.

After review of the activities of the other departments and after discussion on the possibilities of optimization of the administration, of intensifying the work load and of performing the same duties with reduced human resources, some of the permanent positions of junior legal advisors in some of the regional offices for execution of punishments were cut off. Those in which this position was preserved, serve also the neighboring prisons and district offices for execution of punishments on a regional basis.

The same method was applied with respect to all prisons where some employees whose duties could be transferred to other employees were dismissed.

The training centre in Pleven has been providing basic training to new employees in connection with different spheres of the penitentiary system in the recent years. The issues related to human rights and the use of force by the personnel in penitentiaries are presented in four major subjects included in the basic training – legal framework, penitentiary pedagogics, penitentiary psychology and security-related activities.

The legal framework includes subjects through which the trainees come to know and study basic international legal acts concerning human rights, both European and adopted by the United Nations. In particular, the European Convention for the Protection of Human Rights and Fundamental Freedoms; the European Convention for the Prevention of Torture or Inhuman and Degrading Treatment or Punishment; the European Prison Rules; the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Universal Declaration of Human Rights.

In the sphere of penitentiary pedagogy and penitentiary psychology, the issues presented concern the methods, means and ways for compliance with these international acts on part of the employees, as well as issues relating to the Ethical Code of Conduct applicable to the employees of the penitentiary system. The trainees are acquainted with the status and authority of the Committee for the Prevention of Torture, and extracts of reports from performed visits are reviewed and analyzed and the relevant conclusions are drawn.

As regards security activities, the employees study in detail the cases when they are entitled to use physical force against prisoners, and are informed of the actions after such intervention, including of how to render first aid to injured people. Some practical games are played, when an employee has to decide whether to apply physical force, additional means and, as a last resort, his gun.

The total number of classes within the basic training related to human rights, prevention of torture and use of physical force together with the practical courses is 42.

Paragraph 86

Following recommendation No R 8912 by the Committee of Ministers of the Council of Europe as regards education in prison, EPDG developed a wide range of activities to enhance and improve the educational level of prisoners. The permanent trend according to the registries of a constant increase in the number of illiterate prisoners together with the decline in the employment rate of convicted persons led to the development of a special policy aimed at increasing the participation of prisoners in social, educational and qualification activities.

In this regard, specific steps were taken to expand the educational network in prisons. Additional classes were formed. Numerous meetings with experts and representatives of the Ministry of Education, Youth and Science were held, where the existing problems were stated and alternative solutions were proposed. The idea to expand the educational network in the present school year was approved, due to which four new classes were formed in the prison of Pleven, four other classes were formed in the prison of Pazardzhik and three in the prison of Sofia. We expect that the number of prisoners engaged in the educational programme will rise from 1118 to 1500.

The range of the out-of-class activities of prisoners was significantly widened. The opportunities to acquire professional qualification at the schools in the prisons increased, too. Training centres were built, where the practical educational programme for approximately 700 prisoners is implemented.

As a result of the ever more intensive partnership with the Ministry of Labour and Social Policy, an operation under Priority axe 1: Enhancing the economic activity and development of a labour market which enhances the inclusion of vulnerable social groups in the labour market under the Operational Programme for Human Resources Development, funded by the European Social Fund, was developed. In August, the activities under this project were launched and activities related to the completion of 520 courses with 9 000 prisoners in the period between 30.10.2011 and 01.10.2013 have been planned under the Operational Programme for Human Resources Development.

By creating more favourable conditions for the more intensive participation of prisoners in educational and qualification activities, the rate of participation will actually become 65% - 70%.

In order to achieve the high standards applicable to the spending of the prisoners' spare time in a sensible way, numerous sport, cultural and informational events are held in the prisons. The possibilities for sport training significantly increased. Several tournaments and competitions have been organised, especially in spring and summer. The fitness gyms and the sport areas in the open are used as much as possible. In winter, sport activities are mostly orientated to the organisation of tournaments and competitions for quiet sport games within the premises of the prisons.

The cultural and informational activities were extended. According to the data regarding the introduced standards, many prisoners participate in the general activities. Due to the fact that many of them participate in various activities, it is hard to obtain accurate statistic data of the daily participation, however the analysis shows that the activity has increased compared to that of 2009 and 2010, which means that over 5000 prisoners are involved in various activities.

Special group programmes were organised and implemented. In the special group programmes, 599 are involved, which amounts to 6 % of the total number of prisoners.

The religious activities intended for prisoners have also increased in the last year. This increase is mostly due to the courses under the Christian programme ALPHA. There were altogether 20 courses within the system, which were attended by 266 prisoners. In some of the prisons there were cycles of preaches on ethical and religious topics.

Among the positive events in prisons are the educational courses held by the local representatives of the church.

Cultural, informational and sports activities in prisons focus on meaningful leisure involvement of prisoners, on limiting the sub-cultural activity in the prison community, and on formation and training of certain social skills. It is through the realization of the latter that the educational effect of the activities is achieved.

Efforts are underway to expand the range of activities and initiatives to increase the number of inmates involved in them.

Lectures, talks, quizzes and parties are carried out on national and religious holidays. Representatives of state and public organizations are invited to promote informational activities.

Health topics are mandatory for today's prison population, given the frequent early - occurring chronic diseases, low health literacy, lack of hygienic habits, and active drug use by prisoners. In this respect the carrying out of health education activities is broadened.

In most prisons movie shows were restored, using multimedia techniques. Thematic weekly schedules of movies are prepared and presented. Additional cinema lectures are held with certain groups of prisoners in order to pursue an educational effect and to support correctional activities.

The artistic, musical and theatrical amateur activities in prisons are developed and enriched. Many prisons have created dance and theater groups. In 2010 a number of exhibitions, concerts and theatrical productions were held, some of them were even exported outside of prisons to the general public.

Despite financial difficulties, during the last years library activities, the issue of prison newspapers and club forms of cultural work developed with the help of outside institutions, NGOs and individuals.

b. ill-treatment

Paragraph 87

The strict compliance with the legal provisions and the use of physical force and other additional means against prisoners is a major priority to the prison administration, whereby, constant efforts are made to restrict the number of such incidents. Within the daily meetings with the employees of the surveillance and guard staff, the issues related to the use of physical force are paid special attention.

The analysis of the incoming data shows that such incidents are isolated rather than a common practice, whereby, the number of cases where physical force has been applied, have been reduced in the recent years.

According to the requirements laid down in art.118, para.2 of EPDCA, each separate case is documented and the competent supervising prosecutor's office is notified with the aim of exerting additional control on the compliance of the behaviour of the prison administration with the legal provisions.

As regards the statements by CPT in connection with reports on physical abuse of prisoners in the prisons in Varna, Plovdiv and in the Specialised Hospital for Active Treatment of Prisoners at the prison in Lovech, conversations have been led with the management of these prisons and instructions have been issued with respect to the analysis of incidents of this kind, whereby, in all cases of emergency, the relevant employees in charge must be held responsible.

The use of physical force, truncheons and verbal offense by the medical staff of the Specialised Hospital for Active Treatment of Prisoners in Lovech, has not been established in the practice of the hospital up to now. We believe that there is no problem connected with the use of physical force between prisoners and medical staff.

On very few occasions, in the psychiatric department of the Specialised Hospital at the prison, and yet at the very admission of convicted persons to the hospital, some of the prisoners had to be put under control by handcuffs due to their aggressive behaviour in a state of affect.

There were two such cases registered in 2010. The excessive behaviour represents itself in the form of damage of property, threats to the health and life of the staff. In the light of the long practice in gaining control over such prisoners, the employees of the surveillance and guard staff have established that the best way to deal with such situations is to put the prisoner in handcuffs with the assistance of the medical staff.

In such cases the use of strait belts in such cases is almost impossible (it is too difficult and it takes at least three employees to do it). The application of means for fixing (leashes) according to Regulation No 1 and Regulation No 3 requires the availability of many medical assistants, of which the psychiatric department does not dispose. In such intervention, the employees of the surveillance and guard staff are not entitled to participate. These provisions are applicable to all public psychiatric departments, where no one besides the medical staff can participate in the suppression of aggressive patients.

Each specific case of putting handcuffs to a prisoner is reported in writing. Afterwards, a check is performed and the district prosecutor in Lovech is notified. Up to the present moment no cases of misuse of additional suppressive means under art.114 and 115 of EPDCA have been registered.

As regards the incident of March 2010 in the tuberculosis department, a detailed disciplinary report with reference number 287/22.03.2010 has been filed. The case involved gross disobedience by two prisoners who tried to incite the other prisoners on the floor to refuse to take their medicines within the regular morning medicine distribution procedure. In order to stop these attempts and to gain control over the situation, the guard in charge informed the chief guard in charge, who summoned a group of resting guards and went to the department. The group of approximately 20 prisoners obeyed in the presence of so many wardens and the chief guard, therefore, no suppressive means were used. The follow-up inspection of the case did not establish the use of any verbal offense toward the prisoners.

It is an established practice among the employees of the surveillance and guard staff to be reminded at a monthly basis that during accompanying of prisoners, the check of the duties and in all other cases, they are bound to strictly follow the legal provisions concerning the use of physical force and additional means, whereby, they are reminded that they are responsible for the cases of improper use of suppressive means. The grounds and circumstances when physical force and additional suppressive means are allowed are referred to in art.113, 114 and 115 of EPDCA.

The prisoners are not released of their status of persons deprived of their liberty when they are admitted to a Specialised Hospital in Lovech. When the legal grounds therefore are at hand, all measures foreseen in EPDCA, including suppressive measures can be taken, apart from the measures foreseen for aggressive patients, as laid down in the respective legal acts by the Ministry of Health.

It is true, that, although very rarely, there have been cases of physical violence (without any serious traumas in consequence) between prisoners in the Specialised Hospital. Reports have been filed in connection with all these cases, check-ups have been performed and measures of disciplinary and organisational nature have been taken.

With regard to the recommendations by CPT in connection with the reports and statements of physical abuse of prisoners by employees (fists, kicks, blows with truncheons) and of verbal offense by the personnel, the necessary measures to solve this problem have been met in the prison of Varna. The employees of the surveillance and guard staff are instructed not to exceed their powers and to avoid resorting to physical violence and verbal offense toward prisoners at a daily basis.

They are regularly reminded that physical force and the use of truncheons is only allowed whenever, and only to the extent as it is necessary to maintain the safety and the order on the premises, and never in the form of punishment. Besides, a registry of all cases of use of additional suppressive means and immobilisation (fixation) of prisoners is kept in the duty officer's room.

When a prisoner is fixed, which occurs upon the submission of a written report by a psychologist and at order of the director of the prison, individual surveillance by an employee of the surveillance and guard staff is assigned, whereby the respective employee is instructed to stay close to the door of the room so that he can hear and communicate with the prisoner immediately. The behaviour of the prisoner is reported on a daily basis.

In connection with the complaints by prisoners from Plovdiv for excessive use of additional suppressive means and physical power, it should be taken into account that up to the present moment, no use of physical force or any additional suppressive means whatsoever as a punishment or as a repressive measure has been established.

Similar reports have been filed to the management of the prison, each of which has been thoroughly checked up by a commission appointed at order of the director of the prison. The conclusions of such checks are reported and reviewed by a large group of representatives of the management. On the grounds of the inspections so performed it is obvious that, if physical force or additional suppressive means have been used, such use was always in accordance with the provisions of the law.

Within the training courses organised on an annual basis for the employees of the surveillance and guard staff, special attention is paid to the following issue: the conditions under which physical force, additional suppressive means and guns are applied, the way such means are used and to what extent their use is acceptable.

