

# 2017 ANNUAL REPORT OF THE OMBUDSMAN ACTING AS NATIONAL PREVENTIVE MECHANISM

## CONTENTS

ABBREVIATIONS .....	2
GENERAL INFORMATION ABOUT THE NATIONAL PREVENTIVE MECHANISM IN 2017 ...	3
Legal Framework.....	3
Statistics about the inspections carried out by the National Preventive Mechanism in 2017 .....	5
PROTECTION OF ASYLUM-SEEKES .....	6
DETENTION FACILITIES .....	9
Detention facilities with the Ministry of Justice.....	9
Detention facilities within the Ministry of Interior system .....	24
PROTECTION OF PEOPLE WITH MENTAL ILLNESS .....	27
SOCIAL INSTIUTIONS FOR CHILDREN AND ADULTS.....	29
Social institutions for children.....	30
Crisis centres for child victims of human trafficking or survivors of violence .....	30
Homes for Children Deprived of Parental Care .....	31
Family-type Centres for Children and Adolescents without Disabilities .....	32
Family-type Centres for Children and Adolescents with Disabilities .....	33
Social services for adults .....	33
COOPERATION OF THE NATIONAL PREVENTIVE MECHANISM WITH INTERNATIONAL AND NATIONAL AUTHORITIES AND ORGANISATIONS .....	38

## **ABBREVIATIONS**

SAA – Social Assistance Agency  
DGEP – Directorate General Execution of Punishments  
SAD – Social Assistance Directorate  
SAR – State Agency for Refugees  
ICDPC – Institution for Children Deprived of Parental Care  
HMSSC – Home for Medical and Social Child Care  
SEPP – State-owned enterprise „Prisons Production“  
SPH – State Psychiatric Hospital  
ECtHR – European Court of Human Rights  
EPRCA – Execution of Punishments and Remand in Custody Act  
OA – Ombudsman Act  
CTPH – Closed-type prison hostel  
OTPH – Open-type prison hostel  
SAA – Social Assistance Act  
CPT – Committee for the Prevention of Torture  
SSC – Social Services Centre  
DLP – persons deprived of their liberty  
MoI – Ministry of Interior  
MoH – Ministry of Healthcare  
DF – detention facilities  
MoJ – Ministry of Justice  
CoMs – Council of Ministers  
HE – healthcare establishment  
NHIF – National Health Insurance Fund  
NPM – National Preventive Mechanism  
MoI RD – Regional Directorate of the Ministry of Interior  
IREPRCA – Implementing Rules of the Execution of Punishments and Remand  
in Custody Act  
RHI – Regional Healthcare Inspectorate  
RAC – Registration and Admission Centre  
RC – Regional Court  
RCntr – Registration Centre  
RPS – Regional Police Station  
SHATPDL – Specialised Hospital for Active Treatment of People Deprived of  
Their Liberty  
SCTAF – Specialised Centre for Temporary Accommodation of Foreigners  
SWCA – Social work and correctional activities (prisons)  
TC – Transit Centre  
ERP – Early release on parole  
OPCAT – Optional Protocol to the Convention against Torture and other Cruel,  
Inhuman or Degrading Treatment or Punishment  
FTPC – Family Type Placement Centre  
FTPCCAD – Family Type Placement Centre for Children and Adolescents with  
Disabilities

# **GENERAL INFORMATION ABOUT THE NATIONAL PREVENTIVE MECHANISM IN 2017**

## **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.

### **Statistics about the inspections carried out by the National Preventive Mechanism in 2017**

**The NPM inspected a total of 61 places in 2017:** five prisons; six prison hostels; 17 detention facilities; five regional directorates of the Ministry of Interior; one correctional facility for minor boys; one specialised centre for temporary accommodation of foreigners (SCTAF) with the Migration Directorate; six centres with the State Agency for Refugees (SAR) with the Council of Ministers (CoMs); three state psychiatric hospitals (SPH) and mental health centres (MHC); eight social institutions for children; and none social institutions for adults.

## PROTECTION OF ASYLUM-SEEKES

- To guarantee the best interest of the child, it is necessary to establish a separate centre for children with the State Agency for Refugees.
- The NPM recommends to find a suitable environment such as a community social service or foster families for children who are outside SAR centres in compliance with the requirements for children's development and education.
- People who have been granted international protection continue living in SAR centres, although they are not entitled to, because they have nowhere else to go.

Amendments to the Rules of Procedure of the State Agency for Refugees (SAR) with the Council of Ministers (promulgated SG no. 70 of 9 September 2016) regulate the powers of the SAR chairperson to designate specific closed-type centres with SAR local branches. In 2017 the NPM established that construction works had started in Pastrogor Transit Centre and one of the blocks of the Harmanli Registration and Admission Centre to transform them into closed-type centres. Thus the number of closed-type centres in addition to the one in Busmantsi, Sofia had become altogether three.

The NPM established that people were accommodated only in the closed-type centre in Busmantsi, Sofia – 44 persons at the time the inspection was carried out. The NPM established that the medical care there was not organized in a way as to take account of the type of centre. There was no health or medical care office. A doctor from “International Protection Proceedings” Department visited the centre twice a week, for an hour. Talking to experts from the NPM, he shared that there were no proper working conditions and that a separate medical expert had to be appointed in the closed-type facilities.

The NPM is of the opinion that the nature of the closed-type facilities requires to ensure primary medical care on the spot, in the centre, and the possibility for obtaining specialised medical or dental care in external healthcare establishments. A recommendation was made to the SAR to organize the medical care in the closed-type facilities appropriately.

In 2017 the NPM established that one person who had filed an application to refuse protection had died in the closed-type centre in Busmantsi. According to data provided by SAR officials, the person died suddenly. Medical experts were called from SCTAF Busmantsi with the Migration Directorate, which was situated nearby. The NPM did not receive further information whether any resuscitating actions had been performed. Afterwards, emergency medical aid was sought; it established that the person had passed away. The doctor from the “International Protection Proceedings” Department stated that he had not been present when the incident occurred. Pre-trial proceedings were launched and subsequently terminated.

Furthermore, the NPM requested information about the grounds to keep in detention in SAR centres people whose proceedings had been terminated and not transfer them to the SCTAF with Migration Directorate. The Ministry of Interior is responsible for taking foreigners out of the SAR centres, as it is in charge of applying

the Foreigners in the Republic of Bulgaria Act. Nevertheless, there was no data about any action taken by the MoI.

The problem with the unused buildings in the Reception and Admission Centres in the village of Banya has not been resolved for yet another year. No action has been taken so far to either regulate or demolish the buildings since the investigation conducted by the prosecutor's office has not been completed

As regards the other SAR centres, the NPM established some changes.

The following action has been carried out or planned to improve the facilities in the Harmanli Reception and Admission Centre:

- cosmetic repairs of buildings nos. 1 and 2;
- overhaul of halls 9 and 11;
- building no. 1 will be transformed in a closed-type of centre with the SAR;
- a plan has been drawn up for a wastewater treatment plant;
- by the end of 2017 a playground will be built;
- a procedure has been launched for making a recreational park.

The International Organisation for Migration is currently working on three projects in RAC Harmanli that have to be completed by the end of 2017: renovation of the outdoor cinema; building a playground; making a cricket grass field.

For several years the NPM was receiving information from the SAR that a complete renovation of the "International Protection Proceedings" Department building in Ovcha kupel neighbourhood in Sofia was pending. At the time the inspection was conducted reconstruction was going on to transform the third floor in a Safe Zone for the accommodation of unaccompanied minors. IOM funded the reconstruction of bathrooms, toilettes and the kitchen in the "International Protection Proceedings" Department in Vrazhdebna. It is planned to build up an integration centre, renovate the toilettes and designate separate space for unaccompanied minors in the "International Protection Proceedings" Department in Voenna rampa with funds in the framework of different projects.

During the inspection we established that unaccompanied minors who had been granted asylum continued to stay in RAC Harmanli. Letters were sent to the Social Assistance Directorate in Harmanli and the State Agency for Child Protection to refer the children to appropriate social services but so far no action has been taken by the competent institutions. The same problem was established in the RAC Sofia. The NPM recommended to find a suitable environment such as a community social service or foster families for children who are outside SAR centres in compliance with the requirements for children's development and education.

The NPM is of the opinion that the current practice to accommodate unaccompanied minors, mainly boys, in places designated for the accommodation of adults should be terminated as it creates a grave risk for children's health and life due to possible exploitation or traffic. To guarantee the best interest of the child, it is necessary to establish a separate centre for children with the State Agency for Refugees.

Another problem is the representation of unaccompanied minors who seek or have been granted international protection. Pursuant to Article 25 of the Asylum and Refugees Act, representatives from the municipal administration designated by the mayors must be assigned to unaccompanied minors who seek or have been granted international protection in Bulgaria. In practice, however, in some centres there are no

assigned representatives to defend the interests of unaccompanied minor refugees, and in other centres the assigned representatives perform their duties in a formal manner due to the large number of children they have to represent.

Another problem that the NPM established was that 56 people who had been granted international protection continued to stay in the “International Protection Proceedings” Department in Ovcha kupel. In the “International Protection Proceedings” Department in Vrazhdebna there were families and children, a total of 65 people, who had also been granted international protection. However, they continued living in SAR centres, although they were not entitled to, because they had nowhere else to go.

A regulation was adopted by CoMs decree no. 14 of 19 July 2017 for the terms and procedure for concluding, implementing and terminating agreements for the integration of foreigners who have been granted international protection in Bulgaria.

