

Report

**to the Bulgarian Government
on the visit to Bulgaria
carried out by the European Committee
for the Prevention of Torture and Inhuman or
Degrading Treatment or Punishment (CPT)**

from 13 to 20 February 2015

The Bulgarian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2015) 37.

Strasbourg, 12 November 2015

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Copy of the letter transmitting the CPT's report

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Co-operation and Assistance in Civil Matters
Directorate of International Legal Co-operation
and European Affairs
Ministry of Justice
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1040 Sofia, Bulgaria

Strasbourg, 20 July 2015

Dear Ms Doycheva,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Bulgarian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Bulgaria from 13 to 20 February 2015. The report was adopted by the CPT at its 87th meeting, held from 29 June to 3 July 2015.

The various recommendations, comments and requests for information formulated by the CPT are highlighted in bold in the body of the report. As regards more particularly the Committee's recommendations, having regard to Article 10, paragraph 1, of the Convention, the CPT requests the Bulgarian authorities to provide within three months a response giving a full account of action taken to implement them.

The Committee trusts that it will also be possible for the Bulgarian authorities to provide, in the above-mentioned response, reactions to the comments formulated in this report as well as replies to the requests for information made. The CPT would ask, in the event of the response being forwarded in the Bulgarian language, that it be accompanied by an English or French translation.

I am at your entire disposal if you have any questions concerning either the Committee's visit report or the future procedure.

Yours sincerely,

Mykola Gnatovskyy
President of the European Committee for the Prevention
of Torture and Inhuman or Degrading Treatment or Punishment

cc: Ms Krassimira Beshkova, Ambassador, Permanent Representative of Bulgaria
to the Council of Europe

Ms Mariela Yaneva, Senior Expert, Ministry of Justice, Sofia

EXECUTIVE SUMMARY

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has carried out nine visits to Bulgaria since 1995. Major shortcomings have been identified during these visits, especially as concerns the police and penitentiary establishments, and repeated recommendations have been made concerning these two areas.

Regrettably, the vast majority of the Committee's long-standing recommendations remained unimplemented. Consequently, the CPT has decided, in the course of its 84th plenary meeting in July 2014, to set in motion the procedure provided for in Article 10, paragraph 2, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention").¹ The 2015 visit was an opportunity for the CPT to gauge the commitment of the Bulgarian authorities to implement its recommendations and to review, in particular, the treatment and detention conditions of persons held at investigation detention facilities and prisons.

The degree of co-operation received during the visit from the Bulgarian authorities was good. However, a number of inmates interviewed were clearly afraid to speak with the delegation and those who did speak feared possible reprisals for having done so. The Committee wishes to stress that any retaliatory action against a detained person for seeking to communicate or for having communicated with the CPT would be one of the most serious failures of co-operation under Article 3 of the Convention.

Establishments under the authority of the Ministry of the Interior

The rising number of allegations of deliberate physical ill-treatment of persons detained by the police leads the CPT to conclude that men and women (including juveniles) in the custody of the police continue to run a significant risk of being ill-treated, both at the time of apprehension and during subsequent questioning.

Very little progress, if any, has been made as regards guaranteeing the practical implementation of the legal safeguards against police ill-treatment. The vast majority of persons interviewed by the delegation stated that they had not received information about their rights after being detained by the police, had not been able to notify a third party of their custody and had not benefited from the presence and the services of a lawyer from the very outset of their deprivation of liberty.

Furthermore, the delegation received a number of allegations that medical examination of persons in police custody was limited to a few general questions; no physical inspection took place, the injuries were usually not recorded and the examination itself was often performed in the presence of police officers, with detainees usually being handcuffed.

The CPT reiterates its recommendations that the Bulgarian authorities take the necessary steps to ensure that legal provisions guaranteeing the safeguards against ill-treatment are applied in practice. Furthermore, the Committee recommends ensuring that medical examination of detained persons and recording of injuries respect the principle of medical confidentiality.

¹ "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter".

Establishments under the authority of the Ministry of Justice²

Despite the efforts of the Bulgarian authorities to further reduce overcrowding, it still remained a problematic issue for the prisons and closed-type prison hostels. Furthermore, there was still no progress as regards the construction or renovation of the prison estate that would allow for the capacity of the penitentiary system to be expanded. Consequently, the CPT reiterates its recommendation that the Bulgarian authorities further pursue their efforts to develop the policy to increase the resort to non-custodial measures and alternatives to custodial sentences.

Corruption remained endemic in the Bulgarian prison system and the vast majority of prisoners interviewed claimed that they were asked to pay custodial, administrative, and/or medical staff for many services provided for by the law or for being granted various privileges. The CPT calls upon the Bulgarian authorities to strengthen their efforts to combat corruption in the prison system through prevention, education and the application of appropriate sanctions.

Many allegations of deliberate physical ill-treatment (usually consisting of slaps, punches, kicks and truncheon blows) were again heard at Investigation detention facility located on G.M. Dimitrov Boulevard (hereafter – Sofia IDF), Sofia and Burgas prisons and, at Varna Prison, the delegation was flooded with such allegations. The CPT once again urges the Bulgarian authorities to take exhaustive measures at the highest political level to ensure that there is “zero tolerance” of ill-treatment in all penitentiary establishments in Bulgaria.

Furthermore, at Sofia IDF the delegation heard allegations that, following incidents with the custodial staff, prisoners had not been examined by a doctor. The CPT recommends that the Bulgarian authorities take steps to ensure that all prisoners are properly medically screened following a violent episode within prison and that such examination is accurately recorded.

Further, the CPT recommends that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment or inter-prisoner violence, the record is immediately brought to the attention of the relevant authority and a preliminary investigation is initiated.

Inter-prisoner violence remained widespread at Sofia and Burgas prisons, and frequent episodes of such violence were also reported at Varna Prison. It appeared to occur as a form of punishment of fellow prisoners who were caught stealing from other inmates or to be racially motivated (primarily against Roma prisoners). The CPT once again calls upon the Bulgarian authorities to take resolute action to tackle the phenomenon of inter-prisoner violence in Bulgarian prisons.

