



**ANNUAL REPORT OF THE
OMBUDSMAN OF THE REPUBLIC OF
BULGARIA IN THE CAPACITY OF
NATIONAL PREVENTIVE MECHANISM**

FOREWORD

This is the second annual report of the Ombudsman of the Republic of Bulgaria in the capacity as National Preventive Mechanism (NPM). This document is not only of reporting nature. It aims at presenting to the public, the legislative and executive powers in Bulgaria the issues and trends that require regulative and management decisions in the area of respect for human rights at the establishments, where some of these basic rights are restricted.

The process of confrontation in the society, which led to outbursts of hatred, even violence against foreigners and refugees, may be identified as the gravest issue from the point of view of human rights in 2013. Catalyst of this confrontation was the refugee flow and the lack of adequate state policy, certain chaos and fact that the institutions involved were not ready to find fast and efficient solutions to overcome this emerging problem. This is the reason why the NPM changed the schedule of its inspections in 2013. It carried out inspections at the places where refugees and immigrants are accommodated and assessed and analysed the refugee and immigration processes in the country.

In 2013 the NPM prioritised and devoted particular attention to the condition of psychiatric hospitals and dispensaries; the establishments providing social and medical - social services to children and adults; the 24-hour detention facilities in the police departments and some of the correctional facilities in Bulgaria.

Unfortunately, while presenting the 2013 report on the activity of the Ombudsman as NPM, I have to bring to notice the fact that in 2012, following multiple insistence by the UN that Bulgaria should perform its commitment under the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and should appoint a state and financially independent institution to be NPM, this role was undertaken by the Ombudsman. In order to ensure the fulfilment of the NPM function the 2012 budget of the institution was increased with the scarce BGN 300 thousand. Surprisingly and without any justification the budget of the National Ombudsman for 2014 was reduced by BGN 312 thousand, i.e. the institution no longer has the funds required for the meaningful operation of the National Preventive Mechanism.

As Ombudsman of the Republic of Bulgaria I consider this cut in the budget as an encroachment on the independence of the only constitutional authority in the country entrusted with the mission to stand for the rights and freedoms of the citizens. However, despite the curtailment of the funds, the NPM will continue with its functions in accordance with the Ombudsman Act and the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Many of the inspections in 2014 will be thematic and will be focused on locations already inspected in 2012 and 2013, which the NPM defines as "problematic" in its reports.

**KONSTANTIN PENCHEV -
OMBUDSMAN
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I. POWERS

With its accession to the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPUNCT) the Republic of Bulgaria committed to establishing an independent authority, which is to monitor continuously the establishment where the freedom of the individuals is restricted.

The NPM function was delegated to the Ombudsman by virtue of amendments and supplementations of the Ombudsman Act (OA), promulgated in State Gazette, issue 29 of 10 April 2012.

The Ombudsman as NPM makes regular visits strongly oriented towards prevention. The purpose of these inspections is to strengthen the protection of individuals, whose freedom is restricted, against torture, cruel, inhuman or degrading treatment or punishment, or other types of maltreatment. NPM draws a report on its findings and recommendations after each visit, so that measures and steps would be undertaken to eliminate the causes and prerequisites leading to violation of the rights of individuals at such establishments.

The work of the NPM aimed at protection of the individuals with restricted freedoms should lead to prevention of maltreatment and development of and compliance with certain standards for the treatment of these individuals, which standards have to be followed by the administrations of the various institutions subject to inspection by the NPM.

To this end the Ombudsman or his authorised representatives have the right to: access, without notice at all times, to all places for detention and to their facilities and sites; access to all the information regarding the number of individuals held at such places and their location; to choose the places they would like to visit, and the individuals they would like to talk to; to have private conversations without witnesses with the individuals deprived of their freedom, personally or through an interpreter, if deemed necessary, as well as any other individual that in the opinion of the Ombudsman as NPM may provide the relevant information; access to all the information related to the treatment of the individuals and the conditions at the places for detention; to require information from the officers of the visited place for detention, to have interviews with them and to have personal interviews with any other individual present on the territory of the inspected site; to organise medical exams of the individuals with their consent.

Despite these powers, clearly and comprehensively provided for in the Ombudsman Act, in 2013 there have been cases where the NPM team was prevented from carrying out certain inspections. The team was allowed to carry out an inspection in the Home for Elderly Demented People - Ognen Village, Karnobat Municipality and in the Home for Children with Disabilities - Iskra Village, Karnobat Municipality, only after approval by the Deputy Mayor of the Municipality. The NPM team was allowed access to the Home for Medical - Social Care for Children - Vidin only after permission by the legal counsel of the Home. The most shocking example of hindering an inspection by representatives of NPM was the refusal by the Director of the Home for Mentally Challenged Elderly People - Prekolnitsa Village, Kyustendil District, to allow access to the site and the documents. As National Ombudsman I sent recommendations to the Minister of Labour and Social Policy with a copy to the Mayor of Kyustendil Municipality (service provider) to carry out an

inspection, to require explanation from the Director of the Home in Prekolnitsa Village and to impose disciplinary sanctions. In my letter to the Minister I insisted that he should notify all structures within the Ministry of Labour and Social Policy (homes for children without parental care, homes for mentally challenged children, home for elderly people with mental disorders, dementia and mental disabilities) that such an attitude to officers from the NPM is unacceptable not only to the institution of the Ombudsman, but to the international bodies, which the Ombudsman has undertaken to report to regarding his activities in the capacity as National Preventive Mechanism.

Disciplinary liability of the Director of the Home was invoked upon as a result of the recommendations made.

II. STATISTICS OF THE INSPECTIONS CARRIED OUT

The team of the National Preventive Mechanism carried out inspections at 199 sites in the period 01 January – 31 December 2013:

1. Structures within the State Agency for Refugees (SAR) with the Council of Ministers – 7.

2. State psychiatric hospitals and mental health centres – 13.

3. Institutions providing social and medical – social services:

- Homes for medical – social care for children – 9;
- Juvenile delinquents school – boarding school – 1;
- Homes for children with disabilities – 15;
- Homes for elderly people suffering mental disorders, dementia and mentally challenged – 18.

4. Detention facilities with the Ministry of Interior (MI) and the Ministry of Defence (MD):

- Detention facility premises within the MI structures – 84;
- Detention facility premises within the Military Police structures – 3.

5. Detention facilities with the Ministry of Justice:

- Temporary stay and isolation premises in the buildings of the courts – 46;
- Prisons – 3.

III. PROTECTION OF INDIVIDUALS SEEKING PROTECTION AND OF ILLEGAL IMMIGRANTS

The migration flow to Bulgaria intensified greatly during the second half of 2013. The main reason for this massive wave of individuals entering Bulgaria through Turkey is the ongoing war in Syria. Along with the Syrian citizens and family refugee flow, seeking protection, there is a significant number of illegal immigrants coming mainly from African countries and Afghanistan.

In relation to these processes the Ombudsman in the capacity as NPM carried out inspections in the facilities for detention of refugees and foreigners and prepared a special report analysing and assessing the refugee and migration problems in Bulgaria.

During the period 30 September - 11 October 2013 visits were made to the Border Police Department (BPD) - town of Elhovo, the Distribution Centre under construction with "Migration" Directorate in the town of Elhovo; the Special Home for Temporary Accommodation of Foreigners (SHTAF) - town of Lyubimets; the Registration - Acceptance Centre (RAC) - Banya Village, Nova Zagora Municipality; the Transit Centre (TC) - Pastrogor Village, Slivengrad Municipality; the Temporary Protection Centre under construction in the town of Harmanli; the Registration - Acceptance Centre - town of Sofia, the centres with the State Agency for Refugees in Voenna Rampa and Vrazhdebna Residential Estates in Sofia.

1. Protection of individuals seeking international protection (refugees)

The NPM team found a number of problematic areas during the inspections carried out:

Acceptance and registration of the refugees and immigrants

Acceptance of individuals is carried out mainly at the Border Police Department - town of Elhovo. In September 2013 only, through the border police department, approximately 2000 individuals have crossed the border of the Republic of Bulgaria illegally, and at the time of the inspection at the BPD - town of Elhovo there were approximately 400 individuals detained. NPM found that the Border Police carries out unusual functions, typical for the "Migration" Directorate with the Ministry of Interior.

The Border Police Department should detain these individuals for 24 hours, but in view of their significant number, the slow registration and the insufficient human resources, refugees and immigrants remain without legal grounds at the BPD - town of Elhovo - up to one week sometimes. Many of the foreign citizens are accommodated in one big premise - hall, separated with wire netting and chip-board. The accommodated individuals do not have enough blankets, there are no mattresses and pillows. There was no heating at the time of the inspection as well. In accordance with art. 43 of Instruction No 13-1711 of 15 September 2009 regarding the equipment of the premises for accommodation of detained persons within the structures of the Ministry of Interior and the order therein (the Instruction) each person detained is provided with food for 24

hours. Once this term expires, although they continue to be accommodated in the detention places on the territory of the BPD - town of Elhovo - these individuals are not provided with food, since this is not prescribed under the Instruction. The NPM team found cases where the foreigners stay approximately a week. It was found during the interviews that some of them have not had any food for more than five days, due to the lack of funds. The use of bathroom and toilet is also extremely difficult. There is no bathroom and the toilet is approximately 20 metres away from the building and is in terrible hygiene and general condition.

Mothers with children are accommodated in another building of BPD - town of Elhovo - equipped in accordance with the Instruction, having capacity to accommodate 15 people. The conditions there are good, but there is an acute problem with congestion.

Individuals detained are subject to primary medical examination. Some of the individuals accommodated need secondary exams for symptomatic complaints and specific medical care, which cannot be provided within the Border Police Department. Officers from other Regional Directorates of Border Police were commissioned to BPD - Elhovo - at the time of the inspection. The NPM team found that despite the increase in the human resources, the work of the police officers is not any easier.

In Elhovo the NPM team also visited the so-called Distribution Centre (DC) at "Migration" Directorate, which is under construction within the school for children with special needs. The decision for the construction of such a centre was made at the beginning of September. The Centre is a territorial division of the MI. The additional information received indicated that the legal grounds for the creation and the operation of the DC - Elhovo - is Order 13-1887 of 25 September 2013 of the Minister of Interior. Foreigners can stay in the Centre up to five days, and depending on whether they have filed an application for protection, they are directed to the SAR centres, and the rest - to the homes of the "Migration" Directorate - MI.

Accommodation.

At the time of the inspection the SAR centres were extremely overpopulated. At RAC - Banya Village, the number of individuals applying for protection was 147, given the centre's capacity of 70. At the TC - Pastrogor Village, there were 459 individuals accommodated, given the capacity of 300. At RAC - Sofia, Ovcha Kupel Residential Estate, there were 1000 individuals accommodated, given the capacity of 860, and the centres opened in Voenna Rampa and Vrazhdebna Residential Estates accommodated 709 and 420 people, respectively. The assessment of the NPM is that people, looking for protection, accommodated in this building are subject to inhuman and degrading treatment. The living conditions found at the time of the inspection are shocking - the buildings are old, with poor and poorly functioning sewerage and electric systems. The building in Vrazhdebna Residential Estate is not heated as the boiler is not working, and the hot water produced by two small boilers is limited. It is obvious that these buildings are fixed hastily, without the preparation necessary and they do not meet the requirements of any standard and regulation. The latter are not staffed. There is not even a representative of the SAR staying there full time in order to blow the whistle and to coordinate the actions in case of various problems and situations. There is not medical

care, and it was found during the inspection that individuals suffering chronic diseases and individuals who need medical care due to incidents occurring are accommodated in these centres.

The NPM team visited the Temporary Protection Centre under construction in Harmanli, which is situated in former military barracks. It is envisaged to accommodate the individuals looking for protection in the future in caravans (containers). There were 80 caravans at the time of the inspection. Most of them are new, not used and they have a bathroom and a toilet, but were not connected to the sewerage and water supply system, which was under construction at the time of the inspection. Twenty five caravans are old, some of them worn out, without a bathroom. It is envisaged that this centre will be of the "closed type", i.e. the individuals accommodated there would not be able to leave freely. It was not clear during the inspection where these people were going to shower. The existing barracks' bathroom is more than 300 metres away from where the caravans are situated, it is in a very poor condition and not suitable for use at present. It is not clear how the accommodated people will be accompanied to this bathroom, which is also outside the security zone.

The Centre is functional as of 11 October 2013. The NPM team was concerned regarding its operation, as there are no legal grounds for its commissioning. The Temporary Acceptance Centre in Harmanli is supposed to accommodate foreigners looking for protection in case of the entering into force of a National Action Plan for Temporary Protection. No such plan has entered into force. According to the provisions of Council Directive 2001/55/EU on minimum standards for giving temporary protection the authority related to giving such protection have been set at supranational level - a decision by the Council of the EU. No such decision has been made at European Union level at present. In this case the Centre is operating beyond any regulatory requirements. The issue as to how long the individuals seeking protection will stay there and what are the legal grounds for the restriction of their right to free movement is not clear.

It was found based on the additional information received that by virtue of decision of the Council of Ministers centres for accommodation have been opened in Vrazhdebna Residential Estate, in Voenna Rampa Residential Estate, in Harmanli, in Kovachevtsi Village (the latter was opened after the completion of the inspection of the NPM).

With respect to the closed centre in Harmanli the NPM was informed that it operates on the grounds of Directive 2013/33/EU laying down standards for the reception of applicants for international protection, which allows restrictive measures to be imposed on the free movement of the accommodated refugees. This Directive has not been transposed in the national legislation even at the time this report has been drawn up. By virtue of decision No 716 of the Council of Ministers of 18 November 2013 draft Law on Amendment and Supplementation of the Asylum and Refugee Law has been approved. Some of the legislative amendments are related to the transposing of part of the requirements of Directive 2013/33/EU. The draft law provides for the creation of zones set by the Chair of the State Agency for Refugees or an officers authorised by the Chair, which a foreigner seeking international protection is not allowed to leave.

The amendments in the Asylum and Refugee Law are subject to discussion and are currently deliberated on in the National Parliament. The Ombudsman, through an authorised representative, is also taking part in these discussions. The categories of

individuals who shall be detained in view of their individual specifics, health status, age, vulnerability should be set precisely in the amended Law.

Stay

The main problems are related to the very poor hygiene, which the administration in these places is not obliged to maintain. Some of the accommodated individuals do not want to clean the premises where they are staying. Monthly allowance amounting to BGN 65 is paid to the individuals accommodated, which is insufficient to meet their needs for food, clothes and medicines. The subsistence problems is resolved to some extent by means of donations from the Bulgarian Red Cross (BRC) and organised volunteer campaigns.

The people in these centres stay there until they are given refugee status or humanitarian status. Another option to leave the home is to declare ability to independently sustain oneself and an external address at which the applicants for protection shall reside. In these cases the individuals seeking protection waive their right to monthly allowance. The NPM team found that the applications for external addresses do not state more than 3-4 addresses. No institution has practically checked these addresses. The NPM team has visited one of these addresses in Svilengrad and found that there is a newly built and uninhabited house there. In this case the Ombudsman is concerned that more than 2500 applicants for protection have stated such fictitious addresses.

Although the applications from Syrian refugees are handled under an accelerated procedure, their number is so significant that the officers of the SAR process them with delays. The NPM team found that the human resources - interviewers, registrars, and interpreters - are insufficient at the time of the inspection and are unable to address adequately the refugee crisis emerging. Another human-resource related problem is the lack of motivation for the personnel, linked to the specific work, the huge workload and the low remuneration level.

Medical care

The NPM team found significant differences between the opinions of the different officers as to the medical problems and needs of the people seeking protection. The lack of feedback not only between the separate administrations, but between the different levels within one and the same system is obvious.

The following important problems and omissions emerge from medical standpoint:

Hygiene - epidemiological problems

- the concentration of a large number of people in small space, which hypothetically creates favourable environment for the spreading of infectious diseases;
- extremely poor hygiene conditions that people seeking protection are accommodated in;

- primary medical exams which are significantly delayed and taking samples for the running tests for all individuals seeking protection. The poor coordination between the competent institutions can be identified as a reason for the delay of such exams. These exams and tests can be delayed between several days and several weeks, if not more. The registration of the individuals accommodated in centres in Voenna Rampa, Vrazhdebna and Ovcha Kupel Residential Estates is slow, and those accommodated in the buildings in Voenna Rampa and Vrazhdebna are transported gradually to Ovcha Kupel by buses. Women and children are given priority in the registration process. The primary medical examination is carried out during the registration and samples for laboratory tests are taken.

Issues related to the immunisation and re-immunisation of the children of people seeking protection

Vaccines for the immunisation of children have been provided by the Ministry of Health. The NPM team found a problem with the immunisation status of these children. On one hand there are no documents proving what immunisations have been given to the children,. On the other hand no immunisations compliant to the requirements of the World Health Organisation have been done since the occurrence of the events in Syria.

Provision of health care before and after the inclusion of the protection seekers in the republican healthcare system

All individuals seeking protection are given health assured status at the time of registration of the filed status application. Before that health care to individuals staying in the open-type centres is provided by medical professionals working for SAR, who are mainly doctor's assistants. The only doctor currently employed under labour agreement with SAR works on the territory of the RAC - Ovcha Kupel.

People seeking protection are included in the health assurance system and are granted rights of mandatory health assured persons (NHAP) in accordance with the provisions of art. 33, para 1, item 4 of the Health Assurance Law (HAL) in relation to art. 29, item 4 of the Asylum and Refugee Law (ARL) not as of the time of the filing of the application, but as of the time of the registration. A long period of time may elapse between these two events. This right is realised in different ways in the different regions. In Haskovo District for example, all refugees who have been granted rights under the HAL are automatically included ex-officio in the patients' list of a general practitioner from Svilengrad. The turnover of these individuals poses an additional problem - new ones arrive and register, others are delisted due to change in their residence.

