

2014



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



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ABBREVIATIONS USED

SAA - Social Assistance Agency
SCPO - Supreme Cassation Prosecutor's Office
RBS - Reform Boarding School
CDBP - Chief Directorate "Border Police"
CDEP - Chief Directorate "Execution of Punishments"
CDS - Chief Directorate "Security"
BPD - Border Police Directorate
SAD - Directorate "Social Assistance"
SAR - State Agency for Refugees
SACP - State Agency for Child Protection
SANS - State Agency "National Security"
HEPD - Home for elderly people with dementia
HAMD - Home for adults with mental disorders
HAMR - Home for adults with mental retardation
DDD - Disinfection, disinfestation, rat extermination
HCDPC - Home for Children Deprived of Parental Care
HCYMR - Home for children and youth with mental retardation
HCD - Home for children with disabilities
HMSCC - Home for medical and social care for children
SEPP - State Enterprise "Prison Production"
SPH - State Psychiatric Hospital
CPR - Children's Pedagogical Room
LAADMJ - Law against antisocial delinquency of minors and juvenile
LH - Law on Health
LESD - Law on the Execution of Sentences and Detention
LMI - Law on Medical Establishments
PDorm - Prison dormitory
LO - Law on Ombudsman
PDCT - Prison dormitory of closed type
PDOT - Prison dormitory of open type
LSA - Law on Social Assistance
CPT - Committee for Prevention of Torture
PDL - Persons deprived of liberty
LI - medical institution
MI - Ministry of Internal Affairs
MH - Ministry of Health
PE - Penitentiary establishments (prisons)
MD - Ministry of Defence
MES - Ministry of Education and Science
MJ - Ministry of Justice
CM - Council of Ministers
MLSP - Ministry of Labour and Social Policy
MF - Ministry of Finance
MC - Medical Centre
NHIF - National Health Insurance Fund
CC - Criminal Code
CPC - Criminal Procedure Code
NPM - National Preventive Mechanism
RD of MI - Regional Directorate of the Ministry of Interior

RTSI - Rooms for temporary stay and insulation
RILESD - Regulation on Implementation of the Law on Execution of Sentences and Detention
RHI - Regional health inspectorate
RRC - Registration and Reception Centre
RC - Registration Centre
RPD - Regional Police Department
SCTAF - Specialized Centre for Temporary Accommodation of Foreigners
SAEW - Social activities and educational work (prisons)
SEBS - Social and Educational Boarding School
MWCAC - Medical work capability assessment committee
TC - Transit Centre
P - Parole
OPCAT - Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CFTA - Centre of Family Type Accommodation
MHC - Mental Health Centre
CCD - Centre for children with disabilities

INTRODUCTORY WORDS

Over the past two and a half years, the Ombudsman of the Republic of Bulgaria as a National Preventive Mechanism (NPM) has been able to create an internal structure that has the capacity to effectively identify risks that could lead to violation of human rights, including torture or other cruel and inhuman treatment or punishment, as well as to respond adequately to the challenges by implementing particular measures, including making recommendations, giving advice and taking initiatives for amendments to the existing administrative practices and legal solutions.

This is the third annual report of the Ombudsman of the Republic of Bulgaria as NPM. It contains a summary of the activities of the NPM in 2014, an analysis of the conditions in the objects examined, conclusions and recommendations to overcome the shortcomings in the detention facilities that have been visited by the NPM in 2014. The report also contains possible solutions of identified problems through amendments in the regulatory environment.

In 2014, the budget of the institution was reduced by BGN 420,000 which greatly hindered and limited the implementation of the activities of the Ombudsman as a National Preventive Mechanism. Despite such reduction in the budget, the NPM continued to perform its functions under the Law on Ombudsman and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The main part of the inspections in 2014 were themed and aimed at places already inspected in 2012 and 2013 that the NPM had defined as problematic in their reports.

The content of the report is addressed both to the authorities in the Republic of Bulgaria responsible for the places visited by the NPM and to the international organizations engaged in activities related to the protection of persons deprived of liberty, NGOs and all those involved professionally in protection of the protection of rights of these people.

**KONSTANTIN PENCHEV -
OMBUDSMAN
OF THE REPUBLIC OF BULGARIA**

I. LEGAL FRAMEWORK

1. Optional Protocol to the Convention against torture (OPCAT)

The Optional Protocol to the Convention against Torture is the first international treaty that establishes a dual system - international and national, for prevention of torture and other cruel, inhuman or degrading treatment. At international level OPCAT establishes a Subcommittee on Prevention of Torture (the Subcommittee), and at national level the protocol requires the state to create a NPM.

OPCAT identifies three basic functions of the Subcommittee. First, to visit places where persons are or could be detained. Second, to assist and advise the national preventive mechanisms and to make recommendations to the countries with a view to strengthening the capacity and the mandate of the NPM. And third, to cooperate with the relevant UN bodies as well as with the international, regional and national institutions or organizations working in the field of protection of all persons deprived of liberty (PDL).

Article 3 of OPCAT requires the Member States to "establish, designate or maintain at a national level one or several bodies to prevent torture and Other Cruel, inhuman or degrading treatment or punishment." This or these national bodies represent(s) the national preventive mechanism.

Each state that signed OPCAT has its own way to determine its NPM. Some countries have identified existing bodies to carry out the mandate of the NPM, and in other countries new bodies have been created to assume this role.

In order for the NPM to function as an independent body, art. 18 of OPCAT establishes an obligation for the countries to provide functional and financial independence of the preventive mechanism, which ensures that the NPM can operate free from any interference from the state. Article 18 contains a specific reference to the principles related to the status and functioning of the national institutions for the promotion and protection of human rights ("Paris Principles").

2. Law on the Ombudsman

NPM's function has been delegated to the Ombudsman by the amendments and complements to the Law on the Ombudsman (LO), published in the "State Gazette", issue No 29 of 10 April 2012.

New chapter was included in the law, which reflects the requirements of OPCAT:
"a" National Preventive Mechanism (new - State Gazette,, issue No. 29/2012, effective as from 11.05.2012)

Art. 28 (a) (new - SG, issue No 29 of 2012, effective as from 11.05.2012) (1) The powers of the Ombudsman as a National Preventive Mechanism refer to places where there are persons deprived of liberty, or where persons are detained or accommodated as a result of an act or with the consent of a state body, which places they can not leave at their own will, in order to protect such persons from torture and Other Cruel, inhuman or degrading treatment or punishment.

(2) The Ombudsman shall be entitled to:

1. access without notice at any time to all detention facilities under para 1 and to their facilities and sites;

2. access to all the information on the number of the persons deprived of liberty in the detention facilities under para 1, and the number of these places and their location;

3. choose the places under para 1 which he /she wants to visit and the persons with whom he / she wants to talk to;

4. conduct private conversations without witnesses with persons deprived of liberty, personally or through an interpreter, if necessary, as well as with any other person, who, according to the Ombudsman as a National Preventive Mechanism, may provide the relevant information;

5. access to all information pertaining to the treatment of persons under para 1 and to the conditions in the detention facilities;

6. request information from the staff of the visited detention facility, to hold lectures and conduct personal talks with any other person who is on the territory of the inspected object;

7. arrange medical examinations of individuals with their consent.

(3) The employees and officials in the facilities under para 1 are obliged to assist and supply the necessary information to the Ombudsman.

Art. 28 (b) (new - SG, issue No 29 of 2012, effective as from 11.05.2012) (1) A person or an official is not entitled to order, apply, permit or allow whatever sanction in respect of a person or organization that they have reported any information, whether true or not, to the Ombudsman as a National Preventive Mechanism, and no such person or organization may suffer any damage because of this.

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

Art. 28 (c) (new - SG, issue 29 of 2012, effective as from 11.05.2012) The Ombudsman as a National Preventive Mechanism may by order delegate in whole or in part its powers under Art. 28 (a) to officials of her / his administration.

Art. (28) (d) (New - SG, issue 29 of 2012, effective as from 11.05.2012) (1) After each visit, the Ombudsman shall prepare a report which may contain recommendations and proposals aiming to improve the conditions in the facilities under art. 28, treatment of the individuals accommodated there, and aiming to prevent torture and Other Cruel, inhuman or degrading treatment or punishment.

(2) The report shall be provided to the relevant competent authority which shall notify the Ombudsman within one month of the actions undertaken in implementing the recommendations.

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

Art. 28 (e) (new - SG, issue 29 of 2012, effective as from 11.05.2012) The Ombudsman as a National Preventive Mechanism shall cooperate with the relevant bodies and mechanisms of the United Nations, citizens' associations, as well as with international, regional and national organizations which subject of activities includes ensuring the protection of persons from torture and other for of cruel, inhuman or degrading treatment or punishment.

II. STRUCTURE AND ACTIVITY OF THE NPM

The Ombudsman as NPM shall make regular visits with preventive orientation. The purpose of such inspections is to strengthen the protection of persons limited in their liberty from torture, cruel, inhuman or degrading treatment or punishment or other abuse. After each inspection the NPM shall draw up a report on the findings and recommendations with a view to undertaking certain actions to address the

prerequisites leading to violation of the rights of the persons accommodated in such facilities.

In the structure of the Ombudsman's institution was established Directorate "National Preventive Mechanism and fundamental rights and freedoms". It employs seven experts - they are a multidisciplinary team of lawyers, a psychologist, a physician (MD) and experts in the field of public administration.

By amendments to the Law on Foreigners in the Republic of Bulgaria (SG, issue 23 of 2013) on the Ombudsman arose obligation to monitor coercive administrative measures imposed on foreigners, namely:

1. compulsory escort to the borders of the Republic of Bulgaria;
2. expulsion.

This legislative change was dictated by the requirements of Directive 2008/115 / EC of the European Parliament and of the Council of 16th December 2008 concerning the common standards and procedures applicable in the Member States for returning the illegally staying third-country nationals. According to Art. 8, para 6 of the Directive "the Member States shall provide for an effective forced returns monitoring system".

In connection with these obligations on 8th April 2014 an agreement was signed between the Ministry of Interior (MoI) and the Ombudsman of the Republic of Bulgaria for cooperation in carrying out the monitoring of forced returns of illegally staying third-country nationals.

At present, however, the administration of the Ombudsman does not efficiently monitor the forced returns. The reasons for this concern are related to the resources. Reducing the institution's budget for 2014 did not allow the Ombudsman to develop this important activity on monitoring the forced returns.

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

In 2014 cooperation and good communication between the Bulgarian NPM and the Subcommittee on Prevention of Torture continued. Besides formal correspondence, a video conference meeting with members of the Subcommittee was held as well, during which were discussed key issues in the work of the NPM, the need for broader financial independence and the opportunities for increasing the administrative capacity of the mechanism, as well as the future cooperation between the two institutions. The main findings and conclusions in the annual reports of the Ombudsman as NPM were discussed, the interaction with the responsible national institutions and the non-governmental sector, and the actions of the Subcommittee to the Bulgarian authorities with a view to implementation of the recommendations made by the NPM.

At the end of May 2014, the Ombudsman as NPM joined the Network of the national preventive mechanisms in South-East Europe. This happened at a meeting held in Ljubljana, Slovenia, during which the participants in the network - Austria, Bulgaria, Croatia, Macedonia, Montenegro, Slovenia, Serbia, Bosnia and Herzegovina, discussed the way to prepare annual reports of the NPM, they exchanged their experiences and good practices that could provide better and more efficient work in executing the mandate of the NPM.

The NPM's experts participated in the international conferences on topics directly related to the activity and operation of the mechanism - "Detention of immigrants in Europe: Establishing common problems and developing minimum standards", "Strengthening the effective implementation and follow-up of recommendations given by the authorities dealing with the prevention of torture in the EU", "Establishment of effective domestic remedies in respect of the conditions in

detention facilities", "Development of tools to monitor the forced return", "Prevention of torture and Other Cruel, inhuman or degrading treatment or punishment."

At the beginning of December 2014 experts of the NPM passed the first stage of training of observers of forced return within the project "Monitoring of forced return". The training included: introduction to the principles of forced return and the implementation of the Directive on forced return; management of forced return; the role of FRONTEX in joint operations; a visit to the training centre of the Austrian Special Forces Cobra (Einsatzkommando Cobra) and monitoring the implementation of aids and techniques for the use of force in incidents; phases of forced return and the role of the escort team; human rights that must be observed in forced return; the role and powers of the observers in forced return; visit to the transit centre at the airport in Vienna and monitoring of a stage of forced return; contents and standards to be applied in drawing up the report; review and resolution of training cases by the participants.

Along with participation in international fora the experts of the NPM participated in numerous meetings, round tables and conferences at the national level, organized by government authorities and non-governmental organizations concerning the issues of: juvenile justice and correctional and educational institutions; detention facilities; persons seeking international protection and migrants, and other topics directly related to the activity of the NPM.

IV. GENERAL STATISTICAL INFORMATION

1. Complaints and signals received and considered in 2014

For the period 1st January - 31st December 2014, the complaints related to the activities of the NPM are 87. Inspections on 68 complaints have been completed, and the signals thereon are related to the following:

1. Violations by the administration of the penitentiary system - 50 complaints;
2. Violations in police detention and / or facilities for 24-hour detention - 9 complaints;
3. Violations of institutions for children - 1 complaint;
4. Violations of the administrations of psychiatric hospitals - 6 complaints;
5. Violations of homes for accommodation of foreigners - 2 complaints.

Quite common are signals associated with:

- Living conditions in the prisons, remand centres, places for accommodation of foreigners and persons seeking protection, social and medico-social institutions. A large group of inmates in prisons submit complaints about overcrowding, lack of employment and the inability of the prison administration to provide meaningful activities of most of the PDL;

- Inflated prices of products sold in prison canteens as well as the telephone calls charges. As ombudsman, acting as NPM I have to emphasize that such additional factors aggravating the serving the sentence are completely unacceptable. It is unacceptable for such treatment of PDL in a democratic society, proclaimed as its core values of the rule of law.

- Access to specialized medical care and provision of medical care with lower standard and low quality. The main problems are related to the access to medical and dental care in penitentiary establishments (PE), as well as the inadequate treatment of diagnosed diseases - acute or chronic. Frequent violations of health rights in the penitentiary system is the lack of specific diet for people with chronic diseases that require such. As legitimate complaints can be identified also those related to the low

quality of medical care in prison hospitals - mainly due to the fact that these hospitals do not cover (even partially) medical standards that are mandatory for hospitals in the system of civil health .

- A request for assistance to change the mode of the sentence and / or deduct time from serving punishment, parole, as well as a request for transfer of prisoners from one prison to another. As ombudsman, acting NPM, I carefully consider these signals as the listed legal options for transfer, change of regime and early conditional release (on parole) are directly dependent on the risk assessment of the PDL.

- Use of force and aids. As a party to the European Convention on Human Rights and Fundamental Freedoms Bulgarian state has positive obligations arising from Art. 3 of the Convention to create practical and effective guarantees against violations of the prohibition of torture or inhuman and degrading treatment. These guarantees include also procedural obligations to investigate such cases. Since these violations are among the most serious violations of human rights, investigations must meet high standards - they must be comprehensive, effective and leading to the detection and punishment of the responsible persons. In any particular signal for excessive use of force and aids teams of the NPM carry out a detailed examination of the case. Based on the findings of these examinations I send an opinion to the competent authorities, including to the Prosecutor's Office of the Republic of Bulgaria.

2. Visits held in 2014

In the period 1st January - 31st December 2014 the team of NPM conducted inspections of 100 establishments:

1. Territorial divisions of the State Agency for Refugees with the Council of Ministers - 7 establishments;

2. State psychiatric hospitals and centres of mental health - 3 establishments;

3. Institutions providing social and medical and social services:

- Homes for medical and social care for children - 10 establishments;

- Centres for accommodation of family type, sheltered accommodation - 12 establishments;

- Educational schools - boarding schools and social educational boarding schools - 6 establishments;

- Homes for children with disabilities - 5 establishments;

- Homes for adults with mental disorders, dementia and mental retardation - 12 establishments;

4. Places for detention at the Ministry of Interior and Ministry of Defence (MD):

- places for accommodation of detainees in the structures of Ministry of Interior - 21 establishments;

- premises for accommodation of detainees in the structures of the MD - 1 site;

5. Detention facilities at the Ministry of Justice:

- Premises for temporary isolation and stay in courthouses - 4 establishments;

- Prisons, prison dormitories, reformatories and detention centres - 19 establishments.

Twenty-five of the inspections have been made on notice and the remaining 75 inspections have been carried out suddenly in the inspected establishments.

Much of the inspections held during the above period have been of the so called type "follow-up visits" in establishments that had been already visited by teams of the NPM in 2012 and 2013. The purpose of these inspections was to analyse and to follow-up the degree of implementation of recommendations of the Ombudsman as NPM.

V. PROTECTION OF PERSONS DEPRIVED OF LIBERTY IN PRISONS AND DETENTION CENTRES

In connection with the functions of the Ombudsman of the Republic of Bulgaria as NPM in 2014 teams of the institution carried out inspections in the prisons in Pazardzhik, Plovdiv, Vratsa, Sliven, Burgas, Stara Zagora, Varna, Pleven, Belene, Lovech and Bobov Dol as well as of the Reformatiry in the city of Boychinovtsi. The detention centres in the cities of Veliko Tarnovo, Gabrovo, Rousse and Lovech, as well as those located at the G.M. Dimitrov Boulevard and Mayor Vekilski Street in the city of Sofia.

