



# **OMBUDSMAN OF THE REPUBLIC OF BULGARIA**

**2019 Annual Report of the Ombudsman Acting as National  
Preventive Mechanism**

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## ABBREVIATIONS

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

# GENERAL INFORMATION ABOUT THE NATIONAL PREVENTIVE MECHANISM

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

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

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

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

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

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

## 2. Ombudsman Act

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

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

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

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

(2) The Ombudsman shall be entitled to:

1. access at any time without prior notice to all places of detention under paragraph 1 and to their installations and facilities;

2. access to all information concerning the number of persons deprived of their liberty in places of detention as defined in paragraph 1, as well as the number of places and their location;

3. the liberty to choose the places s/he wants to visit and the persons s/he wants to interview;

4. the opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the Ombudsman as a National Preventive Mechanism believes may supply relevant information;

5. access to all information referring to the treatment of the persons under paragraph 1 as well as their conditions of detention;

6. request information from the staff of the visited detention facility, hold lectures and converse personally with any person at the territory of the inspected object;

7. arrange medical examinations of individuals with their consent.

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

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

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

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

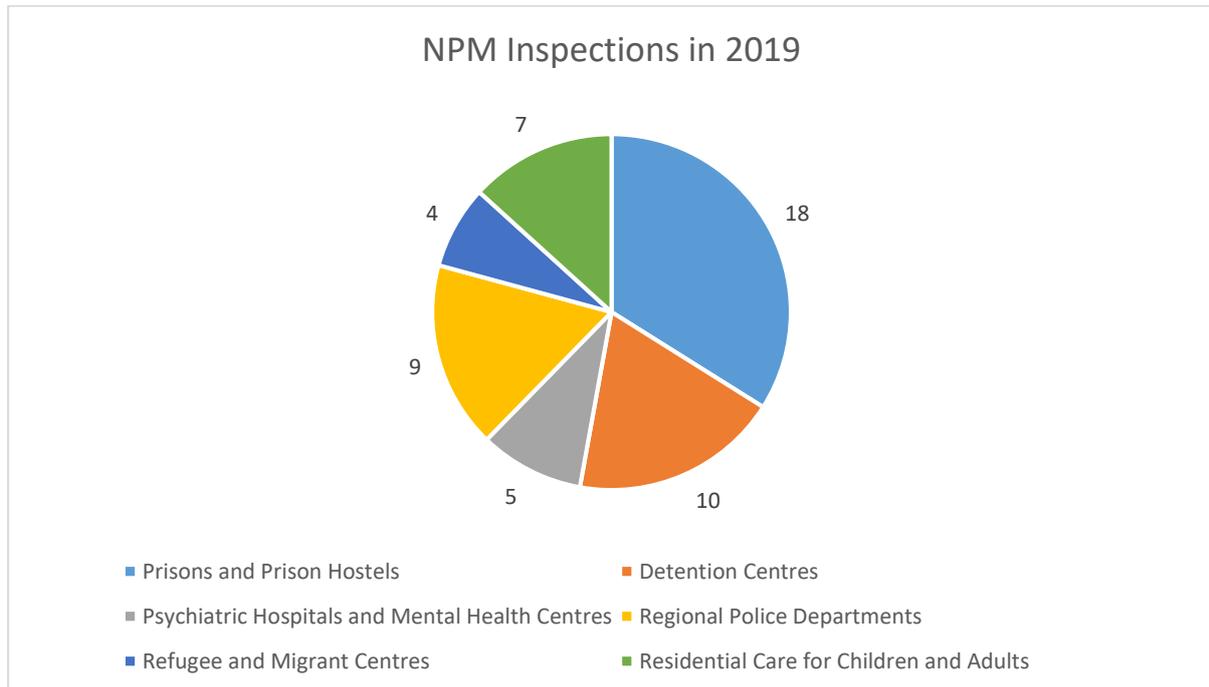
Article 28 (d) (new – SG no. 29/2012, effective as of 11 May 2012) (1) After each visit, the Ombudsman shall prepare a report which may contain recommendations and proposals with a view to improving the conditions in the facilities under Article 28 or treatment of the individuals placed there, as well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

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

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

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

## General Statistics about the Conducted Inspections



### Prison and Prison Hostels:

1. Sofia Prison
2. Kremikovtsi Prison Hostel
3. Kazichene Prison Hostel
4. Vratsa Prison
5. Keramichna fabrika Prison Hostel, Vratsa
6. Vratsa Home for Male Juvenile Delinquents
7. Lovech Prison
8. Atlant Prison Hostel, Troyan
9. Poligona Prison Hostel, Lovech
10. Plevan Prison
11. Vit Prison Hostel, Plevan
12. Plevan Prison Hostel
13. Belene Prison
14. Belene Prison Hostel
15. Sliven Prison
16. Sliven Prison Hostel
17. Smolyan Prison Hostel
18. Kardzhali Court building

### Detention Facilities:

1. Haskovo Detention Facility
2. G. M. Dimitrov Detention Facility
3. Major Vekilski Str. Detention Facility
4. Vratsa Detention Facility
5. Vidin Detention Facility

6. Kardzhali Detention Facility
7. Smolyan Detention Facility
8. Sliven Detention Facility
9. Pleven Detention Facility
10. Lovech Detention Facility

Psychiatric Hospitals and Mental Health Centres:

1. Mental Health Centre in Plovdiv
2. University Multi-profile Hospital for Active Treatment in Varna
3. State Psychiatric Hospital in Karlukovo village
4. State Psychiatric Hospital in Kardzhali
5. Mental Health Centre, Sofia region

Regional Police Departments:

1. Nine centres for 24-hour detention with the Sofia Directorate of Interior

Refugee and Migrant Centres:

1. Special Home for Temporary Accommodation of Foreigners, Busmantsi
2. Registration and Reception Centre in Sofia, three International Protection Proceedings Departments in Voenna rampa, Vrazhdebna and Ovcha kupel

Residential Social Services for Children and Adults:

1. Two Family Type Placement Centres for Children with Disabilities in Lovech
2. Two Family Type Placement Centres for Children without Disabilities in Lovech
3. Protected Home for Adults with Mental Disorders in Lovech
4. Family Type Placement Centre for Adults with Developmental Disorders in Lovech
5. Family Type Placement Centre for Adults with Dementia in Lovech
6. Protected Home for Adults with Mental Disorders in Lovech Developmental Disorders in Lovech
7. Family Type Placement Centre for Adults with Dementia in Gorsko Kosovo village, Suhindol Municipality.

**Total: 55 sites**

## PLACES FOR DEPRIVATION OF LIBERTY WITH THE MINISTRY OF JUSTICE

- **Overcrowding is a persistent problem in the places for deprivation of liberty.**
- **Prison healthcare system is unreformed.**
- **There is a shortage of social workers and sufficient public funding for meaningful activities in the places for deprivation of liberty.**
- **Unlawful use of handcuffs in the detention facilities in Sofia and in healthcare establishments.**
- **Meetings behind bars for persons deprived of their liberty is regulated in the law.**
- **Violation of the secrecy of inmates' correspondence.**
- **Violation of inmates' labour rights.**
- **Substantially overpriced products in the prison shops.**

In 2019 the NPM carried out inspections in six prisons, nine prison hostels, eight detention facilities and one correctional facility for minor boys.

Following the inspections of the living conditions in these 24 places for deprivation of liberty with the Ministry of Justice ("MoJ"), the NPM established a positive trend for improving the material conditions and reducing overcrowding in the prisons in Lovech, Plevan and Belene, as well as in the five places for deprivation of liberty in the territory of the Vratsa Prison due to the extensive work on the transfer of the detention facilities in Vratsa, Montana and the Correctional Facility for Minor Boys in Boychinovtsi to the Vratsa Prison.

However, the NPM has further established that the **problem with overcrowding persists** in some places for deprivation of liberty, the problem being particularly acute in the Sofia Prison and the detention facilities in G. M. Dimitrov Blvd. and Major Vekilski Str. in Sofia.

The NPM recommends to make a comprehensive expert assessment of the implementation of the Programme for Improving the Conditions of Detention of 8 September 2010 and the Action Plan 2011-2013 to it, and to update the Programme for Improving the Conditions of Detention, with a view to assessing the need to close down detention facilities that do not meet the standards.

At the same time, as regards the places for deprivation of liberty within the system for execution of punishments, **there are no statutory standards for the required quantity of fresh air and day or artificial light.**

In connection with the **medical care** of inmates, it must be pointed out that pursuant to Article 128, para 2 of the Execution of Punishments and Remand in Custody Act, all inmates are health insured as of the moment of their detention and they acquire the status of persons with uninterrupted health insurance rights. The contributions are paid from the State budget by the Ministry of Justice.

The inspections in 2019 show that **the prison health care system remains unreformed and the quality of the health care for inmates does not improve.** The NPM is of the opinion

that a **structural reform of the health care in the penitentiary system is required, allowing for external referrals, in line with the European Prison Rules**. Persons deprived of their liberty are entitled to the type and number of medical services paid by the National Health Insurance Fund under the term and procedure of the National Framework Agreement. At the same time the Ministry of Justice has ensured medical care for the inmates in the medical centres and specialized hospitals set up with the prisons and detention facilities. Thus there is **overlap and double funding for the health care of the persons deprived of their liberty**. Directorate General “Execution of Punishments” (“DGEP”) reports annually understaffing in the medical centres and specialized prison hospitals, which is a bad indicator about the quality of the health care. This fact is largely due to the lack of specialists in the healthcare system in general, on the one hand, and the unwillingness of the Ministry of Justice to improve the working conditions for the specialists in the system, on the other hand.

The NPM is of the opinion that **the success of the reform in the prison health care is intrinsically connected with improving the living conditions and the social inclusion of inmates**. Our recommendations not to allow inmates to act as hospital attendants and to ensure that only medical staff but not guards administer medication to inmates have not been implemented to date.

In 2019 the NPM established further **lack of publicity regarding some rules in the places for deprivation of liberty due to the persisting practice for these rules to be established by an order of the Minister of Justice and not be issued in a legal act**. This concerns the initial distribution of the inmates and the lists with allowed personal belongings. The procedure established in the Administrative Procedure Code to notify the persons concerned about pending issuance of administrative acts (orders) is not followed. The NPM has further established incorrect delegation of powers by the Minister of Justice to the heads of open-type prison hostels, which allows the latter to add items to the list of allowed personal belongings and thus establish unequal conditions for serving time under the same regime.

Unfortunately, the statutory requirement set forth in Article 46 of the Execution of Punishments and Remand in Custody Act for the Minister of Justice to present before the Council of Ministers **the Ombudsman’s recommendations for closing down places for deprivation of liberty which do not meet the requirements** (such as the Sofia Prison, Kremikovtsi Prison Hostel, Keramichna fabrika Prison Hostel in Vratsa) continues not to be met.

**Meetings with inmates continue to be contactless**, despite the renovated facilities in many detention centres. The requirement has further been set forth in a law, which runs contrary to the recommendation of the Committee for the Prevention of Torture in the opposite sense. **The Sliven Prison is an exception**: meetings there have never been carried out behind bars. Maximum two visits per month are allowed throughout the system for deprivation of liberty. **Meetings with lawyers are as a rule carried out behind bars** (with the exception of the Burgas Prison). Extended meetings allowed as a bonus, which should take place in family environment, are transformed into contact meetings without bars, in the presence of guards and under video surveillance. This does not allow for any possibility of private life for inmates serving under special or strict regimes and increases their isolation.

**Wrong use of restraining means (handcuffs) continues within the whole system for execution of punishments when opening external units in medical establishments**. Restraining continues for days, without taking into account risk assessment or the health condition of the inmates.

In the course of the inspections the NPM established **wrong calculation of labour performed by inmates** in all places for deprivation of liberty, namely in accordance with the minimum wage and not with the feasible labour standards (unfeasible ones are set). In this connection the **NPM recommended to the Minister of Justice, in his capacity of principal of the State-owned Enterprise Prison Funds to restore the infringed labour rights of the inmates.**

The bad practice to arrange the supply of food stuff in the prison shops through public procurement instead of direct supplies by traders continues. Food stuff is **artificially overpriced** and the monopoly is further strengthened by means of a list of products that may only be purchased from the prison shops but may not be taken inside after visitations.

Another systemic deficit that the NPM has established through the years is the **lack of budget funding for adequate activities carried out by the social workers in their work.** In the newly repaired detention facilities there are no spaces for social activities, and where such exist (e.g. the detention facilities in Plovdiv and Shumen) there are no social workers to conduct these activities.

In addition, due to the large number of inmates placed in every prison group within the whole system for execution of punishments, serving time is organized under a group principle. This leads to excessive workload for the social workers and hence to **formal individual plans.** As a result, **the assessment related to change of the regime for serving time, transfer to an open-type prison hostel or early conditional release is inevitably subjective.** In this connection the judicial review introduced with the latest amendments to the Execution of Punishments and Remand in Custody Act is certainly influenced by the opinion of the administration.

The NPM has established **possibilities for violation of the secrecy of correspondence.** Pursuant to Article 86, para 3 Execution of Punishments Act, “[T]he correspondence of inmates shall not be subject to control of the written content, unless this is required for the detection or prevention of grave crimes”. Thus, the administration in the places for deprivation of liberty has acquired control powers over the inmates’ correspondence, without any sanction of a judicial authority. In this regard **the NPM is of the opinion that clear and precise statutory criteria must be introduced in which cases violation of the secrecy of correspondence is admissible, taking into account Article 34 of the Constitution of the Republic of Bulgaria, which reads as follows:**

(1) **“The freedom and confidentiality of correspondence and all other communications shall be inviolable.**

(2) **(2) Exceptions to this provision shall be allowed only with the permission of the judicial authorities for the purpose of discovering or preventing a grave crime.”**

Another problem which the NPM has established again and again through the years is the **excessive isolation of inmates serving life sentences without the right for substitution.**

As regards the system of detention facilities, the NPM established substantial differences in the material conditions in the detention facilities under prison management (e.g. those in Pleven and Lovech) and those under the management of Regional Execution of Punishments Services. The first category has all been repaired, unlike the second category (e.g. the detention facility on G. M. Dimitrov Blvd. or the one in Svilengrad).