No such ex-officio inclusion is practiced in Sofia, however, and the people who have been granted health assurance rights receive an explanation, that they are expected to choose general practitioner and dentist, by filling in the forms for the selection of the latter. However, not all of the people who were granted rights of MHAP, choose general practitioners due to the lack of funds to pay the user fee in case of visits to the general practitioner. Another serious problem is related to the software used by the NSSI. Upon the inclusion of the refugees in the national health assurance system and as of the time of the registration the SAR commences transfers of the health assurance contributions for the respective person to the NRA, but the person is not seen as a health assured person in NSSI's software over a period of at least two months. Therefore, in case of potential need for medical treatment, the registration documents and the paid health assurance

contributions of this individual must be submitted to the NSSI, so that special certificate confirming that the person is health assured can be issued.

There is also a problem with the medical care for the children in the age range of 0 to 2 years. General practitioners explicitly refuse to enlist children in the 0-2 years of age. These children need specialised paediatric care. "Paediatric teams", which according to the plan should be provided by the Military Medical Academy (MMA) are not available at the time of the inspection.

In case of potential hospital treatment the language barrier is also a problem. It is a reason not to get information about the medical history from the patients, but it is also a reason why the medical professionals are unable to explain to the patients what their treatment would involve. The signing of the "Informed Consent" form is formal and does not serve the purpose it has been implemented for.

There is also a problem with the provision of medicines, consumables and potentially specific foods to those who need them. According to data provided by the Director of Regional Health Protection Centre (RHPC) - Haskovo - there is a problem with diabetics - there is no insulin, especially for the individuals accommodated in the closed-type centres.

The major problem related to our healthcare in a situation of intensified flow of foreigners to Bulgaria is the lack of uniform concept of conduct in such circumstances, the lack of coordination between the different institutions, the lack of feedback in the same structures and the resultant "piecemeal" work lacking vision for the future.

The overall conclusion of the Ombudsman in the capacity as NPM regarding the situation during the inspections is that there is no adequate state policy, and the institutions involved are not prepared to find quick and efficient solutions to handle the huge refugee and migration flow over the past months.

Based on the findings the NPM gave recommendations for urgent action by the institutions. These recommendations were sent to the Prime Minister, the Ministers of Interior, Health, and Justice, the State Agency for Refugees and the State Agency for Child Protection.

Some of the recommendations included:

- ***discontinuation of the detention of people after the expiry of the 24-hour detention at the BPD - Elhovo.*** In response to this recommendation the NPM was informed that despite the measures undertaken and the opening of a new distribution centre, the difficulties with the transfer of the individuals detained at BPD - Elhovo, after the expiry of the 24-hour term, continue. The reason is the full capacity at the RC in Elhovo and the SAR centres, as well as the impossibility to redistribute individuals thereto in a timely manner. NPM still insists that this practice should be stopped;

- ***bringing all SAR buildings in line with the regulatory requirements.*** They have to be surveyed by various institutions to ensure the fire and hygiene - epidemiological safety, to secure clean water, maintenance of normal temperature in the buildings in view of the upcoming cold winter season. The progress achieved with respect to the implementation of this recommendation is promising. Many steps have been taken to secure normal living environment and hygiene. In summary it may be said that as at the end of 2013 the situation in this respect has been largely taken under control. This progress was also pointed out by the UN Supreme Commissariat for Refugees and various representatives of

the European Union institutions. However, problematic is the closed-type of camp in Harmanli, where people are still accommodated in tents. NPM will pay special attention and will continue the inspections in these locations in 2014 as well;

- **appointment of sufficient number of personnel** - general and specialised administration in Vrazhdebna and Voenna Rampa, additional personnel in TC - Pastrogor Village, and RAC - Banya Village, hiring of interpreters. The recommendation was implemented and the full-time staff of the SAR was increased by 50 officers, across the various locations as needed. Additional officers from the MI, MD and the SANS have been commissioned to facilitate the needs of SAR related to the acceptance and registration procedures for individuals seeking protection.

- **to place in a visible location in the centres in Harmanli, Vrazhdebna and Voenna Rampa information in different languages explaining the rights and obligations of the individuals seeking protection**, as well as emergency telephone numbers. This recommendation has also been implemented and in the acceptance centres in Vrazhdebna Residential Estate, in Voenna Rampa Residential Estate, and in Harmanli information boards have been put up with materials in Arabic regarding the rights and obligations of the persons accommodated, as well as emergency telephone numbers.

- **as a priority to secure places with normal living conditions to accommodate the families with little children**. The recommendation has been partially implemented, as with the overloaded capacity of the accommodation places, this is not always possible. However, the SAR and Migration Directorate have reassured the Ombudsman as NPM that they are making all efforts possible to ensure the required conditions are provided;

- **the NPM expressed strong concern regarding unaccompanied minors and under aged youths in relation to their status and protection measures**, which are applied thereto in accordance with the provisions of the Child Protection Law. Since the beginning of 2013 until 29 October 2013 144 unaccompanied minors and under aged individuals have been registered, who have filed applications for protection. The NPM was notified additionally by the institutions that after the completion of the proceedings at the SAR the unaccompanied minors and under aged youths are accommodated in the homes for children without parental care. In accordance with the national legislation guardianship and custody over the children is implemented under the provisions of the Family Code. Despite the legislative and practical measures undertaken towards working with unaccompanied minors or under aged foreigners seeking or granted protection the issue with the appointment of guardians or custodians is still not resolved. Unaccompanied minors and under aged youths seeing or granted protection, who do not have a guardian / custodian appointed, are represented by a representative - social worker from the Social Assistance Directorate depending on the current address of the child. According to art. 25, para 5 of the ARL in relation to art. 15, para 17 of the Child Protection Law (CPL) the Social Assistance Directorate may present the child in the cases provided for by law. The social worker appointed by virtue of order of the Director is present during the proceedings for granting protection, namely: during the interview the social worker monitors the proceedings and the observance of the child's rights, the social worker is present during the serving of the resolutions on the application for protection, etc. The representatives may not be considered guardians or custodians and their expressions of the will on behalf of the children are not legally valid. In case of need for more extensive support on specific issues children are provided assistance by specialists from the non-

governmental organisations, as well as psychologist provided by the SAR. NPM is of the opinion that the problems with the unaccompanied minors or under aged foreigners require first and foremost legislative and then administrative solutions, as the difficulties in this area should be deemed a priority and should be considered jointly with the competent state authorities in order to establish a mechanism, by means of which the problems identified to be resolved, because the unaccompanied minors and under aged foreigners, seeking or granted protection, are amongst the most vulnerable groups;

- ***timely opening of doctor's offices for paediatric care in the accommodation centres*** or in immediate proximity thereto and formation of paediatric teams which are to serve the children of the individuals seeking protection, regardless of whether they are registered or not.

With respect of the provision of medical care the NPM was informed that a number of measures have been taken. The MH, through the RHI, tests all migrants entering the country at its own expense. The set of tests required is coordinated with the national consultants. At a meeting of the Departmental Headquarters of the MH a decision was made for the immunisation of all children up to 15 years of age. MMA participates with a team of 4 doctors in the initial medical examinations of the refugees in Elhovo. In the period 4 September 2013 - 24 October 2013 30 medical teams with specialists from the MMA have been sent to the Accommodation Centre in Elhovo. The language barrier and the difficult communication with the patients seems to be a major problem for the medical specialists.

In 2014 the NPM will continue investigating these problems during future inspections in the refugee centres.

2. Illegal migrants protection

In 2013 the NPM carried out 4 inspections in the special homes for temporary accommodation of foreigners (SHTAF) in Sofia and in Lyubimets within the Migration Directorate of MI. Three of them were part of the approved annual schedule, and one - in relation to a signal regarding beating of accommodated foreigners by the security staff at the SHTAF - Lyubimets.

During the initial inspections (March - August 2013) the NPM found that there have been many cases of individuals, mainly Syrian citizens, seeking protection from the war, who have filed refugee or humanitarian status applications before the State Agency for Refugees with the Council of Ministers, who, due to the delayed registration and processing of the filed applications, remain detained at the SHTAF, together with the illegal migrants. NPM recognises the problems related to the significant workload of the officers, the shortage of sufficient human resources and motivation within the structural units of SAR, as well as the full capacity of the open-type centres, but the NPM believes that the detention of people who have filed applications for protection in closed-type centres is unacceptable. The subsequent inspection showed significant improvement in the coordination between the Migration Directorate and SAR and acceleration of the transfer of the people seeking protection of the open-type centres of SAR.

Material base and living conditions

The living conditions at the SHTAF - Lyubimets are much better as compared to those at the SHTAF - Sofia. NPM found congestion and poor hygiene in the bedrooms and the sanitary premises of the individuals accommodated (mainly at SHTAF - Sofia), as well as lack of private space, especially for families with children.

The food-related organisation in both homes is different - at SHTAF - Sofia, it is provided by catering company, and at SHTAF - Lyubimets, it is prepared on site. During the inspection the NPM team found broken tables and chairs at SHTAF - Sofia, as well as leakages and mould in the canteen at SHTAF - Lyubimets. Complaints were made by the accommodated foreigners during the interviews regarding the quality and quantity of the food served, as well as the lack of respect for their religious beliefs .

The possibility to exercise the religion of those accommodated is provided through the separation of prayer premises for Muslims and Christians at SHTAF - Sofia. At SHTAF - Lyubimets these are located in the administrative sector, which makes their use rather difficult and forces the individuals accommodated there to pray in the sleeping premises. The places adjusted for watching television are in poor condition (peeling stucco, broken chairs) and need repair. There are football, basketball and volleyball fields in the yards of the homes. NPM is of the opinion that despite the efforts of the management of the homes to provide conditions for recreation, sports and cultural activities, the accommodated foreigners should be engaged additionally, as they are not doing anything during most of the day.

Protection of vulnerable groups - women, children, unaccompanied minors and under aged youths

The inspection team is concerned by the fact that children and pregnant women are still placed in SHTAF. NPM is of the opinion that detaining children at closed-type centres should be resorted to as a last measure and should be done over the shortest period of time (this is particularly valid for unaccompanied minors and under aged youths). The fact that some of them have suffered the horror of the war, they have witnessed the killing of their relatives, were victims to violence and abuse, malnutrition, have lived through the separation with their families, have been forced to leave school, should be taken into account. The officers working with them (interviewers, health and social workers) should have additional expertise and specialised skills.

Children accommodated in closed centres should have playgrounds and various activities should be available to them. No such are currently available at the SHTAF in Sofia and in Lyubimets. The prolonged stay in the centres, the separation of the child from home and the impossibility to have access to education may influence the physical, intellectual, cultural and social development, which yet again brings to the foreground the need to create open-type centres for this vulnerable group.

The possibility to use alternatives to detention should also be considered for pregnant women, the condition of whom requires constant doctor monitoring and very good living conditions.

Awareness as to the rights of the accommodated foreigners and access to legal aid

The language barrier should be pointed out as one of the biggest problems of the homes for temporary accommodation of foreigners. The lack of interpreters makes the communication between the accommodated people and the officers of the homes difficult. The NPM team finds disturbing the claims of the interviewed foreigners that they have not been informed about the reasons for their detention, as well as they do not receive the information they request as to the stage of development of their expulsion/deportation procedure or the proceedings before SAR in case of filed protection application.

The fact that with the amendments of the Legal Aid Law (SG, issue 28 of 19 March 2013), art. 22, para 1, item 9 free of charge legal aid for foreigners, against whom administrative measure is enforced, and foreigners placed in special home for temporary accommodation of foreigners under the provisions of the Law on Foreigners in the Republic of Bulgaria, who do not have funds and wish to use lawyer protection, is envisaged, should be pointed out as positive development.

During the inspection the NPM team found a problem with the availability of specialised staff at the homes, which requires the opening of additional positions for interviewers, assistant interviewers, psychologists, medical specialists.

Medical care

Medical care to the accommodated foreigners is provided by the medical services of the Medical Institute of the MI, located on the territory of the SHTAF. The language barrier is the main obstacle to the provision of quality medical services. The interviewed foreigners shared their concerns of the insufficient availability of pharmaceuticals and the lack of concern to their complaints by the medical personnel. Another difficulty in treatment is related to the lack of health medical documentation for foreigners suffering chronic diseases. The NPM team found problems with the immunisation status of the accommodated children.

The psychological help to the accommodated foreigners is not sufficiently provided. Two psychologists consult approximately 100-150 people, which casts doubts as to the efficiency of the help provided. The provision of dental services to the accommodated foreigners is extremely difficult as well.

During the inspections the NPM team did not find problems with respect to consents on the applications filed by the accommodated individuals for meetings with diplomatic representatives and consular authorities, their right to correspondence and telephone calls, as well as visits and meetings with a lawyer.

NPM inspection in relation to violence used

The NPM carried out an inspection on 30 November 2013 in relation to an incident at SHTAF - Lyubimets. The preliminary findings indicate that:

At around 19.00 h in the evening on 30 November some of the foreigners (mainly Algerians) placed in the home have initiated a hunger strike to protest against the bad, in their opinion, attitude in the home for temporary accommodation. Tension escalated and there were even quarrels between the accommodated foreigners themselves. All individuals were gathered and locked in the sleeping premises at around 20.00 h - two hours earlier than usual, as a prevention to avoid further escalation of the tension.

The foreigners accommodated in two of the sleeping premises started a mutiny, they broke down the doors of the premises, broke the furniture and the bars on the windows and prepared an escape.

In view of the complicated situation officers from the surveillance staff entered the premises and using force and support devices (truncheons) they suppressed the foreigners and put down the mutiny. Approximately 6-7 individuals were injured more seriously, and two have looked for medical assistance.

Following discussions with the injured people and representatives of the security staff, review of some of the video materials and the medical documentation, a conclusion can be made as to disproportionate use of force and support devices. The inspection team also found omissions in the records in the medical documentation. The NPM will send the complete opinion and recommendations to the competent institutions.

IV. STATE-OWNED PSYCHIATRIC HOSPITALS AND METAL HEALTH CENTRES

11 psychiatric medical establishments were visited in 2013. The problems found during the inspections carried out are identical to those already described in the NPM Annual Report for 2012. Despite the published data from the inspections carried out last year, the NPM found that the Ministry of Health has not undertaken any measures to eliminate the problems found. Therefore the NPM is obliged to emphasise once again the same problems and shortcomings related to the provision of psychiatric help.

No actual assessment of the competency level in accordance with the requirements set in Ordinance No 24 of 7 July 2004 on the approval of the "Psychiatry" Medical Standard has been made in any of the state-owned psychiatric hospitals. The conditions to carry out medical activities related to the medical equipment and furnishing available and in working order, the number and distribution of medical specialists, the hygiene and living conditions the patients are placed in, etc., have not been met.

During the inspections carried out in 2013 the NPM team once again found that most state-owned psychiatric hospitals do not avail of the conditions required under the "Psychiatry" Medical Standard, such as: possibility to use X-rays machine, scanner, EEG, NMR and clinical laboratory of II or III level of competency (all with 24-hour access for the hospital), as well as possibility for consultations with other medical specialists – all of that in the same settlement, as well as ECG, ECT and oxygen feeding installation on the territory of the hospital.

Despite these findings, which were also confirmed by the inspections carried out jointly with the Executive Agency Medical Audit, initiated by the administration of the Ombudsman of the Republic of Bulgaria, the MH did not launch a procedure in any of the inspected psychiatric hospitals to bring them in line with the requirements of the Law on Medical Establishments. They continue their operations only based on Decree No 20/22 February 2000 on the determination of the ME under art. 5, para 1 of the HEL and their specific function, but they do not hold documents with defined levels of competency, obligatory for all medical establishments providing hospital aid in accordance with the provisions of art. 6, para 1 of the HEL.

In 2013 the NPM continued the practice adopted in 2012 to carry out inspections jointly with experts from the Executive Agency Medical Audit (at MHC – Veliko Tarnovo and at SPH – Tserova Koria Village).

In the course of the inspections the experts found that the staff of some psychiatric help medical establishments include units, which are not registered in accordance with the existing regulations, but are functioning despite of this fact. This is valid for most hospital pharmacies and clinical laboratories within the structures of SPH (the SPH – Lovech is an exception and the pharmacy there is registered in accordance with the requirements of the law).

A problem for the normal functioning of the psychiatric aid medical establishments and the SPH in particular, is the lack of sufficient number of qualified personnel – doctors, nurses, psychologists, etc. The NPM believes that this makes the timely and quality treatment of the patients extremely difficult and poses a risk with respect to the

monitoring and care for aggressive and auto-aggressive patients. The control and admission regime in the hospitals is poor. Due to the limited human resources in the psychiatric hospitals the night shifts are also minimally staffed, which puts the personnel and the patients in danger. The assessment of the NPM is that the main reasons for this shortage of skilled staff is the low level of remuneration and the poor working conditions. The additional circumstances giving rise to issues within the psychiatric help system are the different principles for the financing of the SPH and the MHC, which is the reason for opposition and tension between the different types of medical establishments and reflects on the quality of the medical services provided.

The poor work organisation in some institutions also has negative effect on the quality of the health care provided in the psychiatric medical establishments. An indicative example to this end is the fact that the lack of ordinance on the labour therapy, identified last year, is still a current problem at present. In accordance with the requirements set out in the HL (art. 151), the MH is obliged to draw up such ordinance within 3 months as of the entering into force of the Law. This deadline has not been complied with to date. This makes it difficult to carry out labour therapeutic activities with the patients in need.

