



**OMBUDSMAN OF THE REPUBLIC OF
BULGARIA**

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

2023

SUMMARY

CONTENTS

.....	1
HIGHLIGHTS	3
MAIN PROBLEMS AND RECOMMENDATIONS	10
PROTECTION OF PERSONS WITH MENTAL ILLNESSES	10
RIGHTS OF CHILDREN PLACED IN REFORM SCHOOLS AND SOCIAL BOARDING SCHOOLS	22
PROTECTION OF PERSONS DEPRIVED OF THEIR LIBERTY IN PLACES FOR EXECUTION OF PUNISHMENTS WITH THE MINISTRY OF JUSTICE	25
PROTECTION OF PERSONS DETAINED IN DETENTION CENTRES WITH THE MINISTRY OF INTERIOR	27
PROTECTION OF ASYLUM SEEKERS	28
PROTECTING THE RIGHTS OF CHILDREN AND ADULTS PLACED IN RESIDENTIAL SOCIAL SERVICES	31
COOPERATION WITH INTERNATIONAL ORGANISATIONS AND CIVIL SOCIETY ORGANIZATIONS	33
GENERAL STATISTICS FOR 2023	36

HIGHLIGHTS

For eleventh consecutive year the Ombudsman's institution presents a report on its activities as National Preventive Mechanism (NPM). The functions of the Ombudsman of the Republic of Bulgaria as National Preventive Mechanism concern the implementation of the Optional Protocol to the UN Convention against Torture and other Forms of Cruel, Inhuman or Degrading Treatment or Punishment and the amendments to the Ombudsman Act of 2012.

Unfortunately, the observations and conclusions made by the Ombudsman acting as NPM in 2023 continue to establish systemic problems for which the public authorities have been repeatedly alerted but for which no adequate solution has been found over the years.

Firstly, **the issue of the rights of people with mental illnesses has been acutely raised in the last two years.** The Ombudsman of the Republic of Bulgaria, acting as National Preventive Mechanism, carries out annual monitoring of the public psychiatric hospitals, mental health centres and social facilities for people with mental disorders. In 2022-2023 the Ombudsman performed a total of 25 unannounced inspections in psychiatric facilities and centres for residential social services. Within the meaning of the UN Convention against Torture and other Forms of Cruel, Inhuman or Degrading Treatment or Punishment and the Council of Europe European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, public psychiatric hospitals are places for deprivation of liberty since some of the patients are placed there by virtue of court judgments and are prevented to leave them out of their free will. Thus, the Ombudsman acting as NPM monitors with particular attention these places to prevent the occurrence of any torture or other forms of inhuman or degrading treatment there.

In her annual reports from 2019 to 2022 the Bulgarian Ombudsman invariably alerted the public authorities about chronic problems in the public psychiatric hospitals that could only qualify as incompatible with the fundamental standards for protection against torture and other forms of cruel, inhuman or degrading treatment or punishment, such as:

- Degrading living conditions in the public psychiatric hospitals
- Chronic undernourishment of patients due to wrong financing model
- Poor quality of the medical care
- Lack of human resources or sustainable policy to overcome this problem
- Lack of social services to facilitate the subsequent reintegration of patients in public psychiatric hospitals.

The gravest case that can be qualified as torture dates back to the beginning of the Ombudsman's term of office as NPM: the fire that occurred on 2 October 2023 in the Public Psychiatric Hospital in Lovech, which caused the death of a patient.

The inspection conducted by the Ombudsman on this tragic occasion revealed a number of deficits in the system for providing quality psychiatric care and protecting mental health patients:

- Gaps in the legal framework and practice for implementation of measures for temporary physical restraint of persons in public psychiatric hospitals,
- Lack of effective control mechanisms in public institutions,
- Chronic problems as regards the quality of the psychiatric care due to insufficient financing.

To protect the rights of persons with mental illnesses, the Ombudsman of the Republic of Bulgaria is of the opinion that a series of urgent measures to prevent any possible form of degrading treatment or torture are strictly necessary:

- 1) To define ‘torture’ as a stand-alone crime,***
- 2) To introduce, pursuant to Article 127, item 4 of the Bulgarian Constitution, effective regular control by the prosecution over the implementation of criminal and other coercive measures in all public psychiatric hospitals since the latter are considered places for deprivation of liberty,***
- 3) To update the current legal regulation on the implementation of measures for temporary physical restraint of patients with mental disorders and to elaborate a protocol for the implementation of the coercive measures immobilization and isolation where the duration and frequency of these measures over a 24-hour period as well as the grounds for their implementation are clearly specified,***
- 4) To expand the possibilities for civilian control by involving a person with legal background and a representative of a civil society organization as members of the Committee Supervising the Implementation of Measures for Temporary Physical Restraint,***
- 5) To introduce uniform financing modalities for all healthcare facilities for inpatient treatment linked to the quality of the extended healthcare service;***
- 6) Prioritize improving the quality of life in the public mental health policy by means of a successful deinstitutionalization of patients with mental illnesses and their socialization through services in the community.***

Another problem that is turning into a chronic deficit in human rights protection in Bulgaria concerns the rights of children in conflict with the law. During the last 11 years the Ombudsman as NPM and monitoring authority under the Convention on the Rights of the Child has focused on different priorities in their work, a major one being the rights of children in conflict with the law who are placed in institutions. In 2014 and 2015 the Ombudsman acting as NPM published two thematic reports on the state of play in reform schools and social boarding schools. The reports review in detail the legal characteristics of the reform schools and social boarding schools from international law and national law perspective; the profile of the children placed therein; the quality of education and extracurricular activities; protection measures available for the children placed therein; the quality of the medical care; the administrative and technical capacities in the reform schools and social boarding schools.

In every annual report the Ombudsman acting as NPM repeatedly recommends that the reform schools **be closed down and effective modern measures for work with children in conflict with the law be introduced**, including restorative justice and prevention, and a **social protection system comprising a network of services** (integrated services and correctional psycho-social and protection measures and mechanisms for support) **be created** for children in conflict with the law. In 2023 teams of the Ombudsman institution from NPM and Rights of the Child directorates carried out three inspections in reform schools and social boarding schools using the same standardized methodology to assess progress in the Third Thematic Report on the Rights of Children Placed in Reform Schools and Social Boarding Schools. As a result of the systemic pressure of the Ombudsman, four boarding schools were closed down, such as the one in the village

of Dragodanovo in the Municipality of Sliven. The number of children placed in the other three boarding schools has decreased to 88 children. Most of the children are victims of the circumstances in their lives – poverty, lack of normal living conditions, separated parents or parents who are economic migrants living abroad. The facilities are in poor condition despite the partial repairs carried out. Investing resources (financial, technical or human ones) in the system of reform schools and social boarding schools is inappropriate. The efforts of the public authorities should be geared instead towards immediate closure of these schools and introducing a protected social system comprising a network of services (integrated services and correctional psycho-social and protection measures and mechanisms for support) for children in conflict with the law.

The third thematic report on the rights of children placed in reform schools and social boarding schools established a series of chronic deficits:

- Reform schools and social boarding schools do not meet international standards. Those schools make use of **the so-called barrack type of buildings with shared sleeping rooms, bathrooms and toilets**. The children placed therein have no access to quality education and medical care. Their relatives may not visit them as the schools are located in remote areas while the relatives lack the required financial means
- **The correctional measures under Article 13 of the Juvenile Delinquency Act bear the characteristics of criminal repression**, i.e. their correctional effect is achieved through imposing sanctions or restrictions
- **There is no subsequent regular judicial review and legal aid for children placed in those schools** in relation to the imposed correctional measures (the European Court of Human Rights has already established violation by the Bulgarian State, cf. *D. L. against Bulgaria*, judgment of 19 May 2016)
- **The applicable law precludes minors placed in reform schools to turn to the judicial bodies and seek review of their detention**
- **Bulgarian domestic law does not provide for regular automatic review of the imposed detention.**

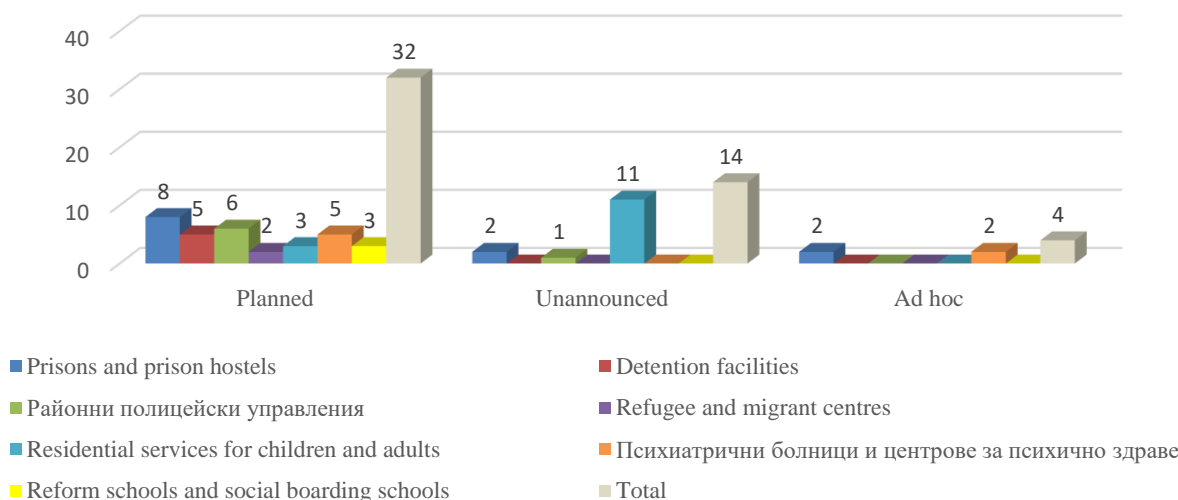
*For yet another year the Ombudsman acting as NPM underscored that a **long-term national policy and strategy for juvenile justice should be adopted**. The efforts of the public authorities should be geared towards immediate closure of the institutions for children in conflict with the law and establishment of a social system of protection comprising a network of services (integrated services and correctional psycho-social and protection measures and mechanisms for support) for children in conflict with the law.*

*The recommendation concerning the need of effective legislative actions for the transposition of **Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings** remains valid.*

In 2023 the Ombudsman acting as NPM conducted a total of 50 inspections in prisons, public psychiatric hospitals and mental health centres, centres for the detention of refugees and

migrants, detention centres and family-type residential centres for children and adults; the focus of the inspections were the rights of children in conflict with the law placed in institutions.

Graphic No. 1 – Number of inspections conducted by the NPM in 2023, by categories of inspected bodies



Source: Statistics of the Ombudsman of the Republic of Bulgaria

In 2023 the Ombudsman acting as NPM conducted a total of three planned and 11 unannounced inspections in social institutions for children and adults. **Over the years the Ombudsman has repeatedly extended recommendations to speed up the process of deinstitutionalization of the care for adults since the continuous stay of people with disabilities in institutions violates fundamental human rights while the institutions themselves may be qualified as places for deprivation of liberty.** Nevertheless, seven institutions with a capacity of more than 100 persons each (one with a capacity of 228 persons) are still operational. They are located in remote areas, far away from municipal centres and hospitals, with no specialists to care for the in-patients. At present hardly nine institutions for people with mental retardation, mental disorders and dementia have been closed. **The Ombudsman has established yet again that these institutions do not meet any criteria for the provision of quality social services for people with disabilities.** The people placed there are the object of poor and degrading attitude while their stay violates their fundamental human rights such as:

- 1) Right to free movement and contacts with the outside world
- 2) Right to quality psychological and medical care
- 3) Right to private space and quality sanitary and living conditions
- 4) Right to individual care.

