



CPT/Inf (2008) 11

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

from 10 to 21 September 2006

The Bulgarian Government has requested the publication of this report and of its responses. The Government's responses are set out in document CPT/Inf (2008) 12.

Strasbourg, 28 February 2008

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Copy of the letter transmitting the CPT's report

Strasbourg, 30 March 2007

Dear Ms Doycheva,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Bulgarian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Bulgaria from 10 to 21 September 2006. The report was adopted by the CPT at its 62nd meeting, held from 5 to 9 March 2007.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Bulgarian authorities to provide **within six months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the Bulgarian authorities to provide, in the above-mentioned response, reactions to the comments formulated in this report as well as replies to the requests for information made.

As for the recommendation in paragraph 48, the authorities are requested to provide a response **within three months**.

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

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

Yours sincerely,

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

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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT visited Bulgaria from 10 to 21 September 2006. The visit formed part of the Committee’s programme of periodic visits for 2006, and was the fifth visit to Bulgaria to be carried out by the CPT¹.

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

- Silvia CASALE, President of the CPT (Head of delegation)
- Gergely FLIEGAUF
- Zdeněk HÁJEK
- Vladimir ORTAKOV
- Veronica PIMENOFF

who were supported by the following members of the CPT’s Secretariat:

- Petya NESTOROVA, Head of Division 2
- Edo KORLJAN
- Borys WÓDZ.

They were assisted by:

- Dan DERMENGIU, Head of Forensic Medicine, "Carol Davila" Medical Faculty, Bucharest, Romania (expert)
- Erik SVANIDZE, lawyer, former Head of International Law Department of the Prosecutor General’s Office of Georgia (expert)

¹ The first periodic visit took place in March/April 1995, the second in April/May 1999 and the third in April 2002. Further, an ad hoc visit was carried out in December 2003. The CPT’s reports on these visits, as well as the responses of the Bulgarian authorities, have been made public at the request of the Bulgarian authorities (see documents CPT/Inf (97) 1, CPT/Inf (2002) 1, CPT/Inf (2002) 2, CPT/Inf (2004) 21, CPT/Inf (2004) 22, CPT/Inf (2004) 23 and CPT/Inf (2004) 24).

- Mois BELLO (interpreter)
- Ivanka IVANOVA (interpreter)
- Ognian STOITSOV (interpreter)
- Petroushka TOMOVA (interpreter)
- Mitko VELKOV (interpreter).

B. Establishments visited

3. The delegation visited the following places of detention:

Establishments under the Ministry of Internal Affairs

National Service Police:

- 2nd District Police Directorate, Pleven
- District Police Directorate, Popovo
- 2nd District Police Directorate, Russe
- District Police Directorate, Slivnitsa
- 1st District Police Directorate, Sofia
- 3rd District Police Directorate, Sofia
- Sobering-up centre, Sofia
- District Police Directorate, Targovishte

National Service Border Police:

- Regional border sector, Dragoman
- Border crossing at Dragoman
- Border police station, Kalotina
- Regional border sector, Russe

Establishments under the Ministry of Justice

- Pleven Prison (follow-up visit with emphasis on life-sentenced prisoners)
- Sliven Prison
- Sofia Prison

Investigation detention facilities at:

- Pazardjik (follow-up visit)
- Pleven (follow-up visit)
- Plovdiv (follow-up visit)
- Popovo
- Russe
- Sliven
- Slivnitsa
- Targovishte

Establishments under the Ministry of Health

- Byala State Psychiatric Hospital
- Karlukovo State Psychiatric Hospital (follow-up visit)
- Regional Psychiatric Dispensary with inpatient wards, Russe

Establishments under the Ministry of Labour and Social Policy

- Home for women with intellectual retardation in the village of Trustika, Popovo municipality (Targovishte Region).

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

4. At the outset of the visit, the CPT's delegation had in-depth consultations with Dimitar BONGALOV, Deputy Minister of Justice, Roumen ANDREEV, Deputy Minister of Internal Affairs, Atanas DODOV, Deputy Minister of Health, Ivanka HRISTOVA, Deputy Minister of Labour and Social Policy, as well as other senior officials from those Ministries. Meetings were also held with Ginyo GANEV, Ombudsman of Bulgaria, and Hristo MANCHEV, Deputy Prosecutor General.

Further, a number of discussions were held with representatives of international and non-governmental organisations active in areas of concern to the CPT.

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

5. The co-operation received both from the national authorities and from staff at the establishments visited was of a very high level. The delegation enjoyed immediate access to all the places visited (including ones not notified in advance) and was able to speak in private with persons deprived of their liberty, in compliance with the provisions of the Convention. Further, it was provided with all the necessary documentation, and additional requests for information made during the visit were promptly met. It was clear that information on the CPT's mandate and, where pertinent, extracts from the Committee's previous visit reports, had been circulated to relevant staff.

The CPT wishes to express its appreciation for the assistance provided to its delegation before, during and after the visit by the liaison officer designated by the national authorities, Elena DOYCHEVA, Expert at the Ministry of Justice.

6. However, the Committee must stress that the principle of co-operation between States Parties and the CPT, as set out in the Convention, is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the Committee's recommendations. Regrettably, the delegation's findings during the visit suggest that such action has not been taken in certain key areas which have given rise to serious concerns in the past. The CPT calls upon the Bulgarian authorities to take decisive steps to improve the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention.

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

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

The first immediate observation concerned the investigation detention facility (IDF) in Plovdiv, conditions in which could fairly be described as inhuman and degrading, due to the serious overcrowding, the inability of staff to ensure detainees' access to a toilet at all times and the continuing lack of outdoor exercise. The delegation requested the Bulgarian authorities to provide a precise plan with a timetable for the replacement of the IDF in Plovdiv.

Sofia Prison was the subject of two immediate observations. In the first place, the low staff complement at night, coupled with severe overcrowding, could easily constitute a risk to staff and prisoners. The delegation asked the Bulgarian authorities to take immediate steps to improve staffing levels at night at the establishment. In the second place, hygiene in the kitchen and food storage areas was extremely poor and constituted a potential health and safety risk for staff and prisoners. The delegation therefore called for urgent action to increase the supervision and standard of care in those areas.

The final immediate observation was made in respect of Sliven Prison, where the lack of a full-time doctor placed an overwhelming burden on the feldsher and resulted in many referrals to outside consultations. The delegation requested the Bulgarian authorities to take urgent action to ensure that a doctor is employed full-time at Sliven Prison.

8. The above-mentioned immediate observations were subsequently confirmed in a letter of 16 October 2006 from the President of the CPT. The Committee requested the Bulgarian authorities to provide, within three months, an account of the steps taken in response.

By letter of 13 December 2006, the Bulgarian authorities informed the CPT of the measures taken. These measures will be assessed later in the report.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

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

1. Preliminary remarks

9. Since the 2002 periodic visit, new legislation pertaining to deprivation of liberty has been adopted in Bulgaria. The legal provisions governing the detention of persons suspected or accused of having committed criminal offences are contained in the new Code on Criminal Procedure (CCP), in force since 29 April 2006, and the new Law on the Ministry of Internal Affairs (LMIA), in force since 1 May 2006. Further, Minister of Internal Affairs' Instruction No. I-167 of 23 July 2003 (amended on 20 September 2005) on the procedures and activities of police authorities when detaining persons² provides detailed guidelines covering all aspects of police custody.³

According to Section 17 (2) of the CCP, no-one may be detained for more than 24 hours without authorisation from a court; the LMIA contains a list of grounds on which a person may be detained by the police on their own authority for a maximum of 24 hours.⁴ However, Section 64 (2) of the CCP stipulates that a prosecutor may order the detention for up to 72 hours of a person who has been charged, with a view to bringing him before the court competent to remand the persons in custody. During that time, persons are in principle accommodated in investigation detention facilities run by the Ministry of Justice.

10. It became apparent during the 2006 visit that criminal suspects frequently spent 96 hours in detention prior to being brought before a court entrusted with deciding whether the preventive measure of remand custody should be applied (i.e. an initial 24 hours with the police, followed by a 72-hour detention by a prosecutor's order). This is at the outside limit of what has been deemed as acceptable by the European Court of Human Rights⁵ in its case-law under Article 5, paragraph 3, of the European Convention of Human Rights (in relation to the interpretation of the notion of a person being brought "promptly" before a judicial authority).

The CPT invites the Bulgarian authorities to reduce to a maximum of 72 hours the total period during which persons may be deprived of their liberty prior to being brought before a judge.

² The full title of the Instruction is "On the procedures and activities of police authorities when detaining persons in the structural units of the Ministry of Internal Affairs and on the equipment and internal regulations of detention facilities of the Ministry of Internal Affairs".

³ Subsequent to the CPT's visit, Ministry of Internal Affairs' Instruction No. IZ-2451 of 29 December 2006 (in force since 26 January 2007) replaced Instruction No. I-167.

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

⁵ See for example, the case of *Brogan and Others v. United Kingdom*, 29 November 1988.

11. The desirability of limiting to 72 hours the total period a person may spend in detention prior to being brought before a judge is all the more evident given the delegation's findings during the visit, which suggest that the time limits currently provided for in Bulgarian law are not always observed. The above-mentioned Instruction No. I-167/2003 specifies that the period of police custody runs from the moment a person's freedom of movement has been restricted, and that this time should appear in the order of detention by the police, even if that order has been drawn up at a later stage. However, the delegation came across cases in which there was apparently a difference of up to 7 hours between the moment of apprehension and the time indicated in the order of detention.

Further, in a few isolated cases, the delegation heard allegations that persons had been kept in a series of police stations for several successive 24-hour periods (up to 3 days in total) prior to being detained by a prosecutor's order. In this context, it should be noted that Instruction No. I-167/2003 stipulates that, if a detained person is moved from one Ministry of Internal Affairs unit to another, the whole period of police custody should not exceed 24 hours.

The delegation also observed on a number of occasions that there were gaps of several hours between the expiry of the 24-hour period of police custody and the issuance of a prosecutor's order for 72-hour detention. It is noteworthy that the prosecutor's orders contained no reference to the initial period of police custody; similarly, arrest warrants issued by courts referred to the time of detention under prosecutor's orders and not to the actual time of apprehension. Further, custody records kept at investigation detention facilities did not keep track of the moment of apprehension by the police; neither was there a copy of the order of detention by the police attached to detained persons' files. All this made it difficult to ascertain the precise moment at which a person had been deprived of his liberty and to exercise the necessary control.

The CPT urges the Bulgarian authorities to take appropriate steps to ensure that the detention of criminal suspects is carried out in strict conformity with the legislative provisions. This should include measures to ensure that orders of detention by the police, prosecutors' detention orders and arrest warrants issued by courts refer to the time of actual apprehension. Further, a copy of the order of detention by the police should always be attached to detained persons' files.

2. Ill-treatment

12. During the fourth periodic visit to Bulgaria, the majority of the persons met by the CPT's delegation who were, or had recently been, detained by the police, indicated that they had been correctly treated. It is noteworthy that numerous persons with considerable experience of the police stated that there had been a change for the better in recent years as regards the manner in which police officers treated persons in their custody.

However, a significant number of the persons interviewed did make allegations of physical ill-treatment at the time of their apprehension and/or subsequent questioning by police officers. The ill-treatment alleged mainly consisted of kicks, punches, slaps and blows with truncheons or other hard objects. Further, some detained persons gave accounts of psychological pressure put on them in order to make them confess to a crime, in the form of verbal abuse, humiliation and threats to use physical force. Of particular concern are the allegations made by juvenile detainees (as young as 16) of physical ill-treatment and threats in order to obtain confessions.

13. The examination of medical records at the investigation detention facilities (IDFs) visited revealed several cases of newly admitted persons who had injuries upon arrival which were consistent with allegations made by them of ill-treatment by the police. By way of example, reference might be made to the following cases:

- Case 1. A person admitted to Sliven IDF in March 2006 displayed at the time of his admission: “a trace of a blow - reddened band of skin, 15 x 1.5 cm, on the posterior aspect on the right hemi thorax; swelling of both hands due to beating with truncheon; swelling of both palms; swelling of both index fingers; swelling and reddening of the left ear”. According to the entry in the medical journal, the person concerned alleged that he had been beaten at Sliven Police Station;
- Case 2. A person admitted to Sliven IDF in June 2006, who alleged that he had been beaten by police officers from Sliven Police Station, displayed at the time of his admission: “two 2 x 1 cm abrasions on the forehead; eight 3 x 2 cm abrasions on the posterior thorax; two 3 x 1 bruises on the posterior thorax; bruises and one abrasion on the right forearm; bruises and one abrasion on the left forearm; multiple abrasions, each approximately 1 x 1 cm, on the medial aspect of the left forearm; one 1 x 1 cm abrasion on the left arm; bruises on both wrists; three 3 x 2 cm bruises on the left thigh; bruises and one abrasion on the left thigh; bruises on the right knee and the right thigh”;
- Case 3. A person interviewed by the delegation at Slivnitsa IDF alleged that, in June 2006, he had been slapped, punched and hit with a truncheon by police officers at Slivnitsa Police Directorate. The entry in the medical journal made in respect of the person concerned on the day of his admission to the IDF stated: “haematomas around the left eye, on the posterior thorax and on the left leg, caused by beating with hard objects”.

14. During the 2006 visit, the Prosecutor’s Office provided statistical information concerning police ill-treatment in the period 1996 - first half of 2006, which shows a more or less stable trend in the incidence of cases of abuse by the police over the years. In the first half of 2006, the Military Prosecutor’s Office carried out preliminary inquiries (in order to find out whether prima facie evidence existed to bring charges) into 200 cases, 173 of which concerned injuries caused by police officers in the performance of their duties and 27 which were related to illegal deprivation of liberty; further, 35 criminal proceedings were initiated and 20 police staff were sentenced. The respective figures for 2005 were 269 preliminary inquiries, 78 criminal proceedings and 8 sentences.

15. In the report on the 2002 visit, the CPT made a series of recommendations to address the problem of ill-treatment by the police. From the subsequent responses provided by the Ministry of Internal Affairs, it is clear that efforts have been made in this area, in particular as regards measures to step up police staff training, to adopt new legislation and instructions, and to increase supervision, including through independent monitoring (see paragraph 36). Regional commissions on human rights and police ethics have been set up at the local level, with the aim of preventing police violence through training, methodological assistance and control over the observance of human rights. Further, a Code of Ethics for police staff was adopted, based on standards incorporated in the European Police Code of Ethics.

The CPT welcomes the above-mentioned developments, which are in line with the recommendations made in its previous visit reports. Nevertheless, it is clear from the information gathered during the 2006 visit that continued determined action is needed to combat ill-treatment by the police. **The CPT recommends that the Bulgarian authorities remind police officers, through appropriate means and at regular intervals, that the ill-treatment of detainees (whether of a physical or verbal nature) is not acceptable and will be the subject of severe sanctions. Police officers should also be reminded that no more force than is strictly necessary is to be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for their being struck.**

16. In previous visit reports, the CPT has stressed that the best possible guarantee against ill-treatment by the police is for its use to be unequivocally rejected by police officers themselves. The adoption of the Code of Ethics for police staff is an important step. Section 49 of that Code stipulates that “every member of the police force who witnesses unacceptable or hazardous behaviour on the part of colleagues or acts of violence, inhuman or degrading treatment to any person, should take action for terminating such acts and report to his superior, regardless of the hierarchical position of the perpetrator of the acts”. A similar provision is contained in Section 10 of Instruction No. I-167/2003 concerning the treatment of detained persons.

It is important that the above principles are applied in a concrete manner in day-to-day practice. An atmosphere must be created, within the police, in which the right thing to do is to report ill-treatment by colleagues; there must be a clear understanding that culpability for ill-treatment extends beyond the actual perpetrators to anyone who knows, or should know, that ill-treatment is occurring and fails to act to prevent or report it. This implies the existence of a clear reporting line as well as the adoption of whistle-blower protective measures. **The CPT recommends that the Bulgarian authorities adopt appropriate measures in the light of the above remarks.**

17. It is noteworthy that according to the statistical information referred to in paragraph 14, 94% of the cases of police violence into which the Military Prosecutor’s Office has carried out preliminary inquiries have been notified by the victims or their relatives. This suggests that prosecutors rarely use their *ex officio* powers to open preliminary investigations at their own initiative, which is surprising, considering the system of unannounced visits to police establishments and IDFs by prosecutors, during which they are supposed to check all documentation and speak in private with detained persons.

During the 2006 visit, the delegation sought clarification of the follow-up given to the first two cases referred to in paragraph 13. Staff working at Sliven IDF stated that they were under no obligation to inform the Prosecutor’s Office about cases of suspected ill-treatment, and that it was the duty of supervising prosecutors to inform the Military Prosecutor’s Office if they found any irregularities. There was no information about the two cases in question at Sliven Regional Prosecutor’s Office and no reference to them in the reports drawn up after prosecutors’ checks. At Sliven Military Prosecutor’s Office, it became apparent that Case 2 had not received any follow-up; as regards Case 1, the person concerned had lodged a complaint after his transfer to prison. A preliminary inquiry was carried out by an investigator from the Military Prosecutor’s Office (a standard procedure in cases of police ill-treatment), with explanations taken, inter alia, from the person concerned, his lawyer, the feldsher who had carried out the medical examination at the IDF, and other persons detained at the same time. The inquiry concluded with a refusal to initiate criminal proceedings because “the victim did not ask for a forensic medical examination and it is therefore not possible to establish the origin of the injuries and the exact time of their infliction”.

18. At the end of the 2006 visit, the CPT's delegation indicated that, from the information gathered during the visit, there appeared to be a lack of effective reporting, investigation and follow-up given to cases of police ill-treatment.

Admittedly, Bulgarian legislation contains a number of provisions concerning action to be taken in respect of cases of ill-treatment. Pursuant to Section 205 (2) of the CCP, public officials are under a legal obligation to immediately inform the prosecutor's office of any facts related to a criminal offence which may have come to their knowledge. As already noted (see paragraph 16), a specific obligation to report facts which are indicative of a criminal offence is incumbent on police officers. However, the existence of a suitable legal framework is not in itself sufficient to guarantee that appropriate action will be taken in respect of cases of possible ill-treatment. Due attention must be given to sensitising the relevant authorities to the important obligations which are incumbent upon them. **The CPT must stress, once again, the important role played by judges and prosecutors, but also by staff working at IDFs and other competent authorities, in preventing ill-treatment by law enforcement officials through the diligent examination of all relevant information regarding possible ill-treatment which may come to their attention, whether or not that information takes the form of a formal complaint.**⁶

19. Following the visit, on 28 September 2006, the Sliven Regional Prosecutor issued an order instructing all supervising prosecutors to collect information on any indications of illegal use of physical force and auxiliary means by police staff, to carry out thorough checks into the circumstances and to notify the prosecutor competent to initiate preliminary proceedings if there is an indication that a crime has been committed. Further, officials carrying out medical examinations of detained persons are instructed to immediately notify in writing the Regional Prosecutor's Office of all cases of injuries observed.

The CPT welcomes this action. **It recommends that a similar instruction be issued for the attention of all prosecutors in Bulgaria. The instruction should make it clear that even in the absence of a formal complaint, the prosecutorial authorities are under a legal obligation to undertake an investigation whenever they come across credible information that ill-treatment of persons deprived of their liberty may have occurred. Further, the Committee recommends that clear instructions be issued to staff working at IDFs to the effect that if a person is admitted bearing injuries consistent with possible ill-treatment, the supervising prosecutor should be immediately notified and a copy of the doctor's medical report forwarded to him.**

20. During the 2006 visit, the delegation met a few detained persons who alleged that their complaints of ill-treatment had not been taken seriously or had been ignored by judges before whom they had been brought after apprehension with a view to applying the preventive measure of remand in custody. **The CPT reiterates its recommendation that whenever a detained person brought before a judge alleges ill-treatment by police officers, these allegations be recorded in writing, a forensic medical examination immediately ordered, and the necessary steps taken to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Moreover, even in the absence of an express allegation of ill-treatment, a forensic medical examination should be requested whenever there are other grounds to believe that a person could have been the victim of ill-treatment.**

⁶ See the section "Combating impunity" in the CPT's 14th General Report (CPT/Inf (2004)28).

21. The role played by medical doctors in the prevention of ill-treatment has already been emphasised by the CPT in the past (see paragraph 23 of CPT/Inf (2002) 1). The Bulgarian authorities have subsequently taken steps to introduce a number of procedural safeguards related to medical examination of persons in police custody. Instruction No. I-167/2003 requires that the state of health of detainees be recorded upon arrival and on release from police custody. Doctors examining persons in police custody should issue a medical certificate, a copy of which is to be given to the detained person or to his lawyer, and should enter the results in a special register. During the medical examination, the presence of a police officer - who should be of the same sex as the detainee - is only possible if specifically requested by the doctor. Further, Section 20 (9) of the instruction provides that "if during the medical examination of a detained person reasonable doubt of unlawful use of force or arms arises, the officer escorting the person concerned should report in writing to the head of the structural unit".

However, the observations made during the 2006 visit suggest that the procedure as regards the recording of injuries is not satisfactory. Police doctors (as well as doctors working in IDFs, regarding whom see paragraph 56) recorded the objective medical findings, in a more or less detailed manner, and sometimes included a brief reference to allegations made by the person concerned, but there was no conclusion as to whether the injuries observed were consistent with the person's allegations. It also became apparent that medical examinations were conducted in the presence of police officers as a matter of routine (there was even a specific column for that in the book of medical examinations).

Further, the delegation got the impression that the entries in the custody record concerning detainees' state of health upon arrival and release from police custody were made in a superficial manner and did not always reflect the actual situation. For example, at 1st District Police Directorate in Sofia, the entries made in respect of a detainee in the "Book of detained persons" indicated that his health was good on admission and release. At the same time, the "Book of medical examinations" contained the following observations made by a doctor who examined the person concerned an hour after his admission: "contusion of the right temporal area; suspicion of skull fracture; lacerated wound on the right ear".