In the course of the inspections of the patients' documents the NPM found once again that there are many individuals treated repeatedly, with significant periods of stays in the hospital. The team found that a stay of several years (with small interruptions) is frequent practice. The NPM found a case where the patient has stayed in the hospital for more than 20 years without interruption (in the SPH – Karlukovo Village). This fact leads to the conclusion that psychiatric hospitals are forced to take on social functions as well, instead of these functions being performed by the specialised social establishments – mental disorder homes, which are subordinate to the mayors of the respective municipalities and for which methodological management is provided by the SAA with the Ministry of Labour and Social Policy. The lack of adequate communication and implementation of common policy by the two ministries – MH and MLSP – with respect of psychiatric health problems is obvious.

With respect to the medical documentation the NPM found several serious problems this year as well.

The attitude to the informed consent of the patients related to their treatments is still completely formal. The forms are uniform and incomplete – they do not refer to the specific condition and the specific therapy. In addition to the informed consent form, a form titled "Declaration for withdrawal of a consent to treatment", which the patient may sign voluntarily and cancel his / her treatment in the hospital, is also available in some psychiatric hospitals.

During the inspections of medical documentation carried out in 2013 the NPM also found that it is not kept in accordance with the requirements set out in point IV, item 2.3.3.2 and item 2.3.4.2 of Ordinance No 24 of 7 July 2004 on the approval of the "Psychiatry" Medical Standard. Monitoring of the patients is not recorded daily and the condition of admitted suicidal patients and very aggressive patients, the assessment of the suicidal risk and aggressiveness are not documented regularly. The keeping of nurses reports and temperature sheets is identical. Having in mind that some of the patients admitted in SPH should be placed in social institutions, the NPM believes that this problem is more likely part of the problem with the inadequate allocation in the respective establishments

(homes or hospitals). It is impossible to record decursuses on a daily basis in the history of the condition of a patient who has stayed in the hospital for years.

In the medical documentation comprising the history of the conditions of the patients – accompanying diseases are often not recorded at all in relation to the diagnostic – treatment activities. There are only descriptions and therapy prescribed related to the mental condition of the patients. No consultations with specialists in other medical areas are not recorded on many occasions in the histories of conditions reviewed. The NPM team found that even individuals with laboratory tests beyond the normal ones have not been subject to consultations with the respective specialists. This finding is also valid regarding the description of the patient's condition upon admission in the medical establishment. The psychiatric status is described in detail, but there are significant omissions in respect of the somatic status descriptions. This is a problem as very often mental patients are suffering very poor somatic health – especially those with various addictions. Most of them need active treatment of such diseases, as well as dental help.

All diagnostic and therapeutic medical activities should be recorded and enclosed to the HC of the patients. The NPM team found cases when payment is required for medical services provided in other healthcare establishments either from the patient's relatives, or from the patient himself. Since people suffering mental diseases, being chronically ill individuals, are health assured by the republican budget, such payment and additional payment is illegal. The competent institutions still do not exercise control over this issue.

A specific problem with addicts is the lack of long-term therapeutic programmes for their treatment and socialisation. The existing programmes are either private, or are initiated by non-governmental organisations. They are very expensive and therefore – are unaffordable for most of the patients. This is why the treatment is often compromised due to the lack of mechanisms for re-socialisation of drug and other addicts. This is related to the fact that there is no adequate offering of social services in Bulgaria. This is predetermined by financial concerns mainly, rather than the actual necessity.

Many patients are hospitalised in various SPH forcefully, by virtue of court decision. A leader in this respect is the SPH in Lovech. Apart from being an establishment for stationary treatment of patients with mental diseases and patients with addictions, it is the only psychiatric hospital in the country with a court ward for compulsory and forced treatment of mentally ill people. The capacity of the ward is 40 patients. At the time of the inspections there were 30 patients in this ward.

During the random inspection of histories of conditions from 2013 at the SPH – Lovech, as well as patients, hospitalised at the time of the inspection, no omissions and violations were found. Each newly admitted patient is assessed for suicidal risk and aggressiveness, and once registered they are followed up throughout the period of services in the ME. The documentation at SPH – Lovech is kept in accordance with the effective regulatory framework.

A hospital pharmacy is part of the structure of the SPH – Lovech. It is one of the few in the country within the structure of state psychiatric hospitals that has all registrations and licenses in accordance with the currently effective regulatory framework.

Due to the unique status of this medical establishment certain specific problems exist:

- art. 156, para 1 of the HL provides for a possibility that the cases are heard depending on the place of treatment of the patient, but according to the CPC and CC the cases of these

patients are heard depending on their place of residence (address registration), and the tribunal is not specialised. This is related to significant costs for the hospital, which has to provide their transportation and security to the different regions of the country;

- there is no women's ward in Bulgaria in accordance with art. 89, item „c“ of the CC ("forced treatment in specialised psychiatric hospital or specialised ward in ordinary psychiatric – neurology establishment "). This is why in order to observe the law when forced treatment is required for women, it is transformed into treatment in an establishment in accordance with art. 89, item „b“ of the CC („forced treatment in ordinary psychiatric – neurology establishment “).

- hospitals are not reimbursed for the costs they incur in relation to court medical expertises and LEDC. LEDC in all other medical establishments are paid BGN 20 per person by the Ministry of Health, and at the SPH – Lovech the LEDC payments are covered fully by the hospital.

Another state psychiatric hospital with specialised ward for patients with tuberculosis (TBC) visited in 2013 is the SPH – Karvuna Village. Psychiatric disease patients with active tuberculosis from all over the country are admitted in this ward. These patients are mainly from homes for elderly people with mental disorders. During the inspection the NPM team found that most of them are admitted with an advanced stage of active tuberculosis. This is why the inspection team members observed a big number of patients suffering grave physical exhaustion and accompanying mental problems. It is obvious that in these cases it is all about extremely late diagnostics due to the inadequate attitude to the health of these people by the establishments that send them here. For most of these patients general practitioners are appointed ex-officio. The duties of these general practitioners include regular prophylactic exams with the relevant laboratory tests. However, no such exams in accordance with the rules set out have been made with respect to the patients admitted to the TBC ward. They are diagnosed when the process is so advanced that the disease has become very obvious even without specific diagnostic measures and the patient's condition has already become rather grave.

The conditions in the psychiatric hospital itself are relatively good.

Apart from the problems that are valid for almost all state psychiatric hospitals, at the HPS in Tserova Korja Village and at the HPS in Byala the NPM experts found that there are no contracts signed for exams, consultations with specialists, tests and potential prescription of treatment in relation to the somatic health condition of the patients. All consultations related to somatic health issues of the patients are provided only by the teams from the Emergency Aid.

The ratio profile of the different diseases in all SPH visited is as follows: the diseases in the group of schizophrenic disorders have the biggest share, followed by affective disorders and the alcohol addiction syndrome.

During the inspections carried out in the mental health centres the NPM found that they are usually well staffed, and the conditions are significantly better than those in the hospitals, with the exception of the MHC in Veliko Tarnovo and the MHC in Haskovo where the conditions are poor.

Most of the MHC are also non-compliant with the requirements set out in Ordinance No 24 of 07 July 2004 on the approval of "Psychiatry" Medical Standard, mainly in terms of the medical equipment and furnishing available and fit for use.

Some of the recommendations made by the NPM to the medical establishments and the competent authorities include:

- the MH and MLSP are to initiate procedures to resolve mental health issues depending on their competencies;
- procedures (regulatory amendments and other) are to be initiated to establish women's ward in accordance with art. 89, item „c“ of the CC;
- procedures are to be initiated for the issuance of a document setting the levels of competency of the state psychiatric hospitals in accordance with art. 6, para 1 of the MEL and the "Psychiatry" Medical Standard, approved by virtue of Ordinance No 24 of 07 July 2004 of the MH;
- the respective regulations related to the improvement of the functioning mainly of the SPH are to be drawn up (for example, Ordinance on the Labour Therapy, etc.);
- procedures are to be initiated to transfer patients to social institutions corresponding to their condition;
- efforts are to be made to find solutions for the adequate financing of the health establishments within the psychiatric medical aid system;
- practice is to be implemented for strict control over the psychiatric help medical establishments by the competent authorities;
- measures are to be taken to bring hospital laboratories in line with the requirements of the existing regulative framework and the requirements of Ordinance No 35 of 6 August 2010 on the approval of "Clinical Laboratory" Medical Standard, by ensuring availability of the Clinical Laboratory specialist required for this activity;
- the requirements of Ordinance No 24 of 7 July 2004 on the approval of the "Psychiatry" Medical Standard are to be observed in the work process in the medical establishments;
- regular monitoring of the patients is to be carried out both in psychiatry terms and somatically, and the consultations, tests and therapy prescribed are to be recorded in the HC.

V. SOCIAL AND MEDICAL - SOCIAL INSTITUTIONS FOR CHILDREN

1. Homes for children with disabilities

In 2013 the NPM team inspected 13 homes for children with disabilities and 2 centres for accommodation of a family type. All homes for children with disabilities are to be closed down in 2014. CAFT and protected homes will be built instead. During the past year the inspections of the NPM team were focused not only on the currently operating homes, but on the monitoring of the last stage in the deinstitutionalisation process for children with disabilities.

Living conditions

The findings of the NPM are that the living conditions for the children in these homes are very good. The children have sufficient personal space, well-equipped yards – with facilities adapted for children with disabilities. The Home for Children with Disabilities in Kula and the Home for Children with Disabilities in Ilakov Rat Village, Elena Municipality are exceptions. The condition of the buildings of the two homes is not good, the general hygiene is not well maintained. The children are using sleeping premises with up to 5 beds. The rooms are not spacious, there are no wardrobes and cabinets for personal belongings. One sanitary unit with a bathroom is available to each three or four rooms. The conclusion of the inspecting team is that the required personal space is not made available to the users. The team found mould on the walls during the visit to the kitchens and the canteens. There are no platforms and / or elevators for children with disabilities. The findings of the NPM are that this violates the children's rights to free movement, as well as the provisions of art. 9 of the Convention on the Rights of Persons with Disabilities and the NPM recommends putting in place infrastructure suitable for children with disabilities.

A positive trend is the offering of the new social services to children with disabilities. The NPM team visited centres for accommodation of family type in Karnobat and Kyustendil. The new social service represents one-storey houses. The following premises are available in the buildings: common premise for games, study and eating, bedrooms, sanitary unit and kitchen. There are recreation and outdoor activity spaces in front of the centres. The premises are built in a way ensuring living conditions close to the family ones. The environment is as accessible to the children with motion disabilities and difficult mobility as possible. The capacity of each CAFT is 12 children with a possibility to accommodate 2 more children in case of emergency. A negative finding is the insufficient number of the medical staff. Two full-time openings for nurses are announced in the Centre for Accommodation of a Family Type in Karnobat. The NPM recommends an increase in the full-time positions for nurses in order to improve the quality of the social service, as two nurses are extremely insufficient to take good quality medical care for children with disabilities – it is impossible to secure 24-hour duty of the medical personnel.

Management and administrative capacity

The trend that the personnel employed at the homes for children with disabilities would pass various trainings and would participate in qualification improvement courses continued this year as well. Many of the homes have available staffing resources such as psychologist, speech therapist, art therapist, rehabilitator. An example of good practice is the Home for Mentally Challenged Children in Medven Village. In 2013 each of the employees of the home has attended training how to work with children with disabilities.

Health care

The NPM team did not find problems with the health care provided to children with disabilities, with the exception of the Home for Children with Disabilities "Sveti Nikolay Chudotvoretz" in Krushari Village.

The children are taken regularly to LEDC for re-certification and they have expert decisions for disability with various percentages of mental retardation. Many of them receive medicines on the basis of protocols for the respective diseases. Children placed in homes for mentally challenged children are also taken to prophylactic exams and tests twice a year. They are regularly visited by a psychiatrist, and protocols for free of charge disbursement of the medicines are drawn up, if necessary. Teams of the Emergency Aid from the nearby hospitals are also called in case of emergency.

The NPM believes it is particularly important to draw attention to the findings from the inspection of the institution in Krushari Village, Dobrich District.

The NPM inspected the Home for Children with Mental Retardation (HCMR) "Sveti Nikolay Chudotvoretz" in Krushari Village on 4 April 2013. The team found that the capacity of the home is 100 children and individuals. 93 are accommodated there at the time of the inspection. This is the institution for children with disabilities having the biggest capacity in the country. It is situated in Krushari Village and the nearest hospital is approximately 30 km from there. 70 of the children placed in the home have severe forms of disabilities and should have continuous medical observation. Only 6 nurses are employed full-time at the home, there is no full-time position envisaged for a head nurse. No annual schedule regarding the health care for the children is drawn up.

There are few premises and they are insufficient in terms of space so as to provide adequate care to the big number of children accommodated there. The rehabilitation halls are insufficiently equipped and are also small. Having in mind that most of the children cannot move or hardly move, one rehabilitator and one kinesitherapist are insufficient for the movement therapies required. The therapists mentioned were hired in March 2013. Most of the children were lying down all day long before that.

The NPM got acquainted with the report prepared by the Central Directorate "Control on Children's Rights" – Varna, as a result of their inspection at the HCMR in Krushari Village, carried out on 5 and 6 February 2013. The inspections have also found that the full-time positions for specialised personnel may hardly be filled due to the low remuneration level, the remoteness of the village from the town of Dobrich, as well as due to the need to

take on bigger responsibility for the health and needs of children suffering many and serious diseases.

In this respect the Ombudsman of the Republic of Bulgaria, in execution of its functions as National Preventive Mechanism, issued an official opinion and recommended that the children and persons in the Home for Children with Mental Retardation "Sveti Nikolay Chudotvoretz" in Krushari Village should be urgently transferred to suitable institutions located in district towns and nearby hospitals, having the needed medical specialists and equipment to take proper care of the children. Furthermore, the Ombudsman expressed the position that such treatment of children and people with disabilities demonstrated by officers in specialised institutions can be qualified as cruel, inhuman and degrading in the meaning of the Convention. The same qualification is relevant to the many years of lack of action to reduce the capacity of the home and to secure the provision of the required specialised health care by the Social Aid Agency and the State Agency for Child Protection. It is evident from their reports and compulsory instructions with respect to the quality of the care provided in the home, the living conditions and the cramped capacity in the HCMR in Krushari Village that the problems have been identified, but no measures required to protect the children and the other individuals have been taken.

In response to the position of the Ombudsman of the Republic of Bulgaria the state institutions directly engaged with the problems of children with disabilities stated that an update of the assessments of the needs and plans for the care of the children at the home is upcoming, and that alternative resident services will be sought in the community, where the children can be placed.

No steps for urgent transfer of the children and the individuals from the Home for Children with Mental Retardation "Sveti Nikolay Chudotvoretz", Krushari Village have been taken to date by the State Agency for Child Protection and the Social Assistance Agency.

Education and training

During the inspections the NPM team found that the number of children with disabilities who are involved in the educational process increases. Some of the children are educated using Val D'Or pedagogy programme which is aimed at developing the applied skills of the children through work with natural materials, making different paper, wood, clay, etc. figures. Others visit general education or schools for children with special needs. Educational process for the children in the so-called out-of-school classes is also widely used.

An example of good practice is the Home for Children with Disabilities in Medven Village. The team of the institution is developing very well a programme using various forms of training. One of them is the out-of-school class at the home. A classroom is equipped for this purpose in the home. 8 children are enlisted in this class and resource teacher having extensive experience is employed.

2. Homes for medical – social care for children

In fulfilment of the policy document National Strategy "Vision for Deinstitutionalisation of Children in the Republic of Bulgaria", the Ministry of Health developed a concept for deinstitutionalisation of the children from the homes for medical – social care (HMSCC), which was passed by the Council of Ministers on 1 September 2010 as an addendum to the Concept for the Restructuring of the Hospital Care System.

The plan for the closing of the specialised institutions includes: activities with the children; gradual and specifically scheduled reduction of the capacity of the specialised institution over time; personnel-related activities and plan for the future of the tangible assets.

In 2013 the NPM followed the closing process of 4 of the pilot HMSCC, included in the "Destination Family" project and the cooperation mechanisms between the institutions involved, related to the care for and protection of the children.

Admission and stay

The NPM found that there is certain lack of clarity with respect to the application of the provisions of the Family code (FC) regulating the adoption procedure. Art. 93 of the FC states that adoption without the consent of the parent is allowed when the parent permanently does not take care of the child and does not pay allowance or raises the child and brings the child up in a manner detrimental to the child's development.

Adoption without the consent of the parent is also allowed when the child is placed in a specialised institution and within 6 months as of the date of the placement as a result of an administrative procedure under the Child Protection Law, the parent, without justifiable cause has not requested termination of the placement or change of the measure and return of the child, or the placement of the child in the family of relatives or closely related people as provided for in the CPL. The request may be filed as part of placement proceedings by the court initiated in accordance with the CPL.

Adoption without the consent of the parent in the above mentioned situations is also allowed when social service of resident type has been provided to the child, or the child has been placed in foster care and has been entered in the register of children to be fully adopted.

The lack of specific definition of the "justifiable cause" condition is the reason for the application of different approaches by the officers at the Social Assistance Directorates (SAD) in the cases when the parents have not been in contact with the children placed at HMSCC over a period of 6 months or more after their placement there.

For example, a check of the documents of the children at the HMSCC – Yambol carried out by the NPM showed that often the action plans for several children enlisted in the adoption registers state as a long-term objective "reintegration in the biological family".

There is a case of a child born 22 August 2011 and placed in the home on 16 September 2011 by virtue of court decision until the child turns 3 years of age. In the social report prepared on 24 September 2013 by SAD Yambol it is explicitly stated that the child has not been visited by the mother or other relatives since the child's placement in the home.

The lack of interest to the child by the mother was found as well. However, the action plan states as a long-term objective "the child's reintegration in family environment – adoption". Short-term objective 2 states "Preparation of the child for reintegration in family environment through adoption".

