

**ANNUAL REPORT OF THE  
OMBUDSMAN ACTING AS  
NATIONAL PREVENTIVE  
MECHANISM**

**OMBUDSMAN OF THE REPUBLIC OF BULGARIA**

**2015**

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## **LIST OF ACRONYMS**

BPS – Border police station  
CBS – Correctional Boarding School  
CC – Criminal Code  
CDCC – Children with Disabilities Care Centre  
CoMs – Council of Ministers  
CPC – Criminal Procedure Code  
CPT – Committee for the Prevention of Torture  
CTPH – Closed-type prison hostel  
DF – detention facilities  
DGBP – Directorate General Border Police  
DGEP – Directorate General Execution of Punishments  
DGS – Directorate General Security  
DIRRE – Disinfection, insect removal and rat extermination  
DLP – persons deprived of their liberty  
EPRCA – Execution of Punishments and Remand in Custody Act  
ERP – Early release on parole  
FTPC – Family Type Placement Centre  
HA – Healthcare Act  
HC – Healthcare centre  
HE – healthcare establishment  
HEA – Healthcare Establishments Act  
HEPD – Home for Elderly People with Dementia  
HEPID – Home for Elderly People with Intellectual Disabilities  
HEPMD – Home for Elderly People with Mental Disorders  
HMSSC – Home for Medical and Social Child Care  
ICAID – Institution for Children and Adolescents with Intellectual Disabilities  
ICD – Institution for Children with Disabilities  
ICDPC – Institution for Children Deprived of Parental Care  
JDA – Juvenile Delinquency Act  
JDC – Juvenile Delinquency Commission  
MHC – Mental Health Centre  
MLSP – Ministry of Labour and Social Policy  
MoES – Ministry of Education and Science  
MoH – Ministry of Health  
Mol – Ministry of Interior  
Mol RD – Regional Directorate of the Ministry of Interior  
MoJ – Ministry of Justice  
NHIF – National Health Insurance Fund  
NPM – National Preventive Mechanism  
OA – Ombudsman Act  
OPCAT – Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment  
OTPH – Open-type prison hostel

PH – Prison hostel  
RAC – Registration Admission Centre  
RC – Registration Centre  
RHI – Regional Health Inspectorate  
RIEPRCA – Rules for the implementation of the Execution of Punishments and Remand in Custody Act  
RMEC – Regional Medical Expert Commission  
RPS – Regional Police Station  
SAA – Social Assistance Act  
SAA – Social Assistance Agency  
SACP – State Agency for Child Protection  
SAD – Social Assistance Directorate  
SANS – State Agency for National Security  
SAR – State Agency for Refugees  
SCTAF – Specialised Centre for Temporary Accommodation of Foreigners  
SEPP – State-owned enterprise „Prisons Production“  
SPBS – Social and Pedagogical Boarding School  
SPH – State Psychiatric Hospital  
SPOC – Supreme Prosecutor’s Office of Cassation  
SWCA – Social work and correctional activities (prisons)  
TAIF – Temporary Accommodation and Isolation Facilities  
TC – Transit Centre

## **INTRODUCTION**

The key role of the Ombudsman acting as National Preventive Mechanism (NPM) is counteracting torture and other forms of cruel, inhuman or degrading treatment in places of detention.<sup>1</sup> Tackling this problem implies not only individual liability and effective sanctions for perpetrators of such acts, but effective intervention by the institutions and society at large for adequate actions to eradicate this phenomenon.

Protecting human rights where they are violated is a mission. The National Preventive Mechanism carries out this mission by performing continual and independent monitoring of places of detention and identifying potential risks of torture or other forms of cruel, inhuman or degrading treatment. This mission is further performed by publicly denouncing human rights violations.

Acting upon this commitment, I present to your attention the Fourth Annual Report of the Ombudsman acting as National Preventive Mechanism. It is more than just a report. It comprises summaries of the conducted inspections, analysis of the problems identified in the inspected places as well as an assessment of how human rights are respected there. Concrete recommendations are made. The report further evaluates action taken by the respective authorities upon recommendations made by the NPM.

The report targets national institutions and international organisations working to protect detainees, civil society organisations and professionals involved with the protection of detainees' rights.

The progress established in some of the monitored areas in response to the Ombudsman's recommendations demonstrates the positive effect of monitoring and interagency cooperation. Mutual efforts open better opportunities for achieving the goals set forth in international and domestic law and for improving its practical application.

**MAYA MANOLOVA**  
**OMBUDSMAN OF**  
**THE REPUBLIC OF BULGARIA**

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<sup>1</sup> Places of detention are all places which detainees cannot leave out of their free will such as prisons, psychiatric institutions, police custody facilities, child protection institutions, homes for elderly people, refugee or migration centres etc.

## **SUMMARY**

The functions of the Ombudsman acting as National Preventive Mechanism (NPM) concern application of the Optional Protocol to the UN Convention against Torture and the 2012 amendments to the Ombudsman Act. NPM annual reports assess human rights protection in places of detention and target national and international organisations working to protect detainees, civil society and all professionals involved with the protection of detainees' rights.

The 2015 report is premised on on-the-spot inspections, monitoring, inspected documents, meetings and interviews with detainees and staff in places of detention.

Conditions in some places continue to be deplorable, while in other monitored areas progress and positive changes have been established. This progress is a result of the independent monitoring and work by the NPM as well as the interagency cooperation for ensuring respect for human rights, achieving the goals set forth in international and domestic law and improving its application in practice.

In 2015 the Ombudsman acting as NPM conducted inspections in 66 places of detention to monitor follow up of its recommendations made during previous inspections.

### **I. PROTECTING MIGRANTS AND ASYLUM-SEEKERS. MONITORING FORCED RETURN OF MIGRANTS**

In the last three years the Ombudsman acting as NPM has been monitoring and analyzing the development of refugee and migration processes in Bulgaria. The NPM published two thematic reports in 2014 and 2015 on the problems regarding refugees and migrants in the country.

Unfortunately many of the recommendations concerning systemic problems of these vulnerable persons have not been taken into account by the responsible administrative authorities and problems persist instead of being resolved.

In relation to the protection of migrants and asylum-seekers, we inspected the reception and accommodation of foreign nationals in the distribution centre in Elhovo and the Special Centres for Temporary Accommodation of Foreigners (SCTAF) with the Migration Directorate. The operation of the Elhovo distribution centre is not regulated in any law or bylaw, which continues to be a major problem. A number of serious issues remain unresolved: overcrowding in the distribution centre, deterioration of material conditions and medical care in the SCTAFs, lack of interpreters, and continuing placement of families with children in the SCTAFs.

#### **ACCOMMODATION AND REGISTRATION OF ASYLUM-SEEKERS IN THE CENTRES OPERATED BY THE STATE AGENCY FOR REFUGEES WITH THE COUNCIL OF MINISTERS**

During its inspections of the regional units of the State Agency for Refugees (SAR), NPM established overcrowding, poor material conditions and deficient medical care. Although there are medical consultation rooms in all centres, these are not in line with the requirements set forth in the Healthcare Establishments Act or the Healthcare Act. Problems regarding undiversified food and lack of diet plans persist.

NPM established that a substantial number of people leave SAR centres on their own accord and there was no information about their whereabouts, which is extremely alarming.

For a second year now the NPM cited as a major problem the lack of integration programmes for beneficiaries of international protection.

The inspection showed that the material conditions in all SAR centres had deteriorated, with the exception of the registration and reception centre in Vrazhdebna.

The NPM is particularly concerned about the 2015 amendments to the Asylum and Refugees Act regulating detention of asylum seekers, including minors, in closed-type centres during asylum proceedings. This creates prerequisites for violations of domestic and international asylum and human rights law, which is why the NPM will strictly monitor procedural guarantees, lawful detention and period of detention of asylum-seekers during its inspections in 2016.

In 2016 the Ombudsman acting as NPM will pay particular attention to the rights of women and children, especially minors, and will focus on violence against women placed in centres operated by the SAR and Migration Directorate.

#### MONITORING FORCED RETURN

In 2015 the NPM monitored one operation of forced return of foreigners to Pakistan, organized by the Bulgarian authorities and coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex). The NPM made concrete recommendations to the Ministry of Interior (MoI) regarding every stage of the operation.

## **II. PROTECTING PERSONS DEPRIVED OF THEIR LIBERTY**

As regards protection of persons deprived of their liberty, the Bulgarian authorities have seriously addressed the problems repetitively pointed out by the NPM, European Committee for the Prevention of Torture and civil society organisations in the country. This marks an important step forward as compared to the findings from previous years.

However, next to the general problems that the competent bodies have addressed or committed to act upon the recommendations made, the NPM points out to a series of specific problems of individual vulnerable groups that need to be attended. Such groups are women and adolescents in places of detention; LGBT community; drug addicts; HIV/AIDS positive persons; and people with disabilities. Respect for these people's rights will be a priority for the NPM during the upcoming inspections.

In 2015 the NPM visited the reformatory of Boychinovtsi, twelve prisons and five police custody facilities. The report reviews in detail all inspected places and points out the identified deficiencies, together with recommendations for each place.

The NPM considers medical care to be the most serious problem. **The health care system is a "closed" one – self-regulating, understaffed, with poor material and technical equipment, which obstructs its functioning.** This is why the NPM proposed to the Ministry of Justice a concept for a reform of the medical care in the places of detention and made the following suggestions:



A) Transform the medical centres in the places of detention into healthcare practices within the meaning of the Healthcare Act.

B) Primary care for persons deprived of their liberty to be exercised by GPs designated by the Regional Health Insurance Fund.

C) Persons deprived of their liberty to be treated in hospitals outside the penitentiary system, namely in healthcare establishments that have concluded partnership agreements with the National Health Insurance Fund. The NPM suggests to use regional hospitals to that end since the State is represented in their management boards and may intervene, through the Ministry of Health, where appropriate.

D) Transform the in-house hospital for persons deprived of their liberty into inpatient continuing care units.

In 2015 the NPM observed significant efforts for the elimination of the overcrowding in Razdelna prison hostel with Varna prison and for improving the material conditions there. Conditions in the medical care centre in the prison for women in Sliven were improved as well. Projects for the renovation of the prisons in Burgas, Varna and Sliven were drafted; the kitchens in the prisons in Lovech and Burgas, as well as the hospital in Lovech prison were renovated; a full reconstruction of the Atlant prison hostel with Lovech prison was launched; Stara Zagora and Pleven prisons are in the process of reconstruction; sleeping quarters in the reformatory of Boychinovtsi were renovated.

New detention facilities were opened with the prisons in Burgas and Pleven. A new detention facility in a separate building was opened in Shumen. In 2016 investigation detention facilities will be opened with the prisons in Lovech and Vratsa, and the detention facilities in Dupnitsa and Kyustendil will be transferred to the prison in Bobov dol.

The reconstructions and renovations were carried out with the financial support of the Norwegian Financial Mechanism (NFM). The NPM appreciates highly the financial support and efforts made to improve some of the places of detention. It insists however on securing sufficient internal financial resources and endorsing a sustainable and predictable financial policy in relation to the places of detention.

An important part of the NPM work in 2015 concerned changes in the legal regulation. Under domestic and international pressure to improve conditions in the places of detention, the Ministry of Justice set up a working group tasked with drafting legislative amendments to that end. A member of the NPM took part in the working group. Many of the findings and recommendations contained in the NPM reports as regards prisons, correctional and detention facilities were discussed and endorsed by the working group.

Proposals for amending and supplementing the Execution of Punishments and Remand in Custody Act, Liability of the State and Municipalities for Damage Act, Criminal Code, Criminal Procedure Code and Administrative Procedure Code were made. The most important one concerns the introduction of a preventive and compensatory remedy. The Ombudsman acting as NPM considers the proposed changes in the legal regulation adequate and indispensable to achieve a genuine and positive change and lead to a humane treatment of persons deprived of their liberty.

### **III. PROTECTING CHILDREN IN CONFLICT WITH THE LAW**

Problems regarding children in conflict with the law placed in correctional boarding schools (CBS) or social and pedagogical boarding schools (SPBS) continued to be in the focus of NPM in 2015. Following inspections conducted in November and December 2015, the NPM published and presented in public a thematic report about the state of play with CBS and SPBS.

Some of the traditional conclusions and recommendations remain valid in 2015 such as poor material conditions and undiversified food. Another substantial problem continues to be the neglect of the educational process by teachers and students alike. Teaching is conducted in a formal manner without taking into account the individual needs of children. Activities such as art therapy, labour therapy etc. that need to be incorporated in the overall process of development and work with children remain isolated. The inefficient correctional and pedagogical work due to the lack of highly qualified psychologists is another point of concern. The Ministry of Education and Science (MES) has not endorsed a methodology regulating work with children in those schools, which has led to various practices as regards psychological and pedagogical assessments, individual plans for children and review of the result of the psychological and pedagogical work.

Deficiencies such as lack of staff members' motivation, poor medical care, poor coordination among institutions, pupils' low health literacy, and lack of a legal regulation for work persist.

Children continue to be placed in institutions without any differentiation between the offences they have committed. Thus children who have committed the so-called status offences (running away from home, roaming, begging etc.) or children survivors of violence are placed in the same institution with juvenile delinquent offenders.

Violence, both physical and psychological, remains a serious problem in many of the boarding schools. Punishments that are not regulated in any way continue to be imposed. Rules and standards for equal treatment of children placed in boarding schools are still missing.

In relation to these findings, the Ombudsman acting as NPM recommended changes in the legal regulation, closure of these institutions and establishment of adequate correctional and pedagogical services. A member of the NPM took part in the working group set up by the Ministry of Justice for the elaboration of a bill for juvenile justice. The key objective is to protect the interests of minors involved in criminal proceedings and the rights of children witnesses or victims of crime, shifting the focus from penalty and retaliation to more friendly measures.

### **IV. PROTECTING PERSONS WITH MENTAL DISORDERS**

In 2015 the NPM conducted six inspections in healthcare establishments for inpatient psychiatric care. The inspections established once again the unsatisfactory condition of the state psychiatric inpatient care and the need to reform the system.

One of the findings concerns the poor material conditions in the inspected healthcare establishments. Treatment is not adequately secured in terms of technical equipment.

Other problems concern understaffing, social rehabilitation and psychological care, long stays in hospitals and repeated hospitalization of socially disadvantaged persons.

Amendments to the Healthcare Establishments Act made in 2015 have introduced different levels of competence of the Mental Health Centres structural units. The NPM insists that the

same principle be applied to the state psychiatric hospitals in follow up of the recommendation to change the funding mechanism for these healthcare establishments.

On the basis of the inspections conducted in 2015, the NPM extends the following recommendations to the minister of health:

- A) Establish which state psychiatric hospitals comply with the respective medical standard and transform those which fall short of the requirements either into state psychiatric hospitals for continuing inpatient care or for continuing inpatient care and rehabilitation;
- B) Regulate the procedure for determining levels of competence of state psychiatric hospitals units. The level of competence must be clearly stated in any information about a state psychiatric hospital to guarantee the quality of medical care and protect patients' rights;
- C) Increase funding for state psychiatric hospitals to ensure adequate payment for the work of medical and non-medical personnel and sufficient human resources for psychiatric care;
- D) Provide regular funding for capital expenditures of the state psychiatric hospitals to ensure reconstruction and maintenance of the buildings and guarantee good material and living conditions in the healthcare establishments;
- E) Publish the regulation under Article 151 of the Healthcare Act.

In addition, the NPM made a recommendation to the minister of labour and social policy to provide more social services to people with mental disorders in accordance with the established needs in society and not to burden the state psychiatric hospitals with social functions.

## **V. MEDICAL AND SOCIAL CHILD CARE INSTITUTIONS**

In 2015 the NPM continued monitoring the process of deinstitutionalization, in particular the transfer of children from institutions for children with intellectual disabilities and medical and social child care institutions to family type placement centres (FTPC). In this regard the NPM inspected eleven FTPC. It recommended in particular not to place together children and adults with disabilities, as this creates major difficulties in taking care for them, be it in relation to their sexual maturation or different special needs.

In 2015 the NPM continued receiving signals about insufficient preparatory work for the transfer of children to FTPC. Needs assessments of children with disabilities that are made prior to their transfer with a view to determining where to be placed are constantly changed. In the course of the inspections conducted in different FTPC the Ombudsman acting as NPM established that the health care exercised for children with severe disabilities did not correspond to these children's needs and their health and life were put in danger. There was no medical staff on duty during the night and strong medications were administered by caregivers.

There are no clear criteria for staff recruitment for the new social services. The NPM has established on numerous occasions that external medical experts refuse to treat or treat poorly children with disabilities. Many hospitals refuse to admit children from institutions due to the insufficient number of healthcare pathways secured by the National Health Insurance Fund (NHIF).

On 11 September 2015, after repeated recommendations made by the NPM, the minister of healthcare issued Order no. PA-01-192 thereby designating seven Multidisciplinary hospitals for active treatment and one Specialised hospital for active treatment of child diseases to perform expert assessment of the health status and needs of children with disabilities, on the basis of which children will be placed in FTPC and treated in specialised hospitals.

The first phase of the restructuring of eight Homes for Medical and Social Child Care (HMSCC) for children aged 0 to 3 was completed in 2015. New social services were launched after the closure of the HMSCC.

A positive trend that the NPM observed was that after the closure of the HMSCC and the opening of new services the number of children using resident type of care fell drastically. Children's stay was also shortened.

The closure of these institutions triggered a problem with the financing of the new integrated medical and social services that affected their sustainability. In this relation the Ombudsman acting as NPM issued an opinion that the way state institutions treated children with disabilities was particularly alarming. Lack of funds threatens the health and life of the children placed in FTPC. In response to the recommendation made, the Ministry of Labour and Social Policy pledged to provide funding for these services.

## **VI. SOCIAL INSTITUTIONS FOR ADULTS**

In 2015 the NPM visited five Homes for Elderly People with Intellectual Disabilities or Dementia. The NPM found that most of the recommendations had been implemented.

A major problem for all institutions for elderly people is the insufficient number of specialised and non-specialised personnel assisting residents in their daily activities. Another problem is the lack of medical experts motivated to provide quality care for the people placed in these homes. In this regard the NPM recommended to the Ministry of Labour and Social Policy (MLSP) to:

- A) Ensure funds to increase medical staff salaries, which is a major obstacle for filling in vacancies and obstructs healthcare for homes' residents;
- B) Increase the number of F.T.E. positions for staff directly involved with residents' day care as well as for assisting personnel.

The Council of Ministers (CoMs) submitted in Parliament a bill amending and supplementing the Social Assistance Act (SAA). It proposes some changes in the area of social services that aim at improving access to social services and their quality, and ensuring guarantees for patients' rights, including the right to freedom of choice, individual approach and comprehensive needs assessment. In addition, a full reform in the area of social services is envisaged through the elaboration of a special Social Services Act. This law will improve the effectiveness and efficiency of social services and their quality, as well as their monitoring, supervision, planning and funding. Launch of the New Social Services Standards operation under the 2014-2020 Operational Programme "Human Resources Development" is pending. It foresees elaboration of new standards for quality and financing, as well as a National Strategy for Long-term Care.

The NPM highlights the following priorities in the area of social services for adults:

- Material conditions in the institutions must comply with the requirements under Article 40f of the Rules on the implementation of the Social Assistance Act, including as regards accessible environment.
- When appointing a guardian or custodian, recourse must be made to Article 156, para 1 of the Family Code in order to limit the number of cases where a staff member of the specialised institution is appointed guardian/custodian.
- Competent institutions should exercise effective control over service providers of residential care for elderly people in accordance with the Social Assistance Act and its Implementing Rules.
- The Methods approved by the MLSP for designating personnel positions in specialised institutions as well as social services must be upgraded.

## **VII. POLICE CUSTODY FACILITIES**

In 2015 the NPM conducted eight inspections of police custody facilities with the Ministry of Interior.

The NPM commends the adoption of the new Instruction no. 81213-78 of 24 January 2015 on detention procedures, equipment and order in police custody facilities. The instruction takes into account the recommendations made by the NPM from 2012 to 2014. The NPM acknowledges the efforts made by the Mol management to improve the material conditions in some police custody facilities.

At the same time the NPM established repetitive deficiencies: overcrowding, no service facilities, problems with food and medical care, omissions in informing detainees of their rights and keeping detention records.

Unfortunately, no action has been taken on some of the recommendations made by the NPM such as regulating the coordination between the Ministry of Interior and Ministry of Health as regards medical care in police custody facilities.

The NPM would like to underscore the continuing lack of effective control by the inspecting Mol bodies and Prosecutor's Office over the records kept by the police units where there are custody facilities.

## **CONCLUSION**

In 2015 the NPM found some progress in human rights protection in places of detention. The Bulgarian institutions pledge commitment to act upon the recommendations made and have taken some action to eliminate general or systemic problems in the places of detention. In 2016 the NPM will monitor how sustainable are these intentions and what will be the consequences of actions taken.

## LEGAL FRAMEWORK

### 1. The Optional Protocol to the Convention against Torture (OPCAT)

The Optional Protocol to the Convention against Torture is the first international treaty that introduces a double system – international and national – for preventing torture and other forms of cruel, inhuman or degrading treatment. The OPCAT establishes a Subcommittee on Prevention of Torture (SPT) on international level, and at the same time requires States parties to set up NPMs on national level.

According to the OPCAT, the SPT has three primary operational functions. First, it may visit any place where persons may be deprived of their liberty. Second, it provides advice and assistance to the National Preventive Mechanisms and recommendations to the States Parties with a view to enhancing NPMs' capacity and mandate. And third, it cooperates with other UN, international and regional bodies as well as national institutions or organisations working for the protection of all people deprived of their liberty.

Article 3 OPCAT requires States Parties to “*set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment*”. This body or bodies are the National Preventive Mechanism.

Each State Party to the OPCAT has its own way to determine its NPM. Some have identified existing bodies to carry out the mandate of the NPM, while in others new bodies have been created to assume this role.

For an NPM to function as an independent body, Article 18 OPCAT requires States Parties to guarantee the functional and financial independence of the preventive mechanism so as to ensure that the NPM may function free from any State interference. Article 18 specifically refers to the Principles relating to the status of national institutions for the promotion and protection of human rights (“the Paris Principles”).

### 2. Ombudsman Act

The NPM's function has been delegated to the Ombudsman by the amendments and supplements to the Ombudsman Act, promulgated in State Gazette (SG), issue no. 29 of 10 April 2012.

A new chapter was included in the law, which translates the requirements of OPCAT:

"a" National Preventive Mechanism (new – SG no. 29/2012, effective as of 11 May 2012)

Article 28 (a) (new – SG no. 29/2012, effective as of 11 May 2012) (1) The powers of the Ombudsman as a National Preventive Mechanism concern places where there are persons deprived of their liberty, or where persons are detained or accommodated as a result of an act or with the consent of a public authority, which places they cannot leave at their own will, in order to protect such persons from torture and other cruel, inhuman or degrading treatment or punishment.

(2) The Ombudsman shall be entitled to:

1. access at any time without prior notice to all places of detention under paragraph 1 and to their installations and facilities;
2. access to all information concerning the number of persons deprived of their liberty in places of detention as defined in paragraph 1, as well as the number of places and their location;
3. the liberty to choose the places s/he wants to visit and the persons s/he wants to interview;
4. the opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the Ombudsman as a National Preventive Mechanism believes may supply relevant information;
5. access to all information referring to the treatment of the persons under paragraph 1 as well as their conditions of detention;
6. request information from the staff of the visited detention facility, hold lectures and converse personally with any person at the territory of the inspected object;
7. arrange medical examinations of individuals with their consent.