1. Prisons

The main findings of the teams of NPM were, as follows:

1. Most of the recommendations sent in 2012 and 2013 to the Minister of Justice related to the situation of the prisons and the prison dormitories, have not been satisfied with the argument that there is a lack of the necessary funds to make capital expenditures.

2. In almost all establishments inspected the need to carry out repairs in the kitchen and bathrooms is urgent.

3. Once again the NPM has found that the goods in prison canteens are priced 30-40% higher than the prices of the same goods offered in civilian stores. The opinion of the inspecting teams is that such practice of the State Enterprise "Prisons Production" (SEPP) should be definitely discontinued.

4. In all penitentiary establishments the employment rate in PDL continues to move at a low level. Relatively poor is also the social and corrective action. Better is assessed only the educational activity carried out by the staff of the Ministry of Education and Science (MES).

5. In 2014 there was an increase in the number of tuberculosis patients in PDL and those suffering from syphilis.

6. Another systemic problem is the constant delay in the payment of amounts to the suppliers of goods and services.

7. The practice of imposing penalties for refusal by the inmate to assist in inspection for alcohol and drugs use has not been yet discontinued .

8. The share of the PDL proposed to parole (early conditional release) and replacement of the lighter regime of persons compared to these ones that formally acquired rights to such remains relatively low.

9. The turnover of the security staff in the system of the Penitentiary establishments (PEs) is rather big. On the one hand, this is due to the difficult working conditions in the prisons and on the other hand - due to the unattractive pay.

10. The most severe in terms of living conditions and overcrowding can be pointed out the prisons in the cities of Burgas and Varna. In these two prisons none of the recommended standards in respect to the PDL is met.

11. Despite repeated recommendations to the Minister of Justice, no special registers for use of physical force and aids against the prisoners have been introduced. There is no a unified information register for the exchange of information between different institutions - prisons, prosecution, court, the Ministry of Interior.

PRELIMINARY REMARKS

During its inspections in 2014 the NPM focused on monitoring and analysis in the following areas: protection measures and individual interviews with PDL; the annual

accounts of the prisons; minutes of the committees on the enforcement of the sentences under Art. 73 of the Law on Execution of Sentences and Detention (LESD) and overall disciplinary practice in the system of execution of punishments.

Along with these highlights, the NPM followed up also the implementation of the recommendations given after thorough inspections in previous reports. Most of the recommendations sent in 2012 and 2013 to the Minister of Justice related to the situation of the prisons and prison dormitories have not been satisfied with the argument that there is a lack of the necessary funds to make capital expenditures. The NPM does not accept this argument and recalls the general principle set forth in art. 4 of Recommendation No Rec (2006) 2 of the Committee of Ministers of the Member States on the European Prison Rules, which states that "prison conditions that violate the human rights of the prisoners can not be justified by lack of resources."

Living conditions. Overcrowding

The NPM has found no significant improvement in the situation of PDL in terms of material conditions and overcrowding. However, it should be noted that with funds provided by the Norwegian Financial Mechanism, the following have been achieved:

- Modernization of the medical centre (MC) and the day care centre in the prison in Sliven;
- Complete reconstruction of the remand centre in Sliven;
- Initiation of construction works in the MC and kitchen in the prison in Lovech;
- Preparation for the commencement of building works in the prison dormitory "Razdelna" to the prison in Varna;
- Preparation of investment project for transformation of buildings in the Debelt locality near Burgas, into a prison dormitory having capacity of 450 convicted.

Additional resources in the amount of € 1,296,805 have been allocated to:

- Renovation of the main building and the kitchen in the prison in Lovech ;
- Renovation of the main building of the prison in Stara Zagora ;
- Renovation of the kitchen area of the prison in Burgas ;
- Reconstruction of the dormitory of closed type "Atlant" in the city of Troyan.

The total number of individuals serving a sentence of "imprisonment" has decreased by the end of 2014 and was just over 7,000.

Despite the above findings, the material conditions in the cells remain in poor condition and positive change can not be observed except decline in the prison population.

Evaluation of NPM is that the material and technical facilities are in extremely poor condition. This situation is particularly severe in prisons in the cities of Belene, Burgas, Varna, Lovech, and Bobov Dol.

As an example may be given the prison in the city of Belene, where the material conditions in the area of high security can be defined as inhumane and dangerous to the health of the detainees. For example, in the 9th cell the moisture and mould were such that it was hard to breath even for the inspecting persons during interviews with PDL.

As extremely poor can be determined also the living conditions in the prison dormitory of open type (PDOT) "Ceramic Factory" to the prison in the city of Vratsa. Ownership of buildings and land of the dormitory is private due to their inclusion in the capital of a privatized state-owned company. Ministry of Justice (MJ) has no legal basis to carry out budgetary expenditure in this property, so that the facilities have been left without maintenance for more than 20 years. Prisoners are placed in extremely unfavourable conditions for serving the sentence, which can cause damage to health. **Therefore, the team of NPM assumed that the dormitory should be closed or**

relocated (this recommendation was made even in 2012). In 2012, the head of the prison presented a vision before the inspecting team that meets understanding and support of the Regional Governor of Vratsa Region and the Deputy Minister of Justice. It was related to the relocation of the dormitory to a state-owned building that is empty due to the lapsed needs of the Agency for Standardization and Metrology. The building is adjacent to the prison at 5 Bezimenna Street. The vision that has been supported by the head of the detention centre in the city of Vratsa was that there could be also relocated the detention centre itself. In 2014, the inspecting team of the NPM was acquainted with already implemented idea of the penitentiary administration. During our investigation we have been provided with Act No 3195 for private state property, which provide rights to administrate the property to the Ministry of Justice.

In two of the prisons visited (in the cities of Belene and Bobov Dol) there was a serious problem with the quality of the drinking water. It is cloudy and contains impurities of sand. Although samples of the water in the city of Bobov Dol meet [the requirements of] Ordinance No 9/2001 of the Ministry of Health (in accordance with control certificate No C 0396 / 05.13.2013, issued by the Regional Health Inspectorate - city of Kyustendil), according to the team of NPM the water was extremely cloudy. During the final conversation with the deputy head of the prison explanation was given that the water in the entire city of Bobov Dol was one and the same in terms of quality and content of impurities.

Concerning the sole prison for women in Bulgaria - in the city of Sliven, the NPM again found that a major problem in terms of infrastructure is the lack of bathrooms in the accommodation spaces. In its report (CPT / Inf (2008) 11) the Committee for the Prevention of Torture (CPT) noted during its visit in September 2006 that no single accommodation space was equipped with a bathroom. Such a finding was also made by the inspecting team of the NPM in 2012. In the same year a recommendation by the Ombudsman was made to the Ministry of Justice to solve that problem. The recommendation has not been implemented by 2014 and the practice of using plastic buckets and yoghurt cups to urinate at night continued.

After the CPT's findings on the availability of hot water for a period of just 20 minutes in the evening, the team of the NPM in 2012 found that the time was reduced to 10-15 minutes. After recommendations to the Ministry of Justice, the team of the NPM reported in 2014 that the schedule had been changed and the time for using hot water had been increased again to 20 minutes.

During the inspection held in 2012 the team of NPM established use of "uniforms" (dark blue suits with skirt and jacket) by PDL for their appearance in courts. This existing practice was defined as unacceptable and contrary to the recommended rule specified in Art. 20.4 of Recommendation No Rec (2006) 2 of the Committee of Ministers of the Member States on the European Prison Rules. **With satisfaction the NPM notes that as at 2014, such practice was discontinued.**

Concerning the only reformatory for PDL teenage boys in the city of Boichinovtsi, Bulgaria, based on previous recommendations the NPM noted that the window frames had not been still replaced, the facade has been left without repair, the flooring in the bedrooms is in bad condition. Much of the beds and bed sheets are worn and dirty. Such is the state of the bathrooms - dirty, non-maintained, and in some places - with broken seats. The rooms are spacious enough and have access to natural light.

The location of the Reformatory in the city of Boichinovtsi creates difficulties for the relatives of PDL to maintain social contact. Reintegrating of PDL in society is also difficult.

Taking into account the state of the PEs in the Republic of Bulgaria, this issue can not be considered independently. **The NPM addresses the competent authorities with a proposal to analyse and assess the need for relocation of the institution in less space, which to be sufficiently communicative and well-equipped with a view to the needs of PDL- minors.**

In 2012, the inspecting team of the NPM recommended the Ministry of Justice changing the status of prison dormitory "Vitus" to the prison in the city of Pleven from open to closed type aiming to relieve the prison's corpus. **During its inspection in 2014 the NPM was pleased to find out that this recommendation had been implemented.**

All prisons have kitchens where food for PDL is prepared. Food supplies are centralised and directly related to the amount of the planned budget. Already in 2012 the NPM identified the need to conduct repairs in all prison kitchens and warehouses. No actions have been taken by the Ministry of Justice in this regard. Despite the poor material conditions, anywhere in the inspected objects (kitchens, dining rooms, service spaces) the workers maintain good hygiene. In all PEs the requirement for taking and storing samples of food is observed.

Medical care

The finding of the NPM of 2012 and 2013, that the equipment and furniture in the prisons' MCs is sparse and does not meet the requirements to be available and correct medical equipment and furniture in the GP's surgery available, is still valid. The only exception are the prisons in the cities of Plovdiv and Sliven. All of them are supplied with medicines on a monthly basis as per an order in accordance with the contract concluded with "Sopharma Trading" AD. Prisoners use also medications purchased with their own personal funds for specific diseases which cannot be paid by the penitentiary system.

Protection measures and social work

As already noted, the focus of inspections held in 2014 was placed on protection measures and individual interviews with PDL; the annual accounts of the prisons; minutes of the committees on the enforcement of the sentences under Art. 73 of LESD and overall disciplinary practice in the system of enforcement of sentences. Therefore, in this annual report such issues will be discussed in more detail and to particular prisons.

Prison - Pazardzhik

In 2013 in the prison in the city of Pazardzhik 24 interruptions of enforcement of the sentences of PDL have been made. Of these, according to Art. 447 pt. 2 of the Criminal Procedure Code (for exceptional reasons of family or public nature) - 14, and in accordance with Art. 447 pt. 3 of the Code of Criminal Procedure (due to a serious health condition of the convict) - 10.

In 2013 8 meetings of the Committee on the enforcement of the sentences were held. Out of the 184 PDL meeting the formal requirements of Art. 70, para 1 of the Criminal Code (CC) for early conditional release (on parole) were proposed 46 PDL, and all were approved by the court. By decision of the Committee has been amended the regime of 107 PDL into lighter, and of 8 PDL - in more severe.

The number of PDL placed in a prison dormitory of open type for 2013 were 60, one PDL was moved from the PDOT into the prison.

Based on the documentary research the following summary for 2013 can be made: 307 PDL were released from prison because of serving the sentence; released on parole - 46; released from prison due to a change of the supervision measure in the lighter and other reasons - 18; died due to serious illness - 3; transfers to other prisons - 40; no person was pardoned by the president.

The practice of rewards and punishments shows a relatively balanced approach between the two forms.

Enforcement of the sentence of 8 PDL was conditionally suspended for different terms according to Art. 107, para 1 of LESD. Number of the penalties imposed for refusal to check the use of alcohol and drugs were 2, for possession of unauthorized articles - 155, for physical assault - 132, for non-execution of orders of officials - 134, for refusal to execute the work assigned by the prison administration - 9, for unauthorized contacts with other prisoners - 90, other - 103.

In 2013, two PDL were banned to have visits by persons having negative impact on them. No PDL were accommodated under Art. 120 of LESD.

From the Minutes No 01 / 12.02.2014 provided to the team of the NPM, it became clear that out of 113 PDL formally acquired the right to release on parole, favourable opinion was granted to 4 PDL. Out of 211 PDL eligible for change of the regime with lighter, favourable opinion was granted to 17 PDL. 26 PDL formally acquired the right to move in PDOT, of which 15 PDL were granted a favourable opinion.

During their visit to the prison in the city of Pazardzhik in 2014 the experts of the NPM held nine interviews with PDL. Main complaints can be summarized in the following categories: providing employment; inflated prices of goods in the canteen; decisions of the judicial authorities; ban in prisons on products for discinecton, disinfection, and rat extermination (DDD); refusals to home leave and hygienic and living conditions.

Prison - Plovdiv

Education of the PDL who so requested is carried out in schools to the prisons in the cities Varna, Pazardzhik and Stara Zagora.

The following clubs exist in the prison: "Buditel"; "Art"; "Owl"; "Trake"; "Fitness"; "Bodybuilding" "Power". The following programmes are being implemented: "Thinking skills"; "Short-term programme for drug addicts"; "Programme for adaptation"; "Preparation for life at liberty"; "Personality and self-knowledge."

In 2012, the Supreme Cassation Prosecutor's Office (SCPO) has conducted a check on unjustified detention in prisons in 2011. In prison in the city of Plovdiv was established 1 case of detention up to 10 days over the term of serving the sentence. Based on the reference provided, the number of such cases was 12 in 2007; in 2008 - 8; in 2009 - 2; in 2010 - 0. In five cases, the punishment has been interrupted due to the risk of unjustified detention . In 2012 the team of the NPM found one case, in 2013 - 0.

For 2013 the Committee on Art. 73 of LESD held seven meetings and proposed 51 PDL for release on parole, out of which 28 PDL were released. The regime was replaced with lighter for 158 PDL , and with heavier - for 6 PDL. 85 PDL have been transferred to a prison dormitory of open type. The prison administration has prepared 25 reports for pardon, but no PDL were pardoned.

According to the Minutes No 308 / 05.02.2014 of the first Committee for 2014 for release on parole 158 PDL acquired the right of release on parole, and positive opinion was granted to 10 PDL. 207 PDL formally acquired the right to replacement of the regime in the next lighter and with favourable opinion were only 26.

For 2013 332 penalties were imposed and 641 awards were granted. Among the most common awards are home leave and 4-hour visit that are extremely well accepted by the PDL themselves.

During the inspection in the Plovdiv prison in 2014 the experts of the NPM conducted 13 interviews with PDL. The main problems that shared prisoners were associated with judgements; quality of medical care in prison and re-integration measures.

Prison - Vratsa

In prison in the city of Vratsa the yard is too small for the necessary sporting events. Gyms have been built in the prison and the dormitory, but that in PDOT "Ceramic Factory" is in very bad condition.

Educational courses and programmes that take place are: in 2013 - for basic computer literacy, in which participated 58 PDL, and two language courses (Spanish and Italian) - 21 PDL enrolled; 2014 - training for trainers participated by two PDL; four courses in basic computer literacy attended by 79 participants.

Specialized working group in 2013 concerns the implementation of the following programmes: "A chance for a new life"; "Thinking skills"; "Dealing with the problems of life through change of thinking"; "Anger Management"; "Developing skills for safe driving"; "Programme for drug addicts"; "Skills for effective communication"; "Programme for sexual offenders"; "Prevention of sexual violence." All the programmes involved a total of 189 PDL.

The Plan for specialized group work in 2014 included the following programmes: "Training in communication social skills for offenders"; "Anger Management"; "Short-term programme for drug addicts"; "Developing skills for safe driving"; "Thinking skills"; "Skills for effective communication"; "A chance for a new life"; "Dealing with the problems of life through change of thinking" and "Prevention of sexual violence." For January and February of 2014 25 PDL participated in three of these programmes.

In 2013 the Committee under Art. 73 of LESD examined the legal status of 2441 PDL. 440 out of them have been approved. Out of 683 examined cases for release on parole 88 were approved. The regime was changed for 238 PDL out of 970 examined. 114 were transferred to PDOT out of 788 PDL that acquired that right.

In 2013 in the prison were prepared: 437 estimates of the risk of relapse and harm; 422 psychological conclusions; 390 initial reports; 605 current reports. 420 of the prisoners have passed through the programme for adaptation and 513 were rewarded. Convictions of 466 PDL were planned, and the convictions of 295 were rescheduled. On parole were released 135 PDL, released on parole with probation measures - 34 PDL. The regime was replaced in the heavier for 4 PDL. The reference prepared by the prison administration reports to pardon 35 PDL. Complaints and petitions were 2652. The number of disciplinary sanctions imposed were 519.

Until April 2014 two meetings of the Committee on the enforcement of the sentences were held. From the information provided by the prison administration it was seen that in the first meeting (29th January 2014) there were 140 PDL that were formally entitled to release on parole; 180 PDL were for replacement the regime of serving the sentence in the next lighter; 1 PDL - replacement in heavier regime; 108 PDL - transfer to an institution of lighter type; transfer of sentenced to life imprisonment in the common rooms - 7 PDL.

The total of 360 - on all grounds, were with negative opinions out of the number of the persons that acquired formally such rights under Art. 74 of LESD.

The Minutes No 2 / 26.03.2014 showed that: there were 124 PDL that were formally entitled to release on parole; 171 PDL were for replacement of the regime of

serving the sentence in the next lighter; 1 PDL - replacement in heavier regime; 119 PDL - transfer to an institution of lighter type; 7 PDL - subject to transfer of sentenced to life imprisonment in the common rooms. The total of 355 were with negative opinions out of the number of the persons that acquired formally such rights under Art. 74 of LESD.

