



**MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER
CRUEL, UNHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
IN BULGARIA**

SUMMARY OF REPORT 2023

CONTENTS

THE CONVENTION.....	1
UN CAT IMPLEMENTATION IN BULGARIA 2023	2
THE OMBUDSMAN IN DEFENCE OF PERSONS DETAINED IN INSTITUTIONS IN BULGARIA	6

THE CONVENTION

The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention) was adopted by the General Assembly on 10 December 1984 and entered into force on 26 June 1987.

The Convention is the most significant international human rights treaty to insist on the universal abolition of torture and completes the process of codifying the fight against torture.

The main idea of the Convention is to unite States in their fight against torture by taking positive action to prevent it at both national and international levels. Specifically, the Convention requires States Parties to criminalize torture as a form of offence in their national legislation. In addition, the Convention establishes an international mechanism to monitor the implementation of its provisions, the UN Committee against Torture.

The Convention introduces two types of obligations on States: positive and negative. Negative obligations require each State to refrain from all forms of ill-treatment. **All acts containing the characteristics of torture should be criminalized and prosecuted as crimes in the domestic law of each State.**

Positive obligations are linked to the adoption of concrete measures to prevent torture (legislative, administrative, judicial, provision of training for staff in places of deprivation of liberty or others). In cases where a violation of the prohibition of torture has occurred, States should ensure that victims are fairly and adequately compensated.

On 18 December 2002, the UN General Assembly adopted the Optional Protocol to the Convention. The purpose of the Optional Protocol, in force since 22 June 2006, is to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment and to establish a preventive system. One element of the preventive system is the **establishment and maintenance of an independent NPM** for the prevention of torture and ill-treatment at national level.



MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER CRUEL, UNHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IN BULGARIA

SUMMARY OF REPORT 2023

With the amendments to the Ombudsman Act in 2012, the Ombudsman of the Republic of Bulgaria began to perform the functions of the NPM in accordance with the Optional Protocol to the Convention. In this role, the Ombudsman carries out annual monitoring of places for serving imprisonment under the Ministry of Justice, places of detention of persons in the structures of the Ministry of the Interior, special homes for accommodation of foreigners under the Migration Directorate and registration and reception centres of the State Agency for Refugees under the Council of Ministers, residential social services for children and adults, public psychiatric hospitals.

UN CAT IMPLEMENTATION IN BULGARIA 2023

The main recommendations made by the Committee against Torture in the framework of the 6th Periodic Report continue to be valid in 2023.

The Committee notes that **the Bulgarian legislation still does not contain a legal definition of “torture”**, in the meaning of Article 1 of the Convention. According to that provision, torture should be understood as **any act by which severe physical or mental suffering or pain is intentionally inflicted on a person** in order to obtain from him or her or from a third person information or a confession in order to punish him or her for an act which he or she has committed or is suspected of having committed, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of, or with the explicit or implicit consent of, an official or other person acting in an official capacity.

In 2023, the Ombudsman submitted a proposal to the National Assembly to amend the Criminal Code to criminalize acts that have the characteristics of torture by introducing a new offence. The basic composition of the proposed wording provides for the criminalization of acts in which a person knowingly uses force against another person or inflicts physical suffering or pain on him in a manner or by means which manifestly humiliate the human dignity of the victim, oppress him or cause him severe stress, mental pain or a feeling of inferiority, helplessness or fear, or places another person in a position or holds him in a position which manifestly degrades the victim's human dignity, oppresses him, causes him severe distress, mental pain or a feeling of inferiority, helplessness or fear. More serious offences are also provided for in cases where the act was committed by an official in the course of or in connection with the performance of his or her duties or functions or with his or her express or tacit consent; in respect of a pregnant woman, a minor or more than one person; in a manner which is particularly distressing to the victim; or under conditions of domestic violence. **To date, there is still a legislative gap with regard to this type of acts and there is still no legal definition of “torture”.**

Next, the Committee draws attention to the problems with 24-hour detention. The Bulgarian State should ensure that all basic legal guarantees for detainees are provided in practice, not just in law.



MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER CRUEL, UNHUMAN OR DEGRADATING TREATMENT OR PUNISHMENT IN BULGARIA

SUMMARY OF REPORT 2023

Every detainee must be given access to a lawyer from the outset of detention. The Committee expresses its concern that, in a large number of cases, detainees do not have access to a lawyer from the outset of the criminal proceedings against them, and that even if they are provided with a lawyer during the 24-hour detention, the meetings take place in the presence of a police officer. Another problem is that very often arrested persons are not informed of their rights. Medical examinations are often carried out in detention facilities and are not reflected in medical records.

In 2023, the Ombudsman carried out inspections in **4 accommodation facilities for detainees in the Ministry of Interior system**. Material and living conditions in detention facilities continue to be **unsatisfactory, with poor access to daylight and depreciated facilities**.

As a positive change can be noted the amendments introduced in Instruction No. 8121z-78 of 24 January 2015 on the procedure for detention, the equipment of detention facilities and the order in which they are used in the Ministry of the Interior, which implemented the Ombudsman's recommendation on the **mandatory participation of a lawyer when the detainee is a minor**.

The Ombudsman, as the NPM, considers as a positive change the fact that the telephone number of the National Bureau of Legal Aid is placed in a prominent place in all inspected premises, together with an up-to-date list of the lawyers on duty at the relevant college, which guarantees the right of defence of detainees.

The Committee also notes the problem of excessive use of force (in particular in prisons in Sofia and Burgas) and in police detention premises. The Committee also identifies the poor conditions in places of detention, specifically pointing to problems related to infrastructure, overcrowding, lack of hygiene and proper sanitation facilities, insufficient access to water, inadequate heating, as well as the lack of trained staff. The Committee stresses the problems of healthcare in prisons, in particular: **shortage of medical staff; difficult access to medicines; poor quality of medical examinations; limited access to psychiatric care; lack of special care regarding prisoners with physical and/or mental disabilities; lack of measures to address widespread drug use and related problems such as HIV and hepatitis**.

In 2023, the Ombudsman, in her capacity as NPM, carried out planned inspections in 3 prisons (Bobov Dol Prison, Burgas Prison and Varna Prison), in 6 open and closed prison dormitories and in 5 detention facilities. The Ombudsman carried out 5 unannounced inspections in the prisons in Pleven and Burgas and 3 unannounced inspections in the Sofia Central Prison, one of which was carried out in the Specialized Hospital for Active Treatment of Prisoners. In the course of the checks, **systemic deficits in the medical care of prisoners were found; continuing problems with depreciated, highly outdated and hygienically unreliable bedding; the presence of pests in places of deprivation of liberty, etc.**

Key recommendations made by the Ombudsman in relation to systemic problems in prisons are:

- To undertake efforts to solve the problem with cockroaches and bedbugs in places of deprivation of liberty;



MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER CRUEL, UNHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IN BULGARIA

SUMMARY OF REPORT 2023

- The budget for schools in places of detention should be increased, as the training and education of prisoners is an important part of their reintegration;
- Continue efforts and seek new opportunities to ensure a longer presence of medical professionals in places of detention.
- Arrangements should be made for the payment of medicines from prison funds where it is found that there is a shortfall in prisoners' personal accounts;
- Prisoners with identified mental disorders should be placed in an appropriate medical environment, under the supervision of qualified professionals.

Another important topic reflected in the Committee's report is related to the **problems of social institutions**. The Committee expresses its concern that persons with mental and psychosocial disabilities in public and municipal medical institutions continue to have limited legal capacity and lack adequate procedural and substantive safeguards. Another problem reflected in the Committee's report is **the lack of sufficient independent monitoring** of these types of institutions, as well as the remote areas in which the institutions are located. The Committee also addresses the problem of **the excessive use of medication to restrict movements**, the forced application of irreversible psychiatric therapies, and violence among patients, including self-harm. Lastly, the Committee draws attention to **the problem of material conditions** in some institutions, which amount to inhuman and degrading treatment (poor hygiene, poor access to sanitary facilities, etc.).