The NPM's opinion is that immediate steps should be undertaken for unification of the practice related to the inclusion in the full adoption registers for children, the parents of whom have not made an effort to improve the family environment or, in certain cases, have even not contacted the children within 6 months as of their placement in the HMSCC. The unification of the practice of the social workers in this respect is also important. There are cases when consecutive protocols for review of the child's action plan state as an objective "reintegration in the biological family", but they do not mention any specific steps taken and whether any results have been achieved in this respect, in order to justify the decision to continue the work towards the reintegration.

Living conditions and care provided by the institution

The living and accommodation conditions at the HMSCC in 2013 meet the requirements for the raising and provision of specialised medical care of children aged between 0 and 3. Most homes are split into four groups, separate residential blocks in spacious buildings are formed. Each home has an acceptance – quarantine section with an isolation unit in case of emergency placement. There are enough and well equipped bathrooms, rehabilitation halls, psychomotorics halls, study rooms, space for meetings with relatives / adopting parents. There are day centres for children with disabilities established within most homes.

An exception are the homes for medical social care in Sliven and in Kardzhali. During the inspections the NPM found that the physical assets in both homes are aged and funds for repair and replacement of the window frames should be extended. The space in the rooms is insufficient given the number of the children. 15 children are accommodated in one premise in the HMSCC in Sliven. In some of the groups there is no separate canteen, the playrooms and awake-time halls are also not enough. No devices facilitating the movement of children with difficulties in the motion (platforms, elevator) have been built at the HMSCC in Sliven. The NPM team believes that in view of providing individual care for the children the capacity of the home should be reduced gradually. The fact that the total number of the children using various services during the visit of the NPM team to the above mentioned home significantly exceeds their capacity is alarming. The capacity at the HMSCC, Sliven is 60 beds, while in February 2013 67 children are placed there. The capacity of the HMSCC, Kardzhali is 84 beds and 106 children are placed there as at 30 June 2013.

Access to training and education

The NPM once again found controversial practice with respect to the inclusion of the children from the HMSCC in the educational process. For example, the NPM's inspection of the HMSCC, Gabrovo showed that there are no children visiting nurseries or

kindergartens. On the other hand, all children at an appropriate age in the HMSCC, Vidin, are going to children's establishments in the town. One child is going to full-day kindergarten, eighteen children are enrolled in united children's establishments and six children are going to a school for children with special needs. The main reason is the lack of infrastructure for children with disabilities in most of the nurseries, kindergartens and schools in the community.

Medical care

Healthcare for the children at the homes for medical – social care is provided in accordance with the "Paediatrics" Medical Standard. In 2013 the NPM team did not find any omissions in the provision of healthcare for the children at HMSCC.

The diagnostic, treatment and rehabilitation activities in these institutions are carried out in all child wards of the homes under review. When surgery, invasive diagnostics are needed and when deemed necessary by the intensive treatment doctor children are taken to a children's ward suitable for the purpose in another medical establishment. In most cases upon the admission of the child the parents sign an informed consent form.

The activities of all wards at the HMSCC are carried out by a team with manager – head of block and head nurse. The team servicing a group of children is managed by a doctor and comprises: nanny, nurse, supervisor / pedagogy specialist, rehabilitator and psychologist. The specialised medical staff is only on duty during the day as there is shortage of paediatrics. The following commissions are formed based on orders issued by the principals of the homes: medical board, medical control committee, health care council, committee checking the fitness of the pharmaceuticals.

Administrative capacity and management

This year the trend continues for most of the multidisciplinary teams of the HMSCC to not pass qualification and additional training courses to work with children in the age group 0 - 3, as well as to work with children with disabilities (more than 50% of the children placed in these homes have medium and heavy disabilities).

An alarming example is the staffing policy of the Ministry of Health during the competitions for the position "Director of a Home for Medical Social Care for Children ". On 1 August 2013 Coalition "Childhood 2025" – a union of 16 leading civil organisations and networks representing more than 150 NGO and individuals from all over the country, working on issues related to the deinstitutionalisation of children with disabilities and children placed in homes for medical – social care for children has contacted the Ombudsman of the Republic of Bulgaria in the capacity as National Preventive Mechanism. According to the signal, following competition for a director of the Home for Medical - Social Care for Children "St. Ivan Rilski" in Sofia, the previous director was appointed. This person was previously fired from the home due to findings related to poor organisation, lack of control and adequate care for the children at the home. As a result of the competition Dr. Dzhurelova, director of the home until 2011, was appointed director of the Home for Medical – Sofia Care for Children "St. Ivan Rilski" in Sofia. During

the time when Dr. Dzhurelova was director of the home there were several serious incidents with children. The outcome of one of the cases is amputation of the hand of one of the children (in 2003) as the child was tied up to the bed over a prolonged period of time, and another child has suffered 80% burns and the child's life was in danger as no medical care was provided over several days (2011).

In relation to this signal the Ombudsman of the Republic of Bulgaria drafted an opinion that during the selection of candidates holding management positions and responsible for the care for children at risk, it should be assessed whether they have undisputed moral and ethical qualities. The opinion also states that such an attitude by officers in specialised institutions to the children puts them at risk in accordance with the definition of §1, item 11 of the Child Protection Law. The Ombudsman of the Republic of Bulgaria, in the capacity as National Preventive Mechanism, turned to the Minister of Health and asked the competition for director of the Home for Medical – Social Care for Children "St. Ivan Rilski" in Sofia to be checked. The Ombudsman requested information to be provided to him regarding the justification of the choice of the winning candidate. Following receipt of the official opinion of the Ombudsman of the Republic of Bulgaria the Minister of Health cancelled the competition and the procedure for the appointments of Mrs. Dzhurelova as director of the Home for Medical – Social Care. The Ombudsman of the Republic of Bulgaria informed the Central Prosecutor's Office of the Republic of Bulgaria on this case as well.

VI. SOCIAL INSTITUTIONS FOR ELDERLY PEOPLE

In 2013 the NPM team carried out planned and ad-hoc inspections of 18 homes for specialised social care for elderly people (homes for elderly people with mental retardation, homes for elderly people with mental disorders, homes for demented elderly people).

Unfortunately the negative conclusions that the National Preventive Mechanism stated in its 2012 report with respect to these services, reaffirm themselves as a trend in the state policy related to the care for these vulnerable groups. This conclusion is the reason for just concerns in the NPM even more due to the fact that according to data from the specialised institutions themselves and the statistics in the country, the number of the users of these services is approximately equal to the number of people applying to use them.

The significant number of elderly people needing social services is a prerequisite (and in some cases has resulted in) realisation by the state and local authorities that the significance of the resident service is an excuse in the cases of neglect in the care for the elderly people.

Living conditions

There are many places where the physical assets for the resident services have not been brought in line with the requirements of the regulations in this area. For example, 52 users of the services at the Home for Demented Elderly People (HDEP) in Gorsko Kosovo Village are accommodated in 11 bedrooms in total. The physical assets are depreciated, in poor general condition. The users are not provided with sufficient personal space, cabinet and wardrobe due to the shortage of space in the rooms, which is a violation of the provisions of art. 40f, item 2 and item 4 of the Rules on the Implementation of the Social Assistance Law (RISAL). The condition of room No 11 is particularly bad, where there are 3 beds in a very limited space. There is no room for cabinets for personal belongings in the room, the plaster on the walls is peeling and there are visible bare cables. Chairs, tables and a TV are placed in the corridor in front of the rooms and the corridor is used simultaneously as games room and canteen. There is a canteen on the first floor but it is not used for this purpose. No bell system has been put into place (panic buttons) in violation of the provisions of art. 40f, item 3 of the RISAL. No security is available in the home to control the admission regime for visitors, and there is no CCTV system as well. The home has one car which is not suitable to transport people with disabilities.

Care for the social service users and vision for the development of the social services for elderly people

During the visit to the HDEP in Opanets Village the NPM found that most of the users stay in the building, they do not go out, they are not taken out in the yard. During the

inspection some of them were even attached to the railings in the corridor in their wheelchairs in front of the bedrooms. The yard of the home is in poor condition, terribly equipped and maintained, and the access to it is restricted for the users due to the lack of platform for people who move with difficulty.

The opinion of the NPM is that there is obvious lack of will and vision of the competent institutions to transfer the services to the community. The opposite trend is noticed instead – the physical assets to render the services, provided at a distance from the big towns and the lack of the accompanying infrastructure for quality care for the people with disabilities, respectively, is rearranged with minimum funds for the opening of shelters. This brings about the practice for the shelters to be located de facto in the same building or in the yard of the respective resident service. Examples for this practice are almost all of the homes visited during the year. Shelter for 8 mentally retarded people is opened at the Home for Elderly People with Mental Retardation (HEPMR), Malko Sharkovo Village, Bolyarovo Municipality. Centre for Accommodation of a Family Type for 15 people with mental disorders and shelter for 8 mentally retarded people are separated in the HEPMR, Goren Chiflik Village, Dolni Chiflik Municipality. NPM has to point out that 2 of the users accommodated in the shelter are suffering severe form of mental retardation. Due to the specifics of the social service, there is not support staff (hospital attendant) in the shelter at night and during holidays, which requires the other users to take care of the personal hygiene and the living needs of the people with severe mental retardation.

Based on these conclusions the NPM doubts the desire for actual re-socialisation and inclusion in the society of mentally retarded people, people suffering mental disorders and dementia.

The HELPR in Batoshevo Village, which is situated in the old buildings of WPP Batoshevo, in a forest area and in immediate proximity to Rositsa River can be given as a particularly concerning example. The home does not have a security guard and CCTV system, and the gate is only locked on Sunday. This is why outsiders have access and the users of the home can go out, including for services against payment to people from the village, which is in violation even with point 9 and point 10 of the Rules on the Internal Order of the Home. As per information from the director of the home, there is regime of the water during the summer months, as there are no funds to purchase hydrophore pump. NPM found that the strategy for the development of the social service envisages that two of the buildings of the home would be rearranged into two CAFM – for elderly people with mental retardation and elderly people with mental disorders. This brings about bewilderment as the home is relatively remotely situated from the settlement and this would limit the opportunities for social integration of the users. Furthermore, it is yet again not clear what requires people with mental disorders to be placed in CAFT, located within a home for elderly people with mental retardation.

In relation to these findings the NPM sent recommendations to the Ministry of Labour and Social Policy (MLSP) and the Mayor of Sevlievo Municipality, some of which were:

- to strengthen the control over the users leaving the borders of the yard of the specialised institution;
- to install a CCTV system;
- to cover the open water source in the yard of the home;

- to fence the yard of the home so as not to allow the users to leave the home without control;
- to justify the decision for the rearrangement of the buildings of the home into a CAFT, which is outside a populated area and is remotely located from any other services in the community;
- to justify the decision to establish a CAFT for people with mental disorders in the yard of the HELMR.

The opinion of Sevlievo Municipality is that there are no sufficient funds to implement the recommendations and that "the location is suitable and the people from the village are used to the users that consider the institution as their own home". The opinion of the MLSP coincides with the information provided by the Municipality.

Administrative capacity and support

The NPM finds appropriate to emphasise the importance of the location of the homes for the recruitment of specialised personnel. A valid conclusion can be drawn with respect of all homes inspected during the year that the specialised staff is insufficient having in mind the number of the users, thus questioning the quality of the social service provided.

There are many locations where no funds have been set aside for training of the employees of the specialised institutions in view of the specifics of the work with people with dementia, mental retardation and mental disorders. This results in cases like the menus presented to the NPM at DEPMR – Malko Sharkovo, Bolyarovo Municipality, of which a conclusion can be drawn that the food offered is not balanced and does not meet the requirements of art. 41, para 1 of the Rules on the Implementation of the Social Assistance Law.

Medical care

Despite the set profile of the home for people with mental retardation in the HEPMR for men and women in Pchelishte Village, Veliko Tarnovo Municipality, there are 3 people accommodated with a primary disease – mental disorder, 6 with epilepsy and 5 diagnosed with Child Cerebral Paralysis (CCP). During the time of the inspection the NPM team found that the rehabilitator visits the home 16 days during the month for 4 hours, during which time he provides care to all users, including the CCP suffering individuals. According to NPM this is extremely insufficient in view of the provision of high quality medical and rehabilitation care to people suffering severe disabilities.

In this respect the NPM emphasises once again the importance of the optimum medical care for the individuals placed in institutions for specialised resident care for elderly people. Despite the constant recommendations of the NPM there has been no change in the practice where in case of death of a user the death certificate is drawn up by the general practitioner and no pathoanatomy expertise of the diseased is performed. It was found as a result of the inspections of the files of the users that in many cases no preceding disease has been recorded, which might subsequently be the possible cause for death.

Protection measures

In certain cases the NPM teams established neglect in the records keeping practices at the homes. Most individual plans for social work are templates with identical content. No date of preparation and term for revision are marked on some of the plans for the long-term needs of the users, plans for departure from the institution are frequently missing. The signing of termless contracts for the use of the service is also an indication of the prevailing understanding that there should be no work with the people aimed at socialisation and reintegration, but "bringing up" within the institutional care.

At the HEPMR in Batoshevo Village the NPM found that in 2011 after dispute between two users one has left the home and drowned in the nearby river. The case was not qualified as resulting from neglect by the personnel and there are no data that the latter has been investigated by the law enforcement authorities. Furthermore, during the inspection the users were freely urinating in the yard of the home and asked money from the team members while stating that if no money is given to them "they will drown in the river".

There is no dedicated register at the home reflecting the restrictive measures imposed on the users in case of aggression between the people. Immobilisation (tying up) is recorded only in the Reports book, without a note as to the beginning and end of the measure. The NPM team believes that this is a prerequisite for violation of the rights of the social service users due to the impossibility to identify specifically which user, on what grounds, how many times and for how long has been tied up.

Legal status of the users

The users of resident social services for elderly people are in a particularly vulnerable position since most of them are announced by the court as fully or partially disable. Their custodians / guardians are the director or another member of the staff of the specialised institution and in rare cases – relatives or next of kin, which in NPM is in contradiction with the provisions of the Family Code regulating the procedure for announcement of judicial disability.

Evidence thereto are all homes inspected during the year. For example, the director of the HEPMD and HEPMR in Tvarditsa, which are under single management, is a guardian of a total of 7 people and is custodian of 105. The concerns of the NPM are very relevant as to how well one individual is capable of taking meaningful care of the interests and managing the property of so many disable elderly people in a vulnerable position. However, this position is not shared by the mayors of the municipalities, who are the guardianship and custody authority under art. 154 of the Family Code.

An example of the cumulative result of the neglect of the importance of rendering high quality services to elderly people from the perspective of the location of the institution, the physical assets, management, administrative capacity, medical care and commitment of the local governance authorities is the HEPMR, Kachulka Village, Sliven Municipality. The NPM is of the opinion that the remoteness of the specialised institution, the useless physical assets, the big number of the users and the insufficient specialised personnel are

an obstacle to the provision of adequate and quality social services. This is why on 5 June 2013 the Ombudsman, in the capacity as NPM, has sent a recommendation to the competent authorities to take urgent measures to transfer the users out of the home and gradually close it over a short period of time. The opinion of Sliven Municipality does not commit to implementing the recommendation or at least to improvement of the conditions and the care for the residents. The MLSP has once again expressed an opinion that it is not possible to implement the recommendation of the NPM. At the beginning of 2014, after a change of the management of the home, the media also published alarming information regarding the quality of the care for the residents and the attitude to them. However, the engagement of the public and the reaction of the competent institutions were once again focused on the difficulties in caring for people with disabilities, rather than developing a mechanism to resolve the problems identified.

VII. DETENTION FACILITIES WITHIN THE STRUCTURES OF THE MINISTRY OF INTERIOR

1. Detention facilities in the regional police departments

The following permanent problems with the detention facilities in the police departments were identified by the NPM team during the inspections carried out: insufficient number of detention premises and poor equipment; overpopulation; lack of enough space; lack of separate sanitary units only for the detained persons; no sufficient access to natural light and adequate artificial lighting, as well as ventilation of the premises; shortage of materials for the cleaning of the premises and maintenance of hygiene.

The document reporting at the regional police departments, related to the detentions, is carried out differently. No documentation set by regulation is kept. The practice of the police officers working with the detained persons is different with respect to the actual record of the time when their right to free movement is restricted and the time of their release. Omissions and differences are found in the provision of food, medical services, the regime during the detention and the awareness of the detainees of their rights.

Living conditions

At most inspected sites the detention facilities have not been separated in accordance with the provisions of art. 5, para 1 of Instruction No I3-1711 regarding the equipment of the premises for accommodation of detained persons within the structures of the Ministry of Interior and the order therein (the Instruction).

The detention facilities in many of them are not sufficient in view of the number of detained persons. The facilities are overpopulated. For example, in some police departments in 2 separate detention facilities 8-10 people are detained on a daily basis (the detention facilities in the building of District Police Directorate (DPD of MI) – Kyustendil, Regional Police Department (RPD) – Pazardzhik, DPD of MI – Varna, DPD of MI Bourgas, DPD of MI - Plovdiv).

At many of the inspected sites the buildings have premises available, which were used in prior periods as investigation arrest facilities, and the management and possession of which were then transferred to the MI. Some of them have been reconstructed and are used to accommodate detained persons, as the case is in RPD – Sliven, 1 RPD – Varna, RDP – Samokov, RPD – Dimitrovgrad, RPD – Haskovo, RPD - Smolyan.

NPM found only several newly built facilities which meet all standards and regulatory requirements. These are 2 RPD – Stara Zagora, RPD - Bansko. The building of 5 RPD – Bourgas accommodates united arrest section, including convoy service for 24-hour police detention and a Home for Temporary Accommodation of People of Full Legal Age and Sobering-up Facility.