(3) Employees and officials in the facilities under paragraph 1 are obliged to assist and supply the necessary information to the Ombudsman.

Article 28 (b) (new – SG no. 29/2012, effective as of 11 May 2012) (1) A person or an official is not entitled to order, apply, permit or allow whatever sanction in respect of a person or organization that they have reported any information, whether true or not, to the Ombudsman as a National Preventive Mechanism, and no such person or organization may suffer any damage because of this.

(2) Confidential information collected by the Ombudsman as a National Preventive Mechanism may not be disclosed. Personal data may be published only after the person it refers to has expressed his or her explicit consent.

Article 28 (c) (new – SG no. 29/2012, effective as of 11 May 2012) The Ombudsman as a National Preventive Mechanism may by order delegate in whole or in part its powers under Article 28 (a) to members of her/his administration.

Article (28) (d) (new – SG no. 29/2012, effective as of 11 May 2012) (1) After each visit, the Ombudsman shall prepare a report which may contain recommendations and proposals with a view to improving the conditions in the facilities under Article 28 or treatment of the individuals placed there, as well as to preventing torture and other cruel, inhuman or degrading treatment or punishment.

(2) The report shall be presented to the relevant competent authority which shall notify the Ombudsman within one month of the action taken in implementing the recommendations.

(3) The Ombudsman shall also publish annual reports related to her/his work as a National Preventive Mechanism, subject to the requirement of Article 28 (b), para 2.

Article 28 (e) (new – SG no. 29/2012, effective as of 11 May 2012) The Ombudsman as a National Preventive Mechanism shall cooperate with relevant bodies and mechanisms of the United Nations, citizens' associations, as well as with international, regional and national organisations working to protect persons against torture and other form of cruel, inhuman or degrading treatment or punishment.

## **NPM STRUCTURE AND WORK**

The National Preventive Mechanism and Fundamental Rights and Freedoms Directorate has been set up in the Ombudsman institution. The multidisciplinary team comprises lawyers, a psychologist, a physician (MD), as well as a public administration expert.

The amendments to the Foreign Nationals in the Republic of Bulgaria Act (SG no. 23/2013) created a new obligation for the Ombudsman: monitoring coercive administrative actions imposed on foreigners, namely:

1. forced return, and
2. expulsion.

The amendment transposes a requirement of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. Pursuant to Article 8(6) of the Directive, "Member States shall provide for an effective forced-return monitoring system".

In relation to these duties, the Ombudsman of the Republic of Bulgaria and the Ministry of Interior signed an Agreement for cooperation in monitoring forced return of illegally residing third-country nationals.

In 2015 the NPM monitored one forced return operation of Pakistani nationals organised by Bulgaria and coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex).

At present the Ombudsman avails of no budget to secure permanent monitoring of forced return. In 2016 the Ombudsman will look for other forms of financing to further build capacity to perform this important human rights duty.



## **INTERACTION OF THE NPM WITH INTERNATIONAL AND NATIONAL AUTHORITIES. PARTICIPATION IN CONFERENCES**

In 2015 the Bulgarian NPM strengthened its cooperation with the Subcommittee on Prevention of Torture. The SPT maintains an interactive slack.com platform in which all NPMs in Europe take part to exchange information, discuss different issues, find partners etc. In general the SPT is very positive about the work of the Bulgarian NPM. SPT main recommendations concern the lack of financial independence and a separate NPM earmarked budget.

The Ombudsman acting as NPM is member of the South-East Europe NPM Network. NPM staff members took part in the SEE NPM annual meeting in Tirana, Albania, on 29-30 June 2015. During the meeting members discussed how to ensure medical care in places of detention.

NPM experts took part in international conferences on issues directly related to the NPM work: "Strengthening the effective implementation and follow up of recommendations by torture monitoring bodies in the European Union", „Strengthening the practical application of the standards and recommendations as regards excessive or wrong recourse to pre-trial detention".

In May 2015 NPM experts were certified, after due training, as forced return observers in the framework of the project "Forced Return Monitoring".

In addition to participation in various international fora, NPM experts took part in a series of meetings, round tables and conferences on national level, organised by public authorities or non-governmental organisations.

## STATISTICS ABOUT CONDUCTED INSPECTIONS

The National Preventive Mechanism team conducted inspections in 66 places (32 with prior notice and 34 without) in the period from 1 January 2015 to 31 December 2015 as follows:

Prisons, prison hostels, detention facilities	18 establishments
Regional police custody facilities	8 establishments
Medical and Social Child Care institutions	3 establishments
Homes for Elderly People with Intellectual Disabilities or Dementia	5 establishments
State Psychiatric Hospitals, Mental Health Centres	5 establishments
Family Type Placement Centres	11 establishments
Centres Operated by the State Agency for Refugees with the CoMs	6 establishments
Temporary Accommodation and Isolation Facilities in court buildings	1 establishment
Special Centres for Temporary Accommodation of Foreigners with Migration Directorate and Elhovo Distribution Centre	3 establishments
Social and Pedagogical Boarding Schools and Correctional Boarding Schools	6 establishments

## PROTECTING ASYLUM-SEEKERS AND MIGRANTS. MONITORING FORCED RETURN

- In 2015 Bulgarian institutions continued experiencing serious difficulties with reception, registration and provision of basic internationally recognized humanitarian needs such as living conditions; medical and dental services; food and security to asylum-seekers.
- Supervision of asylum-seekers leaving the reception centres of their own accord is lax, which makes them liable to become victims of trafficking.
- The NPM points out for a second year in a row that there is no programme for the integration of beneficiaries of international protection and recommends the adoption of such a programme.
- Some of the amendments made in 2015 to the Asylum and Refugees Act allow for arbitrary detention of asylum-seekers. The amendments provide for placing asylum-seekers in closed-type facilities without prescribing a maximum duration or *suo motu* review of detention.

In 2015 Europe experienced the worst refugee crisis after World War II – a fact reiterated daily by the media, politicians, experts and public at large who keep discussing what measures the European countries should take to tackle the influx of refugees and migrants. Questions, opinions, ideas and suggestions are profuse. However, no answers have been found yet how to strike a fair balance between the public interest and protection of individual rights.

In the opinion of Nils Muižnieks, Council of Europe Commissioner for Human Rights, asylum seekers are not the reason for the failing asylum and migration systems in Europe. The genuine reasons are political.

The only viable position that the Ombudsman institution can take is to promote tolerance, solidarity and protection of people fleeing war and conflicts.

In the last three years the Ombudsman acting as National Preventive Mechanism (NPM) has been monitoring and analyzing the refugee and migration processes in Bulgaria. The NPM published two thematic reports on the problems regarding refugees and migrants in the country. In the period from 25 May to 12 June 2015 the NPM conducted its planned inspections on the respect for the rights of migrants and asylum seekers and visited all regional units of the State Agency for Refugees with the Council of Ministers, the special centres for temporary accommodation of foreigners in Lyubimets and Sofia, as well as the distribution centre in Elhovo. **Unfortunately many of the recommendations concerning systemic problems of these vulnerable persons have not been taken into account by the responsible administrative authorities and problems persist instead of being resolved.**

## **RECEPTION AND ACCOMMODATION OF FOREIGNERS IN THE ELHOVO DISTRIBUTION CENTRE AND THE SPECIAL CENTRES FOR TEMPORARY ACCOMMODATION OF FOREIGNERS WITH THE MIGRATION DIRECTORATE**

The NPM found that most of the asylum seekers and migrants crossing the Bulgarian-Turkish border continue to be initially received in the distribution centre in Elhovo. The NPM points out once again that the operation of the distribution centre and its status **should be regulated in a law or bylaw**.

The first problem that the NPM identified during the inspection was **overcrowding**. The Elhovo distribution centre with a capacity of 240 people accommodated 340 foreigners: 162 from Afghanistan, 65 from Iraq, 80 from Syria, and 33 of other nationalities. Likewise, the Special Centre for Temporary Accommodation of Foreigners (SCTAF) in Lyubimets with a capacity of 300 people accommodated 363 foreigners. In the SCTAF in Sofia one of the floors in the sleeping quarters was out of use due to ongoing reconstructions, and the administration placed people in the available free spaces such as the medical isolation ward or security room. Overcrowding explains a **considerable deterioration of the living conditions** in the distribution centre and SCTAFs compared to previous visits by the NPM. Sleeping quarters and sanitary facilities were dirty, poorly kept, and allowed for limited privacy. There were leaks, mould, broken sinks and no running hot water in the bathrooms.

During its visit the NPM found that **provision of personal hygiene products to foreigners continued to be a problem** due to limited financial resources of the Migration Directorate.

The NPM established a reorganization of **food provision**. Food was no longer prepared in the centre but delivered instead by a catering company following an agreement with the Ministry of Interior. Reviewing the weekly menus, the NPM team found that no fruits were served in the distribution centre in Elhovo – an omission that the NPM recommended to be corrected by including fruits in the foreigners' diet.

**Lack of interpreters** continues to be a major obstacle in the communication between people accommodated and the staff of the Mol Migration Directorate. The **language barrier appears to be one of the unresolved problems** for the Ministry of Interior, not only in the distribution centre but in the SCTAFs as well.

In its 2014 report the NPM recommended to the Ministry of Interior to ensure space for prayer rooms in the distribution centre in Elhovo. The Mol explained in response that due to the limited space in the building and foreigners' temporary stay such rooms could not be arranged for. **The NPM finds this an illegitimate excuse and recommends once again that efforts are made and action taken to guarantee the right to practice one's religion.**

The NPM found no change in the **medical care provided** to foreigners compared to the previous inspection.

**The Ombudsman acting as NPM cannot remain indifferent to the persistent problem of placing families with children in the SCTAFs.** The Ombudsman has reiterated in other reports that the special centres are inappropriate for placing families with children as these places do not have the proper conditions and specially trained personnel. In this regard the NPM recommends again that alternative forms of migration detention are considered in relation to this group of people.

During visits in the SCTAFs the NPM established several cases where minors were added to the orders imposing administrative coercive actions to adults under the Foreigners in the Republic of Bulgaria Act without the two parties knowing each other or having any family relation. In this way children are considered formally accompanied and the prohibition to place minors in closed-type facilities is formally complied.<sup>2</sup> However, these are in fact unaccompanied minors who have to be identified as such and immediately be granted the help and support available for this particularly vulnerable group.

During the inspections the centre administrations shared another problem with the NPM team: insufficient transport facilities.

During the interviews foreigners mostly complained of the difficult communication with staff in the centres, poor living conditions, having nothing to do during the day, poor medical service and slow registration and processing of asylum applications.

### **ACCOMMODATION AND REGISTRATION OF ASYLUM SEEKERS IN CENTRES OPERATED BY THE STATE AGENCY FOR REFUGEES WITH THE COUNCIL OF MINISTERS**

During the NPM visits the **centres were almost full**: 70 persons accommodated in the registration and reception centre in Banya (capacity 70); 263 in the transit centre in Pastrogor (capacity 300); 1800 in Harmanli registration and reception centre (capacity 2710); 324 in Vrazhdebna registration and reception centre (capacity 400); 750 in Voenna rampa registration and reception centre (capacity 800); and 729 in Sofia registration and reception centre (capacity 860).

The inspection found that the **living conditions** in all centres operated by SAR, save for Vrazhdebna registration and reception centre, **had deteriorated significantly**. The construction of additional facilities in the registration and reception centre in Banya that started in 2014 is completed but due to the poor quality of construction the houses remain unused. Leaks and mould in the main building and kitchen of the registration and reception centre in Banya and the transit centre in Pastrogor require urgent refurbishment. There is mould in the bedrooms in the newly built one-floor houses in the registration and reception centre in Harmanli – these need to be refurbished as well.

The SAR acted on a former recommendation of the NPM and repaired the broken plumbing and leakage in the registration and reception centre in Harmanli, which is positive. A new canteen and kitchen equipped with modern appliances were built in the centre.

Another significant **problem** that the NPM established concerns the **food** provided to asylum seekers. After reviewing the weekly menus, the NPM found that the diet was undiversified (which applies for other registration and reception centres such as Banya, Sofia and Vrazhdebna, too and especially Voenna rampa). The inspecting team was satisfied with quality of the food served in the registration and reception centre in Harmanli and the transit centre in Pastrogor.

Medical service in the centres operated by the SAR was a special focus of the performed inspections. The **NPM established deficits in the provided medical service**. There are medical

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<sup>2</sup> Article 44, para 9 of the Foreigners in the Republic of Bulgaria Act.

consultations rooms operated by medical auxiliaries or nurses in all centres. However, these facilities do not comply with the requirements set forth in the Healthcare Establishments Act or the Healthcare Act. Primary care is provided mostly by medical experts and not by the general practitioners with whose practice the accommodated persons have been enrolled.

Deficits in the provided medical service are most pronounced in the registration and reception centre in Harmanli: the total population of 1,800 people, of whom 650 children and 69 pregnant women, are attended by one physician and two medical auxiliaries hired for four hours daily. Another persistent problem is that GPs in town keep refusing to enroll beneficiaries of international protection in their practices.

Another problem identified by the inspecting team were the difficulties that SAR experienced in providing **dental service to asylum seekers**.

ACET Centre provides psychological counselling in the centres in Voenna rampa, Pastrogor and Banya. A psychologist is working full time in the registration and reception centre in Sofia.

At the time of the inspection the SAR experienced **difficulties** in providing for **Interpreters** in some of the centres (Banya registration and reception centre and Pastrogor transit centre) due to lack of financial resources. A solution was found for the centres located in Sofia by hiring interpreters.

NPM established that a **substantial number of people left the SAR centres on their own accord** and there was no information about their whereabouts, which is extremely alarming. The registration and reception centre in Harmanli is a case in point: from the beginning of the year till the time of the NPM inspection a total of 1,368 people had left the centre, 417 before their registration and 951 after it. According to SAR data, 60 people left the centre in Sofia over a single week (25 – 31 May 2015), and 169 people left the centre in Vrazhdebna. This problem is indicative of failure to act by the law enforcement bodies committed to protect national security. The NPM is of the opinion that these people may fall victims to human trafficking or sexual exploitation and is left with the impression that a well organized mechanism for smuggling these people to Western Europe is in place.

Problems with the **appointment of guardians/custodians to unaccompanied minors – asylum seekers or beneficiaries of international protection** – persist. A random check of unaccompanied minors' case files showed that SAR officials sent notifications to the respective mayors in the latter's capacity of guardianship or custody authorities, but no feedback was received about subsequent action to appoint guardians or custodians under the Family Code.

The NPM regrets to point out for a second year in a row the **missing programme for integration** of beneficiaries of international protection who remain in the reception centres after they have been granted a refugee or humanitarian status. Teaching Bulgarian to foreigners has been discontinued due to lack of funds. The lack of an integration programme hinders the access of beneficiaries of international protection to the labour market, welfare system, education etc.

In October 2015 the Bulgarian Parliament adopted amendments and supplements to the Asylum and Refugees Act. The amendments came in response to the new challenges for the country related to the refugee crisis and further transposed EU law<sup>3</sup> in domestic legislation.

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<sup>3</sup> DIRECTIVE 2011/95/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of

Refraining from a thorough analysis of these amendments, the NPM would like to bring attention to the following issues:

- The NPM is particularly concerned about the provisions regulating detention of asylum seekers, including minors, in closed-type centres during asylum proceedings. **The NPM is of the opinion that children should not be detained in closed-type facilities. This position has been reiterated and justified in previous NPM reports.** The NPM is further of the opinion that the amendments create a parallel detention regime similar to the one applied to foreigners who have been imposed coercive administrative actions and who are detained in the special centres for temporary accommodation of foreigners under the Foreigners in the Republic of Bulgaria Act. No maximum duration or *suo motu* judicial review of detention has been regulated. This may lead to violations of domestic and international law in the area of asylum and human rights. The NPM will monitor closely procedural guarantees, lawful detention and period of detention of asylum-seekers during its inspections in 2016;
- The statutory period within which the competent administrative body – SAR chairperson – must issue a decision thereby granting or refusing a refugee or humanitarian status has been extended from three to six months;
- The NPM is satisfied that its repetitive recommendations regarding problems with the appointment of guardians/custodians to unaccompanied minors, asylum seekers or beneficiaries of international protection, as well as the legal regulation of healthcare practices in SAR centres have been addressed in the law;
- The NPM considers positive the amendments made as regards access of asylum seekers to education and labour market, as well as expanding the scope of vulnerable persons.

**In 2016 the Ombudsman acting as NPM will pay particular attention to the rights of women and children, especially minors, and will focus on violence against women placed in centres operated by SAR and the Migration Directorate.**

## **MONITORING FORCED RETURN**

Pursuant to Article 39a, para 2 of the Foreigners in the Republic of Bulgaria Act and letter no. 0403-18 of 24 August 2015 of the Mol Migration Directorate requesting that a representative of the Ombudsman institution monitors forced return of foreigners, and upon an express order of the Ombudsman issued under Article 2 of the Rules of Procedure, Lyubomir Kirilov Kirilchev, director of National Preventive Mechanism and Fundamental Rights and Freedoms Directorate monitored an operation of forced return of foreigners to Pakistan. The operation took place on 23 and 24 September 2015. It was organised by the Republic of Bulgaria and coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex).

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international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast).

Basic facts about the operation:

1. Date: 23 and 24 September 2015
2. Itinerary: Sofia – Baku – Islamabad – Baku – Sofia
3. State organising the forced return: Republic of Bulgaria
4. Escort leader: Rosen Talov, Bulgaria
5. Number of escorted persons: 30 (28 male, one female and two children)
6. Participating states: Austria, the Netherlands, Spain, Poland and Germany.

Three of the four phases of forced return were monitored: the stage prior to departure; departure (flight); arrival and handing over the escorted foreigners to the receiving state. The initial phase was not monitored as the preparations, conversations, medical examinations and other actions in the stage prior to the foreigners' removal had been accomplished earlier and in the morning of 23 September 2015 before the observer appeared at the airport.

On the basis of this monitoring, the observer would like to make the following specific recommendations to the Ministry of Interior regarding each of the monitored phases.

Regarding the phase prior to the removal, the observer recommends that:

1. Organisers of forced return of foreigners promptly notify the observers of the scheduled initial phase so that it can be monitored too.
2. Organisers present medical documents certifying that the people removed are apt to flying.

Regarding the phase prior to departure, the observer recommends that:

1. The place for conducting searches should be changed in future operations for the forced return of foreigners. This should be a closed space where luggage is scanned and people walk through metal detection equipment or are searched with metal detectors.
2. All officers should be instructed and trained what personal belongings are subject to seizure or required to be packed by the persons subject to forced return.
3. The Mol should study the options to set up a specialised team of escorts (e.g. 100 officers) and train them accordingly.
4. Vehicles should be air-conditioned and appropriately equipped for the specialised operations in question.

Regarding the phase of departure (flight), the observer recommends that:

1. In future operations vehicles should be inspected in terms of compliance with the requirements for comfortable and safe travel.
2. In case of stop overs where passengers may not leave the vehicle, passengers should be provided with drinks and access to toilet facilities.

Regarding the phase of arrival and handing over escorted foreigners to the receiving state, the observer recommends that:



1. Bulgarian officers carrying metal aids during forced returns effected by airplanes should be reconsidered.

2. In case of alternations of the initial travel plans and landing in third countries, the leader of the operation should instruct the personnel of the possible risks and organise the advancement of the whole group.

## PROTECTING PEOPLE DEPRIVED OF THEIR LIBERTY

- In 2015 the NPM established some progress as regards respect for the rights of people deprived of their liberty in prisons and detention facilities.
- Legislative amendments are required in response to the urgent need of treating humanely people deprived of their liberty.
- No action has been taken yet to reform provision of medical services in prisons, and the existing in-house healthcare system is ineffective and under-resourced.
- Action taken to improve material conditions in some of the prisons and detention facilities and to reduce the overcrowding is positively assessed.
- Lack of sustainable human and other resources jeopardises the overall reform in places of detention.

## ACTION TAKEN WITH A VIEW TO CHANGING LEGAL REGULATION

In 2015 the Bulgarian authorities paid significant attention to the problems in prisons and detention facilities that had been pointed out time and again by the NPM, European Committee for the Prevention of Torture and civil society organisations in the country.

In January 2015 the European Court of Human Rights (the Court) ruled the pilot judgment *Neshkov and Others v. Bulgaria* (in force as of 1 June 2015) finding violations of Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy) of the European Convention on Human Rights (ECHR). The Court ruled that Bulgaria experienced systemic problems with the poor detention conditions and there were no effective remedies (preventive or compensatory) in that respect.

The Ombudsman acting as NPM explicitly recommended in the 2014 annual report that preventive and compensatory remedies had to be in place.<sup>4</sup>

The NPM is of the opinion that having effective remedies in place, in particular a preventive remedy, should be implicit in the general measures for overcoming overcrowding and poor detention conditions. The major hindrance to introducing a preventive remedy are precisely the poor detention conditions as there are no alternative detention facilities offering adequate living conditions. This is why action taken with a view to changing the legal regulation should be matched with adequate action to genuinely improve detention conditions.

Under domestic and international pressure to improve conditions in the places of detention, the Ministry of Justice set up a working group tasked with drafting legislative amendments to that end. A member of the NPM took part in the working group. Many of the findings and

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<sup>4</sup> Annual Report of the Ombudsman acting as National Preventive Mechanism, 2014, p. 53  
<http://www.ohchr.org/Documents/HRBodies/OPCAT/NPM/BulgariaAnnualReport2014.pdf>

recommendations contained in the NPM reports as regards prisons, correctional and detention facilities were discussed and endorsed by the working group.

The working group endorsed a comprehensive approach to the amendments and supplements to the Execution of Punishments and Remand in Custody Act, Liability of the State and Municipalities for Damage Act, Criminal Code, Criminal Procedure Code and Administrative Procedure Code. The more important ones concern the following:

- A clear definition of “poor conditions” in places of imprisonment and custody facilities and introducing the standard of 4 sq.m.;
- Expanding the powers of the bodies in charge of execution of punishments as regards initial distribution of inmates and determining the initial penitentiary treatment;
- Introducing more flexible rules for transferring inmates from one prison to another or within the same prison with a view to making a more rational use of the available capacity in places of detention and avoiding overcrowding;
- Introducing a new approach for determining penitentiary treatment in cases of life imprisonment and life imprisonment without parole; the head of the prison shall have the discretion to impose strict penitentiary treatment at any time in accordance with the inmate's conduct;
- Introducing the standard of absolute necessity in cases implying use for force, aids or arms;
- Introducing a preventive remedy, a procedure whereby persons deprived of their liberty may terminate a violation of their rights. It accommodates proceedings for protection against unfounded acts or omissions of the administration under the Administrative Code of Procedure (Article 250 et seq. and 256-257) to special proceedings for reviewing applications filed by people deprived of their liberty;
- Introducing a specific remedy in the State and Municipalities Liability for Damage Act for people deprived of their liberty or remanded in custody to compensate damage sustained in violation of the prohibition of torture, inhuman or degrading treatment by the execution of punishments bodies. A less strict application of the principle *affirmanti incumbit probatio* is envisaged – the burden of proof on the claimant should not be excessive; s/he is required to present available evidence but the major burden of proof falls upon the body in charge of execution of punishments;
- The Ombudsman considers the amendments to the State and Municipalities Liability for Damage Act a positive step in implementing the general measures prescribed by the Strasbourg Court. In general these amendments introduce a specific remedy available to persons deprived of their liberty or remanded in custody to compensate for damage incurred by a violation of the prohibition of torture, inhuman or degrading treatment on the part of execution of punishments bodies.