As regards material conditions of detention, Sofia IDF was still undergoing refurbishment at the time of the visit and one of the floors was not used for accommodating detainees. The cells on the other floors were too small for their intended occupancy, poorly lit and ventilated. Material conditions in all the three prisons visited demonstrated an ever-worsening advanced state of dilapidation and insalubrity. The CPT recommends that the Bulgarian authorities take immediately all the necessary measures to ensure adequate standards of accommodation in penitentiary establishments.

² The CPT’s delegation visited the following places of deprivation of liberty under the authority of the Ministry of Justice: Investigation detention facility located on G.M. Dimitrov Boulevard (hereafter – Sofia IDF), as well as Sofia, Varna and Burgas Prisons.

Nothing had been done to implement a long-standing recommendation of the CPT as regards the development of a proper regime of activities for persons held in investigation detention facilities - the vast majority of persons held in Sofia IDF spent at least 23 hours a day locked up inside their cells with no organised activities. Possibilities for purposeful activities in Sofia, Varna and Burgas prisons were also very limited and the majority of prisoners just roamed the corridors or stayed in their cells watching TV or playing board games with other inmates. The CPT urges the Bulgarian authorities to intensify their efforts to develop the programme of activities for both sentenced and remand prisoners, notably as regards work, educational and vocational activities.

The accessibility and quality of the medical services in all the prisons visited (and the IDF in Sofia) were as poor as they had been in the past. The staffing situation rendered the provision of health care virtually impossible. The CPT calls upon the Bulgarian authorities to take urgent steps to reinforce the health-care resources at Sofia IDF and Sofia, Varna and Burgas prisons. More generally, the CPT invites the Bulgarian authorities to develop a comprehensive long-term strategy for the provision of health care in the penitentiary system.

Furthermore, medical confidentiality was still not respected as requests for medical consultations were filtered by custodial staff; non-medical staff, as well as prisoner orderlies, had access to inmates' medical files and the distribution of the medication was carried out by custodial staff.

Medical examination upon admission hardly ever took place within 24 hours after the inmates' arrival, and was limited to a few general questions. Moreover, it was often carried out in the cells, in the presence of staff and other prisoners. The quality of medical recording of injuries had even worsened and keeping of the register on traumatic injuries had been altogether discontinued at Sofia and Burgas prisons shortly after the CPT's 2014 visit.

Finally, the CPT is concerned to observe that the disciplinary punishment can lead to a solitary confinement for months on end. The CPT recommends that the Bulgarian authorities take measures to ensure that no prisoner is placed in conditions akin to solitary confinement as a disciplinary punishment for a period in excess of 14 days and that sequential disciplinary sentences do not result in an uninterrupted period of solitary confinement in excess of this maximum period. Furthermore, in case of a disciplinary confinement for a total of more than 14 days in relation to two or more offences, there should be an interruption of several days in the disciplinary confinement at the 14-day stage.

I. INTRODUCTION

A. Dates and context of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT visited Bulgaria from 13 to 20 February 2015.³ The visit was one which appeared to the CPT “to be required in the circumstances” (cf. Article 7, paragraph 1, of the Convention).

2. In the report on the 2014 visit, the CPT expressed serious concern about the fact that the vast majority of the Committee’s long-standing recommendations, some of them dating back to the very first periodic visit to Bulgaria in 1995, remained unimplemented. These included recommendations on ill-treatment (both in the police and prison context), inter-prisoner violence, prison overcrowding, material conditions of detention in investigation detention facilities (IDFs) and prisons, prison health-care and staffing levels, as well as discipline, segregation and contact with the outside world. Consequently, the CPT has decided, in the course of its 84th plenary meeting in July 2014, to set in motion the procedure provided for in Article 10, paragraph 2, of the Convention.⁴

Regrettably, the responses of the Bulgarian authorities to the report on the CPT’s 2014 visit (and to the letter by which the Committee informed the authorities of opening the procedure set out in Article 10, paragraph 2, of the Convention) have not alleviated the Committee’s concerns. Once again, too many of the CPT’s recommendations were left either unanswered or the responses did not address the fundamental concerns raised in the report. The Committee considered that it was important to undertake a further visit to examine whether any progress had been made towards implementing its recommendations before considering what action to take in respect of the pending Article 10, paragraph 2, procedure. The 2015 visit was therefore an opportunity for the CPT to gauge the commitment of the Bulgarian authorities to implement its long-standing recommendations and to review, in particular, the treatment and detention conditions of persons held at investigation detention facilities and prisons.

3. The visit was carried out by the following members of the CPT:

- Mykola GNATOVSKYY, 2nd Vice-President of the CPT (Head of delegation)
- Dan DERMENGIU
- George TUGUSHI.

³ The CPT has previously carried out six periodic visits (1995, 1999, 2002, 2006, 2010 and 2014) and three ad hoc visits (2003, 2008 and 2012) to Bulgaria. The reports on these visits and the responses of the Bulgarian authorities are available on the Committee’s website (<http://www.cpt.coe.int>).

⁴ “If the Party fails to co-operate or refuses to improve the situation in the light of the Committee’s recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter”.

They were supported by Isabelle SERVOZ-GALLUCCI and Dalia ŽUKAUSKIENĖ from the CPT's Secretariat, and assisted by:

- Iliana ATANASSOVA (interpreter)
- Vera GEORGIEVA (interpreter)
- David IEROHAM (interpreter).

B. Establishments visited

4. The delegation visited the following places of deprivation of liberty under the authority of the Ministry of Justice: Investigation detention facility located on G.M. Dimitrov Boulevard (hereafter – Sofia IDF), as well as Sofia, Varna and Burgas Prisons.