**The NPM recommends to the Director General of the DG Execution of Punishments to prepare a programme for the development of detention facilities, which to propose to the Minister of Justice for deposition to the Council of Ministers with a view to earmarking the required budgetary funds in the draft state budget for the next years.**

## 1. Vratsa Prison

There are two prison hostels with the prison in Vratsa, Keramichna fabrika and Boychinovtsi, as well as two detention facilities, and the Correctional Home for Minor Boys.

### *a) Living conditions*

Substantial work has been carried out to transfer the detention facilities in Vratsa and Montana as well as the Correctional Home for Minor Boys to the premises of the prison in Vratsa. The detention facility in Montana has been transferred to Vratsa and is now located in the top floor of the school. The material conditions are excellent, with one remark only, that it is not accessible by people with disabilities. No substantial change has been observed compared to former findings of the NPM as regards the detention facility in Vratsa. At the day of the inspection there were 26 detainees. The detention facility is with a capacity of 31 beds. There were instances of overcrowding when 38 persons in total were placed in. According to the Directorate General Execution of Punishments (“DG Execution of Punishments”), the artificial lighting is in compliance with Article 45, para 1 of Regulation No. 49 about the artificial lighting in buildings. However, in the course of its inspection the NPM established a limited access to daylight in this detention facility. In essence the regime in the two detention facilities, and in the detention facilities in general, may be said to be identical to the special regime in the enhanced security zones. Detainees are held locked in their cells and taken out for a walk in the open for about an hour. Once transferred to prison, their regime is set as either special or general and they have the opportunity to work or continue their education.

Applying isolation to persons who are presumed innocent by setting a regime applicable to lifers is manifestly unjustified.

The total capacity of the detention facilities in the prison is 60 persons, and of the corridor for defendants and accused persons – 34 persons.

On 11 March 2019 there were 263 persons placed in the main prison building, including 21 defendants and accused persons. The prison capacity is 336 persons if the standard of four sq. m. is applied. Together with the enhanced security zone, hospital and reception area the total capacity is 370 persons. **The NPM notes with satisfaction that for the first time it establishes no overcrowding in this prison.**

The Correctional Home for Minors was opened in 2018 in a repaired building. The school building has also been repaired. It is situated in the same yard, where there is the area for walks and sports in the open. The prison management intends to use an existing building to build an indoor sports hall. **The NPM supports this initiative and recommends its implementation** pursuant to the requirements set forth in Article 151, para 3 of the Implementing Rules of the Execution of Punishments and Remand in Custody Act (“the Implementing Rules”).

In 2017 the NPM noted that feeding detainees three meals per day did not comply with Regulation No. 37 of 21 July 2009 about students’ healthy nutrition. Fruits are offered once a week. This is why the NPM recommended that the food energy content be distributed over four or five meals per day administered to the minors. To this end, the NPM recommends that if required, the food allowance in this home be increased compared to the rest of the places for deprivation of liberty.

The 2018 prison report reads that as of 31 December 2018 a total of 23 inmates were placed in the Correctional Home for Minor Boys at the Vratsa Prison. According to data provided at the day of the inspection in 2019, nine of the convicted were serving their time

under open-type prison regime and four under closed-type prison regime. Such a distinction between open-type and closed-type prison regime does not affect the detainees' status since they serve their time under equal conditions and organisation.

The Implementing Rules do not distinguish between the regimes under which minors serve their time; the only difference being strict and general regime, on the one hand, and light regime on the other hand is whether minors move accompanied or unaccompanied. Bedrooms are locked for the night regardless of the different regimes. The building architecture allows for locking separate sections versus corridors. Thus, these 23 persons are grouped in several small groups, in accordance with the capacity of the premises.

Pursuant to Article 194 Execution of Punishments and Remand in Custody Act (EPRCA) persons of age serve their time in open-type prison hostels, while those sentenced to a strict regime or with five years remaining of their time – in closed-type prison hostels. This leads to a paradox since a person of age serving his time under a general regime in an open-type prison hostel moves unaccompanied, while a minor serving under a general regime moves accompanied in the territory of the Correctional Home. The reason for this paradox lies in the notion of the general regime, which has different meanings in relation to closed and open type facilities for deprivation of liberty, i.e. corridor type of locking during the day in the closed-type facilities and free movement in the territory of the prison hostel for the open-type facilities. In the case at hand apparently the notion of general regime for minors is rendered identical to the general regime for persons of age serving in closed-type facilities.

The NPM notes that when future amendments of the Implementing Rules are considered, this issue should be put to a public discussion with a view to making this particular regime identical to the open-type regime, i.e. free unaccompanied movement of minors serving under a light and general regime in the territory of the Correctional Home. **Until then the NPM recommends to the head of the Vratsa Prison, pursuant to Article 190, para 2 EPRCA, to increase the time in the open above the minimum two hours during the summer period and place benches and sheds for outdoor activities.**

As regards Keramichna fabrika closed-type prison hostel, in 2019 the NPM reminded once again that the hostel is privately owned. The Ministry of Justice has no legal grounds to incur public costs for this property, which is why the building has been left unattended for more than 20 years now. These are in fact two two-floor buildings, with external corridors and staircases. The bathroom and toilet are shared, without any heating in winter and in a very poor condition. Inmates prefer to use the summer fountain in the yard during summer for their morning toilet. Inmates serve their time in extremely unfavourable conditions which may affect negatively their health. In 2019 the NPM established no changes in the conditions in the prison hostel. **Taking account of the poor hygiene and material conditions in this prison hostel, the NPM recommends to the Minister of Justice, pursuant to Article 46 EPRCA, to close it down and transfer it elsewhere.**

Boychinovtsi closed-type prison hostel was opened in 2018 in the territory of the former Correctional Home in Boychinovtsi. During the inspection conducted in 2019 the second floor of the building was used. A total of 53 persons were placed there. Five persons were serving their time in an open-type facility and were working as janitors. The facility was not overcrowded and the material conditions were good. The premises and the surrounding area allow for further development of this prison hostel. The issues raised by the inmates concerned the irregular supplies in the prison shop and the lack of opportunities for work. **The NPM is of the opinion that “Prison Production” State-owned enterprise should act proactively to create opportunities for work in this hostel and thus recommends to the executive director**

**to take action in this regard, following consultations with the prison and hostel management.**

*b) Medical assistance*

Inmates in the Vratsa Prison, Boychinovtsi closed-type prison hostel, Keramichna fabrika open-type prison hostel, Correctional Home for Minor Boys and the detainees in the two detention facilities are all treated in the Medical Centre of the Vratsa Prison.

The staff of the Medical Centre comprises three nurses and one director. The director position is vacant, while the three nurse posts are occupied, one of which is held by a retired medical doctor in the Boychinovtsi closed-type prison hostel. The head of the prison has assigned one of the nurses in charge of the Medical Centre. **The NPM finds this practice incorrect.** There is tension in the work of the Medical Centre. A medical doctor works four hours per day, under a civil contract. The Vratsa Regional Health Insurance Fund has assigned a General Practitioner for the inmates in the Vratsa Prison and Keramichna fabrika open-type prison hostel. The Montana Regional Health Insurance Fund has assigned a General Practitioner for the inmates in Boychinovtsi closed-type prison hostel. A dentist works in the prison dental office under a contract with the National Health Insurance Fund and treats all inmates there.

Certain delays have been established in providing certificates from the Territorial Expert Medical Commission in relation to two inmates moved from the Vratsa Prison to Boychinovtsi closed-type prison hostel. This is the result of a misunderstanding among the medical specialists who is in charge of certificating the inmates in Boychinovtsi closed-type prison hostel – the Territorial Expert Medical Commission in Vratsa or the one in Montana.

**To resolve the existing problems in the Prison Medical Centre, the NPM recommends filling the director vacancy.**

## **2. Sofia Prison**

There are two prison hostels with the Sofia Prison, Kazichene and Kremikovtsi.

*a) Living conditions*

NPM's first inspection established that the premises were old and dilapidated. The number of inmates accommodated in the cells exceeded several times the admissible standards. The NPM found that six to eight persons were placed in double rooms with bathrooms and toilets. The cell windows were small hence there was not enough daylight in the sleeping quarters of the whole building.

There is a long-standing and systemic shortage of drinking water in Kremikovtsi Prison Hostel, which is not connected to the central sewer but uses septic tanks instead. Hot water runs for two hours a day at a flow rate of five buckets. The management of DG Execution of Punishments is aware of this problem, which is probably the reason to refuse to build a new prison there since a new water-main would require substantial funding.

The heating in Kremikovtsi Prison Hostel is on wood and coal, with stoves located in the premises. The walls are smoky, almost gray, in places open to brick. The floor is of rough concrete. The walls and ceilings of the bathrooms and toilets are covered with mold. There was mold even in rooms where the ceiling had been repaired (group 8, room 2). The air in the toilets is humid and stuffy due to lack of ventilation, except by opening the door to the sleeping room. These barracks are not subject to any reconstruction to provide decent conditions for stay. Kremikovtsi Prison Hostel is currently the hostel with the worst conditions in Bulgaria, without any prospects for improvement in the near future.

The material conditions in Kazichene Prison Hostel are good, save for the regular problems with the sewerage.

The total living area in the Sofia Prison is 3,008 sq. m., which should provide 4 sq. m. for 752 inmates. According to the official information on the website, however, the Sofia Prison is with an area of 2,845 sq. m. and is intended for 670 inmates. If this area is split by 4 sq. m., the prison capacity appears to be 711 inmates. A total of 354 persons were placed in Kremikovtsi Prison Hostel, which has a capacity of 379 persons. At the time of the inspection, a total of 339 inmates were placed in Kazichene Prison Hostel, which has a capacity of 441 persons. The conclusion of the NPM is that the prison premises suffer traditionally from a general and partial overcrowding if the closed-type prison hostel cannot resolve the overcrowding, while at the same time there is a free capacity of more than 100 persons in the open-type prison hostel.

**This is why the NPM recommends to the head of the prison to apply in a broader manner the option of transferring inmates to the open-type prison hostel, including if need be by reversing the regime for serving time, so as to avoid a general and partial overcrowding in the main prison building and the closed-type prison hostel, and to avoid partial overcrowding, too, with the consent of the inmates.**

As regards hygiene, the NPM has established on numerous occasions a systemic problem with bed bugs and cockroaches in the places for deprivation of liberty. Even regular monthly disinfection appears to be ineffective.

**This is why the NPM recommends to the Minister of Justice to extend the list of authorized items and include bed bugs and cockroaches repellents since this problem exists throughout the system for execution of punishments.**

There is no usable canteen in the main prison building or the corridors, thus inmates eat in their rooms. There are canteens in Kremikovtsi Prison Hostel but these are in a poor condition thus inmates eat in the sleeping rooms, too. In Kazichene Prison Hostel there is a large canteen hence meals are not taken in the sleeping rooms. It is a fact that there are no available rooms in the closed-type detention facilities where to take meals or carry out any social activities. Hygiene in the inspected premises used as canteens and the service premises was established to be satisfactory as far as this was possible in the old dilapidated and unrepaired buildings.

The NPM received again numerous complaints about the prices in the prison shops run by the Prison Production State-Owned Enterprise. This problem did not exist when the shops were leased to external traders. The lists of authorized items that can only be purchased by the Prison Production State-Owned Enterprise with a view to maintaining the prison security in fact creates a monopoly for this public supplier whose rights of capital are exercised on behalf of the State by the Minister of Justice. A public procurement tender for supply by traders by the provision of three offers, with constantly fluctuating prices, can never reach their market levels. The NPM has recommended many times to discontinue these public procurement tenders due to the fact that goods are purchased for sale purposes and thus abuse of public funds is ruled out if the deliveries are made by the territorial units of the Prison Production State-Owned Enterprise from large stores and local producers.

Visiting arrangements should allow prisoners to keep and develop their family relations as far as possible. Unfortunately, there is no progress made as regards repealing legal contradictions in the Implementing Rules that allow for unequal treatment during visiting of men and women serving time in closed-type facilities (with and without bars, according to the sex). The recommendation of the Committee for the Prevention of Torture to introduce bar-less

visiting arrangements remains unimplemented. Unfortunately amendments to the Implementing Rules introduced contactless meetings. The Sliven Prison for Women has introduced a good practice and even lifers meet their relatives without bars during visitations. We have not been able to conduct any reasonable dialogue for six years now with the Ministry of Justice and DG Execution of Punishments as regards the problem with the “extended visiting hours” granted as a bonus that has to take place in family environment but is practiced instead in the detention facility, in the presence of guards and under video surveillance.

As regards labour in the places for deprivation of liberty, in 2017 the NPM established discontent in the prison in Sofia due to unenforceable standards in the production of envelopes. The problem appeared following an act of the deputy minister of justice as regards section 1 of Order No. JIC-04-89 of 25 January 2011, which prescribes that labour standards be determined not according to the production possibilities but the minimum wage instead. The Director General of DG Execution of Punishments, relying on provisions of the Labour Code and the fact that pursuant to Article 250 Labour Code labour standards shall be determined with a view to establishing a normal labour intensity, rightly pointed out that the labour standards were to be determined by the employer. It is expressly specified that “[T]he price of labour shall not be affected by the products’ cost price but by the fluctuations of the minimum wage“. Thus a certain demotivation that was to be expected followed and many inmates refused to produce items with a cost price from BGN 0.04 to 0.09 each and a labour standard of 440 to 500 envelopes. The prison administration tried to handle the situation by imposing unlawful disciplinary sanctions for inmates’ refusing to work. Together with threats that they would not be able to work anywhere else, these sanctions led to a sort of a forced labour.

Therefore there has been a grave violation of the right to labour and equitable remuneration, which in combination with the imposed disciplinary sanctions have impaired human dignity or caused fear, insecurity and inferiority.