During the inspection in 2014 the team of the NPM conducted seven interviews with PDL. Their complaints were focused around the list of permitted items, inflated prices in the canteen and quality of care.

Prison - Sliven

In prison in the city of Sliven operates the school "Argira Zhechkova" for students from 1 to 12 grade. It was founded in 1971. The school is funded through a delegated budget of the Ministry of Education and Science and employs 19 teachers. Each class has one teaching group and from 2 to 14 students were enrolled. The school building has two floors and 12 classrooms. There is a training workshop, computer room, rooms for extracurricular activities and a library. The main education is from 1 to 4 grade. The learners from 5 to 12 grade receive vocational training and qualifications "tailor" and "operator of clothing." There is also the club "Work", housed in two rooms.

The prison has a cinema theatre with 220 seats and video club for group work with 40 seats as well as clubs by units - specialized, educational, artistic.

In PD "Ramanusha" training courses in gardening are organized.

The prison has equipped rooms for visits and extended visits. The room for visits have sufficient conditions to hold 5 visits simultaneously. The visitor and the PDL are separated by a glass, the conversations between them are carried out by using a telephone.

In 2013, the number of awards was 383. The most common incentives are: written commendation; home leave up to five days and monthly home leave up to 2 days.

The requests and complaints from PDL submitted total to 108 which represents an increasing trend compared to the previous years.

As at 31st December 2014 there were a total of 363 orders for imposed penalties, by which 576 PDL were punished. For the same period five disciplinary penalties were imposed to underage girls.

Prisoners have the right to correspond with the institutions referred to in Art. 76 of the Regulations on the Implementation of the Law on Execution of Sentences and Detention (RILESD). Such letters are not subject to check and are registered in a special book.

In 2013 the largest is the number of the PDL transferred by the Committee in institutions of lighter type - 26% out of all examined.

In 2014, as at the date of the NPM's inspection, two meetings of the Committee have been held - on 18th February 2014, and on 8th April 2014. In the prison in the city of Sliven is also seen the tendency the share of the PDL that received favourable opinion by the Committee to be lower than the number of persons formally acquired the rights under Art. 74 of LESD. In February the number of PDL formally eligible for release on parole was 75, out of which with a favourable opinion - 1 PDL. The number of the PDL that have acquired the right to serve the sentence in a lighter regime was 113, out of which with a favourable opinion - 7 PDL. Right to transfer into a prison establishment of lighter type acquired 14 PDL, out of which 1PDL was approved. Ratios on the same grounds at the Committee meeting of April was: 74 PDL to 5; 112 PDL to 12, and 12 PDL to 2.

During the inspection of the NPM were conducted 19 interviews with PDL. The main complaints raised before the team of the NPM, were related to: bedding inventory;

lack of products for cleaning of bedrooms; inflated prices and assortment available in the canteen; the short time in which there is a hot water.

Prison - Bourgas

In the prison in the city of Bourgas the number of the students-PDL as at May 2014 was 126. 105 PDL from the corpus attended school and from PDOD "Zhitlarovo" - 21 PDL. Those who wish to study are enrolled in the school "Argira Zhechkova" with the prison in the city of Sliven and "Pop Mincho Kanchev" with the prison in the city of Stara Zagora.

Essential is the problem related to the lack of premises for social activities. Where such premises had existed, they have been utilized to accommodate PDL. The lack of such facilities leads to episodic social and educational work that can not cover a full day commitment of each PDL with the exception of those involved in education or employment. Despite existing difficulties in the Plan for social and educational work with prisoners for 2013 two mandatory programmes have been fixed; 9 specialized programmes; 2 educational programmes and 4 interests clubs. The Plan for social and educational work with PDL 2014 included: 2 mandatory programmes - adaptation and "Life in freedom - challenge and choice"; 9 specialized programmes - 2 for psychoactive substances addicts; "Communication. Techniques for solving conflicts. Negotiation". 2 "anger management"; "Thinking skills"; "Intercultural Cooperation"; "Programme on prevention of HIV / AIDS and sexually transmitted disease"; "Home leave"; 2 educational programmes - "Christian values" and "Computer Literacy". Part of the social work consists of organizing clubs by interests and sports events.

In previous inspections as well the NPM found out that a major problem in the social and educational work with PDL is the fact that 9 social workers for the prison and the two dormitories, one inspector (probation), one inspector for admission ward, two psychologists and 1 head of sector accounts for an average of 140 PDL, and in the case some of the above persons are on leave - about 200 PDL need to be served. The recommendations of the NPM are reduced to: resolve the personnel deficit; expansion of materail facilities and financial provision of social activities.

In 2013 the NPM recommend MJ in subsequent budget years to foresee an increase the number of of positions of social workers and minimum funding of social activities, including the participation of NGOs in the creation of the necessary facilities. **The Ombudsman's recommendation has not been currently implemented, but the Ministry of Justice undertook the commitment for its implementation in 2015.**

In 2012, there were 4 cases of illegal detention over the term fixed in the sentence due to the following specific reasons: wrongly determined total punishment; subsequent changes pursuant to art. 414, para 1 pt. 1 of the Penal Procedure Code in determining the total punishment; two sentences for enforcement later received. For each particular case was made a reference to SCPO, the Directorate General "Execution of Punishments" (CDEP) and the Regional Prosecutor's Office - Bourgas pursuant to Art. 192, para 2 and par. 3 of RILESD.

In 2012, it was suspended the enforcement of the sentence of imprisonment pursuant to art. 447, para 1 pt. 2, 3 and 4 of the Penal Procedure Code in 98 cases. Much of the applications by PDL have not been approved due to the lack of evidence proving the statements made in the applications. For the same period there were 241 signal letters to the courts and prosecutors' offices in the country for omissions.

Verification of the requirements of the administration of the Burgas prison records showed that in 2013 there were 4 cases of illegal detention over the period specified in the sentence. In each case as the reason for the detention was specified the

following: lately determined total punishment; amended amount of the punishment imposed; lately received judgement and lately received notification of punishment.

As ombudsman, acting the NPM, I must point out that these cases of illegal detention, repeated systematically over the years, are extremely worrying in terms of respect for human rights. Possible decision in this direction would be to organise a broad forum with the participation of representatives of the Ministry of Justice, CDEP, the prison administration, the judicial system, in order to discuss the problems that institutions face in their mutual activity and communication.

In 2013 565 PDL were awarded. For the same year were registered 1883 memos for violations established, searches committed, etc. 508 PDL were punished. Thirty-two disciplinary orders under art. 101, pt. 7 and 8 of LESD have been appealed against pursuant to Art. 111, para 1 of LESD before the District Court - Burgas. 21 of them have been confirmed, 9 have been cancelled and 3 have been amended. There were no orders appealed before CDEP. 8 PDL were isolated in constantly locked premises with enhanced surveillance and security pursuant to Art. 248, para 1 pt. 1 of LESD. There were no isolated on the basis of Art. 120 of LESD.

During the inspection in 2014 it was found that the number of the disciplinary sanctions imposed in the prison for the period 1st January 2014 - 27th May 2014, was 195.

In 2013 the Committee under Art. 73 held six meetings. 36 proposals have been made to the District Court - Burgas for release on parole of PDL, and all of them have been favoured. By decision of the Committee has been changed the regime of 221 PDL into lighter, and of 13 PDL - into heavier. During the year in the PDOT was accommodated a total of 158 PDL. At the proposal of the Committee under Art. 73 by order of the Burgas District Court the regime of 1 PDL was changed to a more heavier than originally specified.

During the inspection in the prison in the city of Burgas in 2014 Minutes No 1 / 12.02.2014, and Minutes No 2 / 15.04.2014 of the meetings of the Committee under Art. 73 of LESD were required. As seen from them, in this prison as well the number of favourable opinions for release on parole / conditional release and replacement of the regime or transfer into a place with lighter regime is minimal. At the first meeting held for release on parole / conditional release cases of 271 PDL have been considered, out of which a favourable opinion has been granted to only 4 PDL. 502 PDL have acquired a formal right to replacement of the regime in the next lighter, 55 PDL out of them were with favourable opinion, and 61 PDL acquired the right to transfer in PDOT from which a favourable opinion was granted to 35 PDL. These ratios are maintained also at the second meeting held for the current calendar year.

During the inspection in 2014 were conducted nine interviews with PDL. In their complaints, they focused primarily on the following: provision of sanitary materials and supplies; lack of a sufficient number of courses and the quality of social work in prison; denials of release on parole / conditional release; assortment and prices in the canteen.

Prison - Stara Zagora

There is a vocational school "Pop Mincho Kanchev" on the territory of the prison which provides training in the specialities "operator in furniture production" and "assembly worker of water supply installations". The school educates an average of 500 PDL annually. The team of the National Preventive Mechanism assessed as extremely excellent the state of the facilities in the school. Representatives of the Ministry of Education, together with the management of the prison - Stara Zagora, do their best for their maintenance and storage.

Along with all routine sports and cultural events in the prison the following specialized programmes take place: "Communication and aggressive behaviour"; "The programme for working with violent offenders"; "Dealing with the problems of life through change of thinking"; "Formation of communication and social skills" and "Short-term programme of work with drug addicts."

As weakness in the social work and educational work with PDL in this prison as well - as accounted by the administration alone, is the lack of adequate premises for such type of activities. Systemic overpopulation over the recent years has imposed the need for retrofitting the clubs in bedrooms.

As from 2013 a positive trend in the imposition of punishments is accounted. In 2013 their number was by 156 less than in 2012, when 590 orders for disciplinary offences committed were issued.

For the last three years the Committee under Art. 73 of LESD had no significant differences in their activities. In 2013, for release on parole were proposed 84 PDL; the regime was replaced in heavier pursuant to art. 62, para 1 of LESD in the cases of 22 PDL; in the lighter under art. 66, para 1 of LESD - for 219 PDL. 219 PDL have been transferred to an institution of lighter regime. The total number of PDL with awards was 1658. Positive is also the fact that the increase in the number of the award "extended visit for up to four hours": 2010 - 60 PDL; 2011 - 147 PDL; 2012 - 197 PDL; 2013 - 233 PDL. Other award which is applied more widely, is "visit by relatives outside the prison for a period of 12 hours": 2010 - 5 PDL; 2011 - 10 PDL; 2012 - 31 PDL; 2013 - 105 PDL.

Until 26th April 2014, the disciplinary practices in the prison demonstrates that the number of PDL awarded was 489, and to 142 PDL were imposed penalties. In 2012, there were 34 cases of use of force and aids, and in 2013 - 20. For each of these cases the relevant memorandum has been drawn up and the Regional Prosecutor's Office - Stara Zagora has been notified.

In 2013, there were no cases of admitted escapes from the prison and the PDOT. There were also no cases of deviations from the external worksites and prisoners that never came back from suspension of punishment. A single non-return from home leave of PDL in PD "Galabovo" has been registered and subsequently it has been found that this had happened due to exceptional reasons of family nature.

The number of complaints and signals in 2013 was 1121, in 2012 - 1839, in 2011 - 1236, and for 2010 it was 1240, i.e. a tendency to reducing them was established.

Worrying to the experts of the NPM is the fact that in this prison once again was found a detention of a person over the period of punishment designated by the court. In this case it also comes to lately determined total punishment.

During the inspection in 2014 were conducted eight interviews with PDL. They did not put down significant complaints related to problems in the prison that have not been found by the NPM. The interviews had mostly the nature of consultation in relation to serving the sentences themselves by the PDL.

Prison - Varna

During the visit to the prison in the city of Varna in 2012 in the corpus were accommodated 683 PDL, in PD "Varna" - 48 individuals, and in PD "Razdelna" - 130.

In 2013 the total number of PDL in the prison was 653 persons, distributed as follows: in the prison - 459 PDL, in PD "Varna" - 39 PDL, in PD "Razdelna" - 155 PDL. The number of defendants was 21, and of the accused - 64.

The trend of prison overcrowding continues in 2014. As at the time of the inspection of the NPM (July 2014) the total number of prisoners in the Varna Prison was 618, of which: defendants - 11; accused - 31; sentenced - 576. The number of the

persons who were in the prison, was 369; in PDOT "Varna" - 48 and in PDOT "Razdelna" - 159.

In 2013 262 PDL were encouraged under Art. 98, para 1, p. 1-5 of LESD. 1475 PDL used home leave under Art. 98, para 1, p. 7-9 of LESD. The number of disciplinary penalties imposed on PDL, defendants and accused in 2013 were 1190. In the cases of 66 PDL enforcement of the sentence was postponed pursuant to art. 107 of LESD. The penalties imposed were appealed against: before the court - 45, confirmed - 39, repealed - 5; before CDEP- 4, out of which all the four have not been respected. There was no repealed decisions of the Committee under Art. 73 of LESD pursuant to art. 74, para 2 of LESD.

Reference concerning rewards and punishments of PDL from the prison in the city of Varna for the period starting 1st January 2014 and ending 8th July 2014, showed that the total number of penalties was 184, and the awards were 1108.

In 2013 the number of the meetings held by the Committee under Art. 73 LESD was six. The analysis of the practice of the Committee showed the following: proposed for replacement of the regime with lighter and replaced regime - 191 PDL; proposed for replacement of the regime with heavier and replaced regime - 16 PDL; proposed for transfer to PD of lighter type and transferred - 109 PDL; proposed for transfer to PD of heavier type and transferred - 16 PDL; proposed for release on parole by the Committee under Art. 73 of LESD - 132 PDL; early released on parole on the proposal of the Committee under Art. 73 of LESD - 112 PDL. Out of the number of early on parole 112 PDL with probation measures were 79 PDL. 22 PDL were proposed for release on parole by the Regional Prosecutor's Office - Varna. All were released without probation measures.

From the Protocols No 2 / 16.04.2014, No 3 / 12.06.2014, and No 4 / 19.06.2014, that had been required in the course of the inspection in 2014, it was seen that the share of the proposed PDL for release on parole and replacement of the regime in lighter compared to the number of the prisoners formally acquired the rights to it remains relatively low - a finding made in the examination of the documentation in almost all prisons inspected in 2014.

The activities of the sector "Social activities and educational work" (SAEW) in 2013 and 2014 continues to be relatively narrow because of the lack of suitable premises.

In 2013, 422 PDL went through the first module of the programme for adaptation. The second and third module have passed 60 PDL. There is a branch of the school "Argira Zhechkova" to the Prison in Sliven. In the academic year 2012/2014, 85 students began the school sessions, divided into 6 classes.

Other group activities that take place in the prison - city of Varna, are: group work with representatives of non-profit association "Altruist" - Varna, under the project "Prevention of antisocial behaviour of offenders serving time for effective penalties in the Varna Prison"; year-round activities of the art club existing more than an year and the club "Poetry"; monthly tournaments of chess, backgammon, bridge, table tennis and football.

The NPM team has found for a successive time that the problem of the high workload of inspectors of SAEW in the Varna prison continues to be present. The tendency an inspector to work with an average of 85 PDL is preserved.

Prison - Belene

During the visit to the prison in the city of Belene in 2012 there were accommodated 703 PDL, whilst the capacity was 525, i.e. the residential area of one PDL

is about 3 m2. The trend of overcrowding in the prison continued also in 2014, despite the apparent reduction in the prison population by about 100 people.

Until 31st August 2014 221 PDL were encouraged under the provisions of Art. 98, para 1, p. 1-5 of LESD. The number of the prisoners used home leave under Art. 98, para 1, p. 7-9 of LESD was 285. The number of disciplinary penalties imposed on PDL, defendants and accused, in 2013 was 275. Out of them before the court have been appealed against 13, confirmed - 6, cancelled - 6; and 1 is left without consideration. There was no repealed decisions of the Committee under Art. 73 of LESD pursuant to art. 74, para 2 LESD.

From the Minutes No 4 / 08.08.2014, that had been required in the course of the inspection in 2014, it was seen that the share of the proposed PDL for release on parole and replacement of the regime in the lighter out of the prisoners formally acquired the rights to it remains relatively high compared to other PEs.

It is necessary again to repeat the previous finding of the NPM for the good work in informing the PDL in the prison in the city of Belene of impending consideration of proposals to the Committee under Art. 73, and the good motivation of decisions - including risk assessments, in the minutes of the committee.

Activities of SAEW sector in 2013 and 2014 continues to be on a relatively good level of performance of general penitentiary activities and specialised group work. Weekly schedules for conducting social events are prepared. Emphasis is placed on the awareness of leisure time by PDL. According to the administration these activities take about 4-6 hours a day. During the visit of the NPM most PDL were not involved in any activity and despite efforts by the prison administration access to such activities and rationalisation of time of PDL is limited and insufficient. This, on its turn, leads to a lack of any motivation among PDL for rehabilitation and re-socialization.

During the CPT's visit in 2014 was identified a rigorous approach to the use of handcuffs and carrying batons by the prison staff in the security zone, which houses people with life sentences. The recommendation is to suspend routine putting of cuffs on exiting the cells. The team of the NPM found that this recommendation has been implemented, and during the interviews the PDL said that this practice was discontinued after the CPT's visit. The practice of carrying batons openly has been also discontinued.

Prison - Lovech

In 2013 520 PDL were encouraged under Art. 98, para 1, p. 1-5 of LESD. The number of the prisoners used home leave under Art. 98, para 1, p. 7-9 of LESD was 651. The number of disciplinary penalties imposed on PDL, defendants and accused, in 2013 was 482.