The Ombudsman acting as NPM supports the introduction of a compensatory remedy but is concerned whether the length of proceedings under the State and Municipalities Liability for Damage Act would provide redress (compensation) within a reasonable time. Claims will be reviewed under the Administrative Procedure Code, which largely complies with the criteria for an effective compensatory remedy. **However, there is a potential risk that administrative courts get overloaded with claims for compensation due to the current detention conditions and proceedings grind to a halt.** This is why the NPM is of the opinion that the legislator should reconsider the establishment of an independent administrative body to provide compensations to people deprived of their liberty in a fast, accessible and friendly manner;

- The most severe disciplinary sanctions involving solitary confinement shall only be imposed for the gravest violations or for repetitive lighter violations; actions challenging orders for imposing the most severe sanction shall suspend execution. A medical expert shall visit inmates in solitary confinement every working day to guarantee better supervision of their health condition. The minimum standard shall apply to minors: they may remain in solitary confinement for a maximum of 72 hours;
- Medical files shall be kept for all inmates containing all relevant health status information about inmates;
- Changes regarding early release are made to ensure that people deprived of their liberty have recourse to an independent and impartial tribunal to rule on their early release. Tribunals shall study all data about the inmate's conduct in prison to decide whether s/he has reformed and whether s/he needs to serve the rest of the sentence;
- The above shall also apply to inmates serving life imprisonment as regards access to justice. Tribunals shall judge on their achievements in the course of serving their terms and revise their life imprisonment sentences to lesser terms where appropriate.

However, issues brought up persistently by the NPM such as medical service and occupational activities in places of detention have been left out.

Employment in places of detention is not covered by the national occupational or social security regulations. People deprived of their liberty work without individual labour contracts and are not entitled to retirement benefits.

Likewise medical service in the places of detention is not covered by the national healthcare system. Healthcare establishments are supervised by the minister of justice. Supervision of medical service by non-medical authorities prevents the required integration and compatibility with the standards set forth in the national healthcare system.

In relation to the medical service, the NPM proposed to the Ministry of Justice a concept for a reform in the provision of medical care in places of detention. A working group on medical issues in places of detention is envisaged to be set up. In 2016 the NPM will continue monitoring action taken toward a genuine reform of the medical service in places of detention.

A number of problems persist, the major one being insufficient medical expert resources: physicians, auxiliary personnel and nurses.

Other problems concern formal medical examinations; failure to register trauma related to violence; non-confidentiality of the medical examination (security officer attends the examination); using inmates as hospital attendants thus allowing for access to medical records and medication; administering medication by non-medical personnel; poor equipment of the healthcare establishments; incomplete medical records of persons deprived of their liberty etc. The identified problems concern poor organisation of the medical service in places of detention.

In general, the health care system in places of detention is a "closed" one – self-regulating, understaffed, with poor material and technical equipment, which obstructs its functioning. The staff reform in the penitentiary system has reduced the number of medical staff. Medical experts are overworked. Dental care is either entirely missing or financially unaccessible for inmates. The regulation currently in force regarding medical service for people deprived of their liberty is not applicable in practice. Changes are required to allow that people deprived of their

liberty may access available resources provided by the national health insurance system for their medical treatment.

The NPM is of the opinion that prior to launching a structural reform a medical, statistical and economic analysis of the work of the healthcare establishments should be made to establish whether all options for addressing the major problem of understaffing have been exhausted. This analysis should further estimate the costs, benefits, and expected results of the reform and study the provision of medical service in places of detention in other countries.

In this regard the NPM has the following suggestions for restructuring the penitentiary healthcare system:

- Transform the medical centres in the places of detention into healthcare practices within the meaning of the Healthcare Act. These healthcare practices should provide emergency care; healthcare for chronically ill persons; assessment of the inmates' complaints to be attended by a GP; health promotion; access to national programmes and screening tests; anti-epidemic and sanitary hygiene work; medication. The healthcare practices should complement the work of GPs and provide medical care out of the GPs office hours.
- Primary care for persons deprived of their liberty should be provided by GPs designated by the Regional Health Insurance Fund. The NPM is of the opinion that this is the hardest but most important part of the restructuring. It may lead to problems such as formal service by GPs and medical care ultimately provided by the healthcare practices. This is why the support and cooperation of the Bulgarian Medical Association and the National Health Insurance Fund should be sought.
- Hospital treatment of persons deprived of their liberty should be performed in hospitals outside the penitentiary system, namely in healthcare establishments that have concluded partnership agreements with the National Health Insurance Fund. The NPM suggests to use regional hospitals to that end since the State is represented in their management boards and may intervene, through the Ministry of Health, where appropriate.
- The NPM proposes that the in-house hospital for persons deprived of their liberty are transformed into inpatient continuing care units.
- Problems may occur in relation to clinical pathways that are subsidized by healthinsured persons. Therefore the body providing the required additional subsidy should be specified in law.

**In view of the significance of the upcoming reform, the NPM suggests that the restructuring is piloted first in several prisons.** Currently three places of detention – the prisons in Burgas and Vratsa and the reformatory of Boychinovtsi have enrolled in GP practices and have in fact started applying the proposals for reform described above. The analysis of their medical and statistical indicators, organisation of the medical service, and interaction between GPs and medical centres for ensuring timely and quality healthcare to people deprived of their liberty will be crucial for conducting the reform nation-wide.

Last but not least, the Ombudsman recalls that a **public register for measures implying use of force** should be introduced, **as well as a multi-agency register with a view to exchanging information among relevant stakeholders.**

### **ACTION TAKEN BY THE PRISON ADMINISTRATION FOR IMPROVING LIVING CONDITIONS IN PRISONS**

The NPM recalls once again that legislative amendments alone are not an adequate response to the requirements for humane treatment of persons deprived of their liberty if they are not matched with due repairs, reconstruction and improvement of the detention facilities.

In 2015 the NPM observed significant activity for the elimination of this major problem of the penitentiary system:

- Reconstruction of the prison hostel "Razdelna" with Varna prison has started. The building will start functioning as a prison hostel in 2016;
- The medical centre in Sliven prison for women has been renovated;
- Plans for the refurbishment of the prisons in Burgas, Varna and Sliven have been drafted;
- The kitchen and hospital with the prison in Lovech have been refurbished;
- A full reconstruction of the prison hostel "Atlant" with Lovech prison has started;
- The prison in Pleven is being reconstructed;
- A large scale reconstruction of the prison building in Stara Zagora started in mid 2015, together with installation of in-cell toilet facilities. Work is expected to be completed in January 2016;
- Renovation of the kitchen facilities in Burgas prison is expected to be completed in 2016;
- The sleeping quarters in the reformatory of Boychinovtsi have been renovated.

As regards investigation detention facilities (IDF):

- New IDFs have been set up with the prisons in Burgas and Pleven. A new IDF has been opened in individual premises in Shumen;
- IDFs will be set up with the prisons in Lovech and Vratsa in 2016, and IDFs in Dupnitsa and Kyustendil will be transferred to the prison in Bobov dol.

### **CONDUCTED INSPECTIONS AND CURRENT CONDITION IN THE DETENTION FACILITIES**

In 2015 NPM visited ten prisons, the Correctional facility in the town of Boichinovtsi and seven prison hostels. The inspections were of the type follow-up inspection and aimed to assess the implementation of the main recommendations, given during previous inspections by NPM.

#### **THE PRISON IN THE CITY OF PAZARDZHIK**

A main recommendation concerning all places of detention is the reduction of their capacity. This recommendation is related to the right of each person deprived of their liberty to inhabit a residential area not less than four sq. meters.

1.1. Regarding the prison in the city of Pazardzhik NPM established a positive tendency, that is – no overpopulation to be allowed in the penitentiary facility. As of the date of NPM inspection (23.02.2015), in the prison building were accommodated three hundred ninety-seven DLP, while the capacity is four hundred eighty-three DLP. A problem with the overpopulation occurred after the start of the repairs at the Prison in Stara Zagora, since a large group of DLP was moved from there to the Prison in Pazardzhik. As of December 2015 there are four hundred eighty-six DLP accommodated in the penitentiary facility, which is a little above the established capacity. **NPM shows understanding of the problem with overpopulation that occurred, since it will be solved once the repaired prison in the town of Stara Zagora starts its operation.**

1.2. The food unit of the Prison in city of Pazardzhik consists of kitchen, service premises, warehouses and a mess hall. In their report of 2012 the Ombudsman, similar to NPM, has established the necessity to repair the kitchens and mess halls in the prison and in the prison hostels. As of today the necessary actions are not taken. In a reply by the Ministry of Justice under ref. № 07-00-18/09.01.2015 the Ombudsman was informed that the repair of the stated sites is a subject of opening a public procurement but is not done due to the lack of financial funds.

1.3. The employment rate of DLP continues to be at low levels. For the entire 2014 and the beginning of 2015 there is a decrease in employment, which can be explained by the overall economic situation in the country.

1.4. During the previous NPM inspection it was established that the equipment available at the HC is insufficient and does not meet the requirements for accurate medical equipment and furniture in the premises of the general practitioners.

In the above quoted answer by the MoJ the Ombudsman was informed that for solving this issue it is necessary to have funds and it is even stated that: *“Such funds can hardly be provided and the problem remains in the future too.”* **Such statements raise significant concern among NPM experts.**

Medical care is provided by the following medical staff: a doctor on a permanent work contract at the prison; a medical feldsher; a dentist, and medical orderlies – 2 people, who are deprived of their liberty. There is no appointed psychiatrist. Even back in 2012 it was established that in the Prison in Pazardzhik there is a significant problem with mentally ill persons or rather with people with various degrees of mental retardation.

There is an increase of the consumptive DLP. For 2012 there were three TB patients, for 2013 – zero, only for the first four months of 2014 – four, and for the first two months of 2015 – one. Concerns about the increasing number of consumptive patients were also expressed by the DLP during the interviews with them.

1.5. During their visit in the Prison in the city of Pazardzhik in 2015 the NPM experts conducted twenty-six interviews with DLP, three of which were interviews with prisoners sentenced for life. The main complaint of the people deprived of their liberty was about the lack of employment opportunities. For the first time since their visits in the prison NPM received complaints about the quantity and quality of the food. Based on the menus received from the administration of the penitentiary facility no conclusion can be made that the food quantity has decreased. Most probably the complaints in this respect are rather based on the personal preferences of each inmate.

1.6. In 2015 the prison administration once again refused to provide their official job schedule, but the inspection team was presented with a Report on the second category staff condition in the Prison in Pazardzhik for the period from 16.02.2015 to 20.02.2015. As per the information contained in the report there is a total of eighteen vacancies, of which: managing position – one; performing position – three; junior performing position – twelve; for persons,

employed under labour contracts – two. Present is a more serious shortage of employees from the supervisory-security sphere. Of all eighteen vacancies, their number totals twelve.

1.7. In 2015 NPM established that the main problems for the prison administration continue being related to the lack of financing, which leads to constant delays in paying the utility bills and the impossibility to perform the necessary repairs and to purchase equipment. The unpaid debt to suppliers for 2013 amounted to forty thousand nine hundred and seventy levs. After significant efforts on behalf of MoJ by 15.12.2014 all debts to the suppliers were paid.

No measures were undertaken due to the lack of financing.

**Only in respect to the findings of NPM about the car park of the prison, after a procedure under the Public Procurement Act opened in DGEF, two automobiles were provided.**

### **THE PRISON IN THE CITY OF PLOVDIV**

1.1. The capacity of the prison and the two prison hostels (“Hebros” and “Smolyan”) with four sq. m. of residential area per DLP is seven hundred ninety-nine places. The housing building of the prison is with a capacity of five hundred and five places when meeting the requirement of four sq. m. of area. At the end of 2010 in the prison and its hostels were accommodated eight hundred sixty-five DLP, in 2011 – seven hundred seventy-four DLP, in 2012 (as of the day of NPM inspection) – seven hundred and four DLP, in 2013 – five hundred ninety-five DLP (as of 06.12.2013), in 2014 – six hundred fifty-four DLP, in 2015 – six hundred and three (as of 09.03.2015). There is a tendency of a decrease in the number of DLP. Heating in the prison is good. Restrooms are constructed in all sleeping premises, except in the disciplinary cells. The woodwork of the windows in the two housing blocks is replaced. **There were regular activities to combat cockroaches, which are insufficiently efficient.** There is access to a bathroom twice a week but **there is no hot water to make one’s morning toilet.**

1.2. Food is cooked in the building of the prison in the city of Plovdiv and is delivered to the remand center and “Hebros” hostel. In several consecutive reports NPM establishes that the kitchen has old and energy-consuming equipment. In 2015 the necessary financing is already envisaged to replace the kitchen equipment and repair the kitchen premises.

1.3. In 2015 (as of the day of the inspection) from the prison building the working DLP in SEPP workshops were one hundred and five, forty-five of whom were DLP employed as housekeeping staff, twenty DLP – auxiliary staff at the workshops. From PH “Hebros”, where sixty-nine PLD were accommodated, forty DLP were employed, twenty-five DLP of whom at external sites. Volunteer work for DLP consists of cleaning and participation in the repairs of the shared areas of the different groups. **NPM believes that the employment provided is insufficient.**

1.4. The prison building has a HC, where fifty-sixty DLP daily undergo pre-scheduled examination or in case of urgent health complaints. A survey is done with the newly accommodated DLP for the risk of tuberculosis. As per the envisaged staff numbers in the personnel schedule of the prison the medical staff consists of: director of the HC; dentist; intern – doctor and feldsher. As medical orderlies in the HC are employed people deprived of their liberty. Visits in the dispensary until 16.12.2013 were thirteen thousand four hundred and twelve, four hundred eighty-one of which were prophylactic and one thousand five hundred forty-nine were psychiatric. **NPM considers it a good practice to invite consulting experts to examine DLP at the HC.** Of these more often come: dermatologist-venereologist; cardiologist; surgeon; neurologist; ophthalmologist, as well as a clinical laboratory assistant. For 2014 there is one suicidal attempt registered and one deceased DLP. The deceased was on a regular home leave outside the territory of the prison.



The HC has the necessary medical premises and equipment. There are no problems with the medical products supply. The Prison in the city of Plovdiv is one of the few penitentiary facilities, which as of 2015, managed to compile full medical staff.

1.5. Education of the PDL, who would like that, is in the schools at the prisons in Vratsa, Pazardzhik and Stara Zagora.

**The traditional problems in the social work continue in 2015 as well** – lack of sufficient number of premises for group work; lack of methodical cabinet; irregular material support.

During the inspection in Plovdiv prison in 2015 NPM experts conducted nineteen interviews with DLP. The main problems shared by the DLP are related to court proceedings and the subsequent re-socialization of the DPL and mainly finding a job.

1.6. In its report from 2014 NPM established that: „There is no full staff number of “Social work and correctional activities” inspectors, as well as a “Probation” inspector”. There was also a problem with the medical personnel and the employees from the supervisory-security staff (SSS). At the end of 2014 ten trainee prison-guards were appointed but for the same period nine SSS employees resigned. The incomplete employee staff and the lack of suitable technical equipment correspond directly with the problems with security in the prison. **In this respect, NPM once again draws the attention of the management of the Ministry of Justice to the fact that the lack of financial means is not an argument when it comes to security in the penitentiary facilities.** Besides, SSS employees shall be provided with the necessary modern scanners, metal detectors and auxiliary means.

1.7. As of 13.01.2015, as usual, there are unpaid debts to the amount of one hundred and sixty thousand nine hundred sixty-eight levs. In the reply to the last year NPM report received from the MoJ regarding the finding concerning the obsolete boiler of SEPP, used for water heating for the prison, it was stated that: “The boiler uses solid fuel but is efficient and there is no need to be replaced.” (p. 6-7). In the prison report for 2014, however, it is stated that the boiler is “old and inefficient” (p. 21), which corresponds to the current observations of NPM. **Therefore, NPM once again recommends the replacement of the boiler.**

**NPM once again points out the necessity to replace the auxiliary means – handcuffs, as well as to purchase metal detectors and a scanner.**

### **THE PRISON IN THE CITY OF BURGAS**

1.1. The prison in the city of Burgas remains with the worst conditions and overpopulation in the entire penitentiary system in Bulgaria. **NPM once again points out that the problems with the old premises and overpopulation can be partially solved by the construction of the new prison hostel in the region of Debel. At this stage, the actions in this direction are extremely slow.**

The capacity of the prison building is for two hundred forty-four DPL, while during the last years the persons accommodated are a lot above the capacity. In 2013 in the prison and the hostels to it were accommodated one thousand ninety-seven DPL, while the total capacity is four hundred forty-six DPL, and in 2014 – seven hundred and ninety DPL, which marks a decline. At the time of the inspection the total number of inmates accommodated in the prison amounted to seven hundred sixty-three DPL, and as of December 2015 – seven hundred thirty-three.

**All previous findings of NPM regarding bedding inventory for DPL, access to restroom in the night, the condition of the restroom premises themselves, the shortage of hygiene products and other are still valid.**

1.2. In this prison, as well, the kitchen premises and equipment are extremely old and obsolete. An urgent overhaul of the premises and complete replacement of the equipment is needed.

1.3. In the economic condition of the country, NPM highly evaluates the efforts of the Prison in Burgas administration to maintain the tendency regarding the employment of DPL, which however is still unsatisfactory.

1.4. The HC in the prison consists of: consulting room; surgery; dental surgery; pharmaceutical warehouse; two restrooms; two hospital rooms. There are no isolating premises at the HC. The equipment and furniture (except the dental one) present in the HC is insufficient and does not meet the requirements for necessary and accurate medical equipment and furniture in the premises of the general practitioners. In the period 2014-2015 the position of HC director remains vacant once again. There is no psychiatrist at the prison in the city of Burgas since the position for such was cut down back in 2012. At the time of the inspection employed as medical staff were a dentist; a feldsher, and a nurse.

As of 20 May 2015 there are eight new cases of syphilis infection and one registered case of HIV/AIDS infection. The morbidity profile shows prevalence of diseases of the cardiovascular, digestive and respiratory system.

1.5. The problem with the lack of premises for social activities remains significant. Where such premises existed, they were transformed and used for accommodation of DLP. The lack of such premises entails sporadic social and education work, which cannot provide a full-day engagement for every inmate, except for those engaged with education or work.

During its previous inspections NPM also established that the main problem in social and education work with DLP is the fact that the "Social work and correctional activities" inspectors, as well as the psychologist work with a very huge number of DPL. Therefore, **NPM once again recommends that the MoJ shall envisage an increase in the staff number of social workers and a better financing of the social activities during the following budget years.**

1.6. In the last four years NPM inspection teams established a persisting problem with the administrative capacity of the Prison in the city of Burgas. At the end of 2013 there were twelve vacant job types with a total of fifteen vacancies. In the same year people who resigned or were dismissed were eleven in total, while thirteen were appointed. In 2014 the vacant jobs were eighteen, while the number of resigned or dismissed employees was fourteen. This situation leads to significant overload of the supervisory staff, social workers and medical personnel.

**NPM insists the staff of the prison to be increased. This is in direct relation both with observing the rights of the persons deprived of their liberty, and with the work conditions of the prison administration.**

1.7. Regarding the last-year recommendations made by NPM to the MoJ, the prevailing part of the answers as to why no specific measures were undertaken, is explained mainly with the lack of financial means. This, as was already stated, is unacceptable by the Ombudsman as a NPM. Therefore, once again the following is recommended:

- to speed up the construction activities in PH "Debelt";
- a persistent problem, which hinders the work of the penitentiary administration is the accumulation of unpaid debt to suppliers. The management of the MoJ should take a decision to put an end to this persistent problem;
- the prison still does not have a specialized automobile – an ambulance and an automobile to transport food to its hostels. Such automobiles should be purchased;
- regarding the HC – there are still no constructed isolating premises, no appointed director of the HC, and there is no appropriate medical equipment;

- the problem with the vacancies remains.

### THE PRISON IN THE CITY OF LOVECH

1.1. The findings of the inspection teams of NPM during previous inspections are that the premises in Zone A (central building), B (farm), and hospital with two departments are old and obsolete. At the time of the inspection in 2015 there was an ongoing repair of the kitchen premises in the building, as well as of the kitchen premises in CTPH "Atlant".

As of 29.09.2015 the total number of DPL in the prison amounts to six hundred ninety-nine, of whom three hundred ninety-nine persons are accommodated in the prison building, while its capacity is five hundred thirty-five.

NPM recognizes the start of repair works however cells remain in poor material condition and no positive change can be noted, except for the reduction in the number of prison population.

1.2. Food supply in the Prison in the city of Lovech and PH "Atlant" is centralized and depends directly on the amount of the planned budget financial means. Unlike the previous years, in 2015 NPM establishes that the people preparing the food observe all sanitary and hygiene requirements.

1.3. The employment rate of DLP continues to be at low levels as of 2015 as well. This is a tendency observed in all DF. In the Prison in Lovech and in PH "Atlant" DPL are engaged mainly in volunteer work and as housekeeping staff. DLP taken to work out of the building are sixty persons as of 29.09.2015, of whom in the workshops – twenty-one DLP, and thirty-nine DLP are employed in service activities. Working DLP from PH "Poligon" are eighty-eight in total, from PH "V Tarnovo" – twenty-one, and from PH "Atlant" – eighty-three.

1.4. Medical care is provided to DPL at a HC located on the second floor of the prison building. Since the previous inspection there has been no change in the material and technical equipment of the center – obsolete and insufficient equipment, and consulting room and surgery that need repair, a well-equipped dental surgery and isolating premises. **There is a negative change in the staffing of the center. The positions of nurse and dentist are cut down.** Currently in the center are employed: a general practitioner, who is also the manager of the HC, two feldshers, and one ordinary, who is a DPL. Once a week comes a dentist, who provides services to the DPL as per NHIF package and they have to pay a user fee and a significant part of their treatment, which is impossible for most of them. Psychiatric help is provided in the prison hospital. Twenty-four hour medical care is provided to the DPL in the prison with the assistance of the prison hospital staff.

Each person received in the prison has undergone a medical examination and has a personal health record. Electronic health files of the DPL are also created. An average of forty DPL passes through the consulting room a day. DPL sentenced to life imprisonment are visited once a week in their cells. The DPL with chronic diseases, who need a special diet, are provided with such.

In a conversation the medical staff shared that the biggest problem after the position cut down is the provision of dental care to the DPL. Multiple requests are made to the head of prison for a repair of the HC but with no results so far.

Medical care for the DPL in CTPH "Atlant" is provided at a HC. The consulting room and the surgery are in satisfactory material and technical condition. The dental surgery is closed. The isolating premises – hospital of the center are being repaired.