**This is why, pursuant to Article 19, para 1, item 4 of the Ombudsman Act, the NPM recommends to the Minister of Justice, including in his capacity of owner of the capital of Prison Production State-Owned Enterprise, to restore the infringed inmates’ labour rights.**

The NPM established a significant progress in rendering the guards’ instructions in line with the statutory regulation. However, some extremes were also established such as section VI Other Specificities and Activities in the instruction issued by guard no. 1, requires the guard prior to using handcuffs to judge the age, sex, physical and health condition and make an individual risk assessment. The provision of Article 144 EPRCA is completely clear and allows for handcuffs to be used “in case this is strictly necessary because the result would not be achieved otherwise by applying physical force”; specific hypotheses are also mentioned. The law does not require that these directions be regulated in an individual Instruction, all the more so as the officer has no access to the inmate’s risk assessment.

The problems established in the Instruction for guard no. 27 persist: a decision as to the use of handcuffs may only be taken by the head of the prison for a certain period of time, and after an assessment of the age, sex, physical and health condition and an individual risk assessment. Article 118 EPRCA provides for the possibility that the commander of the unit on duty issues the orders outside working hours. In the event of a sudden attack or unexpected circumstances, the decision shall be taken by the officer. In any ways, a report shall be drawn for every instance of applied physical force, use of handcuffs or weapon and the respective prosecutor shall be immediately notified. By an order of the deputy minister of justice any such instance should also be put down in a Register of instances of applied physical force or use of handcuffs.

### *b) Medical assistance*

The material and technical equipment in the Medical Centre has not been repaired in years. The recommendation made by the NPM to improve the working conditions for the medical specialists, including by increasing their remuneration, has not been met. The medical staff works under pressure which affects the quality of medical care. Certain progress as regards the quality of the dental care in the prison must be noted.

The inmates' access to the medical specialists follows a schedule approved by the head of the prison; emergency patients are given priority. Yet again the NPM has established that when inmates are examined in the prison hospital the information about their condition and administered medication is registered in the hospital register but is not forwarded to the Medical Centre. **The NPM reiterates once again that there must be a uniform information system of electronic health records in place in the penitentiary system**, which allows every medical specialist therein to consult the inmates' health condition and any administered treatments. The access to specialized medical assistance is sometimes hindered due to lack of sufficient number of officers to escort the inmates. This is why inmates continue to complain about being fixed to beds when taken outside prison for hospital treatment. No prevention is offered and no HIV/AIDS tests are made. The incidence of infectious diseases in prison is high and in most of the cases such are established in relation to other illnesses. Paid methadone substitution therapy is carried out in prison.

In connection with the medical care of inmates, it must be pointed out that pursuant to Article 128, para 2 of the Execution of Punishments and Remand in Custody Act, all inmates are health insured as of the moment of their detention and they acquire the status of persons with uninterrupted health insurance rights. The contributions are paid from the State budget by the Ministry of Justice. Inmates enjoy a simplified access to the Health Insurance Fund: they do not pay a consumer fee; general practitioners working in prisons do not suffer from shortage of referrals to specialists; in case of surgeries inmates are not required to certify blood donation. In this connection the NPM proposes that by allowing inmates to take part in the national campaigns for blood donation (by forming groups of capable blood donors), the population will be guaranteed enough blood and blood products. This would help improve the prevention of infectious diseases in prison and in general, too.

## **3. Lovech Prison**

There are two prison hostels with the Lovech Prison: Atlant and Poligon, as well as a detention facility.

### *a) Living conditions*

The main prison building in Lovech is separated in three zones: A Zone (central part of the building), B Zone (production activities) and a hospital with two wards. The NPM has established in the course of former inspections that the premises in A and B Zones are old and dilapidated. **The NPM has recommended in its previous reports that the premises be repaired and the kitchen reequipped in both the main building and Atlant Prison Hostel. In 2019, the NPM established that the recommendation had been implemented and found further a positive trend in improving the material conditions.** With a view to improving the material conditions, funds were earmarked in 2014 under the Norwegian Financial Mechanism for repair and reorganization of the psychiatric ward of the prison hospital, as well as for new

equipment of the hospital kitchen, installation of toilets and replacement of window panes. The budget estimate for these repair works was BGN 479,729.83. In 2018, the higher security zone in the main prison building was completely repaired, as well as premises where persons are placed under Article 248 EPRCA, i.e. accused persons and defendants. Atlant Prison Hostel in Troyan is completely repaired, including its kitchen. As of the time of the inspection in 2019 no repair works have been done in the Specialised Hospital for Active Treatment of Inmates.

**As regards the number of inmates placed in the main prison building, there is a sustainable downward trend.** Data available to the NPM are as follows: 2013 – 464 persons; 2014 – 446 persons; 2015 – 372 persons; 2016 – 345 persons; as of 25.04.2017 – 367 persons; by 31.12.2018 – 165 persons.

In 2019, the NPM established that the detention facility is not overcrowded. On an average annual basis, from 11 to 15 persons are placed there. It has 4 places for barred visitations and a room for barred visitations with lawyers. There is also a room for conducting interrogations by investigating police officers.

Food supplies to the Lovech Prison and Atlant PH are centralized and directly related to the amount of the planned budget funds. The average cost of food per day at 31.12.2013 for SHATPDL is BGN 3.87, for Lovech Prison – BGN 3.16, Atlant PH – BGN 2.85. The average cost of food per day at 31.12.2016 based on the average number of deprived from liberty is: for Lovech Prison – BGN 3.73 and for Atlant PH – BGN 3.55. The average cost of food per day at 31.12.2018 based on the average number of 682 inmates and 60 sick inmates in SHATPDL is BGN 5.45, for Lovech Prison – BGN 3.68, and for Atlant PH – BGN 4.57.

Food for inmates is prepared according to a recipe book in the kitchen unit of the prison and the kitchens in the prison hostels.

The prison has in place a well-supplied prison shop but its prices are overpriced, as in all places for deprivation of liberty visited by NPM, and the product range is insufficient. This precludes many of the inmates who have limited financial resources from buying different goods.

The average monthly number of working inmates in 2018 is 220, including 70 in the services sector, 134 working for companies and 82 doing volunteering.

The NPM found that in 2018 one inmate was unjustifiably retained after the period of punishment ordered by the court (held unjustifiably 3 months and 15 days due to revoked parole of 4 months of deprivation from liberty). Retention was not through the fault of the prison.

As of 2019, there are 24 inmates sentenced to life imprisonment. 18 of them are with substitution right and 6 are without substitution right.

In 2018, 136 persons on an average monthly basis acquired the right of ERP. In the same year, 66 persons were released. The number of inmates that acquired the right of substitution of their regime for less strict regime was 2,779, those that acquired the right to ERP numbered 1,633, those placed in open-type facilities numbered 590. At 31.12.2018, out of 672 inmates in total, 201 were placed in open-type facility.

In 2018, 202 persons committed 383 offences constituting disciplinary violations under Article 100 of EPRCA and disciplinary punishments were imposed on them. The most numerous penalized category is that of repeat offenders – 99 convicts were punished with 202 punishments. As regards the other part of the close-type inmates, 56 were penalized with 110 punishments. In the open-type hostels, 38 inmates were penalized with 54 punishments. Least aggressive behaviour was exhibited by accused persons and defendants, where 9 persons were penalized with 17 punishments.

For positive activities and participation in the events implemented during the year, 376 inmates received 569 rewards. The most commonly applied reward – 243 times, was the written notice of good behaviour. In 92 cases an extra food supply was offered, followed by extended visitation up to 4 hours – 66 times. The inmates who were granted home leave from 2 to 5 days numbered 16 for 2 days and 53 cases for 5 days leave. A 12-hour leave outside an open-type prison hostel was provided in 57 cases.

The programme for preparation for life in freedom covers 179 inmates in individual form of work and 37 in group form of work. Early released on parole were 66 inmates, including 39 inmates with probation measures. In this regard, the penitentiary administration of Lovech Prison was assisted by employees of the social assistance and employment offices and by NSIF. **The NPM highly appreciates the interaction among those institutions.**

The Lovech Prison has in place and operates the 12-grade Secondary School “Dimitar Mitev” with a training centre in Pleven Prison. 202 students enrolled in the academic 2018/2019 year (total with the training centres). At the time of the inspection in 2019 the students of the school within Lovech Prison and its training centres in the cities of Pleven and Belene numbered 232 inmates.

In the student groups and in Atlant PH there are groups for art amateur activities and an arts club. They are at the basis of different amateur programmes. The programmes include various performances of the participants, including **theatre projects, sketches, recitals, music and entertainment and dance programmes.** Three educational programmes are implemented in Atlant PH – horticulture, premed care, and literacy.

In addition to the individual form of work in Lovech Prison, six specialised correctional programmes are being applied. In 2018, 19 group forms of work were implemented as follows: thinking skills – 7 groups; active behaviour on the labour market – 3 groups; driving drunk – 1 group; a short-term programme for work with drug addicts – 2 programmes; anger control – 1 group; work with low intellect persons – 4 groups.

**The assessment of the NPM team is that the quantity of basic and additional programmes is diverse, but the percentage of inmates participating in them is small and the workload of the inspectors dealing with social work and correctional activities (SWCA) is high.**

As regards the use of force and restraining means in 2019, the NPM did not receive any complaints by inmates.

#### *b) Medical assistance*

The prison’s Medical Centre has been relocated from the main prison building to the Lovech Specialised Hospital for Active Treatment of People Deprived of Their Liberty (SHATPDL), which is located in the yard of the prison. **The NPM assesses this as a positive step of the prison’s administration to improve labour conditions of the medical staff and to ensure better medical care to inmates.** The MC in-patient care occupies one wing of the pulmonary diseases ward of the hospital.

The MC has one doctor and two medical auxiliaries, a janitor who is deprived of liberty. A dental practitioner is provided through RHI and the regional professional organization of dentists. The director of the prison stated certain reserves about the work of the dental practitioner and insisted before RHI and the regional professional organization of dentists to restore the dental care service by means of a mobile team from St. Pantaleymon Medical Center of Pleven.

The director of the MC announced that prevention checks are pending. **The NPM recommends to DGEP to ensure budget funds for conducting voluntary AIDS/HIV tests**

**in combination with prevention checks of the inmates of Lovech Prison.** The Regional Health Inspectorate (RHI) in Lovech has provided tests to the MC.

The medical care at Atlant PH in the city of Troyan is provided by the following staff: a doctor-intern under a contract, who works every day, and a dental practitioner under a contract, who visits the hostel every Tuesday.

During the interviews held with the inmates, there were no complaints of the health care services provided by the doctor. The main complaints were of the dental care services stemming from the impossibility some of the manipulations to be performed in the dental room of the hostel.

Lovech SHATPDL provides treatment of tuberculosis and non-specific pulmonary diseases and mental diseases to all prisoners from all prisons.

The structure of SHATPDL consists of the following separate structural units: Diagnostic-Consultative unit: Reception room and X-ray room; In-patient unit: Pulmonary Ward and Psychiatric Ward; Hospital Pharmacy; Administration Unit.

25 persons work at the hospital. 24-hour medical care is provided.

The pulmonary ward has 50 beds (incl. the MC beds). There are separate rooms for treatment of tuberculosis and rooms for non-specific pulmonary diseases. Sanitary and hygiene conditions in the ward are good. There are rooms with two beds and rooms with more beds. Every room has a separate sanitary unit, the prescriptions for antibacterial covering of the rooms have been fulfilled. There were few patients in the ward. The number of patients tends to decrease every year. In 2018, 59 patients were treated in the ward; the hospital bed occupancy is 75 days – 21 % (lower indicators than the average for the country); the average hospital stay is 64 days. The treatment process is secured with medicines and consumables. A special dietary regime is provided to people treated for tuberculosis. Patients are treated after signing their informed consent.

The staff of the ward includes the ward head; one doctor-intern without specialty; three medical auxiliaries and five nurses; two janitors who are inmates from the prison. **The NPM recommends to DGEP to arrange the specialisation of the intern at the pulmonary ward of Lovech SHATPDL.** During the preparation of this annual report, the Ombudsman was informed that the recommendation was fulfilled.

The psychiatric ward has 55 beds. There are two separate units for women and men. The ward has good sanitary and hygiene conditions. The ward was full during the inspection. Treatment is provided on the basis of informed consent. In 2018, 230 patients were treated in the ward, and the average hospital stay is 64 days. The rate of occupation is 293 days – 83.7 %. The indicators meet the average indicators of the country for in-patient psychiatric care in medical institutions.

**The NPM recommends a psychiatrist to be appointed at Lovech SHATPDL.**

#### **4. Pleven Prison**

There are two prison hostels with Pleven Prison – “Pleven” and “Vit”, and one detention facility.

##### *a) Living conditions*

As of 2019, when inmates are placed in the prison, consideration is paid to the even allocation of its capacity, observing the norm of 4 sq. m. available accommodation area per person. To this end, a daily control checklist of crowdedness is being kept. An exception from the norm is allowed in case of need for inmates placed in open-type prison hostels.

Thanks to the implemented training for “Acquisition of construction skills in practice” all bedrooms on the 1<sup>st</sup> floor in the main prison building are refreshed with painted walls, ceilings, beds, drawers, and terracotta was placed on the floor of some premises based on need.

During the practical trainings of the two groups for acquiring the profession “Builder”, specialty “Major and finishing works”, delivered from 21 November to 12 December 2018, all the other bedrooms and common premises on the 2<sup>nd</sup> and 4<sup>th</sup> floors in the main prison building were re-painted.

At the end of 2018, exterior renovation of the entire main prison building started. The renovation was carried by an external company under a contract with SEPP. At the time of the inspection in 2019, the exterior renovation was completed.

The total number of inmates as of 01.01.2019 is 382, including: convicts – 359; open-type – 130; closed-type for non-repeat offenders – 85; closed-type for repeat offenders – 136; defendants – 22; accused – 9. The main prison building accommodates 266 inmates, Pleven PH – 90, and Vit PH – 37. The inmates serving life imprisonment are 16, including 12 with the right for substitution and 4 without the right for substitution.