In a number of reports the Ombudsman, acting as NPM, has repeatedly stated the negative finding about the apparent lack of will and vision for transferring residential care services in the community. Instead, the opposite trend is being observed: the living conditions in the institutions remain the same, while some institutions are being transformed with minimum funds into protected residences and family-type residences far from municipal centres and with no accompanying infrastructure. As a result, the new services are practically accommodated in the same buildings or in the yard of the respective residence service.

The trend of numerous inspections carried out in **prisons with the Ministry of Justice (MoJ)** continued in 2023. The report from the eighth visit to Bulgaria of the European Committee for the Prevention of Torture and Other Inhuman or Degrading Treatment or Punishment (CPT) was published in the end of October 2022. The CPT notes major continuing problems such as **violence among inmates, poor conditions in prisons and detention centres, infestation with bed bugs and cockroaches as well as the lack of any meaningful and constructive activities for the persons deprived of their liberty.**

These findings are confirmed by the inspections carried out in 2023 by the Ombudsman acting as NPM which demonstrates the continuing necessity of reforms of the criminal policy in the penitentiary system. The general critical findings in this area concern the lack of effective solutions to several major problems: systemic deficits as regards medical care of inmates; continuing deficits as regards depreciated, morally outdated and hygienically unreliable bedding inventory; unresolved issues with cockroaches and bed bugs in prisons etc.

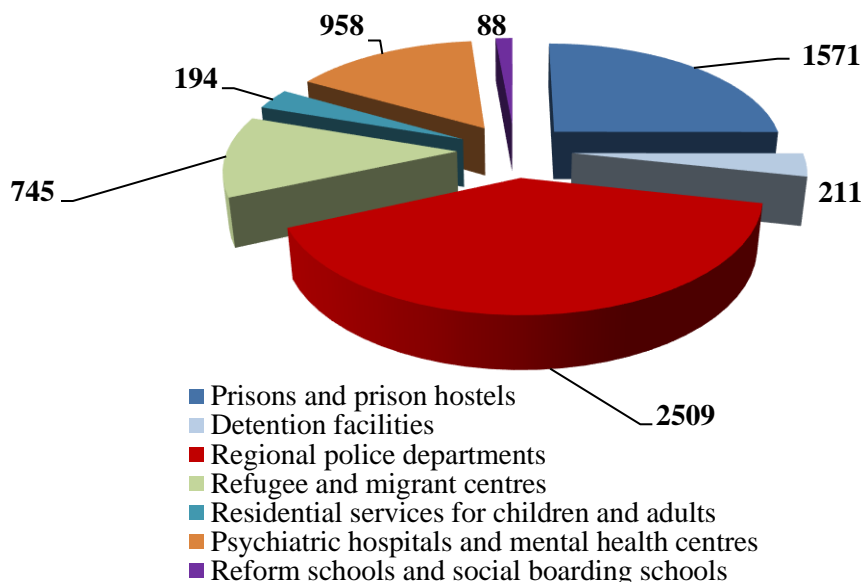
The Ombudsman acting as NPM has repeatedly called for the protection of inmates' right to work and education reiterating before the prison authorities its significance for the correctional effect of the punishment that prisoners serve and reminding of the statutory right to adequate work for inmates stipulated in Article 77, para 1 of the Execution of Punishments and Remand in Custody Act: *'While serving their sentence, prisoners are entitled to appropriate work.'* The Ombudsman has further brought particular attention to Article 41, para 1 of the Criminal Code stipulating that **serving of punishment shall be complemented by appropriate paid community service** which aims at re-educating convicts, providing them with vocational training and/or improving their professional qualifications.

Another focus of the Ombudsman's work as NPM in 2023 was the rights of persons detained in detention facilities with the Ministry of Interior (MoI). The inspections covered the largest number of persons in the inspected institutions in 2023 – a total of 2,509. The inspections aimed to establish any progress with following the recommendations extended in 2022 as regards the rights of minors and persons seeking or having been granted international protection. In 2023 the Ombudsman conducted inspections in four detention facilities with the Ministry of Interior. The living conditions in these detention facilities continue to be unsatisfactory, with poor access to day light and dilapidated equipment.

All inspected facilities avail of separate places for minors; the recommendations extended by the Ombudsman as regards detention of minors in accordance with Article 2 of the Child Protection Act are being followed. The amendments to Instruction No. 81213-78 of 24 January 2015 on the Detention, Equipment in the Detention Facilities and the Order Therein of the Ministry

of Interior translated the recommendation made by the Ombudsman as regards the **mandatory participation of an attorney in cases of detention of minors**.

Graphic No. 2 – Number of persons covered in the course of the planned and unplanned inspections carried out by the NPM in 2023.



Source: Statistics of the Ombudsman of the Republic of Bulgaria

The Ombudsman acting as NPM positively assesses that in all inspected areas the telephone of the National Bureau for Legal Aid and an up-to-date list of lawyers on duty with the respective bar are prominently placed, thus ensuring the detained persons' right to defence.

Every year the Ombudsman acting as NPM conducts inspections in the **centres for temporary accommodation of foreigners** with the Ministry of Interior and the refugee centres with the State Agency for Refugees (SAR) with the Council of Ministers. A major focus of these inspections is to assess the **living conditions for unaccompanied minors and the forms of support that is being provided**.

According to statistics of the State Agency for Refugees with the Council of Ministers, a total of 5,702 applications for international protection were submitted in 2023 compared to 3,121 in 2022. Of those 5,702 applications, 3,843 were filed by unaccompanied minors, including by 1,416 under the age of 14. A total of 49 unaccompanied minors were accommodated in social services centres in 2023 compared to 29 in 2022. An alarming fact is that often the unaccompanied children simply disappear from the open-type accommodation centres with SAR, in the course of a week or two after being accommodated, continuing their route to Western Europe following organized expensive illegal refugee channels.

The inspections carried out in 2023 established a **growing number of unaccompanied minors against the background of persistently unresolved underlying issues**:

- The Ombudsman's recommendation from 2022 has not been acted upon and the Registration Reception Centre in Harmanli continues to avail of no safety zone for unaccompanied minors seeking international protection

- The Ombudsman's recommendation concerning the introduction of a systemic protection and integration policy for minors is still up-to-date: it is necessary to make an assessment of the feasible measures to provide protection and support for unaccompanied minors who have been granted international protection by means of their integration in the community in case they have voiced their unwillingness to be accommodated in resident social care.

The Ombudsman of the Republic of Bulgaria is the only Bulgarian public institution that **monitors the forced return of foreign nationals** with effective coercive administrative actions issued under the Foreigners in the Republic of Bulgaria Act. The Ombudsman acting as NPM has rich experience in the area of protection of human rights and fundamental freedoms related to the status of asylum seekers and foreigners placed in special facilities for temporary accommodation with the MoI. In 2023 the Ombudsman monitored the enforcement of 33 coercive administrative actions of forced return to the country of origin, country of transit or third country, and expulsion. The monitoring teams established systemic problems as regards checks of foreigners' personal circumstances: the practice of omissions in the documentation continues, especially as regards challenging orders imposing coercive administrative measures; proofs that foreign nationals understand the contents of the issued orders imposing coercive administrative measures and are aware of their right to appeal these under the Code of Administrative Procedure are missing; proofs that foreigners accommodated in the SCTAFs are aware of their right to receive legal aid and have met an attorney-at-law who have consulted them and informed them of their rights and legal possibilities are missing; etc.

Unfortunately, the Ombudsman's NPM Annual Report 2023 continues to highlight other unresolved problems:

- ✓ **Persistent underfinancing and chronic shortage of personnel to ensure quality medical service and health care for the persons placed in all categories of inspected facilities** – prisons, psychiatric hospitals, social boarding schools, centres for refugees and migrants as well as family-type residential centres for children and adults
- ✓ **Lack of budget financing of social activities in prisons with the MoJ** – social work and reintegration of inmates remain questionable for many of the prisons in the country.

In relation to these problems, a total of 129 recommendations have been extended to various public authorities and institutions with a view to undertaking specific action to improve the conditions in the accommodation and detention facilities and prisons.



Infrastructure in a social boarding school and a public psychiatric hospital in 2023.

MAIN PROBLEMS AND RECOMMENDATIONS

PROTECTION OF PERSONS WITH MENTAL ILLNESSES

MAIN RECOMMENDATIONS

- Pursuant to Article 127, item 4 of the Constitution, the Prosecutor's Office must regularly supervise the enforcement of penalties and other coercive measures in all public psychiatric hospitals (which are considered places for deprivation of liberty according to the UN Convention against Torture and Other Forms of Cruel, Inhuman and Degrading Treatment or Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe) and publicly announce the results from the conducted inspections.
- Assessments should be made of all public psychiatric hospitals with a view to their closure, transfer or restructuring.
- All hospitals which will continue functioning must be brought in line with the requirements set forth in the Medical Facilities Act and Regulation No. 24 of 7 July 2004 on the Accreditation of Psychiatry Medical Standard.
- Review Regulation No. 1 of 28 June 2005 on the terms and procedure for implementing measures for temporary physical restraint of patients with mental disorders and elaborate a protocol for the implementation of the coercive measures immobilization and isolation where the duration and frequency of these measures over a 24-hour period as well as the grounds for their implementation are clearly specified.
- Involve as mandatory members of the Committee Supervising the Implementation of Measures for Temporary Physical Restraint a person with legal background as well as a representative of a humanitarian civil society organization and ensure that they have the possibility to conduct 24/7 inspections of the measures for temporary physical restraint.
- Notify the heads of all public psychiatric hospitals of the Ombudsman's powers acting as NPM, including of their obligation to ensure that the NPM teams enjoy immediate access to the inspected sites.
- Perform emergency inspections in all public psychiatric hospitals as regards the implementation of coercive measures for physical restraint.

The Ombudsman of the Republic of Bulgaria, acting as National Preventive Mechanism within the meaning of the Optional Protocol to the UN Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment adopted on 18 December 2002 performs annual monitoring of public psychiatric hospitals, mental health centres and social facilities for people with mental disorders. In 2022-2023 the Ombudsman carried out a total of 25 unannounced inspections in psychiatric facilities and centres for residential social services.

Within the meaning of the UN Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe, public psychiatric hospitals are considered places for deprivation of liberty since some of the patients are placed there by virtue of court judgments and may not leave them out of their free will. Thus, the Ombudsman is particularly attentive to prevent the occurrence of torture or any other forms of inhuman or

degrading treatment therein.

The gravest case that can be qualified as torture dates back to the beginning of the Ombudsman's term of office as NPM – the fire that occurred on 2 October 2023 in the Public

Psychiatric Hospital in Lovech, which caused the death of a patient. The Ombudsman team established grave violations of the deceased patient's rights, namely:

On the day of the fire the patient was isolated in the course of nine hours, being immobilized (having both legs and hands tied) for almost six hours. When the fire occurred, he was tied and could not protect himself. The immobilization took place approximately a month after he had been admitted for treatment, i.e. after the treatment he had undergone, the acute phase of his illness should have been supposedly overcome, all the more so since he was placed in the so called 'soft room' which allows patients to do anything without risks or hindrances for the staff carers. Apparently in this case the soft room, instead of being used as a safe place for isolation, was used as a 'sanctions room'.