The NPM established that the Regulation was not applied in practice. Mayors of municipalities have to file an application to the SAR chairperson for concluding integration agreements. At present not a single municipality has signed an integration agreement with a foreigner who has been granted international protection or asylum.

The integration agreement includes an individual integration plan and specific integration measures as regards education, social assistance, medical care and health insurance, access to the labour market etc. Failing these, the integration of people who have been granted international protection or asylum is impossible.

## DETENTION FACILITIES

### Detention facilities with the Ministry of Justice

- Partnership between the Council of Ministers and representatives of the trade unions in the Ministries of Defence, Foreign Affairs and Justice is required.
- The Minister of Justice order regarding the initial distribution of persons deprived of their liberty and the allowed items to be inscribed in the Implementing Rules of the Execution of Punishments Act.
- Unresolved problem with overcrowdedness.
- The compensation model to avoid overcrowdedness is ineffective.
- Article 46, para 2 of the Execution of Punishments and Remand in Custody Act is systemically not applied.
- There are no statutory minimal standards about daylight in place.
- Barred visits as a rule.
- Violations of the secret of correspondence.
- Useless constitutional prohibition that restricts the persons' deprived of their liberty right to vote.
- Transfer to another prison as an unregulated sanction upon a contact with the media.
- Lack of enough social workers and sufficient budget funding for meaningful activities.
- Failure to pay full size wages.
- Violated rights to social insurance.
- Violated rights to education as regards higher education.
- Monopoly prices in the prison shops.
- Unreformed prison healthcare system.
- Torture under the disguise of search and seizure during night hours.
- Lack of adequate judicial defence in case of disciplinary sanctions.

- Unlawful use of handcuffs in the detention facilities in Sofia, and upon the establishment of healthcare facilities.
- Opportunity to use automatic weapons in prisons even where prisons are located in a city.
- Violation of the right to defence of people deprived of their liberty by the operational officers of the Ministry of Interior in prisons.

In the last two years the National Preventive Mechanism visited all detention facilities with the Ministry of Justice, save for the ones in Kardzhali, Pernik and the open-type prison hostel in Smolyan. Like last year, this year the NPM reports considerable improvement of the living conditions in the detention facilities. There are some mistakes regarding inappropriate planning and construction, probably related to wrong assignments. We have followed the action taken upon recommendations of the CPT and NPM. All reports of the inspections have been published on the website of the Ombudsman. Some good practices have been established, e.g. in the prison in Pleven, as well as some bad ones in the investigation detention facility “G. M. Dimitrov” in Sofia. The NPM made efforts to follow the implementation of the most recent amendments and supplements to the Execution of Punishments and Remand in Custody Act (EPRCA) and support as far as possible the improvement of the legal regulation.

This annual report follows the structure of the European prison rules (EPR). Quotes from the EPR are given in italics.

### **Prison staff**

*8 Prison staff carry out an important public service and their recruitment, training and conditions of work shall enable them to maintain high standards in their care of prisoners. “*

*79.1 Salaries shall be adequate to attract and retain suitable staff.*

*79.2 Benefits and conditions of employment shall reflect the exacting nature of the work as part of a law enforcement agency.*

In the course of previous inspections in the Directorate General Execution of Punishments (DG EP) in 2016 the NPM noted down that the substantial discrepancies in the general and additional payment of officials in the Ministries of Defence, Interior and Justice were due to different budget funding. The NPM pointed out the need of overall guidance under Article 105, para 2 of the Constitution as regards these issues as well as legislative amendments. The lack of a uniform approach of the administration leads to social problems.

Overtime in the system of the Ministry of Interior (MoI) is from 50 to 70 hours per quarter, unlike the system of the Ministry of Justice where it is from 30 to 50 hours. One of the persistent recommendations of the CPT concerns the risk for the people deprived of their liberty, the officers and the public at large due to understaffing in the detention facilities. The budget restrictions in relation to the number of social workers

is one of the main reasons for the high percentage of recidivism after serving prison sentences and thus for higher public costs.

The adoption of new laws such as the Military Police Act, National Safeguard Service Act, or State Agency for National Security Act does not solve this problem. It is not clear why different sums are paid for food given the existing healthy eating standards. The NPM could not find any explanation for some of the extra payments for specific working conditions. Differences are established as regards the overtime payment under the Defence and Armed Forces Act, the Ministry of Interior Act etc. These official relations need to be systematized and coordinated, which requires direct communication between the Council of Ministers, representatives of the trade unions, Rakovski Legion and representatives of the employers' organisations.

### **Allocation and Accommodation**

*17.1 Prisoners shall be allocated, as far as possible, to prisons close to their homes or places of social rehabilitation.*

The NPM recommends that the order of the Minister of Justice as regards the initial allocation of persons deprived of their liberty and the authorized items becomes part of the Implementing Rules of the Execution of Punishments and Remand in Custody Act.

*17.3 As far as possible, prisoners shall be consulted about their initial allocation and any subsequent transfer from one prison to another.*

Despite the subsequent critical notes, the NPM acknowledges substantial progress in this regard by the DG EP administration following the amendments in the EPRCA. There are still unreasoned refusals or letters instead of relocation orders but these are exceptional. In 2016 the NPM made a recommendation to serve persons deprived of their liberty a copy of the re-allocation order.

Officers of the Directorate General Execution of Punishments rightfully require written consent in the application of Article 62, para 1, item 5 EPRCA (relocation due to overcrowding), although there is no such statutory requirement. The law does not specify the way in which people deprived of their liberty are selected for relocation. When amendments in this regard were adopted, the NPM provided its opinion to the National Assembly and voiced its concerns about possible discrimination in the application of this provision. The legal text provides for a compensation mechanism to avoid overpopulation but fails to meet the legislator's expectation.

The NPM established that the people deprived of their liberty did not appeal the relocation orders within the prescribed time limits but sought on more occasions the Ombudsman's assistance under Article 100 of the Administrative Procedure Act for resuming proceedings and eliminating violations.

*18.1 The accommodation provided for prisoners, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, and meet*

*the requirements of health and hygiene, due regard being paid to climatic conditions and especially to floor space, cubic content of air, lighting, heating and ventilation.*

Directorate General Execution of Punishments reports 5,689 seats capacity in the closed-type prison areas (closed corps buildings and dormitories) (subject to the required 4 square meters), with about 400 places free total capacity as of September 2017. There are approximately 300 free seats in the open-type prison facilities and in the detention facilities. This should justify a conclusion that the issue with overcrowding is solved.

In the course of its inspections, the NPM established overcrowding almost everywhere due to the following reasons:

1. the living area is measured incorrectly together with the sanitary unit;
2. the number of beds maintained is higher than the announced capacity;
3. the people deprived of their liberty and the prison staff have no information whether the premises conform to standards when taking decisions for relocation from one premise to another. In case there is such information available, it is not public – there are no diagrams in the premises indicating the allowed number of people;
4. when reaching full capacity, temporary overcrowding related to the inmates' personal characteristics is imminent, and the prison administration should take account of this.

The NPM received divergent information about the prisons' capacity. The NPM recommendation to establish a public register with the living areas has not been followed. These areas are not specified in the presentation of the various prisons on the DG EP website. This hinders the work of the administrative courts and results in summoning other prisoners as witnesses or appointing unnecessary expert opinions.

The Minister of Justice fails to comply with the requirement set forth in Article 46, para 2 EPRCA to submit within one month to the Council of Ministers the NPM recommendations for closing down, reconstructing or expanding prisons. The NPM has made such recommendations in relation to the prison in Sofia; the prison hostel Keramichna fabrika; the detention facility in Dupnitsa. As regards the prison hostel Keramichna fabrika, the NPM has been notified by the director general of DG EP that an investment project has been drawn up for a building where to transfer the prison hostel. The building was provided by the regional governor in 2013. At present funding under the Norwegian Financial Mechanism 2017-2021 is expected.

We note down the unwillingness of the Bulgarian authorities to use budget funds and forward to the Council of Ministers the NPM recommendations for closing down, reconstructing or expanding prisons pursuant to Article 46, para 2 EPRCA. The NPM is of the opinion that the lack of financial resources may not serve as a reason for violating the rights of people deprived of their liberty.

In some cases no action has been taken over the period from 2008 to 2017 to transfer property for the purpose of building and reconstructing a prison.

### *18.3 Specific minimum requirements shall be set in national law.*

Article 43 EPRCA refers to the Implementing Rules of the EPRCA as regards daylight and artificial light. Article 20, para 2 of the Implementing Rules, in turn, refers to the "requirements in place for the respective standards for public buildings".

The applicable standard as regards artificial light is set forth in Regulation no. 49 on the artificial lighting in buildings. Pursuant to Article 45 of this Regulation, the average illumination of living rooms in hostels, hotels, dormitories, children's homes and crèches when all lights are on should be 75 luxes. There is still no standard for the volume of daylight, although the NPM made a recommendation to that end. The Ministry of Justice did not respond, and DG EP informed the NPM that 150 luxes was in accordance with the Regulation, failing to comment the NPM finding that daylight of 55 luxes was insufficient.

The lack of legal clarity facilitates contradictory case-law on that matter. For example, in one judgment the court established that "given the fact that the cell is 29,47 sq. m. and has three windows, each 0,75 sq. m. or a total area of the windows of 2,25 sq. m., the court is of the opinion that the flow of daylight in this cell is insufficient". There are no effective legislative measures to rule out torture. The NPM recommendation to introduce minimum standards for lighting in the EPRCA Implementing Rules has not been followed.