**At the date of the inspection in 2019, the NPM did not find overcrowdedness in the prison.**

During its previous inspections the NPM found that the detention facility in the city of Pleven does not meet the national and international standards. There was no outdoor space in it. There were no sanitary units in the premises. There was not sufficient daylight and ventilation in the premises. **After the NPM recommendation in 2015, the detention facility was relocated and the problems with the living conditions were resolved.** The capacity of the detention facility in the city of Pleven within the structure of Pleven Prison is 51 persons, with average daily occupancy rate of 36 detainees. The total number of detainees in the detention facility with Pleven Prison is 257.

**The NPM did not find overcrowdedness in the detention facility.**

Feeding of the deprived from their liberty persons is delivered in accordance with the approved nutrition tables and the established practical guidelines on their application.

One inmate is entitled to 2622 calories and those who work receive extra 517 calories in accordance with the nutrition tables of 19.03.2007, approved by the Ministry of Justice.

The menus include diversely prepared meals that ensure optimal compliance with the physiological nutrition norms in order to meet the physiological needs of inmates, ensure normal life and create conditions to preserve the health of inmates.

When compiling the main and different dietary regimes prescribed by medical professionals, the recommended intake values are taken into consideration.

For 2018, the average cost of food per day was BGN 3.72.

The approved posts for persons deprived of their liberty engaged in servicing and community supporting activities are fairly insufficient and do not allow all willing inmates to do some kind of work; only 12 % of the existing inmates hold posts. For the calendar 2018, only 453 posts were planned.

With the help and assistance of SEPP, alternatives for other types of work are being sought, by entering into contracts with external companies. For the calendar 2018, contracts were concluded with 5 companies, where 131 inmates work for different periods of time. The prison has good cooperation with Pleven Municipality which seasonally hires inmates placed at Pleven CTPH to clean and improve the area of Kaylaka Park.

As a compensation for the limited labour opportunities, the possibilities for voluntary labour under Article 80 EPRCA are extensively used. For the improvement of public facilities, maintenance and hygiene of the premises and the prison area and attaching hostels, 1572 labour

days were contributed in the calendar 2018. This activity appears to be an additional good behaviour incentive, reflecting the norms and customs in the places of detention.

The NPM found that in 2018 there was only one case of unjustifiably retained person (3 days) and the reason for that was the delayed court act. There are no isolated inmates under Article 120 of EPRCA. As regards the accused and defendants, only one person is isolated under Article 248(1) EPRCA. Two persons were placed in a separate room pursuant to Article 60(2) EPRCA

Total for 2018, there were 114 persons deprived of their liberty who had acquired the right of ERP, and all proposals for their early release were respected by the court. Inmates relocated from “close-type” facility to “open-type” facility number 25. There are no inmates whose regime is changed from the initially ordered regime by the court to a more severe one (Article 66 EPRCA). The regime of 49 inmates was changed to a less severe one.

The total number of rewards obtained by inmates in 2018 was 447, while disciplinary punishments imposed on inmates totalled 214. **Of note is the double number of rewards compared to punishments.** In its previous reports, the NPM also noted that this was due to the extremely good microclimate in the Pleven Prison and the efforts of SWCA inspectors in their work with inmates.

The programmes implemented in the prison are: “Programme for adaptation of new inmates”; “Thinking skills”; “Tolerance in prison – tolerance in life”; “Formation of skills for safe driving by inmates serving a sentence under Article 343b Criminal Code; “Short-term programme for work with drug addicts”; “Sexual abuse prevention”; “Alcoholics Anonymous” Club; “Management of finances according to God’s Word”; “Biblical educational seminar”; “Preparing for life in freedom – challenges and choices”.

The Pleven Prison maintains traditionally good relations with probation services to specify the types of probation supervision measures of inmates proposed for ERP, in accordance with the conditions of the specific settlement, as well as a system of notification of inmates on parole in the period preceding their release from prison. Monthly meetings are held with experts from the Labour Office Directorate, Social Assistance Directorate, and the monitoring commission in Pleven, at which the inmates receive current information on the services offered and get answers to their questions.

In 2010, a primary education training centre with the Secondary School “Dimitar Mitev” of Pleven Prison was set up and started operation in Lovech Prison. Every academic year is preceded by an intensive campaign for clarification, motivation and granting certificates to inmates with educational needs, aimed to enhance the level of their literacy. In the four primary grades of the training centre from 60 to 70 trainees start their education every year and in the 2017/2018 academic year there were 41 trainees.

#### *b) Medical assistance*

Medical care in the prison is provided under the National Health Insurance Fund procedure – through ex officio selection of a medical specialist with established working time: Tuesday afternoon and Wednesday morning. The staff members at the MC include one doctor and one medical auxiliary. The position of the medical auxiliary is held by a full-time nurse. A doctor works under a civil contract and his working time is: Tuesday morning and Wednesday afternoon. Two janitors who are inmates work at the MC. The MC also relies on support from the Urgent Medical Care Center which has not refused a call.

**The NPM recommends a doctor with a weekly schedule to be appointed for the activities of the MC.** It should be noted that in 2019 the NPM did not receive any complaints from inmates about the medical services in the prison. This could be attributed to the good social

work with the inmates and their work engagement, which led to minimization of unjustified complaints and the workload of medical specialists, which is typical of other prisons.

The good practice of the prison management is that chronically ill inmates who need constant medical care are proposed for ERP.

## **5. Belene Prison**

One prison hostel is operating to the prison in the town of Belene.

### *a) Living conditions*

In 2019, the NPM reported comprehensive progress in relation to its recommendations made over the years in regard to Belene Prison. Completely overhauled is the Enhanced Security Zone and the three main buildings of the prison. Repairs were going on during the inspection of the NPM. The main building is divided into two corridors with five cells in each of them. All premises are renovated, meet the requirements for 4 sq. m. space, there are separate sanitary units and enough daylight. In every corridor there is a kitchen where the inmates prepare themselves their meals.

In the beginning of 2017, a new open-type prison hostel to Belene Prison was opened. The capacity of the new building is 70 persons, with available 4 sq.m. per person, sanitary units in every cell and bathrooms. This hostel is slightly overcrowded. For example on 21.09.2017 it accommodated 95 persons, and on 11.11.2018 – 88 persons.

The NPM did not receive any complaints of use of force by wardens or of violence among inmates. There are cases of legitimately used physical force and restraining means (a brawl between inmates). After the use of physical force and restraining means, the officers drafted the required documentation and reported it to the District Prosecutor's Office in Pleven and DGEP.

During the inspection in 2017, the NPM noted that during the stay of an inmate in a hospital, he was locked in handcuffs to fixtures in the room – central heating equipment and bedspring. **During the inspection in 2019 it was found that this practice continued and the recommendation made to the director-general of DGEP and the minister of justice was not fulfilled.**

The NPM reminds again that the use of handcuffs in hospitals is in conflict with Article 114 EPRCA and constitutes exposure of sick inmates to torture, inhuman or degrading treatment. **The NPM insists the director-general of DGEP, and the minister of justice respectively, to take the required administrative measures to stop these unlawful actions in the system for deprivation of liberty or to deposit the necessary statutory amendments.**

The NPM inspected weekly menus prepared in different periods of time. The necessary quantity of food was provided and the diets of inmates suffering from different diseases were complied with.

Priorities in the work with persons deprived of their liberty and detainees by the prison administration are connected with the utilisation of their free time, at least 4-6 hours per day. To meet this objective, weekly schedules of specific social events are prepared. The focus in the correctional work with inmates covers collective penitentiary activities and specialised group work depending on the needs, deficits and resources of the offenders, paying also attention to their religious needs. Inmates are included in the practice for acquiring basic skills in stockbreeding, cooking, carpentry, construction, horticulture, gardening, etc. As a result, the

inmates master useful skills and knowledge. In 2018, modules of the “Self-support programme 2” were designed by an inmate serving a sentence in Belene Prison. The programme enables inmates to become trainers and support other inmates (repeat offenders and non-repeat offenders) based on the “peer-to-peer training” principle.

Work with all new inmates is conducted in a separate hall for group work with psychology inspector and for the purposes of the allocation commission psychological evaluations are provided in addition to initial reports. During their acceptance in a reception department, the newcomers are differentiated – the convicts are separated from detainees. The new convicts stay in the reception department about 17 days on average and during that period work is done for their adaptation to prison conditions.

A large number of the inmates participate in sports activities involving different fitness exercises. Many clubs by interest are created. The possibilities for sports activities in Belene Prison for inmates include football, volleyball, table tennis, chess, bridge, badminton. In the outdoor site for every prison group there are fitness exercise items manufactured in the prison and used by inmates to train on a daily basis. Funds have been disbursed for the purchase of sports equipment for several groups. Purchased are also sports items to be used in the setting up of a fitness hall for inmates placed in the enhanced security zone.

The condition of the computer room and the cinema hall has seriously deteriorated and the existing computer hardware is obsolete and it is impossible to upgrade it so that it can be used by inmates. For this reason these premises are not used. The prison library has a wide range of books but the available legal literature is obsolete.

**This is why the NPM recommends to the director-general of DGEP to allocate additional funds for renovation of the above premises and purchase of the required computer hardware.**

From the presented orders for imposition of disciplinary punishments since the beginning of 2019 it was found that all planned checks of bedrooms were conducted during the day (from 09:00 a.m. to 17:30 p.m.). No checks of bedrooms were made at night. Established violations involve possession of unauthorised items for use (most often mobile phones), infliction of physical and/or psychological violence, preparing mixtures for preparation of brandy, and attempts at bringing in narcotic substances. No disciplinary punishments for “work suspension” were imposed. Most of the imposed punishments are “written warning” and “isolation in a penalty cell” (from 10 to 14 days).

In 2018, the inspectorate of the Ministry of Justice conducted an inspection under Article 46 of the Administration Act. Instructions were given to increase the number of wardens in order to improve the security of Belene Prison. As evident from the maintained posts, the existing staff is fully engaged and it is practically impossible to procure the opening of a second post (posts) in the main buildings. The wardens oversee simultaneously the outdoor space and ensure order and discipline in the groups.

From October 2018, by an order of the director-general of DGEP, visitations of high-risk and life imprisoned inmates take place in building No. 6 of Belene Prison. In this regard, the security guards are far from sufficient as visitations take place in two sites. Therefore for the execution of this order two wardens need be appointed for each of the four wards and one driver of a specialised escort motor vehicle. **In this regard, the NPM recommended additional security guards and wardens to be planned for Belene Prison.**

Substantial extra work is done by ward heads due to the fact that there are only 5 positions. It is necessary to appoint one head of ward which will help reduce extra work to zero and it will make it possible to use the statutory annual leaves in the same year. Post and escort

service is carried out in accordance with the legal requirements. Security activities in the prison are conducted based on orders and approved schedules.

*b) Medical assistance*

The material base of the MC is in good condition. There is also one in-patient room in it. The sanitary and hygiene conditions for inmates in it are good. At the time of the inspection in 2019 there were 4 inmates permanently placed in it, with chronic debilitating diseases.

There is a separate dentistry room in the MC. The prison administration has purchased a dental chair and a set of dental instruments are to be purchased to make the dental room operational. A doctor in dental medicine will be provided one day a week. The NPM considers the opening of a dentistry room in the prison is due to the good work of the administration. At present, dental care for inmates is provided in a mobile dental office of MC “St. Pantaleymon” in the city of Pleven, which comes once a week.

Medical care is provided by: a general practitioner twice a week, two medical auxiliaries and a nurse. Under a contract, a psychiatrist comes to the prison twice a month. There is good collaboration with Urgency Care Medical Centre in the town of Belene. Inmates are promptly transported to the University Multi-Profile Hospital for Active Treatment in the city of Pleven. The MC is equipped with medicines and consumables. Chronically ill with medical books receive medicines in accordance with the NHIF procedure. The general practitioner has unlimited medical referrals for medical specialists and access to external medical establishments depends only the capacity for escort.

## **6. G.M. Dimitrov Blvd. and Major Vekilski Str. Detention Facilities**

The two detention facilities are within the structure of the Sofia Regional Office for Execution of Punishments. The last inspection of the detention facility on G.M. Dimitrov Blvd. was conducted in 2017. **There is a noticeable progress in regard to the unlawful use of handcuffs in the area of the detention facility when detainees are brought out from their bedrooms.**

The information about the capacity of the detention facility on G.M. Dimitrov Blvd. is about 313 persons, with 4 beds per room, but the GDEP register shows 249 persons with complied space of 4 sq.m. per person. On the day of the inspection in 2019, 264 persons were placed there, and at the end of June they numbered 289. **During previous inspections the NPM found that this detention facility was overcrowded and predicted that the trend would sustain, which is confirmed.** There were 87 detainees in the detention facility on Major Vekilski Str. while its capacity is for 80 detainees. Relocation from one detention facility to another is possible only with the authorisation of a prosecutor due to the fact that this detention facility has the status of a specialised detention facility. Obviously, the transfer of the facility to the structure of the Regional Execution of Punishments Service cannot address the problem with its overcrowdedness.

The detention facility on G.M. Dimitrov Blvd. is not only overcrowded but it has weak daylight because of the obscured windows.

A previous NPM recommendation for opening a shop in the area of the detention facility on G.M. Dimitrov Blvd. was not implemented, **and the overseeing staff members are tasked with inappropriate functions to buy and account for foodstuff purchases and supplies**, are set out in item 13 of the job description of a junior guard instructor.

**The condition of the building stock of the detention facility on Major Vekilski Str. has deteriorated, particularly the sewerage pipes.**

The detention facility needs reconstruction of the windows and overhaul to ensure normal daylight. Due to the existing overcrowdedness in the two detention facilities such an overhaul cannot be conducted without using the territory of Sofia Prison, which will result in further overcrowdedness of Sofia Prison.