Following CPT's recommendation the inspectors at the Social Activities and Educational Work Department (SAEWD) in the prison of Varna prepared analyses of the incidents of violence occurred between prisoners within the group each inspector works with. The following reasons for violence between prisoners were established: overcrowding, lack of working vacancies, increase of the number of newcomers with drug addictions, lack of financial support for most prisoners.

The financial difference between prisoners leads to the offering of services against remuneration by prisoners from lower social classes, which means that poor prisoners often fall "victims" to rich ones. Furthermore, rich prisoners are usually aggressive. Very often they are people with several conditional or probation convictions which make them feel "significant", and they consider that their being in prison is nothing but a misunderstanding.

The authorities at the Varna prison took measures for differentiated accommodation of potentially incompatible categories of prisoners. Each inspector at SAEWD has been advised to prepare a programme for prevention of violence to be implemented upon groups of prisoners seeking protection from other prisoners (susceptible prisoners and prisoners with psychological problems).

Paragraph 88 and 89

Violence between prisoners does actually occur in prisons, but it would be too much to say that such incidents are massive and frequent. The competent staff reacts timely to such incidents in most cases by taking steps to restrict potential negative consequences, including by rendering medical assistance whenever necessary.

The impossibility to restrict such incidents is mostly due to the insufficient residential capacity and the accommodation of above ten prisoners in one cell. Therefore, the employees of the surveillance and guard staff receive daily instructions to be more alert during the night and to take immediate adequate measures if violence occurs.

Upon occurrence of violence, physical or mental abuse, the case should be immediately reported to the director of the prison and measures aimed at the establishing of the responsible persons and their punishment are taken, whereby, in the cases provided for in art.100, para.3 of the Law on Penalty Enforcement and Detention in Custody, the competent supervising prosecutor's office is informed.

Paragraph 90

With regard to the wearing of truncheons by the employees of the surveillance and guard staff it should be noted that this instrument is one of the additional suppressive means intended to support the fulfillment of professional duties of the surveillance and guard staff and a compulsory element of the equipment of the guards. The use of these truncheons is set forth in EPDCA. In connection with previous recommendations by CPT the issue has been discussed at official meetings of the management of prisons and the practice of avoidance of excessive and demonstrative use of truncheons during shifts has been established. Besides, truncheons are usually kept in the guards' offices and are rarely worn on guards' waists.

At the Specialised Hospital at the prison in Lovech, the truncheons are also kept in the guards' offices during most of the time. The employees of the surveillance and guard staff wear them discreetly when they enter the corridors where the prisoners are located, during lunch and dinner and during the stays in the open, or if they are in direct contact with a prisoner. It should be taken into account that the truncheon is practically the only means they dispose of to reject potential attacks against them or to prevent fights between prisoners and it restricts the aggressive behaviour of prisoners in a state of affect. Last but not least, we should not forget the objective truth that in the prisons of Bulgaria, one guard is usually in contact with 40 – 50 prisoners, one part of whom have unpredictable behaviour and actions, especially in the psychiatric wards.

Paragraph 91 and 92

As regards putting prisoners in handcuffs in the Varna prison, these measures are connected with suicidal attempts and have been performed for the sake of protection of people's lives and health. The immobilisation was only a temporary measure which was suspended immediately after the threat was put under control. In view of the avoidance of excessive use of additional suppressive means, steps have been taken to accommodate persons with suicidal tendencies in cells with other prisoners supporting the administration of the prison in the supervision of their behaviour and in the prevention of self-inflicted damages.

The application of such additional means in such cases is in fact not the most adequate solution; nevertheless, it is the administration's priority to preserve the most precious of all, namely human life.

In the prison of Varna, whenever the immobilisation of a prisoner is necessary, each inspector from SAEWD and each expert psychologist have to draft a detailed and accurate report on the grounds for the application of the measure "Immobilisation through handcuffs" with respect to the prisoner in question. It is always ensured the principle of this measure being used as a last resort in the prevention of risks of damages to the prisoner or to the other prisoners after the exhaustion of all other measures without significant result in terms of risk management, be complied with. The mental and physical state of the immobilized person is under a constant and direct supervision of an employee of the surveillance and guard staff, an inspector at SAEWD, an expert psychologist and a medical specialist, whereby they should be granted immediate access to the person, thus preventing and restricting the prisoner's anxiety through individual and timely reactions. Each individual surveillance by each employee has to be held inside the premises, and, if the prisoner so requests, very close to the door (so that he can hear the prisoner and come immediately into direct contact with him). Each supervising officer leads a standing written report on the case.

The staff of the Specialised Hospital for Active Treatment of Prisoners at the prison of Lovech has not yet resorted to immobilisation due to medical indications, therefore, at this stage there is no necessity that the doctors and nurses apply such measures.

c. conditions of detention

i. **Plovdiv Prison**

Paragraph 94

The overpopulation in the prison in Plovdiv is a fact. The problem has been reported to the EPDG and to the Ministry of Justice and potential solutions are sought. For now, the idea to reconstruct the former production units within the territory of the prison is valid, but again for financial reasons this will not be possible within the next couple of years.

All cells were repaired in the period between 2007 and 2008, whereby the wooden joinery and the floorings were replaced with new ones. Faience and terracotta were put in each toilet, etc. Apart from these major repair works and according to the available funds, each year some of the cells and the common areas that are in bad condition, are repaired.

Paragraph 95

In all prisons, the staff checks every day if the prisoners take care of the property and the hygiene of the cells where they live. The results in terms of hygiene are in most cases bad in the overpopulated cells.

All premises in the building of the prison and in the campus are regularly treated by the employees of the Inspectorate for Hygiene and Epidemiology. The last treatment was on the 22.06.2011. The most significant problem is that prisoners take food to their cells, which creates conditions for the dissemination of cockroaches or other insects.

In order to conduct DDD operations in all prisons, companies specialized in the control of harmful insects and rodents which are leading companies in the integral pest management (IPM) are appointed. Unfortunately, the elimination of cockroaches in sleeping premises where they have been growing for a long time is very often without any significant effect, as the presence of people in the processing does not allow for high quality disinsection.

Concerning the complaint about the lack of constant electricity supply, the schedule according to which electricity is supplied, is aimed at reducing the huge electricity charges. The electricity supply is suspended when the prisoners are not in the corridor during their stay in the open or during lunch and dinner hours.

The prison does not have a central air-conditioning system; currently in the hot summer months, fans are used in each cell for the lack of other possibilities for air-conditioning.

Paragraph 97

In all cells there are toilets with the exception of 3 rooms at post 6, where the installation of toilets is technically impossible. In the zone for enhanced surveillance and security measures the situation is the same (due to the small dimensions of the rooms, which are between 6 and 7 square metres). We do not accept the statement that the access to the common toilets is restricted during the day due to the lack of sufficient staff. All rooms are open during the day and the prisoners have unlimited access to the common toilets, telephones, etc.

Paragraph 98

With regard to the statements that the prisoners take a shower only once a week, we hereby inform you that according to the schedule they take a shower twice a week in the main building of the prison and in the campus, as required under EPDCA and the Regulations on the Application of EPDCA. Groups of 8 to 10 prisoners are taken to the bathroom (this is also the number of showers in operation in the bathrooms).

The showers are maintained on a regular basis, they are repaired by the administration of the prison, but the prisoners treat the inventory in a very bad way. Each month, personal hygiene materials are purchased and distributed. Besides soap, the prisoners receive washing powder, disinfection materials and detergents and all means and instruments (such as cleaning mops, sweeping devices, buckets, etc.) necessary for maintaining good hygienic state in the cells and in the corridors.

Despite all recommendations and prescriptions in the light of regulation 19.4 of the European Prison Rules concerning the provision of soap and washing materials and detergents for sanitary and hygienic purposes and for washing the laundry, as well as disinfection and other personal hygiene materials, washing services and cleaning in prisons, the full compliance therewith will only be achieved upon provision of the necessary funds.

Paragraph 99

Despite budget shortages food in sufficient chemical and caloric composition is provided to inmates in prison Plovdiv, which is fully consistent with recommended daily allowances established for civilians. The daily meals prepared in the kitchen unit of the prison provide 2622 calories for prisoners who do not work and additional 517 calories for those who are engaged in labor. The working capacity and health of prisoners are ensured to the fullest extent with meals included in the daily menu. Recommendations made by the committee were taken into consideration and a variety of weekly menus that contain more fruits, vegetables and dairy products were made.

The daily meals, as specified in the report, correspond completely to the requirements for daily intake of calories, and, according to the statements of numerous prisoners, it is various and its quality is good. Each week the prisoners receive meat, fish, dairy products and vegetables. Beside the general menu, a diet menu is prepared for those who follow a healthy nutrition regime and a special menu for those prisoners who have been put to a diet consisting of liquid food and puree by a medical specialist.

Although equipment in the canteens is worn out it provides an opportunity for seated meals of prisoners for up to 30 minutes according to an established schedule for different groups of inmates. The dining rooms are equipped with chairs and tables for all prisoners; there are also shelves which are used for the preservation of the food received by prisoners from their families and relatives. The reasons why some prisoners stand while eating is a question of their own choice and is not due to the lack of chairs for them. There is a minimum time provided for each group of prisoners (between 20 and 30 minutes) according to a fixed schedule.

That fact that part of the prisoners stand while eating is their personal choice and is not due to the lack of tables and chairs.

Actions related to disinfection, disinfection and rat extermination are made at regular intervals in the prison, as prescribed by health authorities. Despite financial difficulties the necessary soap powder, detergents, and cleaning means are regularly provided..

We refuse to accept the statements as to delayed healthcare. As the documents reveal, the average monthly number of examinations of prisoners at the Healthcare Centre of the prison is above 1000. Every day, at least 2 or 3 of them are taken to specialists outside the premises, and the patients whose treatment within the premises is not possible, are timely referred and admitted to external healthcare centres where they are guarded by our employees (evidence thereof is the large number of overtime hours of the employees of the surveillance and guard staff) or to the specialized hospitals at the prisons of Sofia and Lovech. Besides, many prisoners have been released for medical reasons with an order of the district prosecutor in Plovdiv. In order to improve the function of the medical centre, a new time schedule has been drafted for the shifts of the medical staff (from 7 a.m. to 7 p.m.), which means that during the day, there is always a doctor on the premises who renders the necessary medical services to the prisoners in need.

Paragraph 101

Please, see the comments on Paragraphs 94, 95, 97, 98 and 99

Paragraph 102, 103, 104 and 105

The administration of the prison makes successful efforts to implement various programmes involving prisoners. These programmes are educational and are aimed at the acquisition of professional qualification by prisoners. The special work team also includes external non-governmental organisations such as “Mothers against drugs”.

Upon adoption of the new programme by the EPDG section, the number of such activities will increase along with the number of prisoners involved. To this end, the training centre located within the territory of the prison in Plovdiv, was renovated with the support of the state enterprise Prison Activities Fund. All training programmes and courses will be held there.

In view of the overall crisis in the country, the administration is at difficulty to provide a job to each prisoner. Contacts have been made with the companies in the region, but due to the lack of sufficient orders and due to the low qualification of prisoners, it can hardly be expected that the target level of employment will be reached. The same applies to the remaining prisons – the biggest relative share of working prisoners is that of the prisoners living in the campuses, who are mainly employed at external sites.

We firmly reject the complaints that the personnel favors certain prisoners in the process of distribution of job positions. In the process of distribution the provisions of art.172, para.2, of EPDCA apply, namely: “The job which has to be completed by the prisoner is determined by the prison administration in accordance with the available opportunities, whereby, the age, gender, health condition and ability to fulfill the job, the requirements in terms of safety, the professional qualification and the preferences of the prisoner are taken into account.”. This rule is strictly followed.