Between 2022 and 2023, the Ombudsman carried out a total of **25 unannounced inspections in psychiatric facilities and residential social services centres**. The issue of protecting the rights of persons with mental illness is particularly acute. The Ombudsman, in the exercise of her functions as NPM, carries out annual monitoring of public psychiatric hospitals (PPH), mental health centres (MHC) and social care facilities for persons with mental disorders. For the purposes of the Convention, **public psychiatric hospitals are places of deprivation of liberty**, as some patients are placed there by court orders and cannot leave voluntarily. The Ombudsman, as the NPM, therefore takes particular care to ensure that torture and other forms of inhuman or degrading treatment are not committed in these places.

During the inspections carried out, the Ombudsperson found systemic problems in the PPHs that were incompatible with the basic standards for protection from torture and other cruel, inhuman or degrading treatment or punishment, such as:

- degrading material living conditions in public psychiatric hospitals;
- chronic patient malnutrition due to a flawed funding model;
- deteriorating quality of medical care;
- lack of staffing and sustainable policies to address it;
- lack of social services to help reintegrate PPH patients.



MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER CRUEL, UNHUMAN OR DEGRADATING TREATMENT OR PUNISHMENT IN BULGARIA

SUMMARY OF REPORT 2023

With regard to the excessive use of restraining measures, the Ombudsman, as the NPM, recommended that the Ministry of Health review Ordinance No 1 of 28 June 2005 on the procedure for the application of temporary physical restraint measures to patients with established mental disorders and draw up a protocol for the application of the coercive measures of 'immobilization' and 'isolation', clearly indicating the duration and frequency with which patients may be isolated and fixed for a period of 24 hours and specifying the grounds on which these measures are applied.

The Committee also draws attention to issues relating to the situation of asylum seekers and migrants. The Committee stresses that States parties should ensure that persons seeking international protection are not subjected to arbitrary detention, that judicial review of detention should be ensured and that alternatives to detention should be provided. Another major problem identified in the Committee's report is the registration of unaccompanied children as "accompanied" by adults to whom they are not related. The Committee draws attention to the need to improve material conditions in reception centres in order to ensure an adequate standard of living, and to reduce overcrowding in detention centres for migrants, in particular in Busmantsi and Lubimets.

Each year the Ombudsman, in her capacity as NPM, carries out inspections in the **temporary accommodation centres for foreigners** under the Ministry of Interior and in the refugee accommodation centres under the State Agency for Refugees with the Council of Ministers. The main focus of each inspection is an assessment of the conditions under which **unaccompanied minors live and the forms of support provided**. Inspections in 2023 identified an **increasing number of unaccompanied minors**. The Ombudsman's recommendation on the need to introduce a systematic policy for the protection and integration of unaccompanied children remains relevant.

In 2023, the Ombudsman monitored the implementation of 33 coercive administrative measures on return to country of origin, transit or third country and expulsion. The monitoring teams found systematic problems in the verification of the personal files of foreigners:

- incomplete documentation, especially as regards appeals against orders imposing coercive administrative measures;
- the lack of evidence that foreign nationals are aware of the content of the orders issued to them for the imposition of coercive administrative measures, as well as of their right to appeal against them under the Administrative Procedure Code;
- the lack of evidence that foreign nationals placed in special temporary accommodation homes are aware of their right to legal assistance and that they have met with lawyers who have advised and informed them of their rights and legal options.