**There is a negative change in the staffing of the center here as well.** The positions of a feldsher and half position for a dentist are cut down. Currently in the center are employed: a general practitioner, and one ordinary, who is a DPL. The doctor has eight-hour working time and in the remaining time medical care for the DPL should be provided by CEMC – the city of Troyan.

The specialized hospital for active treatment of persons deprived of their liberty at the prison in the city of Lovech is a massive four-storey building located in the prison yard. The facilities and

equipment have been improved since the last inspection. The Psychiatric Department has undergone an overhaul. The Pulmonary Diseases Department is located in the other wing of the hospital with a joint corridor for the staff and paraclinical units. The hospital rooms are divided on three floors based on the stage of the disease Pulmonary tuberculosis. They have three-five beds with adjacent toilets and a shared bathroom on the floor. The equipment is obsolete and the rooms need repair. Actions in this direction are envisaged. The staff premises are equipped for the activity. There are security posts on each floor and constant video surveillance of the DPL.

NPM considers that it is necessary:

- to repair and complete the equipment of the consulting room in the HC of the Prison in Lovech;
- to provide dental care in CTPH "Atlant" at the prison in Lovech;
- The Ministry of Justice shall analyze the changes in medical care of the DPL after the cut down and update the medical care regulatory base to guarantee timely, sufficient and quality medical care for the DPL in the conditions of the penitentiary system;
- to evaluate the health requirements and technical capabilities to increase the volume of activities of the specialized hospital for active treatment of persons deprived of their liberty in Lovech to provide long-term treatment for DPL from around the country, in order to use the hospital beds more efficiently with the available resources;
- to resume the activity of hardware physiotherapy.

1.5. The activity of "Social work and correctional activities" sector continues to be relatively narrow in 2014-2015 as well due to the insufficient number of suitable premises. In the prison there is a sustainable realization of education programs in pomology, first aid, literacy, alpha-course, a course on prevention of drug abuse and courses in Orthodox Christianity. Specialized consulting-correctional work is provided: thinking skills, anger management, work with people who were driving while intoxicated, short-term program for drug-abusers and skills for being proactive on the labour market. The unpaid amounts to suppliers turn out to be a steady tendency.

### **THE PRISON IN THE TOWN OF BELENE**

1.1. During the previous inspections of the NPM team it was established that in the prison in the town of Belene the right of four sq. meter residential area is not observed. As of 02.06.2015 NPM notes implementation of the recommendation, since in the prison were accommodated five hundred and two DLP, when the prison capacity is five hundred ninety-two DLP. The second main recommendation of the NPM team, related to overcoming the poor material condition in the prison in the town of Belene, especially in respect of the healthcare center and the cells of the persons sentenced to life imprisonment, is also implemented. The healthcare center is completely renovated and repaired, as are the cells of the persons sentenced to life imprisonment, with a restroom constructed for each of them. During the inspection of NPM the kitchen unit of the prison was undergoing repairs.

1.2. Provision of medical care is a problem seen in all detention facilities. NPM team addressed DGEP on many occasions to solve this issue. In reply to NPM recommendations the Ministry of Justice says that there are significant difficulties in conducting competition procedures for medical specialists, due to the lack of candidates with the necessary education and qualification for the vacancies in the prisons. This results in opening one and the same competitions several times. The administration of the prison in the town of Belene has

undertaken the necessary actions to provide medical care by concluding civil contracts with a general practitioner, a dentist, a psychiatrist, and a medical feldsher.

1.3. Another problem established by NPM team during the previous inspections of the prison in the town of Belene is the lack of employment of the DLP. A large number of people have low educational qualification and vocational training. As per the data from the analysis of the prison communities for the second half year of 2014, in the prison in the town of Belene there are three hundred fifty-nine DLP with primary or lower education, which represents two-thirds of the total number of inmates. The same is the number of DLP with no vocational training. According to the prison administration the lack of vocational training and educational qualification is the reason for the low number of employed persons. In this respect, NPM has recommended conducting courses for obtaining vocational training degree, as well as the establishment of a school at the prison in the town of Belene. Since September 2015 a school is established from first to fourth class with four classes for a total of sixty students. Still there are no courses for professional qualification or re-qualification of the persons deprived of their liberty. NPM recommends that the prison administration applies for European programs for the stated courses.

1.4. NPM recommendation to establish an open-type prison hostel at the prison in the town of Belene is not implemented. As NPM has already pointed out before, this results in direct violation of the rights of the persons deprived of their liberty, who became eligible to regime change and to be moved to a facility with less stringent conditions.

1.5. The overall findings of NPM team during the follow-up inspection in the prison in the town of Belene are that a significant part of NPM recommendations are implemented. Once again NPM team recommends:

- to conduct courses for professional qualification or re-qualification of the persons deprived of their liberty in the prison in the town of Belene;
- to establish an open-type prison hostel at the prison in the town of Belene.

#### **THE PRISON IN THE CITY OF STARA ZAGORA**

At the time of the inspection of Stara Zagora prison part of the inmates were being transferred to the prison in Pazardzhik to start refurbishment of all quarters of the prison building. During the inspection the NPM attended meetings with inmates (in groups) organized by the head of the prison and intended to clarify to the persons deprived of their liberty what action was taken and what inconveniences the inmates would experience in relation to the ongoing repair works. The method of transferring inmates to the prison in Pazardzhik was explained, too, and inmates were encouraged to be proactive in this process.

The NPM is satisfied to note down that most of the recommendations issued in previous reports will be implemented by the time the repair works are completed.

In relation to the above, the NPM will refrain from any analysis or recommendations concerning the material conditions or work of the Stara Zagora prison administration in this annual report.

#### **THE PRISON IN THE TOWN OF BOBOV DOL**

1.1. At the time of the inspection 439 inmates were accommodated in the main building of the prison in Bobov dol, and 61 in the open-type prison hostel "Samoranovo", or a total of 500 persons deprived of their liberty, which is in compliance with the requirement of four sq.m. living space per person. **The NPM did not establish any progress in improving the poor material conditions** (e.g. poor lighting, insufficient inflow of fresh air, poor hygiene). The NPM recommendation to ensure hot water in the cells of inmates serving life imprisonment has been

implemented, which is a positive development. However, in the rest of the cells and in particular in the ones on the last floor there was no running water.

1.2. The NPM did not establish any improvement of the way catering was organized. The recommendation made in the course of the previous inspection in 2014, namely that inmates who prepared the food should use gloves, has been implemented.

1.3. The occupation rate in Bobov dol prison continues to be low. Some seven to ten inmates are employed by external companies. Most of the inmates are involved with voluntary unpaid work or prison maintenance. Eight inmates work in a carpenter's workshop.

1.4. Inmates receive medical service in a medical centre with the prison. The poor material conditions and technical equipment of the centre that had been established during the previous inspection had remained unchanged. The staff of the medical centre is as follows: one physician who is also manager of the medical centre; one medical auxiliary under a civil contract; one dentist who visits the prison twice a week; and one attendant. A psychiatrist visits the prison once a week and a V.D. expert – twice a month. All newly arrived prisoners are subjected to medical examinations. Health records are made only for inmates with chronic diseases. Examinations performed by the medical auxiliary are formal. Ambulatory examinations of inmates are performed in accordance with a schedule drawn up by the prison head and are often attended by a prison guard. Provision of medication: prescribed medication that is subsidized by the National Health Insurance Fund is purchased from the pharmacy in town by a designated officer; medication for emergency cases and hospital treatment is supplied from the prison pharmacy storehouse. A set of medication listed by the medical service of the DG "Execution of Punishments" is available in prison. Medication for chronically ill inmates is left with them and only insulin and psychotropic substances are administered by the medical expert on duty or by the attendant, in the presence of a prison guard, during weekends. **Medical records in the medical centre are poorly kept.** Only the name (group) of the inmate and the medication he has been administered are recorded in the book of medical examinations without however describing his health status or diagnosis that required the respective treatment. Ambulatory records of consultations made are kept altogether, for all inmates.

1.5. The analysis of the disciplinary sanctions imposed under Article 101 of the Execution of Punishments and Remand in Custody Act in the prison in Bobov dol demonstrates **a significant rise of the following sanctions:** written warning; extra duty in maintaining hygiene up to seven days; solitary confinement during out-of-work/school hours, weekends or holidays up to 14 24-hour periods over three months. Decrease has been established in relation to the following disciplinary sanctions: prohibition to take part in collective events in or outside the detention place and solitary confinement up to 14 24-hour periods". It should be noted down that three inmates were confined following an order of the director general of DG "Execution of Punishments" under Article 120 Execution of Punishments and Remand in Custody Act. After studying the minutes of three meetings of the Commission under Article 73 of the same act held in 2015, the NPM established that **a very low number of prisoners who qualified for early release on parole or lighter terms of serving their sentences were proposed to have their sentences reviewed.** Inmates complained mostly of the lack of hot water or heating, high prices in the in-house store, poor quality of medical service and food.

1.6. The NPM points out that in 2015 the problems regarding understaffing persisted. There are no social inspectors, which prevents individual or group therapy and leads to extra workload for the social workers.

#### **REFORMATORY FOR MALE JUVENILES IN THE TOWN OF BOYCHINOVTSI**

1.1. In 2015, the NPM observed the successful implementation of two of the most important recommendations regarding the reformatory for male juveniles in Boychinovtsi, i.e. improve the

physical environment and living conditions, and cut down the staff. The sleeping quarters had been renovated, all doors and window frames had been replaced, and the inmates had been issued new mattresses and bedding. Each room contained private sanitary facilities and a TV set. The refectory had also been given a complete overhaul. Overcrowding was not among the NPM inspection findings. The reformatory can accommodate three hundred and forty-eight inmates at capacity, while the number of boys housed was forty-three. The competent authorities, in this particular case the MoJ and the DGEP, had taken into consideration the Ombudsman's recommendation regarding the reformatory's location. Discussions had been initiated on the feasibility of moving it to new premises within the city of Vratsa.

1.2. The NPM did not observe any change as regards feeding arrangements and the nutritional value of meals. The food was unvaried, and **the intake of fresh fruits, vegetables, and dairy products was insufficient.**

1.3. The NPM team found out that the number of juvenile inmates engaged in work activities averaged six to eight. The boys were engaged also in voluntary work related mainly to improving grassy lawns and recreational areas.

1.4. Medical care is provided at the healthcare centre. The centre's physical environment and equipment appeared to be unchanged since the previous inspection. The position of full-time physician and healthcare centre manager had remained vacant and at the time of the inspection the managerial functions were performed by the assistant medical officer. A part-time psychiatrist and a dentist also attend the medical centre twice weekly under arrangements with the NHIF. Orderly duties are performed by inmates in the form of voluntary work. All inmates are registered with a GP practice. The GP visits the reformatory infrequently and his functions are performed by the medical staff at the centre. An intake health screening is performed on all newly admitted inmates and individual medical records are also created. Outpatient examinations of inmates are performed according to a schedule drawn up by the warden. In most cases a prison officer will also be in attendance. Prescription medicines reimbursable by the NHIF are procured from a pharmacy in the nearby city by a designated employee. Medications for emergency assistance, as well as for use at the infirmary, are dispensed from the reformatory's dispensary. Mental illness medications are administered by a guard and are taken by the inmates in his presence. **The reformatory's administration had failed to implement the recommendations made by the NPM during the previous inspection that adolescent substance abuse treatment programs should be introduced and a register of inmates with mental disorders should be kept.**

1.5. The juvenile inmates are schooled on the premises. The prison school offers all grades up to grade 12. Despite the prison administration's efforts, **the problem of social abandonment and high illiteracy rates among the juvenile inmates remains acute and unresolved.** Inmates are not provided vocational training per se. Some children are enrolled in cooking and construction courses, basic computer literacy courses, a literacy course, etc.

1.6. The share of inmates who became parole eligible in 2015 and were recommended for early release on parole or for a commutation of sentence remained relatively low. **No parole eligible inmates were recommended for early release in 2013 and 2014.** Analysis of punishments meted out in 2014 shows an increase in the total number of punishments (a hundred and seventy-nine in 2014 compared to a hundred and nine in 2013). The most frequently imposed punishment is extra cleaning duties, followed by 3 to 5 days solitary confinement.

### **THE PRISON IN THE CITY OF VRATSA**

1.1. The prison in the city of Vratsa is among the penitentiaries where housing and living conditions are good. Nonetheless, the NPM observed overcrowding in the prison cellhouse

(housing four hundred and eleven inmates) and in the '*Ceramic Factory*' open-type prison hostel (housing a hundred and fifteen inmates). Thus the total number of inmates is five hundred and twenty-six. According to government standards, which require the provision of four square meters per inmate, the total number of inmates should not exceed four hundred and fifty-nine. The Ministry of Justice has taken initial actions regarding the NPM recommendation made that the '*Ceramic Factory*' PH be either closed down or moved to new premises. An agreement has been concluded with the Vratsa District Governor for free-of-charge transfer of real estate between public administrations. A design-and-build contract to have the said property refurbished has also been signed. Given the squalid living conditions in the '*Ceramic Factory*' PH, the NPM will continue to insist on swift action.

1.2. The NPM did not observe any change as regards feeding arrangements. The food was unvaried, and the intake of fresh fruits, vegetables, and dairy products was insufficient. Inmates complained to the NPM team about the quantity of food and about the ban on taking leftover bread away from the refectory.

1.3. In 2015, a total of twelve inmates were engaged in voluntary work as per Article 80 of the EPRCA and in facility services, such as the kitchen, laundry, cleaning, maintenance and gardening. Eight to ten inmates were contracted out to companies outside the prison. The NPM team found out high dust concentration in the furniture manufacturing facility within the prison walls, as well as lack of personal protective equipment for inmate workers.

1.4. Medical care is provided to inmates at the prison healthcare centre. In 2015, the centre's physical environment and equipment appeared to be unchanged except for the infirmary beds whose number had increased to fifteen. The recommendation made during the previous inspection that a dental chair be procured had not yet been implemented. However, the NPM inspection team received assurances that funding would be made available and a dental chair would be purchased by the end of 2015. The NPM identified staff shortages at the healthcare centre. Following recent layoffs, the centre was staffed by an assistant medical officer, who performs also the duties of HC manager, a part-time doctor of internal medicine, a part-time dentist working under arrangements with the NHIF, and three inmate orderlies. All prisoners are registered with a GP practice. The GP visits the penitentiary infrequently and his functions are assumed by the local medical staff at the healthcare centre. An intake health screening is performed at the HC on all newly admitted inmates. Their current health status is recorded in the outpatient register and individual medical records are also created. The medical records at the HC are kept systematically and accurately. Dispensing of medicines: Prescription medicines reimbursable by the NHIF are procured from a pharmacy in the city by a designated prison officer. The medicines are then given to the inmates to take themselves with the exception of mental illness medications which are administered daily by the guard on duty. Medications for emergency assistance, as well as for treatment at the infirmary are dispensed from the prison's dispensary. There is no separate medical examination room at the '*Ceramic Factory*' PH. Examinations are therefore performed inside the first checkpoint guardhouse in the presence of a prison officer. Medical care to prison hostel inmates is provided by a healthcare worker from the prison's HC who visits the hostel weekly. Dental patients are escorted under guard to the dentist's office at the prison.

1.5. The share of inmates who became parole eligible in 2015 and were recommended for early release on parole or for a commutation of sentence remained relatively low.

1.6. During interviews with inmates, they complained mostly about poor living conditions at the prison hostel, the lack of a medical examination room there, the presence of a prison officer during medical examinations, violations of the right to privacy and confidentiality of correspondence, high prison commissary prices, poor-quality health care.



## THE PRISON IN THE CITY OF PLEVEN

1.1. The main cellhouse of the Pleven penitentiary was renovated in 2015. The third floor of the prison's dormitory unit was also overhauled and refurbished in August 2015 to accommodate the pre-trial detention cells of the DGEP regional unit. The cells for inmates sentenced to life, as well as the punishment cells and the solitary confinement cells are also located on the same floor.

As of December 2015, the prison housed four hundred and twenty-one inmates. Three hundred and four of them were housed in the cellhouse. According to latest floor area measurements taken in 2015 by the DGEP, the prison's capacity is three hundred and ninety-eight inmates. According to the minimum standard for living space per prisoner, which is four square metres, the prison is not currently overcrowded. However, the 'Vit' closed-type prison hostel, located right next to the main cellhouse, was overcrowded. Its capacity is thirty-eight inmates, while the number of inmates accommodated there was fifty-nine.

1.2. A major issue identified repeatedly in NPM inspections is the lack of prison work. The number of jobs available in facility services (cleaning, landscaping, repairs, maintenance, facility management, etc.) is insufficient to provide jobs for all inmates willing to work. According to regulatory requirements the number of such jobs should be ten percent of all prison inmates. The NPM takes, however, a positive view of the fact that the prison administration strives to provide work assignments for inmates serving life sentences. Since October 2014, they have been engaged in the manufacture of paper shopping bags.

1.3. A problem specific to the Pleven penitentiary is the lack of cable TV. It stems from the prison's remoteness from the city. The NPM recommends that the prison administration seek alternative ways to provide greater choice of television content for the inmates.

1.4. Understaffing is yet another worrying problem repeatedly identified in NPM inspections. Recent layoffs have exacerbated the problem. There is just one "inspector/psychologist" position as per the staff establishment plan. It is theoretically and physically impossible for the officer occupying the position to fulfil entirely all functions. Compared to 2014, there were four less professionals carrying out all social work activities at the prison. The NPM recommends that the MoJ should reconsider the reform of prison staff regulations. The absence of social work along with the lack of meaningful and productive prison work can have substantial negative effects on the prison situation and directly affects prisoners' rights. A possible consequence of inmates spending most of their time being idle is the increase in late 2015 in the number of inmates disciplined for testing positive for opiates.

1.5. Healthcare services in the Pleven prison are also affected by understaffing. During the previous NPM inspection in 2014, the team expressed their concern over the prison physician's retirement. The problem had worsened in 2015, given that the prison would be staffed by one psychiatrist until 11 December 2015, one assistant medical officer until 6 December 2015, and a prisoners' GP. **The NPM recommends that urgent action be taken to procure the services of medical specialists with a view to ensuring the provision of healthcare services in the prison.**

There were two registered cases of lung tuberculosis in 2015. Both inmates were referred for treatment to the Lung Disease Unit at the Specialized Hospital for Treatment of Persons Deprived of Their Liberty in the city of Lovech. One hundred and ninety-nine inmates were tested for HIV and STDs under the National Programme on Prevention and Control of HIV/AIDS. No new HIV infections have been reported. There was a significant drop in the number of deliberate self-harm incidents – nine cases of DSH in 2014 compared to twelve such cases in 2013.

Oral healthcare services are provided by the Dental Centre at the 'St. Panteleimon' Hospital in the city of Pleven under the terms of a trilateral agreement between the prison, the Regional Health Insurance Fund, and the Bulgarian Dentists' Union.

The number of inmates with mental disorders is alarming. There were ninety-four mental illness hospitalizations in the psychiatric ward of the specialized hospital for prisoners in the city of Lovech. In 2015, there was one fatal case of suicidal hanging in the prison.

### **THE PRISON IN THE CITY OF VARNA**

1.1. At the time of the inspection there were three hundred and sixty-eight inmates housed in the main cellhouse of the Varna prison even though it is supposed to house only two hundred and seventy offenders at capacity. Hence, the prison is seriously overcrowded. A total of nine inmates sentenced to life imprisonment are housed in the higher security zone. Five of them are parole-eligible and four are serving sentences of life without the possibility of parole. The higher security zone was housing also twelve criminal defendants detained under the provision of Article 248, para 1 of the EPRCA. Eleven more inmates sentenced to life imprisonment were housed in the general population areas of the prison. The Varna prison and its two prison hostels fail to meet the international standards on the treatment of prisoners, detainees, and criminal defendants. The NPM did not detect any improvement in the cellhouse physical environment. Some general maintenance and repair work had indeed been performed.

**One fact merits a positive assessment though. The NPM's recommendation that funding be provided for the project designed to renovate and modernize the prison hostel in the village of Razdelna had been taken into consideration and at the time of the inspection a major overhaul was underway.**

1.2. The NPM did not observe any change in feeding arrangements both in the prison and in the two prison hostels. The inspection team found that the prison kitchen had been given just a facelift. **The NPM recommends that the kitchen be overhauled and its worn-out equipment be replaced.**

1.3. The share of working inmates in the prison at Varna continues to be extremely low. Most of them are engaged in facility services. A large number of inmates volunteer to work gratuitously. Employment rate is high only among the inmates accommodated in the 'Varna' PH. Seventy five percent of them on average have work assignments.

1.4. Sixty-four inmates from the main cellhouse attend prison school in the academic year 2015/2016. They are grouped in four classes. Instruction takes place in two classrooms, which belong formally to the outlying branch of the 'Árgira Zhechkova' prison school with the penitentiary in the city of Sliven. Inmates are actively engaged in various social, educational, cultural, and information functions, as well as in artistic and creative activity. Social work with inmates is carried out by officers from the DGEP's Social Work and Educational Activities Section.

1.5. Medical services are provided to inmates by the prison's healthcare centre. The centre's physical environment and equipment appeared to be unchanged since the previous inspection. The HC was staffed by a manager, who is also a full-time clinician, a full-time medical director, a full-time assistant medical officer, and a full-time junior doctor. There were two full time vacancies for a dentist and a psychiatrist. A part-time dentist left the HC in early August 2015.

During the inspection the NPM team found out that no disinfection, insect removal, and rat extermination were carried out in the cellhouse or in the two prison hostels.

1.6. Analysis of the punishments meted out to inmates in the cellhouse and in the two prison hostels shows that the most frequent inmate conduct infractions were possession of mobile phones, using narcotic drugs or alcoholic beverages, and assaulting another inmate.

There had been cases of work release inmates escaping from job sites or failing to return to prison after home leave, town visits, compassionate leave, or hospitalization. The number of

punishments imposed under Article 101 of the EPRCA was lower than in previous years in the 'Varna' PH, whereas the number of disciplinary sanctions imposed on inmates in the 'Razdelna' PH was significant and exceeded one hundred.

The number of paroled inmates remained relatively low.

1.7. The NPM notes that in 2015 the understaffing problem remained unresolved both in the Varna prison and in the 'Varna' and 'Razdelna' PHs. Lack of social work inspectors hampers both individual casework and group work and leads to work overload of available social workers. The NPM observed that the number of correctional officers (prison guards) is also insufficient. Poor working conditions and lack of regular training are problems facing the entire penitentiary system, which affect the overall performance of prison officers and contribute to disciplinary infractions.

The NPM insists that:

- the prison kitchen be overhauled and its worn-out equipment be replaced;
- measures be taken to fill vacant staff positions both at the prison and at the prison hostels;
- a pest control company be contracted to carry out monthly disinfection, insect removal, and rat extermination.

#### **THE PRISON IN THE CITY OF SLIVEN**

1.1. Based on the inspections performed in the period between 2012 and 2014, the NPM did not observe any significant improvement in the prison's physical environment and property despite the recommendations to that effect. The main cellhouse and the prison hostels were not overcrowded and the living space per prisoner amounted to 4.76 square metres. The positive trend of housing the three inmates sentenced to imprisonment for life in cells sharing a common corridor with normal prison population had been maintained.

The cells still do not have in-cell sanitation. At night the prison operates a 'toilet patrol'. This entails prison officers unlocking prisoners from their cells to allow them to use the toilet facilities. When the 'toilet patrol' does not operate, the sanitary requirements are met by buckets.