In the progress of the inspection in 2014 minutes No 1, 2, 3, 4, 5 showed that the share of the PDL proposed for release on parole and replacement of the regime into the lighter compared to that of the prisoners that had formally acquired the rights to it remains relatively low (under 10 %) - a finding made in the examination of the documentation in almost all prisons inspected in 2014, with the exception if the prison in the city of Belene.

The activities of the sector SAEW in 2013 and 2014 continues to be relatively narrow because of the lack of suitable premises. One of the main objectives is to look for opportunities to increase the resources of the prison population because of the large percentage of primary and secondary illiteracy, lack of professional skills and work habits, desire for easy consecutive stay in the prison.

In 2013, 521 PDL went through the first module of the programme for adaptation. The academic year 2012/2013 started with 195 students and ended

successfully for 129 PDL. Out of the successfully graduated, 9 PDL received elementary education, 12 PDL - primary, and 3 PDL completed 12th grade.

Educational programmes in pomology, first-aid, literacy, alpha-curs, course on drugs, and courses in Orthodox Christianity are implemented in the prison. An average 30 PDL monthly took part in these forms in 2013.

Specialized consultative and corrective work is performed: thinking skills, anger management, dealing with drunken driving, short-term programme for drug addicts, and skills for active behaviour on the labour market.

In 2013, a total of 19 programmes were implemented that involved 176 PDL.

The evaluation of the team of the NPM is that the amount of the additional programmes is diverse, but the rate of the PDL that were involved in them is small and the workload of the inspectors of SAEW is high.

During the inspection in PD "Atlant" most of the PDL drifted lower and lay in bed, and during almost all the interviews they said that they had nothing to do all day except watching TV.

With regard to disciplinary practice the experts of the NPM received complaints of unauthorized use of force by prison staff towards some PDL. The cases and situations presented by different PDL in various groups and cells are identical as facts - use of force (mainly slaps and kicks) in areas that are out of the reach of the cameras. There were similar complaints mainly in PD "Atlant", but during the interviews single cases in the prison in Lovech are mentioned as well. For the NPM such identical data, although not supported by evidence, can be considered true in terms of the way of performance, and in this case the NPM will refrain from an assessment and comment for the reasons and circumstances leading to such behaviour on the part of the prison staff.

Prison - Bobov Dol

In 2013, there were 539 incentives registered and the relative share of written praises and extended visits was the greatest. 404 PDL were encouraged under Art. 98, para 1, p. 1-5 of LESD. Prisoners that used home leave under Art. 98, para 1, p. 7, 8 and 9 of LESD, total 116. Disciplinary sanctions in 2013 were 418. One PDL is isolated in solitary confinement by order of the Director of CDEP pursuant to art. 120 of LESD.

From the minutes of the meetings of the Committee under Art. 73 of LESD required in the course of the inspection held in 2014, it can be seen that the share of the proposed PDL for conditional release and replacement of the regime in the lighter compared to the number of PDL formally acquired the rights for this remains is very low. For example, under Minutes No3 / 28.05.2014, out of the total of 155 PDL formally acquired the right of conditional release of the District Court - city of Kyustendil, two have been proposed.

Activity of the SAEW sector in 2013 and 2014 was directed to improving individual work with PDL and development of various activities with the aim of awareness of their leisure. In 2013 were implemented specialized group programmes "Adaptation," "Life on Freedom - challenges and choices" and "Ability to thinking."

In prison in the city of Bobov Dol and in prison dormitories were established the following clubs: "Agromania", "Artclub" "Four Paws", "Apiculture" and a music band.

Since September 2013, in the prison has operated school "Dr. Petar Beron" with teaching classes from 1st to 9th grade. The educational activities involved 122 PDL.

The overall impression of the team of the NPM during the inspection was that the majority of PDL did nothing due to the lack of adequate activities and social inspectors who to give the due attention to every PDL.

Prison - Pleven

With regard to the disciplinary offences and penalties the inspection of the team of the NPM noted that in 2011 a total of 362 violations had been identified. In 2013 198 PDL were awarded and 424 were punished. In 2014 (as at September) penalties imposed on PDL were 156, while 130 PDL were awarded. From the information provided it is visible a tendency to reduce the penalties imposed.

Where a violation of PDL is identified, it is reflected in a memorandum drawn up by the prison staff. The social worker gives a proposal to the head of the prison on the imposition of the penalty and its kind, taking also the explanations of the guilty person. An auxiliary disciplinary commission was established, which includes Deputy Heads of the prison responsible for the security and the social activity. This allows for the unification of the disciplinary practice in the individual units of the administration.

As a positive finding may be noted the fact that the head of the prison visited the PDL every Friday.

The SAEW inspectors and psychologists at the prison in the city of Pleven implemented jointly the following programmes: "Programme for adaptation of newly admitted offenders"; "Programme for adaptation of convicted"; "Medium-term programme for drug addicts"; "Programme convicted"; "Implementation of national standards for working with the standards of life prisoners"; "Formation of driving skills"; "Programme on Anger Management"; "Thinking Skills Programme"; "Pottery and satirical sculpture"; Clubs - literature, flowers, newspaper, theatre studio, guitar, lectures on cinema"; "Training for initial computer literacy"; "Building agricultural skills"; "Gardening"; "Re-socialization of inmates through vocational training and education" and "Life in freedom - challenges and choices." In the field of re-socialization, together with the NGO "Arola" - city of Sofia is implementing the project "Everyone is entitled to a second chance."

There is a branch of the school in the city of Lovech in the prison. It educates the PDL who so requested, by completing elementary and primary level. In 2013, in the school were enrolled and trained 62 PDL. The necessary documentation for 43 PDL wishing to continue their education from 5 to 12 grade, had been completed and sent to the Chief Directorate "Execution of Punishments". Out of all persons who requested so to the school in Lovech have been transferred 23 PDL.

In 2013 the Committee under Art. 73 of LESD considered favourably 13 proposed PDL for conditional release, all of which were approved by the court. 38 PDL have been transferred from an establishment of closed type to an establishment of open type. For two PDL the regime was changed into heavier than the original one, and in the lighter - for 50 PDL.

From the minutes of the meetings of the Committee on Art. 73 of LESD held in 2014 provided to the NPM, it is clear that in February 2014 116 PDL formally acquired the right to conditional release, of which 2 PDL were approved; eligible for replacement of the regime in the next lighter regime - 193 PDL, of which 15 PDL were approved; with a formal right of transfer to an establishment by moving to lighter type - 33 PDL, approved - 5 PDL In April 2014 200 PDL formally acquired the right to replace the regime in the next lighter, of which 15 PDL were approved; 27 PDL had a formal right of transfer to an establishment of lighter type, of which 5 PDL were approved. In June 2014 130 PDL formally acquired the right to release on parole, of which 4 PDL were approved; 199 PDL were eligible for replacement of the regime in the next lighter, of which 10 PDL were approved; 37 PDL had a formal right to transfer to an establishment of lighter type, of which 11 PDL were approved. In August 2014 147 PDL formally acquired the right to conditional release, of which 4 PDL were approved; 201 PDL were eligible for replacement of the regime in the next lighter, of which 17 PDL were

approved; 32 PDL had a formal right to transfer to an establishment of lighter type, of which 9 PDL were approved.

In Pleven prison as a lasting trend in the work of the Committee under Art. 73 of LESD stands the lower share of PDL proposed for conditional release. However, this is at the expense of the large number of PDL transferred to an establishment of a lighter type. This is understandable bearing in mind the reduction of the prison population in the prison in the last two years, and the presence of a dormitory of open type with sufficient capacity according to the number placed in jail PDL.

During the inspection held in 2014 were conducted 15 interviews with PDL. The main complaints that were exposed to the experts of the NPM can be summarized in the following groups: prices of the articles sold in the canteen; lack of enough fruits and vegetables in addition to the daily menu; remoteness of the prison from the city of Pleven, which hinders the movement of relatives of PDL to visit.

Youth detention centre - city of Boichinovtsi

In 2013 53 PDL were encouraged under Art. 98, para 1, p. 1-5 of LESD. Prisoners used home leave under Art. 98, para 1, p. 7-9 of LESD were 53. Disciplinary penalties imposed on PDL in 2013 under Art. 193, para 1 of LESD totalled to 109.

In 2013 the Committee under Art. 73 of LESD held 6 meetings, and no PDL were proposed for conditional release. For 5 minors the regime was changed to a lighter.

Activities of the SAEW sector in 2013 and 2014 aimed at the implementation of group programmes related to education, training and qualifications, cultural and sports events. Teachers at the school to the prison carry out the duties of inspector-teachers as well, after finishing the classes.

In 2013, with 20 minors was conducted primarily individual work, since their participation in group activities is ineffective. The NPM would like to receive additional information about the reasons for the ineffective inclusion of these PDL in group activities.

A major problem in the sector is associated with a high percentage of illiteracy and social negligence of PDL, although most of them hold a document for a class or educational level, in practice most are illiterate or poorly literate.

General findings regarding protection measures and the social work

1. Following the trends over a longer period of time, the team of the NPM believes that the number of the PDL proposed for early release / conditional release need to be increased - with or without probation measures. For the period from 2008 to 2013 on parole were released insignificant number of PDL amid the overcrowding in prisons. Often this is due to the fact that the committees under art. 73 of LESD presumed that the PDL released on parole would commit a subsequent offence. The NPM does not credit such considerations as, on the one hand, in the proposals for release on parole a judicial review of the administrative proposal is available, on the other hand, assessed against currently available overcrowding in the prison it is inappropriate to exercise such discretion powers.

2. Most PDL do nothing most of the time, and the access to additional activities and rationalization of the time of PDL is limited and insufficient. This, on its turn, leads to a lack of any motivation among PDL for rehabilitation and re-socialization.

3. It is crucial the Ministers of Justice and of Education and Science to conduct a joint meeting, during which to consider the cooperation of the educational institutions in the places of imprisonment with the representatives of the Regional Inspectorates of Education (RIE) throughout the country. In the penitentiary system the experts of the

NPM ran into a problem that had been previously identified in the system of the reform boarding schools. Exceptional difficulties encounter the directors of the schools to the prisons when it is necessary to obtain a proof of acquired educational qualifications by the PDL The latter is necessary for enrolment of a PDL in the relevant educational class. Often the representatives of the RIE in different localities delayed provision of documents or are uncooperative.

2. Detention centres

During the inspections performed in 2012 the NPM found several persistent problems associated with most of the detention centres: overcrowding, lack of space, lack of toilets in the cells, lack of access to natural light and adequate artificial lighting as well as introduction of differentiated day / night lighting, lack of places to stay outdoors, lack of materials for cleaning of premises and for maintaining of personal hygiene, failure to provide meaningful activities for the detainees.

Findings of the NPM from the inspections held in six detention centres in 2014 found no significant improvement in material conditions and medical care. Lasting problems established in 2012, were still relevant and the recommendations given by the NPM remain unfulfilled or partially implemented on the ground.

In the period between two inspections of the NPM (2012-2014) measures have been taken to improve conditions in the detention centres in the city of Rousse, city of Gabrovo, the detention centre at G. M. Dimitrov Blvd. in the city of Sofia, as recommended by the NPM.

In the detention centre in the city of Rousse in 2012 repairs were made with the funds granted by State Enterprise "Prison Production", commenced with the building ventilation system. In 2014 the second floor was repaired. A bathroom with constantly running water was separated. In the bedrooms from No1 to 12 double beds were placed. Despite these repairs, the conditions of the detention centre are far from the established standards.

In the detention centre in the city of Gabrovo measures have been taken to improve conditions in several directions: ventilation system was installed; air conditioning in the premises of the administrative part were installed; place for outdoor stay was separated, and the provider of telecommunications services was changed. Recommendation of the NPM for relocation of the detention centre has not been executed. **Despite the repairs carried out and the improvement of the conditions, the opinion of the NPM is that the treatment of the detained persons is a cruel and inhuman, consisting in putting in adverse conditions as the detentionn centre is located underground.**

In the detention centre located at G. M. Dimitrov Boulevard in the city Sofia measures have been also taken to improve the conditions following the NPM recommendations set forth in previous reports. Last year repairs of the sewage system were made in order to solve the problem of frequent flooding in the basement of this detention centre. Regularly draining is performed . Water supply network was replaced. Only cosmetic repairs of the administrative part were made. The covering inventory of the detainees was changed. The first floor of the detention centre does not operate.

Concerning the detention centres in the city of Veliko Tarnovo and in the city of Lovech, as well as the detention centre at Mayor Vikilski street in the city of Sofia, the

NPM has not established any changes compared with the findings in these detention centres in 2012.

On the basis of the inspections the NPM made the following specific recommendations to the Minister of Justice and the Director of CDEP:

1. To undertake actions on the provision of funds for the completion of the repair work, according to the preliminary design, in the detention centre in the city of Rousse, as well as for bedding and CCTV on the floor II.

2. Action to be taken on installing panic buttons in the bedrooms and changing the locks on the doors of bedrooms in the detention centre in the city of Rousse.

3. To take urgent measures to arrange a place for outdoor recreation in custody in the city of Rousse.

4. To take action on increasing the number of the staff of wardens in the detention centre in the city of Rousse.

5. To find effective solutions to solve the problems with the disinfestation in the detention centres throughout the country. To allocate additional funds for pest extermination in the detention centre in the city of Veliko Tarnovo.

6. To take urgent measures to implement the recommendation made in 2012 by the NPM to close the premises for accommodation of detainees in the detention centre in Gabrovo and to be performed the relocation of the Ministry of Justice in another building as provided in the investment programme for the development of detention centres of 2008.

7. To make evaluation in terms of financing needed to complete the repairs in the detention centre at 42 G. M. Dimitrov Boulevard in the city of Sofia.

8. To take measures to regulate the medical care of detainees in the detention centre at G. M. Dimitrov Boulevard in outside hospitals.

9. To assess the possibility of application of Art. 33, para 1 pt. 3 of the Law on Health Insurance to foreigners in the detention facilities who are not entitled to health insurance.

10. The detention centre in the city of Lovech to be relocated as quickly as possible in accordance with the approved strategy and an investment programme.

VI. PROTECTION OF PERSONS SEEKING PROTECTION AND ILLEGAL MIGRANTS

In 2014 one of the highlights in the work of the Ombudsman as NPM was again follow-up of the development of refugee and migration processes in the country and the ability of the responsible institutions to cope with the many problems related thereto. In order to clarify the current status of respect for the rights of people seeking or being granted international protection, the NPM made follow-up inspections of all territorial divisions of the State Agency for Refugees with the Council of Ministers (SAR with CM) and the distribution centres - Elhovo (RC - Elhovo) with the General Directorate "Border Police" (GDBP) in the period 16.06.2014 - 27.06.2014. The inspections outlined several areas of concern.

1. Reception and registration of refugees and migrants

During the inspections in 2013 the NPM found that the adoption of refugees and migrants is mainly carried out on the territory of the Border Police Directorate - Elhovo (BPD - Elhovo). The majority of foreign nationals were accommodated outside the separated establishments for accommodation of detainees in one large room - a lounge,

barred by wire fences and chipboard, without heating and bedding. Because of the full capacity of the centres of SAR, the slow registration of applications for protection and the lack of adequate human resources the refugees and migrants were staying there without legal basis and sometimes for up to a week.

The positive finding the team of the NPM noted in 2014 is related to the suspension of detention of a person after expiry of the 24-hour period on the territory of the border directorate. A new organization where all detained foreigners must be transferred to the RC - Elhovo, which building is a former school, whether they are applying for protection or not, has been introduced. An exception is allowed for single mothers with children and unaccompanied minor or juvenile. The NPM finds the decision for opening such centre, which employs representatives of various institutions (employees of the Ministry of Interior, the State Agency "National Security" (SANS), SAR) positive and take into account the improvement of inter-institutional relations.

Material conditions in the centre can be defined as unsatisfactory. For bedrooms are used former classrooms, and they are equipped only with beds. The NPM found deficiency of sanitary facilities and poor hygiene in the available ones. Part of the people accommodated there complained about the quality and quantity of food provided, which is prepared in the kitchen of the special school located nearby the city centre. **After the recommendations of the NPM for improving the living conditions in the centre, measures have been taken for supply additional mattresses, blankets, bed linens, pillows, etc.**

Another negative finding is related to the lack of separate prayer rooms for exercise of religion. The problem remains unsolved due to the lack of adequate housing.

The NPM is worrying for placement in RC - Elhovo, of families with children. In its other reports as Ombudsman, acting the NPM, I have stressed that the detention of children in centres of closed type should be used as a last resort and for the shortest possible period of time (Art. 37 (b) of the Convention of UN of the rights of the child). Children accommodated in closed centres must have separated play areas, access to education and other activities that are not currently available in RC - Elhovo. In the short term and long term as well, the detention of children can have many negative consequences for their mental and physical development. On this occasion, in its Resolution 2020 (2014) the Parliamentary Assembly of the Council of Europe once again stated that it is high time the Member States to suspend the administrative detention of children and to take measures to implement alternatives of detention to them and their families.

The language barrier should be highlighted as one of the most serious problems in RC - Elhovo. Warring for the team of the NPM are claims of the foreigners interviewed that they are not familiar with the reasons for their detention, and that they are not aware of what actions would be taken by the responsible authorities against them. Solution to this issue is sought by the conclusion of the Tripartite Memorandum of Understanding on the ways of joint cooperation and coordination in support of access of persons seeking protection to the territory of the Republic of Bulgaria and to the procedure for granting protection in the country between the High Commissioner for Refugees to the United Nations, the Bulgarian Helsinki Committee and the CDBP.