*18.4 National law shall provide mechanisms for ensuring that these minimum requirements are not breached by the overcrowding of prisons.*

Unfortunately, the concerns voiced above regarding potential discrimination in the application of Article 62, para 1, item 5 EPRCA were confirmed in the course of the inspection carried out by the NPM in Varna prison. Seven inmates expressed their regrets for filing requests to be transferred from the prison in Stara Zagora. Inmates had to file requests to be transferred back to the prison in Stara Zagora pursuant to Article 62, para 1, item 5 EPRCA. The prison administration refused to admit the inmates' requests on grounds of Article 62, para 1, item 5 EPRCA – due to overpopulation. The NPM finding is that if the total capacity of the prison in Stara Zagora is considered, together with the capacity of the prison hostel "Cherna gora", the prison capacity was not filled in at the time the requests were made.

Even if capacity issues are relevant, such refusals violate the inmates' right to social contacts. The NPM is of the opinion that this compensation mechanism is not working properly and will lead to new findings of violations.

*18.5 Prisoners shall normally be accommodated during the night in individual cells except where it is preferable for them to share sleeping accommodation.*

*18.6 Accommodation shall only be shared if it is suitable for this purpose and shall be occupied by prisoners suitable to associate with each other.*

*18.7 As far as possible, prisoners shall be given a choice before being required to share sleeping accommodation.*

No individual cells are planned in the new prisons, save for some punishment cells or areas for lifers. The NPM takes note that at present this recommendation may not be met. However, the CPT recommendation about a minimum of six sq. m. for a lifer is not followed either in the planning and new construction due to the lack of such statutory requirement in the Bulgarian law.

*18.10 Accommodation of all prisoners shall be in conditions with the least restrictive security arrangements compatible with the risk of their escaping or harming themselves or others.*

*95.1 The regime for untried prisoners may not be influenced by the possibility that they may be convicted of a criminal offence in the future..*

*101. If an untried prisoner requests to be allowed to follow the regime for sentenced prisoners, the prison authorities shall as far as possible accede to this request.*

In fact, the regime in the detention facilities corresponds to the special regime for lifers due to the procedural capacity of the accused person. That is, the regime of the innocent until proven guilty is equal to the one for the convicted with a life sentence. Acquiring the capacity of defendant and the subsequent imprisonment in corridors for accused persons and defendants allows for free movement in the prison corridor. If a prosecutor does not order transfer to a prison, the defendant will be placed under the same regime as a lifer. There is an exception to this as Article 246, para 4 EPRCA specifies that “Defendants whose life sentences have not entered into force shall be kept in constantly locked premises“. In fact the sentence is executed before it enters into force. Such an isolation is unacceptable. The provision of Article 47 of the EPRCA Implementing Rules which requires calculating terms of serving a specific regime as of the time the regime is determined by the court needs to be reconsidered. Apparently in all cases the preliminary detention is under a stricter regime or identical to the regime determined by the court. The regime served must be taken into account from the beginning of the detention. This is why the legislation must be amended to that end.

This degree of isolation in detention may be made more accurate by taking measures to isolate only persons who are being tried, if the prosecutor so rules. It is possible to introduce a regime that allows to lock corridors and respectively implement the recommendation made by the CPT to engage inmates with meaningful activities. The NPM monitors some difficulties in finding work for prisoners. In two of the detention facilities in Plovdiv and Shumen there are premises for work but there is staff to perform any activity. The other detention facilities avail of no such premises.

The risk assessment also affects employment. Designating corridors for working prisoners increases the number of people in that corridor with a lower risk assessment.

Pursuant to Article 60 EPRCA, by an order of the prison director separate premises may be designated for prisoners of high public risk, suffering from alcoholism or drug addiction, people with mental disorders or vulnerable persons so as to ensure their safety and the safety of the other inmates and prison staff. The NPM established cases where a highly vulnerable person was designated as “a person of high public risk” due to the fact that he was placed in specifically designated premises.

## **Hygiene**

*19.3 Prisoners shall have ready access to sanitary facilities that are hygienic and respect privacy.*

The NPM established that the recommendation made in the previous reports to build sanitary units in the cells has been implemented by the Directorate General Execution of Punishments and the Ministry of Justice respectively.

In some cases, however, the reconstructions have been conducted inappropriately. For example, the sanitary units in the prison in Sofia have no access to daylight. In some cases, the building of sanitary units is blocking the access to daylight from the windows. The detention facility in Montana is an illustration of inappropriate reconstruction: the toilette is located in immediate proximity between two beds, there are no bars separating the toilette and access to daylight is blocked by a corridor between the premises and the windows. In a relatively new detention facility in Plovdiv the partition walls need to be further built. Additional reconstruction is also required after the reconstruction of the detention facility in G. M. Dimitrov, Sofia.

### **Clothing and bedding**

*20.1 Prisoners who do not have adequate clothing of their own shall be provided with clothing suitable for the climate.*

By an order reg. no. Г-81 of 1 March 2016 of the director of the prison in Stara Zagora inmates were required to go out in the open in decent clothing, i.e. in trousers. In 2016 the NPM established that by setting different prison rules the director had exceeded his rights. The NPM recommended that the order be repealed as it violated the inmates' right to privacy. DG EP is of the opinion that the order concerned decorum and good morals in the public institution and that such rules apply in the state and municipal administrations. The NPM has not received any information whether the request of a socially disadvantaged inmate to be provided with a pair of trousers in order to comply with the order during summer time has been granted.

In 2017 an inmate was sanctioned for appearing as cleaner of office premises in inappropriate clothing.

The NPM recommends to finetune the practice in determining which inmates' clothing is appropriate. At present aesthetic criteria are applied subjectively by prison directors as regards appropriate clothing.

### **Contacts with the outside world**

*24.2 Communication and visits may be subject to restrictions and monitoring necessary for the requirements of continuing criminal investigations, maintenance of good order, safety and security, prevention of criminal offences and protection of victims of crime, but such restrictions, including specific restrictions ordered by a judicial authority, shall nevertheless allow an acceptable minimum level of contact.*

The recommendation of the NPM made in 2016 to the Ministry of Justice to eliminate the contradiction in Article 75 of the EPRCA Implementing Rules has not been implemented. Paragraph 2 rightly specifies that "the written content of the correspondence shall not be subject to inspection". However, paragraph 4 requires that "in case of data from which it may be reasonably assumed that the content of a letter

may prevent detection of a crime or lead to a grave offence”, the letter shall be stopped and the prosecutor’s office shall be notified accordingly. Instead of revising this provision, Article 86, para 3 EPRCA was amended in the beginning of 2017 as follows: “The prisoners’ correspondence shall not be subject to control of the written content, unless this is required for the detection and prevention of serious criminal offences.”

The opinion of the Ombudsman submitted to the National Assembly prior to adopting the provision in question reads as follows:

„Submitting this legislative provision demonstrates that the problem with the secret of correspondence in prisons is systemic. Apparently, the prison management not only fails to take heed of that problem but instead deepens it. Some social workers perceive the reading of letters as their duty, while others express regrets that they may no longer exercise such control. The detection of serious offences is not part of the work of the prison administration. This is why the proposed text raises some concerns.

Article 34 of the Bulgarian Constitution stipulates that “[T]he freedom and confidentiality of correspondence and all other communications shall be inviolable. Exceptions to this provision shall be allowed only with the permission of the judicial authorities for the purpose of discovering or preventing a grave crime”.

Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms similarly stipulates that “[E]veryone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

Furthermore, judgment no. 4 of 18 April 2006 in constitutional case no. 11/2005 (promulgated SG no. 36 of 2 may 2006) is straightforward as regards the secret of correspondence of defendants and accused persons.“

In this relation the NPM has prepared a request to the Constitutional Court, with a copy to the Ministry of Justice.

Unfortunately, the recommendation of the NPM as regards correction of the order of the director general of DG EP has not been implemented. Section 6 of the order in question rightly requires not to tap telephone calls. Section 7, however, prohibits the use of obscene words during telephone conversations, while section 8 stipulates that in case such words are used, the conversation must be discontinued and report be drawn up that the telephone conversation has been tapped under section 6

In principle there is no grave problem as regards respect for the secret of correspondence by the prison staff. Unfortunately, the legal regulation allows for exceptions in practice and may justify potential judicial actions as the court will apply the Constitution.

*24.4 The arrangements for visits shall be such as to allow prisoners to maintain and develop family relationships in as normal a manner as possible.*

The CPT has recommended on numerous occasions that visits must be arranged without any bars. In its 2014 report, for example, it points out that “the purpose must be that all prisoners, including remand ones, conduct their visits in reasonably free

conditions. The use of closed type of premises for visits should be by exception rather than as a rule.”

The same year visits through bars were successfully introduced as a new statutory requirement in Article 73, para 9 of the EPRCA Implementing Rules. The recommendation was not implemented when the last amendments of the Implementing Rules were made in 2017, as apparent from Article 73, para 12 of the Implementing Rules currently in force. The specific thing is that ever since the prison in Sliven was built, visits have always been conducted without bars. Therefore, there is discrimination based on gender, which is reflected in the provision of Article 73, para 13 of the EPRCA Implementing Rules whereby the rules for visits of female inmates are identical to the visits of male prisoners placed in open type of premises.

The recommendation of the CPT regarding the introduction of weekly visits has not been implemented.

The recommendation made by the NPM in 2013 to repeal video monitoring of the so called extended visits under Article 98, para 1, item 5 EPRCA has not been implemented. Initially, by an order of the Director General of DG EP, prison guards started attending the visits. In 2016 the NPM recommended to the Minister of Justice to repeal order no. JI-2577 of 28 June 2016 and section 2 of order no. JI -721 of 29 February 2016 as these contradict Article 32, para 2 of the Constitution, or in the alternative amend the EPRCA with a view to introducing tracking and recording during visits. Nevertheless, in 2017 the texts of the orders were regulated in Article 73, para 18 of the EPRCA Implementing Rules.