The NPM has repeatedly emphasized the need to have this problem solved and therefore welcomes the recently adopted practice of leaving certain cells unlocked overnight. The unlocked cells house females who have medical problems or who maintain good behaviour, so they can have unlimited around-the-clock access to the shared sanitation facilities. This, however, is hardly an acceptable solution to the existing in-cell sanitation problem. **This situation, exacerbated by the shortage of prison guards, amounts to inhuman and degrading treatment of female inmates in Bulgaria's only women's prison.**

As to earlier recommendations made by the NPM, it was established that the DGEP's planned capital expenditures for 2015 included funding for a 'Remodelling the Prison's Building' Project. The project can be funded by the *Prisons Production Fund* (a State-owned enterprise), or through economies effected under Project NFM-213-BG-15-1 'Improving Conditions in Prisons and Pre-trial Detention Facilities by Refurbishing the Physical Environment with a view to Ensuring Respect for Human Rights', financed under the Norwegian Financial Mechanism 2009-2014.

No actions had been taken to fulfil the NPM's long-standing recommendation regarding the need for repairs to the common showers and toilets in all corridor areas. Heat supply continues to be a nagging problem. There is a consistent short supply of hot water due to water heating equipment that is insufficient for the inmate population.

**No measures seem to have been taken to fulfil the recommendations made by the NPM regarding the need to replace the mattresses and bedding, to overhaul and modernize the cinema hall and the library, to renovate the prison's kitchen and to replace the kitchen equipment.**

At the same time, some capital repairs to existing vital systems and structures intended to improve the prison's physical environment and property do merit a positive assessment. These include the installation of a lightning protection system, the replacement of doors and window frames in some parts of the cellhouse, and the rehabilitation and refitting of the aspiration system in the prison kitchen. Some emergency repairs to sections of the plumbing and heating installations, as well as partial repairs to an electrical substation had also been performed.

1.2. The share of parole eligible inmates recommended for early release on parole or for a commutation of sentence remained relatively low. The NPM is of the opinion that taking the statutory requirement of 'fair attitude to labour' into account as a primary consideration when deciding on early conditional release of inmates is unacceptable.

1.3. Another major problem facing the prison administration, which was noted by the NPM in previous inspections as well, relates to providing prison work for the inmates. The NPM is of the opinion that the MoJ ought to take adequate measures to ensure the inmates' right to be employed in work. During interviews with inmates at the women's prison in Sliven, they complained mostly about the prison administration's failure to ensure that their right to work while serving their sentences is respected.

1.4. The medical centre's facilities and medical equipment are in very good state of repair. It is notable that the number of psychiatric consultations requested for inmate patients is on the rise. The number of hospitalizations in the psychiatric ward of the specialized hospital at the Lovech penitentiary is not negligible either. The NPM observed also an increase in the number of suicidal and deliberate self-harm incidents. Episodes of food refusal by inmates are not infrequent either.

The NPM believes that urgent measures should be taken to provide adequate mental health care for the female inmates housed at the women's prison in the city of Sliven.

1.5. As regards staffing, the NPM notes that the prison is understaffed. As noted in previous NPM reports, the prison is facing a shortage of prison officers. By the end of 2015, there were seven vacancies. Of these one was a managerial position, three were professional staff positions and four were junior professional officer positions. The shortage of prison guards appears to be the status quo. The absence of employee incentives leaves a negative impression.

1.6. The conclusion drawn by the NPM from the 2015 inspection is that most recommendations formulated by the NPM had not been followed. Therefore, the NPM insists, once again, that:

- measures should be taken to ensure the implementation of the '*Remodelling the Prison's Building*' Project, which includes the provision of in-cell sanitation;
- actions should be taken to obtain the financing needed to ensure the provision of regular heat supply to the showers, which is a must with a view to meeting the daily hygiene needs of female inmates;
- measures should be taken to refurbish the common showers and toilets in all corridor areas of the cellhouse and to overhaul also the library and the cinema hall;
- measures should be taken to improve the quality of health care for the inmates' mental health. In addition to adequate supply of mental illness medications, these should include also psychiatric assessment and consultation, psychological counselling and psychotherapy, psychosocial rehabilitation in either individual or group sessions. Measures should be taken to secure the staffing capacity and capability needed to meet the need for

adequate medical care. This entails hiring appropriately educated professionals to fill the vacancies and, where necessary, requesting consultations with external specialists;

- measures should be taken to actively seek suitable work assignments for the inmates.

### **THE PRISON IN THE CAPITAL CITY OF SOFIA**

1.1. In late December 2014 and in early 2015, the NPM conducted inspections of the Sofia prison and of the two prison hostels in Kazichene and Kremikovtsi. The inspection teams met with more than a hundred inmates. Over half of those interviewed complained about the poor living conditions and about the quantity and quality of the food.

**Based on observations, the NPM is of the opinion that there should be stricter control over the entire process of food preparation. Food service supervision should entail control over all aspects of food preparation, including adherence to recipes, food safety, theft prevention, and portion control. The NPM recommends that inmates be involved in the food service supervision.**

No repairs have been carried out in the prison kitchen in approximately twelve years. The kitchen equipment and food preparation utensils are worn out and need to be replaced.

A long-standing problem noted by the NPM once again is the need for a comprehensive overhaul to the roofing structure of the storage room where canned, bottled and non-perishable food items are kept.

Most inmates housed in the main cellhouse and in the Kremikovtsi PH complained about the lack of seasonal fruits and vegetables in the prison commissary. The NPM inspection team ascertained that fresh fruits and vegetables were not indeed available for sale daily.

**The NPM notes, once again, that commissary prices are jacked up. This fact has been consistently reflected in all NPM reports since its inspections started. Repeated recommendations have been made regarding the need for fair and reasonable pricing in prison commissaries. This is indeed one main criticism directed to the MoJ.**

Another long-standing problem that remains unresolved is the outdated and worn-out vehicle fleet at the Kazichene PH.

It has been previously recommended that the Kremikovtsi PH be closed. Following this latest inspection, the NPM maintains this view.

1.2. The inspection established overcrowding of detainees and criminal defendants housed in the prison as per the provision of Article 248, para 1 of the EPRCA. By way of example, thirteen persons deprived of their liberty were held in one room, which is, first of all, a violation of the minimum living space standard. There were beds placed one upon the other in three tiers. Secondly, access to daylight was very limited. Ventilation in the same room was inadequate. The NPM assessed negatively the prison's approach to the accommodation and even distribution of detainees and defendants, who are to be kept in permanently locked remands. The NPM therefore recommends that all detainee distribution requirements and living space standards be observed.

The above finding occasioned an official request to the Prosecutor General of the Republic of Bulgaria asking his position on the proper implementation of the aforementioned statutory provision. Following an inquiry into the matter conducted by the Supreme Prosecutor's Office of Cassation, the Prosecutor General informed the Ombudsman of his position that Article 248 of the EPRCA should be amended to ensure a differentiated approach to the legal status and treatment of pre-trial detainees and that of inmates in post-adjudicatory detention in either prison or another correctional facility.

1.3. Medical care to inmates in both the prison and the two prison hostels is provided by the healthcare centre. The centre's facilities are in an unsatisfactory condition and in need of expansion. The medical equipment comprises of an ECG machine at the HC and an Ambu bag manual resuscitator with oxygen reservoir located at the Kremikovtsi PH. There is a 7-bed infirmary attached to the HC.

The HC is staffed by one clinician, one assistant medical officer, and a dentist whose office is at the Kremikovtsi PH. On average, fifty-four inmates were seen at the HC daily. Sixteen inmates were treated at the infirmary, and consultations with external specialists were requested for two hundred-and eighty-one inmates.

The prison hospital is structured and run in accordance with the provisions of *MoH Ordinance No. 49 of 18 October 2010 relating to the essential requirements for the setup, activities, and house rules of inpatient medical establishments and homes for medical and social care*.

Currently the hospital is staffed by six clinicians (two surgeons, two general internists, one radiologist, and one part-time orthopaedic traumatologist), three assistant medical officers, eight registered nurses, one X-ray technician, two clinical laboratory technicians, one physical therapist, one medical secretary, one pharmacy manager and one assistant pharmacist.

The hospital is classified as an active treatment hospital establishment. However, following a staffing reform, which resulted in loss of medical specialists, its intensive care functions have been in decline and it essentially functions as a long-term care hospital providing treatment and 24/7 medical assistance for inmate patients from the prison and the prison hostels.

With respect to the Sofia prison, the NPM presents the following recommendations:

- Measures should be taken to ensure fair and reasonable pricing for food items sold at the commissary. This recommendation applies to all correctional facilities;
- Stricter control should be exercised on a daily basis over the quantity and quality of food prepared in the kitchen of the Sofia prison in accordance with the approved Table 1 and allowance A;
- Placing orders for perishable items for sale at the prison commissary should be rationalized;
- Actions should be taken to overhaul the roofing structure of the central food storage site;
- Statutory requirements regarding the distribution of detainees and criminal defendants to be kept in permanently locked remands under Article 248, para 1 of the EPRCA, and the living space standard should be invariably observed in all penitentiaries;
- The Kazichene PH should be supplied with minivans for the safe transportation of work release inmates;
- The Kremikovtsi PH should be closed;
- prison guard staffing levels at the Sofia prison should be optimized;
- The HC should be adequately staffed, the centre should be expanded and the condition of its facilities should be enhanced;
- The Specialized Hospital for Active Treatment of Persons Deprived of Their Liberty should be transformed into a long-term care hospital (convalescent hospital) in conformity with its current functions.

## PROTECTING THE RIGHTS OF CHILDREN IN CONFLICT WITH THE LAW

- The currently existing institutions – CBS and SPBS – do not meet children’s needs and are unable to correct their behaviours. Nor do they facilitate their subsequent socialization, successful rehabilitation, and social reintegration.
- The concurrent existence of two competing systems – a punitive system and a protection system, contradicts contemporary views of child and juvenile justice. It is the children who experience the negative effects of the unreformed system.
- Urgent actions are needed to enact a new *Juvenile Criminal Justice Act*, which would protect the interests of children and adolescents with the focus of criminal proceedings shifting from punishment to child-sensitive alternatives.

### ACTIONS TAKEN BY THE RESPECTIVE INSTITUTIONS FOLLOWING THE RECOMMENDATIONS ADDRESSED TO THEM BY THE NPM

In 2015, the NPM continued to emphasize the problems of children in conflict with the law placed in Social and Pedagogical Boarding Schools (SPBS) and in Correctional Boarding Schools (CBS). As a follow up to the inspections conducted in November and December of 2015, the NPM published and publicized a thematic report on the treatment of and conditions for children in CBS and SPBS.<sup>5</sup>

The report was based on the 2014 thematic report on the same subject<sup>6</sup>, which discussed in detail the legal characteristics of the CBS and SPBS in terms of international and domestic law, the profile of children placed there, the living conditions, the quality of education and extracurricular activities, the treatment of children and the child protection measures in place, the quality of health services, and the administrative and technical capacity. In response to the findings and recommendations of the NPM, the competent institutions provided the Ombudsman with the following information:

The Ministry of Education and Science undertook to strengthen the control exercised by its regional inspectorates over the institutions in question, as well as to set up an interinstitutional working group tasked with the implementation of the commitments under the *Concept Paper on the Government Policy in the Field of Juvenile Justice* (Концепция за държавна политика в областта на правосъдието за детето) and the Roadmap for its implementation. Furthermore, actions have been taken to close down the SPBS in the town of Straldzha (in the Yambol Province).

The Social Assistance Agency informed the Ombudsman that social workers from its Child Protection Departments at the local Social Assistance Directorates had been working with the children and their families. Furthermore, an interinstitutional working group had been set up as per MoJ Order No. LS-04-883/27.05.2014 tasked with initiating amendments to the CPC concerning the interrogation and court hearings of minors. It had been suggested also that the Roadmap timeframes be reviewed. According to the information from the SAA, the MoES had

<sup>5</sup> The full text of the report ‘On Children in Conflict with the Law’ („За децата в конфликт със закона“) is available in Bulgarian at [http://www.ombudsman.bg/pictures/VUI\\_SPI\\_final\(2\).pdf](http://www.ombudsman.bg/pictures/VUI_SPI_final(2).pdf)

<sup>6</sup> Report Describing the Results of the Inspections Carried out and an Assessment of the Condition and Respect for the Rights of the Children Placed in the Social and Pedagogical Boarding Schools and in the Correctional Boarding Schools in the Republic of Bulgaria, March, 2014 („Доклад от извършени проверки и оценка на състоянието и спазването на правата на децата, настанени в социално-педагогическите интернати и възпитателните училища–интернати в Република България“), available in Bulgarian at <http://www.ombudsman.bg/documents/report%20npm%2003.2014.pdf>

not contacted the Agency with a view to launching and implementing the Roadmap for the implementation of the *Concept Paper on the Government Policy in the Field of Juvenile Justice*.

The State Agency for Child Protection pointed out that a repeat inspection had been carried out at the CBS in the town of Rakitovo (in the Pazardzhik province) between 17 and 19 June 2014. According to the CBS management, there were no children victims of violence placed there.

The SACP disagreed with the NPM's view regarding the location of the said CBS and the ensuing isolation of the children there. According to the CBS principal the children were well integrated in the community.

The SACP had made recommendations on how to regulate the ways and opportunities to have the children engaged in meaningful work, as well as to review the access control procedures.

The Ministry of Interior, for its part, had ordered in accordance with its powers the Regional Directorates to carry out on-site inspections of the security arrangements at all SACP and CBS.

The results from the inspections carried out by the National Preventive Mechanism showed in a clear and unambiguous way the need for a reform. **The currently existing institutions – CBS and SPBS – do not meet children's needs and are unable to correct their behaviours. Nor do they facilitate their subsequent socialization, successful rehabilitation, and social reintegration.** The concurrent existence of two different systems – on the one hand, the children are offenders, but on the other hand, they are children at risk in need of protection measures under the *Child Protection Act*, contradicts contemporary views of child and juvenile justice. It is these children who suffer the negative effects of the unreformed system.

As part of the efforts to implement the *Concept Paper on the Government Policy in the Field of Juvenile Justice*, a working group at the Ministry of Justice has been **drafting a Juvenile Criminal Justice Act**. The working group includes an expert from the NPM. The main purpose of the new legislation is to protect the interests of minors involved in criminal judicial proceedings, as well as to provide protection for the rights of child victims and child witnesses of crime. The focus of criminal proceedings is shifting from their punitive and retributive nature to child-sensitive alternatives. The law will enshrine the principle of criminal justice diversion. Its implementation will provide an opportunity to refer children in conflict with the law to diversionary programs to avoid criminal conviction. As a result many cases would be settled by nonjudicial bodies or by the bodies involved in pre-trial proceedings.

Most importantly, the enactment of the new law will repeal the *Combating Juvenile Delinquency Act*, which, even though still in force, contradicts contemporary standards of child and juvenile justice. It is particularly worrying that children are still being penalized for antisocial behaviour for which adults are not criminally responsible. By way of example, the current law provides for the imposition of "educative and corrective measures" for the so called "status-related offences" and survival behaviours. Such measures include confinement to a boarding school. The possible reasons behind a decision to place a child in a boarding school include the low social status of his or her family, the poor living conditions under which a child is raised, etc. Poverty-related circumstances are used to justify the imposition of sanctions for behaviour modification purposes, which contradicts contemporary child protection standards.

**The NPM notes with concern that the *Preschool and School Education Act (PSSEA)* expands, in contravention of the ongoing child and juvenile justice reform, the conditions for the placement in Social and Pedagogical Boarding Schools.** Thus, the PSSEA provides that SPBS are schools for



the education of students who lack a suitable living environment in their families, or are deprived of parental care and supervision, or have committed antisocial acts.<sup>7</sup>

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<sup>7</sup> Article 44, para 9 of the *Preschool and School Education Act* (Закон за предучилищното и училищното образование), in force on 1 August 2016, Promulgated, SG Issue 79 of 13 October 2015

## **CURRENT STATE OF CBS AND SPBS IN BULGARIA**

The purpose of the 2015 inspections was to ascertain and analyse the current condition of these institutions and to establish whether previous recommendations had been acted upon.

### **GENERAL FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS**

- Children continue to be placed in the same institutions indiscriminately, without distinction as to the nature and degree of the offense. As a result, children who have committed the so called status-related offences, such as escape, vagrancy, begging, etc., and children victims of violence live together with children who have committed an offence comprising the factual elements of a crime;
- The facilities are generally in a poor state of repair – poorly maintained and extremely worn out. The food is unvaried, and the intake of fresh fruits, vegetables, eggs, dairy products, and meat is insufficient;
- Teachers and students alike demonstrate utter disregard for the education process. It is performed perfunctorily, without taking into account the students' individual temperaments, learning styles, and needs. Little use appears to be made of activities, which should be an integral part of the overall plan for working with the children to further their development, such as art therapy, occupational therapy, etc.;
- Correctional education programs and activities are unproductive due to the shortage of highly skilled psychologists. The MoES has not developed a methodology to regulate casework practice with children, which results in the establishment of dissimilar practices regarding the psycho-educational evaluations, individual case plans, and reviews of correctional education outcomes;
- The employees are demotivated. There are still no rules in place on hiring professionals competent and skilled in providing social support and care to the children and adolescents placed in these institutions;
- Detailed regulations and guidelines are needed regarding the employability of children and adolescents in these institutions, given that their engagement in paid work is a real social fact even now;
- Violence – both psychological and physical – remains a serious systemic problem in most boarding schools. There remain unlawful punishments not provided for in existing laws and regulations;
- There remains a lack of rules and standards on the equal treatment of children placed in boarding schools;
- Health care to children in conflict with the law placed in SPBS and CBS is provided under the conditions and rules applicable to the civilian health system and the process is similar in terms of quality;
- Only half of the boarding schools have a health room and healthcare professionals on staff. In an effort to help resolve this problem, the NPM has met with the mayors of the municipalities hosting boarding schools with no medical staff to discuss the feasibility of hiring medical practitioners;
- There has been an increase in cases of children with serious psychiatric and somatic disorders placed in the boarding schools;

- There is lack of interaction between the various institutions for the purpose of providing medical information and immunization status data on children missing their medical records on admission. There are no rules in place on storing medical documents;
- Most students exhibit low health awareness and poor health habits. They purchase and smoke tobacco products without restrictions and appear unkempt. The NPM recommends that additional efforts be made by the institutions' administrations to change this state of affairs.

## **1 'NIKOLA VAPTSAROV' CBS, TOWN OF ZAVET, RAZGRAD PROVINCE**

### **1.1 Physical Environment and Equipment**

At the time of the NPM visit to the Correctional Boarding School (CBS) in the town of Zavet, Razgrad province, there were twenty-five boys on the school's roster. Five of them had escaped and were on the loose, one was listed on the national wanted persons system, and another one had never reported to the school.

The CBS is housed across two buildings. One of them is the dormitory and the other one houses the classrooms, the school administration, the kitchen, and the refectory. At the time of the inspection, repairs to the sports playground were underway. The NPM team found out that they were carried out by the boarding school residents.

The kitchen and the refectory were in a poor state of repair. They were cold, cheerless, and uninviting. The appliances were outdated and worn out. As regards food, the NPM team did not receive any complaints about its quantity or quality. As was evident from the weekly menu lists, the calorific value of the food was sufficient, but the meals were unvaried and the intake of fresh fruits and vegetables, eggs, and dairy products was insufficient.

The buildings and the facilities were in bad condition. The furniture in all children's rooms was old and dilapidated. There were not enough wardrobe closets and storage cabinets for personal items. The rooms felt cold and the children shared that the central heating was on for just a few hours a day. Every bedroom contained private sanitary facilities but running hot water was unheard of. Bathtime is a once-a-week affair.

There are CCTV cameras installed in the corridors, but no outdoor security arrangements. The NPM could not avoid a negative assessment of the presence of surveillance cameras in the boys' bedrooms. According to the explanation of the staff, the reason for installing cameras was to prevent or detect students stealing from other students, which, allegedly, was a daily occurrence.

The NPM is of the opinion that the installation of surveillance cameras in the bedrooms, coupled with the deficiency of wardrobe closets and personal item cabinets, constitutes a violation of the children's right to privacy and an invasion of their personal space. It is recommended that the CCTV cameras be removed from the bedrooms.

### **1.2 Education and Training**

The CBS in the town of Zavet provides educational service to the children there from grade 2 through grade 8. A major issue, established by the NPM, is the fact that all incoming children and adolescents hold certificates of completion of a certain grade of primary or secondary school, even though they are in reality illiterate.

From observations and from talking to the children, the NPM ascertained a blatant disregard for classroom activities on the part of both students and teachers. Children would walk in and out of their classrooms as they wished.

The children have the option to participate and are actively involved in various extracurricular activities, such as sports events. The inspection team observed that the gym equipment and that of the outside playgrounds is outdated, worn out, and insufficient to meet the real needs of the children.

The use of the computer room was scheduled and the students had a certain amount of individual computer time. Internet access was monitored and controlled by a teacher.

Five of the children had special educational needs. A visiting specialist resource teacher assisted their classroom teachers.

### **1.3. Medical Care**

The boarding school has a health room. It was not fully equipped in accordance with *MoH Ordinance No. 3 on health rooms in childcare facilities and schools*. The emergency medicine cabinet was stocked in accordance with the said Ordinance. The health room was staffed by a part-time nurse. She attended the health room four hours a day, three days a week. Her duties included provision of emergency medical assistance, referrals of students to medical specialists, storing and dispensing prescription medicines, drawing up, keeping and storing the students' personal medical records. The inspection found out that the medical records were not adequately kept. The nurse was involved also in drawing up the weekly menus at the refectory in accordance with *Ordinance No. 37 on wholesome student nutrition*.

The NPM inspection found out that the school health room had been inspected for the current year by the Razgrad RHI.

All students were registered with a GP practice in the town of Zavet. They were also on the patient list of a dentist who sees patients in his town office twice a week. The GP had not performed complete health screening assessments of all students. Anthropometric measurements had been performed, but no urine screening tests had been performed. Dental examinations had been performed on most students. A previous inspection finding was identified again, i.e. six students had been admitted to the boarding school without any medical documents or any record of their immunization history. In order to obtain the information, the nurse had sent out information requests to the RHIF at the children's' domicile. Her efforts, however, did not bear fruit. Three of the boarding school inmates suffer from a chronic mental illness and require continued medication therapy. K.M. is epileptic. He had been at the boarding school over a year and a half, and had not had any epileptic seizures over that period. He has been assessed and certified by a Work Capability Assessment Board (WCAB). N.S. suffers from paranoid schizophrenia. His release from the boarding school was impending as he would reach the age of majority. N.R. has bipolar affective disorder. According to his medical record, D.M. was, on arrival to the boarding school, HIV-positive and had also hepatitis C. He had not, however, been medically treated, and at the time of the inspection was an escapee.

In 2014, almost all students were tested for HIV. Only one boy refused to get tested.

The previous inspection had found that the students' medical documents were stored in different places – at the GP's office, at the dentist's office, at the health room, and in the

students' administrative files. At the time of inspection, this was found again to be the case. It was observed also that most boarding school inmates were allowed to use tobacco products without restrictions. The NPM inspection team noticed also that one of the students had a skin condition. It was immediately recommended that the nurse should refer the boy to a specialist for examination.