At the initial meeting with the Deputy Prosecutor General, reference was made to a guideline for doctors to inform the prosecutor if a detained person has complained of ill-treatment. However, it appeared from conversations with doctors/feldshers examining persons in police custody and IDFs that they did not have a formal role in notifying a prosecutor of any injuries observed on a detained person. **The CPT would like to receive a copy of the previously-mentioned guideline.**

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

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

- **all medical examinations should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers;**
- **whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a detained person, the record should be systematically brought to the attention of the relevant prosecutor.**

It is also important that no barriers should be placed between persons who allege ill-treatment and doctors who can provide forensic reports recognised by the prosecutorial and judicial authorities (cf. paragraph 17). **The CPT recommends that persons who are or have been detained be formally entitled to request an examination by a recognised forensic medical expert.**

23. The appointment of the first Bulgarian Ombudsman in April 2005 is a welcome development. The law entitles the Ombudsman to examine human rights violations following the filing of a complaint or at his own initiative. **The CPT trusts that the Ombudsman will be provided with the resources necessary to examine complaints against the police.**

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

24. In previous visit reports, the CPT examined in detail the formal safeguards against ill-treatment which are offered to persons detained by the police and their operation in practice. The Committee has placed particular emphasis on three fundamental rights, namely the right of detained persons to inform a close relative or another third party of their situation, to have access to a lawyer, and to have access to a doctor. As the CPT has stressed repeatedly, these rights should be enjoyed by all categories of persons from the very outset of their deprivation of liberty (i.e. from the moment the persons concerned are obliged to remain with the police). It is equally fundamental that persons detained by the police be informed without delay of their rights, including those mentioned above, in a language they understand.

25. In the aftermath of the CPT's 2002 visit, new legislation⁷ has been adopted with a view to explicitly guaranteeing the rights of notification of custody, access to a lawyer and access to a doctor for persons detained by the police. The Minister of Internal Affairs' Instruction No. I-167/2003 reiterates the duty of the police to acquaint detained persons immediately after their detention with the previously-mentioned rights; the Instruction makes it clear that detention starts from the moment a person's freedom of movement has been restricted. The CPT welcomes these developments. Regrettably, the delegation's observations from the 2006 visit suggest that the approach to the exercise of detained persons' rights remains formalistic and that the practice fails to mirror the legal provisions.

⁷ In particular, the new Code of Criminal Procedure (CCP), Law on the Ministry of Internal Affairs (LMIA) and Law on Legal Aid (LLA).

26. As regards the right of notification of custody, pursuant to Section 17 (3) of the CCP and Section 63 (6) of the LMIA, the body carrying out detention should immediately notify a person indicated by the detained person.

The majority of detained persons interviewed during the 2006 visit confirmed that they had been informed of this right and placed in a position to exercise it soon after apprehension. However, a few detainees (including juveniles) complained that their relatives had been informed of the fact of their detention only after they had been admitted to an investigation detention facility (i.e. 24 hours or more after apprehension). **The CPT recommends that appropriate steps be taken to ensure that all detained persons effectively benefit from the right of notification of custody from the very outset of their deprivation of liberty.**

27. In its reports on previous visits to Bulgaria, the CPT has drawn attention to the ambiguity surrounding the precise moment from which the right of access to a lawyer applies. According to Article 30 (4) of the Bulgarian Constitution, this right is guaranteed “as from the moment of detention or of being charged”. The legal situation has been elucidated by Instruction No. I-167/2003, which specifies that detention starts from the moment a person’s freedom of movement has been restricted. It follows that the right of access to a lawyer applies from the very outset of deprivation of liberty.

Another noteworthy development is the entry into force of the Law on Legal Aid (LLA) on 1 January 2006. Pursuant to that law, legal aid may be provided to persons detained by the police under Section 63 (1) of the LMIA (i.e. during the 24 hours of police custody). The law stipulates that detained persons should be informed of their right of access to an *ex officio* lawyer immediately after their detention, and that the appointed lawyer should take up his duties without delay. A list of duty lawyers, available around the clock, is drawn up periodically from the National register of legal aid.

28. Most detained persons interviewed by the delegation during the 2006 visit indicated that they had been asked to declare in writing whether they wished to benefit from the right to contact a lawyer after they had been brought to a police station. However, it was alleged by some detainees that police officers had suggested that they should decline this right as they “did not need a lawyer” or had told them that they were not entitled to an *ex officio* lawyer prior to appearing in court. It became clear during the visit that very few persons who had expressed a wish to meet a lawyer – be it private or *ex officio* – had been given this opportunity while in police custody.

In this context, there appeared to be problems with the new system of duty lawyers. Police officers met during the visit indicated that it was not always easy to get a duty lawyer to attend the police station, especially at night, because the pay was low and did not include travel expenses. Further, a number of detained persons expressed scepticism about the usefulness of *ex officio* lawyers (who apparently met their clients very briefly, before appearing in court, and sometimes did not even bother to talk to them).

Another problem related to the impossibility of having confidential discussions with lawyers, either because of the lack of facilities designated for meetings between detainees and their lawyers, or because of the refusal of investigators/police officers to leave lawyers alone with their clients.

The CPT recommends that the Bulgarian authorities recall to all police officers the legal obligation to grant access to a lawyer from the very outset of a person's deprivation of liberty. In this connection, the Committee recommends that the exercise of the right of access to a lawyer be recorded in writing (e.g. in a special register of visits by lawyers or as an entry in the general police custody register).

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

The Committee also reiterates its long-standing recommendation that the confidentiality of discussions between persons in police custody and lawyers be respected.

29. With regard to access to a doctor, in the period since the CPT's 2002 visit, the Bulgarian authorities have taken steps to introduce specific provisions guaranteeing this right, in particular through the issuing of Instruction No. I-167/2003. Pursuant to Section 20 of that instruction, a medical examination can be performed at the request of the detained person or when his medical status requires, as well as at the initiative of a relative, guardian, lawyer or a diplomatic mission representative. Detained persons are also entitled to request a medical examination by a doctor of their choice, at their own expense. Further, at the outset of the 2006 visit, the delegation was informed of a recent amendment to the Law on Health Insurance which exempts persons detained by the police from fees for medical care.

The CPT welcomes the above-mentioned developments. At the police establishments visited, there was a possibility to call in police doctors/feldshers who examined detained persons and made entries in a specific register. Further, the form containing information on rights which was given to detained persons contained a specific reference to the right to be examined by a doctor of the detainee's own choice. However, as already noted in paragraph 21, the procedure for recording injuries observed on detained persons and the subsequent action taken, as well as the confidentiality of medical examinations, should be improved. **In this context, reference is made to the recommendations made in paragraph 22.**

30. As for information on rights, according to Instruction No. I-167/2003, detained persons are asked to sign a form ("declaration of rights") confirming that they have been acquainted with their rights of access to a lawyer, access to a doctor and notification of custody (and, in the case of foreign nationals, to contact a consular office), and indicating whether they wish to benefit from these rights. The declaration is signed in two copies (one given to the detained person, the other attached to the order of detention). In the case of detained persons who are illiterate, the declaration should be filled in by an official in the presence of a witness.

Most – but not all – detained persons interviewed by the delegation had in their possession copies of the declaration, but few demonstrated a clear understanding of it. Further, the delegation observed that the approach of police staff to providing information on rights appeared to be largely bureaucratic: the declaration of rights was regarded as one more piece of paperwork and, provided that police officers had gone through the process of having it signed, their task was considered as completed. Ensuring that detained persons are in a position to understand their rights and therefore to exercise them effectively is, of course, a different matter. It should also be noted that the declaration was available only in Bulgarian (though it was specified therein that, for foreign nationals, an interpreter would be provided to assist with the filling-in of the declaration).

31. At the time of the 2006 visit, the Ministry of Internal Affairs had developed a new, more detailed declaration of rights, which was about to be introduced. In addition to the above-mentioned rights, the new form makes reference to the right to legal aid, in pursuance to the LLA, as well as to the right to receive visits, parcels and food.

The CPT welcomes the Bulgarian authorities' efforts to improve the provision of written information to persons in police custody. **The Committee encourages the authorities to take further steps to ensure that the “declaration of rights” is given systematically to all persons apprehended by the police, at the very outset of their custody, and that it is properly explained to them. The declaration should also be made available in a variety of languages.**

32. The CPT's delegation paid particular attention to the situation of juveniles in police custody. Pursuant to Section 386 (4) of the CCP, the parents or guardians of a detained juvenile should be immediately notified of the fact of his detention. Further, Section 388 of the CCP stipulates that, if deemed necessary, a pedagogue or psychologist may participate in the questioning of a juvenile. In this respect, Instruction No. I-167/2003 provides for the presence of a trusted person “when the police authority finds this necessary”. Bulgarian law also envisages the obligatory participation of a lawyer when the accused person is a juvenile (see Section 94 (1) of the CCP).

Despite the above-mentioned legal provisions, a number of juveniles interviewed by the delegation alleged that they had not been allowed to contact their parents for several days after apprehension (up to 4 days). Further, it appeared that they had been questioned and made to sign statements admitting to criminal offences without the benefit of the presence of a trusted person or a lawyer. The delegation saw a “declaration of rights” which had been completed in respect of an illiterate juvenile detained at 3rd District Police Directorate in Plovdiv, in which the entries “does not wish to use a lawyer” and “does not wish the family to be informed” had been ticked, and the declaration had been signed by an unspecified person. In this connection, it should be noted that the same information on rights was provided for juveniles as for adults.

On the other hand, there was an example of good practice at Slivnitsa District Police Directorate, where a female police officer with a special background in pedagogic training worked with juveniles and attended with them all stages of the investigation process; there was also a special investigator for cases involving juveniles.

33. **The CPT recommends that steps be taken to ensure that:**

- **juveniles detained by the police are effectively guaranteed the right to inform a family member or guardian of their situation; the option “does not wish the family to be informed” should not exist for juveniles;**
- **detained juveniles do not make any statements or sign any documents related to the offence of which they are suspected without the benefit of a lawyer and/or a trusted person being present and assisting the juvenile; if necessary, the relevant legislation should be amended;**
- **a specific version of the “declaration of rights”, setting out the particular position of detained juveniles and including a reference to the right to have a lawyer and/or a trusted person present, be developed and given to all juveniles taken into custody. Special care should also be taken to explain the information carefully to ensure comprehension.**

More generally, the CPT wishes to stress that the setting-up of separate juvenile police units is one way of acknowledging the vulnerability of this age group and the need to provide special safeguards. By removing juveniles from the general population of persons in police custody, this approach provides an opportunity to reinforce the special treatment that should be accorded to this age group. In such systems, juvenile police staff can be specially recruited and trained in the specific legal procedures relating to juveniles. **The CPT invites the Bulgarian authorities to consider adopting the above-mentioned approach, taking into account Recommendation Rec (2003) 20 of the Council of Europe’s Committee of Ministers concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.**

34. In previous visit reports, the CPT recommended that the Bulgarian authorities draw up a code of conduct for police interrogations. In their response to the 2002 visit report, the authorities refer to the pending elaboration of a Code of Ethics for police staff. During the 2006 visit, the CPT’s delegation received a copy of that Code (as well as of a draft Code of Ethics for Ministry of Internal Affairs officials). Admittedly, the Code does lay down important principles concerning the attitude to be adopted by police staff. However, although a useful document, it is not a substitute for detailed instructions on the conduct of interrogations. **The CPT therefore remains convinced of the need to set out in detail the procedure to be followed on a number of specific points (see paragraph 94 of CPT/Inf (97) 1).**

35. The delegation’s examination of custody records at the Internal Affairs establishments visited revealed that there was an improvement in record-keeping. In particular, steps had been taken to introduce a new custody record (“Book of detained persons”) which documented in a comprehensive manner the period spent in custody.⁸ Further, a whole range of other records were kept (concerning transfers outside the detention premises for investigation purposes, medical examinations, visits, etc.). However, the records were not always accurately kept, the deficiencies concerning mostly entries in respect of the time of release/transfer. **The CPT invites the Bulgarian authorities to take further steps to ensure that police officers entering information in registers do so in a consistent and accurate manner in order to provide a systematic standardised record of key elements of custody.**

⁸ Such a record was seen at all police establishments visited except for Slivnitsa District Police Directorate.

36. The importance of systems for the independent inspections of detention facilities has been stressed by the CPT in the past (see paragraph 25 of CPT/(Inf (2004) 21). Since the CPT's 2002 visit, the Bulgarian authorities have taken steps to develop this aspect. In addition to the already existing system of inspection visits by prosecutors, Instruction No. I-167/2003 provides for international organisations and NGOs to have access to police detention facilities and control the observance of human rights, procedures and regimes therein. As a result, monitoring of police establishments has been carried out by the Bulgarian Helsinki Committee and groups of civilian monitors under a project of the Open Society Institute. Further, following the appointment of the first Bulgarian Ombudsman in April 2005, a system of independent control through visits to detention facilities is in the process of being set up.

The CPT welcomes these developments, which can contribute towards the prevention of ill-treatment of persons detained by the police and, more generally, help to ensure satisfactory conditions of detention. In this context, the Committee wishes to stress that, to be fully effective, visits by monitoring groups should be both frequent and unannounced. The monitors should be empowered to interview detained persons in private and, among other things, examine material conditions of detention, custody records and the exercise of detained persons' rights. **The CPT recommends that these principles be fully observed in the activities of the above-mentioned monitoring bodies.**

4. Conditions of detention

37. The police cells seen by the delegation were generally not suitable for holding persons for more than a few hours, and certainly not overnight. They were on occasion of a very limited size (e.g. less than 3 m² at Slivnitsa District Police Directorate; 4.5 m² at 2nd District Police Directorate in Pleven), usually had no windows and their equipment consisted merely of benches, which in most cases were too narrow for a person to lie down (30 - 50 cm wide).

However, the examination of custody records revealed that it was not uncommon for persons to be held overnight, and the cells could become overcrowded, with several persons sleeping on the benches or directly on the floor. Mattresses and blankets were generally not provided for overnight stays. Further, the police stations did not have a budget for providing food to detained persons, and there was no ready access to drinking water.

By way of exception, the cell at 1st District Police Directorate in Sofia, although of a limited size (5 m²), was adequately equipped (two beds with bedding), and there was a sanitary annexe with a toilet and sink. The two cells at Popovo District Police Directorate were also equipped with beds and bedding.

In some police establishments (2nd District Police Directorate in Pleven, 2nd District Police Directorate in Russe, Slivnitsa and Targovishte District Police Directorates), the delegation saw rooms specially equipped for holding juveniles, which were large, well-appointed and clean.

38. Material conditions at the Sobering-up centre in Sofia were generally satisfactory, **with the exception of a lack of adequate heating**. There were four good-sized rooms (measuring some 20 - 35 m²), equipped with beds (two to eight beds per room) with full bedding. The rooms had large windows and were fitted with surveillance cameras. Further, there was a common sanitary facility including a shower. The procedures for admission and care were also satisfactory. Persons could be held for a maximum of 24 hours. A feldsher was on duty around the clock.

39. The cells at the Border police establishments visited were intended for stays of up to 24 hours.

There were no holding facilities at the Dragoman border crossing; therefore persons detained at the checkpoint were transported to the Border police station in Kalotina, which had two cells (each measuring some 5 m²). The cells were fitted with benches (50 cm wide) and had barred doors giving access to light from the corridor. The limited size of the detention facility meant that, when there were large groups of people arriving, they were transferred to the Slivnitsa IDF (see paragraph 49).

There were two cells at the Regional border sector in Dragoman (measuring some 6 m² each), which were used exclusively for holding juveniles and women with children who had been stopped at the border. The cells had windows and were furnished with beds with clean bedding, a table, chairs and cupboards. The facility also had a sanitary area and a room for meetings with lawyers.

At the Regional border sector in Russe, the detention area comprised three cells (measuring some 8 m² each) which had large windows and were equipped with beds with full bedding. The facility was in a good state of repair and cleanliness.

Unlike police establishments, Border police establishments reportedly had a budget for providing food to detained persons; however, some detainees met indicated that they had not received anything to eat. **The CPT would like to receive clarification of this point.**

40. At the outset of the 2006 visit, the CPT's delegation was informed of an ongoing PHARE project "Modernising Bulgarian police and enhancing its efficiency" aiming, inter alia, at the modernisation and reconstruction of police detention facilities. Out of 158 sites, 85 had been selected for participation in the project. The architectural plans were expected to be completed by September 2006, following which tenders would be made and the reconstruction work completed within a two-year period. The third phase of the project would involve the supply of audio-visual, surveillance and security equipment for detention premises and rooms for questioning. A budget of 1.74 million Euros for construction and 1.34 million Euros for equipment had been allocated. The project is expected to be completed by the end of 2009.

41. The above-mentioned project should bring an improvement to conditions of detention in police establishments. However, the deadline for its completion (end of 2009) is a matter of concern for the CPT; rapid action is required in the meantime to address the main shortcomings noted above. **The Committee calls upon the Bulgarian authorities to make serious efforts to bring conditions of detention in police and Border police establishments into line with the basic requirements set out in the reports on the CPT's previous visits** (see, for example, paragraph 47 of CPT/Inf (2002) 1). **In particular, steps should be taken to ensure that:**

- **all cells are equipped with a means of rest suitable for overnight stays;**
- **all persons detained overnight are provided with clean mattresses and blankets;**
- **police establishments are allocated a specific budget to cover the cost of providing food to detained persons;**
- **detained persons are guaranteed ready access to drinking water.**

Further, the limited size of cells such as those seen at Slivnitsa District Police Directorate and the 2nd District Police Directorate in Pleven renders them unsuitable for use as overnight accommodation. **All police cells where persons may be held overnight should be enlarged to at least 6 m².**

42. During the visit, the delegation observed several persons who were handcuffed to stair rails or radiators in the corridors of police stations, and heard allegations from other detained persons that they had spent several hours handcuffed to immovable objects in police establishments. This was in part a consequence of the limited number and size of cells in police directorates, which was clearly insufficient to meet needs, especially when large groups of people were detained.

As the CPT has stressed in the past (see paragraph 40 of CPT/Inf (2004) 21), handcuffs should not be used as a substitute for proper holding facilities. **The Committee recommends that the Bulgarian authorities take appropriate steps to ensure that detained persons are not left handcuffed to stair rails, radiators or other immovable objects and are accommodated in rooms/cells designed specifically for custodial purposes and offering appropriate security conditions.**

B. Establishments under the authority of the Ministry of Justice

1. Investigation detention facilities

a. preliminary remarks

43. The CPT's delegation visited 8 investigation detention facilities (IDFs) in different parts of Bulgaria. Three of the visits – to the IDFs in Pazardjik, Pleven and Plovdiv – were of a follow-up nature. The remaining five facilities – in Popovo, Russe, Sliven, Slivnitsa and Targovishte – were visited for the first time by the Committee.

Since the beginning of 2002, the running of investigation detention facilities has been the responsibility of the Ministry of Justice' General Directorate for the Execution of Sentences. In the report on the 2002 visit, the CPT expressed the hope that the integration of this type of establishment into the system of the penitentiary service would enable the development of a strategy for overcoming the shortcomings of the inherited structures. A new legal framework governing the functioning of IDFs has been adopted since 2002, through amendments to the Law on the Execution of Sentences and the issuing of new internal regulations. Further, the authorities have embarked on a long-term programme for improving conditions in IDFs, involving the closing-down of obsolete facilities (in particular those located in basements) and the construction of new ones.

At the time of the 2006 visit, the CPT's delegation noted a positive trend of reducing the proportion of persons held for lengthy periods of time in IDFs. For example, there were no stays of over six months at Pazardjik, Sliven and Slivnitsa. At Pleven, there had been no persons held for longer than six months in the first half of 2006, and at the time of the visit, there were only two such persons. At Plovdiv, in the first half of 2006, seven persons had been held for longer than six months, and there were two such persons at the time of the visit. The IDFs in Popovo and Targovishte were each holding one person for a period longer than six months (respectively seven and eleven months). The reduction of the time persons spend in IDFs is, inter alia, due to the control mechanisms introduced by the Prosecutor's Office and the Ministry of Justice (for example, the practice of informing prosecutors about persons who have not been taken out for interviews for a period of more than 25 days; the instruction to supervising prosecutors to collect information on persons held for longer than six months, etc.).

Regrettably, regardless of the above-mentioned developments, the 2006 visit demonstrated that the situation in investigation detention facilities remains problematic.

b. ill-treatment

44. Most detainees interviewed at the IDFs visited made no complaints about their treatment by custodial staff. However, at Pleven, Sliven, Slivnitsa and Targovishte, the delegation received some allegations of physical ill-treatment by staff working in the detention areas. The allegations concerned slaps, kicks or truncheon blows which had apparently been inflicted when detained persons had requested to be taken to the toilet, to see a doctor or in other situations demanding additional staff work. The fact that many of the facilities were overcrowded and staffing levels low undoubtedly had a negative impact on relations between staff and detainees.

In several cases, medical evidence consistent with the allegations of ill-treatment made was gathered by the delegation. By way of example, reference might be made to the following case:

- a detained person interviewed in one IDF alleged that, on 24 August 2006, he had swallowed pieces of a blade, following which staff took him out of the cell into the corridor near the entrance of the IDF, punched and kicked him on the legs and the back. Upon examination by a medical member of the delegation, the person was found to display: an oval bruise measuring 3.5 x 1.5 cm on the left ankle, between the outside ankle bone and the Achilles tendon; an infected bruise measuring 9 x 7 cm on the side of the left lower leg; a round scab 2 cm in diameter on the right forearm, ulnar side; multiple multiform bruises on the back.

In the light of the findings during the visit, **the CPT recommends that staff working at the investigation detention facilities in Pleven, Sliven, Slivnitsa and Targovishte be reminded that the ill-treatment of detainees is prohibited and will be severely punished.**

45. The CPT's delegation was pleased to note that custodial staff no longer carried truncheons in detention areas. Following a recommendation made in the Committee's 2002 visit report, staff working in IDFs had been reminded that the carrying of truncheons should be limited to specific situations provided for in law. This is a welcome development.

46. More generally, the CPT wishes to stress that an overall low staff complement in detention facilities impedes the development of positive relations and can generate an insecure environment for both staff and detainees. Moreover, an inadequate staff complement can result in high levels of stress and burnout, which is likely to exacerbate the tension inherent in any detention facility. **The CPT recommends that the Bulgarian authorities take steps to increase the levels of staff in investigation detention facilities who work in direct contact with detained persons.**

c. conditions of detention

47. The IDF in Targovishte was a newly opened facility which offered better material conditions than any of the other IDFs visited. With an official capacity of 40, it was holding 19 detainees at the time of the visit. Most of the cells measured some 8 m² (including a WC and sink behind a partition) and were intended for two-person occupancy. There were also several larger cells (measuring 12 m²), which had up to four beds but were generally holding two persons. The furnishings were in a good state, and there was a functioning ventilation system and a call bell. However, access to natural light was inadequate (although the cells had windows, they were covered with metal slats) and artificial lighting was poor.