In view of the ongoing military conflict in Ukraine, the Ombudsman, in her capacity as NPM, closely monitors the rights of persons granted temporary protection. In 2023, in a letter to the National Assembly, the Ombudsman expressed her support for the proposal made by the MPs to carry out a study on the needs, social and financial status of displaced persons from Ukraine, on the basis of which different groups of needy persons would be defined for which a specialized



MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER CRUEL, UNHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IN BULGARIA

SUMMARY OF REPORT 2023

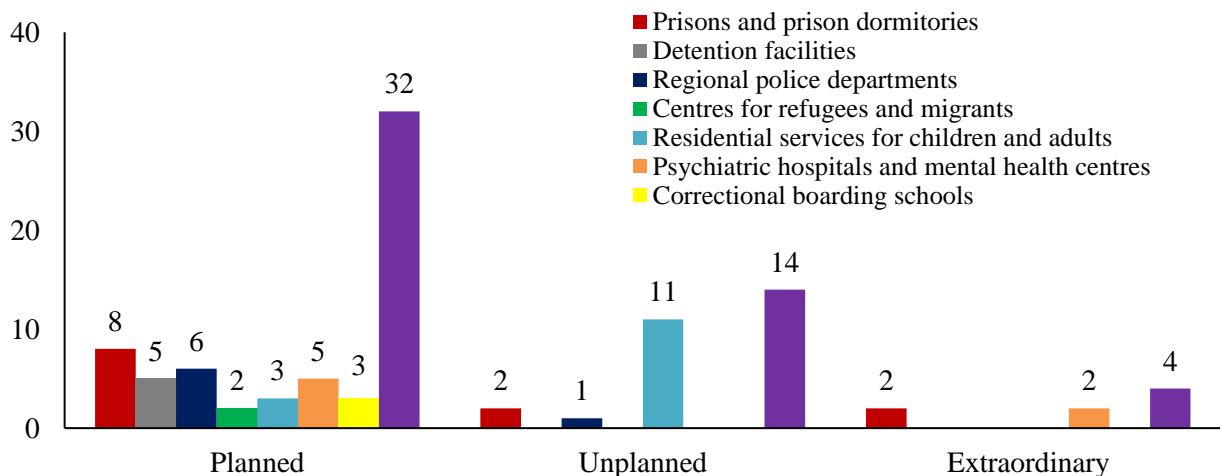
support mechanism would be developed. The introduction of such a mechanism is of utmost importance insofar as it would contribute to the durable and sustainable integration into Bulgarian society of vulnerable groups of persons and facilitate their access to a range of social services and medical care.

THE OMBUDSMAN IN DEFENCE OF PERSONS DETAINED IN INSTITUTIONS IN BULGARIA

The functions of the Ombudsman of the Republic of Bulgaria as the National Preventive Mechanism (NPM) are related to the implementation of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the amendments to the Ombudsman Act of 2012.

In 2023, the Ombudsman, as NPM, carried out a total of 50 inspections in places of detention, state psychiatric hospitals and mental health centres, detention centres for refugees and migrants, detention centres and family-type accommodation centres for children and adults, with an additional and specific focus on the rights of children in conflict with the law placed in institutions.

Chart No. 25. *Number of NPM inspections conducted by category of inspected body in 2023*



In total, the checks covered 17,639 persons, including those placed in and passing through the institutions checked throughout 2023.

A total of 129 recommendations were sent to various authorities and institutions as a result of the inspections carried out and concrete measures were followed up to improve conditions in places of accommodation, detention or imprisonment.



MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER CRUEL, UNHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IN BULGARIA

SUMMARY OF REPORT 2023

Unfortunately, the observations and conclusions made by the Ombudsman, in her capacity as NPM in 2023, **still identify systemic problems for which the institution has repeatedly alerted the public authorities**, but which have not found an adequate solution over the years.

1. RIGHTS OF PERSONS WITH MENTAL ILLNESS

First and foremost and **with particular urgency in the last two years has been the issue of protecting the rights of persons with mental illness**. The Ombudsman of the Republic of Bulgaria, exercising the functions as the NPM for mental health (NPMH), inspected mental health centres (MHCs) and social facilities for persons with mental disorders.