The students were interviewed about their opinion of the medical services. Some of them shared that the nurse had not been readily available in the health room. Overall, however, all of them had been satisfied with the health and dental care.

#### **1.4. Administration and Management**

As was evident from the staff establishment plan, the boarding school had a staff of twenty-five members assigned to duties as follows: one principal teacher, six supervisors, five teachers, one psychologist, one accountant and seven auxiliary and support staff. Staff members were assigned to duty on a rotating schedule with a view to ensuring around-the-clock availability of teaching staff and safe continuity of child care and responsibility between shift changes.

A major problem faced by the staff relates to the requirement that any child summoned to appear in court should be escorted by a staff member. This is a drain on the school's technical, human, and financial resources, and hampers the work of the staff. Travel distances in some cases may be considerable. Teachers and supervisors, however, are required to comply with the provisions of the *Road Transport Act*, banning the transportation of minors during the hours of darkness.

A significant problem related to the boarding school's administrative capacity is the lack of staff members to escort the children and adolescents on their holiday travels. This leads to extremely worrying situations where minors have to travel unaccompanied to and from the boarding school.

#### **1.5. Protection Measures**

While meeting with the children, the NPM team received a number of complains mostly about students stealing from other students, the lack of hot water, and numerous bullying and harassment complaints. It was established also that almost all of them would leave the school and go to the town of Zavet to work as hirelings in the houses and yards of local residents. They would do odd jobs, mostly firewood splitting, garden digging, or yard cleaning, for a fee of BGN 10 or 15. The NPM recalls that child labour possibilities for boarding school inmates are regulated by Article 33 of the JDA. According to the said provision, children may only work in workshops and subsidiary (subsistence) farms associated with the boarding school. Even though the children are happy to earn their own money, engaging in this type of paid work is not regulated. Furthermore, such work is carried out unsupervised by an adult, such as a school teacher or supervisor, who can assume responsibility for the children's health and safety. The NPM is of the opinion that such practice needs to be immediately discontinued but believes also that the child labour prohibition and regulation provisions regarding boarding school inmates have to be updated, given that their engagement in paid work is a real social fact even now.

The NPM team came across this curious case of the fourteen-year old boy I.A. He claimed that while on a walk to the town of Zavet with other boarding school inmates and a school supervisor, he bought a lottery scratch off ticket and won a kilo of gold or its equivalent of BGN one hundred thousand. He gave the ticket to the boarding school supervisor for safekeeping.

The latter, however, stole the lottery ticket and claimed the prize of BGN 100,000. Other children and juveniles were interviewed and they corroborated the boy's story as to who had bought the scratchcard and who had scratched it off. The NPM team could not interview the school supervisor as he was off work on sick leave. It was established during the inspection that the police had been notified of the case, and at the time of the inspection police officers were questioning some of the boys. The NPM is of the opinion that it is unreasonable to expect positive outcomes from correctional education work with boarding school offenders when staff members in these institutions overstep the rules and infringe upon the rights and interest of the children with such dishonest acts. The NPM would appreciate receiving further information on the progress of the investigation from the police in the town of Zavet or from the competent prosecutor's office.

In the course of the inspection, the team carried out a random review of inmate students' personal files. Some of the files were found to be incomplete. Some needs assessment reports were missing and some case plans had not been updated.

The NPM team reviewed also the anti-bullying and harassment register and found that it contained no entries. The boarding school administration was not aware which incidents should be investigated, documented and entered in the Register.

A complaint box was nowhere to be found either. Reports of alleged harassment, intimidation, or bullying incidents are made to a teacher or to a school supervisor, or to the boarding school principal orally and are not subsequently recorded in writing.

#### **RECOMMENDATIONS:**

- Students suffering from chronic diseases or disabilities should be referred to a WCAB for sickness or disability certification;
- The medical and psychological evaluation of children with psychiatric and somatic disorders provided for in Article 17, para 3, item 2 of the *Rules and Regulations on the Setup and Operations of Correctional Boarding Schools and Social and Pedagogical Boarding Schools* should be performed prior to their institutionalization;
- The CBS administration should take actions to ensure heating is provided throughout the day and night;
- Access to showers and instantly hot water should be more frequent;
- The practice of video surveillance in students' bedrooms should be discontinued and the cameras should be removed;
- Ensure sufficient daily intake of fresh fruits, vegetables, eggs, and dairy products;
- The administration should provide psychological support in all cases and forms of child aggression;
- Carry out minuted mentoring discussions with all children involved in incidents related to physical or psychological violence;
- Students' files and records should be regularly updated;
- A complaint box should be placed in a conspicuous location;
- The practice of allowing children to engage in paid work outside the institution without professional supervision should be discontinued;
- The NPM would like to receive further information regarding the investigation into the stolen lottery ticket case.

## **2. 'HRISTO BOTEV' SPBS, VILLAGE OF VARNENTSI, SILISTRA PROVINCE**

### **2.1. Physical Environment and Equipment**

At the time of the NPM visit to the 'Hristo Botev' Social and Pedagogical Boarding School in the village of Varnentsi, there were forty-five boys on the school's roster. One of them was an escapee and another one had failed to return on time after home leave.

The 'Hristo Botev' SPBS in the village of Varnentsi is housed across two main buildings. The first building houses the sleeping and living quarters, the kitchen, and the refectory, and the other one houses the classrooms and the school administration. There are sleeping dormitories in the classroom building too. They are used in winter with a view to ensuring efficient and cost effective heating. The school has an enclosed spacious yard with a multifunctional sports ground.

The NPM observed some improvement in the physical environment. New shower rooms and toilets had been built, the children's beds and closets had been replaced, new chairs and dining tables had been procured. The roofs of both buildings are in need of repair. Children's clothes are laundered and dried in a commercial laundromat donated by sponsors. There are CCTV cameras installed in the corridors, but there are no outdoor security arrangements.

As regards food, the NPM team did not receive any complaints about its quantity or quality. As was evident from the weekly menus, the calorific value of the food was sufficient and the children were provided an adequate intake of fresh fruits and vegetables, eggs, and dairy products.

### **2.2. Education and Training**

In the academic year 2015/2016, the 'Hristo Botev' SPBS in the village of Varnentsi provides educational service to its inmates from grade 1 through grade 8. The school formed composite classes with pupils from grade level 1 through grade level 4 because of an insufficient number of students. Professional education and training was provided for students from grade levels 7 and 8. The school has a computer room and internet access. The computers were used in the presence of a school supervisor.

Judging from own observations and from interviews with children, the NPM concluded that the inmate students were uninterested in learning.

The NPM gave a positive assessment of the children's active involvement in various extracurricular activities, such as fishing and swimming. The children were mostly interested in sports, such as football (soccer), table tennis, and basketball and eagerly played them. There is a student council at the 'Hristo Botev' SPBS whose members will assist in the smooth running of both the education process and the extracurricular activities.

A specialist resource teacher assists in the schooling of children with special educational needs.

### **2.3. Medical Care**

The boarding school has a health room. It was not fully equipped as per the requirements of *MoH Ordinance No. 3 of 27 April 2000 on health rooms in childcare facilities and schools*. Medications for emergency assistance were kept in a wooden cabinet. The health room was staffed by an assistant medical officer who at the time of the inspection was off work on sick leave. The assistant medical officer was tasked with organizing the provision of medical services to the pupils. A report had been drawn up on illnesses and abnormalities identified during the preventive health screening assessment of the students performed in the time period between

September and December 2015. A total of forty five pupils had been screened. Of them three were diagnosed with pervasive developmental disorder, one pupil had reduced vision, seven pupils suffered from diseases of the ear and mastoid process, one pupil had deaf-mutism, seven pupils suffered from chronic diseases of tonsils and adenoids, five pupils suffered from gastritis and duodenitis, seven pupils had kyphosis and lordosis, and other deforming dorsopathies. The assistant medical officer had drawn up personal medical records for most boarding school inmates but they were not adequately kept. The NPM will follow up on actions taken to address the medical conditions identified during the prophylactic screening assessments.

A previous inspection finding was identified again in that most students (twenty three) had been admitted to the boarding school without any medical documents or record of their immunization history.

All inmate students at the SPBS were registered with a GP practice and were also on a dentist's patient list. In October 2015, the dentist performed comprehensive dental exams of all pupils to identify and prevent possible diseases of the teeth and oral cavity. Students with mental illness had undergone an individual psychiatric assessment. M.K. had been diagnosed with moderate mental retardation, paranoid schizophrenia, epilepsy, and severe behavioural disorder requiring care and treatment. The court did not accept that the child had a mental illness when hearing the parents' appeal against the court-ordered involuntary placement in a SPBS. The NPM considers that the provision of Article 17, para 3, item 2 of the *Rules and Regulations on the Setup and Operations of Correctional Boarding Schools and Social and Pedagogical Boarding Schools* should apply in this student's case. A.I. suffers from behavioural disorder, mild mental retardation, and attachment disorder of childhood. He therefore needs the support of a special education resource teacher. I.D. suffers from mental illness requiring specific professional assistance and medication treatment, which should have preceded the measures of correctional education. The student had been previously placed involuntarily in a healthcare establishment and had been prescribed a medication therapy. He had been refusing, however, to take his medications under pressure from his mother. B.D. had displayed symptoms of mental illness. D.I. has deaf-mutism and is supported by a special education resource teacher. The NPM believes that he has to be medically certified and moved to a different type of social institution. One student had been diagnosed with enuresis nocturna.

The previous inspection had found that the students' medical documents were stored in different places - at the GP's office, at the dentist's office, at the health room, and in the students' administrative files. At the time of inspection, this was found again to be the case.

The students, who were interviewed about their opinion of the medical services, reported that they had been satisfied with the health and dental care at the boarding school.

#### **2.4. Administration and Management**

According to the staff establishment plan, the boarding school had a staff of twenty-four members: one principal teacher, fifteen full-time teaching staff and eight non-teaching staff. The boarding school had a full-time school counsellor who was in charge also of school documentation and record-keeping. According to the principal, Mr. Angel Raibov, two members of staff were present at the school at night, sleeping in or on walking night duty, who were contactable by the children at any time of the night.

#### **2.5. Protection Measures**

In the course of the inspection at the 'Hristo Botev' SPBS in the village of Varnentsi the NPM team identified evidence of favourable psychosocial safety climate. The children trusted the



principal and the faculty. Peer interactions and play proceeded smoothly and amicably. The children shared with the NPM team that they felt well at the boarding school and did not have any serious problems with the staff or with other children. In situations of conflict between children, mostly linked to petty theft or insults, they would address themselves to the principal for support and assistance and he would try to diffuse the tension by way of mediation. It was established that some of the children were taken out, even though infrequently, to the village to work as hirelings.

The NPM inspection team checked the outings record book and the anti-bullying and harassment register. The team carried out a random review of the inmate boys' personal files. They contained court orders for involuntary placement in a childcare institution, case plans, mentoring discussion minutes, needs assessment reports, reports from the respective Juvenile Delinquency Commissions, and information cards.

The NPM inspection identified several cases of children where the court orders had expired. However, applications had been filed to the court to have the term of SPBS placement extended. One such case involves the now 18-year old R.S., who was sent to the SPBS by a court decision of 2008 when he was just 10. He has in fact spent all his conscious life in the institution. As was evident from the reports by the Social Assistance Directorate, his mother had repeatedly stated that she did not have the means to provide for her son during school holidays and also that her emotional bond with the boy had been severed. The lack of an alternative had motivated the boy to remain at the boarding school. Cases like this are not unheard of in the boarding schools. They pose the question of the need to provide support to the children prior to, during, and after they have left the boarding schools.

#### **RECOMMENDATIONS:**

- The children M.K. and D.I. should be referred to a WCAB for certification and actions should be taken for their timely release from the boarding school;
- Students' files and records should be regularly updated;
- The practice of allowing inmate students to engage in paid work outside the institution without professional supervision should be discontinued.

### **3. 'SAINTS CYRIL AND METHODIUS' CBS, VILLAGE OF KEREKA, MUNICIPALITY OF DRYANOVO**

#### **3.1. Physical Environment and Equipment**

At the time of the NPM visit to the 'Saints Cyril and Methodius' Correctional Boarding School in the village of Kereka, municipality of Dryanovo, there were twenty-two boys on the school's roster. At the actual time of the inspection though there were twenty children present at the boarding school, as one had been remanded in custody and another one had failed to return after summer vacation.

The CBS is housed in a large two-storey building holding the living quarters, the classrooms, and the administration. The kitchen, the dining hall, and the school's woodworking shop are located in another single-storey structure and to get there, one has to cross the entire schoolyard.

In view of the reduced number of children, just the ground-floor rooms were in use. Most door handles and many of the locks were missing. According to the CBS staff, this was the children's own doing. The inspection team observed that the rooms were in a good state of hygiene. The walls had been freshly painted, but the furniture was old and dilapidated. Most rooms had no personal effects lockers, which contradicts Article 27 of the *Rules and Regulations on the Setup and Operations of Correctional Boarding Schools and Social and Pedagogical Boarding Schools*. It was not clear where the boys stored their personal care products, as no such items could be

seen anywhere during the inspection. All rooms had their windows wide open as this was the only way to ventilate the rooms. The children's rooms still had no heating at all although the inspection was conducted in the winter heating season. The children wore warm overcoats at all times.

There is only one common sanitary facility on the floor. It has two squat toilets and one sink.

There were video surveillance cameras installed only in the corridors, but there were no outdoor security arrangements. Sections of the yard fence were missing. The school's *Internal Rules and Regulations* were not posted in a conspicuous place.

The physical environment and property were generally in a poor state of repair. Only the doors and window frames had been replaced.

### **3.2. Education and Training**

The CBS in the village of Kereka provides educational service to its inmates from grade 5 through grade 8. The school formed composite classes with pupils from grades 5 and 6. The inspection team attended a woodworking practice session. The team was left with the impression that despite the considerable efforts made by the teacher, the children were not particularly interested or involved in what they were being taught. This was corroborated in interviews with the children. They shared with the team that they were not at all interested but attended the class because they had no choice. The time of the inspection coincided with class time and the children were in the classrooms. It was notable that, whilst the children had been provided with learning aids and exercise notebooks, those had not been used. The classroom equipment was outdated and worn out, and did not meet the requirements of modern-day education. The woodworking practice shop is at a distance from the main building and has no heat. Moreover, it was quite dirty and dusty. The team did not receive convincing explanations as to how health and safety was monitored and maintained in woodworking practice sessions, given that there were no woodworking tools and supplies stored in the shop besides the woodworking machines and some lumber. This called into question the assertions made by the principal that the woodworking shop was regularly used. And even if it was routinely used, the issue of ensuring the safe use of woodworking machinery still remains open.

The conclusion drawn by the NPM was that education-related classroom activities were hardly a priority, either for the children or for their teachers. None of the children interviewed expressed any attitude towards the education process.

The children raised also the problem relating to the use of the computer room. They shared that their computers were old and had no access to the internet.

### **3.3. Medical Care**

The boarding school has no health room. All inmate students were registered with a GP practice and were also on a dentist's patient list. In the current academic year, one of the boys had been diagnosed with paranoid schizophrenia. On the initiative of the principal, the student had been released from the boarding school in a timely fashion on medical grounds. Also in the current academic year all students had been given a tuberculin test and three boys had tested positive. One student had been diagnosed with bronchial asthma and another one had a varicocele. There were students with mental illness, the principal diagnosis being mild mental retardation. Their schooling was supported by a special education resource teacher.

The previous inspection had found that the students' medical documents were stored in different places – at the GP's office, at the dentist's office, and in the students' administrative files. At the time of inspection, this was found again to be the case.

#### **3.4. Administration and Management**

As was evident from the staff establishment plan, the boarding school had a staff of twenty-one members: one principal, one chief accountant, five teachers, one psychologist, two support staff, and five workers. Staff members were assigned to duty on a rotating schedule with a view to ensuring around-the-clock availability of teaching staff and safe continuity of child care and responsibility between shift changes.

The CBS principal shared that they encountered serious difficulties in cases where a child has reached the age limit, from which the possession of an identity card is mandatory according to the *Civil Status Registration Act* (Закон за гражданската регистрация). It was established that even though most children currently residing at the boarding school had come from a family environment, their parents would not cooperate with the issuance of an ID card. Another issue that was brought to the fore relates to the legal obligation to escort minors summoned to attend judicial proceedings in some procedural capacity. Escorting children to court entails costs and is associated with staff downtime. The problem is most apparent when children have to be escorted to a court at a considerable distance from the boarding school.

In cases where a child's parents fail to pick him up for school holidays, the child has to travel unaccompanied by an adult which violates the principles of child protection.

#### **3.5. Protection Measures**

At the time of the inspection at the CBS in the village of Kereka, the youngest child there was twelve and the oldest was seventeen years of age. Two children, who had turned sixteen, had given notice in writing of their willingness to remain at the boarding school. The boarding school principal is the legal guardian of one of the children who is parentless.

It should be noted that interviewing the children was quite a challenge since some of them expressed their emotions loudly, while others were quite close-mouthed. They shared with the inspection team that life at the boarding school was too monotonous for them, which was the reason behind the frequent cases of children escaping from the institution. It is notable that nearly all the children interviewed admitted to having run away from the boarding school and the reason they gave was "for a change". It was established in reviewing the personal files that all escapees had been interviewed upon their return by the boarding school supervisors and by the psychologist in accordance with formal procedures. All interviews had been objectively documented. It should be noted that the staff appeared to be unable to cope with the escapes which seemed to generate tensions both within the institution and among the village population.

The NPM received alarming statements from both school inmates and residents of the village of Kereka that children would frequently leave the CBS and wander through the village unaccompanied by a supervisor.

In the course of the inspection, the team carried out a random review of inmate students' personal files. The recommendation made in the previous inspection had been taken into consideration and the omissions had been corrected. The re-inspection established that the information contained in the files was more complete.

Most children interviewed did not provide a clear and categorical answer on whether they had been going to the village to work as hirelings.

The fact that the children were using their mobile phones without restrictions could not escape the inspection team's attention.

#### **RECOMMENDATIONS:**

- Efforts need to be made to improve the living quarters physical environment and equipment by replacing the beds, the mattresses, and the bedding. The children should be provided with storage cabinets in their rooms to keep their personal effects and clothes;
- All doors to the ground-floor bedrooms should be equipped with locks and handles;
- All children should be supplied with personal care products, such as soap, toilet paper, tooth brushes, toothpaste, etc.;
- Efforts should be made towards minimising escapes of children from the boarding school;
- Actions should be taken to open a health room at the CBS in the village of Kereka;
- In view of the health status of children placed at CBS and SPBS, the competent authorities should exercise at least once-a-year control of the quality of healthcare services provided to them.

#### **4. 'HRISTO BOTEV' SVCBS, VILLAGE OF PODEM, PLEVEN PROVINCE**

##### **4.1. Physical Environment and Equipment**

At the time of the inspection the official number of girls placed at the boarding school was thirty-seven. Four of them had escaped, two were absent on medical grounds (antenatal care examinations), and three of the girls had failed to return after summer vacation.

The NPM performed a facility condition assessment at the Secondary Vocational Correctional Boarding School (SVCBS) in the village of Podem and found that the physical environment and equipment were good. The school is housed over two main buildings. The first one houses the administration and the classrooms, while the second building houses the sleeping quarters, the kitchen, and the refectory. The school houses also girls in the so called 'Dream House' – a luxurious building with luxury furniture and furnishings constructed with funds donated by the German SES Foundation (<http://www.ses-bonn.de/en/about-us.html>). That building's condition is in stark contrast with the condition of the rest of the facilities. The inspection team was left with the impression that the criteria for accommodating girls in the Dream House were unclear. Furthermore, the Dream House building did not appear to be used at full capacity. According to the school's principal, girls who maintained good behaviour and whose release from the boarding school was impending were accommodated there. However, a check at the Dream House found out that there were only three girls living there and none of them was to be released any time soon. They had been living in the special house for just a few days. Even though nicely equipped, the building was frigid. All bedrooms in the girls' dormitory were also cold and unheated. It was established by talking to the girls that the central heating would be on for just an hour or two every 24 hours. The NPM received also complaints that the girls showered with cold water as the shower rooms in the boarding school did not have running hot water.

The NPM team found out that the boarding school administration had clearly been given a heads-up on the team's visit, given that three more boarding schools had also been inspected that same week. For that reason, all rooms had been prepared and diligently cleaned. All corridor floors had been covered, especially for the occasion, with carpets. In talking to the girls, they shared that they had been woken up early that morning and made clean the yard and the

rooms. According to the girls again, the food had been way better over the few previous days, and on the day preceding the inspection all girls had had the chance to shower with hot-water in the common bathroom.

The children alleged that they washed their clothes and underwear themselves with cold water.

#### **4.2. Education and Training**

The SVCBS in the village of Podem provides educational service to its inmates from grade 5 through grade 12. The classrooms were well equipped. The school had also a state-of-the-art computer room. The children alleged though that it was rarely used and remained locked most of the time. In contrast to most other boarding schools, the NPM observed at the SVCBS a more dynamic education process of better quality, as well as higher attendance rates.

The students in grades 7 and 8 receive vocational training in sewing machine skills and tailoring, while the girls in grades 9 through 12 are trained towards industry certification in textiles, clothing, and textile machinery operation.

The girls are offered also elective hairdressing courses. These career education courses take place in a well-equipped hairdressing salon. The elective courses in cooking, and food preparation were supposed to take place in the Dream House. It was found out in the interviews, however, that the only practical session had taken place on the day preceding the NPM visit, which gave rise to assumptions that the said practice session was conducted in response to the advance warning of impending inspection.

Overall, the boarding school is very well equipped to provide its students with additional career training in cooking, hairdressing, and tailoring.

#### **4.3. Medical Care**

The boarding school does not have a functioning health room per se due to the municipality's inability to provide a healthcare practitioner. The administration had adapted a separate room designated for storing medicines other than the types and amounts of medications for emergency assistance provided for in *MoH Ordinance No. 3 of 27 April 2000 on health rooms in childcare facilities and schools*. This is in contravention of the healthcare legislation and calls into question the procedure for medical care provision at the boarding school. There was also a dental chair in the same room used for general screening dental examinations.

All students were registered with a GP practice. They were also on a dentist's patient list. The GP visits the boarding school twice a week and the dentist sees patients three times a week in his office in the village. The GP had performed the health screening assessments of all students for the current year. Some follow up tests had also been performed. During the academic year one student had been hospitalized in the neurology ward of the Multi-profile Active Treatment Hospital in the city of Ruse, and another one had been released from the boarding school to give birth to her baby. The baby and mom were being cared for in a social care facility run by the 'Samaritans' Association based in the city of Stara Zagora. The student Y.Y. had been diagnosed with disinhibited attachment disorder of childhood and had been accommodated in a separate room as she required continued medication therapy. The student S.S. had had her pregnancy detected in October and would be released from the boarding school by year's end. Most girls returning after home leave would require a gynaecology consultation. The GP, however, had announced a shortage of referrals to specialists. The NPM experts sent a request for information to the RHIF in the provincial capital of Pleven and found out that all reasoned requests for additional referrals sent to the Health Fund by GPs had been granted. The students' medical documents, such as hospital discharge summaries (epicrisis), outpatient examination reports,

doctor's notes presented upon admission to the boarding school, etc. were stored in their administrative files. The boarding school's GP was involved in drawing up the weekly menus at the refectory in accordance with legal requirements.