C. Consultations held by the delegation and co-operation encountered

5. In the course of the visit, the CPT's delegation held talks with the Deputy Minister of Justice, Mr Andrey YANKULOV, the Deputy Minister of the Interior, Mr Philip GOUNEV, the General Director of the General Directorate of Execution of Sanctions (GDIN), Mr Rosen ZHELYAZKOV, and other senior officials from these two Ministries. Further, it met the Director of the National Preventive Mechanism, Mr Lyubomir KRILCHEV. The delegation also met with the Bulgarian Helsinki Committee and the Bulgarian Prisoners' Rehabilitation Association.

6. The degree of co-operation received during the visit from the Bulgarian authorities was good. The delegation had rapid access to the establishments it wished to visit, to the documentation it wanted to consult and to individuals with whom the delegation members wished to talk. In particular, the delegation would like to thank the CPT liaison officer, Ms Elena DOYCHEVA from the Ministry of Justice, for the assistance provided both before and during the visit.

However, a number of inmates interviewed at Varna and Burgas prisons were clearly afraid to speak with the delegation and some of them who did speak stated that they feared possible reprisals for having done so. In this regard, the Committee wishes to stress once again that intimidation or retaliatory action against a detained person for seeking to communicate or for having communicated with the CPT would without any doubt be one of the most serious failures of co-operation under Article 3 of the Convention.

7. As repeatedly stated by the CPT in the past, the principle of co-operation set out in the Convention is not limited to steps taken to facilitate the task of visiting delegations. It also requires that recommendations made by the Committee are effectively implemented in practice.

In this respect, the CPT is extremely concerned by the fact that the vast majority of the Committee's long-standing recommendations remain unimplemented or only partially implemented. In some cases, due to the lack of decisive action and the reduction of resources made available, the CPT's delegation has observed a continuing deterioration in the situation, as compared with the facts found during the 2010, 2012 and 2014 visits.

8. In the light of the facts found during the 2015 visit, a public statement concerning Bulgaria was issued on 26 March 2015.⁵ The Committee's aim in making this public statement was to motivate and assist the Bulgarian authorities, and in particular the Ministries of the Interior and Justice, to take decisive action in line with the fundamental values to which Bulgaria, as a member state of the Council of Europe and the European Union, has subscribed. In furtherance of its mandate, the Committee is fully committed to continuing its dialogue with the Bulgarian authorities to this end.

9. Furthermore, as regards the response of the Bulgarian Government to the report of the CPT on its 2014 visit to Bulgaria, the Committee wishes to emphasise that visits and subsequent visit reports represent the tools for initiating and maintaining a dialogue with a State Party on matters which appear to the Committee to be of primary importance in preventing any form of torture or inhuman or degrading treatment or punishment. Consequently, it is essential for the national authorities to ensure that the responses provided in respect of a visit report address the issues raised in a concrete and comprehensive manner.

D. National Preventive Mechanism

10. The Committee has repeatedly stressed that the inspection of places of detention by an independent authority can make an important contribution towards the prevention of ill-treatment of detained persons and, more generally, help to ensure satisfactory conditions of detention.

At the time of the 2015 visit, the only independent outside monitoring body authorised to carry out visits to places of detention was the National Preventive Mechanism (NPM) which, as the delegation was informed at the outset of the visit, was facing a reduced budget in comparison with the previous year⁶, and was thus only able to carry out a limited number of visits. The delegation also noted that the NPM-related tasks were carried out by the staff members of the Ombudsman's Office who continued to perform other duties such as dealing with complaints. In this connection, reference might be made to paragraph 11 of the Guidelines on national preventive mechanisms adopted by the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) in November 2010,⁷ according to which: "The necessary resources should be provided to permit the effective operation of the NPM".

The CPT invites the Bulgarian authorities to comply with the SPT guidelines, in particular by ensuring that the National Preventive Mechanism is allocated sufficient resources (both human and financial) to permit its effective functioning.

⁵ The text of the public statement concerning Bulgaria can be found at:
<http://www.cpt.coe.int/documents/bgr/2015-03-26-eng.htm>

⁶ The delegation noted that in 2012 the budget of the Ombudsman's Office had been increased by approximately 180 000 euro in order to fulfil the NPM functions but the budget for 2014 had been reduced by almost the same amount.

⁷ UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), Document CAT/OP/12/5 of 9 December 2010.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Establishments under the authority of the Ministry of the Interior

1. Preliminary remarks

11. The legal framework governing police custody was described in the 2014 visit report.⁸ It remained basically unchanged except for one new legal act – on 24 January 2015, Instruction on the procedure of detention of persons at the Ministry of the Interior, equipment of the detention facilities and the order in them (Instruction) entered into force. Relevant articles of the Instruction will be discussed below.

12. According to the Bulgarian legislation, a person (including a criminal suspect) may be detained by the police on their own authority for a maximum of 24 hours. Further, a prosecutor may order the detention for up to 72 hours of an accused person with a view to bringing him/her before the court. However, the delegation received even more allegations than during the 2014 visit,⁹ that persons had been held in different district police directorates for successive 24-hour periods prior to being detained by a prosecutor's order.

The CPT calls upon the Bulgarian authorities to ensure that the detention of persons by the police is always carried out in conformity with the legislative provisions.

2. Ill-treatment

13. In the course of the 2015 visit, the delegation received a significant number of allegations of deliberate physical ill-treatment of persons detained by the police; the number of such allegations had not decreased since the 2014 visit but was even on the rise in Sofia and Burgas. The alleged ill-treatment generally consisted of slaps, punches and kicks, as well as blows with truncheons to various parts of the body, in some cases while being handcuffed. In a few cases, the delegation gathered medical evidence consistent with allegations.

A number of detained persons also gave accounts of psychological pressure put on them in order to make them confess to a crime, in the form of verbal abuse, threats of being physically ill-treated or of possible reprisals for family members.

The CPT concludes that men and women (including juveniles) in the custody of the police continue to run a significant risk of being ill-treated, both at the time of apprehension and during subsequent questioning.

⁸ See paragraph 11 of CPT/Inf (2015) 12.

⁹ See paragraph 12 of CPT/Inf (2015) 12.