In terms of medical care in the centre no weaknesses were found. It is provided by the staff of the Medical Institute of the Ministry of Interior, located in the centre. In the practice work one physician and one nurse on a rotating basis and for a period of 14 days providing 24-hour medical service, as well as a psychologist. Upon admission a primary medical examination must be carried out to determine the health status of the foreigners. In emergency cases the assistance of teams of "Emergency Service" from the city of Elhovo is used. In need of specialized treatment the foreigners are admitted to the

Multiprofile Hospital for Active Treatment - Haskovo, and the Multiprofile Hospital for Active Treatment - Svilengrad, with which the Medical Institute with the Ministry of Interior has a contract signed.

2. Accommodation of persons seeking protection in the centres of the SAR with CM

Living conditions

The NPM found an overall improvement of the living conditions in part of the centres of the SAR in 2014. In all inspected locations no overcrowding was found. RC in the quarter "Voenna rampa" and the Registration and Reception Centre (RRC) in the quarter "Vrazhdebna" have undergone significant construction and assembly works associated with electric installation, plumbing, sewage and the heating system, repairs in the bedrooms and bathrooms, building heating system, fire alarm system and evacuation lighting. The bedrooms in the both centres are nice and clean, equipped with beds and lockers for personal belongings. Bathrooms are renovated and good hygiene is maintained there.

In centres in the village of Banya, village of Kovachevtsi and RRC - Sofia, the NPM found no change in terms of material facilities. Bedrooms were worn and without the necessary privacy and the bathrooms were insufficient. RRC – Banya, designated for an establishment for accommodation of unaccompanied minors or juvenile must be renovated in such a way to provide a welcoming, safe and secure environment for this vulnerable group. During the visit of the NPM in RRC - Harmanli, it became clear that except from 80 pc. of bungalows provided for operation, of which only 56 are used, three additional buildings of the barracks are used as well. Plumbing and electrical installation, as well as the installation for removal of waste water from the wagons have been built. **The NPM found leakage and broken pipe on the ground floor of the building where the men are accommodated which after my recommendation have been repaired.**

Food

Organization in relation to the food in the centres of the SAR is different. Some of the centres have their own kitchen where the food is cooked on the site (RRC – Banya, transit centre – village of Pastrogor, Centre - Kovachevtsi). In the RRC in the city of Sofia the services of a parent kitchen are used.

All centres have canteens where residents can eat in shifts.

During the interviews with residents foreigners complaints about the quality and quantity of food provided were expressed. The NPM team underlines that the residents need to be provided with diverse, vitamin and healthy food, especially taking into account the significant number of infants, small children and pregnant women in the centres.

Extremely warring for the inspection team were the identified problem with the lack of supply of infant formula for babies in the RRC - Harmanli for a period of two weeks (16-27.06.2014), which was confirmed also by the representatives of the Bulgarian Red Cross. According to the SAR this problem has been resolved after the conclusion of contracts for supply of food in September 2014.

The visit of the NPM in refugee centres coincided with the Muslim religious holiday of Eid al-Adha. In the Transit Centre - Pastrogor a group of Algerian citizens said that the food is distributed at time incompatible with the holiday. **On the site the inspecting team recommended that the centre's director should make additional arrangements and the time span for the distribution of food should comply with the religious traditions during holidays.**

The administrative capacity, management and registration of the applications for provision of refugee and humanitarian status

The NPM noted significant improvement in the organization of the work in the centres visited. Additional staff has been appointed to carry out reception of refugees, their registration, conduct of the proceedings and adjudicate on the applications. In each of the centres an administrator – a commandant has been appointed. Security of the centres is carried out by a private security firm with which the SAR has a contract signed. Access is provided to NGOs.

Although additional organization created and timeliness of completion of the proceedings (approximately within a month) established, during examining the files in the Transit Centre - Pastrogor, the NPM found that for the period October 2013 - February 2014 a large percentage of the residents have started administrative proceedings against SAR before the Administrative Court - Haskovo for delayed registration of the requests for protection.

The NPM found paradoxical case where members of a Syrian family living in the centre in the village of Kovachevtsi have received a different status – the mother and the father have been granted a refugee status, and their two minor children - humanitarian status, which implies different volume of exercising the rights.

Medical care

As at the time of inspection in all centres for accommodation of SAR there was a medical staff appointed - mostly nurses and paramedics. To provide additional medical staff by Decree No 120 / 05.20.2014 of the Council of Ministers was granted the amount of BGN 343,000 for a total of 4 teams, including a psychologist, a physician, nurses and a dentist. Following a tender procedure six medical professionals have been appointed, and for the remaining places no applicant have appeared.

With donations from "Doctors Without Borders" medical centres in the registration and receiving centres in the district "Voenna rampa" and "Vrazhdebna" have been built.

With regard to ensuring quality and timely medical care the most serious is the situation in the RCC - Harmanli, where over 900 persons accommodated (out of them 300 children and 100 pregnant women) seeking protection or have been granted such, are serviced by a single nurse, which is rather insufficient. **More alarming is the fact that persons granted protection can not apply for choosing a GP in the city of Harmanli, as practitioners in the city practices do not wish to accept them - information provided to the NPM by the director of the centre.**

Another problem that was identified by the NPM, is connected with the difficulties of the SAR in providing dental care for persons seeking protection.

Unaccompanied minor or juvenile seeking protection

During the inspection in 2014 the team of the NPM found a tendency to preserve the relative number of unaccompanied minors. **It should be noted that the problem found in the previous inspection with the appointment of a guardian / custodian remains unresolved.** In RRC – Banya to none of the unaccompanied individuals has been initiated a procedure for the establishment of guardianship and custodianship. According to the information provided by SAR for all registered minor or juvenile foreign citizens notification letters had been sent to the mayors of the respective municipalities.

According to Art. 25, para. 1 of the Law on Asylum and Refugees, a guardian or a custodian shall be appointed for any unaccompanied minor or juvenile foreigners under the conditions and procedure set forth in the Family Code. The fifth paragraph of that provision provides for when such is not appointed, the minor foreigner to be represented in the proceedings under art. 15, para 7 of the Law on Child Protection, i.e. by Directorate "Social Assistance" - through a representative who expresses an opinion and failing to do so – to submit a report. After obtaining protection, these persons again remained defenceless, vulnerable and without significant adult to care, educate and supervise over them.

It is necessary to initiate legislative changes that regulate the representation of unaccompanied persons in accordance with the requirements of Art. 19 (1) of Directive 2003/9 /EC of 27th January 2003 laying down the minimum standards for reception in the members of asylum seekers and Directive 2005/85/EC of 1st December 2005 on the minimum standards concerning the procedure for granting or depriving of a refugee status in the Member States.

3. Integration of persons that have been granted an international protection

Despite the progress in a number of activities of SAR with the Council of Ministers, for me, as a national ombudsman, acting for the NPM, crucial remains the problem of the integration of persons that have been granted an international protection in 2014. The implemented National Programme for Integration of Refugees in the Republic Bulgaria (2011-2013) was characterized by limited territorial scope and a small number of recipients. Significantly increased the number of persons who have been granted international protection in 2013 and in the first half of 2014, needed the timely adoption of a flexible and effective integration programme to meet the changed conditions.

The national strategy for the integration of persons that have been granted international protection in the Republic of Bulgaria (2014-2020) was approved by decision of the Council of Ministers on a meeting held on 2nd July 2014. **The lack of an annual action plan for 2014 thereto, which to contain measures in the priority areas, in practice block the process of integration of the persons that have been granted international protection in Bulgarian society and their access to the social system, labour market, education, health care, etc. in 2014.** An example of such alarming trend, found during the inspections of the NPM, is the extended stay of persons already granted a humanitarian or refugee status in the territorial units of SAR, as they do not have the funds to rent a home. According to Art. 35 of the Law on Asylum and Refugees "any alien (foreigner) who has been granted refugee or humanitarian status, shall be obliged, within 14 days of the receipt of the decision for the award of such status, to appear at the municipality in the population centre where he/she will settle, to be entered in the residents register". Staying at the centres of the SAR is possible by signing by foreigners of deliberate statements that allow them to stay and receive food twice a day up to 6 months as from the entry into force of the decision for the award of the status. A repeat of increased migration flow from the second half of 2013 will require early forced eviction of residents from the centres, which will doom many of the persons that have been granted protection to homelessness and shall create social tension.

I was informed by the SAR that the reason for non-implementation of the national Action Plan for the Strategy for Integration and annual financial statement thereto is the lack of funds. **Worrying is the information that with no real financial support will be prevented all integration measures provided for 2015 as well.**

VII. PROTECTION OF CHILDREN IN CONFLICT WITH THE LAW

In connection with the reports widespread in the media on violence against children in social educational boarding schools (SEBS) and the reform boarding schools (RBS) in the country and referral from the State Agency for Child Protection (SACP) as national ombudsman, acting as NPM, I issued orders on performance in 2014 of surprise inspections in RBS "Nikola Vaptsarov" – city of Zavet, Razgrad Region, RBS "Angel Uzunov" – city of Rakitovo, Pazardzhik municipality, Vocational secondary educational boarding school (VSEBS) "Hristo Botev" – village of Podem, Plevan region, SEBS "Hristo Botev" – village of Varnentsi, Silistra region, SEBS – village of Straldzha, Yambol region, SEBS "Hristo Botev" – village of Dragodanovo, Sliven region. The findings of the monitoring held were published in a special report on the status and protection of the rights of children in these institutions.

Profile of the children and young people accommodated in RBS and SEBS and living conditions

In RBS and SEBS are accommodated children mainly because of stealing, for running away from home, from the specialized institution in which they had been housed, from school, for manifestation of aggressive behaviour, vagrancy, begging. Most of the children come from a family environment; they grew up in poor, marginalized and / or incomplete families. In their families the children have not received adequate care and have been deprived of parental control. For some of the children before placing them in boarding schools measures have been taken for protection, but such have failed.

In the course of inspections the NPM found that the placement of children in one and the same institution makes no distinction of their offences. So children who have committed so called status-related offences - escapes, vagrancy, begging, etc., and children victims of violence live with children who have committed an offence contained materially signs of crime. **That is to say, one and the same place accommodates children who have committed violence and children victims of violence.**

In the six boarding schools inspected by the experts of the Ombudsman it was found that they **are located in remote and inaccessible places**, which is a prerequisite for isolation of the children. This is a prerequisite to limit their right to visits by parents and relatives.

The entry check regime in three of the establishments are neglected and creates conditions for uncontrolled entry and exit of the boarding school (e.g. RBS – village of Zavet, RBS – city of Rakitovo). On leaving the school on weekends, holidays or vacations, the movement of the children is also not controlled.

Material facilities are generally in poor condition - poorly maintained and extremely worn. Bedrooms are in bad condition, do not provide personal space, furniture in most places is broken. Often children are not provided with toilet items and accessories. The doors to the bedrooms did not lock, the inspections found broken locks. Despite the worn equipment, generally in some of the schools funds had been allocated and the joinery has been replaced (RBS– village of Zavet, RBS– village of Podem, SEBS – village of Varnentsi, SEBS – village of Dragodanovo). Very negative is the finding of the NPM concerning the presence of cameras in the bedrooms of the boys in RBS- village of

Zavet. According to the explanation of the staff, the reason such cameras to be installed is to prevent or detect theft among the children themselves in boarding schools, which is routine.

In part of the boarding schools the canteens are uninviting, tables have no tablecloths, they do not provide soap and towels (e.g. RBS- village of Zavet, EBS - city of Straldzha). Complaints of insufficient quantity and quality of the food were recorded in RBS- village of Zavet RBS- village of Podem, SEBS – city of Straldzha.

Sanitary facilities are insufficient, and the bathrooms are shared (i.e. RBS- village of Podem), without the possibility of privacy, and in most places toilets and bathrooms do not lock, light bulbs are missing in the toilets. Problem by providing constant supply of hot water was identified by the inspection team in RBS- village of Zavet, RBS- village of Podem.

The opinion of the team of the NPM is that the instalment of cameras in the bedrooms, the lack of cupboards and wardrobes, lack of locks on the doors in the bedrooms and state of the sanitary facilities violate the right to privacy of children and limit their right to privacy of personal space.

As national ombudsman, acting as NPM, I determine the conditions of life in these boarding schools as humiliating.

Education and activities

Education and vocational training are part of the measures to influence the behaviour of inmates. During its investigations, however, the NPM established drastic distortion of the implementation of the activities included in the educational process.

Particularly troublesome problem for the NPM is that **children and young people coming in RBS or SEBS possess certificates for certain grade of elementary or educational stage completed, but they are actually illiterate.** This fact shows significant deficits in the general educational system outside the boarding schools and considerably hampers the teachers and principals of the boarding schools themselves. For example, a student who is illiterate, but posses a certificate of completion of 5th grade, after joining the boarding school should be included in educational class for grade 6. Obviously, his teachers are facing a serious challenge as the child should catch up basic knowledge and skills that he has been missing so far.

Due to the remoteness of SEBS and RBS from major population centres and the specifics and needs of children accommodated therein, **the level and qualification of the teachers, and their preparedness to work with such students do not meet the needs of the children.** The educational process is held routinely and without taking into account the individuality of the children.

Only two boarding schools provide education up to the 12th grade. Major problem is the lack of adequate professional training to allow older students leaving the system to integrate qualitatively into the society with qualification acquired. It is striking that in the many of the places classes are merged – i.e. students from different grades are taught together, usually children of age for 3 and 4 grade, 5 and 6 grade, as well as 7 and 8 grade.

During the inspection and based on the talks held with children the NPM found **that classroom activities are highly neglected by both students and teachers.** Children entered and exited classrooms undisturbed. Some of them said that no one can compel them to educate and expressed the opinion that education is kind of optional. They do not accept attending classes as a mandatory element of staying in the boarding schools. The NPM made a similar finding during the inspection of RBS - village of Kereka, in 2013. Neither the training environment in so called classrooms, or the teaching aids are consistent with the level and extent of abilities of the children, nor the striving is

observed among teachers for individual approach by which to attract the interest of the children to the educational process.

The majority of the teachers have been working in these boarding schools for more than 10-15 years, they do not pass periodic practical training that to support them in the work and they are not willing to develop their professional competence. The experts of the Ombudsman found cases where teachers have been accumulated significant number of so called additional lecture hours that amid extremely neglected level of education of children seems inexplicable.

Other disturbing findings of the NPM are associated with the activities that make up the daily routine of the children. During the inspections the NPM had the impression that children are walking aimlessly in the yards without being involved in meaningful activities. The inspections have been carried out at different times of the day - both before lunch, when it is assumed that the learning process should have taken place, i.e. all children should have been in the classroom, and in the afternoon designated for individual work, extracurricular activities and sports. As an exception may be given SEBS "Hristo Botev" - village of Varnentsi where the inmates expressed their satisfaction with the organization of their free time through various forms of extracurricular activities.

The NPM found limited opportunities for structured and organized leisure activities (in most places it was claimed that the emphasis is put on sports activities - mainly football, basketball and table tennis). Activities such as art therapy, occupational therapy, etc., are limited which should be an integral part of the overall plan on development and work with children.

Correctional and educational activities are ineffective due to the lack of sufficient and highly qualified psychologists. MES has not developed methodology regulating work with children, which leads to establishment of different practices in terms of psychological and educational assessment, individual work plan and review of the outcome of correctional work. The staff said that they are subject to monitoring by a number of authorities, each of which gives them different, often contradictory guidelines and instructions for work, without they being agreed at the institutional level. This puts the administration and the employees in a situation of insecurity and creates distrust in authorities. In an effort to survive the inspections and avoid penalties, the employees have developed skills to document activities and to draw up various internal documents [on events] without such being occurred in reality, and others – to be understood and applied.

The possibility to perform work by children accommodated in RBS and SEBS is regulated in Art. 33 of the Law on Control of Juvenile Anti-social Behaviour (LCJASB). The provision outlines only the possibility children to work in the workshops and auxiliary farms to the schools. However, in RBS - city of Rakitovo, and RBS - village of Zavet the NPM found that some of the boys go to work in projects for persons outside with the knowledge and the acquiescence of the administration. **A detailed framework of the possibilities for the exercise of employment of the residents in these institutions - children and young people, is needed, given that all work on their part is a real social fact and at present.**

A problem of providing a resource teacher was established in RBS - village of Podem. In view of the fact that there was only one child with special educational needs, but such teacher is provided with a minimum of four children, therefore it does not receive the necessary assistance.

With respect to the children's contacts with the outside world it is noteworthy that although prescribed by law, boarding schools are open to visitors, and children can freely leave them as well. This raises many questions both in terms of security of the

children and for the protection of the public interest. Building of informal contacts between children and the staff and the children and local communities is a prerequisite for violence, abuse, exploitation, new antisocial behaviour.

Treatment and protection measures

In 2014 steps were taken to prevent violence between the students themselves and by the staff to them. **Prevention plans and particular actions in an accident or signal for violence are regulated. According to the inspection team such plans are only formal.** As an example of this can be referred the procedure for responding to suspected violence and / or child abuse in RBS "Nikola Vaptsarov" – city of Zavet, which is obviously completely copied (written out) from a similar procedure in the centre for street children (CSC).