As regards the correspondence of detainees, GDEP issued Order No. JI-2037 of 28 November 2018, setting out the procedure for filing applications and complaints. It expressly states that answers to the letters submitted to the administration will be given against signature. Despite the existing rules for document turnover, record keeping and archiving activities, the Ministry of Justice requires control over the incoming and outgoing correspondence “in the interest of security, in order to prevent commitment of crimes”. The content of item 3 of the order precludes the submission of an application or complaint in a sealed envelope. If the detainees want to know the incoming number, they must file a separate request. Sealed letters in the form of correspondence are allowed under item 6. While the outgoing correspondence is sealed before an official, there is no requirement in item 7 for the received correspondence to be opened before an official. The secrecy of correspondence is violated in view of the effective regulatory framework and the above-mentioned order.

GDEP Order No. JI-2036 of 28 November 2018 issued pursuant to item 59 of GDEP Order No. JI-4102/06.10.2016 regulates telephone conversations of detainees. In accordance with this order, telephone conversations are made during their stay in the outdoor area. At the same time, the outdoor area is not equipped with telephone sets and a detainee has to choose whether to use the outdoor area or a telephone. During a telephone conversation an official compares the dialled number against the number stated by the detainee and must stay at a distance of 5-6 m from the detainee during the conversation. Item 8, however, states that “the nature and content of telephone conversations of detainees may not put at risk or violate the security and order in the detention facility”. Item 9 provides for interruption of a telephone conversation if the procedure for making it is violated.

**GDEP Order No. JI-1969 of 15 November 2018 regulates visitations with lawyers, attorneys and non-marital partners. In the view of NPM, this order infringes the rights of the lawyers as it does not stipulate the right to visitation at any time. The procedure for delivery of written materials in case of barred visitations is not regulated.**

Two doctors, a dental practitioner and two nurses take care of the detainees at the detention facilities on G.M. Dimitrov Blvd. and on Major Vekilski Str. At least once a month medical specialists make on-site visits: a neurologist, a cardiologist and a dermatologist. For consultation/treatment by other medical specialists, detainees are brought out from the detention facility based on a referral by a detention facility doctor after authorisation from the prosecutor’s office, which does not always respond on a timely basis. Consultations/treatment in external medical institutions at the request of lawyers to the prosecutor’s office are increasing in frequency. Such detainees usually do not report having health problems or do not submit medical documents at the initial medical examination in the detention facilities. Their lawyers refer directly to the prosecutor’s office, stating concrete medical institutions, which **is defined by the NPM as poor practice.**

The inspection of access to medical care in the detention facilities showed that there is a schedule of making examinations of detainees. In 2019, no cases of difficult access to external medical institutions during consultations/treatment of detainees were reported to the NPM. There are single cases of difficulties with the provision of specialised medical assistance due to delayed authorisation of the prosecutor’s office or inability to provide escort.

The inspection of documents on the health status of a detainee from reception till leaving the detention facility shows that all the information had been duly recorded in the required medical records. The NPM considers that a uniform information system of electronic health

records of inmates and detainees in the penitentiary system should be implemented. The check in the Traumatic Injuries Register shows no recorded injuries of detainees caused by wardens and guards of the detention facility.

## **7. Vidin Detention Facility**

During previous inspections of the detention facility in the city of Vidin, the NPM found that the premises lacked heating and sanitary units. Maybe this is the only detention facility in Bulgaria where one side of the building is used for detainees, and the other part is used for office premises. A design for the reorganisation of the detention facility has been prepared.

By a letter of 28.05.2008 Vidin Municipality wrote to the minister of regional development, the minister of justice and the minister of interior with the question which institution was competent to grant authorisation for the reorganisation of the detention facility due to absent deed of state ownership. During the transfer of detention facilities from National Investigation Service to the Ministry of Justice, partition protocols were drawn up under § 74 of the Transitional Provisions of the Judicial System Act but no deeds of state ownership for the buildings of the Ministry of Interior (MoI) were issued. For this reason and in view of the redundant need in 2006, by a decision of the Council of Ministers the buildings were returned from MoJ to MoI without the necessary deeds and sketches.

In the specific case of this detention facility, when there were available budgeted funds for reorganisatioin there was no consent by MoI. Later on there was consent by MoI but there were no budgeted funds for MoJ. Obviously this problem could compromise any Investment Programme under which a detention facility of MoJ is located in a building of MoI.

The GDEP has granted official capacity to this detention facility in compliance with the required 4 sq. m. for 23 persons. In practice the facility supports 31 beds. This is required to meet the need of beds in peak loads as in August 2018 when there were 38 detainees. Given the location of the detention facility, many foreigners were detained and their maximum number was 14. At the time of the visit in 2019, there were 26 detainees, i.e. the facility was overcrowded.

**The NPM recommends relocation of the detention facility.**

**The NPM reports considerable setbacks in detention facilities located outside prison areas.** Where such detention facilities are concerned, GDEP always refers to the lack of capital expenditure. The NPM again reminds that the lack of financial resources is no justification for violation of fundamental human rights and freedoms. **The NPM recommends to the Director General of the DG Execution of Punishments to prepare a programme for the development of detention facilities and propose it to the Minister of Justice for deposition to the Council of Ministers with a view to earmarking the required budgetary funds in the draft state budget for the next years**

## **8. Kardzhali Detention Facility**

The detention facility in the city of Kardzhali is located in the building of Kardzhali Regional Directorate of MoI. The detention facility has 10 rooms with 2 beds each, 1 room with one bed and 1 room for walk. The area of the small room is 4.96 sq. m. and 8.68 sq. m. of the other rooms. There is no direct daylight, no sanitary units and no outdoor area in the detention facility. On the day of the visit there were three detainees in the facility and the peak load according to a report provided by the GDEP to the NPM is seven detainees. The problem with the lack of daylight is partially resolved with installed bars in the living rooms. Regardless of the differences in the architecture as compared to other detention facilities, this one is well maintained and kept in good repair.

The government's programme for the places of deprivation of liberty envisaged:

1. Reorganisation and reconstruction of the existing building stock in the investigation detention facility with deadline 30 April 2009 in the amount of BGN 200,000, with a source of funding from the 2009 budget.

2. Reorganisation and reconstruction of the existing building stock in the investigation detention facility – transition project with deadline 30 November 2010 in the amount of BGN 400,000, with a source of funding from the 2010 budget. Designing was commissioned and 50 % of the amount was to be paid in advance in 2007. Also, the designing had to be completed within 45 days from commissioning.

**As of 2019, the planned measures for the detention facility in the city of Kardzhali have not been implemented yet.**

The NPM found that the medical office is not operational. The medical auxiliary was released from his job. According to data of the head of Kardzhali Regional Service for Execution of Punishments, a medical specialist will be appointed. At present the medical care services for detainees are performed by the Urgent Medical Care Centre in the city of Kardzhali. There are no detainees with chronic diseases and on maintenance therapy. The sanitary and hygiene conditions are good, and the feeding is provided through catering with an option for dietary menu.

## **9. Smolyan Detention Facility**

The detention facility in the city of Smolyan is located in the same building with Smolyan Prison Hostel to Plovdiv Prison. The capacity of the detention facility is 21 persons. There are 7 cells with three beds each. On the floor of the detention facility there are 2 rooms for visitations, a bathroom, a room for interrogations and a medical office. **The NPM assessed the material and living conditions in the detention facility as good.**

The NPM received official information that the detention facility is to be closed in 2020 and persons on the territory of Smolyan Region will be detained in the detention facility in the city of Plovdiv. **The NPM considers the idea inappropriate for two reasons.** First, Smolyan Region is specific due to its weather conditions, particularly in the winter season. This would make the transportation of detainees extremely difficult. Second, Smolyan Judicial Region covers not only the three courts in the city of Smolyan (regional, district and administrative) but also four more regional courts (Devin, Zlatograd, Madan, Chepelare). Bringing detainees to each of these courts would be extremely difficult, time consuming and costly.

A doctor is hired under a civil contract by the detention facility and he only comes on call. At the same time, at the MC of Smolyan PH, which is located in the same building, there is a doctor with fixed working time who also provides medical care to the detainees in the detention facility (8 persons per annum on average), and this is quite natural for two units of one institution located in one and the same building. For dental care, detainees are brought in the city of Smolyan.

From the medical documents presented to the NPM it has become clear that the detention facility has been keeping a Register of Traumatic Injuries since 2016. Only one case is registered in 2019. At the time of the inspection there were 3 detainees in the facility. In the interviews conducted, they did not complain of the medical care and mistreatment by wardens and guards. The sanitary and hygiene conditions in the detention facility are good.

**The NPM recommends a medical specialist to be appointed there.**

## FACILITIES FOR PLACEMENT OF DETAINEES WITHIN THE STRUCTURES OF THE MINISTRY OF INTERIOR

- **The condition of the system for 24-hour detention in the police department remained unsatisfactory in 2019. Recurring problems pertaining to overcrowdedness, poor material and living conditions, lack of service spaces, lack of access to ventilation and natural light still persist.**

In 2019, the NPM inspected all premises for detainees within the structures of Sofia Metropolitan Directorate of Interior (SMDI) (9 sites).

The NPM found recurring weaknesses in the system for 24-hour detention: overcrowdedness, lack of service spaces, lack of access to ventilation and natural light, missing information about the rights of detainees.

The NPM inspection found that **the material and living conditions in the inspected regional departments** (except for 01 and 07 Regional Departments of SMDI) **fail to comply with and do not meet the requirements set out in Instruction No. 81213-78 of 24 January 2015 on the procedure for detention, equipment of the premises for placement of detainees and the internal order within the Ministry of Interior** (hereinafter referred to as the Instruction). Most detention premises have poor hygiene, are not well maintained and are equipped with beds, a table and a chair (02, 03, 08 Regional Departments of SMDI). Extremely bad are the conditions in the premises for detention of men in 04 and 05 Regional Departments of SMDI, where wooden beds and benches are installed instead of beds.

Another finding of the NPM concerns **the insufficient number of existing premises** and equipment for accommodation of detainees in terms of overcrowdedness of the regional department (e.g. 04 and 05 Regional Departments of SMDI).

**Access to ventilation and natural light** is not provided at the required level (e.g. 02, 03, 04, 05, 08 Regional Departments of SMDI). The NPM found premises for detention in 04 and 05 Regional Departments of SMDI with no access to natural light, which is a serious violation of the rights of detainees. Therefore, the NPM recommends these premises to be immediately closed. In addition, the premises for detention of women and minors in 05 Regional Departments of SMDI is in close proximity and directly visible to a reception room for citizens allowing for a degrading treatment of detainees. There is no central heating in the facility for detention of men in 05 Regional Department of SMDI although it is located on the ground floor of the building and the exterior space around the building is not cleaned which seriously inhibits access of daylight.

Some of the premises in 04 and 05 of Regional Departments of SMDI do not meet the requirements of Article 58 of the Instruction for minimum space of 4 sq. m. per detainee.

The insufficient number of beds allows for the degrading treatment of detainees. When the capacity of the premises is full, detainees are fixed with handcuffs to benches, and in some cases four detainees use three beds (05 and 06 Regional Departments of SMDI).

**The premises for detention of minors do not meet the provisions of Article 73 of the Instruction, either.** In most regional departments they are the same as those provided for detention of men (e.g. 02, 03, 08 Regional Departments of SMDI). The premises are not appropriate for the intended purpose, they do not have mattings and alarm buttons. In 05 Regional Department of SMDI there is one room for detention of women and minors. A room for protective custody is separated in 09 Regional Department of SMDI.

In all inspected regional departments but 07 and 09 Regional Departments of SMDI detainees use one common sanitary unit. In 07 Regional Department of SMDI there is a sanitary unit in every room and the conditions can be defined as very good.

In regard to other service rooms a finding can be made that they are available in most of the inspected sites. An exception to this is 04 Regional Department of SMDI, in which the room for visitation and meeting with a lawyer is also used for receiving detainees and for handling detention documentation. A positive example is the service room in 07 Regional Department of SMDI.

The NPM found that detainees continued to be fed with dry food (croissants) and water. Often the practice is for relatives of detainees to buy them food. During the conversations with detainees, the NPM did not receive any complaints of the provided food.

**Medical care** for detainees is carried out by the Urgent Medical Care Center (UMCC) in the city of Sofia, which makes on-site visits on call. If additional tests or consultations are needed, the detainee is transported to a medical establishment. Medical examinations and visits to UMCC are recorded in the detention book. In some regional departments separate journals are kept of the medical services provided (07 and 09 Regional Departments of SMDI). Good organisation of work is created between Sofia UMCC and Sofia Regional Department of MoI and no refused visits on call were found. During the conversations with detainees in the inspected regional departments, the NPM did not receive any complaints of refused medical care.

The NPM found that detainees **get information about their fundamental rights** upon detention, in accordance with the Instruction, through the orders for detention and declarations. When random checks of orders, protocols of search and declarations were conducted, it was found that they have the necessary requisites. The NPM received individual complaints by detainees of not having been informed about their rights and that the declaration had been formally provided thereto and they could not complete it at peace and express their true will.

An internal order regulation and an updated list of lawyers on duty, maintained and provided by the Bar Council, were displayed on a visible place in the inspected regional departments. During the conversations with detainees, the NPM did not receive any complaints of their inability to inform their relatives of being detained and of infringement of the right of access to a lawyer. The NPM talked to minor detainees who stated that they had been able to inform their parents immediately after detention.