48. The IDF in Plovdiv was the largest facility visited by the delegation in 2006 (capacity 121 places, 104 persons detained at the time of the visit). It had previously been visited by the CPT in 1999 and 2002, and had been the subject of gradual improvements over the years, such as making apertures in the cell doors, fitting sinks, electric installations and a differentiated lighting system in the cells, as well as the installation of lockers for detainees' personal belongings in the corridors outside the cells. In their response to the 2002 visit report, the Bulgarian authorities referred to plans to close the existing facility and build a new one in another location; however, these plans had failed to materialise. In fact, despite the previously mentioned improvements, the situation had considerably deteriorated, due to serious overcrowding (e.g. three persons in a cell measuring 6.5 m²; six persons in a cell of 10 m²), which had required the fitting of additional beds in the cells.⁹ The effect of the overcrowding was compounded by the continuing lack of outdoor exercise and the absence of any out-of-cell activities (see also paragraph 53). Further, there were only two common toilets for all detainees, and staff failed to ensure detainees' access to a toilet at all times.

In the report on its first visit to Bulgaria in 1995, the CPT concluded that conditions in investigation detention facilities could fairly be described as inhuman and degrading, and that a fundamental change of the situation was required. The same conclusion applies to the IDF in Plovdiv. As already noted (see paragraph 7), the delegation made an immediate observation under Article 8, paragraph 5, of the Convention and requested the Bulgarian authorities to provide a precise plan with a timetable for the replacement of Plovdiv IDF.

In their letter of 13 December 2006 sent in response to the delegation's immediate observations, the Bulgarian authorities indicated that representatives of the General Directorate for the Execution of Sentences had viewed a five-storey public building in Plovdiv and a proposal had been submitted on 17 October 2006 to urgently start a procedure for ceding the building to the Ministry of Justice. No information has been provided as regards the envisaged timetable for effecting the transfer of the IDF and the resources available. **The CPT calls upon the Bulgarian authorities to transfer without delay Plovdiv IDF to an appropriate facility.**

⁹ In 2001, the average daily occupancy of Plovdiv IDF was reportedly 70, while in 2006 it had risen to 120.

49. Deficiencies similar to those described in respect of Plovdiv IDF were observed at the facilities in Pleven, Sliven and Slivnitsa. The cells there were often overcrowded (e.g. three persons in a cell of 7.5 m² in Pleven; up to four persons in cells measuring some 7 m² in Sliven; four persons in a cell of some 5 m² in Slivnitsa). The cramped conditions were aggravated by the lack of direct access to natural light, poor artificial lighting and the absence of a differentiated day/night system, and inadequate ventilation. Further, the cells were frequently in a poor state of hygiene and repair: the beds were dilapidated and in a bad state of repair, giving a very uneven base for the thin, tattered mattresses, and the blankets were filthy.

No overcrowding was observed at the IDF in Russe, which was operating below its official capacity of 51 places (in fact, only one of the floors of the facility was being used). Cells measuring some 9 m² were holding one or two persons, and there were several larger cells (16 m²) with up to four persons. However, detainees alleged – and the examination of custody records confirmed – that in the past the numbers held had exceeded the official capacity (e.g. 55 persons on 30 May 2006). The cells had windows, but artificial lighting was inadequate and ventilation poor.

The IDF in Pazardjik had previously been visited by the CPT in 1995 (see paragraph 55 of CPT/Inf (97) 1). As in Russe, the facility was usually operating below its official capacity of 42 places (e.g. there were 13 detainees at the time of the visit) and there was no overcrowding in the cells (e.g. three persons in a cell measuring some 12 m²). In addition to beds, the cells were fitted with a table, chairs and shelves. However, the cells were located in the basement and had limited access to natural light; further, artificial lighting was dim and ventilation left something to be desired.

The IDF in Popovo had a capacity of 16 beds distributed among four cells (measuring between 7 and 10 m²), located on the ground floor of the police directorate building. Only two persons were in detention at the time of the visit. The cells had no windows, and artificial lighting and ventilation left something to be desired. The cell equipment comprised bunk beds, table, shelves and an unscreened toilet.

50. Apart from the IDFs in Popovo and Targovishte where the cells had integral sanitation, access to a toilet in the remainder of the facilities depended on staff opening the cell door. A number of complaints were heard in this respect, with the notable exception of Pazardjik IDF. Detained persons were usually taken to the toilet three times during the day and kept plastic bottles or buckets in the cells for other occasions. Further, at Pleven, certain detainees alleged that staff sometimes did not even allow them to go to the toilet during the day, as a form of punishment.

Since 1995, the CPT has repeatedly been making recommendations concerning detainees' access to a toilet in investigation detention facilities. In 1999, the Deputy Minister of Justice issued instructions to the effect that staff should grant detained persons access to the toilet at any time of day or night. However, these instructions have so far failed to produce the desired effect.

51. The arrangements for maintaining hygiene were not satisfactory. Detained persons could take a shower once a week (and at some of the establishments, twice a week in the summer months). However, no differentiation was made for women, despite their special hygiene needs during menstrual periods. As regards personal hygiene items, only soap was occasionally provided, though not at all of the IDFs visited. Further, no cleaning materials were made available to detainees.

Bed linen was usually provided by detainees' families, with the exception of Popovo and Russe IDF (at the latter establishment, bed linen had apparently been distributed shortly before the delegation's visit). There were no laundry facilities and detainees washed their clothes and bed linen themselves when they were taken to have a shower.

52. At all the IDFs visited, food was provided three times a day. The daily food allowance per person varied between 1.30 and 1.50 BGL. Some complaints were heard about the quantity and/or quality of the food (especially at Slivnitsa, where no cooked food was provided). Detainees could also receive food from their relatives and it was possible to buy food from time to time at some of the IDFs. For the purpose of keeping detainees' food, fridges had been installed at some of the establishments (e.g. Plovdiv, Slivnitsa).

53. The situation regarding the regime of activities for persons held at IDFs remains of serious concern to the CPT. With the notable exception of Popovo, none of the facilities visited had an outdoor exercise yard (due to the fact that they were located in the buildings of police departments, usually on the top floor). Efforts to alleviate the situation had been made in Pazardjik, Russe, Slivnitsa and Targovishte, where detainees were allowed to stroll around an empty room, which was often of a limited size (e.g. only some 5 m² at Slivnitsa) or without access to natural light (at Pazardjik). At the other establishments visited (i.e. Pleven, Plovdiv and Sliven), detainees continued to spend months on end locked up in their cells 24 hours a day. Inside the cells, in addition to books and newspapers, detainees were in principle allowed to have battery-operated radio and TV sets (however, the delegation saw such items in only a few cells).

As regards in particular female detainees, some of them indicated that they preferred not to go to the "exercise room" because there was only male staff available to supervise them. **In this respect, reference is made to the comment in paragraph 58.**

54. The position of juveniles held in IDFs is a matter of particular concern to the CPT. They were accommodated in separate cells, but the conditions there were identical to those of adult detainees. The only means of distraction were self-made games, old newspapers and occasional books provided by relatives. Although a lack of purposeful activity is detrimental for any detained persons, it is especially harmful for juveniles, who have a particular need for physical activity and intellectual stimulation.

55. It is clear from the above that conditions in investigation detention facilities fail to meet the CPT's standards and, on a number of points, are in violation of the Law on the Execution of Sentences (Chapter 14 concerning remand in custody). The continued failure to ensure compliance with the Committee's recommendations in this area can be seen as a breach of the principle of co-operation laid down in Article 3 of the Convention.

The CPT calls upon the Bulgarian authorities to take steps without further delay at investigation detention facilities to:

- **reduce cell occupancy rates to an acceptable level, applying a minimum standard of 4 m² per detainee in multiple-occupancy cells; all cells of less than 6 m² should be withdrawn from service (e.g. at Slivnitsa IDF) and cells measuring 6 m² should be used for accommodating one person;**
- **improve cell lighting (by providing access to natural light and adequate artificial lighting, and introducing differentiated day/night lighting systems) and ventilation in the cells;**
- **improve the state of the beds and bedding provided to detained persons;**
- **guarantee strict compliance with the instructions given to custodial staff to grant detainees access to the toilet at any time of day or night;**
- **ensure that detainees are in a position to maintain their personal hygiene and are provided with essential personal hygiene products; in the light of the special hygiene needs of women, positive differentiation in terms of additional access to washing facilities is necessary;**
- **provide detainees with sufficient materials to clean their cells;**
- **ensure that detainees are guaranteed their entitlement of one hour of genuine outside exercise per day (two hours in the case of juveniles);**
- **provide other purposeful activities to detainees; particular attention should be paid to the special needs of juveniles.**

d. health-care services

56. Arrangements for the provision of health care to persons detained in IDFs remain as described in the 2002 visit report (see paragraph 63 of CPT/Inf (2004) 21). During the 2006 visit, the delegation observed that there could be gaps of several days (up to a week) between admission and the initial medical examination by a doctor/feldsher. Further, the general medical screening was cursory and did not identify detained persons' health needs. There was no screening for tuberculosis, hepatitis or sexually transmitted diseases. This is of particular concern from a public-health point of view because of the cumulative effect of overcrowding and inadequate material and hygienic conditions in the IDFs.

Doctors met by the delegation claimed that access to outside hospital facilities was in principle not a problem and that the procedure was speedy. However, it transpired that authorisation was needed from a prosecutor to transfer a detainee to a hospital, and medical recommendations could be slowed down or overridden by legal considerations.

With some notable exceptions, the recording of injuries observed upon arrival was perfunctory, and there was no mention of the relevant statements made by the persons concerned and no doctor's conclusions. It also became apparent that doctors were not explicitly instructed to report cases of detained persons bearing injuries to the IDF director and/or a prosecutor (see paragraph 21). Further, medical examinations continued to take place in the presence of non-medical staff.

Moreover, the quality of medical records and the observance of their confidentiality left something to be desired (e.g. the so-called "ambulatory book" which contained entries of all examinations did not reflect accurately information contained in the medical certificates drawn up in respect of new arrivals; the latter certificates were kept in the legal files of detainees).

The CPT calls upon the Bulgarian authorities to implement its long-standing recommendations that:

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

Further, the Committee recommends that measures be taken to ensure that the medical examination on admission is comprehensive, including appropriate screening for transmissible diseases. The CPT also recommends that steps be taken to improve the quality of medical records and ensure the observance of their confidentiality.

57. At the IDFs in Popovo and Targovishte, the delegation observed a practice of staff asking newly arrived detainees to sign a pre-printed form stating that they had no health problems and had not been subjected to physical violence. In the CPT's opinion, such a practice might inhibit persons from making a truthful statement about what has happened to them. **The Committee recommends that an end be put to this practice.**

e. other issues related to the CPT's mandate

58. Another problem connected with the treatment of detained persons related to the lack of a sufficient gender mix of staff working in IDFs. All facilities (except for the one in Sliven) could hold female detainees; however, a female staff member was at best present in the detention areas during weekdays, but never at night or weekends. Mixed gender staffing can contribute to improved relations between staff and persons in custody and is a requirement in places where women are being held, to ensure that gender sensitive tasks can always be performed by persons of the same gender. **The CPT invites the Bulgarian authorities to increase the number of female staff deployed in detention areas in IDFs and to ensure 24-hour presence of a female staff member whenever there are female detainees.**

59. The visit entitlement of persons held in IDFs has remained as described in the 2002 visit report (at least two visits of up to 45 minutes each per month, unless a restriction has been imposed by a prosecutor). In addition, detainees are entitled to make telephone calls twice a week and a card-operated phone has been installed in all the IDFs visited. However, conditions in which visits took place left much to be desired in Pleven (where the "visiting room" was a cage by the entrance to the detention area) and Sliven (where visits took place in a partitioned-off part of the landing). Further, it appeared that the only way for detainees to obtain phone cards was through their relatives; they could not themselves purchase the cards directly.

Visits from lawyers were not restricted and took place in the same conditions as visits from relatives. However, some detainees alleged that the confidentiality of their meetings with lawyers was not always respected, due to the presence of custodial staff in the meeting room.

The CPT recommends that steps be taken to:

- **equip IDFs with proper visiting rooms;**
- **ensure that detainees can purchase phone cards;**
- **ensure the confidentiality of meetings between detained persons and their lawyers.**

60. Many detainees complained that they did not have sufficient information about their rights and the internal regulations. In Plovdiv IDF, extracts of the internal regulations were posted inside the cells, but they referred only to detainees' obligations without mentioning their rights. In Sliven, information on detainees' rights and obligations was posted in the corridor but not inside the cells. In Slivnitsa, information on the internal rules (in Bulgarian and English) was available in the "exercise room".

The delegation saw in detainees' personal files an information sheet on the "general rights of detained persons under international and national law", with quotes from human rights instruments. Detainees were given the information sheet to read and sign but were not allowed to keep a copy of it. The sheet was available in Bulgarian and English.

The CPT recommends that the provision of information to persons detained in IDFs about their rights be improved, in particular by means of:

- **making the full text of the internal regulations readily available to detainees;**
- **ensuring that all detainees are provided with a copy of the information sheet on rights, which they can keep in their possession. The information sheet should be made easier to understand and be available in a variety of languages. Special care should also be taken to explain the information carefully to juvenile detainees to ensure comprehension.**

61. IDFs received periodic inspections from district and regional prosecutors (on average, once a month) who made brief standardised entries in a special register of inspections and issued more detailed reports after each inspection, covering mainly legal aspects. In 2000 and 2001, the Supreme Cassation Prosecutor's Office issued detailed instructions concerning the manner in which inspections should be carried out. According to these instructions, the methods of prosecutor's supervision should include checking records, meetings with detained persons (it being left to the prosecutor's discretion whether such meetings should take place in confidence or in the presence of others) and examining complaints. Further, in 2006 all IDFs had been visited by the General Directorate for the Execution of Sentences. The Bulgarian Helsinki Committee was also carrying out monitoring visits to IDFs (but was not entitled to talk in private with persons in pre-trial detention).

The CPT refers to the recommendation made in paragraph 36 (concerning inspections of police establishments), which applies equally in this context.

2. Prison establishments

a. preliminary remarks

62. The delegation carried out for the first time full visits to Sofia and Sliven Prisons. Further, a targeted follow-up visit was paid to Pleven Prison in order to examine the situation of prisoners serving life sentences.

63. Prison overcrowding in Bulgaria remains a matter of serious concern. At the time of the 2006 visit, the total number of prisoners stood at around 11,500 whereas the maximum official capacity (calculated on the basis of 6 m² of living space per prisoner) was 5,828. According to statistics provided by the General Directorate for the Execution of Sentences, overcrowding in the prison system averaged 197% and in some prisons (e.g. Burgas and Pleven) it surpassed 300 %.

At the initial talks with the Ministry of Justice, the delegation was informed of various measures being taken to relieve the problem of overcrowding. In the first place, efforts were being made to increase the use of probation¹⁰ (introduced at the beginning of 2005) and forms of conditional release. Further, as a result of changes in the area of risk assessment, preparation for release and transfer to less closed conditions, more prisoners were able to serve their sentences in prison hostels of the transitory or open type (18-20%). There were also plans to extend the prison estate, through the construction of new prisons and hostels and/or the reconstruction of existing ones (e.g. in Burgas, Plovdiv and Vratsa). In addition, the pending adoption of amendments to the Criminal Code (which would, inter alia, decrease the penalty for possession of small amounts of drugs and change the list of sentences which can be commuted to probation) was expected to reduce the prison population.

64. It is regrettable that the above-mentioned efforts have so far not made an impact on the prison population, the size of which threatens to undermine efforts to improve prisons. The CPT is convinced that the only viable way to control overcrowding and achieve the standard of 6 m² of living space per prisoner envisaged by Bulgarian law is to adopt policies designed to limit or modulate the number of persons sent to prison. In this connection, the Committee must stress the need for a strategy covering both admission to and release from prison to ensure that imprisonment really is the ultimate remedy. This implies, in the first place, an emphasis on non-custodial measures in the period before the imposition of a sentence and, in the second place, the adoption of measures which facilitate the reintegration into society of persons who have been deprived of their liberty.

The CPT calls upon the Bulgarian authorities to redouble their efforts to combat prison overcrowding and in so doing, to be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, as well as by Recommendation Rec(2003)22 on conditional release (parole).

¹⁰ The Ministry projected that 11,000 probation orders would be issued by the end of 2006 and 20,000 by the end of 2007.

65. The problem of overcrowding has a direct bearing on the issue of work and other activities for prisoners. During the 2006 visit, in the course of the initial discussions at the Ministry of Justice, the delegation was informed that some 4,000 prisoners had work, representing approximately 35% of the country's prison population. The delegation learned of the preparation of a draft Ordinance on conditions and regulations for the employment of persons deprived of their liberty, aimed at stimulating prisoner employment. In this connection, the CPT wishes to stress that a major improvement of the employment situation in prisons would require a fundamental change in approach, based on the concept of prisoners' work being geared towards rehabilitation and resocialisation rather than towards financial profit.

The CPT recommends that the Bulgarian authorities strive to increase the provision of purposeful activities for prisoners. In this context, the authorities should seek to introduce further measures aimed at ensuring that both sentenced and remand prisoners are provided with an opportunity to work, in the light of the above remarks. Further, efforts should be made to develop programmes of education and vocational training in all penitentiary establishments.

b. ill-treatment

66. The CPT's delegation did not hear any allegations of deliberate physical ill-treatment of prisoners by staff at either Sofia or Sliven Prisons. This is a positive reflection on the staff at both establishments. Further, no allegations of physical ill-treatment by staff were received from life-sentenced prisoners at Pleven Prison. However, a few prisoners at Sliven Prison indicated that there were occasional instances of verbal abuse by staff.

The delegation did receive several allegations of physical ill-treatment of prisoners by staff at other prisons not visited in 2006, in particular Burgas and Stara Zagora Prisons. The alleged ill-treatment – which involved slaps, kicks and beatings with truncheons by custodial staff – was said to be directed mostly towards newly arrived prisoners and inmates who had made complaints. This highlights the need for continued vigilance on the part of the authorities at both central and local level. **The CPT recommends that prison staff be reminded at suitable intervals that both the physical ill-treatment and verbal abuse of inmates are not acceptable and will be the subject of severe sanctions.**

67. There were indications during the visit that inter-prisoner violence/intimidation was on the rise. The overcrowding prevailing in the prison system clearly did little to defuse tensions and rendered staff control more difficult. The delegation received information about two recent incidents. The first one, which took place at Sofia Prison in 2005 and involved the filming by mobile phone of sexual abuse between prisoners, has led to disciplinary punishments and criminal proceedings against several members of staff, as well as to the replacement of the prison Director. The second case concerned Plovdiv Prison: in July 2006, prison staff reportedly had to intervene in order to prevent degrading treatment among prisoners who were playing a game of “strip chess” in their cell at night; the case was under investigation by the Prosecutor's Office.

In this context, the delegation also noted in the records of disciplinary punishments and of the use of physical force and other preventive means by staff at Sliven Prison that inter-prisoner violence/intimidation was not infrequent. Further, the delegation itself witnessed instances of verbal intimidation between prisoners in Group 7, which combined life-sentenced prisoners with the most unmanageable prisoners placed under segregation and disciplinary punishment (see paragraph 100).

68. The duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. In particular, prison staff must be alert to signs of trouble and be both resolved and properly trained to intervene. Such a capacity to intervene will of course depend, inter alia, on an adequate staff/prisoner ratio. In addition, the prison system as a whole may need to develop the capacity to ensure that potentially incompatible categories of prisoners are not accommodated together.

Further, prison staff are unlikely to be able to protect prisoners if they fear for their own safety or if they lack effective management support. These issues should be openly addressed in initial, in-service and ongoing training programmes for staff of all grades.

To sum up, tackling effectively the problems posed by inter-prisoner violence requires the implementation of an individualised risk and needs assessment, the availability of sufficient members of staff and ensuring that staff receive the requisite initial and advanced training throughout their careers.

The CPT recommends that the Bulgarian authorities devise a national strategy concerning inter-prisoner violence, in the light of the above remarks.

69. It was observed during the 2006 visit that staffing levels were low (see paragraphs 117 and 118). In this context, the CPT wishes to stress that ensuring positive staff-inmate relations will depend greatly on having an adequate number of staff present at any given time in detention areas and in facilities used by prisoners for activities. An overall low staff complement and/or specific staff attendance systems which diminish the possibilities of direct contact with prisoners will certainly impede the development of positive relations; more generally, this will generate an insecure environment for both staff and prisoners.

It should also be noted that, where staff complements are inadequate, significant amounts of overtime can prove necessary in order to maintain a basic level of security and regime delivery in the establishment. This state of affairs can easily result in high levels of stress in staff and burnout, which is likely to exacerbate the tension inherent in any prison establishment. **In this context, reference is made to the recommendation in paragraph 119.**

c. conditions of detention

i. *Sofia Prison*

70. Sofia Prison comprises a closed prison located in Sofia city, an adjacent prison hospital (discussed separately under “Health-care services”) and two transitional facilities, in Kremikovtsi¹¹ and Kazichene¹², which were not visited by the delegation. On 8 September 2006, the total prisoner population was 2,054 inmates. The main building of the closed prison was constructed in 1906, with several adjacent buildings added over the years. With an official capacity of 650, it was reportedly holding 1,028 adult male prisoners, of whom 96 were prisoners awaiting trial (“accused”), 325 were inmates standing trial or awaiting a final sentence (“defendants”) and the remainder were sentenced. 120 of the inmates were foreign prisoners, held separately from the rest of the population¹³. Further, there were 15 life-sentenced prisoners.

71. The situation at the closed prison was marked by extreme overcrowding, which exacerbated the already problematic material conditions of a building constructed a century ago and had negative repercussions for all other aspects of life.