Routine in the boarding institutions are cases of various forms of violence among the children, as well as thefts between them (e.g. RBS "Nikola Vaptsarov" - city of Zavet, and RBS - village of Podem, SEBS - city of Straldzha). During the interviews the children said that there was force on the part of the staff (single slaps, offensive words and qualifications). Only in SEBS – village of Varnentsi no such signals were received. Cases of violence established by the NPM are not recorded into the registers. Identical is the situation with complaints and signals - boxes set for complaints and signals are rarely used, and books for complaints were empty.

In imposing certain penalties provided in Art. 60 of the Regulation on the structure and activities of the correctional (reform) boarding schools and social educational boarding schools it was established that this is made not in accordance with the procedure regulated, but by an order of the Director. **The NPM found imposition of penalties not provided in regulations** – deprivation of a vacation, cleaning the area of the school, deprivation of use of the office phone, cleaning bathrooms, maintaining the yard, cleaning a pit, etc.

There were no rules and standards for equal treatment of children placed in boarding schools. In some of the places inspected the Ombudsman's experts found special treatment to certain students: selection in walks and excursions, better material conditions, compromises in case of breaches of the internal rules, etc.

In the RBS- village of Zavet, VSRBS - village of Podem, SEBS – village of Varnentsi, the compulsory reporting of the Educational Council on the results achieved at the end of the school year is not prepared. Individual work plans are also generally identical, formal and do not meet the specifics of each case.

The maximum stay in the correctional boarding school and social educational schools can not be more than three years. In art. 30 of the LAADMJ, however, are provided also situations in which it is possible the maximum period to be extended at the request of the student.

The inspections of the NPM team found cases of such extension at the request of students. Directors and employees of the boarding schools are not interested students to leave the institution, as it is financed through so called delegated budget and funds are provided according to the number of the children accommodated.

Experts of the Ombudsman identified **cases of extended stay in RBS and SEBS until receipt of the corresponding level of education in accordance with the legal procedure for the sole reason that the inmates have nowhere to go.** These arguments put another serious problem that after leaving institutions some of the children have no family and relatives to support them.

Another major flaw of the system is **the lack of periodic follow-up legal review and provision of legal assistance to inmates in relation to disciplinary measures imposed on them.**

In judicial decisions are highlighted individual and general prevention, but not the educational supervision.

During the inspections in both boarding schools where girls are accommodated the experts of the Ombudsman found that a significant proportion of them are victims of pimping and trafficking and prior to their placement in boarding schools they have been forced into prostitution. This fact is a serious test of the system of child protection and its interaction with the sanctioning system.

Lack of psychological support to these children to overcome the trauma of violence and coercion against them was established. This problem is related to the perception of such children as "offenders" but not as "victims". During interviews with the staff representatives the NPM stated that they are not perceived as defenders of children and conveniently displayed the idea that girls are prostituted on their own. There is a lack of skills and techniques in the staff to deal with the consequences of violence.

Another systemic problem in working with victims of pimping and trafficking is the lack of a mechanism for prevention, protection and isolation of these children from the pimping network while staying in boarding schools. The system does not provide adequate measures to reintegrate these girls in society in a way that will not make them become again victims of trafficking and pimping.

Medical care

Much of boarding schools do not employ a medical professional. All inmates are included automatically in the list of patients of a GP from the respective location. Once a year, mandatory standard screening with anthropometric examinations are carried out. Inmates are examined by a physician only on a specific occasion.

There were no medical equipment, no separate manipulation and emergency cabinet in most boarding schools inspected.

In reviewing the medical records the NPM found that sometimes no outpatient cards of all primary and secondary medical examinations and consultations of the girls and boys accommodated in the boarding schools were available. Furthermore, the existing medical documents – discharge summaries, outpatient cards, test results, etc., are not stored in separate individual medical files but are "scattered" among other medical documents in a common file.

Some of the children arrive at the boarding school without accompanying medical documents. Therefore, almost half of them are of unclear health and especially immunization status. In some of the cases, letters to the municipalities from which the inmates come are written, requesting additional medical information. Such letters, however, rarely works - the most frequent answer is "no information available". Under current legislation such lack of information should not exist. All children and persons living or staying in the territory of Bulgaria are included in the patients' list of GPs. Such lists in electronic format are stored in the database of the National Health Insurance Fund (NHIF) and its subsidiaries. The same applies to all examinations and immunizations for which information is transferred on a monthly basis in the units of NHIF.

Much of the girls accommodated in RBS - village of Podem, are at risk in medical sense. About 30% of them were involved in prostitution and in the taking and/or distribution of psychoactive substances (drugs). These two factors, even individually, represent exceptional health risk, and the combination of them is particularly worrying.

During the inspections the experts of the Ombudsman found cases of children with chronic diseases. Some of them are diagnosed with epilepsy, and often have seizures. One case of HIV-positive child was established as well. The practice of

conducting screenings is varied – they are performed where free screening tests are carried out.

The NPM established cases of pregnant and girls who have just given birth accommodated in RBS - village of Podem and SEBS - village of Dragodanovo. At a certain stage of pregnancy on the basis of the risk specified after a consultation the pregnant is transferred from the boarding school and is accommodated in a hospital in which to give birth. After birth the mother and the child stay in the Unit "Mother and Baby", where they remain until the baby become 6 months old. After this period the mother returns to the boarding school and the child in most cases is referred for care in a home for medical and social care for children (HMSSC).

The NPM team found that most of the staff have a limited understanding of what constitutes a disability. For disability is assumed only physical disability and to children with communication difficulties, learning difficulties, etc. specificities in the development of not paying due attention to the situation and according to their needs and do not take adequate measures to meet them.

Administrative and technical capacity

The main conclusion that can be drawn is that the **whole system of the boarding institutions does not work in favour of its beneficiaries.** The child is not placed in its centre. The directors of the boarding schools are put in the absurd position to take care mainly for filling the working time, the number of the hours and lecture hours of teachers and carers. This means that the system has no capacity to deal with problems for which it has been created. It can not meet the public expectations for preventive, training and educational activities aimed at children and young delinquents.

It is striking also the lack of regulation for the appointment of social workers in these institutions. The staff is generally demotivated. The role of the social worker in this kind of institutions is key to the acquisition of social knowledge and skills by children and young people. Profile and qualification of the employees to a large extent do not meet the needs of the target group. The opportunity to interact with external social services, which could fill this gap is missing.

Another major problem related to the administrative capacity is the lack of staff to accompany the children and young people when travelling on vacation. This leads to an extremely worrying situation minors and juveniles to travel alone to and from the boarding institutions.

In terms of the coordination between different institutions related to SEBS and RBS, it is important to note that the representatives of the **Ministry of Interior - inspectors from the Children's Pedagogical Rooms (CPR), and local commissions to individual municipalities do not have the capacity to monitor behavioural and educational level of the children** for whom they give characteristics, including to minors and juveniles in order for them to be able to benefit from the legal possibility of vacation. Practice established in all RBS and SEBS is they to be attended by individual inspectors of CPR once a year. This entails situations where children with excellent results from the education process and respecting the established order in the boarding institutions to be refused a vacation. The Ombudsman's teams came across refusals, which stated that "the social environment in the family has not changed." The latter is definitely inadmissible and unacceptable, since such findings are related to the problems that fall outside the children themselves. Responsibility to correct such deficiencies and assist in social problems falls on the units with the Ministry of Labour and Social Policy.

The main conclusion that NPM made in connection with those problems is that **the investment of resources (financial, technical and human) in the system of SEBS and RBS is inappropriate. The efforts of the authorities should be focused entirely**

on the rapid closure of these institutions and creation of protective social system that includes a network of services (integrated services and educational, psychosocial and protection measures and support mechanisms) for children that are in conflict with the law. Children should not be punished for events related to so called status-related offences for which the adults are not criminally liable. The reaction to these violations should be subject to a policy of in the area of caring for the child, not of the sanctioning system.

Strategic goals of the Action Plan for implementation of the Concept of state policy in the field of justice for the children (2013-2020) and in the Roadmap for implementation of the Concept of state policy in the field of justice for the children (2013-2014), are adequate, but it is a still a matter of concern the implementation of activities for achievement of strategic objectives. The above documents do not impose deadlines for the implementation of the reform in the field of the services.

VIII. SOCIAL AND MEDICAL SOCIAL INSTITUTIONS FOR CHILDREN

1. Social institutions for children

In 2014 the process of deinstitutionalisation of children with disabilities entered the final phase, namely the removal of children from homes for children with mental retardation and infant homes and their placement in centres for family-type accommodation (CFTA). The NPM inspected 20 small CFTAs (groups of homes). Upon inspection the team identified some deficiencies on the part of SACP and the Agency for Social Assistance (SAA) in the placement of children in these centres. Thus, as a national ombudsman, acting as a NPM, I have sent an official statement to the institutions responsible for the process of deinstitutionalisation of children with disabilities.

My strong recommendation is not to mix children with persons with disabilities in CFTA, as the needs of these two categories are different and this leads to very great difficulties for staff in caring for them.

Users of the new social service need to be prepared adequately for their relocation in CFTA. During the inspections performed in the home for children and young people with mental retardation (HCAMR) – city of Kula, HCYMR - village of Gomotartsi, HCAMR – city of Berkovitsa, orphanage – city of Pleven, the team of the NPM found that estimates of the needs of children with disability performed before bringing them out in order to determine where they will be accommodated are subject to constant change. This leads to many problems, both in the work of the staff in the home where the child is and for the teams of CFTA, where it will be transferred. As for children with disabilities need longer preparation for their move, this leads to mental health problems for the children. During the inspections in different HCAMR the team of the NPM found that health care for children with severe disabilities do not meet the needs of the children and thus directly endanger their health and their lives.

An example of this is the lack of qualified staff at night – there are no medical professionals and the medications to children on severe medical therapy are given by carers. It is important to note that training to work with children with disabilities of the personnel in CFTA is insufficient, leading to inability to adequately respond in a crisis situation or even to identify such. According to the director of CFTA – city of Cherven Briag, there was a high turnover and replacement of more than half of the staff of the social services. This problem also occurs in other CFTAs. There are cases of children transferred back from CFTA to the homes from which they had been transferred. The team of the NPM believes that it is necessary to have a clearly set criteria and approach

to putting the children in alternative care. Adequate evaluation of the needs of children and their psychosomatic condition, very good training of the staff who will work with them and building support services and infrastructure (roads, hospitals, rehabilitation centres, schools, therapeutic and speech therapy centres, etc.) are essential before taking children out.

As a particular example of the problems identified, the NPM may indicate the commission of announced inspection in CFTA - city of Cherven Briag, held on 25th May 2014. The experts of the Ombudsman found that in CFTA are accommodated 7 persons over the age of 18, and two children - 7 and 13 years. The age difference between the youngest inmate and the oldest inmate is 20 years. The NPM believes that such a large age difference between inmates in CFTA is a prerequisite for poor quality of social services, and is contrary to the best interests of the children. The NPM's team attended the troublesome situation in which one of the adolescents was aggressive and was banging the 7-year-old child. According to the officials in the CFTA, such cases are common also because the staff is insufficient, and it is difficult to take hold of the aggressive behaviour of the adolescents.

This is the reason the director of CFTA to address for help the psychologist of HMSCC - city of Pleven, who came to the place and render methodical assistance to the employees when working with aggressive users. Observation of the team of the NPM is that the preparation of the children and individuals and the work with them before their transfer was insufficient, which led to frequent acts of aggression between them.

Another problematic case which the team of the NPM witnessed was connected to a child of CFTA accommodated in HCYMR - village of Zgalevo, who has a severe form of epilepsy. According to the director of CFTA a hospitalization had been required and the teams of "Emergency Service" had been called several times due to the failure of the team in CFTA to deal with the epileptic seizures of the child. This is also because of the fact that the medical staff is extremely insufficient for implementation of optimal care for disabled users - for two social services (CFTA and home for people who are not self-sufficient) there is one nurse. For this reason, the director of CFTA has claimed the child to be returned to HCYMR - village of Zgalevo, because there are 24-hour medical service and well trained staff to provide adequate care for the child.

In response to my official opinion on these problems the Ministry of Labour and Social Policy (MLSP), SACP and SAA have taken steps to strengthen their preparation when moving children in CFTA. These include additional staff training, supervision, reinforcing the teams with additional specialists. NGOs with experience in providing services to children with disabilities have been also attracted, to help them adapt. In terms of access to education and health services, the Ministry of Regional Development, which is responsible for the construction of day care centres for children with disabilities and centres for social rehabilitation and integration, took active steps to rapid implementation of these services.

2. Medical and social institutions for children

In 2014 the first project related to the restructuring of the 8 HMSCC aged 0 - 3 years completed. After the closure of these HMSCC new social services are planned to be opened, such as: Family Consultation Centre, Day Care Centre, Centre for foster care and adoption, residential service of family-type for children with disabilities with a substitute care - CFTA, Centre for Maternal and Child Health, Mental Health Centre, Centre for Early Intervention, "Mother and baby " Unit and Centre for supportive care. The National Preventive Mechanism visited 9 of the remaining 18 HMSCCs.

One of the positive trends, noted by the team of NPM is that in all HMSCCs the capacity of the offered residential care for children aged 0 - 3 years has been reduced by 20 percent. The stay of the children has been also reduced by one year and the process of adoption has been accelerated. However, the capacity of HMSCC - city of Varna, city of Burgas and city of Stara Zagora continue to be large - of 200 children. The National Preventive Mechanism believes that such children's institutions could not apply an individual approach to each child, which is important for their development. Another very alarming fact is that in HMSCC - city of Varna and in HMSCC - city of Burgas, about 140 inmates are healthy. This means that **the admittance to these institutions is still not closed for healthy children and that the provision of alternative social services such as taking care of a child by a foster care family or return to the biological family are not implemented.**

Another important finding, which was identified by the NPM is that after the closure of 8 HMSCCs and the creation of new integrated health and social services, no medical standard to cover the treatment of children aged 0 - 3 years with disabilities has been developed. The team of the NPM believes that the principal supplying residential service of family type for children with disabilities with a substitute care aged 0 - 3 years, should be the Ministry of Health.

A positive trend is that a large part of multidisciplinary teams of HMSCCs have passed trainings for working with children aged 0 - 3 years and with children with disabilities (over 50% of the children accommodated in these homes have medium and heavy disabilities). To meet the needs of children in all HMSCCs visited specialised staff such as psychologists, speech therapists, educators and therapists has been appointed.

The right to education and training of children is impaired because of the lack of infrastructure for children with disabilities in municipal kindergartens, as well as the lack of vacancies in the kindergartens. In none of the HMSCCs visited children do not attend public childcare facilities. Most children accommodated in HMSCCs are handicapped, but again the MH has not provided funds for the purchase of specialized transport.

Another problem associated with medical care is that children's wards in hospitals continue to set conditions for admission of children from these homes: food and children's clothes to be provided by the home, and the child to be accompanied by an assistant - representative of the home. Due to the limited number of specialized personnel, the administration of the homes is not able to provide additional staff during the stay of children in the hospital. The main recommendation the NPM sent to the Ministry of Health was to provide plans for deinstitutionalisation of all remaining HMSCCs in order for the NPM's team to examine the next steps in the process of deinstitutionalisation of children aged 0 - 3 years.

IX. SOCIAL INSTITUTIONS FOR ADULTS

During the visits carried out in 2014 in homes for adults with mental disorders (HAMD), homes for adults with mental retardation (HAMR) and homes for the elderly with dementia (HEPD) **the NPM found negative resistance of the system to provide long-term social services.** The problems identified by the inspecting team in the past years (2012-2013) continue to apply in varying degrees to all institutions visited:

1. The large number of people waiting for accommodation in homes for the elderly, demonstrates the importance of these institutions. However, there is an increased degree of control over the quality of services provided.

2. The conditions in many homes do not comply with the requirements of Art. 40 (e) of the Regulations on Implementing of the Law on Social Assistance.

3. The understanding that the specifics of the underlying disease (mental retardation, mental disorder, dementia) is a reason for lack of actions on training, rehabilitation and social inclusion of the persons still exists.

4. No action for removal of resident services in the community is undertaken. Instead, the material facilities of the existing homes are converted into protected housing (home for people who are not self-sufficient).

5. In homes there are people with underlying disease other than the profile of the institution.

6. Despite repeated recommendations of the NPM, no action has been taken to carry out pathological expertise in the death of a user outside the hospital. After all inspections that have been carried out, a grounded conclusion can be drawn up that in the messages about the death of users as the most common causes of death is noted "heart failure", "acute cardiovascular insufficiency", "heart attack", and in one case - "acute brain failure". All these conclusions are made by the physician that established the death without pathological examination performed.

7. When appointing of an authority on guardianship and custodianship basically the provisions of Art. 156, para 2 of the Family Code are applied, instead of para 1 of the same provision.

During an inspection by a team of the NPM in HAMD - village of Zabernovo, Malko Tarnovo municipality, it was found that a female user of the social service prior to this had been placed in a protected housing (home for people who are not self-sufficient) for people with mental disabilities in the city of Sofia, Slatina district.

In a report-proposal of the Directorate "Social Assistance" - Slatina, it has been stated that after consecutive break of both legs, Ms S. I. K. can not move alone with her wheelchair. The home for people who are not self-sufficient in the Slatina district is located on the second floor of a building without a separate ramp and for 1 year the woman has not gone out. For this reason, the report provided emergency accommodation in HAMD - village of Zabernovo.