## **PROTECTION OF ASYLUM SEEKERS**

**- Efforts should be used to eliminate the language barrier between medical staff and foreigners at SCTAF to ensure proper diagnosis of their health condition and treatment.**

**- Accommodating unaccompanied foreign children at SCTAF should be discontinued.**

**- The NPM found that action has been taken to amend and substitute the Rules on the Conditions for Admission and the Internal Order in the closed-type facilities of the State Agency for Refugees with the Council of Ministers in accordance with the recommendations made by NPM in 2018. The Ombudsman's recommendations in regard**

**to ensuring minimum living space for every person, statutory regulating the time for stay in open air and meetings with a lawyer outside the preliminary regulated time slots in case of emergencies have been implemented.**

**- A working institute of legal representation of unaccompanied children should be established, specific criteria should be put in place for the officials acting as legal representatives, and additional training must be ensured for these officials.**

### **1. Places for temporary accommodation of foreigners with the Ministry of Interior – Specialised Centre for Temporary Accommodation of Foreigners (SCTAF) in the city of Sofia**

In 2019, the NPM inspected the Specialised Centre for Temporary Accommodation of Foreigners (SCTAF) in the city of Sofia. With capacity of 400 persons, 109 persons were accommodated in SCTAF Sofia, mainly foreigners from Afghanistan, Pakistan and Syria.

In pursuance of the recommendations made in 2018, the NPM reports that the administration of the centre **has taken a number of actions to repair and renovate the material base** (sanitary and sleeping premises). Despite the unoccupied capacity in the center, the NPM found that the private space provided to foreigners was not enough yet, including for families with children.

A positive development is the separation of a children's room and improvements made in the outdoor sports ground for adults. The premises designated for watching TV have been repaired, too.

During the interviews held with the accommodated foreigners, they shared a problem regarding the impossibility to use the sanitary units at night. The NPM did not receive any complaints of mistreatment or violence by the staff of the centre.

**The NPM did not find any improvement in the medical assistance provided to the accommodated foreigners.** It is rendered in a medical service with the centre and in the Medical Institute of MoI. The medical service provides initial medical check at reception, primary medical care during the period of stay and a medical check on leaving the centre. Specialised medical and dental care and medical diagnostic tests of the foreigners are provided in the Medical Institute of MoI.

The NPM reports compliance with the recommendation made in 2018 for the medical service staffing. 24-hour medical care for the foreigners is ensured and it is rendered by a doctor, three medical auxiliaries and a nurse.

The NPM notes as a major problem of the medical services to the foreigners the language barrier (insufficient number of interpreters), which creates difficulties and weaknesses in establishing the health status of the persons.

#### *Unaccompanied children – foreigners:*

A recurrent recommendation of the NPM contained in all annual reports concerns compliance, pursuant to Article 44(9) of the Foreigners in Bulgaria Act, with the prohibition of forced placement of minors in the Homes for Temporary Accommodation of Foreigners with the Migration Directorate. In the course of the inspection of the Home for Temporary Accommodation of Foreigners in Sofia in 2019, the NPM again established cases of children included in the orders imposing coercive administrative measures on adult foreigners under the Foreigners in the Republic of Bulgaria Act, where the children did not know the adults nor was there any relationship between them. The NPM saw judicial acts of Sofia Administrative Court

related to accommodation of unaccompanied children in the Sofia Centre for Temporary Accommodation of Foreigners (e.g. Order No. 6445 of Sofia Administrative Court of 29.08.2019). The case-law assumes that after the administrative body has found and accepted as established that the asylum seeker is a minor, the court should consider and apply the rules set out in Article 44(9) of the Foreigners in the Republic of Bulgaria Act and Article 15 of the Child Protection Act. In these cases the body that has issued the order for the coercive administrative measure must notify the respective Social Assistance Directorate for taking a protection measure in accordance with the Child Protection Act. Incompliance with this imperative rule infringes materially the right of protection of the minor.

Also, the court upholds the view that assigning adults to unaccompanied minors should not be arbitrary but the facts and circumstances should be examined in full on a case-by-case basis when a child seeking protection is concerned. A similar recommendation was made by the NPM, highlighting the need of early identification of the cases of unaccompanied foreign children in order to avoid arbitrary detention. The court also notes that the administrative body should have gathered evidence from which it can be indisputably established that the specified accompanying person is a parent of the unaccompanied child applying for protection or another adult person who is responsible for the child by law or custom.

Although the accommodation of unaccompanied foreign children persists, the NPM notes that specific actions were taken by amending the Implementing Rules of the Foreigners in the Republic of Bulgaria Act (Chapter Two “b” Proceedings against Unaccompanied Foreign Children) aimed to regulate the relationships of the bodies of Migration Directorate and Social Assistance Directorate in regard to cases of unaccompanied foreign children.

## **2. Registration and Reception Centre in Sofia of the State Agency for Refugees with the Council of Ministers**

In 2019, the NPM conducted inspections of the Registration and Reception Centre (RAC) in the city of Sofia, International Protection Proceedings (IPP) departments in Ovcha Kupel, Vrazhdebna and Voenna rampa neighbourhoods and in closed-type premises (CTP) in Busmantsi neighbourhood with IPP Vrazhdebna.

The NPM found a considerable decrease of the number of applicants for international protection. According to the official statistics of the State Agency for Refugees with the Council of Ministers, in the period 01.01-31.12.2019 the total number of persons seeking protection was 2,152, mainly from Afghanistan, Pakistan, Syria and Iraq.

**The inspection of the material base in IPP Voenna rampa and IPP Vrazhdebna identified considerable improvement of living conditions.** The sleeping and sanitary rooms in the centre in Voenna rampa had been renovated. An overhaul of the bathrooms and sanitary units had been carried out in Vrazhdebna. Action should be taken in IPP Ovcha Kupel for repair of the material base.

There were 5 persons accommodated in the CTP in Busmantsi neighbourhood within IPP Vrazhdebna, whose capacity is 30 places. Every applicant for international protection is accommodated in a separate room. The current situation shows compliance of the State Agency for Refugees with the Council of Ministers with the NPM recommendation made in 2018 for elimination of overcrowdedness and provision of private space to all accommodated persons.

The NPM did not establish any improvement of the medical care rendered to the foreigners seeking international protection. The three centres have healthcare offices with assigned medical doctors. The healthcare offices are equipped with medicines and consumables for their operations. The NPM found that entry into force of actual health insurance rights for the persons in these centres continue to be delayed up to one month although Article 34(1)(3)

of the Health Insurance Act stipulates that they should be in force from the date of opening the proceedings for granting a refugee status or a right of asylum.

In practice, although the persons seeking international protection are insured for health purposes and are able to select a general practitioner, they prefer to seek primary medical care and medicines through the healthcare offices of the centres.

For specialised medical care the persons are accompanied to medical specialists by NGO assistants or seek medical services from doctors speaking their language. No problems were found with the treatment of persons seeking international protection in hospitals. Of special note are the children accommodated in the centres, who are visited by representatives of Sofia Regional Health Inspectorate for annual vaccinations.

The NPM held interviews with different categories of persons seeking international protection – men and families – on the quality of medical services. They stated to the NPM they had had no problems and were satisfied with the medical care rendered.

**The NPM established that action had been taken to amend and substitute the Rules on the Conditions for Admission and the Internal Order in the closed-type facilities of SAR with CoMs in accordance with the recommendations made by NPM in 2018.**

According to the amendments to the above Rules approved by the Chairperson of SAR on 19 April 2019, the Ombudsman's recommendation for ensuring minimum living space for every person accommodated in closed-type premises in Busmantsi neighbourhood were implemented.

Another Ombudsman's recommendation in the capacity as NPM pertains to statutory regulation of the time for stay in the open air. The present wording of Article 13(1)(5) of the Rules stipulates that foreigners accommodated in closed-type premises are entitled to no less than one hour access to open air spaces. The NPM welcomes the action taken and recommends SAR to ensure other activities so as to engage the time of foreigners.

In addition, a change was made in relation to preliminary meetings of foreigners with a lawyer. After the NPM recommendation, an express wording was included on the possibility for a meeting with a lawyer to be conducted outside the preliminary regulated time slots in case of emergencies.

In relation to the recommendation for the List of authorised items to be set out in a public legal instrument, it should be noted that the List was included as an integral part of the Rules.

A new text was created, Article 20 of the Rules, stating expressly that the Ombudsman is entitled to access to closed-type premises at any time, without the need of prior notification.

As regards the recommendation to properly arrange the medical care in CTP in Busmantsi, the NPM was informed that a cooperation agreement was concluded between SAR and the Ministry of Interior to that end, by virtue of which doctors from SCTAF in Busmantsi render primary out-patient care to the persons accommodated in the CTP in Busmantsi.

In regard to the NPM recommendation for building video surveillance in all centres of SAR with CoMs, it was found that the existing system was updated and upgraded.

*Unaccompanied children seeking or granted protection:*

Monitoring the rights of unaccompanied minors seeking or granted protection is a major focus of the work of the NPM. For 2019, the NPM notes down an improvement of the care provided by the public institutions to unaccompanied minors.

The total number of unaccompanied children in the three inspected centres of the State Agency for Refugees with the Council of Ministers is 60.

The non-governmental sector works actively on different projects for social adaptation of children refugees in Bulgaria. Psychological assistance is provided to every child who needs it. In addition, the children study Bulgarian history, the traditions and customs of the country. Sports events are held every month in SAR centres and contests of children's drawings are often organised.

The main recommendation of the Ombudsman acting as NPM, namely establishing a separate centre for unaccompanied minors with the State Agency for Refugees with the Council of Ministers, has been partially implemented by setting up "safe zones" in the Reception and Admission Centres in Sofia (in Voenna rampa and Ovcha kupel neighbourhoods).

In May 2019, the first safe zone was opened in IPP Voenna rampa with capacity for 100 children. In October 40 children were accommodated there. The safe zone was renovated and has controlled access in place, fully meeting the children's needs. The children placed in the safe zone receive educational, medical and psychological support.

**A major problem with the unaccompanied children refugees is the assignment of their legal representative.** Pursuant to Article 25 of the Law on Asylum and Refugees, this is an obligation of the mayors of municipalities in which the reception centres are located in Bulgaria. The NPM established the ongoing practice of one legal representative to be responsible for many children while holding another position in the respective municipality. In this regard, the NPM reiterates the recommendation made in the thematic report for 2016<sup>1</sup> on establishing a working institute of legal representation of unaccompanied minors, setting in place criteria for the officials acting as legal representatives, and delivering additional training to these officials.

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<sup>1</sup>The report is available on:

<https://www.ombudsman.bg/pictures/Doklad%20nepridrujeni%20detca,%20bejantci.pdf>

## PROTECTION OF PEOPLE WITH MENTAL ILLNESSES

**-There is a need of a comprehensive in-depth reform of the psychiatric care.**

**-The NPM recommends to the Minister of Health to specify a reasonable period for the adoption of the National Strategy for Mental Health 2020 – 2030 and the Action Plan to it.**

**-The NPM recommends to the Minister of Health to improve the health care in the psychiatric hospitals, to provide funds to state psychiatric hospitals for repair works and maintenance and good material conditions.**

**-Guarantee decent payment for medical and non-medical staff and ensure adequate staffing.**

**-The NPM recommends to the Minister of Labour and Social Policy to expand the social services for people with mental illnesses in accordance with the demands in society and terminate the practice of long stays in the state psychiatric hospitals.**

The NPM conducted annual inspections of state psychiatric hospitals (SPHs) and mental health centres (MHCs) in the country. A major focus in the inspections was placed on respecting the rights of the people subject to compulsory treatment under Article 155 of the Health Act and involuntary treatment under Article 89 of the Criminal Code. They are placed mainly in SPHs and MHCs and based on their data they comprise about 30 % of treated patients for the year.

The NPM would like to point out that the Strategy for Mental Health 2020 – 2030 and the Action Plan to it have not been adopted yet. This impedes the reform of the system for the provision of psychiatric care since the National Strategy envisages improving the material conditions, training of specialists, information campaigns, psychosocial rehabilitation, social assistance etc.

**In this connection the NPM recommends to the Minister of Health to specify a reasonable period for the adoption of the National Strategy for Mental Health 2020 – 2030 and the Action Plan to it.**

In 2019, the NPM conducted four inspections of health establishments (Karlukovo SPH, Kardzhali SPH, Plovdiv MHC and Sofia region MHC).

Functioning in the country are 12 State Psychiatric Hospitals; 12 Mental Health Centres; 5 psychiatric clinics at university hospitals and 17 psychiatric wards at multi-profile hospitals. The total annual costs for mental care account for some 3 % of the budget of the Ministry of Health (MoH). According to data from the 2018 the European Psychiatric Association Report 2018 on Bulgaria, as of 2015 the number of psychiatrists is very low (7.4 per 100,000 population) which is less than half the European average of 18.5.

## State Psychiatric Hospitals

### *a) Funding and human resources*

**The NPM found once again serious differences in the funding and remuneration of medical specialists at SPHs and MHCs.** MHCs are funded in accordance with the Methodology for subsidies for MoH medical establishments based on treated patients, whereas state psychiatric hospitals are funded on the basis of historical budget.

The NPM should note that since 2018 there has been an increase in the Salary Fund of all hospitals. In Karlukovo SPH the salary of nurses starts from BGN 940, for janitors from BGN 625, and for doctors from BGN 1,200.

On the other hand, **the financial resources for capital expenditure at hospitals do not cover the requests submitted to the MoH.** Such an example is Kardzhali SPH where the director requested in 2019 financial resources for “Partial repair of internal sewerage, a new external drainage and supporting walls for the maintenance of the site” but no such funds were granted. The medical establishment applied for funding under the “Beautiful Bulgaria” Project 2020 but in order for the project to be implemented, it needs co-funding from the ministry in the amount of 50% of the funds. In this regard, the NPM made recommendation to the MoH to co-finance Kardzhali SPH.

The average cost of food per day in 2018 for Kardzhali SPH is BGN 2.05 and for Karlukovo SPH is BGN 1.92, which is little below the average for the country for that type of establishments (BGN 2.51). In Kardzhali SPH, the average cost of medicines per day in 2018 is BGN 0.97, which is below the average for the country for that type of establishments (BGN 1.66). In this connection the NPM considers that **the budget of the Maintenance Fund for the state psychiatric hospitals should be increased.**

For a consecutive year the NPM found chronic deficiency of medical and non-medical specialists in the outpatient mental care medical establishments, which affects the quality of medical services. To cover the 24-hour doctor schedules, doctors under contracts are used. The inspections in 2019 showed that Kardzhali SPH has 4 vacant doctor positions and doctors from Kardzhali EMCC are used to ensure the 24-hour medical doctor care. In Karlukovo SPH there are two vacant positions: for a doctor head of ward and for master pharmacist.