Prisoners were distributed into ten groups according to legal criteria.¹⁴ The majority of inmates were held in the main prison building, a five-storey construction. Additional accommodation was provided in three smaller adjacent buildings, one for foreign prisoners, a second for prisoners employed on the upkeep of the prison, and a third for newly arrived prisoners and prisoners awaiting transfer to hostels.

72. In the 1980s, most of the units in the main building had been refurbished, with two cells converted into one (measuring some 16 m²) and integral sanitation (a WC and sink) installed. However, due to the overcrowding, most of these cells were holding 7 or 8, and occasionally up to 10, prisoners. In some units, prisoners were accommodated in large-capacity dormitories; the most serious overcrowding was observed in Group 9, where 74 prisoners were held in a dormitory measuring some 80 m². In many cells and dormitories, a third tier had been fitted to the bunk beds.

Access to natural light was adequate, except for the cells in the basement (see paragraph 73), as was ventilation. However, the top floor of the main building (Group 7) was reportedly very hot in summer. The same floor also experienced problems with the water supply, due to low pressure. Further, prisoners throughout the establishment complained that it was impossible to switch on the light in the cells after 10.30 p.m. (apparently because the electricity was cut centrally), even in an emergency.

General hygiene was variable and there was a need for improved provision of cleaning materials. Further, many of the cells and dormitories were in an advanced state of dilapidation.

¹¹ A closed hostel for 580 non-recidivists working in the steel works in Kremikovtsi.

¹² A hostel with 180 prisoners in open conditions and 260 prisoners in transitory conditions.

¹³ According to Section 4 of Appendix 1 to the Regulations for Implementation of the Law on the Execution of Sentences, persons who are not Bulgarian nationals and have Bulgarian permanent resident status serve their sentences in Sofia Prison and are accommodated separately from other prisoners.

¹⁴ Group 1: lifers and other prisoners under special regime; Group 2: sentenced prisoners employed on maintenance jobs; Group 5: recidivists on remand; Groups 7 and 12: sentenced recidivists; Group 8: admissions and prisoners awaiting transit; Groups 9 and 11: remand prisoners; Group 10: sentenced foreign prisoners; Group 13: foreigners on remand.

73. The reception/transit cells located in the basement of the main building had been visited by the CPT in 2002 (see paragraphs 97 to 99 of CPT/Inf (2004) 21) and were the subject of an immediate observation at that time. The Bulgarian authorities subsequently indicated that a new reception unit had been opened at Sofia Prison in September 2002. However, it became apparent during the 2006 visit that the basement cells had continued to operate and were being used for prisoners transferred from other prisons to attend court hearings. Conditions in those cells remained basically unchanged, except that there was no longer overcrowding, since fewer numbers were being held (e.g. cells measuring some 17 - 20 m² were holding two persons, as was a small cell measuring some 5 m²); that said, there was still the same unacceptably high number of sleeping places in each cell (12 to 14 in the larger cells, 4 in the small one). Further, metal slats fixed to the cell windows continued to obstruct access to natural light and ventilation, and prisoners were only being provided with mattresses and blankets, and used a bucket inside the cells to satisfy the needs of nature. Such conditions of detention are unacceptable, regardless of the fact that the basement cells were being used only for short stays.

74. The new admissions unit which had entered into service at the end of 2002 offered somewhat better conditions of detention. In particular, the state of repair was good, and access to natural light, artificial lighting and ventilation were adequate. Further, each cell had a separate sanitary annexe. However, the number of sleeping places in the cells (e.g. 21 sleeping places in a cell measuring some 40 m²) was too high, though admittedly there were usually not more than 10 prisoners in each cell.

75. Low staffing levels, especially at night, resulted in failure to provide access to a toilet at night to prisoners in Group 2, where cells did not have integral sanitation. There was a common toilet facility in the unit and an open-door policy during the day; however, after evening roll call the cell doors were locked for the night and there was no access to the toilets. This is not acceptable; all prisoners should have access to toilets at all times.

76. Hygiene was extremely poor throughout the kitchen, food storage, serving and eating areas. By way of example, the surfaces of the metal tables on which bread was cut were degenerating, there were containers of rubbish in the eating area, dishes were being washed in a sink with water flowing out of broken plumbing and flooding the floor, and the two dishwashers were standing in water, surrounded by various electrical equipment. Such conditions constitute a potential health and safety risk for staff and prisoners. As already noted (see paragraph 7), the delegation invoked Article 8, paragraph 5, of the Convention and made an immediate observation, requesting that urgent action be taken to increase the supervision and standard of care in the kitchen and food storage areas. The Bulgarian authorities' response of 13 December 2006 makes reference to immediate measures taken after the CPT's visit, in particular the replacement of the chief cook and part of the prison staff working in the kitchen, and the introduction of better work organisation and control over the observance of hygiene standards in the kitchen and storage areas.

Food was the subject of complaints by many prisoners. Meals were taken in the basement area by the kitchen, and the delegation observed that a large proportion of prisoners took only bread and returned to their cells. Prisoners indicated that only those who did not receive parcels ate the meals provided by the prison (which consisted mostly of vegetable stews).

77. The establishment's Director informed the delegation of a rolling programme of refurbishment which would address the dilapidation in various units. **The CPT would like to receive a timetable for the implementation of this programme. Further, the Committee recommends that in the closed part of Sofia Prison:**

- **the use of the cells in the basement of the main building be discontinued;**
- **the occupancy rate of the establishment be substantially reduced, the objective being to provide a minimum of 4 m² per prisoner;**
- **as part of the rolling programme of refurbishment, integral sanitation be provided for Group 2 as a matter of urgency; in the meantime, prisoners' access to the toilet at night be ensured and the use of buckets discontinued;**
- **prisoners be provided with materials for cleaning the cells;**
- **the quality and quantity of food provided to prisoners be reviewed.**

The CPT also invites the Bulgarian authorities to consider options for emergency lighting in the cells at night (i.e. when prisoners go to the toilet).

As regards the prison's kitchen, the Committee wishes to receive confirmation that the necessary repair works have been carried out with a view to remedying the shortcomings referred to in paragraph 76.

78. Following his appointment in early 2006, the establishment's Director had taken the initiative to increase outdoor exercise to 1.5 hours per day for all categories of prisoner. This is a very positive step which is all the more important given the otherwise impoverished regime. There were six large exercise yards which included areas of grass, benches and some body-building equipment; in addition, drinking taps and urinals had recently been installed in the main yard, at the request of prisoners. The exercise yard for life-sentenced prisoners and other inmates under special regime was a separate area to one side of the ordinary exercise yards, with low walls topped by fencing; the space was adequate for the small number of persons exercising together. As for foreign prisoners, they took outdoor exercise in a concrete yard, large enough to play ball games. However, none of the yards was provided with shelter from inclement weather.

79. Only some 200 of the prisoners in the closed prison had paid work (in contrast to the two hostels, where the majority of inmates had a job). Most of the working prisoners came from the sentenced category (Groups 2, 7, 10 and 12). Remand prisoners could also work (e.g. 13 inmates from Group 5 were employed) but sentenced prisoners were given priority. Most of the jobs were provided in a printing workshop which was operating at full potential, with some 100 prisoners employed. Another 20-30 prisoners were engaged in making shoes. There were also a furniture workshop (employing 5 prisoners) and a mechanics workshop (11 prisoners). Further, around 60 prisoners were occupied in work related to the upkeep and running of the prison.

80. The prison had a school, but as the school year had not yet started at the time of the visit, the delegation could not observe educational classes in progress. Some vocational training was also provided (e.g. courses for tailors and construction workers).

81. During the day, inmates could associate in the corridors of their units (except for Groups 1 and 8) and watch TV in their cells. The establishment had a library with over 17,000 books, including some in foreign languages, but the books were mostly old and there was no legal literature. There was also a large church; an Orthodox priest attended regularly and representatives of other denominations paid occasional visits. However, apart from sporadic recreational activities (concerts, football matches, chess tournaments), the majority of prisoners did not benefit from organised activities.

82. The CPT recommends that the Bulgarian authorities strive to further develop the programme of activities for prisoners – both sentenced and remand – in the closed part of Sofia Prison. In this context, efforts should be made to increase work opportunities and involve more prisoners in educational programmes and vocational training courses.

The Committee also invites the Bulgarian authorities to provide the exercise yards with shelters from inclement weather.

ii. Sliven Prison

83. Sliven Prison is the only penitentiary establishment for women in Bulgaria. It comprises a closed prison, set up in 1962 on the outskirts on the town of Sliven, a reformatory hostel for girls and a transitory-type prison hostel at the same location, and an open-type prison hostel “Ramanusha” some 10 km from Sliven (not visited by the delegation). With an official capacity of 320¹⁵, on the first day of the visit the establishment was holding 373 prisoners, of whom 69 were women on remand, 243 were sentenced women held in the closed prison and the transitory facility, 48 were sentenced women accommodated in the open-type hostel, and 13 were sentenced men employed on maintenance jobs in the closed prison. The female prisoner population included 7 juveniles, 3 life-sentenced prisoners and 6 foreign prisoners.

84. Prisoners were distributed into 10 groups in accordance with their legal status and regime.¹⁶ Prisoner accommodation was provided in the original three-storey building to which two wings had been added over the years, holding, inter alia, the reformatory hostel for girls (see paragraph 87) and the transitory-type hostel (see paragraph 88). Due to ongoing refurbishment works on one of the floors of the main building, there had been some reshuffling of prisoners which had resulted in overcrowding in certain of the cells. For example, in Group 4, five women were being held in a cell of some 14 m², and eight women in a cell of 19 m². In the unit for remand prisoners (Group 2), all the cells were overcrowded (e.g. cells of some 16 m² were accommodating five or six women). In Group 6, cells measuring some 7.5 m² were holding two prisoners each.

¹⁵ Based on 6 m² per prisoner.

¹⁶ Group 1: admissions and prisoners in transit; Group 2: remand prisoners; Groups 3 to 6: sentenced female prisoners; Group 7: lifers and other prisoners under special regime; Group 8: sentenced male prisoners; a transitory-type prison; a reformatory hostel for juveniles.

Access to natural light and ventilation were not a problem, due to the fact that all cells had large, unscreened windows. Artificial lighting was also adequate; however, the electricity supply was reportedly intermittent. The cell equipment (single beds and/or bunks, individual lockers, a table and stools) was generally in a good state, and the cells had a personal touch (curtains, small carpets on the wooden floors, plants, some decoration on the walls). Further, general hygiene was very good. However, the top floor of the main building (Groups 5 and 6) showed signs of disrepair (because of a leaking roof, there was mould on the walls).

85. There was no integral sanitation in any of the cells. During the day, prisoners could circulate around their units and access to a toilet was not a problem (each unit had a common sanitary facility). However, at night, low staffing levels resulted in delays or failure to provide access to toilets, and prisoners relied on buckets inside their cells. This is not acceptable; as already stressed (see paragraph 75), all prisoners should have access to toilets at all times. Given the special needs of women for ready access to sanitation during menstrual periods, this situation must be addressed as a matter of urgency.

86. As regards possibilities to maintain personal hygiene, the unit sanitary facilities (with showers, sinks and floor-level toilets) were somewhat dilapidated but clean. Some complaints were heard about the fact that all prisoners in a group had to use the washing facilities during the same limited period of time in the morning and evening, which resulted in conflicts. Hot water was provided for some 20 minutes in the evenings, during which time prisoners also washed their clothes and bed linen. Further, there was hot water for showering for one hour at the weekend. The lack of supply of personal hygiene products was reportedly a problem for some inmates (only the most destitute prisoners received help from donations); apparently, only washing powder and basic materials for women's monthly needs were provided by the prison.

87. The reformatory hostel for juveniles was holding 7 girls at the time of the visit. Material conditions were of a very good standard. The bedrooms (measuring some 12-15 m²) were furnished with beds (two or three per room), a table, lockers, coloured bedcovers and curtains; there were also personal touches, such as soft toys and plants. Juveniles had access to a large communal area (with bookshelves, a TV set and games), a kitchen with a microwave oven and hot plates, and a smoking room with facilities for making tea and coffee. The sanitary facilities were also adequate and there were reportedly no problems of access to the toilet.

88. The transitory-type prison hostel also offered good conditions. The women placed there had a semi-open or open regime and there was an open-door policy, including access to the yard, during the day. Rooms measuring some 12 m² were accommodating two women, and those measuring 17 m², four women. The rooms were pleasant and light, with good-sized windows; the women kept them clean and decorated them with personal items.

89. The food appeared to be well prepared and very few complaints were heard about it. Meals were eaten in two dining rooms, with large windows providing a sense of space and light. The delegation was told of plans to refurbish the dining rooms in 2007.

The kitchen was scrupulously clean and well organised, despite the ageing equipment. Quantity, quality and hygiene control appeared to be functioning well.

90. **The CPT recommends that steps be taken at Sliven Prison to:**

- **reduce cell occupancy rates to an acceptable level (a minimum of 4 m² per prisoner); cells measuring 7 m² should not accommodate more than one prisoner (save in exceptional circumstances when it would be inadvisable for a prisoner to be left alone);**
- **provide sufficient staffing levels at night to enable all prisoners to have ready access to a toilet around the clock;**
- **provide all inmates with basic hygiene products and seek ways to increase the time during which prisoners have access to hot water during the week;**
- **pursue the refurbishment programme, in particular on the top floor of the main prison building.**

91. The prison had a creche which could accommodate up to 8 women with babies (up to one year of age, or exceptionally up to three years of age). The creche was well decorated, had modern equipment and comprised a number of facilities (kitchen, bathroom, baby changing room, laundry), as well as a terrace on which mothers and their babies could spend time in the open air. However, the placing of 8 beds alongside cots in the main creche room could make for very crowded conditions if they were all occupied (at the time of the visit, there were only two babies in the crèche). The delegation learned that in the recent past, six women with babies had been accommodated in the creche at the same time, which had apparently led to tension and quarrels, as a result of which all babies were removed from the creche before reaching the age of one year. A complaint lodged by a prisoner in August 2006 concerning the conditions and care provided at the creche was in the process of being checked by the General Directorate of Execution of Sentences. **The CPT would like to be informed of the outcome of that complaint.**

92. Outdoor exercise of one hour per day was provided in various yards in the grounds of the prison. The large central garden and courtyard around which the main prisoner accommodation and educational facilities were situated provided generous space for exercise and recreation, although it appeared to lack shelter from inclement weather. The yard for juveniles and women from the transitory-type hostel had benches, trees and plants. However, the delegation observed that the time taken to escort prisoners to and from the workshops was counted as part of the outdoor exercise time. **Whereas the escort time was undoubtedly spent in the open air, this should not be counted as part of the daily hour of exercise.**

93. Some 45% of inmates in the closed prison had work at the time of the visit. Jobs were provided in a sewing workshop (49 prisoners), a workshop for cleaning household goods (34 prisoners) and a workshop for machine parts (21 prisoners), as well as on various tasks related to the upkeep of the prison (23 female prisoners and 13 male prisoners). Complaints regarding work mainly centred on the difficulty of filling the production quota; if the required total was not completed, the day did not count towards reduction of time served or there was a reduction in pay.

94. The prison had a well-equipped school with a good range of educational facilities and courses. This was important given the estimated need for education, including the 40% illiteracy of the female sentenced population. 82 prisoners were enrolled at the beginning of the new school year. The school also had a computer room and offered vocational training classes as preparation for work in the sewing workshop. Additional vocational training courses (for hairdressers, chefs, pastry-cooks, beekeepers) were organised periodically, when there were sponsors.

The pre-release programme included a job club providing individual and group preparation for life after release, using outside trainers.

95. As regards other activities, the prison had a library with some 16,000 books. The selection of books appeared to be varied; each group had a day for visiting the library for about one hour and prisoners could take out as many books as they wanted. Further, there was a large multi-functional hall where concerts and cinema projections took place, a video club, and a room on each unit where prisoners could watch TV in the evenings. An attractive chapel had been set up, using profits from the prison production and donations, and a part-time post for a priest was being funded from the Ministry of Justice budget.

The gym appeared to be the least used facility. It was sufficiently large for basketball games, but was in need of repair. The delegation was told that adult prisoners had access to the gym for one hour per week; however, this was not confirmed by many prisoners with whom the delegation spoke.

96. Special attention was paid to juvenile prisoners, who had a full programme of activities, including three hours of schooling, three hours of work in the sewing workshop, an hour in the gym, an hour of outdoor exercise, and in addition to the above-mentioned activities could participate in various interest groups (handicrafts, health education, cooking, civic education, gardening, etc.).

97. To sum up, the management team was making strenuous efforts to involve as many prisoners as possible in a variety of activities. The CPT welcomes these efforts and **encourages the management of Sliven Prison to continue its efforts to engage more prisoners in work and other purposeful activities. The Committee also invites the prison management to increase the use of the gym and to provide the exercise yards with shelters from inclement weather.**

iii. life-sentenced prisoners

98. In its previous visit reports, the CPT paid close attention to the situation of prisoners serving life sentences (see paragraph 92 of CPT/Inf (2004) 21; paragraphs 118-124 of CPT/Inf (2002) 1). The delegation which carried out the 2006 visit examined progress made in this area.

99. At the time of the visit, Pleven Prison was holding 8 life-sentenced prisoners, of whom 5 were held in a special section and 3 had been placed in a unit for prisoners serving sentences under strict regime.¹⁷

In the special section for lifers, the configuration of the cells remained the same as that observed in 2002 (in particular, the cells still measured only 4.5 m²). On a positive note, the cells' grille-fronted door remained open throughout the day, which enabled prisoners to move along the corridor, associate with other life-sentenced prisoners in the unit and have ready access to the sanitary facilities; however, at night a bucket in each cell replaced the toilet. Positive developments concerned outdoor exercise, which all prisoners in the lifers' section took together, and the additional possibility to engage in some sports activities (e.g. table tennis). Further, some work was provided inside the section (making gift bags). All prisoners had a TV set in their cells and there was an additional TV in the corridor. It is also noteworthy that life-sentenced prisoners were not handcuffed when they left their section, took outdoor exercise or saw the doctor.

Since 2004, Pleven Prison had embarked on an "experiment" of integrating certain life-sentenced prisoners into the general prison population. At the time of the 2006 visit, three such prisoners were being accommodated in a unit for prisoners serving sentences under strict regime (and one more was expected to be moved there soon). They were held in a cell measuring some 22 m² with three other prisoners. Conditions in the cell were generally adequate (large windows, various items of furniture, elements of personalisation). One of the prisoners had a job as a cleaner and the other two occasionally made gift bags in the cell. The cell doors were open throughout the day and life-sentenced prisoners enjoyed the same rights as the remainder of prisoners under strict regime. It appeared from conversations with other prisoners and staff that the arrival of the life-sentenced prisoners in the unit had not caused any particular dissatisfaction or problems.

100. In Sliven Prison, there were three women serving life sentences. Two of them were being accommodated in separate rooms in Group 7, in conditions of a good standard (i.e. the rooms measured some 16 m² and were light, well-equipped, nicely decorated and tidy). They could associate with other prisoners in the unit during outdoor exercise, meal times and recreation, go to the library and the chapel, as well as work in the unit; further, once a week they were allowed an additional 45 minutes in the yard to do some gardening. However, it is noteworthy that in addition to lifers, Group 7 was accommodating prisoners segregated on administrative, medical or disciplinary grounds; thus lifers were housed alongside the disciplinary cells. **This juxtaposition is unfortunate and suggests that the lifer segregation rule is of a punitive nature.**

The third woman serving a life sentence had recently been moved to a unit for sentenced prisoners (Group 4) and, like in Pleven Prison, this seemed to be working well. The prisoner concerned worked in the sewing workshop and had access to all the other activities available to other inmates (with the exception of education and vocational training which, reportedly, were not available to life-sentenced prisoners).

¹⁷ There was also one prisoner whose life sentence was not final and who was accommodated together with other prisoners on remand.

101. There were 15 lifers at Sofia Prison at the time of the visit; two were being accommodated in the mainstream prison population, while the rest were held in a separate unit in the section used for disciplinary isolation (cf. the comment above concerning the same practice in Sliven Prison). Lifers in the separate unit were accommodated in single cells measuring 7.5 m²; the cells had a small barred window, set too high in the wall to afford a view out. There was integral sanitation which reduced the limited space in the cell; however, the cells would provide adequate sleeping accommodation for one person provided these prisoners were offered a varied programme of out-of-cell activities during the daytime.

However, in contrast to the situation observed in Pleven and Sliven, life-sentenced prisoners in Sofia Prison lacked communal activities. They were locked up in their cells except for periods of outdoor exercise (1.5 hours like the rest of the inmates at Sofia Prison), which all but four lifers took together. The lack of group activities is not justifiable in security terms, given that life-sentenced prisoners already exercise together. The delegation was told of plans to set up a group room for association and other activities for lifers, which would be opened in the near future. In-cell activities included watching TV and reading books from the library and a daily newspaper; further, nine lifers worked in their cells (making gift bags). One prisoner interviewed by the delegation complained that he had been refused permission to have a personal computer in his cell to do a computer literacy course.

The four lifers who did not join the others for communal exercise were segregated under orders reviewed every 6 months. Whenever they were outside the cell, they were handcuffed, including for exercise which they took alone in a secure yard. In the CPT's opinion, there can be no justification for handcuffing a prisoner exercising alone in a secure yard, provided there is proper staff supervision. **The Committee recommends that the Bulgarian authorities review their current policy as regards the handcuffing of the above-mentioned life-sentenced prisoners, in the light of these remarks.**

102. The "experiment" at Pleven Prison of integrating life-sentenced prisoners into the general prison population is a positive example to be followed in the rest of the country's prisons. At present, the formal criteria for changing the regime of a lifer is to have served at least 5 years under special regime (not counting the period on remand), to have good behaviour and to have formally applied for the change of regime. The CPT wishes to stress that, whereas initial segregation of a person awaiting or starting a life sentence might be deemed appropriate on the basis of individual risk assessment in a specific case, persons awaiting or serving a life sentence should not be subject to a systematic policy of segregation. **The Committee recommends that the Bulgarian authorities review the legal provisions in the light of these remarks.**

As regards those life-sentenced prisoners currently held in special units, the CPT recommends that the Bulgarian authorities continue to develop their regime of activities, in particular by providing more communal activities (including access to work and education) and revising the policy on long-distance learning and computer-based courses.