The NPM team found sites with ready designs for reconstruction of the closed investigation arrests into detention facilities, which have been delayed due to lack of

financing. These are the designs for RPD – Elhovo, RPD – Tvarditsa, RPD – Nova Zagora, DPD of MI - Sliven.

There are designs for the construction of new buildings, in Yambol for example, but the lack of financing is once again the reason for the suspension of the implementation of the projects.

The NPM found that the MI has provided funds and the construction of new premises for 24-hour detention is upcoming at the RPD in Devin, Madan and Chepelare.

No steps have been undertaken to draw up designs for reconstruction although in the buildings used by some police departments there are premises which may be reconstructed for this purpose.

The NPM also found detention facilities which are not suited for reconstruction. This is the case with the premise at the RPD in Rakovski, which is with an area of approximately 2 sq. m. and is located in a space under the staircase.

There are locations where the detention facilities used are still of the "cage" type, such as RDP Hisar, RDP Topolovgrad, RDP Kardzhali, RDP Chepelare, RDP Ardino, RDP Momchilgrad, RDP Krumovgrad, RDP Galabovo, RDP Madan, in almost all RDPs within DPD of MI in Blagoevgrad. In these cases the NPM recommends the construction of new premises compliance with the requirements of the Instruction.

Another extremely negative finding from the inspections carried out is related to the use of metal bars to which the detained persons are handcuffed in the corridors of the police departments (RPD Ihtiman).

In most police departments due to the insufficient space the distribution of the detained persons is not in compliance with the principle set out in art. 24, para 2 of the Instruction. The NPM made a number of recommendations with respect to improvement of the living conditions in the premises for detained persons.

Another lasting problem is the separation of servicing premises. The NPM found that servicing premises are provided in the regional departments where repairs have been carried out or where the premises have been reconstructed. These servicing (auxiliary) premises are in accordance with the requirements of art. 5, para 1, item 2 of the Instruction, including dedicated space for storage of the personal belongings of the detained persons. This is valid for some police departments, for example RD of MI Plovdiv, RDP Sliven, 1 RDP Varna, RDP Pernik, 5 RDP Bourgas, RDP Bansko. Between them and the detention facilities there is the required convenient, short and isolated connection, thus being compliant to the requirements of art. 61 of the Instruction. The access to outsiders thereto is also restricted and special entry regime is in place.

It was found that in many of the other facilities only some of the servicing premises have been separated – for example, for visits and meetings with lawyers, or sanitary – hygiene premises (RPD Parvomai).

Most often one and the same premise is used simultaneously as a place for admission of people and processing of detention documentation, place for visits and meetings with lawyers and as working premise (RPD Straldzha, RDP Karlovo, etc.).

The existence of facilities for individuals with respect to whom the court has issued administrative sentence "detention for up to 15 days within a structural unit of the Ministry of Interior" in accordance with the provisions of art. 1, para 1, item 1 of the Decree on Combating Petty Hooliganism (DCPH) are more of an exception in the police

departments. Such facilities exist at DPD of MI Kyustendil, RDP Duplitsa, RDP Radnevo, RDP Smolyan, and the living conditions there may be described as satisfactory.

Premises where people under police protection are accommodated are also part of the physical assets within the MI. These premises often have to be used to accommodate minors and under aged individuals.

Renovation and maintenance of the available physical assets has been organised in some of the police departments. The living conditions there are good (for example, RDP Asenovgrad, RDP Varna, some RDPs in Plovdiv). The requirements to the equipment in accordance with the Instruction have been complied with in these premises – they are secured and the equipment meets the requirements of art. 61-71 of the Instruction.

At other detention facilities which represent approximately 50% of the facilities inspected by the NPM, the living conditions are in a terrible condition (DPD of MI Kyustendil, RDP Rakovski). The required 4 sq. m. per person have not been provided in the premises, the spaces for rest usually represent benches; there is no connection between the detention premises and the servicing premises; no space for storage of personal belongings are secured; the floors are not made of material allowing easy cleaning and disinfection; there is no access to natural light and ventilation; no surveillance tools have been installed. No signalling systems have been put in place in most detention facilities, which the detained persons can use for urgent connection with the security personnel.

The NPM inspections found that the conditions in a significant number of 24-hour detention facilities can be determined as inhuman and degrading for the detained individuals. The physical assets available lead to impossibility to respect their rights. The NPM defines the working conditions for the officers there as extremely tough and harmful to their health. The administrative work is carried out in premises used for several functions simultaneously – corridors and staircases split using chip board pieces, forming small premises. The police officers are using obsolete and depreciated equipment. In RDP Kotel officers have been infected with positive Australia anti-gene (hepatitis B) due to the non-use of protection – gloves – during visual inspection at a crime scene.

The NPM believes that there is urgent need to provide new spaces for the accommodation of detained people in certain regional police departments. This can be achieved through:

- taking measures for the reconstruction of buildings, the design and separation of detention premises and servicing premises in accordance with the Instruction. The NPM reports identify the specific recommendations for the improvement of the living conditions in each of the inspected facilities;
- financing for the designs drawn up and approved for the separation of the premises for the detained persons within the structural units of the MI.

Food

Food for the detained persons is provided in accordance with Methodology on the Order for the Food Assignment and Exclusion for People Detained and Escorted by Officers from the MI on Grounds provided for in the CPC, in accordance with the explicit requirements of the Law on the Ministry of Interior, the Rules on the Application of the LMI, art. 43 of the Instruction and Order No 1221/2007 of the Minister of Interior regarding the provision of food and the cost of food products in accordance with Table No 1.

The findings of the NPM team are that the regulations set in the above-mentioned laws and bylaws are not complied with. The provision of food in the different district police directorates of the MI is not in accordance with the standards set out in Table No 1. Even the standards within one and the same district police directorate of MI are not uniform. No food is provided in some of them in accordance with the procedure provided for in art. 43, para 1 of the Instruction, or violations have been committed under art. 41, para 1, para 2 and para 3 of the Instruction. The detained persons in more than half of the inspected facilities do not sign off in the dedicated register for the food they have received.

The NPM found violation of art. 43, para 1 of the Instruction – no food is provided during the detention of the people at RDP Samokov, DPD of MI Sliven, DPD of MI Yambol, DPD of MI Plovdiv, RDP Pazardzhik, RDP Harmanli, RDP Topolovgrad. In such cases the detained persons usually use their right to receive food brought to them by their relatives or purchased at their own expense.

In violation of art. 15, item 1 of Ordinance No I3-1935 of 25 October 2006 on the organisation, functions and activities of sobering-up facilities, the detained persons are not provided food in the sobering-up facility at DPD of MI in Stara Zagora.

In some of the inspected facilities (for example, RPD Pernik, RPD Pomorie) the detained persons are provided food during the detention which represents 2 croissants per meal, which is in violation with the provision of art. 43, para 2 and para 3 of the Instruction.

At RPD Haskovo, RPD Devin, RPD Madan, RPD Rila, all RPD at DPD of MI Varna, as well as in other police departments rations are provided during the period of detention to each person in compliance with art. 43 and art. 44 of the Instruction and Order No 1221/2007 of the Minister of Interior regarding the cost of food products in accordance with Table 1. The detained individuals are given a choice with respect to the type of the food product.

In addition to the cases of food provision described above, each person within DPD of MI in Kyustendil, RPD Duplitsa, DPD of MI Smolyan, etc. is provided cooked food in compliance with Order No 1221/2007 of the Minister of Interior.

The NPM's assessment regarding the food provided in RPD Ardino, RPD Krumovgrad, RPD Momchilgrad, RPD Dzhebel, RPD Gotse Delchev, RPD Bansko, RPD Razlog (places with mixed population) is positive. The food for the detained persons is also compliant with the religious requirements of the latter.

The detained persons in most police departments eat in the detention facilities.

The keeping of the registers – as in the appendices to the Instruction - in some of the visited locations is not done in accordance with the requirements. For example, at RPD Pazardzhik food provided by outsiders or purchased at the expense of the detained person is recorded in the register of the amounts seized, received and spent by / on the detained persons (Appendix No 7 to art. 87, item 9). In other locations it is recorded in a register (Appendix No 8 to art. 87, item 10) and there are locations where food provided by outside people, as well as food received under the provisions of art. 43, para 1 of the Instruction is not recorded at all.

Medical services

The NPM team found that the required medical aid is provided within the structural units of the MI in accordance with the provisions of art. 20, para 1, para 2 of the Instruction.

The conclusions of the experts of the Ombudsman are based on the documentation checked – detention orders, declarations, medical exams register, and interviews with individuals detained and placed in the detention facilities. The requirement of art. 14, para 1 of the Instruction is observed in practice – after the detention each person detained is informed of his / her rights (in the specific case the legal hypothesis of item 1 of the same article – to use medical help), which is reflected in a declaration (Appendix No 1 to art. 14, para 2 of the Instruction).

During the inspections the Ombudsman's experts did not find violations by the police officers with respect to the provision of the medical services guaranteed by law.

The NPM found differences in the provision of medical exams in several respects. Firstly, there are many police departments where each person placed in the detention facility is subjected to medical exam, upon his / her release and in compliance with the provision of art. 20, para 1 and para 2 of the Instruction, i.e. in case of a request for medical exam or when the health condition of the detainee requires such an exam.

Differences have been found with respect to the practice for the provision of the medical exams. Medical services are usually provided by the Emergency Health Service Centres (EHSC) and their affiliated centres. The detained persons are escorted to the emergency health centre, where the exams take place. An order is issued to escort the detainee, which order is recorded in the escort activity register. Medical exam sheet is issued for the exam. The transportation of the detainees to the healthcare establishment is by means of patrol car from the fleet of the police department and two police officers are assigned as physical guards. This is the organisation established in more than half of the District Police Directorates of the MI.

There are police departments where the teams of the EHSC / EHSAC visit the respective RPD in order to carry out the exams.

In other MI structural units, where there are dedicated medical services (for example, DPD of MI in Kyustendil, DPD of MI in Blagoevgrad, DPD of MI in Varna, DPD of MI in Bourgas) the medical exams during working hours are done by a doctor who is a full-time employee of the MI, and on holidays and after working hours – by specialists from the EHSC / EHSAC in the respective town.

The NPM received information that during the past years the EHSC / EHSAC often refuse to respond to direct calls for exams at the 24-hour detention facilities. This was found at RDP Blagoevgrad and RDP Stamboliyski. The problem was resolved in 2013 after the introduction of the practice that the emergency health service centres are notified using the 112 emergency number, which is serviced by the "112 National System" Directorate at the MI.

The NPM recommends the establishment of relations regulated by law between the authorities of the Ministry of Interior and the officers of the Ministry of Health.

The Ombudsman, in the capacity as NPM, also found omissions in the reporting for the medical exams carried out. For example, medical exam is carried out at the EHSAC in Sandanski of a person detained at RDP Sandanski. A special form covering the health condition of the detained person should be filled in at the EHSAC. This form should be attached to the detention order and the search protocol. However, the inspection of the documents carried out by the NPM team found that this is not done in most cases. Medical

exam is provided only at the explicit request of the detainee or in case of occurrence of obvious health condition. Thus in most cases there is actually no medical exam.

It was found during the inspection of the medical exams register that in some places the time or date of the medical exam carried out are not recorded therein. In violation of the provision of art. 3 of the Instruction the results and the potential medical prescriptions are recorded by the police officer but are not signed off by the doctor (RDP Devin_. The medical certificates issued at some RDPs (for example, RDP Gotse Delchev_ are kept in a file and are thus used as "Register of medical exams". The NPM believes that this practice creates a prerequisite for the addition of documents prepared later than the time of the actual event.

The inspection of the documents at some of the inspected locations (RDP Razlog) found that there are empty lines left in the registers. This allows recording of medical exams at a later stage and therefore – provides an opportunity for abuse. The purpose of the medical exams register is to record them chronologically without an opportunity for additional "insertion" of fictitious exams.

In view of the guaranteed right to medical exam the NPM gave a number of recommendations in the current reports drawn up, amongst which are:

- to establish regulated relations between the authorities of the Ministry of Interior and the officers of the Ministry of Health;
- to keep medical exam registers (Appendix No 4) which are to be used by the police officers to record the results and the potential medical prescriptions and are to be signed off by the doctor in accordance with art. 20, para 3 of the Instruction.
- to strictly keep a register in accordance with art. 87, para 1 , item 6 (Appendix No 4), which register has to be stringed together and numbered in order to avoid the entry of untrue information.

Awareness of the detained persons as to their rights

Randomly chosen and checked documents did not reveal any lack of signatures by the detained persons or by witnesses in case of refusal to sign, on the detention orders, on the declaration for information about the rights, the search protocols, the receipts for the returned personal belongings and other documents. In all locations inspected the NPM team found existence of dedicated records keeping register used to record the detention orders in accordance with Appendix No 9 to art. 11, para 4 of the Instruction.

Rules on the Internal Order at the Detention Facilities exist and are approved at all police departments. They contain the requisites required – rights and obligations of the detained persons, restriction regime and the place of accommodation, set out in art. 41-46 of the Instruction.

The NPM found that there is no legislative requirement regarding the procedure to inform the detained persons with the Rules within the different structures of the MI. The practice established is to place these Rules in a place accessible for and visible to the detainees.

The information boards in many RDPs are used to place excerpts of the rights of the detained persons as provided for in art. 63 of the Law on the Ministry of Interior, as well as current lists with the lawyers on duty (ex-officio appointed attorneys) from the

respective bar association. The telephone numbers of the National Legal Aid Bureau have not been put up in many RDPs.

The findings of the NPM are negative with respect to the observance of the procedure for the provision of legal aid. None of the inspected structural units of the MI have complied with the requirement of art. 14, para 8 of the Instruction. It is frequent practice not to record the exact time when the defence attorney was notified in case of declared request by the detained person for the appointment of a defence attorney under the provisions of the Legal Aid Law. The exact time of appearance of the defence attorney is not recorded, as well as the procedure followed to call such attorney. No records are made in the register for the visits and the items and food products received in accordance with the provisions of art. 87, para 1 of the Instruction.

Incorrect records of the exact time in the detention orders were revealed by the NPM in some of the inspected locations. Art. 12 of the Instruction explicitly states the start of the term. It commences as of the time when the right to free movement is restricted, and not as of the time of the actual issuance of the order. The detention order usually states the time when the latter is prepared. In some locations the detained persons' register states the time when the detainee was placed in the detention facilities, which should be different from the time of the detention. This time is important with respect to the final deadline when the person is released or transferred to another facility (arrest, prison) and is directly related to observance of the detainee's right to free movement.

Protection measures

The scope of the NPM inspections covers the procedure and manner in which the detention documents are kept. These procedures are set out in the LMI, RILMI, the Instruction and many other bylaws – regulations, ordinances, orders and guidelines.

During all of its inspections the NPM checks the available registers, set out in art. 87 of the Instruction: detention order, personal search protocol; declaration; receipt for items and money returned to the detained persons; detained persons register; register for taking the detained persons out of the detention facilities; register for visits and items and food products received; medical exams register; register of the amounts seized, received and spent by / on the detained persons; security position control register; dedicated register for the recording of detention orders; inspections register.

Different practices were found with respect to the keeping of the registers and the reporting processes.

Firstly, for years no registers of the visits and items and food products received and register of the amounts seized, received and spent by / on the detained persons have been kept in certain police departments. The food products provided are not recorded properly or are not recorded at all in these police departments, although such registers exist in other RDPs.

In a small number of locations inspected the data in the register for taking the detained persons out of the detention facilities is recorded incorrectly only when the detained persons are taken out of the building of the respective regional police department. At others all cases when the person leaves the detention premise is recorded in the register.

Another omission found is that medical exams and prescriptions are recorded in the medical exams register not by the doctors who performed the exams but by the police officers and the medical specialists do not sign off in the register.

There are many RPD where the inspections register exists for a couple of years but no data on any inspection is recorded therein. The NPM believes this fact is an indication of lack of control over the keeping of the registers and the reporting procedures. The conclusions made indicate yet another problem of no less importance – the police staff engaged with this activity on a daily basis is not sufficiently trained for the proper keeping of the documentation. The NPM believes that new methodology should be adopted in order to simplify the established documentation reporting regime as a whole.

The NPM team also inspected the registers for citizen's complaints against police officers, containing data regarding police violence or lack of action by the police officers at the RPDs. Differences in the procedure adopted with respect to the checks related to such complaints were found in this respect as well. For example, each complaint against an officer from DPD of MI Varna is sent to the Regional Prosecutor's Office Varna because of its competencies for investigation of such cases. In other locations complaints are reviewed by the superior administrative authority, which in the opinion of the NPM does not guarantee impartiality in the decision making process.

2. Detention facilities within the structure of the Central Directorate "Border Police"

In 2013 the NPM extended the scope of the inspected sites within the MI system. The NPM carried out inspections in the 24-hour detention facilities in 12 structural divisions (units) of the Central Directorate "Border Police" – 2 Regional Directorate "Border Police" (RDBP), 7 Border Police Departments (BPD) and 3 Border Control Check Points (BCCP).

Living conditions

The major negative assessment of the NPM is related to the unsatisfactory living conditions in the detention facilities. The inspected locations (partially with the exception of BPD Gyueshevo and BCCP Kapitan Andreevo) do not meet the regulatory requirements for sufficient number of premises and equipment available, as set out in Instruction No I3-1711 of 15 September 2009 regarding the equipment of the premises for accommodation of detained persons within the structures of the Ministry of Interior and the order therein. The situation at BPD Elhovo is particularly concerning. There, in addition to the 24-hour detention premises, individuals are detained in one big premise (hall), split by means of wire netting and chip board, without heating, where the conditions may be summarised as miserable.