### *b) Location and facilities*

In most cases **SPHs are located outside settlements, isolated, with bad road infrastructure**, which is in conflict with the requirement of the Psychiatry medical standard (Karlukovo SPH, State Psychiatric Hospital in Karvuna, Balchik Municipality, Novi Iskar SPH).

Few of the state psychiatric hospitals are located in cities with possibilities for provision of integrated medical and social services. Such is the case of Kardzhali SPH which is located in the city of Kardzhali and in proximity with the Multi-Profile Hospital for Active Treatment “Atanas Dyakovski”, which has a binding contract for joint medical services. Another good example is Pazardzhik SPH which is in close proximity with Pazardzhik Multi-Profile Hospital for Active Treatment.

**In 2019, the NPM again established unsatisfactory conditions in the facilities of the state psychiatric hospitals**, which do not meet the modern requirements for medical establishment. During the inspection of Karlukovo SPH it was found that three of the wards are located in an old and dilapidated three-storey building. Access to it is by means of stairs which are unstable and do not have any handrails to support the patients and staff. The NPM recommends an urgent repair of the entrance stairs of the hospital building and installation of

handrails. A positive development is the partial repair of the joinery and the common sanitary units. In previous years, the Ombudsman made recommendations to the MoH to grant funds for the upgrade of the facilities of the hospitals. It is important to note that capex and energy efficiency funds were granted to most of the hospitals but these are only partial improvements and they cannot address the need of building modern hospitals for psychiatric care.

Another recommendation made by the NPM refers to ensuring the required space for patients in hospital rooms in compliance with Ordinance No. 49 on the main requirements for the structure, activities and internal order of inpatient medical establishments and centres for medical and social care.

During the inspections in 2019 of Kardzhali SPH (capacity of 320 hospital beds in seven wards) and Karlukovo SPH (capacity of 175 hospital beds in five wards), the NPM found that the patients were placed in rooms with 6 and more beds, which deprived them from their privacy. In several wards in Karlukovo SPH the patients did not have bed sheets and slept on mattresses.

The NPM should note that two of the wards in Karlukovo SPH are located in a new building with rooms with 4 beds. The patients have cupboards for personal belongings and the living conditions are good.

#### *c) Healthcare. Protection and security for patients*

The inspected state psychiatric hospitals do not meet the Psychiatry medical standard approved by Ordinance No. 24/2004 of MoH, which establishes the quality of medical care in terms of material and technical conditions and staff.

**The treatment and diagnostic process in the isolated hospitals is hampered and healthcare is unsatisfactory.** For example, for paraclinic tests and consultations with medical specialists the patients of Karlukovo SPH are transported by ambulance (old automobile) to MPHAT Lukovit. The treatment and diagnostic process is conducted only after signing informed consent by a patient or a guardian or a trustee in cases of incapacitated persons.

Karlukovo SPH has established a good practice of placement of incapacitated persons without a guardian, with the court sending a copy of the court judgment to Lukovit Municipality for timely appointment of an official guardian of the patient.

**The psychosocial rehabilitation at state psychiatric hospitals remains unsatisfactory.** The NPM found that during the day the patients are not sufficiently engaged in programmes and activities. In the psychiatric hospitals inspected in 2019, most patients were moving around aimlessly, lying or watching TV. **The NPM has repeatedly recommended that an ordinance on labour therapy should be developed as part of the psychosocial rehabilitation of mentally ill people.**

**During the inspections, the NPM found that the status of patients was deteriorating and the staff members were put under extra pressure when patients subject to compulsory treatment were brought to regional courts in accordance with the Health Act. There are good practices, mainly in mental health centres, where the judge conducts on-site court sittings in the medical establishment.**

#### *d) Continuity of care and deinstitutionalization of psychiatric help*

This year the NPM again identified cases in which the relatives of patients do not want to take care of them and refuse to take the patients from the state psychiatric hospitals. This makes it impossible to discharge a patient and the period of treatment has to be extended. In these cases the state psychiatric hospital does not deliver treatment to a person with acute psychotic disorder but in practice provides a social service. 40 persons live permanently in

Karlukovo SPH and 30 persons in Kardzhali SPH. The NPM believes that it is extremely important to work for bringing out this group of patients from their isolation and provide them community-based health and social care.

In consideration of the aforementioned, the NPM again notes that a priority in the governmental mental health policy should be the successful deinstitutionalization of mentally ill people and their socialization. **The NPM makes annual recommendation to the Ministry of Labour and Social Policy (MLSP) to establish new social services to meet the needs of the population and to improve the interaction between MoH and MLSP in the field of mental health.**

### **Mental Health Centres**

In 2019, the NPM made two unannounced on-site visits to Plovdiv MHC and Sofia region MHC in regard to accidents that had occurred there, having exposed to risk the life and health of patients.

On 28 March 2019 a fire broke out in the Men's ward for active treatment of persons with severe mental disorders in Plovdiv MHC in one of the patient rooms. Three patients died and one staff member was admitted to hospital. The other patients from this ward, numbering 20 persons, according to the prosecutor's office data, were evacuated. The patients who died had Paranoid Schizophrenia and were placed under strict protective regime. After the fire, anti-fire smoke detectors are to be installed in the patient rooms of all wards.

The NPM considers it necessary to note that in 2016 there was a fire in the Psychiatric Clinic of University Multi-Profile Hospital for Active Treatment "St. Marina" in the city of Varna and in 2015 there was a fire in the Psychiatric and Neurological Clinics of Alexandrovska Hospital.

This indicates the higher risk of fire in medical establishments for psychiatric care due to the nature of the patients' diseases, despite the securities measures enforced therein. The NPM considers that the security measures, in this case anti-fire measures, should be extended in the medical establishments for mental care across the country and defines the initiative of Plovdiv MHC for installing anti-fire smoke detectors as good practice that should be applied in other medical establishments for mental care. All the more, given the fact that many state psychiatric hospitals are located in remote places, far from the cities, with bad road infrastructure and understaffed. In this connection the NPM made recommendations to the Minister of Health to stipulate the requirement for installation of anti-fire smoke detectors as a criterion for the quality of the medical care in order to improve the security of mentally ill patients in inpatient medical establishments for psychiatric care. The other recommendation is to the manager of Plovdiv MHC who should improve the control over the care for patients and the organisation of the workflow in Plovdiv MHC.

The NPM visited Sofia region MHC in relation to a fire that broke out on 31 December 2019, which destroyed the administrative building of the centre and the roof of the adjacent Sofia Regional Specialised Hospital for Active Treatment of Pneumatic Lung Diseases. The inpatient unit of the MHC was not affected, but all patients were relocated to other medical establishments. The operation of the MHC was temporarily suspended. It should be noted that the inpatient unit of the MHC comprises old and dilapidated ground premises (sheds), with very poor sanitary and hygiene conditions for patients, which is inadmissible for modern requirements to a medical establishment. In this regard, back in 2017 the NPM made a recommendation to the MoH to relocate Sofia region MHC to an empty hospital building which is situated in the same yard space. The recommendation was not implemented. The NPM considers that after the burning of the administrative building of Sofia region MHC the MoH

should take immediate action to relocate Sofia region MHC in order to ensure normal hygiene and living conditions for patients.

In conclusion, **the NPM believes that a comprehensive policy in the field of mental health is necessary so as to allow an integrated approach toward mental diseases and development of the system for care and support of people suffering from mental disorders and their relatives.**

## RESIDENTIAL SOCIAL CARE FOR CHILDREN AND ADULTS

- **Placing children and adults from a family environment in an institution should be a last resort protection measure. The NPM recommends to the Ministry of Health and the Ministry of Labour and Social Policy to propose an integrated approach for support of the relatives of children and adults at risk of being abandoned.**
- **Conduct an expert assessment of the process of deinstitutionalization and the need of additional social services in the community such as daily centres for children and adults with disabilities, public support centres etc., and ensure sufficient numbers of personal assistants.**
- **Regular and effective control by the competent institutions over the providers of social services for children and adults.**
- **Improve the material conditions in the residential social services for children and adults, avoid overcrowdedness and ensure adequate premises in easily accessible locations.**
- **It is necessary to adopt clear criteria and medical standards for admitting people in residential social services for adults, as well as a requirement for regular update of the persons' health condition prior to their admission.**
- **Invest in education, training and decent remuneration for specialized staff in residential social services.**
- **Reduce the period of stay of children in residential social services.**
- **It is necessary to increase the remuneration of employees working in the field of social services for children and adults.**
- **Prevention of dementia through early diagnosis and professional care to extend patient's life expectancy.**

Over the recent years the main recommendation of the NPM in relation to the inspected residential social services for children and adults is the lack of qualified staff to take adequate care of those accommodated there.

The budget for 2020 for state delegated social activities in the municipalities for current expenses amounts to BGN 290.9 million, an increase by BGN 30 million on the funds allocated for 2019. Allocated are funds for increasing the cost of staff by 10 %.

The standards have been increased on a differentiated basis: for specialised institutions providing social services by 10 %; for social services provided in the community the average increase of the standards is 14 %. The biggest increase of 20% received standards for family-type accommodation centres for children/adolescents with disabilities who need constant medical care. The standards for protected homes for people with disabilities and for family-type accommodation centres for children/adolescents with disabilities were increased by 15 and those for day centres for children and/or full age children with disabilities were raised by 10 %.

Despite this, the actual increase of the remuneration of the qualified staff is less than 10 %. An example can be given with the pedagogues, nurses and social workers working in residential social services in Lovech Municipality, whose remuneration increased from BGN 630 to BGN 650, which is close to the amount of the minimum wage in the country (for 2020 the minimum wage is BGN 610). The salaries of unqualified staff are linked to the increase of the minimum wage. Thus in practice the salaries of qualified and unqualified staff are almost equal.

This leads to lack of motivation, high staff turnover and in some places to deterioration of the quality of the residential services provided.

The NPM has repeatedly stated that the main factor for the provision of a quality social service is the human factor. Taking care of children and adults accommodated in institutions and services in the community is a difficult and responsible task which is entrusted to employees who work with them on a daily basis. That is why these employees should be supported by the government and municipalities.

## **Residential social services for children**

In 2019, the NPM inspected residential social services in Lovech Municipality. Four institutions were visited.

### **1. Family-type placement centres for children and adolescents without disabilities (FTPCCAWD) “Lale” and “Zdravets” in Lovech**

The family-type placement centres for children and adolescents without disabilities “Lale” and “Zdravets” are residential community-based social services which provide an environment close to the family one to children and adolescents aged from 3 to 18. The capacity of FTPCCAWD “Lale” is 12 children and the capacity of “Zdravets” is 10 children and at the date of the inspection the capacity was used to the fullest.

The centres are located in old buildings. The facilities are dilapidated, the children use five toilets and two bathrooms. The laminate in the premises is old and needs replacement, the walls in all premises need painting, and the exterior façade of FTACCAWD “Lale” needs repair, too. The managers of the social service have repeatedly submitted requests for repair to the provider, the Mayor of Lovech Municipality, but as of the date of the inspection no funds had been allocated.

The children attend different schools in the city of Lovech – Vocational Secondary School of Veterinary Medicine, Vocational Secondary School of Economics, Trade and Services. Also, the children use social services in the community – the Centre for Community Support, whenever necessary.

Annually the social service users are subject to medical and dental examinations. Two of the children suffer from epilepsy and have regular checks by a neurologist.

The managers of the Centres are highly qualified and undergo periodic trainings for work with children. The NPM was informed of the individual positions at the Centres and established that there was no vacancies. In 2019, the employees underwent trainings for work with aggressive children. Group and individual supervision is conducted on a quarterly basis. The main problem identified during the NPM inspections of these social institutions for children is the low pay of the staff. Although the NPM recommended the salaries of all employees to be increased, in 2020 the caregivers will receive minimum wages: BGN 650 for the social worker, BGN 680 for the pedagogue, and BGN 650 for the nurse.

The NPM checked the weekly menu of the children and found that it is diverse and complies with the requirements of Standard 9 to Appendix No. 3 of Article 48 of the Ordinance on the criteria and standards for social services for children.

Of all placed children, only one is recorded in the register for adoption. Two of the children have stayed in the home for more than 11 years. The NPM has repeatedly stated that the long stay of children at institutions directly infringes their rights. This causes not only psychological traumas to children but also deprives them of the possibility to be in family environment. In this connection the NPM calls upon the Child Protection Department with the Social Assistance Directorate in Lovech to prepare and submit to the Ombudsman a report on every child placed in the family-type placement centres for children and adolescents without disabilities “Lale” and “Zdravets” in the city of Lovech, stating what measures have been already taken and what measures need be taken to shorten the stay of the children in the Centres.

The NPM was informed of the action plans for all placed children. It is stated there that the objective of the action plan is reintegration in family environment. Based on data from the heads of the centres, there has not been any reintegration of children for more than five years. The Child Protection departments point out to poor material conditions and lack of parental capacity as the reasons for no reintegration.

In November 2019, the action plans of three children from “Zdravets” Centre were changed – from “family reintegration” to “meeting their needs in the social service”. This measure completely precludes the possibility of these children to be placed in a family environment. The NPM calls upon the Child Protection Department with the Social Assistance Directorate in Lovech to give opinion on the reason for setting such a long-term objective for the stay of three children in the centre.

Pursuant to Article 7 of the Charter of Fundamental Rights of the European Union and Article 8 of the European Convention on Human Rights, every child has the right to respect for his family life.

In this regard the NPM reiterates that it is high time for the public institutions to establish an individual family approach as a sustainable practice, namely to support families socially, economically and psychologically in the raising of their children rather than place children in social services.