14. During the 2014 visit, the Bulgarian authorities informed the CPT's delegation about the measures taken to combat ill-treatment by the police.¹⁰ However, the findings of the delegation during the 2015 visit show that more action is required, *inter alia* through training and promoting a culture where it is regarded as unprofessional – and unsafe from a career path standpoint – to work and associate with colleagues who have resort to ill-treatment, and where it is considered as correct and professionally rewarding to belong to a team which abstains from such acts.

The CPT calls upon the Bulgarian authorities to incentivise police officers to report ill-treatment by colleagues; there must be a clear understanding that accountability for ill-treatment extends beyond the actual perpetrators to anyone who knows, or should know, that ill-treatment is occurring and fails to act to prevent or report it. This implies the existence of a clear reporting line as well as the adoption of whistle-blower protective measures (i.e. a framework for the legal protection of individuals who disclose information on ill-treatment and other malpractice). Furthermore, the failure to report ill-treatment should in itself be a disciplinary offence.

15. The Committee has repeatedly called upon the Bulgarian authorities to establish a national system for compiling statistics on complaints, prosecutions and disciplinary and criminal penalties imposed on law enforcement officials related to ill-treatment.¹¹ The CPT believes that if the data is correctly gathered and analysed, it would help to identify trends and facilitate the taking of adequate measures. Further, steps to provide information to the public on the outcome of investigations into complaints of ill-treatment by the police could help counter any perception of impunity. Unfortunately, the 2015 visit showed that such a system had not yet been introduced, as a result of which the authorities were not able to provide the delegation with clear information on the situation in the country.

The CPT reiterates its recommendation that such a system be introduced as a matter of priority.

16. The Committee has also consistently stated that the existence of effective mechanisms to tackle police misconduct is an important safeguard against ill-treatment of persons deprived of their liberty. During the 2014 visit, the CPT's delegation was informed that in 2013 a special division had been set up at the Supreme Cassation Prosecutor's Office, tasked, *inter alia*, with the investigation of cases of alleged ill-treatment by law enforcement officials.¹² In the report on the 2014 visit, the Committee asked the Bulgarian authorities for more detailed information about the structure, composition, available resources and practical operation of the above-mentioned special division. Unfortunately, such information was not provided to the Committee, either in the response of the Bulgarian authorities to the report on the 2014 visit, or during the 2015 visit.

The CPT reiterates its request for more detailed information on the functioning of the above-mentioned special division.

17. As concerns the role to be played by the health-care staff in the prevention of ill-treatment by the police, reference is made to the comments and recommendations in paragraphs 22 to 24 and 50 to 51 below.

¹⁰ See paragraph 16 of CPT/Inf (2015) 12.

¹¹ See paragraph 16 of CPT/Inf (2012) 32 and paragraph 19 of CPT/Inf (2015) 12.

¹² See paragraph 20 of CPT/Inf (2015) 12.

3. Safeguards against ill-treatment

18. The Bulgarian legislation contains specific provisions guaranteeing the rights of notification of custody, access to a lawyer and access to a doctor from the very outset of deprivation of liberty.¹³ In addition, the new Ministry of Internal Affairs Instruction provides that immediately after apprehension, the person shall be acquainted with the legal grounds for the detention, as well as his/her legal responsibilities and rights. However, very little progress, if any, has been made as regards the real adherence to the legal safeguards against police ill-treatment in practice, and the CPT's key recommendations in this sphere are still to be implemented.

19. As regards notification of custody, the above-mentioned Instruction, Article 15, paragraph 1, sub-paragraph 4, provides that a detainee has a right to a telephone call to inform others about his/her apprehension. Sub-paragraph 9 of the same Article provides that the officer on duty shall inform a person indicated by the detained person about his/her apprehension. However, as was the case during the previous visits, the delegation received complaints that the right to notify a third party of one's own choice was only formally guaranteed; in practice, it was rarely done. Moreover, usually no feedback was provided by the police officers as to whether or not it was possible to contact the third person designated by the detained person.

The CPT reiterates its recommendation that the Bulgarian authorities take the necessary steps to ensure that the right of all persons deprived of their liberty by the police to notify their next-of-kin as from the outset of the deprivation of liberty is applied in practice. Any exceptions to this right should be clearly defined and strictly limited in time and be accompanied by appropriate safeguards (e.g. any delay in notification of custody to be recorded in writing with the reasons and to require the approval of a senior police officer unconnected with the case or a prosecutor).

Further, the Committee recommends that the Bulgarian authorities take the necessary steps to ensure that detained persons are provided with feedback on whether it has been possible to notify a third party of the fact of their detention when notification is performed by police officers.

20. Concerning access to a lawyer, Article 15, paragraph 5, of the new Instruction provides that the detained person shall be granted the right of legal defence from the moment of the apprehension. However, the CPT's delegation found that the situation had not evolved since previous visits. Yet again, the vast majority of persons met stated that they had not benefited from the presence and the services of a lawyer at the very outset of their deprivation of liberty by the police and in general during the initial period of 24 hours of police custody, i.e. during the period when they faced the highest risk of being ill-treated.

¹³ Relevant provisions can be found in the Bulgarian Constitution, the Code of Criminal Procedure and the Law on the Ministry of Internal Affairs.

Moreover, even more inmates than during previous CPT's visits claimed that the lawyer (usually *ex officio*) would almost invariably arrive at the very end of the 24-hour period of custody, thus generally after the detained person had already been interviewed and after his/her confession or statement had already been drafted by the police. The impression was therefore that the lawyer's presence was of a purely formal nature, aimed at ensuring that the detention protocol was "duly" filled in and that it contained the lawyer's signature. Further, detained persons who had benefited from the services of *ex officio* lawyers complained again about the quality of their work.

The CPT calls upon the Bulgarian authorities to step up their efforts to ensure that the right of access to a lawyer for all persons deprived of their liberty by law enforcement officials is rendered fully effective in practice, as from the very outset of their deprivation of liberty. Further, appropriate steps should be taken, in consultation with Bar Associations, to ensure the effectiveness of the system for free legal representation throughout the criminal procedure, including at the initial stage of police custody.