The interviews with other in-patients did not reveal any incidents of aggression or auto-aggression on behalf of the deceased patient throughout the course of his treatment. This is why the Ombudsman acting as NPM cannot understand what required taking such radical coercive actions, namely tying all his four limbs three times and keeping him in isolation for 10 hours in a 'soft room', all in a single day.

The NPM team established a violation of Regulation No. 1 of 28 June 2005 on the terms and procedure of implementing measures for temporary physical restraint of patients with mental disorders.

Pursuant to Article 11, para 2 of this Regulation, a patient subjected to a measure of temporary physical restraint should be constantly monitored by nurses designated by the physician alternating every hour. Apparently, in this case there was no continuous monitoring during the patient's immobilization. In the course of the inspection, the NPM team checked the Register of action taken for temporary physical restraint and established a series of cases where patients had been ordered consecutive isolations and several immobilizations over the same day or in consecutive days. The case of a patient with vascular dementia stands out as particularly drastic: he was isolated five times for six hours each time and was immobilized twice for two hours each time in the course of three days, from 30 September to 2 October.

The Ombudsman acting as NPM underscores that Regulation No. 1 of 28 June 2005 on the terms and procedure of implementing measures for temporary physical restraint of patients with mental disorders runs contrary to the UN Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe. The NPM team believes that tying a patient for hours over a single day and isolating him – what the Ombudsman's team established in the public psychiatric hospital in Lovech – constitutes inhuman and degrading treatment. The Regulation fails to specify if immobilization (tying) has been assigned for two hours, whether it means that five minutes after this measure's effect has expired, the patient may be tied again unspecified number of times. In similar vein, the Regulation is silent if a person has been isolated for six hours, whether this measure may be extended for another six hours. In practice a patient may be isolated every day in the course of 15 days without interruption.

In this regard the Ombudsman acting as NPM recommended to the Ministry of Health to review Regulation No. 1 of 28 June 2005 on the terms and procedure of implementing measures for temporary physical restraint of patients with mental disorders and draw up a protocol for the implementation of the coercive measures immobilization and isolation where the duration and

frequency of these measures over a 24-hour period as well as the grounds for their implementation are clearly specified.

In response to this recommendation, the Ministry of Health informed that following an order of the Minister of Health, an interagency working group had been set up tasked with making a review of the legal framework governing psychiatric care in Bulgaria and drawing up proposals for legal acts with a view to optimizing the section of the Healthcare Act concerning emergency and mandatory psychiatric treatment (Chapter Five, Articles 146-165) as well as other legal acts relevant to the effectiveness and quality of psychiatric care. The working group comprised members of the National Council for Mental Health, representatives of the Ministry of Health, Ministry of Justice as well as prominent lawyers and representatives of civil society organizations (CSOs).

The Ombudsman recommended further to the Minister of Health to include in the composition of the Committee Supervising the Implementation of Measures for Temporary Physical Restraint a person with a legal background as well as a representative of a humanitarian civil society organization and ensure that they have the possibility to conduct 24/7 inspections of the measures for temporary physical restraint.

In his response to the Ombudsman the Minister of Health pointed out that the respective provision was instructional and not mandatory, and including such persons in the composition of the said Committee was within the discretionary powers of the director of the public psychiatric hospital.

The Ombudsman recommended further to the Minister of Health to order urgent inspections in all public psychiatric hospitals as regards the implementation of coercive measures involving physical restraint. The Ministry of Health commissioned a comprehensive inspection in the psychiatric medical facilities to the Regional Health Inspectorate including the implementation of coercive measures involving physical restraint.

The latest data of the Ministry of Health as of 1 October 2023 show that the total number of persons subject to forced treatment in psychiatric medical facilities (public psychiatric hospitals and mental health centres) was 300, and those to mandatory treatment – 1,827 persons.

A total of 449 patients underwent forced treatment in 2022, and 2,606 – mandatory treatment. That is to say that 3,055 patients were sentenced to treatment and were prevented to leave the medical facilities out of their free will.

There were 78 fatalities in 2022, while the number of deceased as of 1 October 2023 was 64.

The total number of pathoanatomical examinations to establish cause of death were four by 1 October 2023, compared to six in 2022.

The lack of pathoanatomical examinations was established by the NPM team as early as 2012. The Ombudsman has repeatedly recommended that pathoanatomical examinations be performed upon the deceased patients in public psychiatric hospitals. At present there is no such practice yet. The examination is performed only if the relatives so wish, following payment of the respective taxes. Thus, patients who have no relatives or whose relatives do not take any interest in them are being buried with no examination performed to identify the cause of their death. This practice rules out the possibility to establish any medical errors. In 2021 the NPM established

seven deceased patients in the public psychiatric hospital in Byala, compared to 13 in 2022 and six by 1 October 2023. No autopsies had been carried. Following the recommendation of the Ombudsman acting as NPM, a contract was concluded with a medical facility to perform pathoanatomical expert assessments.

The total number of registered immobilizations by 1 October 2023 was 1,837, compared to 2,464 in 2022.

Statistics show that the number of patients sentenced to treatment is high. These patients may not leave out of the facilities will the medical facilities, which obliges the State to ensure in even stricter manner respect of their rights.

The Ombudsman acting as NPM has established over the years that one of the gravest problems as regards public psychiatric hospitals is the lack of control on the part of the state institutions. As the Ombudsman has stated time and again, public psychiatric hospitals are financed following the methodology of the so called ‘history budget’ – a morally outdated system that used to be in place prior to the era of health insurance. This budgeting modality makes no direct linkage between the volume and quality of medical interventions and the inflowing funds. Hence public psychiatric hospitals are not subject to checks by the National Health Insurance Fund, while the Medical Audit Executive Agency carries out checks only in the rare instant of complaints filed by patients.

As early as 2012 when the Ombudsman started acting as NPM, he found out that public psychiatric hospitals had never prior to the inspections by NPM teams been the subject of any audit by the competent authorities as regards their medical work. This negative finding is at the root of the failure to comply with medical standards and the insufficient volume and diversity of health care rendered to patients.

Despite the fact that pursuant to the UN Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe public psychiatric hospitals are places for the deprivation of liberty, they are not subject to inspections by the Prosecutor’s Office in line with Article 127, para 4 of the Constitution

Therefore the Ombudsman recommended to the Prosecutor General to exercise, in accordance with Article 127, para 4 of the Constitution, regular supervision of the implementation of penal and other coercive measures in all psychiatric hospitals as the latter were considered places for deprivation of liberty pursuant to the UN Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe, and to announce publicly the results of the performed inspections.

Acting upon this recommendation, the Supreme Administrative Prosecutor’s Office notified the Ombudsman that it terminated the case file since the latter was incompatible with the functional jurisdiction of the Supreme Administrative Prosecutor’s Office, that is to say the Prosecutor’s Office was not competent to inspect the public psychiatric hospitals.

At the same time, on 7 November 2023, the Sofia City Prosecutor’s Office jointly with the Directorate General National Police and Medical Audit Executive Agency conducted a series of inspections for legality in relation to data about systemic violations in medical facilities providing inpatient psychiatric care in Sofia.

The Ombudsman has further recommended to the Prosecutor General of the Republic of Bulgaria, pursuant to Article 138, items 1 and 6 of the Judicial System Act and in view of the prominence of the case, to issue an order whereby the pre-trial proceedings in relation to the patient's death be assigned the special supervision of the Supreme Prosecutor's Office of Cassation. Thus far the Ombudsman has received no response by the Prosecutor General.

The Ombudsman recommended, pursuant to Article 148, para 1 read in combination with Article 29, para 2 of the Criminal Procedure Code, to the Lovech regional prosecutor to consider whether it would not be appropriate in the case at hand to assign the expert medical opinions in the pre-trial proceedings to specialists outside the list of experts with whom the Lovech Regional Prosecutor's Office and respectively the Lovech District Court were working. The Ombudsman was informed that in the course of the investigation the scene was inspected several times and with a view to the objective and comprehensive examination of all circumstances, the triple forensic medical expert opinion had been assigned to experts from another area of jurisdiction. The latter established that the cause of the patient's death had been asphyxiation.

The Ombudsman of the Republic of Bulgaria acting as NPM within the meaning of the Optional Protocol to the UN Convention against Torture and Other Forms of Cruel and Inhuman or Degrading Treatment or Punishment adopted on 18 December 2002 officially states that **such a treatment on behalf of public institutions to persons with mental health illnesses may qualify as torture or cruel, inhuman or degrading treatment or punishment within the meaning of the Convention.**

Other problems in relation to the provision of psychiatric care that the Ombudsman established as early as 2012 concern the **financing modality and human resources**. Thus, in 2020 the Ombudsman elaborated and sent to the attention of the Minister of Health a draft Mental Health Strategy 2020-2030 with a respective Action Plan.

Budget is a key instrument in managing psychiatric hospitals and respecting patients' rights.

Psychiatric hospitals are financed following the methodology of the so called 'history budget', which in the opinion of the Ombudsman in practice limits the access of health-insured persons to quality medical care. This type of financing is not premised on a direct link between the volume or quality of the provided medical services and incoming funds. The public funds allotted to public psychiatric hospitals are highly inadequate. The so called history budget is the reason for the poor conditions in which patients are treated in medical facilities and for the clear shortage of personnel due to low levels of remuneration and poor working conditions. Problems such as understaffing and lack of resources for adequate equipment and medication are among the factors that greatly reduce the quantity and quality of the medical care provided to patients.

Furthermore, the different principles underlying the budget modalities for the different types of psychiatric health facilities (such as public psychiatric hospitals and mental health centres) cause tensions and juxtaposition among specialists in the inpatient psychiatric care system, and this undoubtedly affects the quality of medical services. The Ombudsman has repeatedly recommended to the Ministry of Health to streamline **the financing modalities for all medical facilities, making them conditional on the quality of the provided medical services.**

In this relation the Minister of Health announced that two new clinical paths would be set up for affective disorders and schizophrenia and for the first time mentally ill persons would be

treated following a clinical path in a medical facility, receiving financing from the National Health Insurance Fund.

At present the quality of the medical care provided in public psychiatric hospitals is very poor. An example in this regard is the **public psychiatric hospital in Radnevo**.

In 2022 the daily sustenance allowance was BGN 3.15, and as of July 2023 it was BGN 3.02. According to the inflation calculator with the National Statistical Institute, the inflationary index of consumer prices for the period January 2022-July 2023 is 19%. This means that a patient's daily sustenance allowance as of August 2023 should be at least BGN 3.74. Apparently, the daily sustenance allowance did not increase but decreased instead.

The daily medication allowance in 2021 was BGN 2.01, and as of August 2023 it was reduced to BGN 1.57.

As regards the public psychiatric hospital in Radnevo, in her 2023 report the Ombudsman extended the following recommendations to the Minister of Health:

Take action to reduce the inpatient capacity while preserving the pay-roll personnel. The Ministry informed the Ombudsman that an analysis was pending of the inpatient capacity and admitted patients over the last two years so as to determine the required optimal number of inpatients, which will secure the necessary capacity of 6.5 sq. m. per person.

Take action to secure the required specialists and render the hospital's activity in compliance with the Psychiatry medical standard. The Ministry of Health responded that the National Council for Mental Health planned to discuss a proposal for amendments of the legal acts regulating the eligibility to acquiring psychiatry medical specialization with a view to attracting and sustaining young specialists in the system of mental health care.