The Committee would also like to receive confirmation that the communal activities room for lifers in Sofia Prison is now in operation; in this context, it wishes to be provided with information on the range of communal activities provided, the number of lifers using the room each week and the number of hours per lifer per week.

iv. foreign prisoners

103. At Sofia Prison, there were 120 foreign prisoners at the time of the visit. As already mentioned (see paragraph 70), they were held separately from other prisoners, in accordance with Ministry of Justice Order No. LS 04-277 of 4 October 2002.

The situation of foreign prisoners was a source of tension, as a recent hunger strike had demonstrated. A major bone of contention was their ineligibility for more open conditions, home leave, conditional release (parole) or (for certain of the prisoners) transfer to their home country to serve their sentences. Foreign prisoners complained about many aspects of their custody, including the arrangements for visits (they were not able to accumulate visit time) and telephone contacts, which had to be conducted in Bulgarian. To compensate for their custodial restrictions, foreign nationals were allowed satellite dishes in order to watch television in their own language. However, few of them had work (the workshops were not accessible to foreign nationals and some 30 inmates were doing piecework in the cells) and they were not eligible for annual work leave since they had no permanent address in Bulgaria. Further, foreign nationals had no access to education and vocational training, including no opportunity to learn Bulgarian, and did not receive information on their rights and the prison rules in a language they could understand. Reportedly no official interpreters were employed, even during disciplinary procedures.

104. In contrast, the six foreigners held at Sliven Prison were being accommodated together with other prisoners with the same legal status. They worked in the prison's workshops but were not eligible for vocational training courses. Some complaints were heard regarding the absence of information about their rights and lack of attention to their particular needs as foreign nationals.

105. The CPT recommends that the Bulgarian authorities review the provision for foreign prisoners with a view to ensuring that they are no longer excluded from eligibility to more open conditions, home leave and conditional release (parole), and that a flexible approach is adopted as regards accumulation of visit time, telephone contacts and access to work, education and vocational training, bearing in mind the special needs of this group.

d. health-care services

i. health-care services in Sofia and Sliven Prisons

106. As regards health-care staff resources, the medical centre at the closed part of **Sofia Prison** employed two doctors. Already an inadequate staffing level for more than 1000 prisoners, it transpired that in fact only one doctor was present at the establishment for four months of the year (due to annual-leave arrangements). That said, prisoners did have access to medical specialists working at the adjacent prison hospital (see paragraphs 114 to 116), including to psychiatric care, and the hospital provided 24-hour emergency medical cover. Sofia Prison had limited health-care facilities and no infirmary, apparently because of reliance on the prison hospital. Particular reference should be made to the dental surgery at the prison, which was very dilapidated and poorly equipped. This perhaps explains the limited range of dental care available, notwithstanding the employment of two dentists and two dental nurses.

At the time of the visit, health care at **Sliven Prison** was provided by a feldsher, a dentist and a part-time gynaecologist; further, a paediatrician periodically visited the creche. The post of director of the prison's medical centre had been vacant for several months, following the retirement of the GP who used to fill that post. The delegation was informed that the recruitment of a new medical director was being blocked pending the adoption of legislative amendments. There was also a psychiatrist's post which had been vacant since 2004; as a result, psychiatric care was provided by outside specialists. No qualified health-care staff were present at night and during weekends.

107. The above-mentioned staff resources were clearly insufficient¹⁸ and had resulted in major failings in the health-care provision at both prisons. Health-care staff were overburdened and failed to provide the requisite food and general hygiene control. Further, the absence of nursing staff led to unacceptable situations, such as the use of prison officers or prisoners working as orderlies for the distribution of medication. At Sliven Prison in particular, the lack of a doctor placed an overwhelming burden on the feldsher (who was doing her best in very difficult circumstances) and resulted, inter alia, in an increased number of referrals to outside consultations.

As mentioned in paragraph 7, at the end of the visit the delegation made an immediate observation under Article 8, paragraph 5, of the Convention, requesting the Bulgarian authorities to take urgent action to ensure that a doctor was employed full time at Sliven Prison. In their letter of 13 December 2006, the Bulgarian authorities indicated that the procedure for the selection of candidates for the vacant post was ongoing.

The CPT recommends that urgent steps be taken to reinforce the health-care resources at Sofia and Sliven Prisons, and in particular to:

- **immediately fill the post of doctor at Sliven Prison;**
- **fill the post of psychiatrist at Sliven Prison;**
- **appoint one more general practitioner as well as a psychiatrist at Sofia Prison;**
- **ensure that both establishments have a sufficient number of nursing staff - as a first measure, immediate action is required to appoint at least two full-time qualified nurses at Sofia Prison and at least one at Sliven Prison;**
- **ensure that someone qualified to provide first aid, preferably with a recognised nursing qualification, is always present on the premises on Sliven Prison, including at night and weekends;**
- **improve conditions in the dental surgery at Sofia Prison.**

¹⁸

It is noteworthy that the Regional Health Centre has refused five times to register Sofia Prison's medical centre, pursuant to the Law on Medical Facilities.

108. There appeared to be delays as regards transferring inmates for treatment to hospital facilities and access to medical specialists outside the penitentiary system. The procedure for transferring inmates from prisons other than Sofia¹⁹ and Lovech to the two prison hospitals involved a recommendation by the prison doctor which had to be approved first by the prison director and then by the medical division of the General Directorate for the Execution of Sentences, following which the prison had to organise transportation. A random examination of medical files revealed that this chain of administrative decisions could take quite a long time (up to 3 months). **The CPT would like to receive the comments of the Bulgarian authorities on this question.**

Some delays also occurred in treatment for prisoners at Sofia Prison despite referral to the Prison Hospital. For example, an injury sustained during the night of 10 to 11 August 2006 was revealed upon X-ray, dated 17 August, to be a fracture of the 5th metatarsal bone with important displacement of the fragments, but received appropriate treatment only on 28 August.

109. Medical examination on admission generally took place on the day of arrival or the following day, but there were a few isolated cases of delays of several days, undoubtedly a reflection of the meagre staff resources. Further, during the month spent in the reception unit, newly arrived prisoners underwent a number of examinations (including of suicidal risk).

As regards screening for transmissible diseases, it varied from one prison to another. At Sliven Prison, newly arrived prisoners were screened on admission for syphilis and HIV; the delegation was told that prisoners verbally gave consent to HIV testing. At Sofia Prison, screening for HIV was carried out by an NGO on a voluntary basis. As regards screening for tuberculosis, a mobile X-ray unit visited the prisons once a year and all prisoners were screened. There was no screening for hepatitis at either prison.

The CPT recommends that measures be taken to ensure that all newly arrived prisoners are seen by a health-care staff member within 24 hours of their arrival. The medical examination on admission should be comprehensive, including appropriate screening for transmissible diseases. Further, prisoners should be provided with counselling before (and, in the case of a positive result, after) any screening test as well as with information concerning the prevention of transmissible diseases.

110. The delegation's observations from the 2006 visit suggest that the approach followed in respect of the screening for injuries and their recording is unsatisfactory. There was no systematic recording of traumatic lesions and, whenever they were recorded, the description was extremely superficial. Further, it became clear that the reporting of injuries depended on the prisoner concerned making a specific request on the basis of which a special form was filled; the reporting chain involved the officer on duty, the head of security and the prison director. There appeared to be no system for reporting of cases of traumatic injuries to the General Directorate for the Execution of Sentences.

¹⁹ The transfer process from Sofia Prison was simpler and required only a note from the medical centre's director

The CPT recommends that steps be taken to ensure that prison health-care services perform a thorough screening of prisoners for injuries, both on admission and, when appropriate, during imprisonment. In this context, reference is made to the recommendations in paragraphs 22 and 56 concerning the record to be drawn up following the medical examination of detained persons. Further, whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner, the record should be systematically brought to the attention of the relevant prosecutor. Moreover, the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the prisoner and his lawyer.

111. The CPT remains concerned about the handling of medical data. All inmates had individual medical files; however, the delegation observed that the medical information contained in them was far from being comprehensive. Further, the confidentiality of medical examinations was not always observed, non-medical prison staff often being present during such examinations.

The CPT recommends that steps be taken to ensure that:

- **prisoners' individual medical files are properly kept and prisoners are entitled to receive copies of medical documents;**
- **all medical examinations are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical prison staff and law enforcement officials;**

112. The delegation was informed that the number of prisoners with drug-related problems was on the rise (reportedly, some 1,500 prisoners were concerned). However, it appeared during the visit that little action (other than traditional prison security) was being taken as regards prevention and the provision of psycho-socio-educational assistance to such prisoners. A methadone substitution programme was in principle available; however, very few prisoners were being treated with methadone (e.g. only one at Sofia Prison). Efforts were reportedly being made to create therapeutic groups for prisoners with drug addiction.

The CPT considers that the provision of assistance to prisoners with drug-related problems should combine a prevention policy with programmes for medical detoxification, psychological support, rehabilitation and substitution. **The Committee recommends that the Bulgarian authorities develop a comprehensive strategy for the provision of assistance to persons with drug-related problems, in the light of these remarks.**

113. More generally, it would appear that the difficulties in recruiting medical specialists to work in prisons and the other related failings referred to above are part of the wider problem that prison health care is not integrated into the national health-care system. This results in a failure to comply with the principle of “equivalence of care”, according to which prisoners should benefit from the same level of medical care as persons living in the community at large.²⁰

²⁰ See the CPT's 3rd General Report, CPT/Inf (93) 12.

During the visit, the delegation received a copy of a draft Ordinance on prison health-care prepared by a joint working group from the Ministries of Justice and Health, which addresses many of the problematic areas mentioned above.²¹ In particular, it establishes the principles of equivalence of care and doctors' professional independence. Other provisions concern the supply of free-of-charge medication to prisoners and the Ministry of Health's responsibility for providing methodological guidance to and control of health care in prisons. As regards screening for HIV, the WHO recommendations concerning confidentiality, informed consent and pre- and post-test counselling are to be observed. The Ordinance also stipulates that whenever signs of violence are observed, health-care staff should immediately notify the prison director and issue a medical certificate; however, as regards the contents of the latter, reference is only made to a detailed description of the injuries observed (in this context, see the recommendations in paragraphs 22 and 56).

Pursuant to Section 7 of the Ordinance, prisoners with medical training who have not been deprived of the right to practise can be employed in their speciality under the supervision of a medical member of staff. The CPT has already expressed in the past its concern about the employment of inmates as orderlies (see paragraph 102 of CPT/Inf (2004) 21); the same goes for the employment of prisoners on other health-care related jobs. As a matter of principle, prisoners should not be put in a position to exercise control over other prisoners.

The CPT recommends that the Bulgarian authorities take into consideration the comments and recommendations made in this report in the new regulations on the provision of health care to prisoners. More generally, the Committee invites the Bulgarian authorities to review their strategy for implementing health-care policy in prisons with a view to ensuring harmonisation with the national health-care system and respect of the principles of equivalence of care and professional independence.

ii. Sofia Prison Hospital

114. The prison hospital at Sofia Prison had three wards: surgery, internal medicine and neuropsychiatry; in addition, there was a section for female prisoners and an area for infectious diseases. At the time of the visit, 40 prisoners were being treated at the hospital; the delegation was informed that, on average, 60 to 70 prisoners were hospitalised on any given day. The hospital also performed outpatient consultations of prisoners from Sofia Prison.

115. Living space in the patients' rooms was satisfactory (e.g. five prisoners in a room measuring some 30 m², including a sanitary annexe). The rooms had good access to natural light, artificial lighting and ventilation; however, they were in a rather poor state of repair and cleanliness.

As for the medical equipment, it was antiquated. The hospital urgently needed new equipment, in particular for X-rays, Doppler ultrasound scans and endoscopy, as well as surgical instruments.

²¹ Subsequent to the CPT's visit, Ordinance No. 12 of 20 December 2006 on the provision of health care to prisoners was adopted and entered into force on 16 January 2007.

The CPT recommends that steps be taken at Sofia Prison Hospital to:

- **substantially upgrade the medical equipment;**
- **improve the state of repair and the level of hygiene in patients' rooms.**

116. Although there were practically no unfilled posts, the delegation was informed that the hospital needed an additional 6 nurses, 4 GPs and an urologist; however, there was no budget for hiring more staff. **The CPT would like to receive the comments on the Bulgarian authorities on this issue.**

e. other issues related to the CPT's mandate

i. *prison staff*

117. It was observed during the 2006 visit that prison staffing levels were low. At Sofia Prison, staff spoke of understaffing as their most pressing problem: it was difficult to take annual leave and staff felt pressure to work even when ill. The difficulty was compounded by the problem of filling posts, which was related to poor terms of employment.²² Low staffing levels, in particular at night, and the shift pattern requiring some staff to work for 24 hours at a time negatively affected professional standards. The delegation observed that staff numbers were so low as to make dynamic security impossible. In some areas, such as Group 2 and the foreign prisoners' group, staff were conspicuous by their absence and there was a real sense that prisoners were in control. Further, there appeared to be a culture among basic-grade staff members working in contact with prisoners to act only according to routines and instructions from a senior officer and not to develop contacts with prisoners. **It is necessary for management to exercise professional oversight over staff-prisoner relations and encourage dynamic security, whilst discouraging corruption.**

The combination of the low staffing levels and the shift system, coupled with severe overcrowding, could easily compromise the safety of staff and prisoners alike. As noted in paragraph 7, at the end of the 2006 visit the CPT's delegation invoked Article 8, paragraph 5, of the Convention and made an immediate observation, requesting the Bulgarian authorities to take immediate steps to improve staffing levels at night in Sofia Prison. In their letter of 13 December 2006, the authorities indicated that a new scheme had been developed at the prison with a view to optimising surveillance activities and that 12-hour shifts had been introduced. The letter also stated that no new staff members could be appointed due to the limited number of permanent posts and to a ministerial decision to dismiss more than 200 officers from the penitentiary system.

The CPT welcomes the steps taken at Sofia Prison to change the shift system. However, the Committee is concerned by the prospect of cutting prison staffing levels, which flies in the face of logic: there is a clear relationship between low levels of staffing and low standards of performance.

²²

There were some 14 staff vacancies at the closed prison, and some 22 in the two prison hostels.

118. The staffing situation at Sliven Prison was somewhat better.²³ The senior management team recognised that "the time is over when guards were just carrying the keys" and tried to encourage staff to be proactive and to go into the units and observe what was happening. A positive feature was the prevalence of women in the staff, especially among surveillance and regime staff. However, there was no provision for temporarily replacing staff on maternity leave: the central system did not acknowledge the impact of this on a largely female staff population.

119. In the light of the above remarks, **the CPT recommends that the Bulgarian authorities reconsider the issue of prison staffing levels as a matter of urgency, with a view to increasing the level of staffing in the prisons visited and in other prisons where similar low levels of staffing occur. The Committee also invites the Bulgarian authorities to make provision for temporarily replacing staff on maternity leave.**

ii. contact with the outside world

120. The visit entitlement of both remand and sentenced prisoners is two visits per month, respectively of 45 and 40 minutes. Pursuant to recent amendments to the Regulations for the implementation of the Law on the Execution of Sentences (published in September 2006), extra visits lasting between 3 and 24 hours may be allowed as a form of reward.

The arrangements in the visit facilities at Sofia Prison did not allow physical contact between prisoners and their relatives. In contrast, at Sliven Prison visits took place under more open conditions, in visit rooms designed, furnished and decorated to a very high standard. The previously mentioned amended regulations stipulate that special premises should be provided for visits lasting over 8 hours, and the directors of both prisons spoke of plans to set up rooms for family visits.

The CPT recommends that possibilities be explored at Sofia Prison for allowing prisoners to receive visits under less restrictive conditions, based on individual risk assessment. Further, the Committee would like to receive in due course more information on the planned arrangements for visits lasting over 8 hours.

The CPT also invites the Bulgarian authorities to give consideration to allowing accumulation of visit time for visitors who live at a long distance from the prison concerned.

121. Prisoners at both Sofia and Sliven Prisons had access to a telephone; however, the number of telephones (six in Sofia, one in Sliven) was insufficient for the respective prison populations. **The CPT invites the Bulgarian authorities to improve access to telephones for prisoners at Sofia and Sliven Prisons.**

²³ At the end of 2005, there were 9 staff vacancies among the surveillance and regime staff.

iii. *discipline and segregation*

122. The disciplinary procedure applicable to prisoners has been described by the CPT in the past as on the whole satisfactory (see paragraph 116 of CPT/Inf (2004) 21).

Examination of disciplinary records at Sofia Prison revealed a tendency to use disciplinary isolation in most cases for up to 14 days.²⁴ The documentation was not consistently complete, with prisoner signatures missing from some decisions; further, it appeared that prisoners were not given a copy of the disciplinary decision.

At Sliven Prison, there had been 85 decisions for placement in a disciplinary cell between 1 January and 10 September 2006 (out of a total of 280 disciplinary punishments). A large proportion of the placements concerned a small number of prisoners with problematic behaviour/psychological problems who spent alternating periods of time in administrative or medical segregation (pursuant to Sections 85a, 130g and 14 of the Law on Execution of Sentences).

In order to ensure that the right of appeal is fully effective in practice, **the CPT recommends that a prisoner upon whom a disciplinary sanction is imposed always be given a copy of the decision.**

123. The disciplinary cells at Sofia Prison measured some 7.5 m² and were equipped with a bed and an in-cell toilet.

At Sliven Prison, the disciplinary cells measured some 8 m² and comprised two parts divided by a grille: an area where the prisoner slept on a mattress placed directly on the floor, and an area with a table and stools. Lighting and ventilation were satisfactory. However, prisoners did not have ready access to a toilet and resorted to a bucket in the cells.

At both prisons, inmates undergoing disciplinary isolation could take outdoor exercise on a daily basis (1.5 hours in Sofia and 1 hour in Sliven). However, they were not allowed any reading matter. Further, a major complaint at both prisons was the lack of access to washing/shower rooms during the period of disciplinary isolation (i.e. up to 14 days).

The CPT recommends that:

- **the disciplinary cells at Sofia Prison be fitted with a table and stool;**
- **the disciplinary cells at Sliven Prison be fitted with proper beds and prisoners placed in them provided with normal bedding at night;**
- **prisoners placed in disciplinary isolation in Sliven Prison be enabled to have ready access to a toilet;**
- **prisoners placed in disciplinary isolation be allowed reading matter;**
- **prisoners placed in disciplinary isolation be provided with possibilities to maintain personal hygiene, including access to a shower.**

²⁴ In 14 out of 31 cases of placement in a disciplinary cell between 13.06. and 22.08.2006, the prisoners had been given 14 days.

iv. complaints and inspection procedures

124. The complaints procedure appeared to be functioning satisfactorily at both Sofia and Sliven Prisons. Prisoners confirmed that they received acknowledgement of the receipt and consideration of their complaints by outside bodies (including the ECHR). An examination of the complaints records at Sliven Prison showed that checks had been carried out into different complaints by the Prosecutor's Office (e.g. regarding the use of physical force).

125. A system of inspections by prosecutors was in place. Supervising prosecutors carried out both planned (at least once a month) and ad hoc inspections, including at the request of prisoners. At Sliven Prison, the delegation had the opportunity to examine recent reports from prosecutor's visits and checks carried out into complaints; no irregularities/violations of the law had been found. At Sofia Prison, the last visit by the prosecutor had apparently taken place in the week preceding the CPT's visit; however, there was no record of the visit.

Prisons are also visited by the Bulgarian Helsinki Committee which publishes its reports. Further, the Ombudsman was about to launch an inspection of several prisons, the report on which would be presented to the Ministry of Justice and the National Assembly. **The CPT would like to be provided with copies of the Ombudsman's inspection reports.**

C. Establishments under the authority of the Ministry of Health

1. Preliminary remarks

126. The delegation paid a follow-up visit to Karlukovo State Psychiatric Hospital, the aim of which was to assess the changes made since the previous visit in 2002. Further, it paid a full visit to Byala State Psychiatric Hospital, and visited the in-patient wards at Russe Regional psychiatric dispensary with a view to examining in particular the safeguards provided to involuntary patients.

Karlukovo State Psychiatric Hospital had retained its official capacity of 250 beds and was accommodating 192 patients on the day of the visit, of whom 48 were involuntary. The hospital's structure had changed and comprised seven wards: two for patients with severe psychosis (one male and one female), two for rehabilitation (one male and one female), mixed-gender wards for geriatric patients and for patients awaiting transfer to social-care homes, and a ward for patients with drug and alcohol addiction.

Byala State Psychiatric Hospital occupies a large compound comprising a main building dating back to the early 20th century (constructed as army barracks) and a number of smaller, partly unused, buildings. The hospital's catchment area covers the regions of Russe, Razgrad and Silistra. With an official capacity of 290 beds, at the time of the visit the hospital was accommodating 132 patients, of whom 32 were involuntary. Patients were accommodated in six wards (two for women and four for men), all of which were situated in the main building.

Russe Regional psychiatric dispensary occupies a spacious compound within the city limits. The dispensary performs predominantly outpatient work, but there are also three in-patient wards: two general psychiatric wards (one for male and one for female patients) and a ward for patients with drug and alcohol dependency. At the time of the visit, the number of involuntary patients in each ward was respectively 10, 1 and 3.

127. In the period since the CPT's visit in 2002, there have been legislative changes and other reform measures in the area of psychiatry. In particular, a new Law on Health came into force on 1 January 2005; it contains a chapter on mental health which introduces important safeguards for psychiatric patients. The 2006 visit provided an opportunity to assess the practical implementation of the new legal provisions and programmes.

2. Ill-treatment

128. No allegations of deliberate physical ill-treatment of patients by staff were received at Karlukovo Hospital and the Regional psychiatric dispensary in Russe, though at the first establishment two patients did complain of staff being excessively rough while restraining them after they had been involved in fights with other patients.

At Byala Hospital, the majority of patients spoke positively about the attitude of staff and the atmosphere was relaxed. However, there were two isolated allegations of ill-treatment by staff (one concerning a patient being slapped when he refused to take medicine, and the other concerning a patient being punched in the chest following his refusal to follow instructions).

The CPT recommends that the management of Byala and Karlukovo Hospitals regularly remind staff that the ill-treatment of patients, including the excessive use of force in the context of applying restraints, is not acceptable and will be punished accordingly.