21. Furthermore, many persons interviewed by the delegation claimed that they had not been given the opportunity to consult with their lawyer in private; the meeting usually took place in front of police officer(s). The Committee must stress once again that this is totally unacceptable.

The right of access to a lawyer during police custody must include the right to meet him/her, and in private. It is clearly essential for the lawyer to be in the direct physical presence of the detained person. This is the only way of being able to make an accurate assessment of the physical and psychological state of the person concerned. Likewise, if the meeting with the lawyer is not in private, the detained person may well not feel free to disclose the manner in which he/she has been treated.

The CPT calls upon the Bulgarian authorities to take measures to ensure that persons detained by the police have in all cases the right to talk to a lawyer in private.

22. As regards access to a doctor, Article 21, paragraph 1, of the Instruction provides that a detained person shall be medically examined at his/her request or when his/her medical status demands it. Further, by virtue of Article 21, paragraph 7, in cases when the doctor requires the presence of a police officer during an examination or medical procedure, the necessary security measures shall be undertaken in order to prevent escape, attack or acquisition of objects which may be subsequently used for such purposes.

However, further provisions of the same Article run counter to the key recommendations of the CPT. For example, Article 21, paragraph 3, provides that the results of the medical examination and possible prescriptions shall be entered by the police officer in the medical examination and prescriptions register and shall be signed by the doctor. Furthermore, according to Article 21, paragraph 6, in case of reasonable doubt during the medical examination of unlawful use of physical force, auxiliary means or arms against the detained person, the officer escorting the detained person during the examination shall report in writing to the head of the Ministry of the Interior's structural unit.

The Committee wishes to emphasise that medical confidentiality should be observed in places of detention in the same way as in the community at large. As regards the medical examination of persons in police custody, all such examinations should be conducted out of the hearing, and preferably out of the sight, of police officers. Further, the results of every examination as well as relevant statements by the detainee and the doctor's conclusions should be formally recorded by the doctor and made available to the detainee and his/her lawyer.

Furthermore, the delegation received a number of allegations that there was, in practice, no proper medical examination of persons in the police custody. According to the detained persons, the procedure was limited to a few general questions, no physical inspection took place, and the examination itself was often performed in the presence of the police officers, with detainees usually being handcuffed. Moreover, the review of the medical files and other relevant documents by the medical member of the delegation revealed that the results of the examination had been poorly recorded or had not been recorded at all.

The CPT recommends that necessary steps be taken to ensure that every detained person benefits from a full clinical assessment, including a proper interview and physical inspection, and that the same is fully recorded. Furthermore, it should be ensured that medical examinations of detained persons and recording of injuries respect the principle of medical confidentiality, taking due account of the above remarks.

23. The Committee has continuously emphasised the important contribution which health-care services can and should make to combating ill-treatment of detained persons, through the methodical recording of injuries and the provision of information to the relevant authorities. A corollary of the automatic reporting obligation is that the health-care professional should advise the prisoner concerned of the existence of that obligation, explaining that the writing of such a report falls within the framework of a system for preventing ill-treatment and that the forwarding of the report to the relevant authority is not a substitute for the lodging of a complaint in proper form.

As regards the procedure for the recording and reporting of injuries observed upon admission or following a violent episode, **reference is made to the comments and recommendations in paragraph 32 below.**

The CPT reiterates its long-standing recommendation that the Bulgarian authorities take steps to ensure that whenever injuries are recorded by a health-care professional which are consistent with allegations of ill-treatment made by a detained person, that information is immediately and systematically brought to the attention of the relevant authority by the health-care professional concerned.

Further, the CPT recommends that steps be taken to ensure that whenever a detained person presents injuries and/or makes allegations of ill-treatment, he/she is promptly seen by an independent doctor qualified in forensic medicine who will draw conclusions as to the degree of consistency between the allegations made and the objective medical findings. Such an approach should be followed whether or not the person concerned bears visible external injuries.

24. On the positive side, the delegation has taken note of the recent entry into force of an Order by the Ministry of the Interior regarding the medical examination of detainees in the Investigation detention facility in Sofia, according to which detained persons would no longer undergo a systematic medical examination at the hospital of the Ministry of the Interior, and instead should be taken to a civilian doctor. However, the delegation was not in a position to assess the implementation of these new provisions as they entered into force on 3 February 2015 and had yet to be put into effective practice. The Committee welcomes this legislative change and **would like to receive confirmation that it has indeed been put into practice.**

25. As during the previous visits, the delegation received numerous complaints that detained persons had not received information about their rights after being detained by the police. **The CPT again calls upon the Bulgarian authorities to take steps to ensure without further delay that all persons detained by the police – for whatever reason – are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information at the very outset, to be supplemented at the earliest opportunity (that is, immediately upon their arrival at police premises) by provision of a written form setting out their rights in a straightforward manner and which the detained person would be allowed to keep. This form should be available in an appropriate range of languages.**

Further, the Committee recommends that persons deprived of their liberty by the police be requested to sign a statement attesting that they have been informed of their rights and whether they have availed themselves of these rights or have waived them; any absence of a signature should be duly accounted for.

B. Establishments under the authority of the Ministry of Justice

1. Preliminary remarks

26. As explained in paragraph 2 of this report, the objective of the 2015 visit was to assess the progress in the implementation of the Committee's long-standing recommendations and to review, in particular, the treatment and detention conditions of persons held at investigation detention facilities and prisons. For this purpose, the delegation visited Sofia IDF,¹⁴ as well as Sofia, Varna and Burgas prisons.¹⁵

27. The Committee acknowledges the efforts of the Bulgarian authorities to further reduce the overcrowding of the penitentiary system.¹⁶ However, overcrowding still remains a problematic issue, if not for the penitentiary system as a whole,¹⁷ then for the prisons and closed-type prison hostels in particular. Due to the rules on the classification of prisons and prison regimes in the Execution of Punishments and Pre-Trial Detention Act of 2009, there was very little flexibility as regards the allocation or transfer of the prisoners to one or other regime or prison. Thus, prisons and closed-type prison hostels were severely overcrowded while at the same time open-type prison hostels were underused.