Some of the visited locations do not have premises to accommodate minor and under aged individuals (BPD Blagoevgrad, BPD Krumovgrad, BPD Kalotina).

Another negative finding is related to the lack of or insufficient natural light in the detention premises in RDBP Kyustendil (administrative building), BPD Krumovgrad and

BPD Blagoevgrad. Some of the detention premises are not equipped with CCTV – BPD Krumovgrad, BPD Kalotina, and BPD Kyustendil (administrative building).

In accordance with art. 5, para 1, item 2 of the Instruction servicing premises should be separated as well in addition to the detention premises. No such servicing premises were available at BPD Krumovgrad, BPD Kalotina, BPD Momchilgrad, and BPD Blagoevgrad. The club of the officers at BPD Kalotina is used as interrogation premise and for meetings with lawyers. NPM is of the opinion that the lack of premises for visits and meetings with lawyers is a prerequisite for violation of the confidentiality of correspondence.

Food

With the exception of BPD Elhovo and BCCP Kapitan Andreevo, the organisation for the provision of food is identical in the inspected sites – it is done by means of ration purchase from the shop network. When food is provided it is controlled not to harm the health of the detained person due to disrespect for the nutrition regime and for other medical prescriptions. All persons detained can take advantage of the right to receive food purchased at their expense, which is recorded in the respective register of the amounts seized, received and spent by / on the detainees and cash register receipts are enclosed.

The NPM found at the BPD in Elhovo that each detained person is provided food for 24 hours in accordance with art. 43 of the Instruction. Once this term expires, these individuals are not provided food although they are still accommodated in the detention facilities on the territory of BPD Elhovo. In accordance with the Instruction they are not entitled to food past this period of time. The NPM team came across cases when the foreigners stay there for approximately a week. During the interviews with them it was found that some of them have not had food for more than five days due to the lack of money. Organisation is also in place for the purchase of food products (for those who have the funds available) – a list is drawn up and several detainees accompanied by police officers purchase the goods from a shop nearby the police department.

Medical services

The assessment of the NPM with respect to the provision of the medical services guaranteed by law to the detained persons is positive. It was found during the NPM inspections that at the request of the detained person or when the health conditions requires so, medical exams are performed in accordance with art. 20 of the Instruction. In certain cases the medical services are provided by the Emergency Health Service Centres (BPD Kalotina, BPD Gyueshevo, BPD Blagoevgrad, BPD Krumovgrad, BPD Momchilgrad), and in others – by the full-time doctors at the visited sites (BCCP Sofia Airport, BPD Zlatarevo, BPD Elhovo, BCCP Kapitan Andreevo).

Awareness of the detained persons as to their rights

Internal Order Rules, as well as contact numbers for ex-officio appointed defence lawyers are placed in visible locations in all of the detention premises inspected within structural

units of the Central Directorate "Border Police". A good practice was found at the BCCP Sofia Airport where the rules were translated into English.

The detained persons entered in the register of detained persons are issued detention orders in 3 identical copies – one is served to the detained person immediately after its issuance, one is attached in the file and one is filed in the records. The orders are signed by the police authority and by the detained person. In compliance with the requirements of art. 14 of the Instruction once the detained person is informed of the grounds for his / her detention and his / her rights are explained: to use medical care, legal defence, to request the appointment of defence lawyer as provided for in the Legal Aid Law; to receive parcels and food; to notify an individual of his / her choice as to his / her detention; to contact the consular authorities of the respective country – if the person is a foreigner or a Bulgarian who is also citizen of another country. The detained person fills in a declaration in two copies that he / she is aware of his / her rights. The first copy is served to the detained person and the second copy is attached to the detention order.

Randomly selected and checked documents did not show any lack of signatures of detained persons, of witnesses in case of refusal to sign by the detained person, on the detention orders, on the declarations regarding the information of the detained person's rights, on the search protocols, on the receipts for personal belongings and other documents returned.

A major problem identified by the NPM in relation to the information to the detained foreigners of their rights is the non-compliance with the legal requirement for timely provision of an interpreter, who is to inform them in an understandable language with the content of the detention orders, the declarations, the search protocols. This leads to violation of the Convention for the Protection of Human Rights and Fundamental Freedoms, the Law on the Ministry of Interior and art. 15 of the Instruction. BPD Kalotina and BPD Elhovo are the only ones using the services of a licensed translation agency. The practice at BPD Zlatarevo to translate the declarations in several languages should be pointed out as a positive practice.

Protection measures

Detained persons register, register of the amounts spent on food for the detained persons, register of the visits, items and food products received, medical exams register, register for taking the detained persons out of the detention facilities, EURODAC inspection register, escort activity register, inspection register were checked during the inspections. NPM did not find any omissions in the keeping of the required documentation.

VIII. DETENTION FACILITIES IN THE COURT BUILDINGS

In 2013 the NPM launched series of successive inspections of the court buildings in the country, which are guarded by officers from the "Security" Central Directorate at the Ministry of Justice.

Subject of the inspections were the temporary isolation and stay facilities (TISF) for individuals detained and forcefully brought to the court authorities in 11 judicial regions.

The following aspects were subjected to inspection: treatment (degrading, cruel or inhuman treatment of the individuals, isolation, restriction measures, use of force); protection measures (checks and inspections, complaint and signals filing procedures, disciplinary procedures); living conditions (food, lighting and ventilation, hygiene, sanitary premises, accommodation) and medical services.

All court buildings in Bulgaria have to meet the general regulatory requirements, and they are separately categorised depending on the provisions of special bylaws. For example, Appendix No 1 to art. 3, para 2 of Ordinance No 4 of 10 January 2008 regarding the safety and security rules and norms in the design, construction, reconstruction, modernisation and operation of the judicial power sites (issued by the MJ, promulgated in the SG, issue 8 of 25 January 2008) makes distinction of 5 categories of court buildings. The NPM inspection teams visited 3 of these categories of buildings: II category, where the court building on the territory of Plovdiv falls in; III category – the buildings of 9 district courts, of the Administrative Court in Kyustendil, the Administrative Court in Smolyan and the buildings of 2 regional courts – in Duplitsa and in Kazanlak; IV category which the buildings of 29 regional courts fall in.

According to the effective regulations and the categorisation introduced for the proper functioning of the activity related to forcefully bringing individuals to the court authorities the following separate premises for official use are required in the court buildings:

- for buildings in categories II and III: one room for bringing men; one room for bringing women; one room for bringing minors; one toilet with a wash basin;
- for buildings in category IV: one room for bringing adults; one room for bringing minors; one toilet with a wash basin.

The following separate premises for official use are required for the proper functioning of the "Escort" activities:

- for buildings in category II: a minimum of 8 premises for temporary stay and isolation of escorted individuals – each of them with a 6-person capacity; a minimum of 3 toilets in a common sanitary premise; one on-duty officer premise; two premises for meetings with lawyers; all premises must be connected via shared corridor where safety zones should be secured and where the escorted individuals should be searched before entry in and exit from the premises;
- for buildings in category III: a minimum of 4 premises for temporary stay and isolation of escorted individuals – each of them with a 6-person capacity; a minimum of two toilets in a common sanitary premise; one on-duty officer premise; one premise for meetings with lawyers; all premises must be connected via shared corridor where safety zones

should be secured and where the escorted individuals should be searched before entry in and exit from the premises;

- for buildings in category IV: a minimum of two premises for temporary stay and isolation of escorted individuals – each of them with a 6-person capacity; two toilets in a common sanitary premise; one premise for meetings with lawyers; all premises must be connected via shared corridor where safety zones should be secured and where the escorted individuals should be searched before entry in and exit from the premises.

The overall conclusion of the NPM is that none of the sites inspected met the regulatory requirements.

1. Court buildings in category II

As already stated the Court of Justice in Plovdiv falls in this category. There is a security zone separated in the building with limited access – for detained persons and persons forcefully brought to the court in accordance with art. 7, para 1, item 4 of Ordinance No 4. The security in the zone within the Court of Justice and of the escorted individuals is carried out by the "Escort" Sector of the "Security" District Directorate in Plovdiv.

There is one TSIF which has a capacity of a maximum of 8 people. It is situated in a separate corridor on the first floor between the old and the newly build wing of the building. In compliance with the requirements there is one sanitary unit in the corridor where this premise is located. There is no natural light. The light in the premise is from electric bulb in the corridor. Ventilation is only through the metal bars by means of which the premise is separated. An air-conditioning machine is installed and it is used to heat or cool the premise depending on the season.

In violation of the requirements of art. 7, para 1, item 4 of Ordinance No 4 there are no separate premises in the Court of Justice – one room to bring men, one for women, one for minors and under aged individuals. Women, minors and under aged individuals are placed on a bench outside the premise for the detained escorted persons. There is not enough space for storage of personal belongings.

The lack of sufficient number of premises requires individuals forcefully brought to the court to be accommodated in the building used by the administration of the SDD Plovdiv, which is outside the building of the Court of Justice, during busier times.

The NPM is of the opinion that urgent measures should be undertaken to improve the accommodation conditions in the premise.

The Court of Justice in Plovdiv houses the Appellate, District and Regional Courts. The workload differs – between 20 and 50 people a day. They stay over different period of time, often up to several hours. There is a separate entrance for the detained people upon their entry into the restricted access security zone. Their movement to the court rooms coincides with the general movements in the building, including ordinary citizens. NPM believes that movement in the common corridors represents degrading treatment of the escorted individuals.

2. Court buildings in III category

The findings of the inspection team with respect to the TSIF are that in most cases the number of equipped premises for temporary stay and isolation of escorted people is not sufficient in accordance with the minimum set for the premises and the capacity of court buildings in III category. For example, Regional Court Kardzhali and District Court Kardzhali are housed in one shared building, where there is one separate TSIF on the first floor of the building. It is only furnished with a bench, there is CCTV to control the inhabitants. The sanitary unit is on the floor in immediate proximity to the TSIF. There is no space for storage of personal belongings. The living conditions in the premise are poor. The individuals detained and forcefully brought to the court enter / exit the building via separate dedicated door which is under 24-hour video surveillance.

Premises for the staff on duty and for meetings with lawyers are often missing. There is no separate entrance to the halls where criminal cases are heard.

The NPM is of the opinion that measures should be undertaken to improve the accommodation conditions in the premises, as well as to provide the premises required in accordance with the regulations.

None of the TSIF in the inspected court buildings meet the regulatory requirements. To offset this the NPM has to point out that all individuals forcefully brought to the court are subjected to medical exam before they are placed in the TSIF. The mandatory registers of the escorted individuals and the registers of the individuals who have stayed in the temporary stay premises have been checked during the inspections as well. The documentation in all sites was properly kept and met the requirements.

3. Court buildings in IV category

The regional courts in Sandanski, Petrich, Gotse Delchev, Razlog, Ardino, Krumovgrad, Momchilgrad, Samokov, Ihtiman, Elin Pelin, Panagyurishte, Peshtera, Velingrad, Asenovgrad, Parvomay, Karlovo, Nova Zagora, Kotel, Elhovo, Devin, Madan, Zlatograd, Chepelare, Chirpan, Radnevo, Galabovo, Harmanli, Dimitrovgrad, Svilengrad fall within the inspected court buildings in this category.

In almost all buildings of the regional courts there is one TSIF, except the buildings in Samokov, Elhovo, Topolovgrad, Chirpan, Radnevo, Gotse Delchev and Razlog, where there are two premises in each court building.

The NPM found that the buildings in the Regional Courts in Ardino, Krumovgrad, Dimitrovgrad, and Harmanli do not have TSIF for individuals detained and forcefully brought to the court.

The premises in none of the inspected locations met the requirements set out in Ordinance No 4. Properly kept documentation and mandatory medical exams of the individuals prior to their placement in the TSIF were established in these locations as well.

IX. PROTECTION OF PRISONERS IN CORRECTION FACILITIES

During the past 2013 NPM teams carried out three planned visits and one inspection related to a signal filed about the use of force in the correction facilities (CF), in order to check the implementation of the recommendations provided in the prior 2012 to the state authorities. The correction facilities in Bobov Dol, Bourgas, and Varna were amongst the locations chosen for visits.

The subject matter of the inspections covered the following matters: treatment (degrading, cruel or inhuman treatment of the prisoners, as well as amongst them, isolation, restrictive measures, use of force); protection measures (checks and inspections, complaint and signal filing procedures, disciplinary procedures, separation of the various prisoner categories); living conditions (food, lighting and ventilation, personal hygiene, sanitary premises, accommodation and congestion) and medical services (access to health care, specific health services to women and children, specific health services to people with mental diseases, medical staff).

In order to present a specific snapshot of the CF the NPM emphasises certain aspects of the above-mentioned in this report.

Overall description of the sentence execution system and the correction facilities in Bulgaria

In 2002 and 2008 the Committee for Prevention of Torture (CPT) visited the prisons in Bourgas and Varna. During the visit in 2008 the CPT recommended a minimum living space of 4 sq. m. per prisoner at an average, which standard was introduced in the Law on Execution of Sentences and Detention under Arrest (LESDA). The entering into force of the Law was linked to the implementation of an investment programme of the government, which the CPT was informed is postponed until 2019. The recommended and postponed standard is the minimum according to international standards. This means doubling the living space for 11 of the male prisons in Bulgaria, and for the prison in Bourgas – tripling of the living space.

There are three government decisions passed in this area:

- Decision No 767 of 2008 of the Council of Ministers for the period 2009-2015, which envisages the construction of five new prisons on the grounds of art. 13, para 3, item 5 of the Rules of Procedure of the Council of Ministers and its administration;
- Decision No 168 of 2010 compliant with the capital expenses approved in the budget of the Ministry of Justice for the same year with commitments for new prison related activities in Sofia, having art. 84, para 1 of the LESDA as its legal grounds;
- Protocol decision of 8 September 2010 of the Council of Ministers stating the programme until 2013, having art. 43 of LESDA as its legal grounds. Activities for the construction of prisons in Sofia, Varna and Pleven, as well as new boarding house to the

prison in Bourgas and expansion of the boarding house to the prison in Varna are envisaged under the third decision.

Due to the lack of financing for the programmes there are no new living spaces built in the prisons and the boarding houses in the period 2008-2013, with the exception of the new open-type boarding house in Galabovo.

Congestion remains a problem for the CF, resorting to probation remains at the same level, and the use of parole has increased insignificantly.

The CPT urges the Bulgarian authorities to double their efforts in the fight with the overpopulation in the prisons through the implementation of policies aimed at limitation or change in the number of people sent to prison. In these efforts the Bulgarian authorities should take into account Recommendation (99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation (2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation (2003)22 on conditional release (parole), Recommendation (2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse and Recommendation (2010)1 on the Council of Europe Probation Rules.

Both programmes from 2008 and 2011 envisage implementation of electronic surveillance as a new probation measure. A pilot project, with approximate duration of 6 months, was implemented and the activity was completed. The nature of electronic surveillance is not a stand-alone probation measure. It is a tool for the implementation of many new probation measures. This tool may also expand the administrative sanctions related to football or petty hooliganism, domestic violence, etc. The implementation of this recommendation would not only reduce public costs related to the subsistence of the prisons, but it would ensure better public security to the offenders, and people who have committed administrative offences.

During each visit the CPT identifies insufficient personnel, and during the last visit "it is deeply concerned as to the lack of progress with respect to the personnel number in the prisons. The staffing remains completely insufficient in order to provide solid basis for the improvement of the treatment of prisoners. In fact, the existing shortage of personnel, combined with the constant inflation of the overpopulation may have serious consequences to the security of the prisons as a whole and the personal security of the officers, as well as the prisoners".

The personnel at the CF was downsized in 2008 by approximately 600 full-time positions. The system is relatively stable since then, but there is a continuous trend for a decrease of the number of personnel. The relative ratio between the personnel and the prisoners within the CF system in Bulgaria is 1 to 2. The downsizing processes are part of the budgetary cuts within the state administration. The potential opening of a new boarding house in Debelt to the prison in Bourgas, if it is a closed-type of boarding house, would be hard to staff with the required number of employees. Therefore, although the system has an internal resource for redistribution, it is necessary to seek and ensure availability of new full-time positions for warders and social workers in the prison corps.

During its visits the NPM also noticed significant overloading of the warders, the social workers and the medical personnel.

The Committee recommends detained and independent investigation of the corruption signals filed.

The NPM also receives information regarding corruption in prisons and boarding houses. The observations of the inspection teams show that in most cases this refers to allegations and conclusions related to the resolution of individual problems. As a result of the inspections carried out, as well as based on the publicly discussed cases, justified conclusions can be made that there are conditions for corruption. These conditions are related to: poor regulation of the order and lack of public transparency of the decisions of the administration; lack of sufficient modern equipment to prevent bringing in of forbidden items; the manner in which risk assessments are drawn up by the social workers, which are related to the subsequent changes in the regime, transfer to boarding houses, conditional early release (CER) (parole) and access to work. The prevention of the conditions for corruption requires actions that are needed throughout the CF system, which are largely related to amendments in the regulations.

The conclusion of the NPM that the lack of justification of the protocols of the committees under art. 73 of the LESDA based on the risk assessments is linked to the lack of trust by the members of these committees to the existing assessments is alarming. There are no subsequent inspections regarding the additional risk assessment in the cases of non-acceptance and / or obvious disregard thereto. There are attempts at ministerial level and at the level of prison wardens to draw up objective criteria or limitations as to the access of work that go beyond those set by the law and the rules, which are clearly inefficient and unclear. No incentives system or disciplinary restrictions system has been introduced, which would result in adequate change in the risk assessment, including objective investigation of cases of use of force, thus guaranteeing the prisoner's right to protection.