To review and update the budget of all psychiatric hospitals – according to information from the Ministry of Health, in 2023 public psychiatric hospitals' budget for maintenance and running costs was increased by 24.7% on the average compared to 2022.

The Regional Health Inspectorates to conduct regular complex inspections in all public psychiatric hospitals. The Ministry of Health responded that the Regional Health Inspectorates had been commissioned to perform comprehensive inspections in the psychiatric medical facilities, including as regards the implementation of coercive measures for physical restraint.

To have in place a centralized fire alarm system. In response to the recommendation, the Ministry of Health will finance the installation of a fire alarm system in public psychiatric hospitals by the end of 2023.

The Ombudsman has further recommended that the Ministry of Health cooperate with the Ministry of Labour and Social Policy (MLSP) with a view to transferring the permanently accommodated following social criteria persons into the community, thus putting an end to their isolation and providing them with integrated health and social care in the community. The Ministry of Health responded that it was currently investing efforts in improving the cooperation with the MLSP with a view to transfer persons permanently placed in hospitals following social indicators and provide health and social services to them in the community. A total of 20 patients have been transferred in 2023.

The Ombudsman extended the following recommendations to the head of the public psychiatric hospital in Radnevo:

To take up action to ensure the required minimum area per patient as set forth in Regulation No. 49 of 18 October 2010 on the basic requirements for the organization, functioning and internal order of the inpatient medical facilities and the homes for medical and social care. The head of the public psychiatric hospital in Radnevo informed the Ombudsman that following an analysis of the number of incoming patients and the number of admitted patients they will seek to reduce the capacity of inpatients.

To review the possibility of designating a ‘soft room’ where psychomotor anxious patients are isolated in a humane manner; the response is that opportunities for designating and equipping a soft room will be studied shortly.

To ensure heating during the cold spring/autumn and winter months in all hospital rooms – the installation of two more AC is pending.

To make sure that temporary physical restraint is performed in accordance with the requirements set forth in Regulation No. 1 of 28 June 2005 on the terms and procedure for temporary physical restraint of patients with mental disorders – the reply is that the statutory requirements are being complied with.

Public psychiatric hospital in Byala: According to data in the Analysis of the work of public psychiatric hospital in the city of Byala, in 2021 the daily sustenance allowance per patient was BGN 2.50 in 2021, and BGN 2.76 as of August 2023. According to the inflation calculator with the National Statistical Institute, the inflationary index of consumer prices for the period January 2021-July 2023 is 29.9%. This means that a patient’s daily sustenance allowance as of August 2023 should be at least BGN 3.25. The following appear to be missing from the daily menu; dairy products, fruits, fresh vegetables, and fish. Only two main meals include meat on a weekly basis.

The daily medication allowance in 2021 was BGN 2.00, and as of August 2023 it was reduced to BGN 0.68. These figures indicate a very low daily medical allowance which causes a genuine concern about the quality of the provided medical care.

In her 2023 report the Ombudsman recommended to the Minister of Health the following as regards the public psychiatric hospital in Byala:

Take action to reduce the inpatient capacity while preserving the pay-roll personnel; the Ministry of Health informed the Ombudsman that a restructuring of the public psychiatric hospital in Byala was pending.

Consider measures to ensure the required specialists and rendering the work of the hospital in compliance with the Psychiatry medical standard – The reply was that the National Council on Mental Health planned to consider a proposal to amend the legal acts regulating the right to acquire Psychiatry medical specialization with a view to attracting and sustaining young specialists in the system of mental health care.

To review and update the budget of all psychiatric hospitals – the Ministry of Health informed the Ombudsman that the budget for maintenance and running costs for public psychiatric hospitals was increased to 24.7% on the average as compared to 2022.

The Regional Health Inspectorates should conduct regular complex inspections in all public psychiatric hospitals – The Ministry of Health responded that the Regional Health Inspectorates were commissioned to conduct a comprehensive inspection of the psychiatric medical facilities, including in relation to the implementation of coercive measures for physical restraint.

To have in place a centralized fire alarm system – the Ministry of Health shall, should budgetary restrictions allow it, finance a fire alarm system in public psychiatric hospitals by the end of 2023.

The Ombudsman has further recommended to the Ministry of Health to cooperate with the Ministry of Labour and Social Policy with a view to transferring the permanently accommodated following social criteria persons into the community, thus putting an end to their isolation and providing them with integrated health and social care in the community. The Ombudsman was informed that a total of 50 patients were transferred from the public psychiatric hospital in Byala to various social services in the community over the last years. However, some of the patients refused these social services and returned to the public psychiatric hospital.

The Ombudsman recommended the following to the head of the public psychiatric hospital in Byala:

To take up action to ensure the required minimum area per patient as set forth in Regulation No. 49 of 18 October 2010 on the basic requirements for the organization, functioning and internal order of the inpatient medical facilities and the homes for medical and social care – a restructuring is pending.

To expand the variety of laboratory examinations – a contract has been concluded with the multi-profile hospital for active treatment ‘Yulia Vrevska Byala’ EOOD to ensure access to examinations for the psychiatric hospital’s patients within 24 hours.

To conclude a contract with a medical care facility for performing autopsies – a contract has been concluded with the multi-profile hospital for active treatment ‘Yulia Vrevska Byala’ EOOD for performing autopsies.

To review the possibility of designating a ‘soft room’ where psychomotor anxious patients are isolated in a humane manner – the management of the multi-profile hospital for active treatment ‘Yulia Vrevska Byala’ EOOD is of the opinion that having such a room in place would bring more risks than added value. In case temporary immobilization of patients was required in the Byala hospital, the applicable legal regulation was followed; it was further envisaged to introduce video surveillance in isolators.

The Ombudsman’s main recommendation extended to the Ministry of Health over the years concerns precisely the launch of an urgent reform of the state-funded psychiatric care upholding protection of patients’ rights, in particular those accommodated for mandatory or forced treatment.

In the course of the inspections conducted in 2023 in the public psychiatric hospitals in Radnevo and Karlukovo, the Ombudsman established that no funds for maintenance had been provided over the period 2020-2023, despite prescriptions by the regional health inspectorates to that end. This led to closing down one of the female wards in the public psychiatric hospital in

Byala, and the closing of another male ward is pending. The first male ward in the public psychiatric hospital in Karlukovo is in decrepited conditions – eight patients are accommodated in a single room of no more than 20 sq. m. Six to ten patients are accommodated in a single room in the second male ward with a capacity of 50 pax in the public psychiatric hospital in Radnevo. They avail of a total of three toilettes and six bathrooms. There is no heating in the rooms.

What the Ombudsman shares acting as NPM is but a tiny portion of the extremely poor living conditions in the public psychiatric hospitals.

A mentally ill person stays on the average for 60 days in a public psychiatric hospital (data for 2022). The public psychiatric hospital in Karlukovo is a case in point – in 2022, the average stay of patients was 111 days. However, a large part of the patients (195 pax) were placed there for mandatory treatment under the Health Act, while eight were placed there for forced treatment under the Criminal Code. The number of treated patients for the year was 494.

These scarce levels of financing of the inpatient care of mentally ill persons preclude any quality medical care. In the course of the inspections carried out by the Ombudsman during the last 10 years, the Ombudsman acting as NPM has repeatedly called for urgent revision and update of the budget, especially the Maintenance Fund, of all psychiatric hospitals, taking due account of the inflation dynamics in the country.

On 20 September 2023 the Ombudsman addressed the chairperson of the Commission for the Protection against Discrimination in relation to failure by the Ministry of Health to comply with decision No. 152 of 1 July 2023 of the Fifth Panel of the Anti-Discrimination Commission. Pursuant to Article 65, item 1 of the Protection against Discrimination Act, the Anti-Discrimination Commission has established that both the Ministry of Health and the Minister of Health have acted discriminatory against persons with mental disabilities within the meaning of Article 2 § 2 of the International Covenant on Economic, Social and Cultural Rights due to non-compliance with their obligations under Articles 10 and 11 of the Anti-Discrimination Act. **In the said decision the Anti-Discrimination Commission instructs the Ministry of Health to provide the necessary financial resources to the public psychiatric hospitals with a view to improving the medical services provided therein and complying with the statutory medical standards.**

Acting as NPM and an interested party, pursuant to Article 67, paras 1 and 3 of the Anti-Discrimination Act, the Ombudsman asked the Anti-Discrimination Commission to check whether the Ministry of Health had complied with its decision over the ten-year period since the decision had been issued in 2013. The Ministry of Health has complied with the mandatory instructions in the operative part and the grounds of the decision in question, namely: ‘The Ministry of Health provides the necessary financial resources to the public psychiatric hospitals with a view to improving the medical services provided therein and complying with the statutory medical standards, in particular the Psychiatry medical standard’.

Following the Ombudsman’s recommendations, the Anti-Discrimination Commission informed the Ombudsman that it had sent another notification to the Ministry of Health for voluntary compliance to provide information how the prescribed actions had been carried out over the ten-year period since the decision had been issued.

The Ombudsman's opinion on the draft Mental Health Strategy recommends *inter alia* that an assessment of moving some psychiatric hospitals to other premises be made that is conditional on the restructuring of all public psychiatric hospitals. The Ombudsman further reiterates the need to specify deadlines and allocate the necessary resources for this transfer of hospitals as well as to designate appropriate buildings. The Ombudsman draws attention to the fact that many public psychiatric hospitals are poorly located, far away from multi-profile hospitals for active treatment, and lack adequate infrastructure and human resources. The Ombudsman acting as NPM points out to the public psychiatric hospitals experiencing the gravest problems, namely those in Karlukovo, Tsarev brod, Tserova koriya, Radnevo, Kravuna and Byala.

Following an inspection in the public psychiatric hospital in Lovech, in her report the Ombudsman acting as NPM extended yet another recommendation to the Ministry of Health to draw up assessments of all psychiatric hospitals by the end of 2023, recommending respectively closure, transfer or restructuring of hospitals. The Ombudsman further recommended that by the end of 2024 all hospitals that would continue functioning be brought in compliance with the statutory requirements set forth in the Medical Facilities Act and Regulation No. 24 of 7 July 2004 on Psychiatry Medical Standard.

On 13 December 2023 the Ombudsman requested again to be informed of the assessments made of all public psychiatric hospitals and the recommendations for closure, transfer or restructuring and staffing so as to comply with the statutory requirements set forth in the Medical Facilities Act and Psychiatry Medical Standard. On 25 January 2024 the analysis was provided; it envisaged only one psychiatric hospital to be transferred since no funds had been envisaged for the other hospitals.

Another major and essential problem is the lack of medical personnel

The **public psychiatric hospital in Byala** is a good case in point. Only five psychiatrists work in the hospital with a total capacity of 270 patients as of 1 September 2023. According to the manager of the hospital who is also a psychiatrist, he works 12 hours every day, including on non-working days due to the lack of specialists. According to the hospitals' establishment presented by the manager of the public psychiatric hospital in Byala, the position of head of the First Ward for Women Patients is performed by two physicians appointed at 0.5 FTE who are specialists in internal medicine and surgery respectively. There are no other physicians appointed in this ward. The ward itself is designated for patients in severe mental condition, some of which are placed there for forced or mandatory treatment. The head of the First Ward for Men Patients has no specialization and is the only physician in the ward. For the public psychiatric hospital in Byala to function as such, **it must demonstrate a certain level of competence according to Regulation No. 24 of 7 July 2004 on the Psychiatry Medical Standard. Pursuant to Section VI.1: Psychiatry activities shall be carried out in psychiatry units (a clinic or a ward) that are assigned 1st, 2nd, or 3rd level of competence in the hospitals for active treatment and the public psychiatric hospitals. At least two physicians shall work in 1st level psychiatry clinics or wards, of which at least one physician shall be with an accredited specialization in psychiatry.** In five out of six wards one post is earmarked for a physician but some of the physicians have no specialization in psychiatry. In September 2023 the Ombudsman carried out a follow-up inspection in the public psychiatric hospital in Byala and established that the recommendations extended after the former inspections in 2013, 2020 and 2021 had not been acted upon. One of the recommendations concerns reducing the hospitals' capacity to 100 patients due to the lack of physicians and nurses. In addition, no organigram with the respective assigned levels of

competence is available as required by the Psychiatry Medical Standard set forth in Regulation No. 24 of 7 July 2004. Finally, the requirements prescribed in the Regulation are not met.