All students interviewed shared that they had been satisfied with the health and dental care provided at the boarding school. Most of them admitted to using tobacco products without restrictions, as well as psychoactive substances during school holidays.

#### **4.4. Administration and Management**

As was evident from the staff establishment plan, the boarding school had a staff of twenty-five members: one principal, nine teachers, four supervisors, one psychologist, three lecturers, one accountant, a cashier, and seven auxiliary and support staff. The staff members were assigned to duty on a rotating schedule with a view to ensuring around-the-clock availability of teaching staff.

The inspection team was left with the impression that throughout the visit the entire staff kept exercising total and continuous control over the children. This fact in itself could not be assessed negatively. It gave, however, the impression of an awkward and tense psychological environment and caused also a suspicion that the children were being controlled and manipulated by the administration what to share with the team and which facts to suppress during the interviews.

#### **4.5. Protection Measures**

In the course of the inspection, the NPM identified evidence of unfavourable psychosocial safety climate within the SVCBS in the village of Podem. The children did not trust the staff. There existed tensions between the staff and the children, and among the children themselves. Some of the girls shared that they had received unlawful punishments, such as suspension of vacation privileges (grounding), cleaning duty in the yard and in the common areas, forced haircuts, having to stand outside or in a bedroom for certain periods of time wearing nothing but their underwear. Physical altercations between children appeared to be a frequent occurrence. The NPM team received also complaints about beatings given to undisciplined girls by staff members. The NPM recalls that violence and the imposition of the above punishments amount to inhuman and degrading treatment.

All correspondence to or from the children was allegedly controlled by staff members. Phone calls were limited to two or three a week. The girls were only allowed to make phone calls in the presence of a supervisor and on speakerphone. The NPM is deeply concerned by these allegations as they flatly contravene the children's right to correspondence, to uninterrupted and uncensored communications with others, and to contact with the outside world. The NPM believes also that such treatment prevents the children from lodging grievances and concerns to external institutions.

The NPM inspection team reviewed the Complaints Register and observed that a total of twelve complaints had been recorded in 2015, which related mostly to minor infractions, such as verbal abuse and less frequently physical altercations between the children. The NPM team reviewed also the anti-bullying and harassment register, as well as the inmate girls' personal files. They contained individual case plans, psycho-educational evaluations, court orders for involuntary placement in a correctional institution, certificates of completed level of education, needs assessment reports, reports from the respective Juvenile Delinquency Commissions. The NPM could not avoid a negative assessment of the fact that one of the documents drawn up by a class teacher revealed ethnicity based discrimination towards the child A.S. The teacher had

concluded that the child “was growing up displaying the deficits typical of the gypsies, i.e. lack of responsibility, disinterest and lack of involvement in the learning process, lack of work habits, begging and stealing for survival.”

Another case worth mentioning involves the child S.S. She was sent to a correctional boarding school for a period of six months by a court order handed down by a regional court on 17 December 2014. The six-month period started running in fact from 11 February 2015. On 4 June 2015, one month prior to the summer vacation, the child filed an application stating her express wish to have her stay at the boarding school extended. The Pedagogical Council pointed out in its decision that the process of social work and correctional education activities had not been completed and forwarded a letter to the local Juvenile Delinquency Commission suggesting that the term of stay at the CBS be extended. Cases like that raise, once again, questions about the flawed nature of the system for funding schools and whether the children’s demonstrated willingness to remain in boarding school institutions is genuine.

#### **RECOMMENDATIONS:**

- The SVCBS in the village of Podem should discontinue the practice of storing large quantities of non-prescription medicines;
- The student Y.Y. should be referred to a Work Capability Assessment Board for certification with a view to determining whether it is appropriate to keep her at boarding school;
- The premises should be continually heated and adequate supply of hot water should be provided on a daily basis for the purposes of bathing and washing personal clothing and underwear;
- The ‘Dream House’ should be used to its full capacity and clear-cut criteria should be set up for how to select the girls to be accommodated there;
- The NPM is of the opinion that additional psychology work is needed and believes also that an external specialist should be attracted from outside the system to work with both the children and the staff;
- Monitoring of children’s phone calls should be discontinued;
- The NPM calls on the competent authorities, specifically the Prosecutor’s Office, the Ministry of Education and Science, and the SACP, to investigate all reports of violence and unlawful punishments imposed on the children;
- The administration should provide psychological support in all cases and forms of child aggression.

### **5. ‘ANGEL UZUNOV’ CBS, TOWN OF RAKITOVO, PAZARDZHIK PROVINCE**

#### **5.1. Physical Environment and Equipment**

At the time of the inspection, there were fifty-three boys on the roster of the ‘Angel Uzunov’ Correctional Boarding School (CBS) in the town of Rakitovo, Pazardzhik province. Only forty-five of those were actually present at the school. One was on sick leave, one had escaped, three had failed to return after summer vacation, and three had been remanded in custody.

The CBS is housed over two main buildings. The first one houses the living quarters, the kitchen and the refectory, while the second building houses the school and the administration. The boarding school is located over a large area amidst pine forest. Parts of the fencing were missing. The school has a spacious yard and a sports ground. The school building contains the classrooms, a gym, a sensory room, and a computer room. There were video surveillance cameras installed in the corridors of both the school and the dormitory buildings. Due to budget

constraints, there was no 24-hour security monitoring. There were repairs to the school building roof (roofing tile replacement) underway at the time of the NPM visit.

The NPM determined that the condition of the physical environment and equipment had remained unsatisfactory despite partial repairs to sections of the bathroom and toilet facilities in the dormitory. The children's bedrooms had worn out furniture and insufficient personal space.

The children were given food prepared in accordance with a recipe book and a guide to menu planning. The calorific value of the food was sufficient but the menus were unvaried and the intake of milk, yoghurt, and fresh fruits was insufficient. The NPM team did not receive any complaints from children about the quality of the food.

## **5.2. Education and Training**

In the academic year 2015/2016, the CBS in the town of Rakitvo provides educational service to the inmates from grade 6 through grade 12. The boarding school offers specialized vocational training classes in window and door manufacturing, and in locksmithing.

A major issue identified in the previous inspection came to the fore once again in this year's inspection. It relates to the lack of adequate education process. Learning was clearly neglected by the students and their activities related mostly to sports and the games organised at the boarding school. The use of the computer room was scheduled and the students had a certain amount of individual computer time.

Eleven children had special educational needs and their education was supported by a resource teacher.

## **5.3. Medical Care**

The boarding school has a health room. Its equipment was found to be outdated and worn out but the health room did meet the requirements of *MoH Ordinance No. 3 of 27 April 2000 on health rooms in childcare facilities and schools*. The emergency medicine cabinet was adequately stocked. The health room was staffed by a full-time assistant medical officer. He had been supplied with the complete set of medical documents as per the said Ordinance, but had been failing to keep them accordingly. There were no entries of 2015 annual health screening assessments. The only record book kept was the one containing entries of students' immunization status. The medical records reviewed contained the individual outpatient record of the student I.Z. even though he had been moved to the reformatory for male juveniles in Boychinovtsi and his medical record should have been sent along with him. The NPM team found out that the assistant medical officer was not familiar with the health status of the students at the boarding school.

The health room had been inspected at the start of the academic year by the RHI of Pazardzhik Province.

All inmate students were registered with a GP practice and were also on a dentist's patient list. As regards their annual health screening assessments, the GP insisted that the anthropometric measurements were to be performed by the assistant medical officer at the boarding school and vice versa. No students at the boarding school required continued medication therapy. Eleven students had been diagnosed with mild mental retardation. They had therefore been assigned a specialist resource teacher. V.K. has a mixed developmental disorder with externalized attachment disorder behaviours. It was established that in regard to H.G. there existed an expert decision by a Work Capability Assessment Board (WCAB), valid through 2016,



diagnosing him with a hyperkinetic behaviour disorder. At the same time, however, there was a GP-issued interim epicrisis diagnosing him as “clinically normal”. The students’ medical documents available upon their admission to the boarding school were stored in their administrative files and were unknown to the GP, which is a contravention of Article 45 of the *Rules and Regulations on the Setup and Operations of Correctional Boarding Schools and Social and Pedagogical Boarding Schools*.

Most students interviewed admitted to using tobacco products without restrictions, as well as psychoactive substances during school holidays. None of the students expressed dissatisfaction with the quality of the medical care provided at the boarding school.

#### **5.4. Administration and Management**

As was evident from the staff establishment plan, the boarding school had a staff of thirty-five members: one principal, one assistant principal, twenty-three education specialists (Ed.S.), and ten administrative and support staff.

Staff members were assigned to duty on a rotating schedule with a view to ensuring around-the-clock availability of teaching staff (two supervisors were present on night duty) and safe continuity of child care and responsibility between shift changes.

#### **5.5. Protection Measures**

What the NPM inspection team found to be extremely worrying was the psychosocial safety climate within the boarding school. The work environment was poisoned and hostile. The relations between students and staff were far from good. The boarding school staff were pitted against the NPM inspection team just as well.

During the interviews, most children appeared to be tense, anxious, and reluctant to share. According to staff members, the lack of clarity as to whether the institution would be closed down was conducive to stress, as some of them might lose their jobs. With a view to coping with the negative psychosocial factors and poisoned work environment, the NPM recommends that supervision with staff members be conducted. Furthermore, an external psychologist should be hired to work on restoring the foundation of trust between the children and the boarding school staff.

Another serious problem identified by the NPM during the inspection at the CBS relates to student drug and alcohol use. The NPM is of the opinion that the boarding school does not have professionals capable of dealing with the issue. Hence, assistance should be sought from external institutions and organisations. The same problem had been repeatedly identified during inspections conducted by other entities, such as the State Agency for Child Protection and the public prosecutor’s office in the provincial capital of Pazardzhik. Furthermore, the public prosecutor had issued an order that the principal explicitly forbid students from bringing, being in possession, or using cell phones on school campus. All cell phones are collected from the students upon arrival to the school, logged, and stored for safekeeping by school supervisors. Phones are returned to the children upon leaving the school. A free phone line is provided for the children on Thursdays, Saturdays, and Sundays to make calls to their near and dear. Phone calls are only made in the presence of a teacher or a supervisor.

In talking to the children, the NPM team received a number of complaints about thefts and violence between students, as well as about conflicts between students and supervisors. In a minuted interview with the child A.H., conducted on his own initiative, he shared that on 21 November 2015, between 7:15 and 7:30 p.m., he was physically assaulted by a supervisor. The supervisor in question also presented to the NPM team his version of events. He denied the

assault allegations made by the child and maintained that A.H. was inebriated and was making threats of violence and harm directed at the supervisor and his family. The supervisor immediately notified the police of the incident, and the child filed a complaint with the Child Protection Department in the town of Rakitovo on 30 November 2015. Upon talking to the student and the supervisor, the NPM team reviewed the video surveillance footage of the incident, but it was not possible to reach an unambiguous conclusion about the occurrence. The NPM insists, in view of the seriousness of the allegations, that the competent authorities conduct an in-depth and effective child abuse investigation, which should result in revealing the objective truth.

In talking to the children, they expressed their satisfaction with the opportunity to work as hirelings in the town. Most of them came from institutions or from low-income families and did not have the means to meet certain basic needs. The NPM needs to, once again, point out the need for regulations and guidelines on the employability of institutionalized children and adolescents, given that their engagement in paid work is a real social fact even now.

All of the previously mentioned problems and frustrations associated with escorting children to court hearings and hospitals were shared by the staff at the CBS in the town of Rakitvo as well.

The NPM team reviewed the anti-bullying and harassment register, and the inmate boys' personal files. The files contained court orders, individual programs for correctional education work and resocialization, need assessments, reports from local Juvenile Delinquency Commissions, reports on follow up measures. In the opinion of the NPM, the casework plans were standard and identical, and did not meet the children's individual needs. Out of all court decisions randomly reviewed, the NPM found just one, which had been appealed, at the legal representative's request, to the competent appellate court insisting that the correctional measure be repealed.

During the interviews, the NPM team received a number of complaints about an unlawful punishment involving detention (grounding) in an isolation room. In cases of serious misconduct, children would be grounded in a designated isolation room and would not be allowed to leave it except for meals. These allegations are extremely worrying in view of the rights of the children placed in the boarding school. The NPM identifies such practice as inhuman treatment. It should be discontinued by the boarding school administration without delay.

#### **RECOMMENDATIONS:**

- Improve the interaction between the assistant medical officer and the GP; ensure that the GP has access to students' medical documents stored currently in their administrative files;
- CBS and SPBS *Rules and Regulations* should lay down the procedure for collecting and storing health-related information in boarding schools;
- Ensure sufficient intake of fresh vegetables and dairy products;
- The practice of allowing students to work outside the institution without professional supervision should be discontinued;
- Provide supervision for staff members and hire an external psychologist to work towards restoring the foundation of trust between the children and the boarding school staff;
- Take urgent measures to end student drug and alcohol use at the boarding school;
- Every incident of violence, aggression or abuse by boarding school staff should be thoroughly documented;

- The practice of imposing punishments other than the statutory ones should be discontinued;
- The NPM would like to receive further information on the investigation into child abuse allegations involving student A.H.

## **6. 'HRISTO BOTEV' SPBS, VILLAGE OF DRAGODANOVO, SLIVEN PROVINCE**

### **6.1. Physical Environment and Equipment**

The '*Hristo Botev*' Social and Pedagogical Boarding School (SPBS) in the village of Dragodanovo, Sliven province, is about twenty-three kilometres (some 14 miles) away from the city of Sliven. The remoteness of the SPBS from the city impedes the process of children's resocialization and prevents also frequent visits by family members. The NPM believes that the isolation of the children at the boarding school in Dragodanovo will have a negative impact on their psychosocial development.

At the time of the NPM visit to the '*Hristo Botev*' Social and Pedagogical Boarding School in Dragodanovo, there were a total of thirty-children held there – nineteen boys and seven girls. Three had escaped and were on the loose, one was listed on the national wanted persons system, and another one had failed to return after summer vacation.

The SPBS is housed in two separate buildings. The first one is a two-storey school building including on the ground floor one classroom, a cooking and food preparation room, a gym, and a kitchen. Situated on the second floor are four classrooms, an art therapy room, a computer room, and the psychologist's office. The second building is the dormitory. The children's bedrooms contain minimal furniture – just a wardrobe closet or a cabinet, which are not sufficient to meet the children's needs. The rooms have no private sanitary facilities. There are two common sanitary facilities on the second and on the third floor. The condition of the kitchen and the refectory was good. As was evident from the weekly menus, the calorific value of the food was insufficient, the meals appeared to be unvaried and the intake of dairy products, meats, and fruits was also insufficient.

There were CCTV cameras installed in all corridors, and there was also outdoor security.

### **6.2. Education and Training**

The SPBS in the village of Dragodanovo provides education to children from grade 2 through grade 8. The school had formed three composite classes. The first one was a multi-grade class serving second through fourth grade students. The second was a composite grade 5 and 6 class serving fifteen children. Ten students attended the seventh and eighth grade combo class.

The NPM established once again that most children were illiterate despite holding a certificate of completed grade five or grade six.

In talking to the children, they shared their preference for more extracurricular activities, as well as for various social activities.

It was observed that the sports equipment in the gym and on the sports ground was outdated, worn out and did not satisfy sufficiently the children's needs. This had necessitated the use of another school building for conducting sports activities and events.

Four children had special educational needs and visiting specialist resource teacher assisted their classroom teachers.

### **6.3. Medical Care**

In 2014, there was a health room at the boarding school. However, the healthcare professional had been let go and the health room was not operational in the 2015/2016 academic year. All students had been registered with a GP practice in the city of Sliven. They were also on the patient list of a Sliven-based dentist (some 20+ kilometres away). School supervisors would take students who needed to see their healthcare providers in their private vehicles and outside working hours. Medical emergencies occurring at school are responded to by the 24-hour Accident & Emergency Centre in the city of Sliven. The average ambulance response time is about twenty minutes. At the time of the inspection there were two students diagnosed with chronic conditions requiring continued medication therapy. I.N. had been diagnosed with moderate mental retardation accompanied by grand mal seizures. M.P. had been diagnosed with epilepsy with grand mal seizures, bronchial asthma, and enuresis nocturna. He required assistance by a resource teacher in the learning process. M.P.'s seizures were frequent and severe and his stay at the boarding school involved risks. The NPM considers that the provision of Article 17, para 3, item 2 of the *Rules and Regulations on the Setup and Operations of Correctional Boarding Schools and Social and Pedagogical Boarding Schools* should apply in this student's case. The student N.S. had had her pregnancy detected and her release from the boarding school was impending by the end of the same month. The chronically ill students had their medicines stored and dispensed by their supervisors. A register entry would be made accordingly and the students would sign upon taking their medicine. The student's medical documents were stored in a separate section of their administrative files. Most students had had their 2015 annual health screening assessments performed as was evident from the outpatient examination reports. The students' preventive health care cards were available but had no entries made.

None of the children interviewed expressed dissatisfaction with the medical care provided at the boarding school. Some students complained about problems with the food. Most students admitted to using tobacco products, as well as psychoactive substances during school holidays.

#### **6.4. Administration and Management**

According to its staff establishment plan, the boarding school had a staff of twenty-four members: one principal, six supervisors, four teachers, one psychologist, one accountant, and support staff. Staff members were assigned to duty on a rotating schedule to ensure around-the-clock availability of teaching staff and safe continuity of child care and responsibility between shift changes.

The establishment plan had no social worker posts. The absence of such professionals impedes the process of children's adaptation and re-integration into their normal environment. It hinders also the maintenance of family contacts and minimizes the personal approach to child-and-family-centred casework. To put it briefly, it does not potentiate positive results.

#### **6.5. Protection Measures**

During the inspection at the SPBS in Dragodanovo the NPM identified evidence of favourable psychosocial safety climate. The children trusted the staff and the faculty. Peer interactions proceeded smoothly. There were no signs of tension between the staff and/or the children.

The NPM team reviewed also the register of bullying and harassment incidents and escapes. A total of five escapes from the boarding school were registered in 2015.

The alarming fact remains that most court decisions ordering children confined to boarding school institutions relate to antisocial and delinquent behaviour such as begging, collecting scrap metal, escapes from institutions for children deprived of parental care. The NPM would

like to reiterate that those status-related offences committed by children should not be classified as antisocial acts, but as types of social problems whose solution is the responsibility of the Child Protection Departments under the Social Assistance Agency, the State Agency for Child Protection, the schools, parents, and all other competent authorities and stakeholder organisations. In such a context, it is crucial to implement the child and juvenile justice reform as soon as possible.

**RECOMMENDATIONS:**

- Effect repairs to the gym;
- Hire two full-time social workers;
- Ensure sufficient intake of fresh fruits and vegetables, eggs, dairy products, and meat;
- Draft the next-year social activities plan;
- The student M.P. should be referred to a WCAB for certification and actions should be taken for his release from the SPBS.

**Further to this report's publication, the Prosecutor's Office of the Republic of Bulgaria, in collaboration with all other competent authorities, launched joint investigations into the operations of those institutions. The Ombudsman Institution, acting as designated NPM, has also been invited to partake in the inspections.**

**Note: At the time of writing this report, the inspections had not yet started.**

## PROTECTION OF PERSONS WITH MENTAL ILLNESS

- The system for providing medical and hospital care at state-run psychiatric hospitals (SPH) remains outdated and unreformed.
- Most NPM recommendations directed at the Ministry of Health for much needed changes to the funding structure for state-run mental health services, medical standards implementation, and restructuring mental health institutions remained outstanding in 2015.
- The competent institutions have been failing to find solutions to the serious problems related to the poor condition of the physical environment and equipment and inadequate staffing. These problems directly affect and violate the rights of both psychiatric inpatients and healthcare workers in mental health institutions.
- Some psychiatric inpatients are persons of low socioeconomic status and the SPHs are required to perform social care functions as well. The recommendation directed at the MLSP to open additional social service facilities remains outstanding.
- There remains the need for a comprehensive reform with a view to ensuring the health-related human rights of persons with mental illness and provide them with adequate social support.

In 2015, the NPM conducted six inspections in healthcare establishments for residential mental health treatment services: the State-Run Psychiatric Hospital (SPH) in the village of Karvuna, municipality of Balchik, the SPH in the city of Pazardzhik, the SPH in the town of Radnevo, the SPH in the city of Lovech, the SPH in the village of Karlukovo, municipality of Lovech, and the Mental Health Centre (MHC) in the city of Plovdiv.

**This year's inspections identified, once again, the unsatisfactory condition of the state-run inpatient mental health treatment services and the need for comprehensive system reform.**

The physical environment and equipment of most healthcare establishments (HE) inspected was found to be in a poor state of repair and worn out. The two exceptions were the SPH in the city of Pazardzhik and the Mental Health Centre (MHC) in the city of Plovdiv. Partial repairs had been carried out to the inpatient wards at the SPH in Karvuna and the SPH in Karlukovo. Even though the NPM considers those to be a positive development, they were insufficient against the background of the hospitals' actual needs, which have remained unmet. Some structural changes had been effected at the SPH in Karlukovo. The number of wards had been cut from seven to five, forty hospital beds had been lost, the hospital pharmacy had been closed, and the management team had been replaced. Overcrowding and lack of enough personal space for the inpatients were identified in some of the wards at the SPH in Karlukovo and at the SPH Radnevo.

The technical equipment required for the medical treatment process was found to be inadequate in all mental healthcare establishments. With the exception of the SPH in Pazardzhik, all other hospitals did not have central oxygen supply systems, which are required for the provision of mental health services according to the Mental Health Standards. **The MoH finds it difficult, if not impossible, to have such installations fitted in the hospitals' worn out buildings, so oxygen canisters are supplied for the purposes of the medical treatment process.** Medical diagnostic laboratories that meet the requirements of the Clinical Laboratory and Diagnostic Imaging Standards had opened at the SPH in Pazardzhik and at the MHC in Plovdiv. The remaining SPHs either did not have medical diagnostic laboratories or the existing ones

were sub-standard. Some SPHs had outsourcing agreements with external HEs to have clinical tests, X-rays, and EEGs performed, as well as other specialized medical services provided for them. Most such HEs, however, are located elsewhere, which contravenes the Mental Health Standards. The SPHs in Karlukovo and Karvuna are located away from populated areas and are served by poor road infrastructure, which is an additional impediment to the timely provision of other specialized medical services and tests for their mental illness inpatients. **Acting on a recommendation by the NPM, the SPH in Pazardzhik had procured electroconvulsive therapy (ECT) equipment.**

**Pharmacies exist at the SPHs, but not all of them operate in keeping with the requirements of Ordinance No. 28 of 9 December 2008 on the set up and standard operating procedures of pharmacies and on the nomenclature of medicinal products for humans** (Наредба № 28 от 9.12.2008 г. за устройството, реда и организацията на работата на аптеките и номенклатурата на лекарствените продукти). Shortage of medicaments for the medical treatment process at the hospitals did not appear to exist.

As regards staffing of healthcare establishment, there remains a trend towards an increasing loss of medical and non-medical specialists. **In some places discharged patients work as volunteer orderlies. Shift work is performed by the minimum possible number of staff, which poses risks for both the staff and the inpatients.** Of all the hospital inspected only the SPH in Pazardzhik was adequately staffed.