129. Further, at Byala and Karlukovo Hospitals, there were indications that instances of inter-patient violence could occasionally occur. This was related to the shortage of staff (see paragraph 144). In this connection, **the CPT recommends that the Bulgarian authorities take measures to ensure that staff protect patients from other patients who might cause them harm. This requires not only adequate staff presence and supervision at all times, but also for staff to be properly trained in handling challenging situations/patients.**

3. Patients' living conditions

130. During the follow-up visit to **Karlukovo Hospital**, the delegation observed evidence of efforts made by the authorities to implement the recommendations made in the report on the CPT's 2002 visit. One of the three accommodation buildings (which back in 2002 provided the worst living conditions) had benefited from thorough renovation. It was used for chronic patients (2nd female and 2nd male wards) and offered material conditions of a very good standard. Patients were accommodated in light, airy and spacious (17-25 m²) rooms, equipped with 3 to 4 beds (occasionally up to 6 beds), personal lockers, wardrobes, TV sets and sanitary annexes. On each floor, there was a well-equipped dining room where patients took their meals and could associate. The common shower facilities on each floor were also adequate. However, it became apparent that there had been no hot water for some months (due to a broken water heater); instead, patients had access once a week to the common bathroom in another building.

131. A rolling programme of refurbishment was underway in the rest of the establishment. Works involving the two upper floors of the second building had started in April 2006; however, their planning and financing displayed a major shortcoming: no provision had been made for heating installations.

The remainder of the patients' accommodation (i.e. the ground floor of the second building and the whole of the third building) had not benefited from any refurbishment and was in an advanced state of dilapidation. The rooms contained nothing but beds with old mattresses and fraying blankets and bed linen. Conditions were aggravated by overcrowding caused by the moving of patients from the two floors undergoing refurbishment in the second building. Due to the inadequacy of the shower facility and the laundry, patients complained – and demonstrated signs of – being infested with lice. The general level of hygiene was unworthy of a hospital facility.

Further, the delegation was informed that although the hospital's central heating system was operational, the budgetary funds available for heating were inadequate.²⁵

²⁵ It was estimated that the hospital needed 200 tons of fuel costing 320,000 BGL; however, the overall annual budget for utilities (electricity, water, fuel) was fixed at 190,000 BGL.

132. The delegation noted that the funding allocated to patients' food had increased²⁶; however, the provision of food was still inadequate, and many patients complained about the lack of variety and the poor quality of the food. Further, assisted feeding remained problematic, which was linked to the shortage of staff. Moreover, there was still no system in place for monitoring the nutritional status of patients (e.g. no systematic weighing of patients).

133. In their letter of 13 December 2006, the Bulgarian authorities informed that CPT of plans to strengthen control over the refurbishment of the hospital and to provide additional funding to speed up the completion of the works. The CPT welcomes these plans and **calls upon the Bulgarian authorities to complete the refurbishment of Karlukovo Hospital as a matter of urgency, with the aim of bringing conditions in all wards to the standard observed in the two rehabilitation wards. Particular attention should be paid to guaranteeing adequate heating and ensuring the supply of hot water in the bathrooms.**

Moreover, the Committee recommends that further steps be taken to improve food provision to patients, to introduce a system for monitoring their nutritional status and, whenever necessary, to carry out nutritional intervention.

134. At **Byala Hospital**, material conditions displayed a number of deficiencies. The hospital's main building had not benefited from renovation for many years, and various elements of the accommodation (walls, floors, frames, furniture, sanitary equipment) were in a poor state of repair. By way of example, there was humidity in some of the rooms of the 2nd female ward due to leaking water. Further, the ward for patients with drug dependency had only one operational toilet, the door of which was broken, and there was no running water in the toilet of the 4th male ward.

The poor state of repair was partially compensated for by the fact that there was a lot of place in the dormitories, which had large windows and high ceilings, and general hygiene was of a good standard. Living space was not an issue (e.g. a room measuring some 27 m² was equipped with five beds; a room of 30 m² had six beds), and many rooms were only partially occupied (e.g. a room with 40 beds was holding 24 patients). However, the majority of patients had no lockers, and the surroundings as a whole were austere and impersonal. A positive exception was observed in 2nd female ward, where patients had individual lockers and there was some decoration (plants, pictures) in the rooms.

135. All patients had been provided with new bed linen shortly before the visit; however, there was no spare bed linen in stock. Patients wore their own clothes and there was a storage area where additional clothing was kept, but many patients had no night clothes.

Patients had access to the central bathroom twice a week; there was reportedly no shortage of hot water. As regards hygiene products, only soap and detergent were provided by the hospital.

The local central heating was operational, but due to its inefficiency and the limited funds available for fuel, it had to be supplemented by stoves and electric heaters.

²⁶ From 0.82 BGL per patient per day in 2002, to 1.98 BGL in 2006.

136. Food was provided three times a day and eaten on tables placed in the corridor of each ward. Many complaints were received concerning the quality and quantity of the food; it was clear that with the available budget (1.39 BGL per patient per day) it was difficult to properly feed patients. Further, there was no possibility for even the most basic assessment of the patients' nutritional status (the hospital had no weighing scales).

137. According to the hospital's Director, following a visit by the Minister of Health a few months previously, the establishment had been allocated 427,000 BGL for renovation. **The CPT recommends that refurbishment be carried out without delay at Byala Hospital, addressing all the failings mentioned above and including the installation of basic furniture such as bedside lockers, tables and chairs in the patients' rooms, as well as the equipment of specific areas where patients can take their meals and associate.**

As part of the refurbishment, the Committee also invites the Bulgarian authorities to transform the large-capacity dormitories into accommodation structures based on smaller groups. This is a crucial factor in preserving patients' privacy and dignity.

Further, the CPT recommends that steps be taken to improve the food provision to patients, introduce a system for monitoring their nutritional status and, whenever necessary, carry out nutritional intervention. Steps should also be taken to ensure that all patients have appropriate night clothing and receive a range of personal hygiene items.

138. Material conditions at **Russe Regional Psychiatric dispensary** were generally better than those observed in Karlukovo and Byala Hospitals. Living space in the patients' rooms was adequate (e.g. four beds in a room measuring some 18 m² in the male psychiatric ward; seven beds in a room of 42 m² in the ward for patients with drug and alcohol dependency). The rooms had large windows and were equipped with beds and individual lockers. The premises as a whole, including the sanitary facilities, were clean and in a good state of repair.

4. Treatment and staff

139. The treatment provided to patients at the psychiatric establishments visited was mainly based on pharmacotherapy. According to medical records and information obtained by the delegation from interviews with patients and staff, there was no evidence of overmedication. Further, all relevant new psychotropic drugs were in use at the establishments visited. ECT had reportedly not been administered for a number of years.

140. Unlike in 2002, patients at **Karlukovo Hospital** had individual treatment plans; however, the delegation observed that these plans were basically limited to pharmacotherapy, diet and laboratory examinations. The situation as regards treatment remained unchanged, the establishment lacking staff, facilities and programmes for recreational and constructive socio-therapeutic activities. Only patients in the refurbished building (i.e. the two rehabilitation wards) had access to dayrooms. These patients also benefited from an open door regime and could move around the hospital grounds, visit the library and periodically go on excursions.

In the other two buildings, due to the temporary overcrowding, the common facilities previously available had been converted into living premises, and patients spent their time wandering about the corridors or sitting in their rooms.

141. At **Byala Hospital**, the delegation noted the existence of individual treatment plans based on a variety of programmes. However, except for medication, the other components of these plans were difficult to implement because of the lack of staff and resources.

The hospital used to run a number of workshops which had reportedly employed some 70% of patients, but only the carpentry workshop was currently functioning, involving only one patient. Two more patients were involved in gardening, and occasionally some of the female patients did tailoring and knitting. Further, a small number of patients from the rehabilitation ward had access to a separate building (“community club”) in the hospital grounds where they could cook for themselves and associate under the supervision of a nurse. The hospital also had a library with some 1,300 books, but only a limited number of patients were using it.

The closed-door regime which prevailed at the hospital is of particular concern; in this connection, the delegation received the impression that outdoor exercise was not always provided to patients. The hospital had extensive grounds with trees and flower beds, but only a few patients benefited from them.

142. The division between acute and long-term (chronic) patients was not really respected at either Byala or Karlukovo Hospitals, both in regard to their placement and, even more importantly, the therapeutic approach (with should be different for the respective categories).

Further, at Byala Hospital, there were written indications on patients’ doors concerning the level of care/assistance required by the respective patients. However, it became apparent during the visit that the required levels of assistance were not consistently provided, nor were patients with similar needs being accommodated in the respective rooms.

143. **The CPT recommends that strenuous efforts be made at Byala and Karlukovo State Psychiatric Hospitals to develop a variety of therapeutic options for patients, taking into consideration the different needs of patients suffering from acute and chronic symptoms. This will require the reinforcement of staff qualified to provide such therapeutic options (see paragraph 145). As regards in particular long-term patients, the Committee recommends that steps be taken to develop rehabilitative programmes as preparation for independent life in society.**

Further, the CPT recommends that immediate steps be taken to ensure that all patients have access to one hour of outdoor exercise per day (unless medically inappropriate).

144. The staffing situation was unfavourable at both Byala and Karlukovo Hospitals. The delegation was informed that many experienced psychiatrists and qualified psychiatric nurses had left in recent years, and it was difficult to recruit new staff. Low pay was identified as being at least partly responsible for the staff exodus.

Byala Hospital employed 5 psychiatrists, a trainee psychiatrist, a psychologist, a social worker, 39 nurses and 56 orderlies. Some 11 posts from the official staff complement of 142 were vacant at the time of the visit. The delegation was informed that according to the officially approved standards for psychiatric care, the hospital should employ in addition to the current staff complement 7 doctors, 2 psychologists, 35 nurses and 4 social workers.

Karlukovo Hospital employed 5 psychiatrists, 5 trainee psychiatrists, two physicians, a dentist, 27 nurses and 42 orderlies. Other staff working with patients included 2 psychologists, an art therapist, an occupational therapist and a social worker.

145. In the CPT's opinion, the number of psychiatrists in the two establishments was at the limit of what could be considered acceptable, and the accessibility of staff to provide adequate somatic care for patients left something to be desired. Further, an increased contribution from clinical psychologists, social workers and occupational therapists would be conducive to the emergence of a multidisciplinary approach.

The Committee is particularly concerned by the overall low number of nurses and orderlies present on the wards (especially at night): during daytime, there were 2 or 3 nurses and 2 or 3 orderlies on each of the wards; this presence was reduced at night to one nurse for the whole hospital and 1 or 2 orderlies per ward. Such staffing levels tend to generate highly stressful work conditions and increase the risk of inter-patient violence (see paragraph 129).

The CPT recommends that staff resources at Byala and Karlukovo State Psychiatric Hospitals be reviewed in the light of the above remarks.

5. Means of restraint

146. The use of means of restraint is regulated by Ordinance No. 1 of 28 June 2005 on "Temporary physical restraining of patients with established psychiatric disorders" issued jointly by the Ministries of Health and Justice. It provides for two measures: seclusion (up to 6 hours) in a distinct secure room, and immobilisation (up to 2 hours) by means of manual control or mechanical restraints (belts or a straitjacket). Restrained patients should be periodically checked by the doctor who has ordered the measure (once an hour in the case of patients placed in seclusion and once every 30 minutes in the case of immobilised patients), and be permanently observed by a nurse. The ordinance also provides for a special register where all the relevant information concerning means of restraint should be entered.

147. All wards at Karlukovo and Byala Hospitals had rooms formally designated for seclusion purposes. The seclusion rooms were adequate in size (e.g. a room measuring some 14 m² at Byala Hospital was equipped with one bed) but their equipment left something to be desired. Further, most of these rooms were being used for other purposes. For example, the rooms in the rehabilitation wards at Karlukovo Hospital – which were equipped with reinforced doors and glass, and had CCTV cameras – were holding ordinary patients. At Byala Hospital, seclusion rooms were frequently used to accommodate newly arrived patients or patients with high dependency.

At Karlukovo Hospital, the delegation received allegations according to which seclusion had occasionally exceeded the limit of 6 hours (e.g. 2 days; 18 days). However, the absence of entries in the register of means of restraint in respect of instances of seclusion made it impossible to verify those allegations (the same shortcoming was observed at Byala Hospital). It was also alleged that patients placed in seclusion had to use buckets to satisfy the needs of nature.

The CPT recommends that steps be taken to:

- **properly equip the seclusion rooms at Byala and Karlukovo Hospitals, and use them as envisaged by the regulations;**
- **ensure that instances of seclusion are properly recorded in the register of means of restraint;**
- **ensure that patients held in seclusion rooms have ready access to a toilet.**

148. Instances of immobilisation were recorded both in a special register kept on each ward and in patients' medical files. The examination of records revealed that immobilisation was being used sparingly. However, at Karlukovo Hospital, the delegation received one allegation of a patient being injured in the course of immobilisation, and observed medical evidence which could be considered as consistent with that allegation. Further, at Byala Hospital, the delegation heard one allegation of a patient having been immobilised overnight after having had a fight with another patient.

It should also be noted that at Byala Hospital, as well as in the third building at Karlukovo Hospital, immobilisation took place in the patients' rooms in full view of other patients.

The CPT recommends that steps be taken to ensure that the immobilisation of psychiatric patients takes place in strict compliance with Ordinance No. 1 of 28 June 2005 (including observance of the requirement that single accommodation be used when applying immobilisation to patients).

6. Safeguards in the context of involuntary hospitalisation

149. The Law on Health, in force since 1 January 2005, stipulates the legal procedures applied in the case of civil commitment to a psychiatric hospital.

Section 154 provides for emergency hospitalisation of up to 24 hours upon decision of the head of the medical establishment. The initial term of hospitalisation can be extended by another 48 hours upon permission of a district judge. If subsequently it is necessary to apply compulsory treatment, the head of the medical establishment should address to the court a reasoned request, accompanied by a psychiatrist's assessment of the mental state of the person concerned. Cases referred to the court under the emergency procedure have to be considered immediately.

The Law on Health also contains provisions concerning non-emergency compulsory hospitalisation and treatment, which can be ordered by a court pursuant to a motion by a prosecutor. Before deciding whether to order compulsory hospitalisation, the court orders a psychiatric expertise which should be completed within 14 days (with a possible extension of 10 days); the expert is also expected to give an opinion as regards the capability of the person concerned to give informed consent.

The law also provides for a periodic judicial review of the decision for placement (every three months), as well as the presence of the person concerned, a defence lawyer, a psychiatrist and a prosecutor at court hearings. Further, the person concerned, a prosecutor or the head of the medical establishment can at any time request the court to order the discharge of the patient on the grounds that the circumstances which prompted compulsory hospitalisation have ceased to apply.

150. The provisions of the new Law on Health offer important safeguards to involuntary patients, in line with the recommendations made by the CPT in previous visit reports. However, the findings from the visit suggest that practice fails to mirror the legal provisions.

The examination of patients' files revealed that the timeframe provided for in law was not always respected (e.g. some cases of emergency hospitalisation were referred to court several days later than the requisite 24 hours). Further, as regards the periodic review of compulsory placement, there were occasional delays (of up to 2 weeks) by the hospitals in submitting reports to the court and by the courts in issuing a decision concerning the continuation or interruption of hospitalisation.

It also appeared that the procedural safeguard of legal representation had sometimes been overlooked. The examination of patients' files at Byala Hospital revealed that many court decisions contained no mention of the participation of a lawyer during the court hearing.

In the light of the above remarks, **the CPT recommends that the Bulgarian authorities take steps to ensure that the existing procedures concerning compulsory hospitalisation and treatment are duly followed, and that the legal safeguards in place are truly effective.**

151. At Byala Hospital and Russe Regional Psychiatric dispensary, the delegation noted that the emergency placement procedure was circumvented by the improper use of informed consent. Several patients admitted involuntarily under the emergency placement procedure had subsequently been asked by staff to sign a consent form to treatment.²⁷ It is noteworthy that, when interviewed by the delegation, some of these patients indicated that they did not wish to stay at the hospital. However, the signing of a consent form had the effect of keeping the patients and treating them as “voluntary”, while avoiding court proceedings.

The CPT recommends that steps are taken to ensure that persons involuntarily admitted to a psychiatric establishment under the emergency placement procedure are not subjected to pressure to consent to treatment and thus change their legal status from involuntary to voluntary.

Further, the delegation interviewed several patients at Russe Psychiatric dispensary who had been admitted voluntarily but indicated that they had subsequently withdrawn their consent to treatment; however, this was not taken into account. **If a psychiatric patient admitted on a voluntary basis withdraws his consent to treatment, he must be released unless there are grounds for emergency placement.**

152. At Karlukovo and Byala Hospitals, the delegation was shown a form entitled “declaration on informed consent to treatment” which covered a number of issues related to the period of hospitalisation (i.e. the provision of information on the internal regulations and patients’ rights, including the right to receive appropriate treatment, and to be informed of the aims, duration and expected results of that treatment, as well as the related risks). The form was presented for signature to all patients – who had the option of declaring whether they consented or refused to be treated – or, in the case of patients who were legally incompetent, to their guardian or to an official authorised to give informed consent.²⁸

The examination of a number of patients’ files at Byala Hospital revealed the presence of a declaration of informed consent in all the files; however, it appeared that the approach to informed consent was formalistic and/or circumvented the legal provisions. Some patients indicated that a few days prior to the delegation’s visit, they had been given something to sign without understanding what it was. A number of forms were signed by a municipal official, including those of persons in respect of whom the court had appointed a relative to give informed consent (reportedly due to problems in contacting the relatives, on which cf. paragraph 155). Further, there were examples of the municipal officer having signed forms before the requisite court decision authorising her to give informed consent in respect of the patients concerned.

Moreover, it became apparent that the issue of informed consent to treatment had been left unresolved in cases of involuntary placement under Section 89 of the Criminal Code; the administration tried to remedy this deficiency by having the form signed by a municipal official, occasionally together with the patient concerned.

The CPT recommends that measures be taken to ensure appropriate informed consent procedures in respect of involuntary patients.

²⁷ At Byala Hospital, the form used in such cases was a short statement referring to abstract consent (without information on status, treatment, rights, etc).

²⁸ Pursuant to Section 162 (3) of the Law on Health, the court appoints a relative to give informed consent on behalf of patients who are legally incompetent. In case of conflict of interests or in the absence of a relative, a municipal health-care official or a representative of the mayor is appointed to give informed consent.

153. On the issue of guardianship, the delegation understood that the hospitals often faced problems of tracing the guardians of legally incompetent patients and that the guardianship councils were not functioning in practice. **The CPT would like to have the comments of the Bulgarian authorities on this issue.**

154. At Russe Regional Psychiatric Dispensary, there were three patients who had been admitted for a forensic psychiatric expert opinion in the context of criminal proceedings. Two of them had remained at the dispensary several months after the expert opinion had been given (which had happened within the one-month period provided for by law). Letters sent by the dispensary to the competent investigative bodies remained without reaction and there was no formal decision to keep the patients at the dispensary. **The CPT recommends that the Bulgarian authorities take steps to ensure the observance of the relevant procedures concerning forensic psychiatric expertise in the context of criminal proceedings.**

155. There were a number of patients at Byala Hospital who remained at the hospital after their compulsory treatment had been discontinued by court decision, because they had nowhere to go and/or due to the absence of facilities for outpatient care.

To keep a person in a psychiatric hospital because of the absence of appropriate outside facilities is a questionable state of affairs. **The CPT invites the Bulgarian authorities to take measures with a view to ensuring that psychiatric patients do not remain in a hospital longer than is required by their state of health.**

156. At Byala Hospital, there was a box at the entrance to the building where patients could put complaints addressed to the hospital's Director, which usually concerned the duration and type of treatment. However, patients interviewed by the delegation were not aware of any outside avenues of complaint. **The CPT recommends that specific arrangements be introduced enabling psychiatric patients to lodge formal and confidential complaints with a clearly-designated outside body. Patients should be systematically informed of their right to lodge complaints.**

As regards external supervision, the hospitals were visited by the Ministry of Health and the regional health authorities. Further, the Bulgarian Helsinki Committee continued its periodic monitoring, which involved the issuing of reports and recommendations. **The CPT invites the Bulgarian authorities to further develop mechanisms for regular visits to psychiatric establishments by independent bodies.**

157. Finally, the CPT is concerned about the case of a patient (Ivaylo Vakarelski) who was involuntarily admitted to Karlukovo Hospital on 27 June 2005. There were no documents corroborating the legality of his placement. According to the hospital records, on 29 June he was immobilised after an attempted escape, and on the following day was placed in a seclusion room and immobilised; a few hours later, the patient died. The cause of death was not recorded and no autopsy was performed because of his parents' refusal. **The CPT would like to be informed of the outcome of the investigation into the patient's death.**

More generally, it was observed at both Karlukovo and Byala Hospitals that the hospital records did not give the clinical cause of death of patients, and no autopsies were performed. **The CPT would like to receive the Bulgarian authorities' comments on these issues.**

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

1. Preliminary remarks

158. The CPT's delegation visited one establishment under the authority of the Ministry of Labour and Social Policy: the Home for women with mental retardation in the village of Trustika, Popovo municipality (Targovishte Region). The Home is located in the centre of the village (which itself lies some 30 km from the regional centre Targovishte), within a large fenced area comprising an orchard and a garden. It was set up in 1969 on the premises of a former school constructed in 1937. Some extensions were subsequently added to adapt the premises to their current function. At the time of the visit, the Home was operating at its full capacity of 70. All residents were adult women (aged 28 to 69) diagnosed as mentally retarded; some of them had an additional diagnosis of mental disorder.

The vast majority of residents had spent many years at the Home, and a number had lived there since its opening. Approximately 70% of residents had been admitted directly from a social home for children. The turnover was very low (there had been only two new admissions in the five years preceding the delegation's visit); in reality, a place only became vacant if a resident died. In the absence of specialised outside structures and in view of the fact that most of the residents had lost contact with their families²⁹, their discharge was unlikely.