In response to these recommendations from December 2023, the Ministry of Health informed the Ombudsman that as regards the recommendation to ensure the required minimum area per patient in accordance with Regulation No. 49 of 18 October 2010, from January 2024 the management of the public psychiatric hospital in Byala will be restructuring the clinic's wards to ensure the statutory area per patient and improve the living conditions in the rooms and the common areas. The distribution of personnel will also be optimized.

The number of psychiatrists is insufficient in the public psychiatric hospital in Radnevo as well. The hospital is with capacity of 420 patients, while the physicians specialised in psychiatry are only nine.

Another important finding of the Ombudsman is that there are not enough psychologists, social workers and occupational therapists. There are no social activities in the medical facilities whatsoever. The Ombudsman's team established during the unannounced inspections that patients were either staying in their rooms doing absolutely nothing, or should the weather allowed it – were staying outside, in groups, again doing nothing.

There is a chronic shortage of psychiatrists in all public psychiatric hospitals. **In this relation the Ombudsman recommended that the National Mental Health Strategy 202-2030 should focus on attracting more post-graduate students specializing in psychiatry and child psychiatry.**

The Ombudsman has formerly during previous inspections extended recommendations to the Ministry of Health to review the Rules of Procedure for the medical facilities for inpatient psychiatric care, in particular the number of personnel so as to improve the human resources and ensure equal health care for all mentally ill persons placed in public psychiatric hospitals.

Another major problem in the provision of care to mentally ill persons is that **no quality psycho-social rehabilitation is provided to the mentally ill** by means of a system of services extended by the Ministry of Labour and Social Policy.

Care for the mentally ill persons should for its better part be geared towards improving the quality of their lives by providing social services in the community such as day centres for persons with mental disorders, family-type residential centres for adults with mental disorders, and safe houses. Setting up day counselling centres for adolescents with different addictions is particularly important.

According to data of the Ministry of Health, as of 1 December 2023 the total number of permanently placed inpatients in medical facilities for a period over a year is 210 persons. These inpatients cannot be discharged due to the insufficient number of appropriate social services such as protected houses and family-type residential centres for people with mental illnesses. In practice these people have no place of their own to live in, their relatives refuse to care for them, thus the necessity to stay in the medical facility is the result of social rather than health considerations.

The Ombudsman has repeatedly recommended to the Ministry of Labour and Social Policy and the Ministry of Health to focus their efforts on discontinuing the isolation of this

group of inpatients in hospital environment and provide them with integrated health and social care in the community.

The state mental health policy should prioritise the **need to improve the quality of life by means of successful deinstitutionalization of the mentally ill and their socialization through services provided in the community.**

One of the main recommendations of the Ombudsman in her opinion of 2020 on the draft Mental Health Strategy is to include in the action plan to the Strategy an analysis of the number of adults and children in need of specialized social services in order to determine the number and territorial distribution of the services per municipality as well as the number of specialists who need to be involved. The Ministry of Health, Ministry of Labour and Social Policy and National Association of Municipalities should take crucial part in the analysis. The approved financial plan to the National Mental Health Strategy 2021-2030 shows that this recommendation has been endorsed and is scheduled to be completed in 2021; the funds earmarked for this activity are BGN 21,200.

The public statement of 4 November 2021 of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) concerning Bulgaria is equally important.

The Committee notes down in its concluding remarks that in its previous reports it took due account of the repeated assurances of the Bulgarian authorities that action would be taken to improve the treatment of persons placed in psychiatric hospitals and social institutions. At the same time the bCPT findings from its visit in November 2021 demonstrate the grave and long-standing problems that have remained largely unaccounted for. This state of play is indicative of the continuing lack of action on the part of the Bulgarian authorities on most of the shortcomings and the implementation of the specific CPT recommendations extended repeatedly over the years. The CPT is of the opinion that action in the specified regards should have been taken years ago and that radical change is required in the approach towards the overall issue of mental health care and social care institutions in Bulgaria.

In March 2023 the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment visited two psychiatric hospitals in Bulgaria and established that physical ill-treatment of patients by staff continued. The Committee considers it a grave failure of the Ministry of Health that it has not managed to discontinue this unacceptable practice. There is a deficit in psychiatric institutions in Bulgaria; staff in these institutions is insufficient; and the use of means of restraint does not comply with international standards.

On 23 November 2023 the National Assembly adopted a decision to set up an Ad Hoc Committee tasked with making an inventory of the violations of the rights of mentally ill patients that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the Ombudsman of the Republic of Bulgaria have established, and to propose legislative amendments that would guarantee equal rights of the Bulgarian citizens as stipulated by the Bulgarian Constitution and the conventions to which Bulgaria is a party. Some of the tasks of the Ad Hoc Commission are as follows: to prioritise in the National Mental Health Strategy respect of patients' rights; to consider and propose repealing incapacity mandate; jointly with NGOs and medical experts to take necessary action to ensure the deinstitutionalization of mentally ill patients and respect for their personal choice. The Ad Hoc Committee will present a report of its work with separate opinions and draft decisions. The Ad Hoc Committee comprises 12 MPs –

two MPs from each parliamentary group and will be active until its tasks have been accomplished but not longer than six months from the time of its establishment. The decision of the National Assembly was promulgated in the State Gazette.

RIGHTS OF CHILDREN PLACED IN REFORM SCHOOLS AND SOCIAL BOARDING SCHOOLS

MAIN RECOMMENDATIONS

- *Reform the juvenile justice system and assess the need of specialized court panels for children*
 - *Repeal the Juvenile Delinquency Act in force as of 1958 and adopt the Diversion and Educational Measures for Minors Act*
 - *Close down immediately the boarding schools and introduce modern and effective modalities for work with children in conflict with the law, including restorative justice and prevention*
 - *Establish a protected social system, including a network of services (integrated services and correctional psycho-social and protection measures and support mechanisms) as regards children in conflict with the law and their families.*
-

In the last 11 years the Ombudsman acting as NPM and monitoring authority under the Convention on the Rights of the Child has focused on various issues in her work, but one of her priorities has always been the rights of children in conflict with the law who are placed in institutions. In 2014-2015 the Ombudsman acting as NPM published two thematic reports on the state of affairs in reform schools and social boarding schools. The reports review in detail the legal characteristics of reform schools and social boarding schools from both international and domestic law perspective; the profile of the children placed therein and the living conditions; the quality of education and extracurricular activities; protection measures available for the children placed therein; quality of the medical care; administrative and technical capacity of the reform schools and social boarding schools.

The reform schools and social boarding schools are further on included in the annual NPM monitoring; to this end particular questionnaires and surveys for children and young people have been elaborated. Inspections take stock of how recommendations extended during previous visits have been followed and monitor the work of competent authorities.

In every annual report of the Ombudsman acting as NPM a recommendation has been extended to close down reform schools and introduce modern and effective measures for work with child offenders, including restorative justice and prevention, and establish a protected social system, including a network of services (integrated services and correctional psycho-social and protection measures and support mechanisms) as regards children in conflict with the law.

The third thematic report of the NPM and the Rights of the Child Directorate is premised on focused inspections conducted in 2023. It aims at taking stock of the follow-up on previous

recommendations extended to the Bulgarian authorities as regards rights of children placed in reform schools and social boarding schools.

In 2023 Ombudsman's teams carried out three inspections in reform schools and social boarding schools. The NPM and the Rights of the Child Directorate established that one recommendation has been partially followed. As a result of the systemic pressure of the Ombudsman, four boarding schools have been closed down, including the one in Dragodanovo, Sliven Municipality. The number of children placed in the other three boarding schools has decreased to 88 children. Most of the children are victims of circumstances occurring in their lives such as poverty, lack of basic living conditions, separated parents and/or parents who are economic migrants abroad.

The infrastructure is in a poor condition despite the partial repairs. Investing resources, financial, technical or human ones, in reform schools and social boarding schools is inappropriate. Public authorities should instead focus their efforts entirely on the immediate closure of these institutions and establish instead a social protection system, comprising a network of services (integrated services and correctional psycho-social and protection measures and support mechanisms) as regards children in conflict with the law. Reform schools and social boarding schools are by their nature places for deprivation of liberty. In *A. and Others v. Bulgaria* of 29 November 2011 and *D. L. v. Bulgaria* of 19 May 2016 the European Court of Human Rights also concluded that boarding schools in Bulgaria constituted in fact places for deprivation of liberty.

The reform of the child justice system in Bulgaria concerning juvenile delinquents is still at an early stage. Reform schools and social boarding schools should have been closed down years ago as they do not comply with the international standards with respect to children in conflict with the law. Those schools were established in the 1960s; the **barrack type of buildings with shared sleeping rooms, bathrooms and toilets** are old and located far away from the regional administrative centres. Children placed therein have no access to quality education and medical care. Their relatives cannot visit them due to the remoteness of the institutions and their personal lack of financial means. Some of them live as far as 400 km away from the boarding schools. During the interviews held, one of the children shared that he preferred that his parents send him money weekly instead of visit him since they had no money. The majority of children placed in reform schools and social boarding schools come from family-type residential centres for children. The reason for that is that the staff at the children's centres cannot cope with aggressive, autoaggressive or deviant children or children experiencing problems with communication. Subsequent integration of these children is difficult. **Placing children, in particular minors, in boarding schools could be qualified as degrading punishment.** The NPM issued as early as 2014 a recommendation that all social boarding schools be immediately closed down. This recommendation of the NPM has not only not been followed up, but **three children, the youngest of whom was just -year old, were placed in the social boarding school in Varnetsi in 2023.** The three children were placed by an order of the Sliven District Court. All three of them had been previously placed in family-type residential centres for children; all three of them had committed status violations, mainly escape and aggressive behaviour. **In 2022 there were cases of nine-year old children being placed in social boarding schools.**

Children continue to be sentenced and placed in reform schools and social boarding schools pursuant to the Juvenile Delinquency Act. **The Ombudsman acting as NPM has repeatedly observed that this Act is morally outdated and has recommended that the Act be repealed and a new law be adopted instead.** In 2011 the Bulgarian government adopted a Juvenile Justice

State Policy Concept (2013-2020) and an implementation roadmap (2013-2014). The Concept duly notes that the Juvenile Delinquency Act fails to provide for the required statutory, institutional and functional prerequisites to ensure the rights of the child in the system of justice administration and to allow that effective prevention measures are being taken. Despite the last amendments in 2006, **the correctional measures under Article 13 of the Juvenile Delinquency Act are still repressive in their nature, that is their educational effect is premised on the imposition of sanctions or restrictions.** It is reiterated in the Concept that the provisions of the Juvenile Delinquency Act run contrary to a number of domestic and international legal acts to which Bulgaria is a party and which are in fact applicable law. **As of November 2022, the Juvenile Justice State Policy Concept (2013-2020) and the implementing roadmap (2013-2014) have not been effected by the Bulgarian authorities.**

In its judgment *D. L. v. Bulgaria* of 19 May 2016 the European Court of Human Rights underscores that the material before it includes criticisms of various aspects of the Bulgarian system for accommodating children in difficulty within the network of social institutions. **It notes firstly that the Juvenile Delinquency Act is undeniably obsolete and that, for historical reasons, it is based more on a philosophy of “punishing” than “protecting” children, a fact that has attracted criticism from international and national organisations.** Furthermore, when examining the first application by the local committee for the applicant’s placement, the court found that the Podem school was an “unfavourable environment”. Subsequently, the State Agency for Child Protection and the Ombudsman both indicated their concerns as to the appropriateness of judicial proceedings concerning minors, the implementation of educational and support programmes, and the physical living conditions in the secure institutions for juveniles.