On the occasion of this and similar findings made during the inspections in residential social services for persons with **disabilities, as a national ombudsman, acting as the NPM, I expressed my opinion that the placement of persons using aids in residential care services that do not have accessible environment for persons with physical disabilities, can be described as a form of cruel, inhuman or degrading treatment or punishment within the meaning of the UN Convention against Torture and Other for of Cruel, Inhuman or Degrading Treatment or Punishment.**

Particularly serious is the case that led to the prolonged isolation of a user of social service.

Unacceptable is the opinion that the NPM has received in response to similar recommendations - that accessible environment has not been built because the profile of the service is not designated for people with physical disabilities.

It is necessary to pay attention to the fact that failure to provide accessible environment breaches the requirements laid down in:

- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- UN Convention on the Rights of Persons with Disabilities;
- Law on Integration of Persons with Disabilities;
- Law on Spatial Development;

- Ordinance No 4 of 1st July 2009 for the design, construction and maintenance of buildings in accordance with the requirements for accessible environment for the population, including people with disabilities.

Also, the lack of accessibility affects basic human rights and dignity of persons with disabilities. Harassment and maintenance of inaccessible architecture is considered to be discrimination within the meaning of Art. 5 of the Law on Protection against Discrimination. Individuals and organizations engaged in discrimination, bear administrative responsibility (Art. 78 et seq. of the Law).

I therefore recommended to carry out inspections for the presence of accessible environment in all residential care services intended for use by persons with disabilities - regardless of the type of disability. Where it is found that no accessible environment is available, to take immediate steps to building an accessible environment.

As a positive step in the mechanism for providing adequate care to users of resident social services for adults can be indicated Decision No 2 of 7th January 2014 of the Council of Ministers for adoption of National strategy for long-term care that concern people with disabilities - people with physical and mental disorders, and people needing palliative care.

The strategy envisages a network of accessible and quality services in the community and at home, which would allow for the preparation and transfer of the elderly and people with disabilities out of the specialized institutions and also to have a preventive role to the institutionalization of these persons. The document is based on the understanding that the protection of the dignity and the creation of opportunities for independent living of the elderly and people with disabilities can be achieved by providing quality, affordable and effective cross-sector long-term care, tailored to the real needs of people and the community . Part of the vision of the strategy is also the closure in the next twenty years of all specialized institutions for elderly and disabled people that are functionally obsolete and do not meet the current needs of the target groups.

The NPM stressed the need the Council of Ministers to develop an action plan to the National Strategy for long-term care, in which to provide for specific measures, projects and activities, responsible institutions, the amount and sources of financing, terms, etc.

X. ESTABLISHMENTS FOR ACCOMMODATION OF DETAINEES IN THE STRUCTURE OF THE MINISTRY OF INTERIOR

In 2014 the NPM carried out inspections in 21 establishments for accommodation of detainees in the structures of the Ministry of Interior.

The NPM found problems that had been already identified during the inspections in detention establishments carried out in 2012 and 2013. These problems are mainly related to: the formation of a sufficient number of detention facilities and equipment; overcrowding; lack of space; lack of separate toilets for detainees; lack of sufficient access to natural light and adequate artificial lighting and ventilation of the premises; lack of distinct service areas; lack of sufficient materials to clean the premises and keeping the hygiene; different practices of recordkeeping and its accountability; different practices in the provision of food; problems with the implementation of adequate medical care; mode during detention; awareness of detainees about their rights.

In connection with the recommendation of the NPM concerning closure of establishments for temporary detention in the First District Police Directorate and

Fourth District Police Directorate - the detainees are referred to and are accommodated in other detention facilities.

In 2014, the Ministry of Interior set up an organization in implementation of Instruction No I3-1711 of 15th September 2009 concerning equipment of the establishments for accommodation of detainees with the Ministry of Interior and the order therein (the Instruction), including also on the improvement of the facilities and the living conditions.

The Directors of the Capital City Directorate of Internal Affairs and the Regional Directorate of the Ministry of Interior were ordered to undertake actions on provision of mattresses, blankets, sheets and pillows, as well as sanitation of the premise.

Despite the efforts to partially improve the conditions in some detention facilities, the NPM shares of the opinion that no substantial progress has been made in the system for 24-hour detention as a whole.

Material conditions

The NPM found that the premises for accommodation of detainees are not separated according to Art. 5 para 1 of the Instruction. In most establishments inspected the separate detention facilities are not sufficient in view of the number of detainees.

Example of this are the detention facilities in 01 RPD and 02 RPD with RDMI – city of Rousse, and Border Police Directorate (BPD) - Rousse. In 2014 the number of the detained foreign citizens has grown, while the number of establishments for accommodation for that purpose is insufficient and no action has been undertaken in view of the present situation, which lasted for more than a year.

The inspections performed in 2014 by the NPM team found that there are still premises of type "cell". Such premises exists in RDP – city of Gabrovo, RDP – city of Dryanovo, 01 RDP and 02 RDP – city of Rousse. **The NPM has already expressed its views in previous reports that such conditions are inhuman and degrading. These premises should be closed because they are unsuitable for reconstruction.**

Extremely poor are material living conditions in the Home for temporary accompdation of adults (HTAA) with RDMI – city of Varna. The building is old and outdated. The ceilings and walls are cracked, there are leaks and mold. In premises is stuffy and humid and the access to natural light is insufficient.

According to Art. 3, para 3 of the Decree No 1695 I3 of 26.0.2006 on the organization, function and activities of the homes for temporary accommodation of adults issued by the Minister of Interior, the overall activity and the management of the facilities of the HTAA with RDMI is secured financially by the municipality in which the home is situated and the municipalities which territories it serves.

In HTAA with RDMI – city of Varna, are accommodated persons to whom an administrative sanction "Detention in a MI structure" under Decree No 904 against Minor Hooliganism (DAMH) has been imposed and persons whose stay may be up to 30 days. Due to the poor conditions and equipment that do not meet the statutory requirements, the NPM has recommend HTAA to be moved to another suitable building.

During the inspections in 2014 the NPM again found that for temporary detention facilities are used the trial detention facilities managed and operated by the National Investigation Service. After their transfer to the Ministry of Interior, these

premises have not been renovated. Such premises exist in RDP - Radomir. Some of them are unusable precisely because they are not renovated.

It should be noted that the Ministry of Interior began differentiating places for temporary detention of individuals under project VO2005 / 017-353.07.04 "Modernization of Bulgarian police and strengthening its effectiveness." The NPM defines this as an important activity with a view to achieving the accepted legal standards. RDP – city of Sevlievo, RDP - city of Tryavna, RDP – city of Rouse, and BPD - Elhovo, are a good example in this respect.

In RDP - city of Sevlievo, all premises are separated according to art. 5, paragraph 1 of the Instruction. They are arranged and secured in a way that does not create conditions for damage to health of detainees and police officers.

In RDMI - city of Rouse, the premises for accommodation of detainees are also divided according to Art. 5 para 1 pt. 1 of the Instruction and are located in a corridor especially designated for that purpose. Unauthorized access is limited. The premises, however, are not used effectively because there is a shortage of personnel that in accordance with art. 38 of the Instruction should carry out physical security. In the established situation, in view of the lack of sufficient and appropriate facilities in both police departments, the NPM recommended to take adequate actions to provide funds for the regulatory required system for physical protection and security.

In the BPD - city of Elhovo repair works have been carried out in the detention facilities and rooms for mothers with children and minors have been separated.

As a result of the inspections the NPM focuses on the need for installation of alarm systems in the detention facilities. Installing such systems is justified primarily by the security they provide to the detainees and the prison staff in order for the latter to take prompt and appropriate actions in an emergency. There are still detention facilities, where a CCTV system has not been installed (e.g. BPD - city of Rouse).

The NPM defined as smoothly operating the organization, created by RDMI - city of Veliko Tarnovo, concerning accommodation of detainees in one of the busiest objects - RDP - city of Gorna Oryahovitsa. For the period from 1st January 2014 until the beginning of October 2014 in the premises have been detained a total of 417 persons.

Due to impossibility to separate places for temporary detention in other district offices of RDMI - city of Veliko Tarnovo it is defined they to be used only those that are relevant and where placement of persons enables to respect their rights.

The NPM has also performed inspection of the homes to the Interior Ministry, which accommodate children. This is the home for temporary accommodation of minors and juveniles (HTAMJP) to RDMI - city of Veliko Tarnovo.

First, the NPM noted that these homes accommodate children, but the name of the institution involve the term "persons", which is incorrect and misleading in terms of the nature of the institution.

HTAMJP is located in the city of Gorna Oryahovitsa and there are accommodated children aged from 6 to 18 years. For the period from the early 2014 until the beginning of October 2014, the home accommodated 170 children, 45 of them for more than 2 days, up to 24 hours – 128, up to 15 days – 40, over 15 days - 2 children. Frequent are cases of running away from the home - 39 cases have been registered for the same period. There are also accommodated children who have been provided with police protection.

The NPM noted with concern that in this institution it is a statutory established practice to accommodate in the same place perpetrators and victims of crime.

The stay can not be longer than 15 days and in case of detention over 24 hours permission of a prosecutor is required. In exceptional cases where the interests of the child so require, the period can be extended up to 2 months after the relevant permission from the prosecutor.

There are no places in the home where children can store their personal basic necessities. There is no a single cupboard or wardrobe in any of these premises where children can keep personal belongings.

The NPM noted with concern that in quite few objects inspected in 2014 there are separate premises for accommodation of minors. Such premises exist in RDMI - city of Gabrovo, RDMI - city of Rousse, RDP - city of Sevlievo, RDP - Gorna Oryahovitsa, BPD - Elhovo. In some of them, if necessary, are accommodated persons that enjoy police protection.

An important part of the establishments for accommodation of temporary detainees are service spaces (for conducting searches, processing documentation, and other actions).

In many of the establishments inspected such facilities are not separated or one and the same room is used in parallel by police officers as a working space and service space according to Art. 5 para 1 p. 2 of the Instruction. Such premises exist in RDP - city of Radomir, RDP - city of Gabrovo, RDP - city of Dryanovo, 01 RDP and 02 RDP - Rousse, RDP - Tryavna, HTAA - city of Varna.

In other objects inspected service spaces are separated into another police station. For example, in RDP - city of Veliko Tarnovo is performed only search and the documentation on the detention of persons is processed and then the detainees are transported to RDP - city of Gorna Oryahovitsa. The same is the situation in the RDP - Rousse. Prior to being accommodated there, the persons are detained, searched, their rights are explained in a special room in a separate building BCP - Rousse.

With regard to the sanitary facilities the NPM found that in the majority of objects inspected there is one bathroom, which is used by detainees - men and women, and by the police officers.

After the inspections made concerning the hygiene in detention facilities, the NPM believes that there is a shortage of products for cleaning. The necessary disinfection, disinfestation and rat extermination are not carried out, which are particularly important for ensuring a healthy environment for both detainees and police officers.

With regard to the material conditions the NPM made the following recommendations to the Ministry of Interior:

1. To take measures to reconstruct the buildings, design and differentiation of detention facilities and service facilities according to the Instruction.
2. To finance projects already prepared and approved on the differentiation of the accommodation establishments of detainees in the structural divisions of the Ministry of Interior.

Food

During the inspections conducted in 2014, there was an improvement in the provision of food in the detention facilities. In implementation of the recommendations

given by the NPM previous years, the inspections in 2014 found that in all places visited by the NPM observe the established with the express provisions requirement - providing food to the detainees during their stay, depending on its duration .

The findings of the team of the NPM is that there are different approaches in the way of providing food. In the BPD - Rousse, the food is provided with catering, but in most detention facilities the food is purchased from a retailer.

Attention of the NPM during the inspections in 2014 was directed to another persistent problem, which has not yet been completely removed - the detainees are provided mainly with dry food - biscuits, croissants, sandwiches, gingerbread. This practice, according to the NPM, should be discontinued.

The NPM recommends that the Ministry of Interior should review the quality and quantity of food on calorie standards applied to adults and minors.

During their stay the detainees are not limited by the possibility of obtaining personal food purchased with their money or by their relatives.

In each object, inspected by the NPM, regulations are prepared and approved in the premises of the detainees which indicate the hours and time for breakfast, lunch and dinner, which do not differ from those normally accepted for that hours.

The NPM noticed a progress also in accountability in this area - keeping the records: for seized, received and spent amounts to / by the detainees (Annex No 7 to Art. 87, pt. 9) and of the visits held and possessions and food received (Annex No 8 to Art. 87, p. 10 of the Instruction).

Medical care

The NPM found that in the structural units of the MI inspected in 2014 medical assistance is carried out to detainees in accordance with Art. 20, para 1 and para 2 of the Instruction. In practice, the requirement of Art. 14, para 1 of the Instruction is met - that any detainee after arrest is get acquainted and explained its rights, which is reflected in a declaration - Appendix No 1 to Article 14, para 2 of the Instruction.

The problem that the NPM found during the inspections held in the period 2012-2014 on the provision of medical care causes serious concern. The last two years the NPM found differences in the way of provision of medical examinations, which are in several directions - visits to establishments for accommodation or transportation to the respective Emergency Medical Assistance Centre (EMAC) or the affiliated medical emergency units. The examinations may be performed by a paramedic or a physician-specialist. There are differences also in the completion of the book on medical examinations – it is expressly stated that the findings of the examinations are to be completed by the police officer and signed by the medical officer. **The procedures for exercising medical services in relation to the detainees in establishment for temporary detention in the structural divisions of the Ministry of Interior is not statutory regulated. There is no agreement between the Ministry of Interior and the Ministry of Health, which in practice hampers the police officers in the provision of health care. Here is the question which medical professionals could carry out examinations of the detainees in the structures of the Ministry of Interior.** In this regard, the conduct of examinations seems to have formal and superficial character. Normally examinations are carried out by teams of EMAC and their affiliates in places where routinely measure of blood pressure, temperature, etc. is made. When needed the police officers provide access to medical professionals in healthcare institutions, usually in hospitals.

A real example of the need for regulation in this area is the case in 2014, in RDP – city of Sozopol, where a person was detained that had caused an accident and had used a significant amount of alcohol. He has been provided a medical examination prior to his

detention at the police department. Following the deterioration of his status the police officers called an ambulance and a medical professional has visited not once but twice the person in need of health care in the building of the RDP - Sozopol. A medical examination by a paramedic has been carried out, but during transportation to the hospital the detainee died of haemorrhage. No infringement by the police officers was made - the necessary medical care has been provided to him. Such care has been provided by the medical professional as well, but it has been limited.

The NPM believes that it is imperative to have more detailed regulation on the provision of medical care to detainees in the structures of the Ministry of Interior and the creation of detailed and clear rules for actions by the police officers and their interaction with the medical professionals. This conclusion is based on the documentation examined by the NPM - orders for detention of a person, declarations, records for medical examinations and interviews with persons detained and placed in detention facilities.

Awareness of the rights of detainees

In the objects examined in 2014 no violations were found related to the awareness of the rights of detainees. At random and in randomly selected documents the NPM found that the persons are aware of their rights by signing the detention orders, declarations, protocols for searches and other documents. Everywhere a special file-keeping record of bringing detention orders is held - Appendix No 9 to art. 11, para 4 of the Instruction.

In all RDP, BPD , Homes for temporary accommodation of minors and juveniles, HTAA inspected in 2014 have been prepared and approved Rules of internal order in the detention premises with the necessary details - rights and obligations of detainees, restrictive regime and place of residence as defined in Art. 41-46 of the Instruction.

The Rules of internal order in all premises, except in RDP – Drianovo, was easily visible for the detainees.

The rule the detainees to be informed of the possibility to benefit from legal assistance through the lists of attorneys on duty (public defenders with the respective Bar Association) is observed.

However, the NPM again found that the procedure for granting legal aid specified in Art. 14, para 8 of the Instruction is not observed. The exact time of notification of the counsel where the detained person expressed his wish for appointment of a counsel under the Law on Legal Aid is not specified. The exact time of appearance of the counsel and the procedure under which the latter is called is not specified. The visit is not recorded in the book of visits conducted and possessions and food received under Art. 87, para 1 of the Instruction.

The NPM's inspections found that a significant omission, which often violated the right to free movement of persons has been removed - the correct mark in the detention orders of the exact time of detention, namely the precise observation of the provisions of Art. 12 of the Instruction, which specifically referred to the initial moment of detention, but not the time of placement in the detention facility.

In some of the objects visited by the NPM it was reported as good the practice the existence of translations in different languages of the brochures on the rights of the detainees (English, Russian, German, Turkish, Romanian, Spanish). The NPM recommended the Ministry of Interior such practice to be established in all RDPs in the country.

PROTECTION MEASURES

The NPM noted that some systemic deficiencies identified in previous inspections related to the way of record-keeping of the documentation and its accountability has been removed in the objects inspected.

The only difference was found in the entry of medical examinations and findings into the records of medical examination as well as the storage of the medical documentation. In some places the examinations and prescriptions are recorded by the medical professionals who have made them, and in others – they are completed by police officers and are signed by the medical professional.