The NPM maintains its opinion and points out that the European Court of Human Rights may find new violations by the Bulgarian State in relation to this issue.

*24.6 Any information received of the death or serious illness of any near relative shall be promptly communicated to the prisoner.*

*24.7 Whenever circumstances allow, the prisoner should be authorised to leave prison either under escort or alone in order to visit a sick relative, attend a funeral or for other humanitarian reasons.*

Such visits are possible as a reward granted by the prison director. Other options are visits to relatives outside the prison, prison hostel or correctional institution for up to 12 hours; monthly home visits for up to two days or home visits up to five days.

The right to such leaves is not set forth in the law. The observations of the NPM show that even prisoners serving their sentence under light regime may not avail of this opportunity. It is understandable that given the insufficient numbers of prison guards escorting would be hard to arrange for. Future amendments in the legal regulation must provide for the right to a leave for people placed in open-type and closed-type hostels.

*24.11 Prison authorities shall ensure that prisoners are able to participate in elections, referenda and in other aspects of public life, in so far as their right to do so is not restricted by national law.*

Article 42 of the Bulgarian Constitution of 13 July 1991 stipulates that people deprived of their liberty are not entitled to vote. Even in the Constitution of the Bulgarian

Kingdom there were not such restrictions. The Constitution of 1947 allows for restrictions of the right to vote by a judicial act if the persons are deprived of civil or political rights. These grounds have been repealed in the Constitution of 1971. Thus by 1991 some 18,000 prisoners had the right to vote, while currently approximately 7,000 to 8,000 prisoners are deprived of this right. Only accused persons and defendants may vote, which is around 1,000 people.

In its judgment of 21 July 2016 in the case of *Kulinski and Sabev v. Bulgaria* (Application no. 63849/09), the European Court of Human Rights ruled that the prohibition to take part in elections that was automatically imposed on prisoners was disproportionate.

*24.12 Prisoners shall be allowed to communicate with the media unless there are compelling reasons to forbid this for the maintenance of safety and security, in the public interest or in order to protect the integrity of victims, other prisoners or staff.*

There are no restrictions as regards contact with the media. Only the prisoner's consent is required. However, there is a subsequent unregulated sanction and the prisoner who gave an interview is transferred to another prison. In this relation in 2017 the administrative court in Pazardzhik found a violation on the part of the prison administration.

### **Prison regime**

*25.1 The regime provided for all prisoners shall offer a balanced programme of activities.*

*25.2 This regime shall allow all prisoners to spend as many hours a day outside their cells as are necessary for an adequate level of human and social interaction.*

*25.3 This regime shall also provide for the welfare needs of prisoners.*

The NPM established a systemic problem as regards the insufficient number of social workers and the lack of adequate funding for meaningful activities. According to the available resources, the prison administration tries to provide for such activities but may not possible involve all prisoners. The preparation of plans to implement the sentence is inevitably formal. The organisation in squads does not allow for individual implementation of the plans and prevents assessment of the prisoner's correction. The NPM notes down that a substantial change is required to reduce bureaucratic and formal work of the social workers and to create conditions for an objective assessment related to the change of regime, transfer to open-type prison hostel or early conditional release. In this relation efforts are also required to reduce subsequent recidivism as an objective measurement of the work of the prison administration.

The EPRCA regulates outdoor stay for not less than an hour a day. In some places the administration allows for extended stay outdoor by an act of the prison director. This creates problems when directors change and the new director reduces the extended stay outdoor. It is appropriate to fix this stay either in the law or Implementing Rules so that this right is regulated in a uniform manner in all closed-type places.

## Work

*26.1 Prison work shall be approached as a positive element of the prison regime and shall never be used as a punishment.*

The NPM has made recommendations on numerous occasions to repeal disciplinary sanctions related to prisoners' refusal to work. The prison administration fails to make a distinction between a waiver of the right to work and "failure to perform or poor performance of the assigned tasks". The NPM established cases when disciplinary sanctions were imposed for refusal of voluntary work.

*26.8 Although the pursuit of financial profit from industries in the institutions can be valuable in raising standards and improving the quality and relevance of training, the interests of the prisoners should not be subordinated to that purpose.*

The NPM established impossible labour standards based on the minimum wage following an order of the Minister of Justice. A recommendation has been made to repeal the order as void as it has been issued by an incompetent body, and to repeal the sanctions imposed on those prisoners who refused to work.

*26.9 Work for prisoners shall be provided by the prison authorities, either on their own or in co-operation with private contractors, inside or outside prison.*

The revision of Article 180 of the EPRCA Implementing Rules promulgated in SG no. 9 of 2 February 2010 contained a text that required that in contracting private companies the economic activity and legal representative should be checked to establish whether the actual employer – former prisoner or criminal offender was concealed. The NPM did not accept the phrase "former prisoner" due to admissible rehabilitation. The proposal of the NPM to change the text accordingly was endorsed.

Nevertheless, Article 180, para 3 of the EPRCA Implementing Rules specifies that the contracting process should go hand in hand with checks by the operative officers of the Ministry of Interior in charge of the respective prison. In this relation an Instruction no. I3 – 1351 of 18 June 2010 was issued as evidenced in letter no. r328600-H3941 of 18 July 2017 of the Directorate General National Police.

The NPM recommended to the Ministers of Justice and of Interior to declare null and void or repeal Article 180, para 3 of the EPRCA Implementing Rules and Instruction no. I3 – 1351 of 18 June 2010 respectively.

*26.10 In all instances there shall be equitable remuneration of the work of prisoners.*

Article 38, para 1, item 3 EPRCA stipulates that the part of the prisoners' remuneration that is not due to them shall be transferred as income to the State-owned enterprise „Prisons Production“.

Pursuant to Article 78 EPRCA, for work outside voluntary work and duties regarding the maintenance of order and hygiene, prisoners shall receive a certain amount

that may not be less than 30 pct. of what they have earned and which shall be determined by an order of the Minister of Justice. This provision runs contrary to Article 48, para 5 of the Constitution that requires that remuneration corresponds to the actual work performed.

*26.11 Prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to allocate a part of their earnings to their families.*

The monthly income prisoners receive in practice, after deductions to the State-owned enterprise, is up to BGN 120. The NPM established cases where the prisoner allocated part of his income to his family. In this case the deduction from the remuneration results in violation of the prisoner's children's right to child maintenance.

*26.14 Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by national law to workers outside.*

*26.17 As far as possible, prisoners who work shall be included in national social security systems.*

Prisoners in Bulgaria are health insured by the state budget. No insurance is paid in case of industrial injury or sickness. No contributions towards pension insurance are made either. Article 51 of the Constitution stipulates that citizens in Bulgaria are entitled to social insurance. This right is violated in relation to prisoners. The economic effect is that the insurance due to the working prisoners in effect subsidise the work of the State-owned enterprise. Subsequently, after a thirty-year sentence has been served, for example, released prisoners receive social pensions, regardless of whether they have worked. An additional effect is that even in case of shorter sentences it is possible not to acquire retirement pension rights regardless of the fact that work has been performed in practice.

The opinion of the former Minister of Justice Mrs Ekaterina Zaharieva is that the Ministry of Justice is not the only stakeholder and is not directly responsible for resolving this matter. In this case it is mainly the Ministry of Labour and Social Policy and the National Insurance Fund that are the relevant institutions. They have not reached a uniform decision“.

## **Education**

*28.1 Every prison shall seek to provide all prisoners with access to educational programmes which are as comprehensive as possible and which meet their individual needs while taking into account their aspirations.*

Pursuant to Article 53 of the Constitution, everyone shall have the right to education. The NPM is of the opinion that Article 74 of the Higher Education Act runs contrary to the Constitution as it requires that in case a student, PhD student or researcher is sentenced to imprisonment for an intentional publicly actionable offence, he or she

must be leave the educational establishment. It is necessary to regulate a procedure for continuing with education regardless of the imprisonment sentence.

*31.5 Prisoners shall, subject to the requirements of hygiene, good order and security, be entitled to purchase or otherwise obtain goods, including food and drink for their personal use at prices that are not abnormally higher than those in free society.*

In 2012 the prison shops were transferred to the State-owned enterprise Prison Fund and the lease contracts with external companies were terminated. From this moment a monopoly was established and high prices of products. In relation to the prison security, some of the products may not be brought during visits and maybe purchased only in the prison shops. The NPM has been making recommendations ever since 2013 not to apply the Public Procurement Act as the possibility for abuse of public funds is ruled out in this case. This would allow to purchase products locally, including from producers, and maintain prices lower than the ones in the stores.

If this practice is not discontinued, then the former practice of leasing prison shops to commercial companies must be restored under the State-owned Property Act.

### **Healthcare**

In 2014 the CPT reiterated its long-standing recommendation that the Bulgarian authorities ensure the Ministry of Health's more active involvement in supervising the standard of care in places of deprivation of liberty, including as regards recruitment of health-care staff, their in-service training, evaluation of clinical practice, certification and inspection. The overriding objective should be to ensure the equivalency of care with that in the outside community; this also implies granting a professional and financial status for the health-care staff working in penitentiary establishments equivalent to the one of their colleagues employed by the Ministry of Health.

In September 2017 the DG EP organized a working meeting to present a Strategy for Reform of Prison Healthcare in Bulgaria and Outline of an Action Plan 2018 – 2020 elaborated by Council of Europe experts in the framework of the project “Support for the implementation of the European Court of Human Rights judgments and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment standards and recommendations in Bulgaria (Prison Reform)”.