In its concluding observations adopted on 21 May 2008 following consideration of Bulgaria’s second periodic report on compliance with the UN Convention on the Rights of the Child, the Committee on the Rights of the Child held that the definition of the definition of “anti-social behaviour” of juveniles contradicted international standards. Accordingly, the Committee recommended that the national legislation on Juvenile Delinquency and the Criminal Procedure Code be reformed with the view to withdraw the notion of anti-social behaviour. Furthermore, the Committee recommended that deprivation of liberty, including placement in correctional-educational institutions, be used as a means of last resort and, when used, be subject to regularly monitor and review, taking into account the best interests of the child.

International bodies and Bulgarian authorities share the view that the Juvenile Delinquency Act should be repealed as a matter of urgency and the Diversion and Educational Measures for Minors Act be adopted in its place. **However, nine years after the Ombudsman’s first recommendation the law has not been adopted.** It is precisely the Diversion and Educational Measures for Minors Act **that has served as the engine of the juvenile justice reform.** The concept of the new bill is related to the child-friendly justice. **Placing children in reform institutions should be a last resort measure.** In her previous recommendations the Ombudsman has pointed out that establishing specialized chambers for juvenile justice is of key importance, together with closing down the existing social boarding schools and introducing new alternative services for children in conflict with the law that correspond to their interests and do not violate their rights. Furthermore, to facilitate the reintegration of children in conflict with the law, funds should be allocated to the elaboration of services and programmes for minors, especially in the area of vocational training, and effective programmes and services should be implemented for the prevention, support and reintegration of children in conflict with the law.

The NPM recalls Article 16(1) of the Convention against Torture and Other Forms of Cruel, Inhuman and Degrading Treatment or Punishment (“the Convention”): “Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment”.

The Bulgarian Ombudsman acting as NPM within the meaning of the Optional Protocol to the Convention adopted on 18 December 2002 **expresses her official opinion that the attitude by public institutions towards children placed in reform schools and social boarding schools may be qualified as cruel, inhuman or degrading treatment within the meaning of the Convention.**

In this relation the Ombudsman’s view is that the juvenile justice reform should be urgently launched in the country. The protection of the rights of children in conflict with the law is a major priority of the national Ombudsman who once again persistently calls for reform of the outdated system of punishments.

The Ombudsman supports the view that children in conflict with the law need a holistic care, support for their families, support in their immediate environment, education, opportunities for development, and a dignified life rather than a life that offers solely correctional measures and placement in reform and boarding schools. The way boarding schools operate undoubtedly fails to provide to children the effective support they need for their development.

PROTECTION OF PERSONS DEPRIVED OF THEIR LIBERTY IN PLACES FOR EXECUTION OF PUNISHMENTS WITH THE MINISTRY OF JUSTICE

In 2023 the Ombudsman acting as NPM carried out planned inspections in the prisons in Bobovdol, Burgas and Varna, in six open- and closed-type prison hostels and in five detention centres. In addition, the Ombudsman conducted five unannounced inspections acting upon signals in the

MAIN RECOMMENDATIONS

- *Take action to permanently resolve the problems with bed bugs and cockroaches in prisons;*
- *Increase prison schools’ budgets since education and training of inmates is essential for their reintegration;*
- *Continue efforts to ensure longer presence of medical specialists in prisons and identify new possibilities to that end;*
- *Have a procedure in place for payment of medicinal products with prison budgetary funds in case the inmates avail of no funds in their personal accounts;*
- *Place prisoners with established mental disorders in suitable medicinal environment to be monitored by qualified specialists.*

prisons in Burgas and Pleven and three unannounced inspections in Sofia Central Prison, including in the Specialised Hospital for Active Treatment of persons deprived of their liberty.

Following these inspections, the Ombudsman established a positive trend in the prison administration's efforts to improve the living conditions, expand prisons' capacity and reduce overcrowding in order to comply with European requirements and standards.

Nevertheless, a number of issues regarding the penitentiary system remain unresolved.

The problems identified in the course of the inspections conducted in 2023 and the review of prisoners' complaints fall in several groups:

- **Complaints related to violations of the prohibition contained in Article 3 of the Execution of Punishments and Remand in Custody Act:** insufficient living area, food, clothing, heating, lighting, ventilation, medical care, opportunities for motor activities, continuous isolation without any opportunities for communication, unjustified use of handcuffs, and other similar actions or omissions that undermine human dignity or give rise to fear, vulnerability or inferiority;
- **Complaints related to reserved bank accounts in relation to enforcement procedures against prisoners** ;
- **Complaints related to the early conditional release;**
- **Complaints related to rejections by the prison administration to prisoners' requests to engage in studies or work.** The Ombudsman acting as NPM has repeatedly called for respect of the prisoners' right to work and to education, reiterating its significance for the correctional and educational effect of the imposed punishment and underscoring prisoners' statutory right to appropriate employment (Article 77, para 1 of the Execution of Punishment and Remand in Custody Act): "While serving time in prison, inmates shall have the right to appropriate jobs." The Ombudsman paid special attention to Article 41, para 1 of the Criminal Code that stipulates that **serving time in prison shall be accompanied by appropriate paid community service** thereby contributing to the re-education of the sentenced persons and the improvement of their professional qualification.

The 2017 reform of the Execution of Punishments and Remand in Custody Act whereby two new legal remedies were established in follow-up of the ECtHR pilot judgment *Neshkov and Others v. Bulgaria* brought a significant legislative progress in the respect of the rights of persons deprived of their liberty. The pilot judgment identified major structural problems of the Bulgarian penitentiary system concerning the inhuman and degrading conditions of detention. The Bulgarian State was obliged to introduce preventive and compensatory remedies in case of violations of Article 3 ECHR prohibition.

Despite this progress, the CPT report published on 18 October 2022 following its eight visit to Bulgaria points out to persistent and significant problems related to **inter-prison violence, poor conditions in prisons and detention centres in the country, widespread bed bugs and cockroaches, and lack of any meaningful and constructive activities for inmates.**

The inspections carried out in 2023 by the Ombudsman acting as NPM confirm the CPT findings. This clearly illustrates the need of reforming the penal policy in the penitentiary system.

The quality of the medical care provided to inmates continues to be poor. This is due to the severely understaffed health-care teams in prisons. Thus, inmates have **no or limited access to medical specialists and services**. Health-care specialists in prisons are for their better part employed by civil contracts. The ex officio selection of GP by the respective Regional Health Insurance Fund enables inmates to exercise their rights as health insured persons; however, the lack of medical doctors on a daily basis in prisons reduces the inmates' health rights.

Widespread pests (bed bugs, cockroaches, rats) in prisons continue to be a significant problem. The inspections conducted in 2023 established that pest populations significantly increased after Directorate General "Execution of Punishments" terminated the contract with a licensed company for disinfection, disinfestation and rat extermination, and in a number of prisons and detention centres prison staff themselves purchased rodenticide and repellents with personal funds. The Ombudsman reiterated in all her recommendations extended to the Ministry of Justice that the widespread presence of pests runs contrary to **Article 3 of the Execution of Punishments and Remand in Custody Act**.

PROTECTION OF PERSONS DETAINED IN DETENTION CENTRES WITH THE MINISTRY OF INTERIOR

MAIN RECOMMENDATIONS

- *In case a pupil has been detained in 24-hour police custody, officers must immediately inform a parent or guardian as well as the director of the school which the pupil attends;*
- *Comply with the requirement for mandatory participation of a lawyer in case a minor is detained;*
- *Comply strictly with Article 2 of the Child Protection Act in case a minor is detained;*
- *Police officers working with children must receive mandatory tailor-made training.*

In 2023 the Ombudsman carried out inspections in four detention facilities with the Ministry of Interior. The material conditions in police detention facilities continue to be poor, with insufficient day lighting and outdated infrastructure. There were separate rooms designated for the detention of minors in all inspected detention facilities, and the Ombudsman recommendation for compliance with Article 2 of the Child Protection Act was being followed.

The amendments to the Ministry of Interior Instruction No. 81213-78 of 24 January 2015 on the Detention, Equipment in the Detention Facilities and the Order Therein implements the recommendation made by the Ombudsman as regards the **mandatory participation of an attorney in cases of detention of minors**.

In April 2023 amendments were made to Instruction No. 81213-78 of 24 January 2015 on the Terms and Procedure for Effecting Detention. Thereby the contents of the declaration on the rights of detained persons was expanded. Thus, the declaration should now include the **right to a written translation, right to remain**

silent, right to a person who has initially refused a lawyer to request legal aid at a later stage. In addition, information about the maximum duration of detention should be included in the declaration as well.

Important progress to improving the rights of detained minors was made by including in Article 15 of the Instruction **mandatory notification of the detention to the minor's parent, guardian or carer.** Furthermore, **mandatory participation of a defence lawyer** is now expressly provided for in cases of detention of a minor, thus implementing the Ombudsman's recommendation.

The Ombudsman acting as NPM finds these amendments positive. The Ombudsman's institution has consistently defended the position that the competent authorities should take timely action to harmonise the legislation with the international standards in force so as to ensure effective access to justice for children and treatment that is adequate for their age, development and needs.

PROTECTION OF ASYLUM SEEKERS

Rights of beneficiaries of temporary protection

The Ombudsman acting as National Preventive Mechanism strictly monitors respect for the rights of persons fleeing conflict zones who have sought, applied for or have been granted protection in the country. The public defender's powers extend to monitoring the impact of legislative amendments on the rights of concerned persons, and follow-up on the activities of the competent public bodies; in case a risk of violation of fundamental freedoms and rights is established, the Ombudsman makes mandatory recommendations to the public institutions. Exercising these functions, the Ombudsman monitors the adoption and implementation of the international human rights acts in the Bulgarian legislation and practice.

Due to the ongoing war in Ukraine that started on 24 February 2022, Ukrainians continue arriving and be accommodated in Bulgaria. They are granted temporary protection pursuant to Article 5 of Directive 2001/55/EC ("the Directive").