The NPM recalls that according to the law of the Council of Europe, Member States have repeatedly been sentenced in relation to violation of Article 8 of the Convention<sup>2</sup>. The ECtHR has established that the basic reason for placing children in children’s homes has been the lack of adequate housing, thus to improve their situation less drastic measures should have been applied. This is a violation of Article 8 ECHR. Reviewing other cases, the ECtHR has further questioned the adequacy of the evidence that substantiated the national authorities’ findings. Although the reasons for taking the children outside their families which the public institutions pointed out as relevant, they were insufficient to justify such a serious interference in the applicants’ family life. This is why the Court found a violation of Article 8 ECHR.

During the interviews, the children shared with the NPM that they had not had for years organised summer vacation at the seaside and would like to have such a vacation in 2020. The NPM recommends the provider of the social service, the Mayor of Lovech Municipality, to take measures for increasing the salaries of all employees of all family-type placement centers for children and adults and those working at protected homes. Also, to organise regular trainings and qualification courses for the employees of the family-type placement centers for children and adults and those working at protected homes, and to carry out repairs in the Centres “Lale” and “Zdravets”.

## **2. Family-type placement centres for children and adolescents with disabilities (FTPCCAD) “Nadezhda” and “Lubov” in Lovech**

The family-type placement centres for children and adolescents with disabilities are community-based social services of residential type, which provide an environment close to the family one to children and adolescents aged 3 to 29 years.

The buildings of the Centres were built in 2015 and meet fully the needs of the children. The premises are large and modernly furnished. The capacity of the social services is for 14 children. In FTPCCAD “Nadezhda” there were 7 children and 3 adolescents and in FTPCCAD “Lyubov” there were 9 children and 3 adolescents. Some of the children attend a school for children with special needs. In addition, they all use community-based social services – Day Care Centre for Children with Disabilities, Centre for Social Rehabilitation and Integration,

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<sup>2</sup>The cases Valova & Valla v. the Czech Republic; Savini v. Ukraine

Centre for Community Support in Lovech. The users of the social services undergo annual medical and dental examinations. They have not concluded a contract with a psychiatrist.

The NPM was informed of the individual positions at the Centres, and at the date of the inspections there were no vacancies. The qualified staff consists of social workers and a nurse. The main problem found during the inspections by the NPM in these social institutions for children is the lack of qualified staff that should take adequate care of the children placed in the Centres.

The NPM was provided with statements of ascertainment from inspections conducted by the State Agency for Child Protection in the Family-Type Placement Centre for Children and Adolescents with Disabilities “Nadezhda”, which show many violations by the director and the employees. One of the caregivers inflicted psychological harassment against a child, another case describes a child leaving the centre without the consent of the employees on duty and after a signal from a woman the child was brought back. The statement also notes a case of two children who were unaccompanied and one of them was moving in a wheelchair. The provider of the social service failed to comply with standard 17 and standard 21 of Appendix No. 3 to Article 48 of the Ordinance on the criteria and standards for social services for children: the provider of the service shall ensure conditions for building relations based on mutual respect and understanding between the children and the staff, and the provider of the service shall carefully recruit the staff and volunteers working with the children at the institution or in the residential services. The NPM found that the psychosocial climate at FTPCCAD “Nadezhda” was not good. The NPM held an interview with the manager, which revealed existing conflicts between the employees and named one of them as the informal leader. The manager cannot control and organise the activities of the centres.

In consideration of the foregoing, the Ombudsman acting as NPM recommended to the Mayor of Lovech Municipality to examine immediately, with the support of external consultants, the professional and moral qualities of the employees and the manager in the two institutions; to exercise stricter control over the manager in the execution of his duties; to require monthly reports from the manager on recorded incidents carried out by the staff against children; as well as to set clear criteria for the moral and ethical qualities of employees.

### **Residential social services for adults**

In 2019, the NPM carried out inspections of residential social institutions of the old type (homes) and of community-based residential social services opened as part of the process of deinstitutionalization (family-type placement centres and protected homes) for adults with mental disorders, mental retardation and dementia.

The NPM needs to note once again that the main problem of the residential social institutions of the old type is the fact that very often these homes are located outside settlements, with bad road and communication infrastructure. This inhibits access to specialists. In single cases, the homes are located in cities with available options for provision of integrated social and health services.

In its annual reports the NPM has repeatedly made the negative finding that some settlements do not have foresee relocation of the residential care services to the community. Instead, the material conditions of the old institutions are being reorganised to become protected homes and centres for placement of family type. In practice, this leads to placing the new services in the same building or in the yard of the respective residential service of the old type.

The opinion of the NPM is that it is absolutely inadmissible to open social institutions and services in remote places, in which there is no appropriate infrastructure and recruitment of qualified staff is difficult.

In most of the inspected institutions the material and technical facilities are obsolete and dilapidated. In some places there is no accessible environment for people with disabilities. The lack of access infringes fundamental human rights and the dignity of the people with disabilities. Maintenance of inaccessible architectural environment is considered discrimination within the meaning of Article 5 of the Anti-Discrimination Act.

Another finding of the NPM that causes concern is that very few people from those placed in residential social institutions use community-based services, which may be a reason for potential difficulties with their relocation to new social services and their future inclusion in the community. This circumstance is in conflict with the Common European Guidelines on the Transition from Institutional to Community-based Care.

An example of such findings is the second inspection conducted by the NPM of the Home for Adults with Dementia (HAD) in the village of Gorsko Kosovo, Suhindol Municipality.

During the inspection and after conversations held with people placed in the institution, the NPM found systemic neglect by the employees. During the previous inspection of that home in 2013 the NPM made recommendations to the Ministry of Labour and Social Policy and to the Mayor of Suhindol Municipality to improve the provided care but most of these recommendations were not implemented.

In 2019 until the date of the inspection (9 December 2019), there were 24 death cases in the home; at the end of 2019 they are 28 in total, and the capacity of the home is 60 persons (men and women). The NPM considers that the rate of death incidence is high, even in view of the nature of their diseases, and it is possible to be due to the poor quality of the provided service.

During the inspection, there were 57 persons placed there, and many people were confined to bed, most of them in a state of cachexia and restrained. The NPM found a case of recently placed person with bedsores, which had not been treated for 4 days because the nurse was absent.

All persons placed in the Home have general practitioner but the NPM found that on admission of new persons the general practitioner did not get familiar with the health status of the patients. The recipes for the medicines from NHIF were prescribed afterwards, based on data obtained from the nurse. Doctors from the Medical Centre in the city of Pavlikeni visit the home twice a month.

The NPM recommends that when persons are admitted to HAD, the doctor should promptly assess their health status and if they have leading diseases that require specialised medical assistance and care that cannot be provided in the home, the doctor should refer them to the respective medical establishment.

The NPM established bad sanitary and living conditions of the persons placed in the Home and insufficient space in the rooms as compared to the number of persons, which leads to lack of privacy. The Home has two sanitary units and one shower. The corridor of the bedrooms is separated from the administrative part by a door which is locked. In a conversation with the director of HAD, he stated that the corridor and the door to the yard are locked during most of the day.

The people placed in the Home do not use any community-based social services and in practice they spent most of their time in their rooms. Even their meals are organised on tables set in the corridor in front of the sleeping rooms. There is a canteen which is on the floor below the sleeping rooms, but without access to people with disabilities and it is not used by them. In this connection the NPM considers that the measures taken are not sufficient to prepare the persons for reintegration in the community.

In this regard the NPM should note the adverse judgments by the ECtHR against Bulgaria for violation of Article 3 of the Convention for the Protection of Human Rights and

Fundamental Freedoms, the case *Stanev v. Bulgaria* (judgment of 17.01.2012). Although the case concerns a person placed in a home for people with mental disorders, the findings and conclusions of the court apply also to the homes for people with dementia. Mr Stanev who was placed under partial judicial disability, was placed against his will in a residential social service in the village of Pastra. After a visit to the service, representatives of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment with the Council of Europe considered that the conditions in the home amounted to inhuman and degrading treatment towards the people placed there, including deplorable living conditions and lack of food for a long period of time. The court holds that the Bulgarian State was aware of the deplorable conditions in that service but did not take any action to close it. The judgment states that the lack of financial resources cannot be an excuse for placing people in that service.

As a result of the inspections conducted in that home, the Ombudsman acting as NPM, believes that not only the people placed there are badly and degradingly treated, but their fundamental human rights were infringed:

1. Right to private space – there are from three to seven beds in the bedrooms, separated by a narrow aisle between them. There is a bedroom without any cupboard for personal belongings due to lack of space in the room.

2. Possibility to maintain personal hygiene – there is only one shower and two toilets in a home with the capacity for 60 persons.

3. Right to free movement – the bedrooms are separated from the administrative offices by a corridor and a door, which is locked. Persons who are moving independently go outside in the yard rarely and only accompanied by a staff member. Meals are organized at tables placed in the corridor in front of the bedrooms. There is a canteen, which is one floor below but it is not accessible for people with disabilities and thus it is not used by the people placed in the Home.

4. Right to contacts with relatives – the Home is located in the village of Gorsko Kosovo, which is difficult to access with public transport. In a complaint to the Ombudsman it is pointed out that the relatives of a deceased person were refused information over the telephone (20 July 2019), and the nurse behaved rudely (4 August 2019).

5. Right to professional medical care – there is 24/7 supervision by a medical staff member in the Home but it is not efficient. A neurologist and dermatologist are appointed part-time to fill in the medical doctor F.T.E. One rehabilitation therapist is appointed with a civil contract.

Nevertheless, during the inspection the NPM team established that many people were confined to bed, most of them in a state of cachexia and restrained. There was a person placed recently in the Home who had bedsores (decubitus ulcers) that had not been treated for four days due to the nurse's absence. The general practitioner did not visit the people in the Home and had no direct observations about their health condition, while at the same time he was prescribing medication according to data obtained from the nurse.

6. Right to specialised care and social activities – there are two F.T.E.s for social workers in a home with the capacity to accommodate 60 persons, which is extremely insufficient for any professional care to be provided. There is no F.T.E. for a psychologist or labour therapist to assist the placed persons' adaptation to living in a home. There is no space designated for labour therapy or group sessions to add meaning to the patients' daily lives. The patients do not receive any social services in the community and in practice spend the better part of their time in their rooms.

7. Right to safety – there used to be alarm bells above the beds in the past but during the inspection few were working. This undermines the people's safety and prevents timely reaction by the staff.

In addition to the aforementioned, the administration of the Ombudsman received complaints by citizens regarding insufficient care and degrading treatment of their relatives placed in that Home.

The NPM defines the above described circumstances as degrading treatment of the persons placed there, which is inadmissible for the provision of social care to adults with dementia, and believes that it is essential to adopt clear criteria and medical standards for the provision of such social services.

In the light of the above, the NPM recommended to the Minister of Labour and Social Policy to take urgent measures to reduce the capacity of the institution in order to ensure sufficient privacy and sanitary units to users. Also, a comprehensive inspection of the Home had to be conducted by the Inspectorate of the Social Assistance Agency (SAS).

In regard to the complaints received from citizens, the Ombudsman acting as NPM referred to the Prosecutor General signals about violations of the rights of persons placed in the Home for Adults with Dementia in the village of Gorsko Kosovo, Suhindol Municipality, with a view to preventing degrading treatment and ensuring decent living conditions. The NPM considers that there is a direct violation of Article 16(1) of the Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, namely: “Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment”.

In a response by SAS, the findings of the NPM of the bad living conditions in the Home for Adults with Dementia in the village of Gorsko Kosovo were confirmed. As from 8 January 2020, by an order of the Social Assistance Agency, placement in this social service was discontinued. A survey will be conducted of the desire of the users of the service to be relocated to other specialised institutions for people with dementia and the capacity of the social service will be reduced to 30 persons. Given the bad living conditions, the SAS will propose this home to be included in the second Action Plan for implementation of the National Strategy for Long-Term Care for closing and for building centres for care of the people placed there and bringing out all users.

As a result, the case received wide media coverage and strong response from representatives of the civil society. The Ombudsman acting as NPM held meetings with many representatives of non-governmental organisations and specialists in dementia who shared their views on the mechanisms for improving the system of residential social services for adults. Prevention of dementia through early diagnosis and professional care would further help extend the patients’ life expectancy.

The NPM recommends to the Ministry of Health and the Ministry of Labour and Social Policy to apply a strategic approach (e.g. a National Plan for Prevention, Early Diagnosis and Care for People with Dementia) to start a reform in relation to the people suffering from dementia.

On the other hand, as examples of good practice, the NPM should note the Family-Type Centres for Placement and Protected Homes for Adults with Mental Disorders, Mental Retardation and Dementia in the city of Lovech. During the inspection of these residential community-based social services it was found that the services provided there were of very good quality, in an environment close to the family environment. Despite the recommendations made by the NPM for some of the services, mainly for improving the material conditions, in general the finding is about a very good level of the provided care. Their managers and teams

of qualified and unqualified staff undergo regular trainings, courses for qualification and supervision.

## **NPM INTERACTION WITH INTERNATIONAL AND NATIONAL BODIES. PARTICIPATION IN CONFERENCES.**

In 2019, the Ombudsman acting as NPM actively participated as a member in the South-East Europe Network of National Preventive Mechanisms. Representatives of NPM took part in the meetings of the network members on the subject “NPM Policies on Supervision Measures” (June 2019) and “Special Needs of Children in Places of Detention” (October 2019). Other forums in which experts from NPM took part were the meeting of the Network of Ombudspersons for Children in South East Europe on the subject “Migration and Children” (October 2019) and the Second Regional Meeting of the European Network of Ombudspersons (December 2019).

In the beginning of November 2019, an expert of NPM attended the training for European observers on forced return, which was delivered in the framework of the FReM III project and was organised by the International Centre for Migration Policy Development.

Along with the participation in international forums, NPM experts participated in many meetings, round tables and conferences at national level, organised by public authorities and non-governmental organisations, regarding problems with: the places of deprivation of liberty, persons seeking international protection, migrants and other issues directly related to the NPM activities.