In 2017 the focus of the inspections conducted by the NPM was on communicable diseases. Pursuant to Article 140, paras 2 and 3 EPRCA, all prisoners are provided with the possibility to make voluntary, anonymous or confidential consultations and tests for HIV/AIDS. HIV/AIDS tests are appointed also by the director of the hospital or the medical care centre. In those cases the prisoner may refuse to perform the test.

In practice, this activity is not funded by the Ministry of Justice and the newly admitted inmates are not offered the opportunity to conduct HIV/AIDS tests. It is relied on tests performed by the Regional Health Inspections under the National Programme for Prevention and Control of HIV and Sexually Transmitted Infections in the Republic of Bulgaria 2017-2020. The prisons in Sliven and Stara Zagora have good practices. The Regional Health Inspections conduct HIV/AIDS tests once a month there. No

HIV/AIDS tests have been made in the prisons in Varna, Vratsa, Pazardzhik, Plovdiv, Sofia and Lovech.

In all prisons there is a designated medical staff member for combatting tuberculosis who works under the National Programme for Prevention and Early Detection of Tuberculosis in the Republic of Bulgaria. After the Programme was introduced, a down trend of instances of tuberculosis has been observed.

### **Searching and Controls**

In previous years the NPM established cases where prosecutor's offices and MoI authorities jointly had conducted searches and seizure of belongings. These actions were reported as successful as telephones, tablets and other unauthorized objects had been seized. The NPM is of the opinion that such searches under the Criminal Procedure Code are admissible in one sleeping room but not in the entire prison. Supervision of compliance with the law does not imply that MoI authorities get inside prisons to perform searches. The NPM established that this practice had been discontinued.

The prison administration, however, conducts searching and seizure of unauthorized objects during the night. This is premised on a provision of the EPRCA Implementing Rules, which the NPM finds unlawful, namely Article 86, para 2, which allows for searches and seizure to be conducted at any time during the day or night. The provision runs contrary to Article 84, para 1, item 2 EPRCA that provides for the right to a continuous sleeping time of eight hours over a period of 24 hours.

The Directorate General Execution of Punishments is of the opinion that "these actions of the prison guards are single cases when a genuine need has occurred".

The NPM points out that the actions of the prison guards result from an unlawful order of the prison director acting upon an apparently unlawful provision of the EPRCA Implementing Rules. The NPM therefore expects the reaction of the Minister of Justice who issued the unlawful act.

*61. A prisoner who is found guilty of a disciplinary offence shall be able to appeal to a competent and independent higher authority.*

Pursuant to Article 111 EPRCA, the order imposing disciplinary isolation is subject to appeal before the administrative court competent in the jurisdiction where the prison is located within three days of announcing it. The appeal does not stay the execution of the order unless the court otherwise decides. In those cases when the court repeals the order as unlawful, the sanction has already been served. The opportunities are either to deduct the time served from future disciplinary sanctions, or subsequent financial compensation, again following a court decision. The NPM is of the opinion that this provision should be amended.

The remaining disciplinary sanctions are subject to appeal under the administrative terms and procedures. Due to the lack of an express prohibition to appeal the imposed sanctions directly in court, the case law of the regional courts is contradictory. Some rule that the action is inadmissible, while others review the appeal on the merits pursuant to Article 120, para 2 of the Constitution.

The administrative courts consider the orders imposing disciplinary sanctions not to be administrative acts but rather acts for the maintenance of order and discipline. Some court panels do not discuss the nature of these acts but assume *ad contrario* that unless expressly specified, these sanctions are subject to administrative appeal and are thus inadmissible.

Pursuant to Article 211 of the MoI Act, all orders imposing disciplinary sanctions are subject to appeal under the Administrative Procedure Code (APC). The provision of Article 251 of the Defence and Armed Forces Act is similar, as is Article 124 of the Public Servants Act.

The NPM established lack of adequate judicial protection and legal regulation of the practice for imposing disciplinary sanctions on people deprived of their liberty. This explains the numerous occasions of making recourse to the Ombudsman's power under Article 100 read in combination with Article 99 APC for eliminating violations as the inspection reports demonstrate.

### **Use of force**

The recommendation made by the CPT to introduce a register for the use of force has been implemented. The former deputy minister Yankulov issued an order no. JIC – 04-1416 of 13 May 2015 to that end. The NPM takes note of a substantial progress in the prisons. The disadvantage is that this is not legally regulated and in some places the order is not being followed.

### **Instruments of restraint**

Unlawful use of handcuffs has been established in two regards. Firstly, in external medical establishments. Prison guards are instructed to fix the prisoner with handcuffs to the bed. When using sanitary facilities, prisoners are also handcuffed. Prisoners remain handcuffed during their entire stay in the medical establishment regardless of the duration of their stay.

In mid-2017 the NPM established unlawful use of handcuffs in the investigation detention facility on G. M. Dimitrov Boulevard in Sofia every time the detained persons were taken out of the detention room. The same is the situation in the specialized detention facility in Sofia. Some six months after the recommendation made by the NPM to discontinue the use of handcuffs in these two detention facilities, the unlawful actions continue.

The NPM expects an adequate action by the Ministry of Justice translating into disciplinary sanctions for the guilty officials and termination of this practice.

### **Weapons**

*69.1 Except in an operational emergency, prison staff shall not carry lethal weapons within the prison perimeter.*

Guards in the so called towers are provided with automatic weapons upon an explicit instruction that allows use of the weapons in case of an attempted escape, after

firing a warning shot. The NPM has repeatedly recommended to repeal this instruction as it is of the opinion that it contradicts the Criminal Code provisions.

The opinion of the DG EP is that “weapons may be used as a last resort measure after all other actions have failed to stop the unlawful actions“. This opinion corresponds to Article 116, para 1, item 1 EPRCA but runs contrary to Article 12 of the Criminal Code and Article 28 of the Constitution that guarantee the right to life.

Many of the prisons are in populated areas. The use of automatic weapons would put in danger not only the life of prisoners but of other citizens as well.

The NPM insists that this instruction be repealed immediately, prior to the required amendment of Article 116, para 1, item 1 EPRCA.

### **Prison administration and staff**

*71. Prisons shall be the responsibility of public authorities separate from military, police or criminal investigation services.*

Following an instruction on the interaction between MoI Directorate General Criminal Police and DG EP issued pursuant to Article 79, para 2 of the Implementing Rules of the Ministry of Interior Act (repealed), premises have been provided to MoI officers. The latter have been further provided with the possibility to give their opinion in relation to changes of the prison regime, early conditional release, termination of the punishment, employment etc. These officers also perform the unusual activity of checking natural and legal persons who want to hire prisoners. Their work as regards inmates violates prisoners’ right to defence. The CPT and NPM have made a recommendation that these officers be supervised by the prison administration. The NPM has further recommended that these officers operate different visitation regime, while the ministers of interior and justice declare null and void or repeal Article 180, para 3 of the EPRCA Implementing Rules and Instruction no. I3-1351 of 18 June 2010 respectively.

### **Detention facilities within the Ministry of Interior system**

- The NPM team underscores the problems related to the abuse and use of defence counsels in the beginning of the detention and during the medical examination. These problems have been noted down by the Committee for the Prevention of Torture during its visits to Bulgaria in 2014 and 2015.

- The inspections focused on Instruction no. 81213-78 of 24 January 2015. In 2016 the NPM expressed its opinion that this Instruction should be upgraded in relation to a number of issues, some of which remained unsolved in 2017.

- Another priority in the course of the inspections carried out by the NPM were the planned renovation activities to improve the material conditions in the 24-hour detention facilities.

- It is necessary to optimize a series of activities within the MoI system that lead to useless workload of staff.

In 2017 the NPM inspected a total of 21 regional police departments in the cities in northeastern Bulgaria.

After the inspections conducted in 2016, the NPM expressed its opinion that Instruction no. 81213-78 of 24 January 2015 should be upgraded and a register for the use of force should be maintained in the respective regional police departments.

The issue of the publicly accessible information about the location of the detention facilities remained unsolved in 2017. The NPM is of the opinion that a detailed list of all detention facilities within the MoI system should be made public.

The lack of bedding, in particular bed linen, and food have been established to be systemic deficiencies. A case was established in the regional police department in Teteven of two detained persons who had served a 24-hour detention without any food. This police department is included in order no. 2953-633 of 30 March 2017 as a place where people may be detained; however, it has not been provided with the necessary means for food for the detained persons. The premises have no access to daylight and no adequate artificial lighting or ventilation.

There are no premises for 24-hour detention with sanitary facilities or running water. There are no statutory requirements to that end either. Provided that renovations have been planned to improve the material conditions in the 24-hour detention premises, building places with no sanitary facilities is obviously inappropriate and very ineffective. Building such premises would not be justified and the detention in such facilities should be reviewed and replaced by alternative community measures.

Regardless of the actions taken by the MoI, a significant part of the detention facilities do not comply with the existing standards. The conducted inspections established that the regional police departments in Teteven, Dobrich, Razgrad, Veliki Preslav and holiday resort Albena do not conform to the requirements for the detention of people; therefore, the conditions there should be made compatible with the respective standards. Besides, the premises of the investigation detention facility in Balchik has not yet been transferred, for three years now, to the Ministry of Interior.

The recommendations made by the NPM regarding entering in the detention registers the exact location where a person is detained, as well as any visits by a defence counsel, relatives, a doctor or an official from the consular department, together with data about detainees being taken out from the cell for interrogations, or any incidents, food provided etc. have not been implemented. No written information is provided about the rights of the detained persons, including minors. This concerns implementation of the Directive 2012/13/EU on the right to information in criminal proceedings, which requires amendments to the legal regulation.