The way prisoners spend their time outside their cells is determined according to the opportunities, whereby, events in the open such as football tournaments, volleyball tournaments, competitions, etc., are organised and held at a regular basis.

ii. Varna Prison

Paragraph 107

It is true that the prisons in the country are overpopulated and therefore do not have the necessary area for the provision of better material and residential conditions for the prisoners. This issue has been widely discussed by the competent state authorities, and the problem appears also in the media, whereby the broad public is informed thereof.

Many strategies aimed at obtaining the target results in terms of living standard and material status of prisons have been developed; however, these results could have hardly been achieved. At present, the consequences of the financial crisis that create difficulties not only in Bulgaria, but throughout the whole world, represent an additional obstacle to the achievement of this goal.

Paragraph 108

In connection with the recommendations by CPT specific measures have been taken in the prison of Varna to improve the condition of the toilets and bathrooms through the implementation of current, partial and emergency repair works. Regardless thereof, in order to solve the problem thoroughly, more substantial repair works need to be completed for which the respective funding is required.

The overall separation of the toilets and bathrooms in corridor B is technically possible. This will cost approximately 8 000 BGN, but it is not very expedient in terms of security and surveillance, as an area will be created which the guards will not be able to monitor.

The last repair works of the cells, toilets and bathrooms of the prisoners with life-long convictions were implemented in the period between 2007 and 2009. Most of them are in good repair and are fit for use except for cells 15 and 18, where the rendering on the walls is damaged due to humidity. The same applies to the bathrooms. In order to improve the overall condition of the area attributed to the prisoners with life-long convictions; this area will be included on the list of areas subject to major repair works for 2011.

Paragraph 109

For the bathroom in the prison (which is currently equipped with 11 showers), a new design for the water supply and sewerage system, as well as a new design for the interior distribution of the premises (dressing-rooms and bathrooms) are necessary, as the current debit of the supplying pipe is not sufficient to supply the necessary quantity of water to the showers. The surface of the bathroom allows for such reconstruction, but this would cost approximately 30 000 BGN.

After the visit of CPT the faience in the bathrooms was cleaned. The broken windows were replaced and the bathroom was thoroughly cleaned. The prisoner in charge for the hygiene in the bathrooms was advised to maintain the good hygienic condition of the bathroom.

As regards the insufficiency of rubbish containers, the administration of the prison is currently negotiating with the waste gathering company Titan for the provision of another container.

Steps have been taken to improve the sanitary and hygienic conditions in the kitchen and the food supplied to prisoners. The prisoners working in the kitchen, the servicing and the food warehouse will be tested each six months for viruses and bacteria. The prisoners working with disinfection materials have been informed of the proper proportions and the methods of use of such preparations. Once a month they will be inspected by the volunteer group for cleaning the cupboards in the prison dining room for which a protocol will be drafted.

A new ventilation system has to be installed in the kitchen block. The back door of the kitchen block can be used for natural ventilation, as it is supplied with an anti-insect net and a padlock. Two fans have been procured until the installation of the new ventilation system is completed.

The refrigerators are supplied with thermometers. Meat is stored without package. Chicken meat is stored in plastic bags. The number of refrigerators equipped with departments for separate food storage is very restricted. Additional refrigerators will be purchased on the first possible occasion.

The products are transported from the food warehouse to the kitchen in the prison in a closed truck. Food samples are stored for 48 hours, as required. Glass jars are sterilised with covers for 30 minutes and are designated for breakfast, lunch and dinner by a stamp indicating date, month and year on the top of the cover.

As it is not possible to change all dirty bedding at once, a schedule has been developed. Each Monday, the dirty laundry is accepted in sealed plastic bags, and each Friday the clean laundry is received from the warehouse.

The plan for the implementation of the programme adopted by the Council of Ministers foresees that the performance of preliminary and research activities related to the construction of a new prison near Varna will be analyzed in 2011 and that a proposal for its future construction will be drafted by the expert technicians at the Ministry of Justice and by the working group with EPDG.

Paragraph 110

At present everything possible is done to build the two new facilities of closed type in the region of Varna and Burgas. With their entry into service, they will take some of the prisoners from the Varna prison and thus ensure the required minimum area per person and eliminate the third floor of beds.

Paragraph 111

The meals of prisoners are organized in accordance with the provisions of Article 84, paragraph 2, item 1 of EPDCA. The prepared tables with the different categories of alimentary products accrued to every prisoner are fully compliant with the European Prison Rules. The application reduced ration of food to persons serving a prison sentence as a punishment is excluded as an option. The tables were approved by the Minister of Justice, in consultation with the Minister of Health and Minister of Finance. Their practical application is designed to provide sufficient food as to calories and chemical composition of, which could maintain the working capacity and health of prisoners.

Due to this organization of meals 2622 calories are provided daily to prisoners in Varna who do not work.

Weekly menus are based on approved recipes, compliant with the nomenclature of products included in the abovementioned tables and must be coordinated with a medical officer and approved by the head of the prison. Samples of the cooked food are left in the fridge on a daily basis, in accordance with the requirements of the Regional Inspections for Protection and Control of Public Health (RIPCPH). The head warden or other designated official tastes the food every time before it is served to prisoners.

For inmates who need a dietary food as per prescription by a doctor, suitable dietary food is prepared in the kitchen block of the Varna prison.

The recommendations for inclusion in the weekly menu of more dairy products, eggs and vegetables are met and thus a greater variety and better quality of the meals intended for inmates was achieved.

Alimentary products are delivered centrally under a contract between the Ministry of Justice and the company "Panda - I.P" EOOD, Sofia and the supplier provides fresh bread of good quality on a daily basis to satisfy the needs of the prison in Varna.

The organization of nutrition of prisoners in places of detention, respectively, in Varna prison meets the requirements of Rule 25.1 of the "International Standards for the Treatment of Prisoners" and is entirely consistent with the norms approved by health authorities in Bulgaria - the food is cooked in special kitchen units in prisons, served individually in the dining room, there are three meals a day, age, health status and nature of the work of inmates being taken into consideration.

Paragraph 113 - 115

Each SAEW inspector is advised to introduce a variety of activities to the group he is in charge of for the purpose of making the spare time of prisoners as sensible as possible; prisoners are enhanced to continue and upgrade their educational degree through attending courses or through inclusion in educational programmes for illiterates, in educational discussions and in professional courses, whenever the organisation of such events is possible in the prison. The inspectors have been instructed to take into account the specific needs of the various groups of prisoners.

The religious necessities of all prisoners are guaranteed. In the prison of Varna, they are visited according to a schedule by representatives of the following religious communities:

1. Bulgarian Orthodox Church: priest Bozhidar and priest Ivaylo.
2. Evangelist Methodist Episcopal Church: priest Stoyan Stalev.
3. Christian SION Church: priest Lyubomir Shivarov and priest Kostadin Petkov.
4. Evangelist Church of the Great Fifty Days: Yordan Enchev, Ani-Ben-Ari Encheva and Toni Crow.
5. Muslim religion: priest Rasim Osman Rasim.

iii. life-sentenced prisoners

Paragraph 116

The creating of a new Criminal Code complies with the changes in social relations and socio-economic sphere during the last twenty years. One of the leading tendencies in our work on the project of a new CC is to differentiate penal policy in order to respond to the necessity of effective protection of rights and legal interests of citizens. The strictness of criminal repression will be enforced primarily regarding serious offences (punishable with a deprivation of liberty for a term of at least five years or heavier punishment) and recidivism. At the same time criminal responsibility and the order for its realization regarding minor offences will be lightened.

It is essential to reconsider and amend the system of punishments and other measures of state constraint which are imposed upon perpetration of a crime. It is imperative to abolish some punishments which have lost its meaning in the present days among which life imprisonment without commutation has its central place. The abolition of life imprisonment without commutation may have its grounds in the essence of this punishment which is not more effective than life imprisonment. Everywhere in the Special Part of Criminal Code both punishments are stipulated as alternative, i.e. they are imposed for the same kind of offences. In both cases the sentenced person may be pardoned by the President of the Republic. This question will be laid to a wide public discussion.

In November 2009 a working group for preparation of a new Criminal Code was established within the Ministry of Justice. The members include representatives for legal doctrine (from Sofia University "St. Kliment Ohridski" and the MoI Academy), court practitioners (Supreme Cassation Court, Supreme Cassation Prosecutor's Office, National Investigation Service), the bar associations as well as experts from the Ministry of Justice. The General Part of the project was published on the website of the Ministry of Justice in January 2011 and many suggestions and comments were received with regard to the provisions. The new draft Criminal Code should be ready in the beginning of 2012 and will be subjected to broad public discussion. Then it should be entered into the National Assembly.

It should be noted that the project for a new Criminal Code will not provide conditional release to persons with life imprisonment sentences. Currently its aim is to abolish the punishment “life imprisonment without commutation”. Furthermore, according to the project there will be a possibility for commutation of the punishment “life imprisonment” with “imprisonment for a term of fifteen years”. The prerequisites for such commutation shall be that the person has already served at least 15 years of life imprisonment, and that there is evidence this person has been reformed. The punishment “imprisonment for a term of 15 years”, which will replace the life imprisonment sentence, shall be served apart from the served term of life imprisonment. Once the punishment has been commuted conditional release may be an option as per the general rules.

Paragraph 117 - 119

In the prisons of Bulgaria, there are 165 prisoners with life-time convictions. Of them 108 have the right to appeal and for 57 the conviction is irrevocable.

The main activities of these prisoners are in compliance with the legal framework and with the national standards for working with prisoners with life-time convictions, as ratified in 2007. For this period, 27 prisoners with life-time convictions have been admitted according to the general procedure.

In the first 5 years of the prisoners' stay, their personal characteristics and their psychological state are examined in view of evaluating the possibilities of planning a follow-up correction programme. In this case, the point is not to isolate these prisoners, but rather to accommodate them in separate wards. This five-year term is stipulated by the law and is not imposed by the administration of the prison.

Although such prisoners are accommodated in a separate area, they are offered the opportunity to participate in the social activities held with other prisoners. Programmes for stress prevention, social skills development and computer literacy are implemented. At present, two of them are included in the individual courses of education at the prison schools.

The use of additional suppressive means (including handcuffs) is strictly laid down in the Law on Penalty Enforcement and Detention in Custody. As regards prisoners with life-time convictions being taken out of prison in handcuffs, this is only applied in single cases, and yet not at order of and with the participation of the prisons.

Measures were taken for intensification and diversification of the group forms of social and educational work with life sentenced persons. In all prisons special inspection teams were set up including social activities and educational work inspector and a psychologist who are entrusted with the obligation to work with life sentenced persons. For each inmate sentenced to life an assessment of the offender is made, which is detailed, specific and allows to fully identifying the risks.

At Varna prison the team working with life sentenced persons performs diagnosis of conditions such as anxiety, neuroticism, psychoticism, suicidal risk, etc. on a regular basis. One of the good practices in working with this category is prisoners is the application of collective forms of social and educational work. Currently the psychologists realize one educational program and one group program for mutual aid. As a consequence of the work of the team of specialists five inmates with life sentences were accommodated under general regime, i.e. were taken out from the high security zone and now live with other prisoners.

In the Plovdiv prison, one life sentenced inmate is accommodated under general regime. The following collective forms of work are applied - courses in computer skills, sports tournaments for among the persons convicted to life, a program for development of logical thinking. The ones who express willingness are provided with opportunities to participate in creative activities.

Paragraph 120

In all cells for persons sentenced to life in the Republic of Bulgaria there is access to and availability of daylight, and this applies to the prison in Varna as well.