Living conditions

During two consecutive inspections in 2012 and 2013 the NPM found that the conditions in Bourgas prison are completely unacceptable and are deemed to be inhuman and degrading. This is the prison with the gravest conditions and overpopulation in Bulgaria. An average of 2 sq. m. per prisoner, and in certain places less than 1 sq. m. per prisoner is the available space.

The buildings are very old and depreciated. The prison is not included in the programmes of the government. The problem with the congestion should be resolved with the construction of a new prisoner boarding house in Debelt. According to the programme of the government for 2008 the boarding house should have been completed in 2009. Approximately BGN 300 000 have been used and due to the lack of additional funds (amounting to approximately BGN 800 000) the work has been suspended. The 2011 programme envisaged its completion in 2012 with funds needed amounting to approximately BGN 1 000 000 from the state budget. The funds for the construction of this boarding house were provided through financing under the Norwegian Financing Mechanism, but the construction was postponed in 2013 as well despite of this fact. The capacity envisaged for it is 450 prisoners. 883 prisoners on an average living space of approximately 1.5 sq. m. and with a total living space of 1 483 sq. m. were accommodated

in the prison in Bourgas during the inspection of the NPM. The maximum allowed capacity of the corps is 370 prisoners. The fact that the boarding house will be of closed type gives a future capacity of 830 beds, which will resolve the problem with the overpopulation of the prison.

In 2012 the open-type boarding houses "Stroitel" and "Zhitarovo" in the Bourgas prison are overpopulated as well – an average of 3.06 sq. m. per prisoner. 101 prisoners were accommodated in the PBH "Stroitel" and 120 – in PBH "Zhitarovo" during the NPM visit in October 2013. It is appropriate to discuss the expansion of "Zhitarovo" boarding house or the construction of a new boarding house in the area between Sliven, Yambol and Karnobat.

Both the CPT and the NPM found the need for urgent measures to be taken to secure bed for each prisoner with a clean mattress, as well as blankets and bed sheets. Ordinary beds or bunk beds in the Bourgas prison are a rare thing. Triple sleeper bunk beds are used almost everywhere. During its visit the NPM has not found prisoners without beds and bed sheets.

Ensuring unimpeded access to toilets for all prisoners at all times, including during the night, is also problematic in the prison in Bourgas. The use of buckets should definitely be stopped. This is why the NPM believes that analysis should be made at the level of the Central Directorate "Execution of Sentences" (CD ES) regarding the warder staff needed at night and clear imperative determination of whether the personnel for this activity is secured or not.

At the same time the condition of the sanitary units themselves corresponds to the overall condition of the physical assets in the prison – inhuman and degrading conditions.

Not all prisoners have access to basic hygiene products and materials to clean the cells. The NPM is of the opinion that this problem may not be resolved without the provision of funds to the CF system. This issue is within the competencies of the Ministry of Justice and the Ministry of Finance in the process of drafting the budgets for each calendar year.

The buildings in Varna prison are also old and depreciated. The prison was built in the period 1928-1929. Both government programmes for the prisons from 2008 and 2012 envisage the construction of a new prison in Varna. A plot of approximately 200 dca in the area of Devnya was found back in 2007. No design work has been assigned to date. The 2008 and 2011 programme envisage the expansion of the open-type boarding house as well. "Razdelna" boarding house was built in 1981 with a capacity 100 prisoners. It is envisaged to transform this boarding house in a closed type, i.e. the boarding house will increase its capacity to approximately 230 prisoners.

Assessment has to be made with respect to the transformation of "Razdelna" boarding house into a closed-type boarding house and construction of a new open-type boarding house to the prison in Varna between Rousse, Silistra and Varna.

The prison in Bobov Dol exists since April 1956. 600 prisoners were initially placed there. The peak population of the prison included approximately 1 000 prisoners. The capacity with 4 sq. m. is set to 492 prisoners. As at 23 October 2012 496 prisoners were accommodated in the prison corps, 47 of whom accused and defendants and 8 sentenced to life in prison. The 2013 inspection of NPM found that there were 776 prisoners in the prison, of whom 576 in the corps and 200 at "Samoranovo" BH. The living space in the prison corps totals 2 305 sq. m., and that of the boarding house - 800 sq. m. In both

locations where prisoners are placed the minimum standard of 4 sq. m. is secured, but one of the prison corridors is not used due to the lack of sufficient number of warders. As a result there are sleeping premises with conditions for congestion. Partial repair of sleeping premises, including the construction of sanitary units was in progress during the inspection of the NPM. This was done with own funds of the prison and voluntary work. The stay outdoors is extended to 90 minutes and additional toilet is built on site. Currently the capacity of the prison meets the minimum living space standards, therefore no reconstruction and modernisation works have been planned for it. The sleeping premises of the prison have toilets. Bathrooms are common and are used according to schedule.

Food

Supplies of food products in the prisons are centralised and are directly related to the budgeted funds.

In 2012 in the Bourgas prison they amount to an average of BGN 2.60 per person. In 2013 the nutrition per day amounts to an average of BGN 2.70. The prison has a problem with the cooking and the quality of the food. It is related to the qualifications of the kitchen personnel. Order No 209 of 19 October 2012 has been issued by the warden of the prison in Bourgas concerning duty by representatives of the voluntary prison body monitoring the proper distribution of the food. A major problem is also the outstanding current payments due for food. During the interviews with the prisoners carried out by the NPM team there was general complaint from the quantity of the portions distributed, the food for prisoners with specific health needs, as well as the quantity and quality of bread. This problem was discussed with the deputy warden of the prison in Bourgas in the course of the inspection. He committed before the NPM team to carry out internal investigation in relation to the complaints made.

The food rations in the prison in Varna cost BGN 3.17 for the non-working and BGN 3.75 for the working prisoners in 2011. A major problem in this prison as well as the outstanding current payments due, including for food.

The food in the prison in Bobov Dol is prepared on site. The food rations cost BGN 2.35 per prisoner per day. The menu is balanced and working prisoners receive an addition to the daily rations. There is a full-time chef and the rest of the kitchen personnel are prisoners. The food products are stored in poor conditions. The refrigerators are old and very depreciated. The storage rooms are humid, not ventilated and the floors are frequently flooded. The stoves, cauldrons and the rest of the kitchen equipment are old and depreciated as well. The kitchen personnel does not have special clothes as required during work with food products.

The prison has a contract with a company for DDD (disinfection, disinsectisation and detarisation – to fight the soiling, insects pests and rodents), which processes the premises regularly every couple of months, and extraordinary, if necessary.

Medical services

The medical centre (MC) in the prison in Bourgas comprises: doctor's office, dental office, treatment room, pharmaceuticals storage room – the doctor's assistant is in charge of the storage room; stationary ward, which represents 2 premises with 8 beds in total, two toilets – one for the patients accommodated in the ward, and one for the staff. There is also bathroom to the toilet for the prisoners. The MC does not have an isolation room.

The medical equipment and furnishing available in the MC (except the dental equipment) is scarce and to a large extent does not meet the requirements as to the medical equipment and furnishing which has to be available and functional in the general practitioners' offices.

The medical services are provided by: a doctor – director of the MC, two doctor's assistants employed under permanent labour agreements; dentist employed at a permanent labour agreement; medical orderly – a prisoner. There is no psychiatrist in the prison in Bourgas. Even the position for such has been cancelled in 2012.

According to the medical personnel there are many prisoners who are drug addicts. Only the ones identified during the last couple of years total 100. There is a practice according to which, if there is doubt as to the use of drugs by a prisoner and the prisoner refuses to take a drug test, the punishment imposed on the prisoner is equal to the punishment in case of a positive drug test. I.e. it is presumed that the prisoner has used drugs. "His rights are not violated" in this case, the reason for the punishment is "refusal to cooperate". NPM explicitly believes this practice to be inadmissible.

No annual prophylactic medical exams of the prisoners are carried out. Self injuries in Bourgas prison are frequent – approximately 10-12 per year. There is approximately the same number of hunger strikes. There have not been any deaths during the past year.

In addition to the problems outlined, there is no real control over the medical activities, the equipment and the prescription of medicines, ensuring the compliance with the respective standards and the good medical practices. Medical aid, dispensary monitoring of prisoners with chronic diseases and the prophylactic activities are carried out at lower standard, different as compared to those compulsory for the specialist doctors and the general practitioners who have signed agreements with the National Health Insurance Fund.

The dental services problem is significant, as the latter are extremely insufficient.

Emergency medical aid teams from Bourgas are used when needed.

Like in other prisons sometimes upon placement in the Bourgas prison the prisoners are not accompanied by medical documentation. This makes the setting of the specific health status difficult.

The MC in the prison in Varna comprises: doctor's office, dental office, psychiatry office, stationary ward, which has 4 premises with a total of 12 beds; pharmaceuticals storage room – the doctor's assistant is in charge of the storage room; isolation room; small canteen for the patients in the stationary ward; two toilets - one for the patients in the stationary ward, and one for the staff. There is a bathroom to the toilet for the prisoners.

The equipment and furnishing available in the MC are extremely insufficient.

Medical services are provided by: doctor – director of the MC; psychiatrist, dentist – as per schedule, doctor's assistant – hired under permanent labour agreement; medical

orderly - prisoner. The MC personnel claim that specialists in various medical specialties visit the prison and provide consultations.

Primary medical exams are performed out upon the placement of the prisoners in the prison and the history of past and present diseases is recorded. Medical exams are also performed as a rule before and after escort. The exam before the escort is aimed at finding whether the person may be escorted.

Dispensary monitoring patients are not included in separate register (list).

The prisoners doing their time do not have access to ophthalmologist and the MC doctor is charged with this function. There is no free choice of a general practitioner and dentist by the prisoners.

There is no real control over the medical activities, the equipment and the prescription of medicines, ensuring the compliance with the respective standards and the good medical practices.

Medical aid, dispensary monitoring of prisoners with chronic diseases and the prophylactic activities are carried out at lower standard.

The dental services are the biggest problem, as the latter are extremely insufficient. The prisoners complain about the lack of medicines. In their opinion extremely insufficient set of medicines is prescribed for all health problems

Emergency medical aid teams from Varna are used when needed.

There is also the problem with the accompanying medical documentation upon placement of prisoners in this facility.

When hospitalisation is needed most frequently health insured patients are referred to MPHAT "St. Anna" in Varna. If needed the rest of the patients are referred to the Specialised Hospital for Active Treatment of Prisoners (SHATP) at the prison in Sofia.

There are many drug addicts amongst the prisoners in Varna. According to the data provided by the prisoners themselves they are 50 per floor at an average, which makes at least 150 on the 3 floors in the prison corps. The NPM had direct observations that all 4 individuals placed in one of the cells had signs from injection of heroin. They showed the marks on their hands at their own initiative.

There are three offices – doctor's, psychiatric and dental – in the MC in the prison in Bobov Dol; there is stationary with 5 beds, in one premise with own sanitary unit; isolation room – one premise with 3 beds and separate sanitary unit; pharmaceuticals storage room which is managed by the medical assistant; equipment – blood pressure measurement device, stethoscope, ECG machine.

The medical staff comprises a doctor, doctor's assistant, dentist employed under civil contract who comes to the prison 2 a week as per schedule; medical orderlies - prisoners. There is a vacant position for a psychiatrist but no such has been employed. Approximately 50-70 exams are performed every day.

There have been newly diagnosed patients with tuberculosis. Three of them have been in the prison for several years and most probably they were infected there. There are two HIV positive prisoners and they were caught as part of a screening process. Such screening is performed the last 4-5 years by testing random groups of several tens of prisoners. This method is obviously very efficient but the scope is not comprehensive (one-off tests are performed for a relatively small portion of the prisoners). During the

interview the doctor clarified that due to the existence of drug addicts and HIV positive prisoners there is strict control in the correction facility over the syringes and needles. Dispensary monitoring is carried out using lists by groups of diseases for the patients and they are monitored periodically – through the respective tests, in accordance with the requirements for the specific diseases.

Four of the prisoners have diabetes and are treated with insulin.

Due to various diseases approximately 70 prisoners are subject to special diets, including drug addicts. According to the medical specialists the diets are monitored strictly. This, however, is in contradiction with the information shared during the interviews with the prisoners.

There are prisoners with schizophrenia, epilepsy, for which these individuals receive medication paid by the NHIF and they are in remission (there have not been manifestations of the diseases over a long period of time), various reduced ability percentages.

In case of need for hospital treatment the prisoners are referred to the SHATP in the prison in Sofia.

There have not been serious self-injuries during the recent years. In 2011 there were 3 deaths, and in 2012 - 6. All deaths were caused by diseases and no post mortem expertises were performed.

Prophylactic exams, including consultations with specialists and laboratory tests, are performed once a year on all prisoners at the prison in Bobov Dol.

Social activities and educational work with the prisoners

The NPM found that most of the prisoners in the prison in Bourgas are left to do nothing during most of the day. To some extent this is due to the lack of premises for social activities. The premises that were used for this purpose have been rearranged into sleeping premises in order to alleviate the overpopulation problems. The lack of such premises leads to irregular social and educational work, which cannot ensure full day engagement of each of the prisoners, except those engaged in educational activities or work. The lack of sufficient number of social workers does not allow planning for and implementation of such activity.

Despite the difficulties the Social Activities and Educational Work Plan for the prisoners in 2013 includes: 2 compulsory programmes; 9 specialised programmes; 2 educational programmes and 4 clubs by interest.

Amendments in the law are required to resolve the problem. An average of 140 prisoners are distributed to 9 social workers in the prison and the two boarding houses, 1 inspector (probation), 1 inspector in admission ward, two psychologists and 1 sector chief, and when someone is away on holidays the above mentioned specialists have to handle approximately 200 prisoners.

The NPM is of the opinion that CD ES can and in the following budget years should envisage increase in the full-time positions for social workers and financing of social activities, including by attracting non-government organisations, until the physical asset base is in place.

Employment in 2012 in Bourgas prison encompasses 84 prisoners, mainly in the machine workshops and in relation to the general maintenance of the prison (which represents approximately 9% of all prisoners). A significant portion, however, is focused in the housekeeping positions, related to the auxiliary activities in the prison. The production activities in the window frames workshop in Bourgas was suspended due to the current economic situation. There is a slight upward trend with respect to employment in the prison in 2013 - 118 prisoners. The NPM's assessment is that there is no financial mechanism in the Bulgarian prisons, ensuring funds for increasing this employment, for example, in the form of courses, financed by the state budget or by own funds from the GE PP. Financing in the prisons' system should be secured for the development of activity programmes for the prisoners, labour, educational and professional activities in particular, taking into account the specific needs of the various groups of prisoners.

Activities related to the implementation of the National Strategy Against Drugs have been carried out in the prison in Varna. These activities included group discussions three times a year with more than 1000 prisoners participating in 4-5 events carried out. In 2011 475 prisoners were included in the first module of the Adaptation Programme, and 64 in the second and third module of the programme. Individual work is related mainly with revised planning of the sentences. 750 prisoners took part in HIV and AIDS prevention programme. Two clubs by interest were established – Art Club and Poetry Club. One prisoner has received permission from the Ministry of Justice to be engaged in a freelance creative work. The sports activities include monthly chess, backgammon, bridge, table tennis and football tournaments. Overpopulation, lack of physical assets for group work, sports fields, sports activity space, as well as the lack of financing for this activity are identified in the prison's administration report as the reasons for the insufficient activities. The lack of financing for such activities is a tradition in the budget allocations to the Bulgarian prisons. The complete work in 2011 was carried out by 7 inspectors in the prison corps and three in the two boarding houses – 1 probation inspector and 2 psychology inspectors. Three computers are used for training purposes. More active work is related to non-government organisations, religious activities and creative initiative. The report to the CD ES from the complex inspection of the prison in Varna carried out in March 2011 identifies one of the very few permanent activities which is the computer literacy programme, as well as the optimum use of the physical – technical capabilities of the prison. But this is insufficient in general to achieve four-hour engagement of the free time of the prisoners and to involve them into meaningful activities. The activities planned in the prison in Varna take into account the existing possibilities and may not be assessed as significant progress without a change in the physical assets available, the financing of activities and the provision of additional personnel.

The trend, found for all CF, for tough workload on the Social Activity and Educational Work (SAEW) inspectors is noted in all three prisons visited in 2012 and 2013. One inspector at an average works with approximately 140 prisoners in the prison in Bourgas, with 85 in the prison in Varna and with more than 120 prisoners in the prison in Bobov Dol.

Individuals sentenced to life in prison

The hygiene – living conditions that the prisoners with life sentences are accommodated in are satisfactory in the three prisons.

The prison in Varna has available a team of inspector from SDI and inspector – psychologist working with these inmates. Assessment of the offender is prepared for each one. This assessment is detailed, specific and allows full identification of the risks. Periodically the team diagnoses conditions such as anxiety, neuroticism, suicidal risk psychoticism, etc.

Contacts with the outside world and filing of complaints and signals

The entrance of the prison in Bourgas is congested and there is no surveillance equipment to prevent attempts for bringing in forbidden items, which predetermines the existing contact procedure during visits. One possible approach is that the new shop-counters to be built have to take into account the purpose of the visit. Their architecture in the future requires them to be built as a visit space as well. Secondly, diversity in the list of supplies delivered there is required, including TV sets and audio devices. There are no regulatory requirements with respect to the furnishing and how the visits are to take place for the premises for extended 4-hour visits. It is appropriate for this reward to be transformed into a right for prisoners with life sentences.

In 2013 the NPM team received many signals against the administration of the prison in Bobov Dol, containing allegations as to violation of the right to immunity of correspondence. This is why an emphasis during the inspections in the correction facilities in 2014 will be placed on the modes and channels for communication between the prisoners and the external world.