During the inspections carried out in 2014 the NPM found that one of the most common omissions continues to be present - in the books available for inspections no details of the inspections carried out by the controllers in the Ministry of Interior were recorded. **The NPM noted again that it assumes the lack of information as lack of inspections and controls carried out.**

After the inspections performed the NPM confirms its opinion expressed in previous reports that a new methodology by which the rules governing accounting records to be kept should be adopted. The NPM recommended conducting periodic training of police personnel involved in the keeping and reporting of the documentation.

During the inspections of the logbooks with complaints, reports and suggestions addressed to the directors and the heads of the structures in the Ministry of Interior, the NPM found differences in the procedure on the carrying out of the inspections. As an example can be given that each complaint against an employee of the District Directorate of the Ministry of Interior - city of Rousse is sent by competence in the District Prosecutor's Office - city of Rousse, and in other establishments inspected complaints are not sent to the competent Prosecutor's Office. **The NPM believes that it is necessary to be given guidelines with which can be regulated the procedure for carrying out checks on the deposited complaints against police officers.**

XI. DETENTION IN THE COURT BUILDINGS

Subject to inspection by the Ombudsman as NPM are also the premises for temporary isolation and stay (PTIS) in the courthouses of persons forcibly brought to the judicial authorities. In 2014 were inspected the PTISs in the Appellate Court - city of Veliko Tarnovo, the Regional Court - city of Veliko Tarnovo, the District Court - city of Veliko Tarnovo, "Phased convoy base" - city of Gorna Oryahovitsa with Regional Directorate "Security - Veliko Tarnovo", Regional Court - city of Rousse, District Court - city of Rousse, and the Administrative Court - city of Rousse.

The main finding that NPM made in terms of the material conditions in the places inspected was that they do not meet the requirements of Ordinance No 4 of 10th January 2008 of the Ministry of Justice concerning the rules and standards of safety and security in the design, construction, reconstruction modernization and operation of facilities of the judiciary. Except PTISs in the Administrative Court - city of Rousse, which are in the process of building and equipment, in all establishments visited the living conditions were poor, the necessary service facilities were not separated, as well as the facilities for persons forcibly brought in.

Inspections in the "Phased convoy base" - Gorna Oryahovitsa with the RD "Security - Veliko Tarnovo" the NPM found two problems which require timely actions by the Ministry of Justice:

- Lack of statutory rules on the provision of food during the stay of the persons forcibly brought in and convoyed in the premises of the stage convoy basis;

- Legal loophole which to regulate the storage of items, objects, money and valuables during the stay of persons in the premises of the stage convoy basis.

XII. PROTECTION OF PERSONS WITH MENTAL DISORDERS

In 2014, follow up inspections were made of three psychiatric institutions: State Psychiatric Hospital (SPH) - village of Tserova Korja, Centre for Mental Health (CMH) - city of Veliko Tarnovo and CMH - city of Haskovo. During the repeated inspections of the above hospitals the NPM found that the only changes compared to the previous inspections are limited to the repairs, by which the material and technical conditions in these particular hospitals (CMH- city of Veliko Tarnovo and CMH - city of Haskovo) were significantly improved.

Changes that are amongst the competence of the Ministry of Health and the legislature were not established by the NPM. The Ministry of Health has not taken any measures to eliminate the shortcomings established in the reports of the NPM in 2012 and 2013.

Reiterating the common problems and shortcomings associated with the provision of psychiatric care, the NPM insists on making right decisions and taking actions to start a process to resolve them. Problems and shortcomings in the network of health care facilities for the treatment of patients with psychiatric diseases established in all inspections are, as follows:

1. All SPHs continue to operate solely on the basis of Decree No 20 / 22.02.2000 on determining a medical institution under art. 5 para 1 of the Law on Medical Institutions (LMI) and their specific function, but they do not have the document with a certain level of competence required for all medical establishments for hospital care under Art. 6 para 1 of LMI. No valid assessment of the level of competence as required by Ordinance No 24 / 07.07.2004 for establishing medical standard "Psychiatry" has been performed. The conditions for the implementation of medical activities related to available and operable medical equipment and furniture, the number and distribution of medical specialists, hygiene and living conditions in which patients are placed, etc. are not fulfilled.

2. Most of SPHs do not have adequate conditions in accordance with the medical standard "Psychiatry", such as: possibility to use the X-ray scanner, EEG, MRI and clinical laboratory of II or III level of competence (all of the above with access provided to the hospital 24 hours a day), as well as the possibility to perform medical consultations with other specialists - all of the above on the territory of the settlement, as well as with ECG, ECT and an installation for oxygen supply to the hospital.

3. The composition of some medical establishments for psychiatric care include units that have not been registered under the existing legislation, but nevertheless they operate. These are most of the hospital pharmacies and clinical laboratories in the structures of SPHs.

4. Problem for the normal operation of the medical institutions for psychiatric health services, and in particular - hospitals, is the lack of sufficient staff - physicians, nurses, psychologists and paramedics. This hampers the timely and quality treatment of patients and poses a risk in terms of monitoring and care of patients with aggression and self-aggression. The access regime to hospitals is also hampered, and part of the patients have criminal records. Due to the limited quantity and quality of human resources in the psychiatric hospitals night shifts are performed by a minimum number of staff, which creates a danger both for the staff and the patients. The main reasons for this insufficiency of trained specialists are the low pay and the poor working conditions.

5. Additional circumstances that create problems in the system for providing psychiatric medical care are the different principles of funding for SPHs and CMHs, which creates confrontation and tension between the different types of medical establishments and reflects on the quality of medical services.

6. The National Preventive Mechanism established also implementation of bad practices by the Ministry of Health. These include refusal to cooperate on important issues with other organizations or obvious omission regarding the regulation of certain activities. As an example may be given the still ongoing lack of Ordinance for occupational therapy, the need for which has been reminded by the NPM for the third consecutive year. According to the requirements specified in Art. 151 of the Law on Health, the Ministry of Health was required within 3 months after the entry into force of this Law to draw up such an ordinance.

7. There are a large number of patients treated repeatedly and with longer stays. Stays of several years with small breaks are common practice. In these cases, the psychiatric hospitals are forced to assume also the functions of specialized social institutions under the methodological guidance and control of the Ministry of Labour and Social Policy. In this case it is obvious the absence of adequate policy on the part of both ministries - the Ministry of Health and the Ministry of Labour and Social Policy, on the issues of mental health.

In the institution of the Ombudsman of the Republic of Bulgaria have been received specific signals by the Directors of SPH "St. Ivan Rilski" - city of Novi Iskar and SPH - village of Tserova Korja, Veliko Tarnovo Region. They alleged that the officials of the Directorate "Social Assistance" - Vrabnitsa, and the Directorate "Social Assistance" - city of Gorna Oryahovitsa, refuse to accept patients discharged, although they do not have any relatives and a place to stay.

According to Art. 26 of Ordinance No 49 / 18.10.2010 of the Ministry of Health "on discharge of a patient whose condition requires an assistance, the latter is send to his relatives. In case of absence of relatives, failing to make contact with them or their disagreement to accept the discharged person expressed, the staff of the hospital shall transfer the patient to an employee of the relevant Directorate "Social Assistance". Although the employees to the directorates "Social Assistance" are obliged to implement subordinate legislation acts, the Director of the Directorate "Social Assistance" - Vrabnitsa, stated that the Ordinance No 49 / 18.10.2010 of the Ministry of Health is "an act of institutional subordinate legislation which action does not extend to other departments of hierarchical subordination, as described in Instructive Letter 9100-286 / 19.11.2010 of the Executive Director of the Social Assistance Agency". On this occasion, I addressed the Minister of Labour and Social Policy. In response to my recommendation, the Minister informed me by letter No 92-133 of 20th March 2014 that by Ordinance No 49 / 18.10.2010 to the Ministry of Health are "entrusted responsibilities and commitments of the authorities for social assistance, which do not comply with the provisions of the Law on Social Assistance and the Regulations on its implementation" and "Art. 26 of the Ordinance has not been preliminary consulted and agreed with the Ministry of Labour and Social Policy. " The Minister strongly disagrees with the provisions of that law, insisting on undertaking actions in the shortest possible time to change the Regulation so as to eliminate the existing discrepancy and to find a proper solution.

As a national Ombudsman, acting as the NPM, I addressed the Prime Minister with a proposal to initiate the establishment of a coordination mechanism with the representatives of MLSP and MH in order to solve these problems. After my recommendation of 27th March 2014, by letter No 0403-77 the Minister of Labour and Social Policy made a proposal to the Minister of Health to discuss possibilities for

partnership between the social and the health care systems, as well as for amendment of Regulation 49 of 18.10.2010 , and refine of the mechanism of interaction with the territorial structures of the SAA. The Ministry of Labour and Social Policy expressed willingness to participate in a meeting with the representatives of the Ministry of Health with the aim of solving the problems affecting the coordination of the institutions in the discharge of patients with mental illness from specialized hospitals and the provision of adequate support for the use of social services.

Due to the continued omission of the Ministry of Health and other relevant institutions, the NPM also in this report is forced for the third time to underline its recommendations to the competent authorities:

1. The Ministry of Health and the Ministry of Labour and Social Policy to begin to solve the problems of mental health by:

- activating the procedures for legislative changes through which the medical institutions providing psychiatric medical care in the Republic of Bulgaria are aligned to the level of medical institutions providing health care in the other (somatic) medical specialities;

- starting procedures for issuance of a document with a certain level of competence of state psychiatric hospitals in accordance with Art. 6 (1) of Law on Medical Establishments and medical standards in psychiatry, approved by Decree No 24 / 07.07.2004 of the Ministry of Health;

- preparing the respective additional regulations related to the improvement of the performance of SPH, e.g. Ordinance on occupational therapy;

- triggering the procedures for transfer of part of the patients to state institutions providing social care corresponding to their condition;

- finding ways for adequate funding for health care institutions in the system of psychiatric medical care;

- introducing the strict control of medical institutions for mental health care in the Republic of Bulgaria by the competent authorities.

2. To take measures on alignment of the hospital laboratories in accordance with the provisions of the current legislation and the requirements of Regulation No 35 of 6th August 2010 on the establishment of the medical standard "Clinical Laboratory". To provide the above with the necessary specialist "Clinical Laboratory".

3. In the process of operation the medical institutions to comply with the requirements of Regulation No 24 of 07.07.2004 on establishing the medical standard "Psychiatry".

4. To carry out regular monitoring of patients in both psychiatric and somatic respect, and the consultations, examinations and medications prescribed to be entered into documents.

5. The Ministry of Health and the Ministry of Labour and Social Policy to cooperate to solve problems related to the provision of health care and social services with each other and with the relevant organizations dealing with similar problems.

XIII. ISSUES REQUIRING LEGISLATIVE DECISIONS

1. Prisons

The findings of the Ombudsman as NPM, and the CPT's findings, specify as a major problem of the Bulgarian penitentiary system overpopulation and poor conditions in the prisons. The government's motives related to the lack of financial resources to

address these persisting problems are unacceptable for the NPM. It is necessary to undertake decisive actions, including through changes in the regulatory environment, to overcome the above problems.

First, it should be noted that one of the possible ways to reduce overcrowding is associated with extending the application of punishments, alternative to the imprisonment. This requires changes both in the practice of imposing penalties by the courts, and amendments of the Criminal Code, that to lower the criminal liability and the imposition of penalties for petty crime especially with lower danger for the public.

Another measure is to increase the share of the release on parole, for example through more widespread electronic monitoring of the persons released. Amendments are needed to Ordinance No 15 on the electronic monitoring of the behaviour of the convicted persons with a view to extending the sphere of application of this monitoring.

It is necessary to introduce a preventive remedy for protection of prisoners. The European Court of Human Rights (ECHR) shows that the PDL should have available remedy, which can lead to improved conditions of detention. In the case of "Ananiev and others against Russia" the ECHR establishes what conditions must meet a preventive remedy in order to be effective. The Court stated that to be effective, the system must ensure rapid and thorough investigation of complaints of the prisoners, to ensure their effective participation in the examination of their complaints and to have a wide range of legal instruments to eliminate the violations found.

Another important measure is the provision of a compensatory remedy. The European Court of Human Rights held that the claim for compensation for damages under the Law on Liability of State and Municipalities of 1988 (LLSM) in principle is an effective remedy in respect of the poor conditions of detention. The Court specifies that since the above remedy may not lead to actual improvement of the existing situation, it can not provide adequate compensation in a situation where the material conditions remain unchanged. The Court finds that remedy ineffective due to the following deficiencies of the courts: 1) the cumulative effect of the various aspects of poor material conditions is not taken into consideration, and 2) a formalistic approach on the need to prove the non-pecuniary (moral) damage, in particular in cases where the material conditions are accepted by the national courts as problematic in terms of Art. 3 of the Convention, is applied.

The employment in the penitentiary establishments (prisons) falls outside the system of national labour and social security legislation. Prisoners carry out work without individual contracts of employment and opportunity for pension social security.

Medical care in the PE (prisons) falls outside the national healthcare system. Medical institutions are under the control of the Minister of Justice and the control of medical services by non-medical authorities can not achieve the necessary and required integration and compatibility with the standards in the national health system.

Under Recommendation No Rec (2006) 2 of the Committee of Ministers of the Member States on the European Prison Rules, it is necessary to establish detailed procedures for the use of force, including: various types of force that can be used; the circumstances where any type of force can be used; staff members who are entitled to use different types of force; the level of authority required before the use of force and the reports that are to be prepared on the use of force. Bulgarian LESD does not provide such a detailed and thorough determination of the types of force and the circumstances in which it can be used. The NPM believes that legally must be determined also the obligation of the prison administration to submit for certification the injured party to a physician external to the penitentiary system at each signal for use of force and aids.

2. Unaccompanied minors or juvenile seeking international protection

Legislative amendments are necessary that regulate the representation of the unaccompanied persons in accordance with the requirements of Art. 19 (1) of Directive 2003/9 /EC of 27th January 2003 laying down the minimum standards for reception in the Member States of asylum seekers and Directive 2005/85/EC of 1st December 2005 on the minimum standards concerning the procedure for granting or depriving of a refugee status in the Member States.

3. Reform in the children's justice

It is imperative to establish specific deadlines for the implementation of the reform in the field of services in the Roadmap for implementation of the Concept of state policy in the field of justice for the children.

The possibility of mixing of perpetrators and victims of crime in correctional institutions for children should be limited in a legislative way.

4. Social institutions for adults

Legally must be regulated the obligation to pathoanatomic expertise in any death of a person placed in such an institution.

What is needed is a regulatory change of the model of guardianship and custodianship of such persons, by which to limit the determination of a staff member of the specialized institution for a guardian / custodian.

5. Medical and social institutions for children

Medical standards for provision of integrated health and social services for children with disabilities should be developed.

6. Protection of persons with mental disorders

Legislative change of the financing of SPHs and CMHs subject to the general health insurance system in the Republic of Bulgaria is necessary.

7. Detention facilities in the court buildings

Regulation is needed for the provision of food during the stay of the persons forcibly brought in and convoyed in the premises of the stage convoy basis.

Legal rules governing the storage of items, objects, money and valuables during the stay of persons in the premises of the stage convoy basis need to be established.

Enclosure

RECOMMENDATIONS MADE AND RESULTS OF THEM IN THE PERIOD 2012-2014

In 2012, the NPM carried out inspections in 108 establishments where there are persons deprived of liberty, or where persons are detained or placed as a result of an act or with the consent of a state body, which places they can not leave on their own will.

In the reports of the NPM for 2012 a total of 275 recommendations are made. Of these, 83 have not been met, and on 33 a reply from the competent institutions is

missing. As a reason for non-execution of the recommendations of the NPM most often is given the lack of financial resources and / or buildings.

It is unacceptable the opinion received in response to the recommendations for building accessible environment in various institutions that the environment is not suitable for access by persons with disabilities, as the profile of the service is not designated for people with physical disabilities or because at the time of the inspection no people with disabilities are accommodated there.

In 2013 the NPM made a total of 367 recommendations. Of these, 64 have not been met, and 8 have not been considered.

In the second year of operation of the NPM a strong increase of the recommendations implemented is being noticed. As a condition giving rise to the inability to implement the recommendations of the NPM, most often is highlighted the lack of funds.

As part of the recommendations are related to the staffing of the inspected establishments, in their responses to the NPM the competent institutions state information on the unattractiveness of the posts and the lack of candidates for their occupation. The NPM assumes that this is a clear indicator of low pay and remoteness of the inspected establishments from the settlements and it is a prerequisite for violation of the rights of persons accommodated / detained in these institutions.

In 2014 the reports of the NPM made 174 recommendations concerning the establishments visited.

The reduced budget of the institution of the Ombudsman imposed limitation of the number of inspections carried out by the NPM. The focus of the inspections was set on the persons seeking or granted international protection in the refugee centres, detention institutions for minor and juvenile and penitentiary establishments. During its inspections the NPM followed up also the process of deinstitutionalisation of institutions offering social and medical care for children and persons with disabilities.

Due to the problems appeared in the inspections of the teams, as a national ombudsman, acting for the NPM, I called MI and SAR to get acquainted the structural subdivisions with the activities and the powers of the Ombudsman, including in terms of timely access to the places for inspection to the representatives of the NPM as well as with the powers of the NPM's employees to use camera, sound and video recorders, devices measuring noise, temperature, humidity, and other measuring instruments necessary for the purpose of the visit regulated in Art. 30 para 3 of the Rules on Organization and Activity of the Ombudsman.