In the Plovdiv prison toilets were built in all criminal cells and in two of the dormitories of prisoners sentenced to life. Measures have been identified and taken to ensure access to bathrooms to persons sentenced to life in Varna and Plovdiv.

To solve the problem it is necessary to build the sanitary units in the dormitories of prisoners sentenced to life, and this task is scheduled to take place during the overall renovation of the main premises of the prison. For this purpose a technical task will be prepared.

Cleaning and washing materials are provided to inmates sentenced to life in the manner applicable to all prisoners.

d. health-care services

i. **health-care services in Plovdiv and Varna Prisons**

Paragraph 122

In the report it is recommended that: "the medical staff should be significantly reinforced". Penitentiary administration is doing its best to reinforce the medical teams in prisons. The recommendation will be taken into account when drawing up a new roster of EPGD will make a proposal for additional posts for doctors and nurses at medical centers in prisons. As a first step to this end, the vacant permanent positions in the prison of Varna need to be filled, which means that we should provide such working conditions that are attractive to medical professionals in order to keep and maintain them. In the prison of Varna, competitions were conducted for a dentist and for a psychiatrist. The competitions had no success due to lack of candidates. When there is an opportunity, one additional permanent position for a doctor (intern), dentist and a nurse will be opened in both the prison of Varna and 30 Razdelna. EPGD's management supported an extraordinary opportunity for the conclusion of civil contracts with two medical specialists (general practitioner and dentist) until the appointment of permanent employees in the prison medical center in Varna;

The objective difficulties related to the medical servicing of prisons are mostly due to the large number of prisoners with suspended health insurance rights (above 81 %). The healthcare insurance contributions of all prisoners are paid by the Ministry of Justice, but many prisoners' rights have been suspended before their admission to prison. They are not entitled to use the services of the NHIF, which include free prescription medicines and hospitalisation according to clinical pathways in external healthcare centers. Due to the low social and financial status of some patients, the services rendered to them in external healthcare centers and the expensive medicines have to be paid from the budget of EPGD, because they are not covered by NHIF.

The complaints and critics with respect to medical services are due to the lack of bigger funds for medicines and healthcare. However, the following fact should be noted: the number of patients attributed to a general practitioner who, according to the National Framework Agreement, is obliged to perform the main healthcare activities related to rendering of healthcare services is a minimum of 1200 people for civilian population. In comparison, prisoners are treated with much priority in terms of healthcare and the number of medical specialists in charge for them. In this regard it can hardly be claimed that the medical staff is insufficient.

There are serious difficulties related to the organisation of competitions for medical specialists due to the lack of applicants with the relevant education and qualification for the vacancies announced. We have to announce the same competition several times for the lack of applicants. Most half of the prisons do not dispose of a psychiatrist and a dentist.

The prison administration provides as well escorting and transporting of inmates to outside hospitals for examinations and consultation with a specialist. At the discretion and prescription of the specialist some patients are hospitalized in the relevant hospital. The decision to conduct diagnostic procedures or hospitalization is taken only in the interest of health and lives of the patients

Paragraph 123

Inmates are assigned as orderlies in medical centers in prisons. For this position a job description is drawn up by the Director of the medical center, which is then and approved by the head of the prison. All inmates appointed as orderlies go through initial training on the volume of activities, rights and obligations when working in the medical centre.

.The re is a special instruction to the heads of Plovdiv and Varna prisons since March 2008 with regard to the implementation of mandatory health events as follows: Inmates employed as orderlies in medical centres (under Article 7, paragraph (1) of the Regulation on Medical Care in Places of Detention) are not allowed to participate in diagnostic, therapeutic and rehabilitative procedures and procedures of care for patients which require contact with the patient's body, except for procedures under palliative care for terminally ill patients.

Paragraph 124

The work of medical institutions in prison is organized in accordance with national health policy and the terms and conditions are set out in the acting legislation.

Medicines supply for the needs of healthcare institutions in prisons - medical centers and the two SHATP is secured by a central supply of medicines under contract № 93/00/53/2009 with "Sopharma Trading." Medicines are available upon prior orders made by the directors of hospitals, in consultation with the materially responsible person in the respective prison. According to the contract medicines are delivered within 48 hours and in cases of emergency - immediately by the distributors of the pharmaceutical company in respective city.

Given the enormous pathology of diseases in medicine there is no way to predict all nosological units of diseases. For each case of a disease that has arisen the need to conduct highly specialized diagnostic procedures or purchase expensive medication, EPGD approves the allocation of additional funds.

Paragraph 125

Every newly accommodated inmate is medically examined and a personal medical record dossier is prepared.

By a special instruction to the heads of prisons from 2006 it was stipulated that for each patient a complete and well-structured medical dossier filled with legible documents should be prepared. They contain all the clinical information that the medical center has for this patient. It is mandatory for medical staff to include entries in the dossier for each visit, for consultations, for the treatment as well as all clinical, instrumental and imaging examinations. This information should be on paper but also computer files may be created. Documents by consultants and medical establishments for hospital care are added to the dossier. Healthcare professionals are obliged to periodically add stage epicrises for the development and assessment of inmates with chronic diseases, prepared in the prison medical center.

Medical centers support a register for all cases of refusal of food, attempted suicide and self-infliction. This data is included in the mandatory indicators for annual reports which directors of medical centres make to EPGD.

Paragraph 126

Visits to medical centers are made as per a schedule prepared by the director of the medical center and approved by the head of the prison. Prisoners wishing to visit a medical professional are recorded in a special diary which is kept by the warders on post. The warder on post accompanies the inmates in need of examination to the prison medical center and ensures security of the respective group in front of the doctor's study. Confidentiality is provided to every patient with regard to the performance of the necessary medical activities.

The director of prison medical center in Plovdiv has been explicitly informed to abide by the principles of confidentiality, informed consent and patients' rights to accept or reject a proposal for a diagnostic treatment plan.

Paragraph 127

Given the increasing number of prisoners with drug addiction measures were taken in prisons in several directions.

Health education programs targeting prevention and reducing desadaptive behavior are conducted in the places of detention on the basis of partnerships with different organizations. Government institutions and NGOs such as are: RIPCPH, the Red Cross, Local Commissions for Combating Antisocial Acts of Minors and Juveniles (LCCAAMJ), "Mothers Against Drugs" association, the Fund for Crime Prevention "IGA", "Open Society" foundation, "Dose of Love" NGO, the foundations "Art of Living" and "Health Initiative", the Regional Councils for Narcotic Substances, the psychiatric dispensaries, the medical centers to the prisons and others actively support these activities.

Locally the partnerships with regional centers for drug addiction and psychiatric wards were expanded, due to which the inmates involved in methadone programs, continue treatment after admission to prison or detention.

For all new prisoners with drug dependence procedures for health assessment, diagnostics of needs, assessment of the risk of relapse and harms, and involvement in group work with adaptation direction were available and accessible.

During this period, incoming inmates with abstinence symptoms have received immediate medical attention and subsequent psychiatric and psychological counseling for managing these conditions.

After an assessment of the medical centers within the places of detention, drug addicts may be sent to the specialized treatment in a psychiatric ward at Lovech prison.

According to the joint Order № RD 09-161 of 03/20/2009 / PM 04-324 from 09.04.2009 by the MoH and MJ services for voluntary counseling and testing for HIV / AIDS (STI) in places of detention under an approved schedule is provided. Services on anonymous and free testing are provided by the medical specialists and consultants of the consulting rooms for anonymous and free testing for HIV / AIDS (KABKIS) to the "Prevention and Control of HIV / AIDS" programme with the Ministry of Health, funded by the Global Fund to Fight AIDS, Tuberculosis and Malaria. Activities on prevention of HIV / AIDS among prisoners are crucial to successful implementation of the objectives of MJ for better healthcare provision in places of detention.

In the process of serving of sentences in prisons, the inspectors from "Social Activities and Educational Work" carry out individual correctional work with prisoners with drug addictions, furthermore upon necessity the said inmates may receive specialized assistance and psychological counseling as well.

Under Twinning Project BG2007/IB/JH/12 - "Strengthening the Role of the Prison System" two programs for work with drug addicted prisoners were started in the places of detention.

Both programs are developed based on cognitive-behavioral approach. The programmes are:

1. "SHORT-TERM PROGRAM FOR MINIMIZING HARMS FROM THE USE OF DRUGS"
2. "MEDIUM-TERM PROGRAMME FOR TREATMENT OF ADDICTIONS WITHIN THE SYSTEM OF BULGARIAN PRISONS"

ii. Lovech Prison Hospital

Paragraph 128 to 131

Following the appointment in April of the new Head Nurse of the Psychiatry Ward, the equipment was promptly renovated. The hygienic conditions were substantially improved as well, administrative arrangements also changing for the better.

There are rooms (e.g. bathrooms and toilets) in need of repair due to moisture penetrating through to adjoining rooms. Using the minimal resources available, most of the bathrooms have been repaired.

In view of the nature of the building and its prisoners, regular repairs of the rooms and equipment are required, which necessitates providing financial resources. Issues such as washing bedclothes, the frequency of using the bathrooms and providing resources for maintaining personal hygiene are met in accordance with the normative requirements, although some of the detergents provided for personal use of patients are misused by being exchanged or traded among patients themselves.

Currently, 100 prisoners use buckets instead of toilets at night. In view of the number of guards available /3 guards keeping 4 floors under surveillance/ and the fact that the Specialized Hospital is located in the remotest area of the prison, the risk of escorting more than 30 prisoners to the bathroom at night is extremely high.

Building bathrooms and toilets in the TB ward using funds provided by European Programs is pending. Another priority is doing the same in the Psychiatry Ward, which will provide bathrooms in all the bedrooms in the hospital, prison and the dormitories belonging to it.

The meals for the patients at the Specialized Hospital are prepared in a special kitchen and consumed on the same day, under the supervision of an experienced long-time attendant. A prescription book is used for those healthcare centres within the system of the Ministry of Health, which dispose of such wards.

There have been no complaints regarding the quantity, quality and variety of the meals. The weekly menu is sufficiently varied and includes meat, vegetables, legumes, dairy and pastry products providing calories, assorted foods and being organoleptic as well. Medicinal diets are also available in case there are patients suffering from certain somatic disorders.

Paragraph 132

There is no obstacle to the possibility of the patients at the Specialized Hospital wearing their own clothes instead of the hospital pajamas, in view of which the Regulations on the Administrative Arrangements at the Hospital will be changed.

However, the above issue poses serious problems regarding the personal hygiene of the prisoners (washing and drying of the patients' clothes), since there is lack of facilities. Therefore, hospital administration will continue to provide clothing to patients who wish so or those who are unable to attend to themselves.

Paragraph 133

Persons admitted for treatment at the Specialized Hospital are sent from the respective prison following preparation of scheduled sentence plans in accordance with the resources of the prison they come from and the prisoners themselves.

The main purpose of the admittance is the medicinal and therapeutic treatment of the patients. Prisoners are involved in various specialized correctional activities depending on their condition, the degree to which they are able to actively participate, as well as their ability to realize the significance of such activities. The duration of patients' stay in hospital is of significance as well. Patients in the TB ward (those who actively emanate TB bacteria) must be isolated as fully as possible from both prisoners and personnel.

There are established operative programs, both group and individual ones, used in prison during the main stage of the sentence term. In execution of the recommendations given, and with the assistance of the treating physician, each person in confinement participates in the program most suitable for himself. Persons undergoing adaptation and re-socialization are involved in the mandatory programs as well. A model individual plan has been developed and established for the use of patients admitted to the above-mentioned Specialized Hospital which is executed by the appointed Ministry of Interior Directorate inspector and a psychologist.

A new case history form was introduced at the Psychiatry Ward a in July 2011 in accordance with the Psychiatry medical standard, including individual therapeutic plans as well as an appraisal of the results from patients' treatment.