The measures envisaged in the Law on Recognition, Implementation and Transfer of Acts Imposing Supervision Measures Alternative to Detention are similar to the measures specified in Recommendation CM/Rec(2010)1 of the Committee of Ministers to member states on the Council of Europe Probation Rules. The recommendation determines sanctions and measures to detain offenders and restrict their liberty by imposing different conditions and/or duties.

In view of the above, the NPM recommends to the Ministers of Justice and of Interior to set up a working group to prepare proposals for legislative amendments and supplements to the Administrative Violations and Sanctions Act. The group should focus on the introduction of community measures and sanctions or the so called administrative supervision measures, including such related to electronic supervision, by way of the respective amendments in the Protection of Public Order during Sports Events Act; Protection against Domestic Violence Act; Foreigners in the Republic of Bulgaria Act; as well as on repealing the Decree on Petty Hooliganism.

The overtime within the MoI system is from 50 to 70 hours per quarter, unlike the Ministry of Justice system where it ranges from 30 to 50 hours. In the course of talks held with MoI officers they underlined the need to increase staff. At the same time quite some activities in the MoI engage the staff in useless activities that could be optimized (e.g. the inspections on compliance with house arrest procedural measures).

## PROTECTION OF PEOPLE WITH MENTAL ILLNESS

- The NPM inspections have once again established that the state psychiatric hospitals are unreformed and the quality of health care is not improving.

- The Ministry of Healthcare fails to take any action to reorganize the sector in line with Policy 1.5 “Maintaining and Improving Mental Health” under the National Health Strategy 2020.

- The worst problem is with the lack of doctors in the hospitals, which makes it impossible to meet the requirements of the medical standard for psychiatry.

In 2017 the NPM conducted three inspections of psychiatric aid establishments: in the state psychiatric hospital in Lovech; the state psychiatric hospital St. Ivan Rilski in Novi Iskar; and Mental Health Centre Sofia Region in Sofia.

The inspections have once again established that the state psychiatric hospitals are unreformed and the quality of health care is not improving.

The Ministry of Healthcare fails to take any action to reorganize the sector in line with Policy 1.5 “Maintaining and Improving Mental Health” under the National Health Strategy 2020 and implement the recommendations extended by the NPM.

The worst problem is with the lack of doctors in the hospitals, which makes it impossible to meet the requirements of the medical standard for psychiatry. The old and depreciated material and technical equipment is yet another problem; even with partial repairs it would not be able to meet the requirements set forth in the medical standard for psychiatry established by Regulation no 24/2004 of the Ministry of Healthcare.

The lack of experts is confirmed by the finding of the NPM that five positions for psychiatrists in the State Psychiatric Hospital in Lovech and three in the State Psychiatric Hospital in Novi Iskar are vacant. The medical establishments experience other medical and non-medical understaffing, in particular of hospital attendants.

The number of clients in the State Psychiatric Hospital in Lovech has been declining in the last two years.

As regards the State Psychiatric Hospital in Novi Iskar, it has been established that the Sofia City Regional Health Inspection has not conducted any inspections to determine the level of competence as required under the medical standard for psychiatry.

Renovations have been carried out of the First Ward for Male Clients in the State Psychiatric Hospital in Novi Iskar with a view to improving the material conditions. An energy saving plan for the building has been made, which is pending funding by the Ministry of Health.

The medical professionals have difficulties in treating and discharging patients under guardianship. In some cases the guardians fail to perform their duties and the patients remain in the hospital for years.

The NPM established that measures to ensure temporary restraint of patients were applied in compliance with statutory requirements and with respect for the patients’

The inspection carried out in showed that the medical establishment was assigned second level of competence under the medical standard for psychiatry despite the old

and depreciated material conditions in the in-house premises that do not meet the requirements for a medical establishment. In this relation the NPM made a recommendation to the Ministry of Healthcare to ensure an adequate building for the Mental Health Centre Sofia Region in Sofia.

The Mental Health Centre is well staffed. Patients are treated with their informed consent. The measures for temporary restrictions of patients are applied and reported according to legal requirements. The patients have enough medication and opportunities to consult other professionals and make various medical examinations.

The medical professionals at the Mental Health Centre find that the procedure set forth in the Healthcare Act for taking patients to court with a view to determining the need of mandatory treatment is difficult for the patients and often helps deteriorate their condition. They suggest that the judge comes to the medical establishment instead.

The conducted inspections have once again confirmed that the protection for people with mental illness requires a comprehensive policy in the field of mental health and an integrated approach in relation to psychiatric illness, care and support for people with mental disorders and their relatives.

The NPM needs to reiterate its recommendations made to the competent authorities as regards protection of the rights of people with mental illness:

1. The Ministry of Healthcare must take action to:

- launch procedures for legislative amendments to render psychiatric medical establishments in Bulgaria to the same level as the other types of (somatic) medical aid establishments; launch procedures for issuing a document certifying certain levels of competence in accordance with Article 6, para 1 of the Medical Establishments Act and the medical standard for psychiatry established by Regulation no 24/2004 of the Ministry of Healthcare;

- draw up the respective additional legal acts to improve the work of the State Psychiatric Hospitals such as the Regulation on Occupational Therapy;

- ensure adequate funding for the state psychiatric hospitals;

- introduce strict control in the psychiatric medical establishments in Bulgaria by the competent authorities.

2. The Ministry of Healthcare and the Ministry of Labour and Social Policy should cooperate with each other and organisations working in this area to resolve problems related to healthcare and the provision of social services.

Community social services must be introduced for people with mental illness. Effective programmes need to be elaborated for the social inclusion of these vulnerable people, e.g. through the opening of occupational therapy centres or social enterprises for people with mental illness.

## SOCIAL INSTITUTIONS FOR CHILDREN AND ADULTS

- Placing children and adults in family type of residential institution should be a last resort measure.
- The state institutions should support the family and relatives of the children or adults at risk of being abandoned so as to prevent their placement in an institution.
- It is necessary to increase the remunerations of the officers in the field of social services for children and adults.
- The competent institutions must exercise regular and effective control over the providers of social services for children and adults.
- Children and adults placed in institutions must be provided with access to social services in the community.

The NPM has to note down for yet another year that the Social Assistance Directorates with the Social Assistance Agency continue to place children and adults in residential social services that take them out of their family environment. The opinion of the NPM voiced on numerous occasions is that the placement of children and adults in an institution should be a last resort protection measure. The process of deinstitutionalization that started in 2010 is going on slowly and there are not yet sufficient number of community social services for children and adults.

It is of utmost importance that public institutions support the family and close relatives of the children and adults who are at risk of being abandoned. This process should be supported also by the municipalities, civil society organisations etc.

A major problem that the NPM has established in the social institutions for children and adults is the lack of qualified staff to render adequate care for the people placed there. The reasons are the low wages, insufficient training, lack of educational eligibility criteria, and remoteness from the municipal centres, which inevitably leads to the lack of motivation and staff turnover.

For example, the average wage for the specialized positions such as medical professionals, kinesiotherapists, rehabilitators, psychologists, speech therapists, social workers etc. is around BGN 600. At the same time non-specialised staff receives approximately the minimum wage, which is being upgraded on a yearly basis. Thus, in practice the remuneration of the non-specialised staff is growing, while that of the specialized staff is not due to lack of budget funds.

In the course of the inspections carried out in 2017 the NPM established that the remuneration of the professionals employed in the community social services such as Social Rehabilitation and Integration Centres, Community Support Centres, Daily Centres for Children and Adults with Disabilities etc. were also very low.

The major factor for a quality social service are the human resources. Taking care of children and adults placed in institutions in the community is a difficult and responsible task. This is why the staff should be supported by the State and municipalities.

## **Social institutions for children**

In 2017 the focus of the inspections conducted by the NPM in the institutions for children was on the different residential social services. The NPM team visited eight institutions: family type centres for children without disabilities, family type centres for children with disabilities, homes for children deprived of parental care, and crisis centres for child victims of human trafficking or violence. The NPM main finding is that there are systemic problems in some of the institutions, while in the rest of the institutions there are grave discrepancies in the quality of the rendered social services.

### **Crisis centres for child victims of human trafficking or survivors of violence**

In 2017 the NPM carried out inspections in two crisis centres for child victims of human trafficking or survivors of violence: in the village of Balvan, Veliko Tarnovo region, and Crisis Centre “Faith, Hope, Love” in Sofia. The crisis centre for child victims of human trafficking or survivors of violence is a residential social service that provides 24/7 care and protection for children who have been taken out from a situation of violence or trafficking and need urgent protection and crisis intervention.

The main findings of the NPM are that there are systemic problems in the provision of this particular social service. According to data received from the coordinators of the crisis centres, many of the children placed there had not visited school previously. The children’s educational level does not correspond to the actual grades in which they are enrolled. In this regard the NPM recommends to elaborate educational schemes that are adapted to children who have regularly missed school.

Another problem established by the NPM is that part of the children placed in these institutions do not comply with the profile of the social service. The children are placed for reasons such as running away from home, thefts or other antisocial behaviour. Next to non-compliance with the profile of the social service, the statutory term of maximum six months that is determined only in exceptional cases has not been met. According to data received from the coordinators of the crisis centres, it is often the case that child victims of violence are placed together with children with antisocial behaviour or drug abusing children who are aggressive towards the child victims. Although both groups of children are victims – either survivors of physical or psychological abuse, or neglect that resulted in offending behaviour, the needs of the two groups of children are very different and require different approach. In this regard the NPM supports the opinion of the social service providers that profiled crisis centres for children in conflict with the law have to be established.