Furthermore, there was still no progress as regards the construction or renovation of the prison estate that would allow for the capacity of the penitentiary system to be expanded.

Consequently, the CPT reiterates its recommendation that the Bulgarian authorities further pursue their efforts to develop the policy to increase the resort to non-custodial measures and alternatives to custodial sentences. Furthermore, the rules on the classification of prisons and prison regimes should be revised to allow for a more efficient prisoner allocation. Appropriate action should also continue to be taken vis-à-vis the prosecutorial and judicial authorities with a view to eliminating unnecessary recourse to pre-trial custody and modifying the sentencing practices.

The CPT would also like to receive a further update on the planned construction/renovation of the prison estate.

28. As described in the reports on the visits carried out in 2012 and 2014,¹⁸ and as acknowledged by the Bulgarian authorities in the response to the CPT report on the 2014 visit as well as during the 2015 visit itself, corruption remains endemic in the Bulgarian prison system.

¹⁴ Sofia IDF was previously visited by the CPT in 1999, 2010 and 2014.

¹⁵ Burgas Prison was previously visited by the CPT in 1999, 2002, 2012 and 2014; Sofia Prison was visited in 2006, 2008 and 2014; Varna Prison was visited in 2010 and 2012.

¹⁶ The prison population had further diminished by some 1,000 prisoners in comparison with the 2014 visit.

¹⁷ At the outset of the visit, the prison system as a whole was not overcrowded, based on the official capacity.

¹⁸ See paragraph 13 of CPT/Inf (2012) 32 and paragraph 45 of CPT/Inf (2015) 12.

In the three prisons visited in the course of the 2015 visit, the delegation was again inundated with allegations of prisoners being asked to pay custodial, administrative, and/or medical staff for many services provided for by the law (e.g. transfers to prison hostels, early release, access to medical care, transfers to hospitals, procurement of goods, access to education/vocational training, work, etc.) or for being granted various privileges (such as leave and additional or open-type visits). Furthermore, a well-established mechanism of staff selling illicit mobile phones to prisoners and then confiscating them (plus punishing the prisoners on whom the phones were found) persisted in every prison visited.

The Committee wishes to emphasise yet again that the existence of a widespread belief among prisoners that anything can be bought inevitably undermines attempts to create order within a prison and to develop positive staff-prisoner relations. Moreover, such an endemic level of corruption brings in its wake discrimination, violence, insecurity and, ultimately, a loss of respect for authority.

The CPT calls upon the Bulgarian authorities to strengthen their efforts to combat corruption in the prison system through prevention, education and the application of appropriate sanctions. In this context, prison staff and officials working with the prison system should receive the clear message that obtaining or demanding advantages from prisoners is not acceptable; this message should be reiterated in an appropriate form, at suitable intervals.

29. In its previous reports, the Committee has taken due note of the repeated assurances given by the Bulgarian authorities that action would be taken to improve the situation in the penitentiary system. However, the findings of the 2015 visit demonstrated again that little or nothing has been done as regards the long-standing problems, with one notable exception. The Committee welcomes the forthcoming opening of a new IDF in Burgas, which will be located in one of the ground-floor corridors of Burgas Prison with an operational capacity of 36 places. The Committee understands that the old facility will be closed down as soon the new one is operational. As far as the CPT's delegation could ascertain during the 2015 visit, the new facility will meet some of the recommendations made in the past (access to natural light, full partitioning of in-cell toilets, and access to dedicated facilities for outdoor exercise) and should drastically improve the living conditions there.

The CPT would like to receive information regarding the operation of the new IDF in Burgas.

30. The Bulgarian authorities have informed the Committee that following the latest report on the 2014 visit, an interdepartmental working group was set up to come up with the solutions for the implementation of the CPT's recommendations. Following the judgment of the European Court of Human Rights in the case of *Neshkov and Others v. Bulgaria*,¹⁹ the mandate of the working group was expanded to include also implementation of the judgment.

The CPT would like to receive information on the results of the working group as well as the follow-up from the Bulgarian authorities.

¹⁹ In this pilot judgment the Court held that Bulgaria, in co-operation with the Council of Europe's Committee of Ministers, had to set up, within 18 months from the date on which this judgment became final, a combination of effective remedies in respect of poor conditions of detention that had both preventive and compensatory effects. The text of the judgment may be found at: <http://hudoc.echr.coe.int/eng?i=001-150771>

2. Ill-treatment

31. The situation as regards physical ill-treatment of prisoners by staff remains alarming in all the penitentiary establishments visited in 2015. At *Sofia IDF*, the delegation observed a clear deterioration with a significant rise in the number of allegations of deliberate physical ill-treatment (slaps, punches and kicks) of inmates, including juveniles, by staff. As during the 2014 visit, it was quite clear that such ill-treatment was applied to prisoners disobeying staff orders or otherwise challenging (e.g. problems with cellmates, being noisy, making multiple requests to the staff).

For example, a 17-year-old prisoner at Sofia IDF alleged that he had been beaten by prison officers (kicks and slaps) on 20 January 2015 for talking to female prisoners across the corridor. Another prisoner alleged that he had been beaten by three prison officers on 19 January 2015; his head had allegedly been pushed against the wall and he had subsequently been kicked while lying on the floor. Several prisoners also alleged they had been kicked by prison officers following a search in the cell a few days before the CPT's visit.

The CPT recommends that the Bulgarian authorities clearly and frequently remind the custodial staff of the Sofia IDF that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of adequate sanctions.

32. Furthermore, the detainees at Sofia IDF claimed that, following incidents with the custodial staff, they were not examined by the doctor. The CPT wishes to stress in this context that any prisoner who has been involved in a violent episode in prison, either in an incident with custodial staff or during an altercation with other prisoners, should be medically screened without delay.