We consider the recommendation for building a shelter on the Hospital grounds to be used in bad weather conditions to be an appropriate one. However, the project will be executed after sufficient financial resources have been provided.

Paragraph 134

The case in question is a single and isolated one concerning a person sentenced to life imprisonment, who was sent to the prison in Vratsa, and rated as posing the highest risk of harm to other persons.

The inmate has repeatedly behaved violently, both towards prisoners and staff, each time impulsively, unexpectedly, and brutally. In view of providing maximum security for other prisoners and members of staff the inmate was handcuffed every time he was led out of the cell. This measure is in accordance with Art.40, Par.4 of the Criminal Code. The convict is treated in the same manner in the prison in Vratsa.

Paragraph 135

Patients in the Psychiatric Ward are treated by the medical personnel available at the Specialized Hospital, which amounts 42 permanent positions. Currently there are no vacancies at the hospital. As from July 1, 2011 schedules were improved regarding medical staff on duty during weekdays and weekends.

Trained officers from Sector "Social Activities and Educational Work" (SAEW) participate in group therapies as well. There is an actual need for additional medical personnel at the Hospital during the active part of the day between 6.00 am and 10.00 pm.

Paragraph 136

There has been one isolated case indeed when restraining measures had to be used to restrict the physical activity of a patient, in accordance with the provision under Ordinance No1/2005 of the Ministry of Health. Due to lack of special means for mechanical restraint, handcuffs were used for 30 minutes, not to 'anaesthetize' the person, but in order to apply parenteral medication, avoiding the risk of the patient hurting himself.

A research has been executed throughout public psychiatric institutions regarding the manner in which the means described in the abovementioned Ordinance are used, which established that those means were not used there either. Nonetheless, the Specialized Hospital has taken measures to make such fixatives.

e. other issues related to the CPT's mandate

i. prison staff

Paragraph 138

At present there are 3 vacancies for permanent positions at the prison in Plovdiv. There are 10 new warden guards appointed following a successful contest. The remaining 3 vacancies are for the following positions: Head of "Social Activities and Educational Work" Sector, Probation Officer/Inspector of 1st degree, Intern – Doctor at the hostel in Smolyan.

Currently there are 19 vacancies for permanent positions at the prison in Varna, 10 of these being for the position of guard. For another two Head of Unit positions (at the SAEW) there are appointments pending, after a contest was conducted. There is currently a contest for the position of Head of Housekeeping. There are 6 vacancies remaining, these being for the following positions: Deputy Director at RSGA Dept., Head of Sector at the penitentiary hostel in Varna, in-house dentist (due to lack of applicants for the position two contests have been suspended), in-house psychiatrist, Senior Inspector at the Labor and Remuneration Department, power engineer.

Although contests for filling vacancies are always announced in a timely manner, the procedures take too long with the result that permanent vacancies are not filled until months have passed. While using the contest system slows down the process to a certain degree, it allows prison administration to select qualified personnel.

The European Committee for Prevention of Torture has called upon Bulgarian authorities to reconsider the 24-hour work shift of guards. The organization and operation of security officers in places of confinement are regulated in detail in Chapters 9 and 10 from the Rules for the Implementation of EPDCA (RIEPDCA). Under art.301, Par.3 of RIEPDCA "guards report for duties lasting 6, 8, 12 or 24 hours, providing that a single duty at a post does not exceed 12 hours per work shift". The duration of duties usually varies depending on the particular prison. It is determined by various factors and circumstances, such as distance to populated areas, peculiarities of the territory guarded, and category of the persons guarded. In some cases, in view of the territory guarded, 24-hour shifts have proved to be the most effective and advisable.

ii. contact with the outside world

Paragraph 139 and 140

The implementation of more liberal and open visits in places of detention requires changes in the applicable legislation. The issue has to be standardized in more detail in the RIEPDCA. Visit arrangements depend on the type of penitentiary institution the person is in and on the regime of the verdict. With regard to visits to prisoners serving sentences under general regime and placed in detention facilities of open or closed type the possibility for physical contact could be discussed. On the other hand, accused, defendants and prisoners under special and restricted regimes are not to have access to physical contact. Such change may be grounded on the progressive system of treatment of persons held in detention. However, no legal changes in this regard have been discussed or planned for the near future.

During visits to patients at the Specialized Hospital, for example, physical contact is not allowed. Regarding patients at the TB ward this practice is recommended from a medical point of view.

Paragraph 141

Please, see the comments on Paragraph 80.

iii. Discipline and segregation

Paragraph 143

Each person accommodated in a disciplinary cell is entered into a special register. By law, two types of isolation are provided:

- a 14-day period by order of the head of the prison for disciplinary offences. The order is subject to judicial review.
- a 2-month period in a separate cell without the right to participate in collective activities by order of the Director General of the EPGD for an attempt to escape or for violation on the life or health of other persons, as well as for other criminal offences. The order is subject to judicial review.

Although placed in such cells, prisoners are not deprived of their right to hold telephone conversations, exchange correspondence, spend time outdoors, read the daily press, watch television etc.

In case persons convicted of serious crimes repeatedly violate order and discipline (e.g. have committed two or more serious offences such as disobedience etc.) they might have to be relocated to the high security area. On this basis particular categories of prisoners are placed in communal premises in order to participate in group and correctional activities. These premises are in areas where freedom of movement and contact with other prisoners are restricted.

The legal status and behavior of convicts lodging in the above area is reconsidered every 6 months in order to appraise the possibility for relocation.

Paragraph 145

The two disciplinary cells at Varna prison were entirely refurbished, and not more than one inmate is accommodated in each of them. Each prisoner who is placed in a disciplinary cell receives blankets and a mattress. The receipt of the material property is recorded in a special log where the signatures of the prisoner and the operator of the storeroom are placed as well. A special instruction is made to the supervisory security staff for greater tolerance to those placed in a disciplinary cell for each specific case, as well as for compliance with the schedules visits to the toilet.

By the end of 2010, the eight disciplinary cells in Plovdiv prison were reduced to 4. They were entirely refurbished and now have a living area of approximately 8 square meters each, have their own WC and running water. In each cell there are two separate windows for direct access to daylight, new lighting fixtures with more power were installed and each cell was mounted with fans for better ventilation. The existing plank beds were replaced, the cells were entirely repainted and are now in full compliance with the recommendations of members of the CPT's delegation.

Paragraph 147

The cell in the area of increased surveillance and security in Varna prison was refurbished and no more than one person is accommodated in it, given its area of 4 square meters.

The Plovdiv prison cell in which prisoners were isolated for "administrative reasons" was overhauled and a separate WC with running water and a fan were installed. Its function has been changed and it is now used as a disciplinary cell for prisoners, isolated pursuant to Article 101 paragraph 7 and 8 of EPDCA. Immediately after the visit of CPT delegation the inmates were accommodated into another living space, with an area of approximately 25 square meters, with a toilet in the area of post-prison № 3. The new cell is secured from security point of view, as required for accommodation of this category of prisoners.

Paragraph 148

The provisions of art.248, para.1 of the EPDCA are not applied imperatively to all persons held in the places of detention. The placement in constantly locked premises without the right to participate in collective activities and under the conditions of reinforced security measures and supervision is performed after precise evaluation of personality and seriousness of the crime, as well as after an opinion given by competent officials (psychologist and a SAEW officer). The aim of the relocation to such areas is to prevent the commitment of further crimes within the premises of the prison. The measure is discontinued once the necessary for it has dropped out.

Orders for relocation to constantly locked premises without the right to participate in collective activities are subject to appeal in court.

iv. Complaints and inspection procedures

Paragraph 149

Each complaint, grievance or signal given by a detained person is thoroughly examined and investigated by a public body. The results are taken into consideration in order to appraise their tenability, following which a written statement is prepared addressed to the complainant. The examining body makes a pronouncement based on the collected evidence as well as the objective facts. Though some prisoners might not be satisfied with the responses they received this does not in any way mean that any complaints or signals were disregarded or treated as unimportant.

v. police officers carrying out investigative activities inside prisons

Paragraph 151

The presence of police officers at the places for deprivation of liberty aims to prevent, intercept and solve crimes and other offences committed by inmates or personnel; to prevent escape and terrorist acts; to collect information for the use of law enforcement and judicial authorities.

The current legislation does not contain a provision delegating powers to operational officers at the MoI with regard to awards and penalties imposed on prisoners.

Operational police service at the places for deprivation of liberty is provided by a separate structural unit at the Criminal Police General Directorate (CPGD) of the Ministry of Interior. The cooperation between CPGD and EPGD has been established by Instruction I 3 – 1351/18.06.2010 signed by the Minister of Justice, the Minister of Interior and the Prosecuting Attorney General of the Republic of Bulgaria.

The activities subject to the above instruction are conducted by a separate structural unit of CPGD directly subordinated to the Director of CPGD - the Operational Service of Places of Deprivation of Liberty Sector (OSPDLs). The purpose of operational services is the prevention of crimes and violations in the places for deprivation of liberty, as well as already conducted violations of law. The powers of the relevant OSPDLs officers are:

This independent structural unit operates in strict compliance with acting laws and secondary legislative acts and has the following obligations:

1. to collect, systematize and make available to the competent police and judicial authorities and to EPGD information directly related to the inmates;
2. to prevent, cross and solve crimes and other offenses committed by inmates together with the management of the place for deprivation of liberty;
3. to prevent, cross and discover crimes and other offenses committed by employees of EPGD and the places for deprivation of liberty, with the support of the management of EPGD, prisons and correctional homes;
4. alone or in cooperation with EPGD to hold activities to prevent terrorist acts, hostage taking, organizing riots, mass disobedience and other extreme events in the places for deprivation of liberty;
5. to prevent escapes from the places for deprivation of liberty and assist in the search of escaped prisoners, prisoners not coming from their leave or from the suspension of execution of a sentence on time;
6. to work on checks assigned by the prosecutors' offices, investigating authorities and structures of the Ministry of Interior;

7. upon assignment by the management of the relevant place for deprivation of liberty pursuant to Art.180, par.3 of RIEPDCA to perform checks to individuals and legal entities wishing to employ prisoners to work.

Upon request of the head of the prison, a member of the Commission for Execution of Punishments or the relevant prosecutors, the officers from OSPDLS give their opinion in relation to changing regimes of serving the punishments, release on parole, interruption of the execution of the punishment, starting of work and other issues, according to their competence.

With the permission of the head of the prison the officers from OSPDLS may participate in the meetings Commission on Execution of Punishments under Art.73 of EPDCA without the right to vote.

Officers from OSPDLS are entitled to permanent access to all facilities of the prison or correctional home within working hours. With the permission of the head of the place for deprivation of liberty they may visit the premises at other times of the day.

Employees of other departments of the Ministry of Interior, in carrying out specific tasks, may have access to the places for detention only by permission of the management of EPGD or the head of the respective place for detention.

The managements of the EPGD and the places for deprivation of liberty assist officers of OSPDLS in ongoing operational and investigative work and elimination of problems with the staff in the places for deprivation of liberty.

For violations made by the officers of OSPDLS or upon violation of internal rules of the place for deprivation of liberty, General Director of EPGD in consultation with the Director of CPGD and the head of the independent structural unit, may deprive the officer from his/her access to the place for deprivation of liberty.

Information relating to crimes committed in the places for deprivation of liberty is reported by the Director CPGD to the respective competent prosecutor. The information is also transmitted to the Director of EPGD.

If necessary to take urgent action, officials of OSPDLS, may report collected data directly to the competent prosecutor and must immediately notify the Director of CPGD.