The possibility for the prisoners to file complaints and signals to various state authorities and non-government organisations in the country is a major preventive measure against harassment in prisons. The prisoners should have this possibility in confidence. They generally have the right to file complaints with external authorities and with the wardens of the prisons. However, there is widespread lack of trust in the existing complaints system, especially with respect to the confidentiality of the signals sent to external authorities.

The NPM believes that the resolution of the issues related to the filing of complaints and signals is related to regulatory amendments in the LESDA and the related bylaws.

Regime and administrative activities

Admission premises in general are organised in accordance with the requirements of the law as to the differentiated placement therein. There are rare occasions when in view of the personal security and the security of the prison, accused and defendants are placed in groups of sentenced offenders.

There are certain difficulties upon the transfer into the groups of those coming from the investigation arrest facilities. Due to the short period during which these individuals stay in the admission ward (set out in art. 47, para 3 of the LESDA), it may not be observed in

certain cases. Often the period set by law also includes both non-working days during the weekend (Saturday and Sunday).

In 2012 there have been 4 cases of illegal detention in excess of the sentence term in the prison in Bourgas, which were due to the following reasons: inaccurately determined total sentence; subsequent change of the grounds art. 414, para 1, item 1 of the Criminal Procedure Code (CPC) in the total sentence pronounced; two sentences for execution received with delay. Information schedules were prepared and sent to the Supreme Cassation Prosecution, CD ES and the District Prosecutor's Office – Bourgas for each specific case on the grounds of art. 192, para 2 and para 3 of the Rules for the Implementation of the Law on Execution of Sentences and Detention under Arrest.

In 2012 on the grounds of art. 447, para 1, items 2, 3 and 4 of the CPC the "imprisonment" sentence was terminated in 98 cases. Many of the applications of the prisoners have been rejected due to lack of facts proving the allegations set out therein. During the same period there have been 241 signals to the courts and the prosecutor's offices in the country as to omissions made.

In 2012 the Committee on Execution of the Sentences (the Committee under art. 73 of the LESDA) had 6 meetings. Bourgas District Court made 44 proposals for CER of prisoners and all of them have been sustained. By virtue of decision of the Committee 294 prisoners was placed under lighter regime and 27 under stricter regime. At the proposal of the Committee by virtue of ruling of Bourgas District Court 8 prisoners were transferred to stricter regime that the initially determined one. 689 prisoners were awarded for demonstrating outstanding discipline, serious work achievements and other positive initiatives. There are 1273 memos registered regarding violations found, searches performed, etc. These are recorded in a special register. Punishments were imposed on 615 prisoners based on the violations found.

21 prisoners in 2012 were subjected to maximum security measures under art. 117-118 of the LESDA. The District Prosecutor's Office in Bourgas was notified in due time in each case in accordance with the provisions of art. 118, para 2 of LESDA.

14 accused and defendants are isolated in permanently locked premises and maximum security and surveillance on the grounds of art. 248, para 1, item 1 of LESDA.

Copies of each isolation order for an accused or defendant is sent to the prosecutor supervising the legality of the measure. 1 order was appealed against but it was sustained. As at October 2013 in the prison in Bourgas there were 1 104 prisoners, accused and defendants. 101 of them were placed in "Stroitel" OTBH; 120 – in "Zhitarovo" CTBH, and 883 – in the prison corps.

Disciplinary punishments were imposed on 590 prisoners.

Minutes No 4 of 8 August 2013 from the meetings of the Committee under art. 73 of the LESDA required in the course of the NPM team inspection provide grounds for the following conclusions: 285 prisoners have formal right to CER, the Committee issued positive opinion to 5 prisoners and negative – to 280 prisoners; there are 460 prisoners with vested right to transfer to lighter regime, of them positive opinion was issued to 32, and negative – to 428 prisoners; a change of the regime into stricter one has affected 6 prisoners; 39 prisoners have a vested right to transfer to prison facility of lighter regime, 25 have been issued positive opinion, and 14 prisoners were issued negative opinion;

there are 6 prisoners with life sentences with vested right to transfer into general premises, of which 6 were issued negative opinions.

As a result of the follow-up of the trends over a longer period of time the NPM team believes that the number of approved CER should increase, with or without probation measures. The Committees under art. 73 of the LESDA often presume that prisoners granted conditional early release would commit a crime subsequently. The NPM does not give credit to such concerns as, there is court control over the administrative proposal for CER, on one hand, and on the other hand, given the overpopulation of the prisons, it is inappropriate for the Committee to exercise such discretionary powers.

During the visit in the prison in Varna in 2012 there were 683 prisoners in the corps, 48 – in "Varna" BH, and 130 – in "Razdelna" BH.

In 2013 the total number of prisoners in the prison is 653, distributed as follows: 459 – in the prison corps, 39 – in "Varna" BH, 155 – in "Razdelna" BH. Out of the total 653, 21 are the accused, and 64 are the defendants.

Minutes No 4 of 14 August 2013 and Minutes No 5 of 16 October 2013 from the meetings of the Committee under art. 73 of the LESDA required in 2013 provide grounds for the following findings and conclusions: as at August 74 prisoners have formal right to CER, the Committee issued positive opinion to 21 prisoners and negative – to 53 prisoners. There are 171 prisoners with vested right to transfer to lighter regime, of them positive opinion was issued to 33, and negative – to 138 prisoners. A change of the regime into stricter one has affected five prisoners. 55 prisoners have a vested right to transfer to prison facility with a lighter regime, 10 have been issued positive opinion, and 45 prisoners were issued negative opinion. There are three prisoners with life sentences with vested right to transfer into general premises, all of them were issued negative opinions by the Committee.

As the NPM has found on numerous occasions a lasting repression trend in the application of the CER, transfer to lighter regime to do the sentence, etc. is noticed here as well. All of this reflects on the microclimate in the CF, as well as on the overload of the penitentiary administration.

This is why yet again the NPM recommends encouragement of the positive opinions of the Committees under art. 73 of LESDA with respect to the prisoners with respective vested rights.

The intensified disciplinary practice to impose the punishment "isolation in punishment cell" and significant reduction of the light sanction "written warning" in the prison in Bobov Dol is impressive. However, the intensified repression is linked to intensified incentives policy, for example, the "extended visit" reward has more than doubled. There is significant decline in the offering of the reward "revocation of disciplinary punishment", which should be analysed by the prison administration in view of broadening its application field, especially with respect to people assessed as low risk of damage and in view of relief of the subsequent re-socialisation process.

The relatively vacant capacity of the open-type boarding house, and the statistic information over the past three years indicate unutilised possibilities for the implementation of the decision of the Council of Ministers as per Minutes No 32 of 8 September 2010, with respect to the increase of the relative share of prisoners serving

their sentences in the open-type facilities, as compared to the total number of convicts in the prisons, in the work of the Committee under art. 73 of the LESDA.

Conclusions of and recommendations from the National Preventive Mechanism

A comparison between the findings and recommendations from the inspections carried out by the NPM teams in 2012 and in 2013 indicate several disturbing trends. These may be summarised in two categories: general disregard of the recommendations made to the Ministry of Justice and CD ES related to the correction facilities; lack of measures undertaken by the penitentiary administration to resolve issues within its competency, which do not require approval at a higher level authority.

Drastic example of the failure of the responsible state institutions to act is lack of measures for the implementation of the government programmes passed by the Council of Ministers. The lack of or the limited information provided to the prisoners with respect to the living space, medical services, work and conditions for change in the regime of execution of their sentences, they are entitled to, are also part of the alarming trends noticed during the NPM inspections. The problem with the awareness regarding a change in the regime, transfer to boarding house and CER is a common problem throughout the whole CF system. Significant tension is created in the micro environment in the correction facilities with respect to the unjustified overruling of requests for subsequent redistribution of the prisoners. The refusals for transfer are not provided to the prisoners and the latter are informed about the decisions verbally against signature. This practice makes the appeal against these decisions and the use of legal defence extremely difficult. The negative finding from the 2012 NPM inspections is still in place that the decisions for transfer, change of the regime and CER of the Committees under art. 73 of LESDA are not supported with the risk assessments required. The lack of will in the state to resolve many of the problems in the prisons and in the prison boarding houses is proven with the continuing persistence of the authorities against compliance with Recommendation (2006)2 of the Committee of Ministers to member states on the European Prison Rules, according to which: „the conditions in the prisons which violated the human rights of the prisoners may not be justified with the lack of resources“. The conditions in almost all CF in Bulgaria continue to be degrading and inhuman. There is not enough living space and access to daylight, medical services provided do not meet the recognised and established standards, hygiene is poor, no signalling and CCTV systems appropriate for such facilities are put in place yet.

In addition to the issues related to the correction facilities themselves and the people placed there, people employed in the penitentiary system are faced with significant problems as well. There is severe deficit of warders and psychologist inspectors, as well as social inspectors. The adequate revision of all full-time staff positions related to the prisons and boarding houses thereto is of critical importance. Increasing the number of staff is important both for the respect to the rights of the prisoners, and to the good work with them, which reflects the subsequent re-socialisation in the society and has preventive effect against repeated offences.

Inspection related to a signal as to violence in the prison in Sofia

In relation to signal regarding illegal violence to foreigners in the prison in Sofia on 17 October 2013 members of the team of the National Preventive Mechanism carried out an inspection on site in the prison on 23 October 2013.

Discussion with the warden of the prison was held, as well as with the prisoners G.P., K. R., S. E., F. S. A and the other prisoners in cell 17 and prisoners from the neighbouring cell 16 were also interviewed. The correspondence on the case was requested and presented. It contains information regarding the accident to CD ES and Sofia City Prosecutor's Office, Memo from D. D. – warden in the prison, medical certificate issued to G. P., search protocol for cell No 17, memo from V. A. – warden in the prison, and explanations from the prisoners in cell 17.

The inspection team asked to see the records from the surveillance cameras in the corridor but found out that no such are installed in the corridor for foreigners.

The inspection found undisputedly that on 17 October 2013 at approximately 8:30 am force and support devices have been used against the prisoners in cell No 17 – there were suffusions on the bodies of some of the prisoners. The reason for the use of force and support devices is failure to obey the verbal order given by the warden D. D. that the prisoners should come in front of the cell for a check upon handing over of the duty. The use of force and support devices is ordered by the chief warden on the grounds of art. 113, para 1, item 1 and art. 114, para 1, item 2 of the Law on Execution of the Sentences and Detention under Arrest.

According to the NPM team the use of force is legal, but the inspection carried out failed to support explicit conclusion as to when the use of force has commenced and how long it continued - if the use of force has continued after the prisoners were forced out of the cell, then there would be clear disproportion in the use of force.

With respect to the use of support devices the inspection team of the opinion that they were used against the law. Art. 114 of the LESDA comprehensively lists the cases when the use of support devices is allowed. None of the hypotheses regarding the use of support devices set out in the law were present in this specific case. The prisoners were passive all the time, while disobeying the order to go out of the cell.

The Ombudsman, in the capacity as National Preventive Mechanism, gave recommendations to approve detailed procedures regarding the use of force, including: the different types of force that may be used; the circumstances in which each type of force may be used; staff members who have the right to use the different types of force; the level of powers required prior to the use of force; the reports to be drawn up after the use of force.

The Bulgaria Law on Execution of Sentences and Detention under Arrest does not provide for such detailed definition of the types of force and circumstances when it may be used. Legislative amendments in this area are urgently required and the national Ombudsman recommends to the Minister of Justice to discuss and initiate such changes in the legal framework.

The NPM also recommended that the Chief Director of CD ES should undertake steps for the training and debriefing of the personnel in all prisons on the hypotheses provided for in the law with respect to the use of support devices on the prisoners. The Ombudsman

recommended to the Chief Director of GD ES to undertake steps for the installation of CCTV equipment in all corridors in the prisons thus ensuring the security of these spaces and guaranteeing a possibility to establish the objective truth during the investigation of similar incidents.

ABBREVIATIONS USED

National Preventive Mechanism - NPM
Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - OPUNCTOCIDTP
Social Assistance Agency - SAA
Juvenile delinquents school – boarding school - JDSBS
Central Directorate "Execution of Sentences" – CD ES
Border Police Department - BPD
State Agency for Refugees - SAR
State Agency for Child Protection - SACP
Home for Elderly People with Mental Disorders - HEPMD
Home for Demented Elderly People - HDEP
Home for Elderly People with Mental Retardation - HEPMR
Home for Children and Youths with Mental Retardation - HCYMR
Home for Children without Parental Care - HCWPC
Home for Children with Disabilities - HCD
Disinfection, disinsectisation, deratisation - DDD
Home for Medical Social Care for Children - HMSCC
State Psychiatric Hospital - SPH
Social Assistance Directorate - SAD
General Enterprise "Prison Production" - GE PP
Law on Execution of Sentences and Detention under Arrest - LESDA
Social Assistance Law - SAL
Prison Boarding House - PBH
Prison Open-Type Boarding House - POTBH
Prison Closed-Type Boarding House - PCTBH
Health Law - HL
Committee for Prevention of Torture - CPT
Complex for Social Services for Children and Families - CSSCF
Medical Establishment - ME
Prisoners - P
Ministry of Interior - MI
Ministry of Health - MH
Ministry of Justice - MJ
Ministry of Labour and Social Policy - MLSP
Ministry of Finance - MF
Ministry of Defence - MD
Ministry of Education and Science - MES
Correction Facilities (Prisons) - SFP
Medical Centre - MC
National Health Insurance Fund - NHIF
Criminal Code - CC

Criminal Procedure Code - CPC
District Police Directorate of the Ministry of Interior – DPD of MI
Temporary Stay and Isolation Facilities - TSIF
Rules on the Implementation of the Social Assistance Law (RISAL)
Registration Acceptance Centre - RAC
Regional Health Inspectorate - RHI
Regional Police Department - RPD
Sofia Police Directorate of Interior - SPDI
Specialised Home for Temporary Accommodation of Foreigners - SHTAF
Transit Centre - TC
Labour Expert Doctors Committee - LEDC
Suspended sentence and parole - SSP
Emergency Health Service Affiliated Centre - EHSAC
Accommodation Centre of Family Type - ACFT
Social Rehabilitation and Integration Centre - SRIC
Public Support Centre - PSC
Mental Health Centre - MHC
Emergency Health Service Centres - EHSC

CONTENTS

<u>FOREWORD</u>	1
<u>I. POWERS</u>	2
<u>II. STATISTICS OF THE INSPECTIONS CARRIED OUT</u>	3
<u>III. PROTECTION OF INDIVIDUALS SEEKING PROTECTION AND OF ILLEGAL IMMIGRANTS</u>	4
<u>1. Protection of individuals seeking international protection (refugees)</u>	4
<u>Acceptance and registration of the refugees and immigrants</u>	4
<u>Accommodation</u>	5
<u>Stay</u>	7
<u>Medical care</u>	7
<u>Hygiene - epidemiological problems</u>	7
<u>2. Illegal migrants protection</u>	11
<u>Material base and living conditions</u>	12
<u>Protection of vulnerable groups - women, children, unaccompanied minors and under aged youths</u>	12
<u>Awareness as to the rights of the accommodated foreigners and access to legal aid</u>	13
<u>Medical care</u>	13
<u>NPM inspection in relation to violence used</u>	13
<u>IV. STATE-OWNED PSYCHIATRIC HOSPITALS AND METAL HEALTH CENTRES</u>	15
<u>V. SOCIAL AND MEDICAL - SOCIAL INSTITUTIONS FOR CHILDREN</u>	20
<u>1. Homes for children with disabilities</u>	20
<u>Living conditions</u>	20
<u>Management and administrative capacity</u>	21
<u>Health care</u>	21
<u>Education and training</u>	22

<u>2. Homes for medical – social care for children</u>	23
<u>Admission and stay</u>	23
<u>Living conditions and care provided by the institution</u>	24
<u>Access to training and education</u>	24
<u>Medical care</u>	25
<u>Administrative capacity and management</u>	25
<u>VI. SOCIAL INSTITUTIONS FOR ELDERLY PEOPLE</u>	27
<u>Living conditions</u>	27
<u>Care for the social service users and vision for the development of the social services for elderly people</u>	27
<u>Administrative capacity and support</u>	29
<u>Medical care</u>	29
<u>Protection measures</u>	30
<u>Legal status of the users</u>	30
<u>VII. DETENTION FACILITIES WITHIN THE STRUCTURES OF THE MINISTRY OF INTERIOR</u>	32
<u>1. Detention facilities in the regional police departments</u>	32
<u>Living conditions</u>	32
<u>Food</u>	34
<u>Medical services</u>	35
<u>Awareness of the detained persons as to their rights</u>	37
<u>Protection measures</u>	38
<u>2. Detention facilities within the structure of the Central Directorate "Border Police"</u>	39
<u>Living conditions</u>	39
<u>Food</u>	40
<u>Medical services</u>	40
<u>Awareness of the detained persons as to their rights</u>	40

<u>Protection measures</u>	41
<u>VIII. DETENTION FACILITIES IN THE COURT BUILDINGS</u>	42
<u>1. Court buildings in category II</u>	43
<u>2. Court buildings in III category</u>	44
<u>3. Court buildings in IV category</u>	44
<u>IX. PROTECTION OF PRISONERS IN CORRECTION FACILITIES</u>	45
<u>Overall description of the sentence execution system and the correction facilities in Bulgaria</u>	45
<u>Living conditions</u>	47
<u>Food</u>	49
<u>Medical services</u>	50
<u>Social activities and educational work with the prisoners</u>	52
<u>Individuals sentenced to life in prison</u>	54
<u>Contacts with the outside world and filing of complaints and signals</u>	54
<u>Regime and administrative activities</u>	54
<u>Conclusions of and recommendations from the National Preventive Mechanism</u>	57
<u>Inspection related to a signal as to violence in the prison in Sofia</u>	58
<u>ABBREVIATIONS USED</u>	60