In the 2022-2023 period, the Ombudsman carried out a total of 25 unannounced inspections in psychiatric facilities and residential social services centres. Under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Council of Europe's European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment state-run psychiatric hospitals (SPHs) are places of deprivation of liberty, as some of the patients are placed there by court orders and cannot leave them voluntarily. The Ombudsman, as the NPM, therefore takes particular care to ensure that torture and other forms of inhuman or degrading treatment are not committed in these places.

In her annual reports for 2019 and 2022, the Ombudsman has consistently alerted public authorities to **the existence of chronic problems in the PPHs that may qualify as incompatible with fundamental standards of protection from torture and other 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.

–

Example:

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.

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



**MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER
CRUEL, UNHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
IN BULGARIA**

SUMMARY OF REPORT 2023

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 found that Ordinance No. 1 of 28 June 2005 on the terms and procedure for applying temporary physical restraint measures to patients with established mental disorders had been violated. The Ombudsman, as NPM, stresses that Ordinance No. 1 of 28 June 2005 on the Procedure for the Application of Measures of Temporary Physical Restraint to Patients with Established Mental Disorders runs contrary to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Council of Europe Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The NPM team considers that it is inhuman and degrading treatment or humiliation for a patient to be tied up and isolated for hours in a single day, as was the case found by the Ombudsman team in the PPH of Lovech. The Ordinance 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 Ordinance 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.

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.



**MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER
CRUEL, UNHUMAN OR DEGRADATING TREATMENT OR PUNISHMENT
IN BULGARIA**

SUMMARY OF REPORT 2023

Recommendations:

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 organisation 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. To prioritise improving the quality of life in the public mental health policy by means of a successful deinstitutionalisation of patients with mental illnesses and their socialization through services in the community.

2. RIGHTS OF CHILDREN IN CONFLICT WITH THE LAW

Another problem, which has the characteristics of a chronic deficit in the protection of human rights in Bulgaria, is related to the rights of children in conflict with the law. 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.



MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER CRUEL, UNHUMAN OR DEGRADATING TREATMENT OR PUNISHMENT IN BULGARIA

SUMMARY OF REPORT 2023

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.

In 2023, the Ombudsman teams from the NPM and the Rights of Child Directorate carried out three inspections of the reform schools and social boarding schools based on the same standardised methodology to assess the presence or absence of progress in the Third Thematic Report on the rights of children in reform schools and social boarding schools. At the Ombudsman's insistence, four boarding schools were closed, including the one in Dragodanovo, Sliven Municipality. The number of children accommodated in the remaining three was reduced to 88 children. Most of them are victims of circumstances in their lives – 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.

The third thematic report on the rights of children accommodated in institutions for children with disabilities found a series of chronic vices:

- Reform schools and social boarding schools do not meet international standards – they are of the so-called barracks type of buildings, i.e. sleeping quarters, bathrooms, toilets are shared. Children housed in them do not have access to quality education and medical care. Their relatives cannot visit them due to the remoteness of the institutions and the lack of funds;
- Correctional measures under Article 13 of the Juvenile Delinquency Act have the characteristics of criminal repression, i.e. their effect is in the imposition of a sanction or restriction.
- Lack of subsequent periodic judicial review and provision of legal assistance to the placed children in relation to the correctional measures imposed on them (the Bulgarian state has already been convicted in the European Court of Human Rights, case "D. L. v. BULGARIA" of 19 May 2016).
- The applicable legislation does not allow minors placed in a correctional centre to apply to the judicial authorities to have their detention reviewed.
- There is no periodic and automatic review in Bulgarian domestic law in respect of the detention in question.



MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER CRUEL, UNHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IN BULGARIA

SUMMARY OF REPORT 2023

Recommendations:

For another year, the Ombudsman as NPM emphasizes that **it is necessary to adopt a national policy and strategy for juvenile justice with a long-term horizon**. The efforts of the authorities should be fully focused on the rapid closure of institutions for children in conflict with the law and the creation of a protected social system, including the creation of a network of services (integrated services and correctional, psycho-social and protective measures and support mechanisms) in relation to these children:

1. Reform the juvenile justice system and assess the need of specialized court panels for children;
2. Repeal the Juvenile Delinquency Act in force as of 1958 and adopt the Diversion and Educational Measures for Minors Act;
3. 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;
4. 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;
5. The recommendation on the need to take effective legislative action to transpose EU Directive 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings into the Criminal Procedure Code remains relevant.