Information about preparation for committing of violations or for committed administrative and disciplinary violations threatening the work of the places for deprivation of liberty, is reported by the officers of OSPDLS to the general director of the EPGD or the head of the prison to take measures to prevent or intersection them.

Officers of OSPDLS may use the databases, card indexes, archives and communication tools of EPGD and of the places for deprivation of liberty and exchange information in compliance with legal requirements.

CPGD and EPGD prepare plans and carry out activities related to the necessary joint actions in extreme situations. Plans are approved by both the Director of CPGD and the Director of EPGD and if necessary are agreed with the respective District Prosecutor's Office or Sofia City Prosecutors' Office.

Upon operational necessity the officers of OSPDLS may offer the director of CPGD to approach the Director of EPGD with a proposal to move prisoners from one place for deprivation of liberty to another or to another worksite within the same prison. The proposals are motivated and submitted in writing.

The work of the operative officers in the places for deprivation of liberty is performed under the terms of prior approval by the respective regional managers or EPGD. The normal working hours of OSPDLS officers are within the frames of the ones established by the administration of EPGD, and their access outside this time interval is under a regime of prior notification and concerns individual cases.

In connection with operational activities performed by the OSPDLS officers they have access to different prison groups; however their visits may be done only after prior notification to the supervisory and security staff officials who ensure the security for each task.

C. RESPONSES REGARDING OBSERVATIONS MADE IN ESTABLISHMENTS UNDER THE AUTHORITY OF THE MINISTRY OF HEALTH

1. Preliminary remarks
2. Ill-treatment

Paragraph 156

An internal review conducted by Lovech SPH management indicated that an orderly at the forensic ward, had expressed rude behavior and physical aggression to patients in the ward. This orderly was dismissed and his labor contract with Lovech SPH was terminated under Order No 16 of 01 Nov 2010 issued by the hospital Director.

No criminal proceedings against the former Lovech SPH employee have been instituted since allegations against him have not been proven.

After reviewing the activities of “Security and Bank Service” company from Pleven contracted by Lovech SPH to provide security services to the hospital, and conducting discussions with company management and employees, it was established that a company employee had expressed rude behavior to a patient in the ward. Under Order No 27 of 26 October 2010 issued by the General Manager of the company this employee received a punishment - “warning for dismissal”.

Order No 81 of 06 June 2011 issued by Lovech SPH Director bans all forms of verbal or physical ill-treatment of mentally ill patients. The Order has been handed to all hospital employees and they have put their signature in confirmation of receiving it.

Paragraph 157

The text of the Instruction is attached to the present response.

Paragraph 158

Karvuna:

Seclusion of risk patients – a room with a sanitary unit designated for a physical restraint of risk patients has been set on each of the three floors, in compliance with the provisions of Ordinance No1 of 28 June 2005 on the measures for physical restraining. A form to record aggression and auto-aggression (Aggressiveness Assessment Protocol) is filled in when a new patient is admitted. Individual risk assessment plans are drafted and are implemented immediately following patient admission to the medical establishment.

3. Patients' living conditions

Paragraph 159

Steps have been taken to personalize living environment of forensic patients ward: a social worker has been assigned in charge of designing small decorations dedicated to specific celebration days, setting decorations with flowers and placing landscape pictures, all of which aiming to brighten hospital premises.

Paragraph 162

MH has received a letter from Karvuna SPH Director, Ref. No RD-03-453 dated 14 June 2011 containing a proposal to reduce the number of beds from 100 to 66 (22 beds per ward) in the three-story building and from 30 to 24 beds in the TB (+) ward. So far the number of beds has been reduced stepwise upon discharge of patients from the hospital. Thus, on the 3rd floor of the acute psychosis male ward the two rooms with limited space have been rearranged and beds reduced by 4 (from 8 to 6 and from 5 to 3). On the 2nd floor of the female wards, beds have been reduced from 3 to 2 in three rooms. In the male narcotics wards beds have been reduced from 3 to 2 in one of the rooms.

TB (+) ward has been equipped with UV lights, 5 of which are installed in the corridor and 1 in the canteen. There are 2 movable lights available. After completion of the reconstruction and repair works implemented under a program supported by the Global Fund to Fight Tuberculosis, UV lights will be procured and installed in patient rooms by the end of 2011.

All patients have been provided with 1 new set of bed sheets.

Paragraph 163

The kitchen facility offers options to prepare food for 87 persons, 24 of whom are in the TB unit.

The kitchen operates with five cooks working on shifts. The food prepared is common for all, no diet food is offered. Meals are prepared immediately before serving. The cooks use the "Recipes Book for Public Catering Establishments". Cooking technologies applied are roasting, boiling and stewing. Frying is avoided. Some desserts and breakfast meals are supplied externally, some are in-house made. 48-hour specimens are maintained. The kitchen operates on a weekly menu basis. This menu is designed together with the chief nurse and the hospital housekeeper. A licensed company selected under a public procurement tender provides the grocery supplies. Food inventory and week menus for April 2011 are used to evaluate the actual food consumption in the hospital.

There is a confectionary on the territory of Karvuna SPH which provides additional food options to patients that choose to use it. It offers packaged sugar, chocolate- and other products, energizing and non-alcohol drinks. It has been recommended to the confectionary to offer dairy products that can be displayed in the refrigerating glass-case available (which was out of order at the time of CPT visit).

Paragraph 164

Regarding SPH Karvuna a shower schedule for patients has been drafted; they will take showered twice a week with the assistance of orderlies. The TB (+) ward has been supplied with running hot water to be used by patients at their discretion.

4. Staff and treatment

Paragraph 167

SPH Karvuna:

The available vacancies for medical doctors are 3. They have been advertised with the Labor Bureau for 2 years and have been periodically updated.

Increase the number of nurses and orderlies: As per the personnel number approved for nurses and orderlies for 2010, all positions are occupied.

Employ additional specialist qualified to provide psychosocial and occupational therapeutic care: The practice to delegate certain tasks, such as for instance guarding the hospital gate, to selected patients has been discontinued under Order No RD-05-159 of 09 June 2011 of the Director of the medical establishment. Three employees hired as guards and working on shifts are guarding the gate.

SPH Lovech:

Under Lovech SPH full-time employment schedule, forensic ward personnel consist of two physicians, eight nurses and six orderlies. Guards are not included in the FTE. Two psychiatrists, two social workers and two rehabilitation specialists working in the hospital provide services to the forensic ward as well and are involved in the rehabilitation program implementation.

Since 01 June 2011 following administrative transformation of positions, two new full-time posts have been established for the forensic ward, namely for a social worker and a psychologist. The social worker position is occupied while the psychologist one has been vacant at the time of CPT visit (Director's Orders No 63, 65 and 67 of 10 May 2011).

Paragraph 168

In SPH Karvuna the practice to delegate certain tasks, such as for instance guarding the hospital gate, to selected patients has been discontinued under Order No RD-05-159 of 09 June 2011 of the Director of the medical establishment. Three employees hired as guards and working on shifts are guarding the gate.

Paragraph 169

In the Karvuna hospital a Psychosocial Rehabilitation Program containing three sub-programs has been developed. Patients participate in drafting their individual treatment plans and their work with a therapist, a rehabilitation specialist and a psychologist. Patients are informed about the treatment progress on regular basis and their future is talked over. Regular contacts are maintained with their relatives and issues are discussed.

Heads of wards define the goals of treatment, the therapeutic means to be used and the scope of individual care and psychosocial activities required to prepare patients for their return to community. Initial Physical Examination and Assessment Protocols, Suicidal Risk Assessment Protocols and Aggressiveness Assessment Protocols have been drawn up and are filled-in by the treating physician upon patient admission to the medical establishment.

Lovech SPH:

Director's Order No 82 of 06 June 2011 stipulates drafting individual treatment plans for all involuntary hospitalization patients, as well as psychosocial activities including the goals of treatment and responsible staff, all in compliance with CPT recommendations. See also the comments on Paragraph 171 in the part regarding Lovech SPH.

Paragraph 171

In Karvuna all patients have the opportunity for outdoor exercise for at least an hour a day. An internal yard has been set for outdoor exercise of male ward patients (those with a Court Ruling).

Lovech SPH:

The high escape risk of patients that committed severe criminal acts in a state of insanity justified the more stringent restrictive measures regarding treatment regimen and free movement within hospital area. Nonetheless, in the recent years relevant measures to provide such patients with a protected exercise area and to include them in appropriate rehabilitation programs conducted in the gym, in the information center and in the psychology office in the male block foyer (premises for conducting psychological sessions and promoting social contacts) have been undertaken. Forensic ward patients whose condition permits it (in medication remission) have been included in the sessions and programs for re-socialization even outside Lovech SPH area while providing the relevant security measures. In compliance with CPT recommendations, an Order No 131 issued on 04 November 2010 regulates patients exercise options outside the ward area.

Paragraph 172

Please, note the comments on Paragraph 171.

5. Means of restraint

Paragraph 175

Karvuna:

Immobilization of patients is conducted in compliance with the requirements of Ordinance No 1 of 28 June 2005 on "Temporary physical restraining of patients with established psychiatric disorders" which stipulates the presence of staff during patients' restraint. A register is maintained about any physical restraint and an individual Restraint Protocol is drawn up. Seclusion is rarely applied in Karvuna SPH since there are therapeutic schemes for oral therapy put in place. Two patients were immobilized in 2010 and from the beginning of 2011 until the time of CPT visit the immobilized patients were three.

Lovech:

Under Order No 135 of 13 October 2009 of Lovech SPH Director the Supervision Commission for applying measures for temporary physical restraining of patients with established psychiatric disorders was updated. The Commission activities are regulated by Commission Operating Rules which lays down the scope of its activities as well as the procedures to be applied.

Orders No 18 of 02 February 2004, 240 of 22 June 2005 and 305 of 19 July 2005 regulate the rules and procedure of applying measures for temporary physical restraining of patients.

An objective obstacle to providing constant presence of staff members when restraining a patient is the insufficiency of staff available. For that reason the forensic ward seclusion room was equipped with video-surveillance means ensuring constant monitoring of patients by staff on duty. This was acknowledged during CPT visit. Increasing the number of nurses and orderlies in the ward will provide an opportunity to have constant surveillance of patients both immobilized and in seclusion.

Paragraph 176

All cases of seclusion in Lovech hospital are recorded accurately. A room designated for a physical restraint of risk patients with a separate sanitary unit has been set on each of the three floors, in compliance with the provisions of Ordinance No1 of 28 June 2005 on the measures for physical restraining. A form to record aggression and auto-aggression (Aggressiveness Assessment Protocol) is filled in when a new patient is admitted. Individual risk assessment plans are drafted and are implemented immediately following patient admission to the medical establishment.

6. Safeguards in the context of involuntary hospitalisation.

Paragraph 178

Order No 83 of 06 June 2011 issued by the Hospital Director requires from such patients to submit a copy of the Court Ruling as well as a copy of the Forensic Psychiatric Expert Assessment.

Paragraph 179

The Regulation on Forensic Examination was issued on 18.05.94 under No 23 (amendments in SG No 45 from 2005) by the ministry of Justice and Ministry of Healthcare. It concerns forensic (FE), psychiatric and psychological examinations. At present a working group is set up with representatives of the Ministry of Justice (leading role), Ministry of Healthcare, forensic doctors, the ministry of Interior, forensic psychiatrists, prosecutors, the Institute of Forensic Science, etc. The working group's purpose is to update the Regulation and draft rules for the reimbursement of expenses hospitals made for the performance of FE. Currently data is collected by hospitals for the expenses made for forensic examinations. It will be summarized and submitted to the working group.