All mental healthcare establishments are required to comply with the Mental Health Standards approved by *MoH Ordinance No. 24 of 7 July 2004*. Only the SPH in Pazardzhik, however, meets the standards. The hospital is accredited with an excellent evaluation for a period of five years and is designated as an active treatment teaching psychiatric hospital.

The NPM has repeatedly recommended that the MoH should initiate legislative amendments designed to establish levels of competence of residential SPH and MHC structures in accordance with medical standards. **The 2015 amendments to the Healthcare Establishments Act regulate the establishment of levels of competence of MHC structural units. The NPM insists that such change should be legislated also in regard to the SPHs in implementation of the recommendation for changes to the funding structure for those healthcare establishments.**

This year's NPM inspections identified, once again, long hospital stays and repeated hospitalizations of patients of low socioeconomic status (SES), who are homeless or rejected by their families or guardians. Due to the shortage of beds in nursing and residential care facilities, the Social Assistance Directorates are either unwilling or, in most cases, truly unable to cooperate and accommodate discharged low SES patients with mental illness in specialized social service facilities. **The NPM has repeatedly alerted the MLSP and has recommended that more social service facilities for persons with mental illness should be opened. To date, however, no actions have been taken for this purpose.**

The NPM inspection identified a higher lethality rate at the SPH in Karlukovo compared to the SPH average for the country and considered that to be an unflattering indication of the treatment process quality. The daily food allowance at the SPH in Lovech was found to be lower than the SPH average for the country, which in the opinion of the NPM was an unflattering indication of the quality of mental health care.

**Social rehabilitation and psychological care in SPHs was found to be underdeveloped.** The physical environment and equipment of some of the hospitals are in poor condition (e.g., the SPH in Karlukovo), most SPHs are understaffed, and overall there is no statutory regulation of the conditions for engaging persons with mental illness in work activities as per Article 151 of the *Healthcare Act*. In most cases, inpatients were kept on medication therapy alone plus open

air walks depending on their treatment regimens. The only exception in this regard was the SPH in Pazardzhik, where psychosocial activities were adequately developed.

Further to this year's inspections, the NPM addresses the following recommendations to the Minister of Health:

- It needs to be determined which SPHs meet the Mental Health Standards requirements and the failing ones should be restructured into long-term care SPHs or into long-term care and rehabilitation SPHs;
- There needs to be well-regulated procedures in place to establish the levels of competence of residential SPH structures. Information on SPH activities should advise of those levels with a view to assuring the quality of the medical care provided and assuring that the rights of patients are protected;
- It is necessary and appropriate to extend the possibilities for the funding of SPHs with a view to ensuring decent wages for both medical and non-medical specialists and ensuring also adequate staffing levels in state-run mental health services;
- capital expenditure funding should be provided to the SPHs on a regular basis for building repairs and maintenance and to ensure the physical safety and good living conditions in healthcare establishments;
- The Ordinance provided for in Article 151 of the *Healthcare Acts* needs to be issued.

The NPM addresses the following recommendations to the Minister of Labour and Social Policy:

- Expand activities related to the provision of social services to persons with mental illness in conformity with the needs of society and discontinue encumbering SPHs with social care functions;
- Support economic activities of healthcare establishments as per the National Employment Plan.

The NPM calls also on local governments to provide high quality road infrastructure connecting healthcare establishments.

The NPM has established once again in this reporting period the need for better interaction between the various institutions and for their representatives' involvement in the process of delivering mental healthcare services. There is a pressing need to set up support mechanisms for the families or guardians of persons with mental illness. These issues will remain in the focus of the NPM's activities in the coming year.



## SOCIAL AND MEDICO-SOCIAL CHILDCARE INSTITUTIONS

- 2015 saw the end of the process of deinstitutionalization, i.e. the closure of institutions for children with disabilities. The new social service facilities where the children have been moved fail to meet some of their needs. There is a shortage of specialized professional care and the approach to accommodating the different groups of children impedes the provision of adequate care.
- The process of deinstitutionalization of children placed in HMSCC is still underway. In 2015, the NPM identified, once again, risks with regard to the relocation of the most severely disabled associated with the deficiency of sufficiently specialized residential medical and social services.

## DEINSTITUTIONALIZATION AND NEW RESIDENTIAL SOCIAL SERVICES

In 2015, the NPM team continued to monitor the process of deinstitutionalization of children with disabilities, namely their removal from homes for children with mental retardation and homes for medical and social child care and their accommodation in family-type placement centres (FTPC). To this end, the National Preventive Mechanism inspected eleven FTPCs. This year's findings of the NPM team were, for the most part, identical with last year's recommendations.

**A most important recommendation made by the NPM was to avoid mixed accommodation of children and adults with disabilities in FTPC as this might result in serious difficulties associated with the quality of care, including issues with children's sexual maturation and different types of needs.** Nevertheless, the mixed accommodation of children and much older adults has continued. By way of example, the NPM team came across a case at a FTPC in the city of Plovdiv where the youngest child resident was seven years old and the oldest person was thirty-three. **The NPM believes that such age gaps between FTPC residents is a negative condition for poor quality of the social care service and is at variance with the children's best interest.**

In 2015, the NPM continued to receive concerns regarding insufficient project planning and lack of groundwork for the process of moving children from institutions into FTPCs. It seemed also that the need assessments of the children with disabilities made prior to moving them with a view to deciding on a most appropriate new accommodation underwent frequent changes. This resulted in a number of problems facing both the staff at the former institutions and the teams at the FTPC where children were moved to. Given that children with disabilities require longer preparation before making the move, this causes mental and health issues for them as well.

**While inspecting different FTPCs, the NPM team found that the quality of care for children with severe disabilities did not meet children's health needs, which posed an immediate threat to their health or lives.** By way of example, there is no night-shift medical staff at the FTPCs, so it is the night-duty caregivers who administer medications to children whose treatment regimen requires taking strong medicines. Specialised training and resources for FTPC staff on caregiving for children with disabilities is inadequate. This in turn results in their inability to even identify crisis situations, let alone respond to them appropriately. The high staff turnover remains a major challenge as more than half of the new social service workforce has been replaced. In most of the municipalities offering this type of residential social service a number of advertised vacancies have remained unfilled for quite some time. Another problem identified by the NPM is the lack of clear criteria for recruiting staff to work at the new social service facilities. The NPM has, therefore, addressed a recommendation to the Sofia City Municipality to elaborate a clear

job application procedure when hiring for the family-type placement centres for children with disabilities in the capital city of Sofia. The same problem has been observed in other FTFCs as well.

In 2015, the Ombudsman institution, in its capacity as a designated NPM, received letters of concern from managers of homes for medical and social child care (HMSSC) and from providers of social childcare services. The letters of concern to the Ombudsman described a number of cases involving recurring sibling separation by orders of the Heads of Social Assistance Directorates under the Ministry of Labour and Social Policy. Such acts contravene accepted standards of care for vulnerable children as well as the *Child Protection Act*. The Ombudsman, therefore, called on the MLSP to launch an inquiry into allegations of sibling and kin separation. The Minister of Labour and Social Policy has taken the necessary actions to have such children reunited.

A most important recommendation made by the NPM concerning the provision of medical care to institutionalized children with disabilities is that no hospital establishment in Bulgaria should ever turn away a child in need of treatment, nor should a child be discharged at the end of a clinical pathway's timeline if further treatment is required. **The NPM has repeatedly identified cases of denial of medical care or ill-treatment of children with disabilities by external medical specialists.** Many hospitals are reluctant to hospitalize institutionalized children due to shortage of clinical pathways granted to them by the NHIF. In such a context, the NPM has repeatedly addressed recommendations to the Ministry of Health regarding the need to set up a working group made up by MoH representatives, NPM experts, ward managers of inpatient children's wards at active-treatment hospitals and active-treatment teaching hospitals, and HMSSC managers with a view to drafting a common strategy to solve those issues.

**Further to NPM's repeated recommendations, the Minister of Health issued on 11 September 2015 Order RD 01-192 designating seven multi-profile active treatment hospitals and the Specialized Active Treatment Paediatric Hospital to perform expert assessments of the health status and ongoing health care needs of children with disabilities. Such assessments would underpin the right choice of FTFCs for the children as well as their continued treatment plans at specialized hospital establishments.**

## **MEDICO-SOCIAL CHILDCARE INSTITUTIONS**

2015 saw the completion of the first project aimed at restructuring eight homes for medical and social child care (HMSSC) for children aged 0 to 3. The now defunct HMSSCs have been replaced by new social service facilities: seven family counselling centres, five early intervention centres, eight centres for maternal and child health, two 'Mother and Baby' care units, nine specialized residential care centres for children in need of ongoing health care, eight day-care centres for children with disabilities, three child and adolescent mental health centres, and three foster care centres.

In 2015, the National Preventive Mechanism visited the new social service facilities in the municipalities of Gabrovo, Targovishte, Pazardzhik, Plovdiv, and Montana.

A positive trend noted by the NPM is the sharp decline in the number of children in residential care following the closure of HMSSCs and the opening of the new social service facilities. The length of stay for children has also been dropping. Most children are accommodated temporarily until their medical conditions are stabilized. Furthermore, the new medico-social service facilities in the above municipalities provide care to both children from the local communities and children with disabilities from residential care facilities.

Another positive trend is the fact that the multidisciplinary teams at the new medico-social service facilities have undergone training on working with children under the age of three and with children with disabilities. In order to adequately meet all children's needs, the new facilities are staffed by professional practitioners such as a psychologist, a speech therapist, caregivers, and physical therapists.

The closure of the HMSCCs gave rise to a problem associated with the funding of the new services. On 3 November 2015, the Ombudsman institution, in its capacity as a designated NPM, received a letter of concern from the eight municipalities, which had been implementing pilot projects related to the restructuring of homes for medical and social child care for children aged 0 to 3. The deadline for the completion of the said pilot projects was November 30, 2015, whereafter, effective December 1, 2015, the provision of the new social services would become a state-delegated activity. The problem brought to the Ombudsman's attention related to the sustainability of the new integrated medico-social services. The municipalities had complied with the notification procedure pursuant to the *Rules for the Implementation of the Social Assistance Act* and had notified the Heads of the respective Regional Social Assistance Directorates of the need to draft proposals to the CEO of the Social Assistance Agency to issue an order for the launch of the respective new services effective December 1, 2015.

At the time of writing their letter to the Ombudsman the municipalities had not received any information as to whether the funds needed to continue the delivery of the new social services were available for the remainder of 2015 and/or whether financial resources had already been earmarked for 2016. This posed a risk for the health and development of all children beneficiaries of the services at issue. **The Ombudsman paid a personal visit to the Medico-Social Services Complex in the municipality of Targovishte and talked both to the Complex manager and to the Mayor of the municipality, which is the social service provider. The Ombudsman shared their concerns over the health of the nine children with disabilities accommodated at the Family-Type Placement Centre (FTPC) included in the Complex.**

In such a context, the Ombudsman of the Republic of Bulgaria, acting as designated National Preventive Mechanism, released an official statement pointing out that the display of such attitude towards children with disabilities by government institutions was extremely disturbing. It was pointed out also that the lack of funding for the operations of the Medico-Social Services Complex jeopardised the health and the lives of the children placed at the FTPC. Referring to Article 20, para 1, item 2 of the *Ombudsman Act*, the Ombudsman called upon the Minister of Labour and Social Policy and the Minister of Health to take urgent action to provide the funds required to ensure the sustainability of the medico-social services launched under the pilot projects. In response to the NPM's recommendation, the Ministry of Labour and Social Policy has pledged to provide financing for the services at issue.

## SOCIAL INSTITUTIONS FOR THE ELDERLY

- The eldercare system remained unreformed in 2015 despite the fact that all existing problems had been repeatedly brought to the attention of all competent institutions.
- There exist legislative proposals in the works aimed at positive changes designed to improve access to elderly care and the quality of eldercare services, as well as to assure the rights and protections of eldercare beneficiaries.
- The NPM believes that the time has come to undertake root-and-branch reform of the entire social service system. It is incumbent upon the competent authorities to develop monitoring and control systems and to improve existing planning and funding mechanisms, with an overall aim to improve the quality of the social services provided.

The NPM visited in 2015 five homes for elderly persons with mental retardation and dementia. The team conducted both repeat inspections and first-time visits.

**The repeat inspections at long term eldercare institutions revealed ample evidence that most NPM recommendations had indeed been implemented:**

- The NPM team identified some positive changes at the Home for Elderly Persons with Mental Retardation (HEPMR) in the 'Kachulka' locality associated with the social service management, the physical environment and equipment, and the overall condition of the resident beneficiaries. The NPM gave credit for this positive development to the institution's new management and the regular and efficient oversight over their performance. The NPM highlighted as an example of good practice the fact that in the event of the death of an eldercare beneficiary, a patho-anatomical post-mortem examination would be invariably performed;

**It needs to be pointed out though that sustainability of the good practices at the elderly home could only be achieved with the active involvement and commitment of the municipality of Sliven so that all the necessary repairs would be carried out in a reasonable timeframe.**

- The visit to the Home for Elderly Persons with Dementia (HEPD) in the village of Opanets also provided evidence that most NPM recommendations had been implemented by the social service provider;
- The repeat inspection at the HEPD in the village of Ognen revealed that notwithstanding the recommendations previously made by the NPM inspection teams, the home still had no wheelchair ramp or elevator for persons with mobility deficits. An ad hoc group including representatives of the municipality of Karnobat had examined the feasibility of installing a ramp and had concluded that it had to be electric rather than permanent, but no action had been taken yet to have it installed. The service provider's excuse was, once again, that there were no residents with mobility impairments.

**The NPM finds the argument that creating an accessible environment is irrelevant where the social service is not intended for persons with physical disabilities unacceptable. Similar arguments have been suggested previously in response to the same recommendation. The NPM, therefore, needs to point out, once again, the obligation to create an enabling environment in any place where social services are provided regardless of the type or profile of services.**

It needs to be stressed also that the failure to provide an accessible environment is a violation of the requirements enshrined in:

1. The United Nations *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*;
2. The United Nations *Convention on the Rights of Persons with Disabilities*;
3. The *Integration of Persons with Disabilities Act*;
4. The *Territorial Development Act*;
5. *Ordinance No. 4 of 1 July 2009 on the design, execution of works, and maintenance of buildings in accordance with the requirements for accessible environments for the public, including for persons with disabilities* (Наредба № 4 от 1 юли 2009 г. за проектиране, изпълнение и поддържане на строежите в съответствие с изискванията за достъпна среда за населението, включително за хората с увреждания).

Repeat inspections revealed that a major problem facing all eldercare institutions is the shortage of specialist and non-specialist staff to support resident beneficiaries in their day-to-day activities. Yet another issue came to the fore again, i.e. the lack of medical specialists motivated to deliver high-quality services to persons in residential care establishments.

In such a context, the NPM has recommended to the MLSP:

- Earmark budgetary resources for salary increases for medical staff, as current salary scales are the main impediment to filling the numerous job vacancies available, which in turn undermines the provision of quality health care to HEPC residents;
- Regulate the possibility to add new staff positions for practitioners directly involved in delivering services to eldercare beneficiaries, as well as for auxiliary and support staff.

In a letter Ref. 92-644 of November 6, 2015 the MLSP provided the following response to the NPM recommendation:

- Financial planning for staff wages in the social service system complies with the expenditure standards for the upkeep of the social services. The Council of Ministers adopted Decision No. 859 of November 3, 2015 amending Decision No. 276 of 2015 establishing standard salary scales for state-delegated activities in both volume and value indicators. According to the said CoMs Decision, the average 2016 increase to standard salary scales, compared to 2015 scales, is two percent for all specialised institutions and three percent for community based social services. The only exceptions are the following services: social rehabilitation and integration centre, public support centre, family-type placement centre for seniors, elderly day care centre, centre for social work with street children, vocational training social centre, and transient home. Funding for them is to remain at 2015 salary scales level;
- Changes to staff establishment plans for residential care facilities would contravene the MLSP-approved *Staffing Methodology for Specialised Institutions and Community-Based Social Services*.

**The NPM finds that the approach taken by the MLSP to the Ombudsman's recommendation is an attempt at evading the main issue identified by the inspection teams, i.e. that the quality of eldercare at social institutions for seniors depends largely on the staff.**

The increase in standard salary scales for state-delegated activities by just two or three percent is symbolic and reflects rather the increase to the country's minimum wage rate. As to remuneration of specialists in the field of social care, the Ombudsman, acting as NPM, expressed the opinion that the minimum wage increase would create a real problem at social

institutions as the salaries of specialised employees would become almost equal to those of non-specialist staff. That in turn would result in low employee motivation and would make it difficult to fill vacancies, which is a precondition for lower quality of the social care services delivered at the institutions at issue.

As regards the MLSP position that an increase in the number of staff would contravene the requirements of the *Staffing Methodology for Specialised Institutions and Community-Based Social Services*, the NPM points out its support for the 60:40 ratio between specialist and non-specialist positions referred to by the MLSP. The recommendation of the Ombudsman, acting as NPM, concerns rather the overall number of staff at social institutions with a view to improving the quality of the services delivered there.

It should be noted that the percentages provided for in the MLSP-approved *Staffing Methodology* are meant to be recommendations only. The legal basis section of the methodology at issue makes it clear that it was designed to set out minimum requirements for the staffing structure at specialised institutions and community-based social services.

It is therefore inadmissible to rely on that document to justify the impossibility to increase the number of staff, as it provides the recommended minimum number of staff positions at specialised social institutions and community-based social services.

In the light of the foregoing and also in the context of the growing need of an aging population for services providing high-quality support for the elderly and for persons with disabilities, an example of good practice is the Project '*Development of the System for Planning and Provision of Social Services at the Regional Level*', implemented by the Social Assistance Agency (SAA) with financial support from the Human Resources Development Operational Programme 2007-2013. One of the activities under the Project was the analysis conducted in 2015 of the condition of the specialised institutions for elderly persons and for elderly persons with disabilities. The analysis was based on a comprehensive assessment of every institution, including the condition of the physical environment and equipment, administration and management, staffing, information on the service beneficiaries, and the beneficiaries' involvement in the decision making process. The results are indicative of the quality level of the care provided in specialised institutions, as well as of the organisation and resource management, and the impact of the provision of services on the beneficiaries.

Furthermore, the analysis shows also which institutions require taking urgent intervention measures, phased restructuring, or taking priority measures to ensure the specific needs of the resident beneficiaries.

The main objectives of this project activity were to support the process of deinstitutionalisation of eldercare and care for persons with disabilities, to ensure the implementation of the goals and measures laid down in the *National Long-term Care Strategy*, and to support the drafting of provincial and municipal strategies for the development of social services over the next five-year period.

It is important to note also that **the legislative proposal submitted by the Council of Ministers to the National Assembly to amend the *Social Assistance Act* entails changes in the social services domain aimed at improving both the access to social services and their quality, assuring beneficiaries' rights, including the right to free choice, ensuring individual approach and complex needs assessment.** The amended legislation will refine the Social Assistance Agency's functions related to the provision of methodological support to social service providers. It will regulate also the mayors' responsibility for complying with criteria and standards for provision of state-delegated social services and local activities. The powers of the SAA Inspectorate tasked with exercising specialised oversight over the provision of social services will also be expanded.

The legislative proposal provides also for a comprehensive reform in the social services domain through the elaboration and adoption of a new *Social Services Act*. The purpose of the new act is to improve the efficiency and effectiveness of social services, improve their quality, develop monitoring and control systems, improve their planning, funding, etc.

Another future development is the launch and implementation of the '*New Social Service Standards*' operation under the Human Resources Development Operational Programme 2014-2020. It will entail analysis and development of new quality and funding standards as well as the elaboration of the *Action Plan for the Implementation of the National Long-term Care Strategy*.

The NPM has identified the following main priorities in the domain of eldercare services:

- The physical environment and equipment of all residential facilities should be brought in compliance with the requirements of Article 40f of the *Rules for the Implementation of the Social Assistance Act*, including the creation of an accessible environment;
- The establishment of guardianship should comply with the provisions of Article 156, para 1 of the *Family Code* with a view to curbing the practice of appointing staff members of specialised institutions as guardians;
- The competent institutions should exercise regular and efficient oversight over all service providers of residential elderly care to ensure compliance with the requirements of the *Social Assistance Act* and the *Rules* for its implementation;
- Actions should be taken to have the MLSP-approved *Staffing Methodology for Specialised Institutions and Community-Based Social Services* appropriately updated.

## CUSTODY SUITES WITHIN POLICE DEPARTMENTS

- In 2015, the overall condition of the police custody system remained unsatisfactory. Persistent problems associated with overcrowding and lack of service facilities within the custody suites, the provision of food and medical care, keeping detainees informed of their rights, and proper documenting of detentions are still current in most custody suites.
- Some recent amendments to the legal framework governing police custody are a positive step towards assuring detainees rights.
- However, important issues relating to the provision of medical services in the police custody suites remain unregulated.

In 2015, the NPM conducted inspections in **eight** custody suites run by the Ministry of Interior. The NPM inspection teams visited the Third, Fourth, and Fifth Regional Police Stations (precinct police station) of the Regional Directorate of the Ministry of Interior (MoI RD) in the city of Plovdiv, the military police station in the city of Pleven, the Regional Police Station in the city of Vratsa, the Regional Police Station in the town of Mezdra, The Border Police Station in the town of Elhovo.

The NPM welcomes the passing by the Ministry of Interior of the new *Guidelines Manual 81213-78/24.01.2015 on making an arrest, the equipment of custody suites and the procedure to be followed there* (Инструкция № 81213-78/24.01.2015 г. за реда за осъществяване на задържане, оборудването на помещенията за настаняване на задържани лица и реда в тях), as they have taken into consideration the recommendations given by the NPM between 2012 and 2014. The NPM acknowledges also the efforts made by the MoI leadership to improve the physical environment and living conditions in some custody suites.

**The NPM identified repeated problems plaguing the police custody system, such as overcrowding and lack of service facilities within the custody suites, the provision of food and medical care, keeping detainees informed of their rights, and proper documenting of police detentions.**

Unfortunately, other recommendations previously made by the NPM have remained unfulfilled. The interactions between the MoH and MoI with regard to the provision of medical care in police custody suites remain unregulated. The procedure for providing medical care laid down in the *Guidelines Manual* pertains entirely and only to MoI officers. The provisions of the *Guidelines Manual*, however, fail to regulate in any way whatsoever the duties of MoH staff.

The NPM considers that it is worth pointing out the continued lack of efficient oversight by the MoI inspection bodies and the public prosecutors' offices over the record keeping procedures in those MoI structures that have custody suites or holding cells. In many of the police stations visited by the NPM the existing inspection logs contained no entries of inspections made, infractions identified, and instructions given on compliance with statutory requirements.

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**Commented [VK1]:** И в българския текст е записано „осем“ места за настаняване на задържани лица ...“, и в преводния текст е запазена бройката осем. Но преброяването по хилядолетния метод с пръсти показва несъответствие. Три инспектирани РУП в Пловдив, 1 ВП в Плевен, 2 РУП във Враца и Мездра, и 1 ГП в Елхово на моите пръсти излязоха **седем**.  
**3+1+1+1+1=7**



Nurten Patrakla  
Ivan Dechev