Another problem that the NPM established is that the coordination between the social service providers and the institutions is ineffective. According to data received from the coordinators of the crisis centres, quarterly reports on the implementation of the individual plan of every child are drawn up and sent to the Child Protection Departments within the Social Assistance Directorates. In most of the cases the social workers fail to provide the necessary information about the change of family environment, whether it continues to be risky for the child, or another protection measure

will be taken in relation to the child. The NPM supports the proposals of the crisis centres' coordinators that effective schemes must be developed to support parents and their involvement in the process of reintegration of their children. It is further on necessary that social workers and crisis centres' staff members regularly discuss the activities taken in implementation of the individual plans for care of children and work with their families.

The NPM has established that hearings of children have not been conducted in the so called blue room (a specialized child-friendly hearing facility) in the MoI Regional Directorate in Veliko Tarnovo. According to the coordinator of the crisis centre in Balvan, not a single child has been interviewed in the blue room over the last two years. In this regard the NPM team carried out an inspection in the MoI Regional Directorate in Veliko Tarnovo and established that there was not a single child registered for interview in the blue room in 2017. Although this facility is specialized for hearing child crime victims, it is not used for its intended purpose. The Ombudsman has reiterated that the practice of hearing children should be changed in compliance with the international standards. These facilities are established to ensure child-friendly judicial proceedings and guarantee the rights and best interest of the child in the judicial proceedings. In this regard the NPM made a recommendation to the Social Assistance Director in Veliko Tarnovo to refer children survivors of violence for hearings in the blue room facility in the MoI Regional Directorate in Veliko Tarnovo.

The NPM further recommended to the executive director of the Social Assistance Agency that the Child Protection Departments within the Social Assistance Directorates strictly comply with the adopted Methodological Guidelines for the Terms and Procedure of Providing the Social Service "Crisis Centre" when they place children in these institutions and not to exceed the maximum duration of the children's stay.

### **Homes for Children Deprived of Parental Care**

The NPM inspected two homes for children deprived of parental care in the region of Blagoevgrad.

The first home was in the process of closing down (as of 1 January 2018) at the time the inspection was carried out.

The second home for children deprived of parental care at the age from 7 to 18/20 years of age was Petar Dimitrov Home in Parvomay, Petrich Municipality.

During the inspection the NPM established that 21 children were placed in the home who were using permanent (six children), weekly (12 children) and daily (three children) care. The home is located in an old three-floor building that is poorly maintained. The bedrooms are situated on the second and third floor, there are no bathrooms and toilettes in the children's rooms. Children use a total of four bathrooms and toilettes, which is highly insufficient for their needs. During the inspection the NPM established that the children had no personal belongings in their rooms. Children explained that every morning they changed their clothes in the basement of the home. Checking the basement, the NPM team found out that the children shared common clothes. The NPM team further checked the weekly menu for the period 16 October 2017 – 22 October 2017 and found out that the children's menu was poor and undiversified and did not comply with the requirements set forth in Standard no. 9 to

Annex no. 3 under Article 48 of the Regulation on the Criteria and Standards for Social Services for Children and Regulation no. 26/2000 on the Healthy Food for Students. For example, the dessert for the whole week was yogurt, and for 22 October 2017 the lunch and dinner menu included beans and yogurt.

The NPM established a problem related to the children placed in the home in Parvomay. Many of them were receiving daily and weekly care; however, even though they formally met the conditions for placement in an institution, in the opinion of the NPM they should not be placed in a home for children deprived of parental care. In the interviews with children the NPM found out that main function of the home was the provision of clothes, food and textbooks.

We further express our concerns that these homes continue operating as boarding schools rather than as homes for children deprived of parental care. Many of the children placed in these homes are in fact not deprived of parental care. Arguably, the parents or relatives of these children have sufficient capacity to take due care of them.

The NPM recommends to amend Article 21 of the Rules of Procedure for the Homes for Children and to repeal the provision of weekly and daily care in the homes for children deprived of parental care. This type of care may be provided by other community social services. In this sense the NPM reiterates that it is high time for the public institutions to apply individual family approach in their work, i.e. to support families to take care of their children rather than place children in institutions.

The findings of the NPM team as regards the Home for Children Deprived of Parental Care in Parvomay indicate that it does not meet the standards for quality child care. In this regard the NPM requested information from the Social Assistance Agency about the planned closure of the home, as well as the number of homes for children deprived of parental care that would be closed down in 2018. The Social Assistance Agency informed the NPM that the home in Parvomay would be closed down in 2020 and three new social services for children would be built up in Petrich Municipality: family-type residential centre for children; community support centre; and a transition residence.

Six homes for children deprived of parental care will be closed down in 2018 in the country.

### **Family-type Centres for Children and Adolescents without Disabilities**

The main finding of the NPM after the inspections carried out in the family-type centres for children and adolescents in Veliko Tarnovo and Sofia is that the quality of the provided social service varies depending on the service provider.

In the first case the social service provider is the Municipality of Veliko Tarnovo that administers Family Type 2 Centre for children and adolescents without disabilities. The building of the Centre meets fully the children's needs. Rooms are spacey and well equipped. All children attend educational establishments and use community social services in the Community Support Centre and the Centre for Social Rehabilitation and Integration in Veliko Tarnovo. The average stay of children placed in the Centre is 10 months. Seven children are currently in adoption procedures, and four are pending to be returned to their biological families. The social service provided in the Family Type 2 Centre for children and adolescents without disabilities is of very high quality.

In the second case the service provider is the Sofia City Municipality. The inspection has established that the Family-type Centre for Children “Magic” is located in an old building, together with a Day Centre for Children with Disabilities and a Community Support Centre. The material conditions are poor and the rooms are located inadequately. For example, to go from the director’s office to the playground one has to go through the sanitary facilities for children. During the inspection the NPM found out that a child below the age of three was placed in the Centre (which is for children above three years old). None of the ten children placed in the Centre was using a community social service. The better part of the children stay in the Centre for more than three years and according to data received from the director they are not registered for adoption. The NPM reiterates its longstanding opinion that lengthy stay of children in institutions is a direct violation of their rights. This leads to psychological trauma and deprives children from family environment. In this relation the NPM addressed Child Protection Department Krasno selo and asked information about the measures taken in relation to every child placed in the Family-type Centre for Children “Magic” and the ones planned with a view to reducing the length of children’s stay in the Centre. The NPM made recommendations to the mayor of Sofia City Municipality to carry out renovations of the Family-type Centre for Children “Magic” in Sofia. Following the recommendations made, the director of Social Assistance Directorate Krasno selo informed the Ombudsman that two of the children would be registered for full adoption and work had started with seven children towards their reintegration in their biological families. The administration of Sofia City Municipality informed the Ombudsman that after her recommendation, the Centre would be renovated and space inside would be reorganized.

### **Family-type Centres for Children and Adolescents with Disabilities**

During the inspections carried out in the Family-type Centres for Children and Adolescents with Disabilities in Veliko Tarnovo and the village of Valkovo, Sandanski Municipality, the NPM team established that the services provided in both places were of very high quality. The buildings fully meet the children’s needs and children use services provided by the Day Centre for Children with Disabilities, Day Centre for Adults with Disabilities and the Centre for Social Rehabilitation and Integration.

According to data provided by the director of the Centre in Valkovo, three of the children attend the Day Centre for Children with Disabilities in Sandanski where children stay not more than four hours instead of the envisaged eight hours in the contract with the social service provider due to transport limitations of the Centre. This prevents children from using effectively the services provided in the Day Centre. In this relation the NPM recommended to the mayor of Sandanski Municipality to ensure additional transportation to the Day Centre so that children were provided quality social services. The mayor followed the recommendation accordingly.

### **Social services for adults**

According to data of the Social Assistance Agency, as of 31 May 2017 a total of 223 institutions for adults with mental retardation and mental disorders operate in the

country: 40 homes, 128 safe houses, and 55 family-type centres. A total of 4,951 people are accommodated in these facilities.

However, 1,724 people wait to be accommodated: 1,369 with mental disorders and 355 with mental retardation.

In 2017 the NPM conducted inspections in nine institutions that provide residential social care for adults with mental retardation and mental disorders.

Although the National Assembly ratified the UN Convention on the Rights of Persons with Disabilities on 26 January 2012, the quality of life of this group of people has not improved.

The NPM has extended numerous recommendations over the years to speed up the deinstitutionalization process as the lengthy stay of people with disabilities in institutions violates fundamental human rights. Nevertheless, there are still eight institutions with a capacity for more than 100 people that are remotely located from municipal centres and hospitals and that lack the necessary professional staff.

The NPM is of the opinion that the successful deinstitutionalization and socialization of the elderly people placed in institutions should be set as a priority. It is furthermore important to carry out information campaigns to reduce the stigma about the people with mental retardation, mental disorders and dementia. The society must accept that these people need treatment and specialized care and not the isolation they currently experience and which puts them in a vulnerable position and directly violates their rights. The living conditions in the specialized institutions for adults are often not satisfactory, care is of poor quality and does not meet the statutory standards and criteria.

A National Strategy for Long-Term Care for Elderly People Placed in Institutions was adopted in 2014. It envisages to launch the deinstitutionalization process in 2018. The NPM is of the opinion that some of measures and activities set forth in the Action Plan of the National Strategy may be carried out sooner.

The time limits for the elaboration of specialized criteria and methodology for the assessment and training of professionals as well as for the preparation of transferring people placed in the institutions are unreasonably long and would slow down even further the process of deinstitutionalisation.