MAIN RECOMMENDATIONS

- *Set up a security zone in the Registration and Reception Centre in Harmanli for unaccompanied minors seeking international protection;*
- *Elaborate a consistent policy for the protection and integration of unaccompanied minors who have been granted refugee protection;*
- *Endorse a sustainable policy for informing applicants for international or temporary protection about the conditions of residence in Bulgaria;*
- *Develop a long-term strategy for the integration of displaced persons that permanently grants them access to social, health and education services;*
- *Elaborate a comprehensive long-term strategy for accommodation of the growing number of unaccompanied minors in Bulgaria, taking into account their specific needs;*
- *Establish a mechanism for systematic control of the illegal push-backs of foreigners at the borders, including by means of seconding extra number of officers;*
- *Establish a uniform format of orders for coercive administrative actions under the Foreigners in the Republic of Bulgaria Act, which must be countersigned by the concerned foreigner and by a sworn translator;*
- *Set up a mechanism for systematically notifying the Ombudsman about upcoming enforcement of coercive administrative actions under the Foreigners in the Republic of Bulgaria Act;*
- *Maintain full case files on foreigners placed in SCTAFs, including everything related to the enforcement of the coercive administrative actions under the Foreigners in the Republic of Bulgaria Act*

“Temporary protection” is a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation. This exceptional procedure is applied in the interests of the persons concerned and other persons requesting protection. Temporary protection shall not prejudge recognition of refugee status under the Geneva Convention.

Member States shall apply temporary protection with due respect for human rights and fundamental freedoms and their obligations regarding non-refoulement. Pursuant to Article 4 of the Directive, the duration of temporary protection shall be one year. Unless it is terminated on the respective legal grounds, temporary protection may be extended by up to one year.

Presently the Council of the European Union has extended the duration of temporary protection for persons fleeing the war in Ukraine by 4 March 2025.

In the beginning of 2023, the Ombudsman informed the chairperson of the Standing Parliamentary Committee on Human Rights, Religious Freedom and Complaints of the 48th National Assembly of her support for the proposal made by MPs to carry out a needs assessment as well as an assessment of the social and financial status of displaced persons from Ukraine, on the basis of which to elaborate a specialized support mechanism. Establishing such a mechanism would be essential for the durable and sustainable integration of the vulnerable persons in the Bulgarian society and would facilitate their access to a number of social and medical care services.

The Ombudsman, as a public defender of the rights of all citizens, believes that an analysis and an assessment of the needs of displaced persons from Ukraine would allow the introduction of specific measures that are fully in compliance with the European standards for temporary protection. In view of the unknown duration of the war in Ukraine, the Ombudsman underscores that a long-term strategy for the integration of the displaced persons that grants them durable access to social, health and education services is of utmost importance.

Rights of persons seeking international protection

The Ombudsman acting as NPM conducts regular inspections in the centres for temporary accommodation of foreigners with the Ministry of Interior and the centres for accommodation of refugees with the State Agency for Refugees with the Council of Ministers. A major focus of all inspections is to assess the living conditions for unaccompanied minors and the forms of support rendered to them.

The inspections carried out in 2023 established a growing number of unaccompanied minors. Furthermore, the following problems have been identified:

- There is no security zone for minors seeking international protection in the Registration and Reception Centre in Harmanli;
- There is no sustainable policy for protection and integration of unaccompanied minors – an assessment should be made of the possible actions to ensure protection and support through integration of unaccompanied minors in the community and alternative placement in residential social services.

According to data of the State Agency for Refugees, a total of 5,702 applications for international protection were submitted in 2023 by unaccompanied minors (compare with 3,121

applications in 2022). Of these, 3,843 applications were submitted by children, including 1,416 by children under 14 years of age. A total of 49 unaccompanied minors were placed in centres for social services compared to 29 in 2022.

The **alarming trend of 2022 of increasing secondary migration flows** was further exacerbated in 2023: people residing in Turkey enter illegally the country, attempting to reach Central and Western Europe. **Unaccompanied minors among migrants continue to be used as the future nucleus for family reunification** after they apply and are granted refugee or humanitarian status in Bulgaria. It is worrying that quite often unaccompanied minors disappear after a week or two from the open-type reception centres with the State Agency for Refugees and continue their journey to Western Europe using organized and expensive smuggling channels.

Another persistent problem is that persons under Article 3, para 2 (c) of the Civil Registration Act, namely foreigners who have applied for and been granted **a refugee or humanitarian status or asylum** in Bulgaria, are left outside the scope of persons who must be registered ex officio in the population register of Sredets administrative region in Sofia under Article 93, para 4 of the Civil Registration Act. The failure to envisage ex officio registration of these categories of persons (refugees, persons with humanitarian status or such who have been granted asylum) prevents them from exercising their statutory right and duty to apply for and obtain Bulgarian identity documents. The prerequisites for such an ex officio registration set forth in Article 93, para 4 of the Civil Registration Act apply fully to these persons – they have no former registration in the population register and are not able to specify a permanent address in Bulgaria. However, not being able to obtain Bulgarian IDs in turn opens room for a widespread illegal ‘sale’ of address registrations: Bulgarian citizens ‘sell’ address registrations and register 30 to 40 refugees at the same address. This problem is further exacerbated by the requirement for those persons to leave the reception centres with the State Agency for Refugees within 15 days after they have been granted international protection or asylum. This puts them in a difficult and vulnerable situation and ultimately forces them to ‘buy’ address registrations in the country.

Rights of persons whose applications for international protection have been rejected

The Ombudsman of the Republic of Bulgaria is the only Bulgarian public institution that monitors the forced return of foreign nationals for whom coercive administrative action has been ordered under the Foreigners in the Republic of Bulgaria Act. Acting as NPM, the Ombudsman has rich experience in the protection of human rights and fundamental freedoms of asylum seekers and foreigners placed in special facilities for temporary accommodation of foreigners with the Ministry of Interior.

Pursuant to Article 39a of the Foreigners in the Republic of Bulgaria Act, coercive administrative actions are applied to illegally residing foreigners at the territory of the Bulgarian State. Actions such as return to the country of origin, transit country or third country, and expulsion are monitored by the Ombudsman of the Republic of Bulgaria or by designated officers from the Ombudsman’s administration.

In 2023 the Ombudsman monitored 33 coercive administrative actions involving return to the country of origin, transit country or third country, and expulsion. The monitoring teams established systemic problems as regards checks of foreigners’ personal circumstances:

1. Omissions in the documentation concerning personal circumstances of foreigners – no documents related to challenging orders imposing coercive administrative measures are enclosed;

2. Evidence is missing that foreign nationals understand the contents of the issued orders imposing coercive administrative measures and are aware of their right to appeal these under the Code of Administrative Procedure;

3. Evidence that foreigners accommodated in the SCTAFs are aware of their right to receive legal aid and have met an attorney-at-law who have consulted them and informed them of their rights and legal possibilities is missing;

4. Where proceedings for international protection were initiated before the State Agency for Refugees, no evidence that the respective proceedings have been terminated or completed by a final rejection is enclosed.

In addition to the above-mentioned omissions, the monitoring teams established cases of pending enforcement of coercive administrative actions under the Foreigners in the Republic of Bulgaria Act which have not been duly notified to the Ombudsman. Thus, the statutory monitoring could not be effected in practice.

PROTECTING THE RIGHTS OF CHILDREN AND ADULTS PLACED IN RESIDENTIAL SOCIAL SERVICES

MAIN RECOMMENDATIONS

- *Set forth clear criteria and establish an express approach for removing children and adults and placing them in alternative residence care;*
- *Children and adults in the course of deinstitutionalization must be prepared in advance about their pending deinstitutionalization;*
- *Social workers and medical professionals in the places where children and adults will be placed after their deinstitutionalization must be aware in advance of their individual needs;*
- *Children and adults whose relatives maintain contacts with them should be placed as close as possible to those relatives' place of residence;*
- *Child Protection Departments with the Social Assistance Directorates should establish in-depth communication with the managers of the residential social services for children;*
- *New generation of social services should not be launched in buildings where the old generation of social services used to be provided;*
- *Carry out a comprehensive mapping to ensure that all buildings where social services for children and adults are provided comply with statutory requirements, especially as accessible environment is concerned.*

In 2023 the Ombudsman acting as NPM conducted 14 inspections in social institutions for children and adults. The Ombudsman has repeatedly recommended to speed up the process of deinstitutionalization of adult care as the continuous stay in institutions of people with disabilities violates fundamental human rights, while the institutions themselves may be qualified as places for deprivation of liberty. Nevertheless, seven institutions with capacity above 100 pax (one with capacity of 228 pax) are still operating in remote locations, far away from municipal administrative centres and hospitals, with no specialized care personnel. So far only nine social care homes for mentally disabled persons and persons with mental disorders and dementia have been closed.

In all reports the Ombudsman acting as NPM has repeatedly

pointed out to the apparent lack of will and vision to transfer the residential care in the community. Instead, a trend to the opposite is being observed – the infrastructure remains the same, residential care is located far away from municipal centres and sometimes is restructured with minimum funds into protected residences and family-type residences. Thus, the new services are practically located in the same buildings or in their surrounding premises.

Thus, the Ombudsman deems it necessary to point out that the Common European Guidelines on the Transition from Institutional to Community-based Care (p. 110): „Plans for the future use of the building should be made as part of the process of closure ... it is also important to ensure that no part of the building is used to provide institutional care, for any group of people”.

Furthermore, it is essential to ensure accessible environment in the residential social services for children and adults. The Ombudsman has repeatedly held that regardless of the profile of the social service, failure to ensure accessible environment violates the requirements set forth in:

1. the UN Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment;
2. the UN Convention on the Rights of Persons with Disabilities;
3. the Persons with Disabilities Act;
4. the Spatial Planning Act;
5. Regulation No. ПД-02-20-2 of 26 January 2021 for determining accessibility requirements and requirements for universal design of accessible environment elements in urban territories and buildings and facilities.

Furthermore, the lack of accessible environment violates fundamental human rights and the dignity of persons with disabilities and runs contrary to standard 4, criterion 4.4 on the environment where services are provided (Annex No. 12 to Article 11, para 1 of the Regulation on the Quality of Social Services). The abuse and failure to maintain accessible built environment are further on discriminatory within the meaning of Article 5 of the Protection against Discrimination Act. Natural and legal persons who act in a discriminatory manner are subject to administrative liability (Article 78 et seq. of the Protection against Discrimination Act).

As regards social workers and managers of the inspected social services, the NPM team is of the opinion that they are well trained professionals who provide quality social care and strive to improve the condition and quality of life for the children and adults placed therein.

In the course of the inspections, the NPM teams observed the follow-up to former recommendation of the Ombudsman.

COOPERATION WITH INTERNATIONAL ORGANISATIONS AND CIVIL SOCIETY ORGANISATIONS

In 2023 the Ombudsman presented a number of opinions before the Standing Parliamentary Committee on Human Rights, Religious Freedom and Complaints with the 48th National Assembly, while members of the National Preventive Mechanism and Fundamental Rights and Freedoms Directorate took part in its meetings.

The Ombudsman met representatives of the European Committee for the Prevention of Torture during its seventh (ad hoc) visit to the country to discuss the legal regulation of psychiatric care and placement in social institutions.

The Ombudsman acting as NPM took part in the two meetings of the SEE NPM Network.