3. RIGHTS OF CHILDREN AND ADULTS PLACED IN RESIDENTIAL SOCIAL SERVICES

In 2023, the Ombudsman as NPM carried out a total of 3 planned and 11 unannounced inspections in social care institutions for children and adults. **Over the years, the Ombudsman has repeatedly recommended that the process of deinstitutionalisation of adult care be accelerated, as the prolonged residence of people with disabilities in institutions violates fundamental human rights and the homes themselves can be defined as places of deprivation of liberty.** However, there are still seven institutions with a capacity of over 100 pax (one with 228 pax), located at a great distance from municipal administrative centres and hospitals, with a lack of specialists to care for them. So far only nine social care homes for mentally disabled persons and persons with mental disorders and dementia have been closed. Once again, it has been established that **the homes do not meet any criteria for providing a quality social service for people with disabilities**. Not only is the treatment of the people accommodated and their stay there poor and degrading, but their fundamental human rights are violated:

- the right to free movement and contact with the outside world;



**MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER
CRUEL, UNHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
IN BULGARIA**

SUMMARY OF REPORT 2023

- the right to quality psychological and medical care;
- the right to privacy and quality sanitary conditions;
- the right to individual care.

–

Recommendations:

1. Set forth clear criteria for removing children and adults and placing them in alternative residence care;
2. Children and adults in the course of deinstitutionalization must be prepared in advance about their pending deinstitutionalization;
3. 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;
4. Children and adults whose relatives maintain contacts with them should be placed as close as possible to those relatives' place of residence;
5. Child Protection Departments with the Social Assistance Directorates should establish in-depth communication with the managers of the residential social services for children;
6. New generation of social services should not be launched in buildings where the old generation of social services used to be provided;
7. 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.

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

In 2023, the upward trend of inspections in **places of detention with the MoJ** will continued. The report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its eighth visit to Bulgaria was published at the end of October 2022. The CPT identifies as pressing and significant **the problems of inter-prisoner violence, the inadequate conditions in the country's prisons and detention facilities, the widespread infestation of bedbugs, cockroaches and other pests, and the lack of meaningful and constructive activities for prisoners.**

The above findings are confirmed by the inspections carried out by the Ombudsman in her capacity as NPM in 2023, which clearly demonstrates the continuing need to reform penal policy in the prison system. In 2023, the Ombudsman as NPM carried out planned inspections in three



MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER CRUEL, UNHUMAN OR DEGRADATING TREATMENT OR PUNISHMENT IN BULGARIA

SUMMARY OF REPORT 2023

prisons (in Bobov Dol, Burgas and Varna), in six open and closed-type prison hostels and in five detention centres. The Ombudsman carried out five unannounced inspections upon signals received in Pleven and Burgas and three unannounced inspections in the 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 general critical finding in this sector continues **to be related to the lack of an effective solution to several major problems:**

- systemic deficits in the medical care of prisoners;
- continuing deficits with depreciated, severely outdated and hygienically unreliable bedding;
- unresolved cockroach and bedbug problems in detention facilities, etc.

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, paragraph 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, paragraph 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.



MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER CRUEL, UNHUMAN OR DEGRADATING TREATMENT OR PUNISHMENT IN BULGARIA

SUMMARY OF REPORT 2023

Recommendations:

1. Take action to permanently resolve the problems with bed bugs and cockroaches in prisons;
2. Increase prison schools' budgets since education and training of inmates is essential for their reintegration;
3. Continue efforts to ensure longer presence of medical specialists in prisons and identify new possibilities to that end;
4. 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;
5. Place prisoners with established mental disorders in suitable medicinal environment to be monitored by qualified specialists.