Delays in the deinstitutionalization process in fact violate the rights of the people placed in the institutions. According to the assessment of the Ministry of Labour and Social Policy, the “living conditions in the specialized institutions for adults suffering from mental disorders are not satisfactory; the care provided in these institutions is of poor quality that fails to meet the statutory standards and criteria. The “institutionalized” long stay of people with chronic mental disorders in these healthcare establishments is a major problem“.

The NPM is of the opinion that the three processes – building up new residential services, preparation for the transfer of the elderly people to the new services, and training the professionals in the new services should run in parallel so that to place patients immediately in the new facilities once they have been built.

The operation planned under the Operational Programme “Regions in Growth” 2014-2020 for the construction and renovation of infrastructure and delivery of necessary equipment for community social services raises strong concerns, in particular footnote no. 2, which reads as follows:

\*Establishing residential social services in the buildings of closed or pending closure specialised institutions will not be allowed. These buildings are former homes for children with disabilities, former or still operating homes for children derived of parental care, former or still operating homes for medical and social care for children, former or still operating homes for adults, as well as medical establishments.

\*\*In case municipalities file reasoned requests, an individual approach may be applied according to the building of the institution in question, its location, technical condition, access to other services etc. Possibilities to use such buildings will be assessed by a standing expert working group.

The NPM has reiterated in its annual reports its negative finding about the apparent lack of will and vision to move the residential care services in the community. Instead, a tendency to the opposite is observed, namely to reconstruct the premises of institutions located far from the municipal centres, sometimes without any infrastructure, with minimum funds into safe houses. Thus safe houses are situated practically in the same building or in the yard of the respective residential service. The same practice may be applied in building Care Centres for People with Disabilities and Elderly People.

Furthermore, the [Common European Guidelines on the Transition from Institutional to Community-based Care](#) expressly provides that „**[P]lans for the future use of the building should be made as part of the process of closure. They should involve the personnel and local community in order to reduce resistance to closure. While it is important to be creative and open-minded to new possibilities, it is also important to ensure that no part of the building is used to provide institutional care, for any group of people.**“ (p. 110).

The NPM is further on of the opinion that it is absolutely inadmissible to open any social institutions in buildings that used to host the old type of homes for elderly people. The following findings from the inspections conducted in 2017 come to support our position.

For years there is no ramp or elevator for wheelchairs in the Home for Elderly People with Mental Retardation in the village of Tserova koria, Veliko Tarnovo Municipality, despite previous recommendations to that end made by the NPM. Veliko Tarnovo Municipality has committed to provide funds to ensure accessible environment; however, the NPM did not establish that this commitment had been met. Apparently we need to bring once again attention to the fact that failure to provide for accessible environment violates the requirements set forth in:

1. The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Конвенция на ООН против изтезанията и други форми на жестоко, нечовешко или унижително отнасяне или наказание;
2. The UN Convention on the Rights of Persons with Disabilities;
3. The Integration of Persons with Disabilities Act;
4. The Territorial Organisation Act;
5. Regulation no. 4 of 1 July 2009 on the planning, implementation and maintenance of constructions in compliance with the requirements for accessible environment for the citizens, including people with disabilities.

Besides, the lack of accessible environment violates human rights and human dignity of the persons with disabilities. Abuse and inaccessible architectural

environment are considered to be discriminatory within the meaning of Article 5 of the Protection against Discrimination Act. Persons and organisations that act in a discriminatory manner are subject to administrative sanctions (Article 78 et seq. of the Protection against Discrimination Act).

The same problem was established in the Home for Elderly People with Mental Disorders in the village of Razdol, Strumyani Municipality. The Home is located in an area that is far from any populated place. The closest village Mikrevo is 22 km away and the road, despite being designated an international road, is in very poor condition. Together with the lack of any alternative transport connections, this makes the access of qualified professionals and the provision of health care services very difficult. There is an elevator for people with disabilities in the building but it was not functioning at the time of the inspection. Staff members claimed they carried patients in wheelchair out.

One section of the building where the patients are placed is renovated but the sanitary and hygiene conditions are poor. The number of sanitary facilities does not correspond to the capacity of the Home. Rooms in the section that is not renovated do not meet the standards and criteria laid down in Article 40f of the Implementing Rules of the Social Assistance Act. The rooms are old, which does not allow to maintain good hygiene. The floors are wooden and need to be replaced, there are no sanitary facilities in the rooms – there is one sanitary facility on every floor, for respectively 23 and 15 persons.

Food is prepared in the Home. The menu is poor and is not in accordance with the requirements laid down in Article 41, paras 1 and 2 of the Implementing Rules of the Social Assistance Act. For example, hard boiled egg and an apple for breakfast, or parsley soup, baked chicken liver and milk for lunch.

Four deaths were registered in 2017 in the Home by the time of the inspection. The practice is to bury the deceased patients in the graveyard of the Home for Elderly People with Mental Disorders in the village of Razdol. The graveyard has not been regulated so far.

The analytical report for the social services drawn up by the Social Assistance Agency indicates that this specialized institution will be closed down.

However, there are two safe houses for people with mental retardation and mental disorders in the village of Razdol. There people do housework and keep the rooms and yard but do not attend a day centre or other community-based services. In this relation the NPM maintains its conclusion that there is a trend to locate the safe houses for people with mental retardation and mental disorders in places that are remote from the big cities. This circumstance, together with the lack of transport connections, makes the access of qualified professionals and the provision of adequate health care services very difficult. Thus, instead of facilitating successful integration, the safe houses in fact operate as small closed institutions.

The NPM reiterates that it is of utmost importance not to open any social services in remote areas where there is no infrastructure and specialized staff.

On the other hand, two safe houses for elderly people with mental retardation have been built up in the village of Tserova koria, each with a capacity for seven people. They provide high quality of residential care in an environment close to the family environment. The elderly people are accommodated two in a room and have access to a

spacey hall with canteen and a kitchen. The material conditions are very good. Eight of the residents attend the Day Care Centre in Veliko Tarnovo.

The NPM has established that in some cases the Social Assistance Departments determine the type of specialized institution – a home or a safe house – only on the basis of documents. No preliminary meetings with the people to be placed have been conducted to assess their condition objectively. This has resulted in cases where elderly people have been moved from a home to a safe house and subsequently back to the same or another home.

Frequent transfers from one institution to another affects extremely negatively the psychological and somatic condition and should be carried out only after careful consideration of the individual patient's condition. The NPM is of the opinion that the difficulties in the elderly people's adaptation may be overcome by active work prior to and after their transfer, including counselling by the respective professionals.

## **COOPERATION OF THE NATIONAL PREVENTIVE MECHANISM WITH INTERNATIONAL AND NATIONAL AUTHORITIES AND ORGANISATIONS**

In 2017 the NPM continued to actively cooperate with a series of national and international partners: public institutions, non-governmental organisations, as well as international bodies and organisations. A small portion of these are the European Committee for the Prevention of Torture; the National Preventive Mechanisms of the South-East Europe Network; Council of Europe; International Centre for Migration Policy Development; European Border and Coast Guard Agency (Frontex); the European Union Agency for Fundamental Rights; the Office of the High Commissioner for Human Rights; Amnesty International; Bulgarian Helsinki Committee; Center for the Study of Democracy etc.

The conferences, seminars, working groups and meetings as well as the discussions in which experts of the NPM took part are listed chronologically below:

- January 2017 – conference on deinstitutionalization of childcare organized by Know-How Centre for Alternative Child Care with the New Bulgarian University;
- March 2017 – participation in a working group for training on forced return in Budapest, Hungary, organized by the International Centre for Migration Policy Development;
- April 2017 – participation in a working group for training on forced return in Luxembourg, organized by the International Centre for Migration Policy Development;
- May 2017 – Information Day for potential beneficiaries of Asylum, Migration, and Integration Fund 2014-2020 and Internal Security Fund 2014-2020;
- May 2017 – Practical training and discussion on the Integration of Refugees in Accepting Societies, organized by the Foundation for Access to Rights;
- May 2017 – Round table on the Possibilities for Better Protection of Refugee Children in Bulgaria, organized by the Bulgarian Red Cross;
- May 2017 – Seminar on Detention and Alternatives to Detention of Migrants, Asylum-seekers and Refugees, organized by the UN High Commissioner for Refugees in cooperation with the Council of Europe;
- May 2017 – participation in a conference of the National Preventive Mechanisms of the South-East Europe Network in Belgrade, Serbia;
- July 2017 – participation in a conference of the National Preventive Mechanisms of the South-East Europe Network in Podgorica, Montenegro, on the Protection of Health in Prisons and Psychiatric Institutions“;
- September 2017 – round table in the framework of the project “Support for the implementation of the European Court of Human Rights judgments and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment standards and recommendations in Bulgaria (Prison Reform)” organized by DG EP;
- October 2017 – participation in the annual meeting and working group of the observes of forced return, Athens, Greece, organized by the International Centre for Migration Policy Development;
- November 2017 – participation in train-the-trainer for the observes of forced return, Malta, organized by the International Centre for Migration Policy Development;

- November 2017 – conference on Establishing an Effective Mechanism for Integration of People Granted International Protection in Bulgaria, organized by the Representative of the UN High Commissioner for Refugees and the Bulgarian Council for Refugees and Migrants;
- December 2017 – participation in the international meeting South Programme 2 organized in the framework of a joint project with the Council of Europe, Hammamet, Tunis;
- December 2017 – meeting of the International Holocaust Remembrance Alliance with a view to including in the Bulgarian school curricula training on the holocaust and modernity.