The record drawn up after such medical screening should contain: i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), ii) a full account of objective medical findings based on a thorough examination, and iii) the health-care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings. The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed.

Recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking traumatic injuries that will be kept in the medical file of the prisoner. Further, it would be desirable for photographs to be taken of the injuries, and the photographs should also be placed in the medical file. In addition, a special trauma register should be kept in which all types of injury observed should be recorded.

The CPT recommends that the Bulgarian authorities take steps to ensure that all prisoners are properly medically screened following a violent episode within prison and such examination is accurately recorded, in the light of the above remarks.

Further, the CPT recommends that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment or inter-prisoner violence, the record is immediately brought to the attention of the relevant authority and a preliminary investigation is initiated, regardless of the wishes of the person concerned.

33. Many allegations of deliberate physical ill-treatment (usually consisting of slaps, punches, kicks and truncheon blows) were again heard at *Sofia* and *Burgas prisons* and, at *Varna Prison*, the delegation was flooded with such allegations.

In *Sofia Prison*, it was alleged that the situation had deteriorated as the ill-treatment was reportedly no longer mostly limited to individual incidents but also involved mass beatings of prisoners in cells. Some members of the staff were said to be particularly aggressive and hostile towards foreign prisoners or sexual offenders.

In *Varna Prison*, according to consistent allegations of many prisoners interviewed, staff reacted violently to any misbehaviour by the prisoners. Minor violations were punished by slaps, and for major incidents inmates were taken downstairs and beaten with truncheons, kicked and punched in the room adjacent to showers which was not covered by CCTV.²⁰ Many prisoners also said that complaining about staff entailed a danger of being beaten up in revenge. Allegations were also received about custodial staff consuming alcohol at work during their 24-hour shifts and then assaulting prisoners.

In *Burgas Prison*, various allegations were heard about the return to the practice of punishing prisoners by taking them downstairs and beating them up. After the removal of the notorious "curtain",²¹ the location of such beatings was reportedly moved first to the cell in the buffer zone between the two metal grilles at the entrance of the lifers' unit, and then to an empty cell inside that unit.²²

34. The following cases, some of which include medical evidence consistent with the allegations of ill-treatment made by prisoners, are illustrative of the situation encountered by the delegation during the visit.

In *Sofia Prison*, on 6 July 2014 eight sentenced foreign nationals from the same cell were allegedly beaten all over with truncheons, including their heads and limbs. After the incident, the prisoners were examined by the surgeon at the Prison Hospital. Unfortunately, the description of the injuries is very superficial and inaccurate (not mentioning the type of injuries, colour, dimensions, exact location, estimated age, estimated type of the instrument used etc.), and lack the conclusions of the examining doctor on the degree of consistency between the allegations and the injuries displayed. Furthermore, the content of the certificates issued was not recorded in the medical files of the prisoners,²³ the general register of medical consultations or the register of traumatic events.

In *Varna Prison*, a prisoner alleged he had been beaten by the guards on 6 February 2015 after being caught with an illicit mobile phone. The medical record upon examination noted his allegation that he was "beaten by a prison guard on head and body, erythema on the back, trauma of the head, lacerated wound of the left eyebrow, suture". Upon examination of the inmate concerned, the delegation's medical member observed a 1 cm-long lacerated wound above the left eyebrow that had been sutured in three places.

²⁰ Other premises not covered by CCTV were also allegedly used, including the showers, the barber's shop, and the infirmary.

²¹ See paragraph 14 of CPT/Inf (2012) 32.

²² Allegations of such beatings were confirmed by various prisoners interviewed separately, including lifers who heard and partially saw the episodes and were afterwards involved in cleaning up the cell where the beatings took place.

²³ Moreover, the medical certificates issued for documenting traumatic injuries were not kept in the medical files of the prisoners, but in a pile on the desk of the prison doctor.

Two other inmates interviewed by the delegation at Varna Prison alleged that the two of them and one more prisoner from the same cell had been beaten by drunken prison guards.²⁴ The medical record of the first prisoner noted: “the patient claims he was beaten by guards, no external injuries, trauma of the thorax, no indications of rib fractures”. The medical record of the second prisoner stated “fell from the bed, lacerated lower lip, ambulance called and laceration sutured at the emergency ward of the local hospital”. However, during the interview with the medical member of the delegation, the prisoner explained that he was afraid to state the real reason for the injuries during the medical examination since the same guards who had beaten him took him to the hospital and were present during the medical examination.

In *Burgas Prison*, an inmate alleged he had been beaten in October 2014 by several prison officers while he was under influence of psychoactive substances. He had apparently become agitated and violent, damaged his cell and attacked his fellow inmates. The ill-treatment alleged consisted of punches and kicks, as well as blows with truncheons. According to the prisoner, after the incident he had spent several hours in the empty cell in the lifer’s corridor handcuffed to a water pipe.²⁵ The prisoner complained that he had lost several teeth and that his ribs had been broken; however, he was not taken to the hospital. Upon examination of the prisoner concerned, the delegation’s medical member observed a mal-union of the fractured rib in the left anterior thoracic cage and two parallel hyper pigmented scars on the left wrist (0.3 cm wide, almost circular and 0.5 cm apart) whose age could not be estimated.²⁶

35. The CPT wishes to recall that the State is under a duty to provide care for all persons deprived of their liberty in prison, and that the frontline in providing such care rests with prison officers. The authorities must not only undertake a proper investigation into allegations of ill-treatment, but also institute measures to ensure that all prison officers and managers understand why ill-treatment is unacceptable and unprofessional and that, furthermore, it will result in severe disciplinary sanctions and/or criminal prosecution.

Effective investigations, capable of leading to the identification and punishment of those responsible for ill-treatment, are essential to give practical meaning to the prohibition of torture and inhuman or degrading treatment or punishment. It follows that, whenever there are grounds to believe that an inmate may have been ill-treated, this matter should be brought rapidly to the attention of the relevant investigatory authorities. In order to promote the effectiveness of investigations, it is imperative for a thorough medical examination to be conducted on prisoners following a violent incident or use of force within an establishment. In this context, it is important to recall that all medical examinations of prisoners should be conducted out of the hearing – and unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers.