159. At the outset of the visit, the Deputy Minister of Labour and Social Policy informed the delegation of progress in the implementation of the national policy in the area of social assistance. Some 5 million BGL had been set aside in the State budget for the improvement of living conditions in homes for persons with mental disorders and/or retardation, and various other resources (including PHARE funds) were being used to contribute to the overall improvement of the quality of residents' lives. A framework contract had been signed with the Ministry of Health for the provision of health care to residents in specialised institutions. Further, staff training had been organised in co-operation with the Ministry of Health, in particular in order to provide guidance on the drawing up of individual plans based on an assessment of each resident's needs.

The delegation was also informed about progress in the de-institutionalisation of persons with mental disabilities. A nationwide de-institutionalisation programme had started in 2005, with the objective of closing down, in due course, all homes and setting up sheltered accommodation based exclusively on voluntary placement. The programme included setting up alternative social services, day-care centres and social service centres to prevent persons from being placed in homes and to make discharge possible. Further, a programme for personal assistance was in preparation, including financial support to families agreeing to take back their relatives needing care.

The CPT welcomes these developments. The observations made by the delegation at the Trustika Home indicate that much progress has recently been made as regards the provision of care to residents and training of staff. **The Committee encourages the Bulgarian authorities to persevere in their efforts to reorganise the system for provision of care to persons with mental disabilities, including both de-institutionalisation programmes and options for those persons who will not be able to benefit from such programmes.**

²⁹ According to the management of the Trustika Home, only some 15 residents had contacts with their relatives.

2. Ill-treatment

160. The majority of residents at the Home in Trustika spoke positively of staff. The delegation observed for itself that the atmosphere at the establishment was generally relaxed and most of the staff had a caring and dedicated attitude to residents. That said, a few allegations were heard from residents of rough behaviour (shouting, pushing, pulling by the hair) by one of the orderlies.

The delegation also came across one recent incident of inter-resident violence, in the course of which a resident had been punched by another resident and had sustained an injury (a haematoma under the left eye). It would appear from the information gathered during the visit that staff had not reacted to this incident in a diligent way; further, it was not properly recorded in the nurses' register.

161. In their letter of 13 December 2006, the Bulgarian authorities informed the CPT of steps taken to address the above-mentioned problems. The home's Director had held a meeting with staff, reminding them that the ill-treatment of residents is unacceptable and will be punished severely. Further, a decision had been taken to initiate disciplinary proceeding against the orderly in respect of whom residents had made allegations, and two orderlies had been disciplined for having failed to react in an appropriate manner to the incident of inter-resident violence described above. The CPT welcomes the action taken by the authorities.

3. Residents' living conditions

162. Residents were accommodated in six dormitories measuring between 41 and 50 m², each accommodating 10 to 15 residents. The conditions were rather cramped and did not meet the official standard of 6 m² per resident³⁰. Further, as stressed by the CPT in the past (see paragraph 164 of CPT/Inf (2004) 21), large dormitories are far from ideal; the provision of accommodation structures based on small groups is a crucial factor in preserving/restoring residents' dignity.

163. The dormitories had big windows and were well lit and ventilated. Heating was provided by means of a secured stove placed in the centre of each dormitory. The furniture consisted of beds with full bedding and sufficient wardrobes or cupboards for the number of residents present; however, the wardrobes/cupboards could not be locked and a few residents told the delegation that they preferred to keep their personal belongings with them for fear of theft. The dormitories and furniture (including the bedding) were generally in a decent condition. There was some decoration (posters, pictures, curtains, carpets and plants) and a TV set in each dormitory.

164. The Home's main toilet facility, located outside the accommodation building, was rudimentary (four screened floor-level toilets without running water) but clean. There was also one floor-level toilet in the basement of the main building, which – according to the staff – was used at night. However, this was not confirmed by the residents, who told the delegation that they were obliged to use buckets inside the dormitories between 10 p.m. and 6.30 a.m.. Furthermore, allegations were heard that buckets had to be used throughout the day during the winter months.

³⁰ As provided for by Decree No. 89 of 18 April 2003 introducing changes to the Regulations for the implementation of the Law for Social Assistance.

At the end of its visit to Bulgaria, the CPT's delegation requested the Bulgarian authorities to confirm, within three months, that steps had been taken to ensure that residents had ready access to a toilet. In their letter of 13 December 2006, the authorities stated that a decision had been taken to allow residents to use the toilet located in the basement of the accommodation building during the night. The CPT welcomes this positive step.

Residents could take a shower every day in a bathroom (located in a separate building), which was rather dilapidated but clean. There were apparently no problems with the supply of hot water. The establishment provided residents with a range of hygiene items such as soap, toothbrushes, toothpaste and toilet paper as well as sanitary napkins for women's monthly needs.

165. The clothing provided to residents was generally in good condition and adapted to the season, and some efforts were being made to individualise it. Residents' clothes, towels and bed linen were washed at least once a week in the Home's laundry, which was equipped with washing machines in sufficient number but had no dryer.

166. The delegation heard hardly any complaints about the food and noted that efforts were being made to offer a varied menu. It is noteworthy that residents had a choice of two meals at lunch and dinner; this is a positive initiative. The daily food allowance per resident was 2.60 BGL, but this was complemented by products (vegetables, fruits, preserves) from the Home's own production. Two to four staff members were present continuously during the meals and assisted the residents who had difficulty eating.

The residents were weighed at regular intervals. However, there were no programmes for nutritional intervention. This is a matter of concern as a random check of the nutritional state of 41 (of the 70) residents showed that 14 of them were underweight. **The CPT recommends that steps be taken to address this problem.**

167. The delegation was informed that a decision had recently been taken - and the necessary funds provided - to relocate the Home to new premises in the village of Medovina, some 5 km from the town of Popovo. The delegation was shown the plans of the new facility and was satisfied that, if built according to these plans, it would offer good living conditions. Accommodation will be based on small living units (rooms of 18 m² each for two or three persons, with private bathrooms and balconies) and two sheltered flats (for nine persons each) will be attached to the new facility. Further, there will reportedly be two work-therapy rooms, a classroom, an indoor gym and leisure rooms. That said, it appeared that there were not yet any precise plans for how to develop rehabilitative activities on the new premises.

168. In view of the pending closure of the Home in its current location, the CPT will refrain from making any recommendations for improvements to the living conditions in the existing premises. **The Committee would like to be informed, in due course, of the entry into service of the new Home in Medovina and to receive more detailed information about it (capacity; equipment; treatment and activities; staff, etc.).**

4. Care of residents

169. The delegation was informed that a psychiatrist from Targovishte health centre visited the Home once a year for a general examination and could come on request; if necessary, residents could also be taken for a consultation to Targovishte. At the time of the visit, some 30% of residents were receiving neuroleptics prescribed by the psychiatrist and distributed by the nurses. There were no problems with the supply of psychiatric medication. Since 2005, a re-evaluation of psychiatric diagnoses had been initiated but had not been finished at the time of the visit. Similarly, psychological evaluations (including IQ tests) had started recently, with approximately half of the residents already assessed.

As regards somatic care, the Home had a contract with a general practitioner who came from Popovo once a week and was available in case of emergency. Residents in need of specialist treatment were transported to the health centre in Popovo or a hospital. Once a year, all residents underwent a general medical examination, including a gynaecological consultation, a blood test and an ECG (as well as an X-ray when required). There was also an obligatory EEG once a year for residents with epilepsy. The medical files and other medical documentation were well kept and their confidentiality respected.

Residents could be taken to a dentist in Targovishte or Popovo; further, since August 2006, regular prophylactic dental examinations had been initiated. The delegation was told that residents had access to conservative dental treatments (and not only extractions) but clearly much remained to be done in this respect as many residents had a poor dentition. **The CPT invites the Bulgarian authorities to step up their efforts to address this problem.**

170. Concerning the programme of activities for residents, individual plans had been drawn up for all residents, in accordance with the legislation adopted in 2003. However, it appeared that, for the time being, nearly all the attention was focussed on a group of 11 residents selected for possible placement in sheltered accommodation. The residents in question were offered a programme consisting of intellectual activities, sports and work therapy. There were individual plans with long-term goals of developing residents' capacity to fulfil their everyday needs (personal hygiene, communication, housework, shopping, etc.). However, it was clear that the implementation of these plans had barely begun. For example, at the time of the visit, no resident had yet started the envisaged training in the kitchen and the laundry, and only a few had been to a shop.

171. As for the remaining – majority – of residents, their individual plans were fairly standard. The occupational therapy programme relied heavily on agricultural work (in the Home's orchard, vegetable garden, the field leased from the commune or pig farm), which involved on average some 15 residents per day and was seasonal. In addition, a number of residents helped with cleaning, laundry, in the canteen and removing snow in the winter. There was also some sewing and knitting. To sum up, some 30% of the residents were involved in activities on a regular basis.

As for leisure activities, residents had free access to a day-room with TV/video, a hi-fi installation, board games and a small selection of books and newspapers (that said, some 90% of the residents were illiterate). Physical activities were available outdoors in the summer months but there were no such activities in the winter because the Home had no indoor gym. Further, occasional excursions, visits to the circus and the zoo and celebrations of national holidays were organised.

172. The CPT welcomes the positive approach to the care of residents at the Home in Trustika, and **invites the Bulgarian authorities to make further efforts to ensure the implementation of the individual plans by involving all residents in activities adapted to their needs. Achieving this goal will require recruiting more qualified staff** (see paragraph 174).

5. Staff

173. The establishment's full-time staff consisted of the director (who was a trained feldsher and psychologist), a social worker, an occupational therapist, a feldsher, four nurses, a dietician nurse and 12 orderlies; there were no vacant posts. Additionally, under a temporary Government programme to combat rural unemployment, a second social worker and seven orderlies had been employed for a year. At night and during weekends, a nurse and two orderlies were on duty. As already mentioned (cf. paragraph 171), residents also had access to outside medical specialists.

The delegation noted that in-house training (on the relevant legislation, standards of care, first aid, social adaptation of residents, specific features of persons with learning disabilities, etc.) was being provided to all categories of staff. Further, the director, social worker and occupational therapist attended outside training sessions and seminars, which were an opportunity to exchange experience with colleagues from other homes.

174. Given the importance of therapeutic and leisure activities for residents' rehabilitation, **the CPT invites the Bulgarian authorities to increase the number of staff trained in providing such activities. Further, the introduction of systematic teamwork will be necessary in order to fully implement the de-institutionalisation programme.**

6. Means of restraint

175. The policy at the Trustika Home was to refrain from resorting to seclusion and means of restraint. This is a positive practice, which the CPT welcomes.

7. Safeguards

176. The legal provisions governing the functioning of homes for persons with mental retardation – including the legal safeguards for such persons – have remained basically unchanged since the 2003 visit. Consequently, the remarks made by the CPT in the report on that visit (see paragraphs 49 to 52 of CPT/Inf (2004) 23), are still to a large extent relevant.

177. In the report on its 2003 visit (see paragraph 52 of CPT/Inf (2004) 23), the CPT concluded that in most cases placement in a specialised institution for persons with mental disabilities leads to a *de facto* deprivation of liberty, and made recommendations concerning the introduction of judicial review of placement. In their response to that report, the Bulgarian authorities stated that they were considering amendments to the Law on Social Assistance and the Regulations for its implementation which would go in the direction recommended by the CPT, inter alia by introducing court supervision over the placement procedure. However, such amendments had not been introduced at the time of the 2006 visit.

At Trustika, the delegation was informed that the placement of residents was subject to an annual review by an interdepartmental commission set up in accordance with circular letter No. 9100/248 of 1 December 2005 of the Agency of Social Assistance. The commission was composed of the Home's director, the social worker, a nurse, a legal adviser from the Regional directorate of social assistance and a municipal representative. While welcoming the introduction of this procedure, the CPT must stress that it cannot replace a genuine judicial review. Consequently, **the Committee reiterates its recommendations that:**

- **steps be taken without delay to ensure that residents of homes for persons with mental retardation have the effective right to bring proceedings to have the lawfulness of their placement decided by a court, and that they are duly informed of this right;**
- **the need for continued placement be automatically reviewed by a court at regular intervals; residents themselves should be able to request at reasonable intervals that the necessity for placement be considered by a judicial authority.**

178. All but one of the Home's residents had been formally deprived of legal capacity. The vast majority of them had been admitted to the Home before the entry into force of the 2003 Law on Social Assistance. Pursuant to Section 36 (4) of the Regulations for the implementation of that Law, some residents had been asked to sign contracts for the provision of social services. However, no evaluation was made of their ability to understand adequately the nature of the placement and the related procedures, including the signature of a contract. Staff acknowledged that a large proportion of residents were not in a position to understand the meaning of the document they were asked to sign. In view of the residents' legal status, the contracts had no legal value; instead, they should have been signed by their legal guardians (as was the case with the other residents).

Further, similar to the situation observed in the establishments visited in 2003, the standard contracts seen at Trustika did not specify the rights of the residents and in particular the possibilities for lodging complaints concerning the manner in which they are treated in the institution.

In the light of the above remarks, **the CPT recommends that efforts be made to ensure that the placement of residents at homes for persons with mental disorders and/or retardation occurs in full conformity with the letter and the spirit of the law. Contracts for the provision of social services should specify the legal rights of residents, including the possibilities for lodging complaints with a relevant outside authority. Further, residents unable to understand the contracts should receive appropriate assistance.**

The resident who was not deprived of legal capacity had been placed in the Home some four years previously by her sister, without there having been a formal decision to appoint the sister as her legal guardian. **The CPT would like to receive the authorities' comments on this issue.**

179. Under the existing legislation, legally incompetent residents of homes for persons with mental retardation must have a legal guardian. The management of the Home in Trustika tried to act in conformity with the law, in particular by contacting the relatives of all residents whose legal status was unclear (and/or who had no legally appointed guardian) and requesting them to initiate the relevant procedure. Unfortunately, these efforts had only brought results in the cases of 15 of the residents. As for the remaining 55 residents, they had been deprived of their legal capacity in the course of a single court hearing held at the Home on 24 April 2000; it is doubtful whether residents could have benefited from appropriate legal safeguards (i.e. the possibility of being heard by a judge, the involvement of a lawyer) in the course of such a hearing. **The CPT would like to receive the Bulgarian authorities' comments on this issue.**

Following the above-mentioned court hearing, the Home's Director had been appointed as legal guardian of 55 residents, with the social worker acting as deputy.³¹ This state of affairs is clearly far from optimal, as illustrated by situations in which the Director had to act simultaneously as the resident's guardian and head of the establishment (as a way out, the Director requested her deputy to sign on behalf of the establishment). The evident conflict of interest that arises when an employee of a social care home is appointed guardian over a resident within that same institution needs to be addressed. **The CPT recommends that the Bulgarian authorities take the necessary steps to avoid such a conflict of interest in the future.**

180. Further, there appeared to be a problem related to the de-institutionalisation of persons currently under guardianship. According to the establishment's Director, under the existing legislation only persons under partial or no guardianship were eligible to live in sheltered accommodation. Consequently, before any resident could be moved to such a sheltered home, her legal competence status would have to be changed, which was apparently a lengthy procedure. **The CPT would like to receive the comments of the Bulgarian authorities on this issue.**

181. Since May 2004, the Trustika Home had received three inspections by the Inspectorate of the Agency for Social Assistance. The delegation received copies of the inspection reports, containing detailed findings, recommendations and deadlines for implementation. One of the consequences of these inspections was the decision to relocate the establishment to Medovina. Further, the Home had been visited on a number of occasions by the Bulgarian Helsinki Committee. The CPT welcomes the development of mechanisms for the inspections of homes for persons with mental retardation, and **invites the authorities to introduce a firm legal basis for regular visits to such institutions by bodies which are independent of the social care authorities.**

182. Staff of the Home in Trustika were making genuine efforts to help residents maintain contacts with their relatives. There were no restrictions on visits and correspondence, and residents were entitled to free-of-charge telephone calls (the establishment had a special budget for this). The CPT welcomes this approach and **invites the Bulgarian authorities to pursue their efforts to encourage residents' contact with the outside world.** This should be facilitated by the forthcoming transfer to a location closer to an urban centre.

³¹ In order to introduce an outside element, the secretary of the village council was appointed as the third member of the guardianship committee.

APPENDIX I

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

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

Preliminary remarks

recommendations

- the Bulgarian authorities to take appropriate steps to ensure that the detention of criminal suspects is carried out in strict conformity with the legislative provisions. This should include measures to ensure that orders of detention by the police, prosecutors' detention orders and arrest warrants issued by courts refer to the time of actual apprehension. Further, a copy of the order of detention by the police should always be attached to detained persons' files (paragraph 11).

comments

- the Bulgarian authorities are invited to reduce to a maximum of 72 hours the total period during which persons may be deprived of their liberty prior to being brought before a judge (paragraph 10).

Ill-treatment

recommendations

- the Bulgarian authorities to remind police officers, through appropriate means and at regular intervals, that the ill-treatment of detainees (whether of a physical or verbal nature) is not acceptable and will be the subject of severe sanctions. Police officers should also be reminded that no more force than is strictly necessary is to be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for their being struck (paragraph 15);
- the Bulgarian authorities to adopt appropriate measures to ensure that police officers report ill-treatment by colleagues, in the light of the remarks in paragraph 16 (paragraph 16);
- an instruction to be issued for the attention of all prosecutors in Bulgaria, which makes it clear that even in the absence of a formal complaint, the prosecutorial authorities are under a legal obligation to undertake an investigation whenever they come across credible information that ill-treatment of persons deprived of their liberty may have occurred (paragraph 19);

- clear instructions to be issued to staff working at IDFs to the effect that if a person is admitted bearing injuries consistent with possible ill-treatment, the supervising prosecutor should be immediately notified and a copy of the doctor's medical report forwarded to him (paragraph 19);
- whenever a detained person brought before a judge alleges ill-treatment by police officers, these allegations to be recorded in writing, a forensic medical examination immediately ordered, and the necessary steps taken to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Moreover, even in the absence of an express allegation of ill-treatment, a forensic medical examination should be requested whenever there are other grounds to believe that a person could have been the victim of ill-treatment (paragraph 20);
- the existing provisions concerning medical examinations of persons in police custody to be complemented so as to make it clear that:
 - the report filled out by doctors concerning injuries observed on persons in police custody should contain, in addition to a detailed description of the injuries observed, any allegations made by the detained person concerned and the doctor's conclusions as to the degree of consistency between those allegations and the objective medical findings;
 - all medical examinations should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers;
 - whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a detained person, the record should be systematically brought to the attention of the relevant prosecutor (paragraph 22);
- persons who are or have been detained to be formally entitled to request an examination by a recognised forensic medical expert (paragraph 22).

comments

- the CPT must stress, once again, the important role played by judges and prosecutors, but also by staff working at IDFs and other competent authorities, in preventing ill-treatment by law enforcement officials through the diligent examination of all relevant information regarding possible ill-treatment which may come to their attention, whether or not that information takes the form of a formal complaint (paragraph 18);
- the CPT trusts that the Ombudsman will be provided with the resources necessary to examine complaints against the police (paragraph 23).

requests for information

- a copy of the guideline according to which doctors should inform the prosecutor if a detained person has complained of ill-treatment (paragraph 21).

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

recommendations

- appropriate steps to be taken to ensure that all detained persons effectively benefit from the right of notification of custody from the very outset of their deprivation of liberty (paragraph 26);
- the Bulgarian authorities to recall to all police officers the legal obligation to grant access to a lawyer from the very outset of a person's deprivation of liberty. Further, the exercise of the right of access to a lawyer to be recorded in writing (e.g. in a special register of visits by lawyers or as an entry in the general police custody register) (paragraph 28);
- steps to be taken, in consultation with the Bar Association, to make the system of legal aid truly effective, inter alia through the provision of proper funding and practical arrangements to ensure that *ex officio* lawyers are contacted and meet their clients while in police custody (paragraph 28);
- the confidentiality of discussions between persons in police custody and lawyers to be respected (paragraph 28).
- steps to be taken to ensure that:
 - juveniles detained by the police are effectively guaranteed the right to inform a family member or guardian of their situation; the option "does not wish the family to be informed" should not exist for juveniles;
 - detained juveniles do not make any statements or sign any documents related to the offence of which they are suspected without the benefit of a lawyer and/or a trusted person being present and assisting the juvenile; if necessary, the relevant legislation should be amended;
 - a specific version of the "declaration of rights", setting out the particular position of detained juveniles and including a reference to the right to have a lawyer and/or a trusted person present, be developed and given to all juveniles taken into custody. Special care should also be taken to explain the information carefully to ensure comprehension (paragraph 33);
- the principles referred to in paragraph 36 to be fully observed in the activities of monitoring bodies (paragraph 36).

comments

- the Bulgarian authorities are encouraged to take further steps to ensure that the “declaration of rights” is given systematically to all persons apprehended by the police, at the very outset of their custody, and that it is properly explained to them. The declaration should also be made available in a variety of languages (paragraph 31);
- the Bulgarian authorities are invited to consider the setting up of separate juvenile police units, taking into account Recommendation Rec (2003) 20 of the Council of Europe’s Committee of Ministers concerning new ways of dealing with juvenile delinquency and the role of juvenile justice (paragraph 33);
- the CPT remains convinced of the need to set out in detail the procedure to be followed on a number of specific points during the conduct of police interrogations (paragraph 34);
- the Bulgarian authorities are invited to take further steps to ensure that police officers entering information in registers do so in a consistent and accurate manner in order to provide a systematic standardised record of key elements of custody (paragraph 35).

Conditions of detention

recommendations

- the Bulgarian authorities to make serious efforts to bring conditions of detention in police and Border police establishments into line with the basic requirements set out in the reports on the CPT’s previous visits. In particular, steps to be taken to ensure that:
 - all cells are equipped with a means of rest suitable for overnight stays;
 - all persons detained overnight are provided with clean mattresses and blankets;
 - police establishments are allocated a specific budget to cover the cost of providing food to detained persons;
 - detained persons are guaranteed ready access to drinking water (paragraph 41);
- all police cells where persons may be held overnight should be enlarged to at least 6 m² (paragraph 41);
- the Bulgarian authorities to take appropriate steps to ensure that detained persons are not left handcuffed to stair rails, radiators or other immovable objects and are accommodated in rooms/cells designed specifically for custodial purposes and offering appropriate security conditions (paragraph 42).

comments

- there was a lack of adequate heating at the Sobering-up centre in Sofia (paragraph 38).

requests for information

- clarification as regards the arrangements for providing food to persons detained at Border police establishments (paragraph 39).