Ordinance № 16 of 13.05.2005 issued by MoJ and MH for forensic psychiatric examinations for compulsory accommodation and treatment of persons with mental disorders regulates the appointment of psychiatric examinations within the meaning of Art. 146 of the Health Act.

Paragraph 180

Patients are admitted:

- 1) Under a Court Ruling defining a specific term of stay that is not to be extended;
- 2) Voluntary treatment (a limited number of patients) following a short-term stay in a psychiatric facility.

Director's Order No 82 of 06 June 2011 stipulates drafting individual treatment plans for all involuntary hospitalization patients, as well as psychosocial activities including the goals of treatment and responsible staff, all in compliance with CPT recommendations.

Paragraph 181

Under the rules and procedure of the Health Law a patient subjected to involuntary hospitalization who is incompetent to sign an informed consent is appointed with a representative selected either among patient's relatives or from the municipal administration staff. Such representation is explicitly stated in the Court Ruling and is legally set. When a patient is to be treated under Article 89 of the Criminal Code, such a patient is mentally incompetent and incapable.

Order No 321 of 19 August 2005 issued by the Director of Lovech SPH lays down the procedure for obtaining an informed consent by involuntary hospitalized patients admitted under the Health Law.

Paragraph 182

A day center and a protected housing have been established in the hospital for patients with severe psychiatric disorders which are registered as social services. The latter are financed and managed by Lovech Municipality since at the time of their setting medical establishments were not authorized to act as a social services provider.

Art.152 of Ch. V ("Psychiatric Health") of the Health Act regulates the cases of provision of social services in state psychiatric hospitals (SPH).

The procedure for conducting occupational therapy in SPH stipulated in Art. 151. of HA and is part of the psychosocial rehabilitation programmes.

Paragraph 183

With a letter to MH by the Director of Lovech hospital financing was requested for the installation of coin telephone post in the forensic ward which would allow forensic ward patients that are banned from leaving the ward to use such post.

Paragraph 184

A procedure to record complaints and warnings of patients and their relatives has been put in place. A box for complaints and warnings has been placed at each floor of the medical establishment. A Commission to open such boxes in each ward and to implement the relevant procedures adopted in Karvuna SPH has been established under Order No RD-05-162 of 09 June 2011. Each room and floor has the Patients Rights Charter displayed in a prominent position.

Patients' complaints are considered by a designated commission, namely Lovech SPH Commission for Patients' Satisfaction and Complaints, the composition of which has been last updated under Order No 80 of 06 June 2010. The Commission functions in compliance with the Operating Rules and reviews all complaints received by patients or their relatives, drafts reports to the Director and responds to patients complaints. Patients have the right to address their complaints directly to the hospital Director as well as to any other institution. A designated brochure to inform patients about hospital regulations, their rights and obligations as well as the procedures to lodge complaints and warnings was prepared back in 2005. Drafting an update or a new brochure is envisaged, and the relevant funding has been requested from MH.

A box for complaints has been placed in the forensic ward thus providing patients with the opportunity to directly address the Commission.

Paragraph 185

Under the Medical-Treatment Facilities Act (Chapter 9) state psychiatric hospitals are accredited by a panel of independent experts. Accreditation assessment is valid for a certain period of time. The hospitals are also regularly visited by the Bulgarian Helsinki Committee, which makes its evaluation in its reports where recommendations to the Ministry of Health are contained.

D. RESPONSES REGARDING OBSERVATIONS MADE IN ESTABLISHMENTS UNDER THE AUTHORITY OF THE MINISTRY OF LABOUR AND SOCIAL POLICY

- 1. Preliminary remarks**
- 2. Follow-up visit to the Home in Pastra**

Paragraph 193

Regarding the Committee's request for the immediate closing down of Block No 3 of the Home for men with psychiatric disorders (HAMD) in the village of Pastra and the relocation of its 41 residents, and bringing the living conditions at the institution in line with the standards and criteria for social services regulated by the Social Assistance Act Implementing Regulations / SAAIR/, ASA has taken the appropriate measures, about which the CPT was promptly notified by MLSP in letters dated 26 November 2010 and January 21, 2011.

The Social Assistance Agency, in cooperation with the municipal council of the town of Rila and the District Administration of Kyustendil, by July 2011 relocated on their own volition or that of their guardians / custodians a total of 36 residents of the Pastra home. The residents were transferred to newly established residential social services throughout the country as follows:

- 3 persons living in Protected Housing in Plovdiv
- 3 persons living in Protected Housing in the village of Druzhevo, Svoge Municipality, Sofia District;
- 1 person living in Protected Housing in Blagoevgrad;
- 2 persons living in Protected Housing in the village of Vodnyantsi, Dimovo Municipality, Vidin District;
- 1 person living in Protected Housing in Ruse
- 7 former residents living in PH at Alexandrovska University Hospital, Sofia;
- 4 persons living in Family-Type Centre in Pazardjik;
- 2 people accommodated in FTC in the village of Dolni Lom, municipality of Belogradchik, Vidin District;
- 13 people living in two PH establishments - village of Dragash Voyvoda, municipality of Nikopol, Plevan District.

For the remaining 5 residents of Block 3, due to their guardians' reluctance to provide them with care in a family environment or be placed with an alternative social service, a temporary solution has been found by moving them to the renovated building of the Home. The attendants' room has been transformed into a residents' room.

Block No 3 is no longer operating.

At present, 34 residents live at the Home in Pastra.

In connection with bringing the living conditions at the Home in compliance with the standards and criteria for social services regulated in SAAIR, in 2009 - 2010 the municipal council of the Municipality of Rila and the Concordia Foundation have provided funds and carried out major repairs of Block No 2, the kitchen, canteen and storerooms. New kitchen equipment and furniture for the canteen have been provided. The water supply system and the electric wiring were replaced. The rooms have been furnished with new furniture purchased with funds provided by the Ministry of Labour and Social Policy (Social Assistance Fund).

The Mayor of Rila, in a report prepared in implementation of the recommendations, informed us that the exit from the main road of the village of Pastra to the Home has unclear status of the ownership. According to the map of restored ownership of the land around Pastra, the road was recorded as property of the Municipality of Rila, but under the privatization contract, it is owned by BAD "Granatoid" and is part of the company's assets. Rila Municipality has taken joint action with BAD "Granatoid" to resolve the issue and has a design ready for rehabilitation of the road from the village of Pastra to the Home.

3. Home for men with intellectual retardation in Oborishte

4. Staff and care of residents

Paragraph 198

As regards the Committee's recommendation that measures should be taken to increase the number of social workers and specialists in therapeutic activities at the Home in the village Oborishte, municipality Valchi Dol, District of Varna, with a view to providing high-quality social services, by letter No 9102/1716 of 18.11.2010, ASA proposed to the Mayor of Valchi Dol Municipality, in his capacity as the social service provider and employer of the Home's Director, to establish and approve in 2011 a higher number of staff in the Home, by increasing the number of specialists in social and therapeutic activities as of 01.01.2011. Financial resources for implementation of the proposed changes were provided in the budget of the Valchi Dol municipality for 2011, by increasing the amount of funds under the Uniform Expenditure Standard of the Home for Men with Intellectual Retardation for 2011 from 5,940 to 6,200 per year.

In this regard, according to the staff positions schedule for 2011 approved by the Mayor of Valchi Dol Municipality, in force since 06.06.2011, the staff now includes 57 full-time employees. On 01.02.2011, another four occupational therapists were appointed. Currently the staff directly involved in residents' training and activities includes seven occupational therapists, three social workers and a specialised teacher.

The medical staff ensuring the implementation of standards and criteria for health care consists of nine specialists.

Regarding the recommendation to increase the number of nursing staff in homes for adults with disabilities, we would like to inform you that MLSP is part of an inter-ministerial task force established by the Ministry of Health to draft an Ordinance on the structure and operation of health offices. The Ordinance provides that each specialized institution for children and adults with disabilities would have its own health office and additional medical staff would be appointed.

The Regional Directorate for Social Assistance in Varna provides methodological support for establishing a new organization with residents at the Home in the village of Oborishte to set up occupational therapy groups matching residents' capabilities and needs.

To implement the task, an Action Plan was adopted for the new organization of work at the Home, with the following items included:

1. Assessments have been made of the individual needs of each resident to identify priority areas for therapeutic intervention in cooperation with the Social Assistance Directorate in Valchi Dol.
2. Groups have been set up of 5-6 members, according to the needs and abilities of service users.
3. A timetable and deadlines have been established for periodic assessment of each individual case.
4. Different interest groups have been set up: sports, music, painting, cooking, and occupational therapy to prevent aggression.

To improve the living conditions in the Home in Oborishte, a new rehabilitation hall and exercise room were built. The occupational therapy room was upgraded, and the mini-pool in the institution's courtyard was repaired and made safe.

Residents' training has been divided into groups according to their skills and capabilities, focused on art therapy, music therapy, occupational therapy, physical exercise and sports, entertaining and educational therapy for literacy and teaching new habits and skills.

5. Creating opportunities for staff training.

As a result of recommendations made, the following steps have been taken:

- two of the social workers at the Home in Oborishte have taken a training course in "Art Therapy";
- monthly trainings for the prevention of aggressive behavior.

Paragraph 199

In connection with the recommendation to significantly increase the number of nursing staff according to the staff positions list for 2011 approved by the Mayor of Rila Municipality, as of 06.06.2011, the staff now includes 42 full-time employees. Currently the staff directly involved in residents' training and activities includes three social workers, four occupational therapists, and a psychologist.

The medical staff ensuring the implementation of standards and criteria for health care consists of seven specialists

Paragraph 200

Regarding the *Home in Oborishte* please, have in mind the comments on paragraph 198.

Regarding the *Home in Pastra* please, have in mind the comments on paragraph 199.

Paragraph 201

Most social institutions caring for residents with mental disabilities were established in the middle of last century as Homes for Persons with Mental Impairments, according to the then valid Rules on the Organization and Management of Institutions for Social Care / OG. issue 91 of 19.11.1965/. Those establishments were used to accommodate mentally ill men and women over the age of 20, for whom active treatment was completed and whose state of health and behavior did not allow them to remain in the family and be part of society. Placement in those institutions was done without differentiating between psychiatric disorder and mental retardation.

- **Mental disorders are conditions** which affect the emotional and volitional capacity of the individual, and only some of them can be prevented. The causes of mental disorders are complex in nature and related to heredity, stress, other diseases etc.
- **Mental retardation is a condition** of limited or incomplete intellectual development characterized by reduced skills acquired in the development process which contribute to the overall level of intelligence, i.e. cognitive, speech, motor and social skills.

Pursuant to Art.37 of SAAIR (SG No 133 of 05.11.1998), Order No 6 of 21.01.2000 was issued, through which social service establishments from the social assistance system are profiled and regionalized.

In 2003, ASA introduced a coordination procedure in residential care for people with mental retardation and psychiatric disorders in order to prevent the placement of persons whose diagnosis does not match the home's profile.

Currently the Home in Oborishte has 29 residents with psychiatric disorders, all of them institutionalized before 1998.

Under the current legislation and the provisions of the Social Assistance Act Implementing Regulations, a "Home for Adults with Mental Retardation" is a specialized institution providing comprehensive social services to persons with moderate, severe or profound mental retardation (oligophrenia etc.) established by expert decision of ECOM/ NEMC.

A "Home for Adults with Psychiatric Disorders" is a specialized institution providing comprehensive social services to persons with psychiatric disorders established by expert decision of ECOM / NEMC.

The foregoing clearly shows that with amendments to the legislation it is necessary to differentiate between homes for persons with psychiatric disorders and mental retardation. Before the differentiation of Homes, people with psychiatric disorders and mental retardation were placed in the same kind of specialized institutions and that is why they continue to cohabitate in some homes.