Designated members of the National Preventive Mechanism and Fundamental Rights and Freedoms Directorate took part in the following meetings and online discussions:

- Online seminar on ‘Strengthening the rights of accused and detained persons with mental and/or psycho-social disabilities: Cross-border transfers, detention and alternatives’ in the framework of Justice for All project, 18 January 2023

- Online conference on ‘The UN Universal Periodic Review as an Instrument for Resolving Differences’ organized by the Finnish Permanent Representation to the UN and the Office of the UN High Commissioner for Human Rights

- Event organized by the Sofia City Municipality, Oborishte District in partnership with the Bulgarian Red Cross and the UN High Commissioner for Refugees in Bulgaria in the framework of the project ‘Future for the Children: Providing Comprehensive Social Support for Unaccompanied Migrant and Refugee Minors’

- Meeting of the monitoring committee of the Bulgarian programme under Asylum, Migration and Integration 2021-2027, 6 February 2023

- Event related to the alternatives to immigration detention in Bulgaria and presenting the Practical Guide to Alternatives to Immigration Detention, 28 February 2023

- Online training on ‘Monitoring Mental Health Care in Prisons’ organized by the Council of Europe, 14-15 February 2023

- Ceremony on the occasion of the launch of the 2023 Regional Refugee Response Plan organized by UNCHR Bulgaria on 16 February 2023

- Online meeting on ‘Exchanges between NHRIs in States Bordering Ukraine. Promoting and Protecting the Rights of Persons Fleeing the War in Ukraine’ organized by the European Network of National Human Rights Institutions, 21 February 2023

- Official presentation of the report of the Joint Mission for Review of Refugees’ Health ‘Assessing the needs of the healthcare system in the context of the crisis in Ukraine’ organized by the Ministry of health and WHO, 22 March 2023

- Involvement in a project on ‘Supporting National Human Rights Institutions in Monitoring Fundamental Rights and Fundamental Rights of the Rule of Law’, Vienna, 23-24

March 2023 and online, 27-29 March 2023, organized by the EU Fundamental Rights Agency (FRA)

- A discussion on ‘Opportunities and Challenges of the National and European Migration and Refugee Policies: Lessons from one year of war in Ukraine’, organised by the Center for Legal Aid – Voice in Bulgaria on 2 May 2023

- The first meeting of SEE NPM Network on ‘Monitoring Mental Health in Prisons’, held on 1-2 June 2023 in Thessaloniki

- Round table on ‘Humanitarian Corridors Integration pathways: fostering better integration opportunities for people in need of protection through strengthened private sponsorship schemes’ (HUMCORE), held on 15 June 2023 and organized by Social research and Policies Institute

- Open forum on ‘Dialogue creativity for inclusive education of migrant and refugee children’ in New Bulgarian University, 19 June 2023

- 27th annual conference of the European Network of Ombudspersons for Children (ENOC) on ‘The Strength of Independent Children’s Rights Institutions: upholding children’s rights in Europe’, held on 19-21 September 2023 in Brussels, Belgium

- Participation in an event in the framework of the project ‘Support for unaccompanied minors seeking international portection’ of the International Organization for Migration, 6 October 2023

- Online participation in the 14th international conference of the National Human Rights Institutions on ‘ Torture and Other Illtreatment: the role of NHRIs’ held on 6-8 November 2023

- Final conference in the framework of the project ‘Complementary pathways to Southeast Europe’ (COMP4SEE) held on 24 November 2023 in Zagreb

- Second annual meeting of the SEE NPM Network held on 30 November and 1 December 2023 in Athens

- Taking part in a training organized by the UN High Commissioner for Refugees on ‘Access to the procedure for granting international protection’ and presenting the work of the Ombudsman as NPM related to refugees, 4-6 December 2023

- Information event in the framework of the project ‘Support for unaccompanied minors seeking international protection’ held on 5 December 2023 and organized by the International Organisation for Migration

- Online conference for presenting interim results under the project ‘Humanitarian Corridors Integration pathways: fostering better integration opportunities for people in need of protection through strengthened private sponsorship schemes’ (HUMCORE) implemented in Italy, France and Belgium, 14 December 2023

- Press conference on ‘Multidisciplinary approach in determining the age of minor refugees and asylum seekers’, organized by the State Agency for Refugees on 22 December 2023

A meeting was held in the Ombudsman’s institution with experts from the National Preventive Mechanism and Fundamental Rights and Freedoms Directorate and representatives of FRONTEX Fundamental Rights Office on 2 February 2023. The discussions centred on the state

of affairs in the country regarding the increased migration flows and opportunities for future cooperation.

A meeting was held on 7 March 2023 at the Ombudsman's institution with representatives of the EU Agency FRONTEX to discuss the work of the National Preventive Mechanism and Fundamental Rights and Freedoms Directorate and the major problems and findings of the Ombudsman acting as NPM established in the course of the inspections conducted in the centres for temporary accommodation of foreigners with the MoI Migration Directorate and reception centres with the state Agency for Refugees with the Council of Ministers.

A meeting was held on 21 March 2023 at the Ombudsman's institution with representatives of the European Committee for the Prevention of Torture (CPT) to discuss CPT planned inspections in different institutions in Bulgaria and the state of affairs in psychiatric and social care institutions in the country as well as the opportunities for improvement of the conditions in these institutions.

Representatives of the Refugee Board in Bulgaria visited the Ombudsman on 12 May 2023. The meeting attended by the head of the Ombudsman's office and experts from the National Preventive Mechanism and Fundamental Rights and Freedoms Directorate. The discussions focused on the challenges and opportunities for integration of beneficiaries of international and temporary protection in the country, and opportunities for future cooperation on these issues.

Experts from the National Preventive Mechanism and Fundamental Rights and Freedoms Directorate took part in a round table organized by the Ministry of Foreign Affairs on 20 September 2023 for the establishment and development of an independent mechanism for monitoring and promoting human rights on borders. The existing independent mechanism for human rights monitoring was discussed as well as the opportunities for improving it with a view to more effective implementation of the recommendations extended to the national institutions.

Experts from the National Preventive Mechanism and Fundamental Rights and Freedoms Directorate and Rights of the Child Directorate met representatives of the Access to Rights Foundation on 11 October 2023 to discuss problems related to the family reunification procedure for refugees.

A meeting was held on 7 November 2023 at the Ombudsman's institution with representatives of the Ukrainian Women Lawyers Association „JurFem“ from Lviv, Ukraine. Good practices in the area of prevention of domestic violence with a view to improving women's rights and safety were discussed.

GENERAL STATISTICS FOR 2023

PLANNED AND AD HOC INSPECTIONS CONDUCTED IN 2023					
No.	Date	Inspected institution	No. of persons covered by the NPM		
			Extended capacity	No. of persons actually placed a	Population density in %
Ministry of Justice					
1.	26.04.2023	Samoranovo open-type prison hostel	173	79	45.7%
2.	26.04.2023	Detention facility, Kyustendil	13	9	69.2%
3.	27.04.2023	Bobov dol Prison	492	287	58.3%
4.	28.04.2023	Detention facility, Blagoevgrad	52	32	61.5%
5.	07.06.2023	Burgas Prison	371	254	68.5%
6.	07.06.2023	Detention facility, Burgas	81	80	98.8%
7.	08.06.2023	Debelt closed-type prison hostel	294	280	95.2%
8.	08.06.2023	Debelt open-type prison hostel	82	65	79.3%
9.	08.06.2023	Stroitel open-type prison hostel	72	65	90.3%
10.	09.06.2023	Zhitarovo open-type prison hostel	79	68	86.1%
11.	10.07.2023	Detention facility, Haskovo	60	37	61.7%
12.	24.10.2023	Varna Prison	262	202	77.1%
13.	24.10.2023	Varna prison hostel	60	60	100.0%
14.	25.10.2023	Razdelna priosn hostel	272	181	66.5%
15.	26.10.2023	Detention facility, Varna	59	53	89.8%
Total Ministry of Justice				1782	
MBP					
16.	10.07.2023	Border police department, Svilengrad	-	457	-
17.	10.07.2023	Detention facility, Kapitan Andreevo	23	3	13.0%
18.	11.07.2023	SCTAF Lyubimets	660	530	80.3%
19.	02.08.2023	SCTAF Sofia	400	454	113.5%
20.	27.10.2023	2 nd Police Department, Varna	-	584	-
21.	27.10.2023	4 th Police Department, Varna		481	-
22.	22.11.2023	Burgas Regional MoI Directorate	10	1	-
Total Ministry of Interior				2 509	
State Agency for Refugees with the Council of Ministers					
23.	12.07.2023	Registration and Reception Centre, Harmanli	1676	610	36.4%
24.	13.07.2023	Tranist Centre, Pastrogor с. Пъстрогор	320	135	42.2%
Total State Agency for Refugees with the Council of Ministers					745

Ministry of Labour and Social Policy					
25.	17.05.2023	Crisi centre, Silistra	10	5	50.0%
26.	28.06.2023	Family-type residential centre	12	12	100.0%
27.	05.07.2023	Home for mentally disabled adult persons, Batak	40	39	97.5%
28.	05.07.2023	Family-type residential centre for mentally disabled adults, Batak	15	15	100.0%
29.	05.07.2023	Family-type residential centre for mentally disabled adults, Batak	15	15	100.0%
30.	05.07.2023	Family-type residential centre for adults with mental disorders, Batak	15	15	100.0%
31.	06.07.2023	Home for Adults with Dementia, Gorna Mahala	60	54	90.0%
32.	07.07.2023	Home for mentally disabled adult persons, 'St. Vrach', Plovdiv	48	46	95.8%
33.	30.11.2023	Protected residence for mentally disabled adults 'Light for Us', Sofia	8	8	100.0%
34.	01.12.2023	Protected residence for mentally disabled adults 'Future for Us', Sofia	8	8	100.0%
35.	01.12.2023	Transition residence for mentally disabled adults, Sofia	8	8	100.0%
36.	06.12.2023	Family-type residential centre for children 'Hristo Botev', Sofia	14	11	78.6%
37.	07.12.2023	Family-type residential centre for children 'Vasil Levski', Sofia	14	9	64.3%
38.	08.12.2023	Family-type residential centre for children 'Detelina', Sofia	12	8	66.7%
Total Ministry of Labour and Social Policy				194	
Ministry of Health					
39.	16.02.2023	Mental Health Centre, Haskovo	80	54	67.5%
40.	06.04.2023	Public Psychaitric Hospital, Karlukovo	175	155	88.6%
41.	07.04.2023	Public Psychaitric Hospital, Lovech	245	164	66.9%
42.	08.09.2023	Public Psychaitric Hospital, Radnevo	420	266	63.3%
43.	11.09.2023	Public Psychaitric Hospital, Byala	270	155	57.4%
Total Ministry of Health				958	
Ministry of Education and Science					
44.	17.05.2023	Social Boarding School, Varnentsi	-	25	-
45.	12.10.2023	Reform school, Podem	-	9	-
46.	14.11.2023	Reform school, Rakotovo	-	54	-
Total Ministry of Education and Science				88	
TOTAL NUMBER OF PLACED PERSONS COVERED BY PLANNED AND AD HOC INSPECTIONS					6 276

Including persons who were treated in an institution	11 363
TOTAL NUMBER OF PERSONS COVERED BY PLANNED AND AD HOC INSPECTIONS	17 639

AD HOC INSPECTIONS			
No.	Date	Inspected institution	Type of inspection: upon a complaint or ex officio
47	10.03.2023	Pleven Prison	Upon a complaint
48	09.02.2023	Specialised Hospital for Active Treatment of Persons Deprived of Their Liberty with Sofia Prison	Upon a complaint
49	10.04.2023	Mental Health Centre 'Prof. N. Shipkovenski', Sofia	Upon a complaint
50	13.10.2023	Public Psychaitric Hospital, Lovech	Ex officio



Address: 1202 Sofia, 22, George Washington Str.

Tel.: +359 2 81-06-955;

+359 2 980-95-10;

Fax: 02/81-06-963

E-mail: npm@ombudsman.bg

www.ombudsman.bg