B. Establishments under the authority of the Ministry of Justice

Investigation detention facilities (IDF's)

ill - treatment

recommendations

- staff working at the investigation detention facilities in Pleven, Sliven, Slivnitsa and Targovishte to be reminded that the ill-treatment of detainees is prohibited and will be severely punished (paragraph 45);
- the Bulgarian authorities to take steps to increase the levels of staff in investigation detention facilities who work in direct contact with detained persons (paragraph 46).

conditions of detention

recommendations

- the Bulgarian authorities to transfer without delay Plovdiv IDF to an appropriate facility (paragraph 48);
- steps to be taken without further delay at investigation detention facilities to:
 - reduce cell occupancy rates to an acceptable level, applying a minimum standard of 4 m² per detainee in multiple-occupancy cells; all cells of less than 6 m² should be withdrawn from service (e.g. at Slivnitsa IDF) and cells measuring 6 m² should be used for accommodating one person;
 - improve cell lighting (by providing access to natural light and adequate artificial lighting, and introducing differentiated day/night lighting systems) and ventilation in the cells;
 - improve the state of the beds and bedding provided to detained persons;

- guarantee strict compliance with the instructions given to custodial staff to grant detainees access to the toilet at any time of day or night;
- ensure that detainees are in a position to maintain their personal hygiene and are provided with essential personal hygiene products; in the light of the special hygiene needs of women, positive differentiation in terms of additional access to washing facilities is necessary;
- provide detainees with sufficient materials to clean their cells;
- ensure that detainees are guaranteed their entitlement of one hour of genuine outside exercise per day (two hours in the case of juveniles);
- provide other purposeful activities to detainees; particular attention should be paid to the special needs of juveniles (paragraph 55).

health-care services

recommendations

- the Bulgarian authorities to implement the CPT's long-standing recommendations that:
 - the report filled out by doctors concerning injuries observed on persons admitted to investigation detention facilities contain, in addition to a detailed description of the injuries observed, any allegations made by the detained person concerned and the doctor's conclusions as to the degree of consistency between those allegations and the objective medical findings;
 - all medical examinations should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers;
 - whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a detained person, the record should be systematically brought to the attention of the relevant prosecutor (paragraph 56);
- measures to be taken to ensure that the medical examination on admission is comprehensive, including appropriate screening for transmissible diseases (paragraph 56);
- steps to be taken to improve the quality of medical records and ensure the observance of their confidentiality (paragraph 56);
- an end to be put to the practice in certain IDF's of asking newly arrived detainees to sign a pre-printed form stating that they had no health problems and had not been subjected to physical violence (paragraph 57).

other issues

recommendations

- steps to be taken to:
 - equip IDFs with proper visiting rooms;
 - ensure that detainees can purchase phone cards;
 - ensure the confidentiality of meetings between detained persons and their lawyers (paragraph 59);
- the provision of information to persons detained in IDFs about their rights to be improved, in particular by means of:
 - making the full text of the internal regulations readily available to detainees;
 - ensuring that all detainees are provided with a copy of the information sheet on rights, which they can keep in their possession. The information sheet should be made easier to understand and be available in a variety of languages. Special care should also be taken to explain the information carefully to juvenile detainees to ensure comprehension (paragraph 60);
- the recommendation made in paragraph 36 applies equally in the context of inspections of IDF's (paragraph 61).

comments

- the Bulgarian authorities are invited to increase the number of female staff deployed in detention areas in IDFs and to ensure 24-hour presence of a female staff member whenever there are female detainees (paragraph 58).

Prison establishments

preliminary remarks

recommendations

- the Bulgarian authorities to redouble their efforts to combat prison overcrowding and in so doing, to be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, as well as by Recommendation Rec(2003)22 on conditional release (parole) (paragraph 64);
- the Bulgarian authorities to strive to increase the provision of purposeful activities for prisoners. In this context, the authorities should seek to introduce further measures aimed at ensuring that both sentenced and remand prisoners are provided with an opportunity to work, in the light of the remarks in paragraph 65. Further, efforts should be made to develop programmes of education and vocational training in all penitentiary establishments (paragraph 65).

ill-treatment

recommendations

- prison staff to be reminded at suitable intervals that both the physical ill-treatment and verbal abuse of inmates are not acceptable and will be the subject of severe sanctions (paragraph 66);
- the Bulgarian authorities to devise a national strategy concerning inter-prisoner violence, in the light of the remarks in paragraph 68 (paragraph 68).

conditions of detention

recommendations

- in the closed part of Sofia Prison:
 - the use of the cells in the basement of the main building to be discontinued;
 - the occupancy rate of the establishment to be substantially reduced, the objective being to provide a minimum of 4 m² per prisoner;
 - as part of the rolling programme of refurbishment, integral sanitation to be provided for Group 2 as a matter of urgency; in the meantime, prisoners' access to the toilet at night to be ensured and the use of buckets discontinued;

- prisoners to be provided with materials for cleaning the cells;
- the quality and quantity of food provided to prisoners to be reviewed (paragraph 77);
- the Bulgarian authorities to strive to further develop the programme of activities for prisoners – both sentenced and remand – in the closed part of Sofia Prison. In this context, efforts should be made to increase work opportunities and involve more prisoners in educational programmes and vocational training courses (paragraph 82);
- steps to be taken at Sliven Prison to:
 - reduce cell occupancy rates to an acceptable level (a minimum of 4 m² per prisoner); cells measuring 7 m² should not accommodate more than one prisoner (save in exceptional circumstances when it would be inadvisable for a prisoner to be left alone);
 - provide sufficient staffing levels at night to enable all prisoners to have ready access to a toilet around the clock;
 - provide all inmates with basic hygiene products and seek ways to increase the time during which prisoners have access to hot water during the week;
 - pursue the refurbishment programme, in particular on the top floor of the main prison building (paragraph 90);
- the Bulgarian authorities to review their current policy as regards the handcuffing of the life-sentenced prisoners segregated under orders reviewed every 6 months, referred to in paragraph 101 (paragraph 101);
- the Bulgarian authorities to review the legal provisions concerning the regime of life-sentenced prisoners, in the light of the remarks in paragraph 102 (paragraph 102);
- as regards life-sentenced prisoners currently held in special units, the Bulgarian authorities to continue to develop their regime of activities, in particular by providing more communal activities (including access to work and education) and revising the policy on long-distance learning and computer-based courses (paragraph 102);
- the Bulgarian authorities to review the provision for foreign prisoners with a view to ensuring that they are no longer excluded from eligibility to more open conditions, home leave and conditional release (parole), and that a flexible approach is adopted as regards accumulation of visit time, telephone contacts and access to work, education and vocational training, bearing in mind the special needs of this group (paragraph 105).

comments

- the Bulgarian authorities are invited to consider options at Sofia Prison for emergency lighting in the cells at night (i.e. when prisoners go to the toilet) (paragraph 77);
- the Bulgarian authorities are invited to provide the exercise yards at Sofia Prison with shelters from inclement weather (paragraph 82);
- whereas at Sliven Prison escort time was undoubtedly spent in the open air, this should not be counted as part of the daily hour of exercise (paragraph 92);
- the management of Sliven Prison is encouraged to pursue its efforts to engage more prisoners in work and other purposeful activities. The prison management is also invited to increase the use of the gym and to provide the exercise yards with shelters from inclement weather (paragraph 97);
- the juxtaposition of life-sentenced prisoners and prisoners segregated on administrative, medical or disciplinary grounds in Group 7 at Sliven Prison is unfortunate and suggests that the lifer segregation rule is of a punitive nature (paragraph 100).

requests for information

- a timetable for the implementation of the programme of refurbishment at Sofia Prison (paragraph 77);
- confirmation that the necessary repair works in the kitchen at Sofia Prison have been carried out with a view to remedying the shortcomings referred to in paragraph 76 (paragraph 77);
- the outcome of the complaint concerning the conditions and care provided at the creche in Sliven Prison (paragraph 91);
- confirmation that the communal activities room for lifers in Sofia Prison is now in operation; in this context, information on the range of communal activities provided, the number of lifers using the room each week and the number of hours per lifer per week (paragraph 102).

health-care services

recommendations

- urgent steps to be taken to reinforce the health-care resources at Sofia and Sliven Prisons, and in particular to:
 - immediately fill the post of doctor at Sliven Prison;
 - fill the post of psychiatrist at Sliven Prison;

- appoint one more general practitioner as well as a psychiatrist at Sofia Prison;
 - ensure that both establishments have a sufficient number of nursing staff - as a first measure, immediate action is required to appoint at least two full-time qualified nurses at Sofia Prison and at least one at Sliven Prison;
 - ensure that someone qualified to provide first aid, preferably with a recognised nursing qualification, is always present on the premises on Sliven Prison, including at night and weekends;
 - improve conditions in the dental surgery at Sofia Prison (paragraph 107);
- measures to be taken to ensure that all newly arrived prisoners are seen by a health-care staff member within 24 hours of their arrival. The medical examination on admission should be comprehensive, including appropriate screening for transmissible diseases. Further, prisoners should be provided with counselling before (and, in the case of a positive result, after) any screening test as well as with information with concerning the prevention of transmissible diseases (paragraph 109);
- steps to be taken to ensure that prison health-care services perform a thorough screening of prisoners for injuries, both on admission and, when appropriate, during imprisonment. In this context, reference is made to the recommendations in paragraphs 22 and 56 concerning the record to be drawn up following the medical examination of detained persons. Further, whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner, the record should be systematically brought to the attention of the relevant prosecutor. Moreover, the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the prisoner and his lawyer (paragraph 110);
- steps to be taken to ensure that:
- prisoners' individual medical files are properly kept and prisoners are entitled to receive copies of medical documents;
 - all medical examinations are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical prison staff and law enforcement officials (paragraph 111);
- the Bulgarian authorities to develop of a comprehensive strategy for the provision of assistance to persons with drug-related problems, in the light of the remarks in paragraph 112 (paragraph 112);
- the Bulgarian authorities to take into consideration the comments and recommendations made in this report in the new regulations on the provision of health care to prisoners (paragraph 113).

- steps to be taken at Sofia Prison Hospital to:
 - substantially upgrade the medical equipment;
 - improve the state of repair and the level of hygiene in patients' rooms (paragraph 115).

comments

- some delays occurred in treatment for prisoners at Sofia Prison despite referral to the Prison Hospital (paragraph 108);
- the Committee invites the Bulgarian authorities to review their strategy for implementing health-care policy in prisons with a view to ensuring harmonisation with the national health-care system and respect of the principles of equivalence of care and professional independence (paragraph 113).

requests for information

- the comments of the Bulgarian authorities concerning delays in transferring inmates for treatment to hospital facilities and in access to medical specialists outside the penitentiary system (paragraph 108).
- the comments of the Bulgarian authorities on the staff situation at Sofia Prison Hospital (paragraph 116).

other issues related to the CPT's mandate

recommendations

- the Bulgarian authorities to reconsider the issue of prison staffing levels as a matter of urgency, with a view to increasing the level of staffing in the prisons visited and in other prisons where similar low levels of staffing occur (paragraph 119);
- possibilities to be explored at Sofia Prison for allowing prisoners to receive visits under less restrictive conditions, based on individual risk assessment (paragraph 120);
- a prisoner upon whom a disciplinary sanction is imposed to be always given a copy of the decision (paragraph 122);
- the Bulgarian authorities to ensure that :
 - the disciplinary cells at Sofia Prison are fitted with a table and stool;
 - the disciplinary cells at Sliven Prison are fitted with proper beds and prisoners placed in them provided with normal bedding at night;

- prisoners placed in disciplinary isolation in Sliven Prison are able to have ready access to a toilet,
- prisoners placed in disciplinary isolation are allowed reading matter;
- prisoners placed in disciplinary isolation are provided with possibilities to maintain personal hygiene, including access to a shower (paragraph 123).

comments

- it is necessary for management to exercise professional oversight over staff-prisoner relations and encourage dynamic security, whilst discouraging corruption (paragraph 117);
- the Bulgarian authorities are invited to make provision for temporarily replacing staff on maternity leave (paragraph 119);
- the Bulgarian authorities are invited to give consideration to allowing accumulation of visit time for visitors who live at a long distance from the prison concerned (paragraph 120);
- the Bulgarian authorities are invited to improve access to telephones for prisoners at Sofia and Sliven Prisons (paragraph 121).

requests for information

- information on the planned arrangements for visits lasting over 8 hours (paragraph 120);
- copies of the Ombudsman's inspection reports concerning prisons (paragraph 125).

C. Establishments under the authority of the Ministry of Health

Ill-treatment

recommendations

- the management of Byala and Karlukovo Hospitals to regularly remind staff that the ill-treatment of patients, including the excessive use of force in the context of applying restraints, is not acceptable and will be punished accordingly (paragraph 128);
- the Bulgarian authorities to take measures to ensure that staff protect patients from other patients who might cause them harm. This requires not only adequate staff presence and supervision at all times, but also for staff to be properly trained in handling challenging situations/patients (paragraph 129).

Patients' living conditions

recommendations

- the Bulgarian authorities to complete the refurbishment of Karlukovo Hospital as a matter of urgency, with the aim of bringing conditions in all wards to the standard observed in the two rehabilitation wards. Particular attention should be paid to guaranteeing adequate heating and ensuring the supply of hot water supply in the bathrooms (paragraph 133);
- further steps to be taken to improve the food provision to patients at Karlukovo Hospital, to introduce a system for monitoring their nutritional status and, whenever necessary, to carry out nutritional intervention (paragraph 133);
- refurbishment to be carried out without delay at Byala Hospital, addressing all the failings mentioned above and including the installation of basic furniture such as bedside lockers, tables and chairs in the patients' rooms, as well as the equipment of specific areas where patients can take their meals and associate (paragraph 137);
- steps to be taken to improve the food provision to patients at Byala Hospital, to introduce a system for monitoring their nutritional status and, whenever necessary, to carry out nutritional intervention. Steps should also be taken to ensure that all patients have appropriate night clothing and receive a range of personal hygiene items (paragraph 137).

comments

- the Bulgarian authorities are invited, as part of the refurbishment at Byala Hospital, to transform the large-capacity dormitories into accommodation structures based on smaller groups (paragraph 137).

Treatment and staff

recommendations

- strenuous efforts to be made at Byala and Karlukovo State Psychiatric Hospitals to develop a variety of therapeutic options for patients, taking into consideration the different needs of patients suffering from acute and chronic symptoms. This will require the reinforcement of staff qualified to provide such therapeutic options. As regards in particular long-term patients, steps should be taken to develop rehabilitative programmes as preparation for independent life in society (paragraph 143);
- immediate steps to be taken to ensure that all patients have access to one hour of outdoor exercise per day (unless medically inappropriate) (paragraph 143);
- staff resources at Byala and Karlukovo State Psychiatric Hospitals to be reviewed in the light of the remarks in paragraph 145 (paragraph 145).

Means of restraint

recommendations

- steps to be taken to:
 - properly equip the seclusion rooms at Byala and Karlukovo Hospitals, and use them as envisaged by the regulations;
 - ensure that instances of seclusion are properly recorded in the register of means of restraint;
 - ensure that patients held in seclusion rooms have ready access to a toilet (paragraph 147);
- steps to be taken to ensure that the immobilisation of psychiatric patients takes place in strict compliance with Ordinance No. 1 of 28 June 2005 (including observance of the requirement that single accommodation be used when applying immobilisation to patients) (paragraph 148).

Safeguards in the context of involuntary hospitalisation

recommendations

- the Bulgarian authorities to take steps to ensure that the existing procedures concerning compulsory hospitalisation and treatment are duly followed, and that the legal safeguards in place are truly effective (paragraph 150);
- steps to be taken to ensure that persons involuntarily admitted to a psychiatric establishment under the emergency placement procedure are not subjected to pressure to consent to treatment and thus change their legal status from involuntary to voluntary (paragraph 151);
- measures to be taken to ensure appropriate informed consent procedures in respect of involuntary patients (paragraph 152);
- the Bulgarian authorities to take steps to ensure the observance of the relevant procedures concerning forensic psychiatric expertise in the context of criminal proceedings (paragraph 154);
- specific arrangements to be introduced enabling psychiatric patients to lodge formal and confidential complaints with a clearly-designated outside body. Patients should be systematically informed of their right to lodge complaints (paragraph 156).

comments

- if a psychiatric patient admitted on a voluntary basis withdraws his consent to treatment, he must be released unless there are grounds for emergency placement (paragraph 151);
- the Bulgarian authorities are invited to take measures with a view to ensuring that psychiatric patients do not remain in a hospital longer than is required by their state of health (paragraph 155);
- the Bulgarian authorities are invited to further develop mechanisms for regular visits to psychiatric establishments by independent bodies (paragraph 156).

requests for information

- the comments of the Bulgarian authorities on the issues concerning guardianship raised in paragraph 153 (paragraph 153);
- the outcome of the investigation into the death of the patient Ivaylo Vakarelsky, admitted to Karlukovo Hospital on 27 June 2005 (paragraph 157);
- the Bulgarian authorities' comments on the absence of references in hospital records to the clinical cause of death of patients, and the lack of autopsies (paragraph 157).

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

Preliminary remarks

comments

- the Bulgarian authorities are encouraged to persevere in their efforts to reorganise the system for provision of care to persons with mental disabilities, including both de-institutionalisation programmes and options for those persons who will not be able to benefit from such programmes (paragraph 159).

Residents' living conditions

recommendations

- steps to be taken to introduce programmes for nutritional intervention (paragraph 166).

requests for information

- confirmation of the entry into service of the new Home in Medovina and more detailed information about it (capacity; equipment; treatment and activities; staff, etc.) (paragraph 168).

Care of residents

comments

- the Bulgarian authorities are invited to step up their efforts to improve the provision of dental care to residents at the Home in Trustika (paragraph 169);
- the Bulgarian authorities are invited to make further efforts to ensure the implementation of the individual plans by involving all residents in activities adapted to their needs. Achieving this goal will require recruiting more qualified staff (paragraph 172).

Staff

comments

- the Bulgarian authorities are invited to increase the number of staff trained in providing therapeutic and leisure activities. Further, the introduction of systematic teamwork will be necessary in order to fully implement the de-institutionalisation programme (paragraph 174).

Safeguards

recommendations

- the CPT reiterates its recommendations that:
 - steps be taken without delay to ensure that residents of homes for persons with mental retardation have the effective right to bring proceedings to have the lawfulness of their placement decided by a court, and that they are duly informed of this right;
 - the need for continued placement be automatically reviewed by a court at regular intervals; residents themselves should be able to request at reasonable intervals that the necessity for placement be considered by a judicial authority (paragraph 177);
- efforts to be made to ensure that the placement of residents at homes for persons with mental disorders and/or retardation occurs in full conformity with the letter and the spirit of the law. Contracts for the provision of social services should specify the legal rights of residents, including the possibilities for lodging complaints to a relevant outside authority. Further, residents unable to understand the contracts should receive appropriate assistance (paragraph 178);
- the Bulgarian authorities to take the necessary steps to avoid conflicts of interest arising through the appointment of an employee of a social care home as the guardian of a resident within the same institution (paragraph 179).

comments

- the Bulgarian authorities are invited to introduce a firm legal basis for regular visits to institutions for persons with mental retardation by bodies which are independent of the social care authorities (paragraph 181);
- the Bulgarian authorities are invited to pursue their efforts to encourage residents' contact with the outside world (paragraph 182).

requests for information

- the comments of the Bulgarian authorities concerning the resident at the Home in Trustika who had not been formally deprived of her legal capacity (paragraph 178);
- the comments of the Bulgarian authorities on the issue raised in paragraph 179 (paragraph 179).

APPENDIX II

NATIONAL AUTHORITIES AND NON-GOVERNMENTAL AND INTERNATIONAL ORGANISATIONS WITH WHICH THE DELEGATION HELD CONSULTATIONS

National authorities

Ministry of Justice

Mr Dimitar BONGALOV	Deputy Minister
Mr Petar VASSILEV	Director of the General Directorate for the Execution of Punishments
Mrs Elena DOYCHEVA	Expert, Liaison Officer of the CPT
Mrs Galina VASSILEVA	Head of Sector Information, Analysis and Secretariat

Ministry of Internal Affairs

Mr Roumen ANDREEV	Deputy Minister
Mr Vassil STOYCHEV	Deputy Director of the National Police Directorate
Mrs Vesselka FILIPOVA	Head of the International Co-operation and European Integration Department
Mr Milcho ENEV	Deputy Head of the Human Rights Department
Mr Emil VLADIMIROV	Chief Expert, National Police Directorate
Mr Ivan IVANOV	Expert, National Police Directorate

Ministry of Health

Mr Atanas DODOV	Deputy Minister
Mr Vesselin DELCHEV	Director of the European Integration and International Relations Directorate
Mrs Anna VARSANOVA	Head of Sector
Mrs Roumyana STOYKOVA	Head of Investment Activities Department
Dr Nikola SABEV	State expert
Dr Lora NIKOLOVA	Expert, Bulgarian Drug Agency
Dr Zhivka SAVOVA	State expert

Ministry of Labour and Social Policy

Mrs Ivanka HRISTOVA	Deputy Minister
Ms Elitsa SLAVCHEVA	Expert, International Relations Department
Mr Krassimir SAVOV	Expert, International Relations Department

Chief Cassation Prosecutor's Office

Mr Hristo MANCHEV	Deputy Chief Prosecutor
Mr Anton GJUROV	Execution of Sentences Department
Mr Kamen MIHOV	Head of International Legal Co-operation Department
Mr Nedko ZAHARIEV	International Co-operation Department
Mrs Pavlina NIKOLOVA	Expert, European Projects and Co-operation Division

Office of the Ombudsman of the Republic of Bulgaria

Mr Ginyo GANEV	Ombudsman
Mr Borislav TSEKOV	Chief Secretary
Mrs Rossitsa TOTKOVA	Director of Social Problems Department
Mr Damyan ATANASOV	Director of Constitutional Rights and Freedoms Department
Mr Velin EDROV	Chief expert

Non-governmental organisations

“Adaptatsiya” Society
Bulgarian Helsinki Committee
Bulgarian Lawyers for Human Rights
Human Rights Project
Association for the development of psychosocial rehabilitation

International organisations

UNHCR Representation