5. RIGHTS OF PERSONS SEEKING 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**.

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 (compared 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. 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.

The inspections carried out in 2023 established a **growing number of unaccompanied minors in the context of persistently unresolved fundamental problems**:

- The Ombudsman's recommendation of 2022 has not been implemented and still there is no security zone for minors seeking international protection in the Registration and Reception Centre in Harmanli;
- The Ombudsman's recommendation to introduce a sustainable policy for protection and integration of unaccompanied minors is still relevant – 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 upon request.



MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER CRUEL, UNHUMAN OR DEGRADATING TREATMENT OR PUNISHMENT IN BULGARIA

SUMMARY OF REPORT 2023

The Ombudsman of the Republic of Bulgaria is the only Bulgarian state institution that **monitors the removal of foreign nationals** who have been subjected to coercive administrative measures (CAM) under the Aliens in Bulgaria Act (ABA). Acting as NPM, she has extensive experience in the protection of human rights and fundamental freedoms related to the status of asylum seekers and foreign nationals placed in the special temporary accommodation facilities with the Ministry of Interior. In 2023, the Ombudsman monitored the implementation of 33 coercive administrative measures on return to the country of origin, country of transit or third country and expulsion. The monitoring teams found systematic problems in the verification of the personal files of foreign nationals: the practice of under-documentation continues, especially with regard to appeals against orders for the imposition of coercive administrative measures; lack of evidence that foreign nationals are aware of the content of the orders issued for them for the imposition of coercive administrative measures, as well as of their right to appeal against them under the Administrative Procedure Code; the lack of evidence that foreign nationals placed in special temporary accommodation facilities are aware of their right to legal assistance and that they have met with lawyers who have consulted them and informed them of their rights and legal options, 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.

Recommendations:

1. Set up a security zone in the Registration and Reception Centre in Harmanli for unaccompanied minors seeking international protection;
2. Elaborate a consistent policy for the protection and integration of unaccompanied minors who have been granted refugee protection;
3. Endorse a sustainable policy for informing applicants for international or temporary protection about the conditions of residence in Bulgaria;
4. Develop a long-term strategy for the integration of displaced persons that permanently grants them access to social, health and education services;



**MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER
CRUEL, UNHUMAN OR DEGRADATING TREATMENT OR PUNISHMENT
IN BULGARIA**

SUMMARY OF REPORT 2023

5. Elaborate a comprehensive long-term strategy for accommodation of the growing number of unaccompanied minors on the territory of the Republic of Bulgaria, taking into account the specific needs of the target group;
6. 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;
7. 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;
8. 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;
9. 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.

**6. PROTECTION OF PERSONS DETAINED IN DETENTION CENTRES WITH
THE MINISTRY OF INTERIOR**

Another focus of the Ombudsman's work as NPM in 2023 is the protection of the rights of persons detained in detention facilities of the Ministry of Interior. The inspections covered the largest contingent of persons among all institutions inspected in 2023: a total of 2,509. Inspections were carried out to follow up on the implementation of recommendations made in 2022 in relation to the rights of minors and persons seeking or refused international protection. In 2023, the Ombudsman carried out inspections in four detention facilities for detainees in the Ministry of Interior system. 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.**

The Ombudsman, as NPM, considers as a positive change that in all premises inspected, the telephone number of the National Legal Aid Bureau is prominently displayed, as well as an up-to-date list of lawyers on duty at the respective collegium, in order to guarantee the right to defence of detainees.



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

**MONITORING OF THE UN CONVENTION AGAINST TORTURE AND OTHER
CRUEL, UNHUMAN OR DEGRADATING TREATMENT OR PUNISHMENT
IN BULGARIA**

SUMMARY OF REPORT 2023

Recommendations:

1. 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;
2. Comply with the requirement for mandatory participation of a lawyer in case a minor is detained;
3. Comply strictly with Article 2 of the Child Protection Act in case a minor is detained;
4. Police officers working with children must receive mandatory tailor-made training.