Current legislation gives people with mental disorders or their legal representatives the opportunity to request that residents be referred to the appropriate social services according to their health condition.

6. Means of restraint

Paragraph 203

In 2003, in connection with surveillance conducted by the Bulgarian Helsinki Committee in institutions for adults with mental disorders and the findings made, the Agency for Social Assistance made recommendations regarding changes in the work organization in specialized institutions for adults with mental disabilities and in the practice of isolation (seclusion).

With this regard, the directors of the Homes received the following methodological guidelines:

- to set up new organization of in need of isolation (seclusion) of persons in a state of severe mental disorders;
- to create normal living conditions in new premises for medical isolation, if needed;
- isolation (seclusion) of residents to be practiced only in cases of extreme necessity;
- cases of isolation (seclusion) to be registered in a special ledger and the entry to include the date of placement, the name of the physician who ordered the measure, the duration of stay, person monitoring the process and the dynamics of the condition of isolated patients;
- medical staff to be more active in watching over the persons placed in isolation in order to establish states of agitation on time and to re-diagnose, change therapy and to place those in need for active treatment;
- to reconsider the activities relating to provision of medical services to the residents (consultations, provision of medicines, prevention, systematic monitoring by psychiatrists);
- to organize regular checks and consultations for clarification of the actual condition of the residents;
- to provide training for the staff for strengthening their professional capacity in order to improve the quality of the provided social services;
- the administrative management to pay more attention to the staff in order to increase their responsibility for the residents.

Given the above and in order to improve the quality of medical care in the homes for adults with psychiatric disorders and intellectual retardation and to upgrade the qualification of staff in specialized institutions, in 2008 and 2009 ASA together with the Human Resources Development Centre organized training courses on the topic: 'Medical and social care for adults with psychiatric disorders and intellectual retardation'. 57 medical professionals from 15 institutions for adults with psychiatric disorders and 42 medical professionals from 22 institutions for adults with intellectual retardation were trained.

Training objectives were focused on psycho-social rehabilitation and community based nursing care, upgrading the competence of medical staff in the area of modern psychiatry and medical and social services, raising the level of knowledge in the area of nurse care planning, development of therapeutic and communication skills, information on the rights of the residents, inclusive also of methods ensuring reduction of physical restraint of residents and control over implementation of such practices.

With regard to the recommendations made in the CPT report on the visit in October 2010 to the Home for adults with intellectual retardation (HAMD) in the village of Oborishte, municipality of Valchi Dol, Varna District for clearly-defined policy regarding restraint of the residents, the director of the Home in the village of Oborishte issued an Order No. 43 of 22.12.2010 on guaranteeing human rights and improvement the quality of service in the Home for adults with intellectual retardation – village of Oborishte containing a detailed description of actions and procedures for restraint of residents in compliance with the staff powers and guaranteeing the residents' rights and dignity.

Measures for temporary physical restraining are regulated in the Health Act, but they concern patients with established psychiatric disorders that are in states that pose direct and immediate danger to their own health and life or to the health and life of others. Such measures are implemented in hospital establishments for primary care or specialized outpatient care, in hospitals for inpatient psychiatric care, mental health centers, specialized units to the multi-profile hospitals and homes for medical and social care.

According to Art.152, Health Act, specialized institutions for social services to persons with mental disorders shall establish health offices with a medical doctor, a paramedic or a nurse and shall perform activities involving: continuous medical monitoring; provision of first medical aid; control of the hygiene of persons; operational control over the observance of sanitary requirements; preparation and keeping of medical documentation of each person. Due to the lack of funding opportunities from the Ministry of Finance, there are not yet such health offices in the specialized institutions.

6. Safeguards

Paragraph 204

Regarding the CPT's recommendation for the introduction of judicial review of placement, we can, to a certain degree, agree that the possibility to place people with mental disabilities on court order would be a step towards better ensuring their rights. This change will ensure greater accuracy and accountability and prevent abuse by relatives in placing mentally handicapped people in institutions. In case court-ordered placement is introduced, a difference must be made between those people who are under guardianship and those who have full legal competence regardless of their condition. For the latter, court-ordered placement cannot be requested as this would contradict the principle that social services are provided based on an individual's personal choice. When placed under guardianship, an individual's personal choice is determined by the relationship with his/her custodian or guardian. In this case, court-ordered placement can be provided for in case of conflict of interest as an additional safeguard to protect the rights of incapacitated individuals, and not as a mandatory form of placement. This can be done irrespective of the fact that even now there is an option for court review of placement because the order for placement in a specialized institution may be appealed in court under the Administrative Procedure Code.

Regarding the procedure for granting consent for the treatment of persons with mental disabilities in specialised institutions ASA with Ref.No 9100-209 of 13.08.2007 prepared a set of Methodological Guidelines for the Operation of Specialized Institutions for Social Services and Social Services in compliance the standards and criteria for health care.

The social service provider is obliged to provide each user with assistance to receive medical and dental care, and other types of health care.

The Health Act explicitly states that medical activities can only be carried out after obtaining informed consent from the patient.

When the user is placed under partial guardianship, for medical activities to be carried out, it would also, in addition to the person's consent, to also receive the consent of his/her guardian.

When the user is placed under full guardianship, informed consent is given by his/her guardian.

Activities in case of surgery, general anesthesia, a invasive and other diagnostic and therapeutic methods that lead to an increased risk to the user's life and health or to a temporary change in his consciousness can be made if they would benefit the user's health without his/her written informed consent only when there is an immediate threat to his/her life and:

1. his/her physical or mental condition does not allow him/her to express informed consent;
2. it is impossible to obtain, in a timely manner, the informed consent from his/her guardian or custodian.

When the user is a minor or is under partial guardianship, for medical activities to be carried out, it would also be necessary (in addition to the person's consent) to receive the consent of his/her parent or guardian. When the patient is a minor or incapacitated, informed consent is given by a parent or guardian, except in cases provided by law.

For persons with mental disorders and established inability to express informed consent, such consent is given by the persons appointed by the court, from within the patient's relatives, who express informed consent for treatment. In case of conflict of interest or lack of relatives, the court appoints a person designated by the mayor of the municipality where the healthcare establishment is located to express informed consent for the person's treatment.

To obtain informed consent, the physician (dentist) informs the patient, respectively his parent, guardian or custodian, and persons appointed by the court, regarding:

1. the diagnosis and nature of the disease;
2. a description of the purpose and nature of treatment, reasonable alternatives, expected outcomes and outlook;
3. potential risks associated with the proposed diagnostic and treatment methods, including side effects, pain and other discomfort;
4. the likelihood of a favourable outcome, health risk in case of other treatment methods or refusal of treatment.

Medical information is provided to the patient or his/her parent, guardian or custodian in a timely and appropriate volume and form, giving them freedom to choose the preferred treatment method.

Paragraph 205

The procedure for establishing guardianship and custody and the rights and obligations of guardians and custodians are described in Chapter 10 of the Family Code. When establishing limited guardianship the Guardianship and Custody Authority must hear the person placed under guardianship.

Pursuant to Art.40c, Para.1 of SAAIR, the social service provider must supply the potential users with a draft contract for the provision of social services and written information about:

1. description of the social services provided;
2. the provider's experience in providing social services and staff qualifications;
3. the terms and conditions for using the services;
4. the procedure of lodging complaints.

The complaints procedure is described in detail in a brochure which is prominently displayed in the institution and is available to both residents and visitors.

It is part of the social services contract.

In connection with the recommendation made and in order to safeguard the rights of social service users, by letter Ref. No 9100-168 of 08.07.2011, ASA has instructed RDSAs to give methodological assistance to service providers as regards including a clause in the social services contract on the procedure for lodging complaints where such procedure is lacking.

The procedure must be developed by social service providers and drawn up and presented in an appropriate manner so it is accessible to users of social services and their relatives.

The complaints procedure should contain:

- arrangements for recording and handling complaints;
- deadline for response to complaints
- the procedure for appeal.

Social service providers are obliged to file complaints in a dedicated journal, to consider and decide each complaint within the prescribed period, in an objective and lawful manner. The letter was brought to the attention of mayors of the municipalities on whose territory social service providers operate.

Paragraph 206

The Guardianship and Custody Authority, under Bulgarian law, is the mayor of the municipality or another official appointed by him/her. For persons for whom a court decision has been enforced placing them under guardianship, the the Guardianship Authority according to the person's permanent address appoints a guardian / custodian, two deputies and advisers from among the relatives of the person placed under guardianship to look after his/her best interests and have given their written consent to do so. Members of the legal guardianship council may include other appropriate persons.

Under the Family Code /FC/, persons placed under guardianship must live with the guardian, custodian, respectively, unless important reasons force them to live separately or be accommodated elsewhere as per a procedure established by law. In cases where no relatives or friends have given their written consent to look after the interests of those placed under guardianship or custody, the mayor of the municipality or another officer appointed by the mayor as in his/her capacity as Guardianship Authority appoints a Guardianship council which includes other appropriate persons.

The mayor of the municipality, in addition to being the Guardianship and Custody Authority, also manages social services in the municipality which represent activities delegated by the state and local activities, and is the employer of persons managing those services.

Given that most of those placed in specialized institutions for adults with mental retardation and psychiatric disorders have been placed under full judicial disability and have no relatives to look after their interests or they do not wish to be involved, the Guardianship Authority appoints a Guardianship council including other appropriate persons. It is within the mayor's powers to assess whether a conflict of interest exists in cases where the Director of the specialised institution has been appointed legal guardian and to release him/her from his/her obligations under the provisions of Article 160, Para. 1 FC.

Regarding the comments made about introducing a firm legal basis for regular visits to specialized institutions and community-based social services by independent bodies, we would like to inform you that the Social Assistance Act Implementing Regulations provide for the establishment of community councils. These councils perform citizens' control over the quality of social services.

Paragraph 208

The Social Assistance Act implementing regulations provide for the establishment of community councils. These councils perform citizens' control over the quality of social services.

Art. 52. (amend. SG 97/2001, in force from 01.11.2001, amend. SG 40/2003, in force from 01.05.2003) A public council for exercising of public control over implementing the activities for social assistance and social services shall be established by order of the municipal council with the following functions:

1. cooperate for the conducting of the policy for social assistance and social services in the municipality;
2. cooperate and support discussion of regional strategies, municipal programmes, plans and projects, related to social assistance and social services;
3. cooperate for coordination of the activity for the provision of social services to individuals, pursuant to Art. 18, para 1, items 3 and 4 of the Social Assistance Act;
4. implement control over the quality of the social services in compliance with the approved criteria and standards;
5. elaborate statements for opening and closing of specialised institutions for social services on the territory of the municipality.

(2) The public council shall consist of at least 7 persons and it shall include social services managers, representatives of individuals pursuant to Art. 18, para 1, items 3 and 4 of the Social

Assistance Act and other interested bodies, individuals and organizations involved in activities related to social benefits and social services.

(3) The members of the public council shall be obliged to observe the regulatory requirements for protection of the information about the customers of social services and supported persons and families, which has become known to them in the process of implementation of their activity.

Art. 53. (amend. SG 40/2003, in force from 01.05.2003, amend SG 27/2010, in force from 09.04.2010) The public councils shall have the right to require and receive information from the Social Assistance Directorates on the activities in the area of social assistance and social services.

Art. 54. (suppl. SG 97/2001, in force from 01.11.2001, amend. SG 40/2003, in force from 01.05.2003, amend. SG 27/2010, in force from 09.04.2010) In case of establishing omissions and in case of signals for infringements in performing the activities related to social assistance and social services, the public councils shall inform in writing the chairman of the municipal council and the inspectorate at the Executive Director of the Agency for Social Assistance.