The CPT once again urges the Bulgarian authorities to take exhaustive measures at the highest political level to ensure that there is “zero tolerance” of ill-treatment in all penitentiary establishments in Bulgaria, taking into consideration the above remarks.

²⁴ The date and further details of the incident are known to the Committee.

²⁵ The use of handcuffs (from 7 a.m. till 10.30 a.m.) was registered in the Register on the use of auxiliary means.

²⁶ The nature of the scars indicated that handcuffs had been very tightly applied for a long time or that a very agitated person had pulled violently on his cuffs.

36. As described in the reports on the 2012 and 2014 visits,²⁷ inter-prisoner violence remained widespread at Sofia and Burgas prisons, where such instances were again observed by the delegation during the 2015 visit. Frequent episodes of such violence were also reported at Varna Prison.

Inter-prisoner violence often appeared to occur as a form of punishment of fellow prisoners who were caught stealing from other inmates. Such punishment included beating and various forms of humiliation, i.e. making the culprit sleep under the bed, cleaning the toilets, etc. Whenever staff interfered in incidents of inter-prisoner violence, such interventions usually resulted in all the prisoners being beaten as the custodial staff knew no other way of de-escalating the tension. It seemed that inter-prisoner violence was sometimes racially motivated (primarily against Roma prisoners).

The CPT wishes to emphasise that the prison authorities must act in a proactive manner to prevent violence by inmates against other inmates. Addressing the phenomenon of inter-prisoner violence and intimidation requires that prison staff be alert to signs of trouble and both resolved and properly trained to intervene when necessary. Both initial and on-going training programmes for staff of all grades must address the issue of managing inter-prisoner violence.

Furthermore, the management and staff of all the penitentiary establishments should be instructed to exercise constant vigilance and use all appropriate means at their disposal to prevent and combat inter-prisoner violence and intimidation. This should include implementation of an individualised risk and needs assessment of prisoners, on-going monitoring of prisoner behaviour (including the identification of likely perpetrators and victims), proper reporting of confirmed and suspected cases of inter-prisoner intimidation/violence and thorough investigation of all incidents.

The CPT once again calls upon the Bulgarian authorities to take resolute action to tackle the phenomenon of inter-prisoner violence in Bulgarian prisons, taking into consideration the above remarks.

²⁷ See paragraph 19 of CPT/Inf (2012) 32 and paragraph 54 of CPT/Inf (2015) 12.

3. Conditions of detention

a. material conditions

37. *Sofia IDF* was still undergoing refurbishment at the time of the 2015 visit and one of the floors (i.e. the third floor) was not used for accommodating detainees. At the time of the visit, the IDF was holding 235 remand prisoners, including seven women and five juveniles.

Cells at *Sofia IDF* were equipped with bunk beds, a fixed table and a chair, and partly partitioned sanitary annexes (toilets and washbasins) which, however, did not provide any privacy. The cells were too small for their intended occupancy²⁸, poorly lit and ventilated. Despite repeated criticism by the CPT,²⁹ the cell windows were fitted with opaque panes which obstructed access to natural light.

As previously, the arrangements for maintaining hygiene were not satisfactory. As regards personal hygiene items, only soap was occasionally provided. Further, no cleaning materials were made available to the detainees. Some of the cells visited by the delegation were thus rather dirty and infested by insects. Detained persons could take a shower once a week. However, no allowances were made for women, despite their special hygiene needs during their menstrual periods.

During the interviews with the inmates, the delegation received complaints that bed linen had reportedly been provided to them only a couple of days prior to the CPT's visit and that the heating had only been turned on at that time.³⁰ Prisoners also complained that they had to buy not only their own bed linen but also their own mattresses, since those provided by the administration were unfit for use.

38. The Committee wishes to reiterate its view that the standard of accommodation is central to the quality of life within a prison. More particularly, cells should offer sufficient living space for the prisoners and should benefit from good access to natural light and ventilation, and sanitary arrangements should permit inmates to comply with the needs of nature when necessary in clean and decent conditions. All facilities and equipment should be in a good state of repair, and prisoners should be placed in a position to keep their accommodation in an adequate state of cleanliness. Furthermore, the specific hygiene needs of women should be addressed in an adequate manner.

As can be seen from the above, the conditions in *Sofia IDF* still fail to meet the CPT standards. **The Committee recommends that the Bulgarian authorities take immediate steps to:**

- **reduce the cell occupancy rates with a view to offering a minimum of 4 m² of living space per detainee in multiple occupancy cells;**

²⁸ Cells measuring some 15 m² (of which some 2 m² was unusable because of an additional metal grille fixed in front of the window wall) were each supposed to accommodate up to five persons.

²⁹ See paragraph 63 of CPT/Inf (2012) 9 and paragraph 58 of CPT/Inf (2015) 12.

³⁰ According to prisoners, the heating in the cells had been switched off all winter.

- **improve the ventilation, heating, access to natural light and artificial lighting, and remove the opaque panes;**
- **provide each prisoner with a clean mattress, as well as blankets and bed linen (washed at regular intervals);**
- **provide any in-cell toilets with a full partition to the ceiling;**
- **ensure that all inmates have access to essential hygiene products; in the light of the special hygiene needs of women, positive differentiation in terms of additional access to washing facilities is necessary;**
- **provide the inmates with sufficient materials for cleaning their cells.**

Further, the Committee is of the view that all prisoners should be able to take a shower at least twice a week and more frequently if the circumstances warrant, taking into account the European Prison Rules.³¹ **The CPT invites the Bulgarian authorities to increase the frequency of showers accordingly.**

39. At the time of the visit, the closed section of *Sofia Prison* was holding 816 prisoners for an official capacity of 650. The closed section of *Varna Prison* was accommodating 422 prisoners for an official capacity of 350. And as for *Burgas Prison*, at the time of the visit, there were 579 prisoners in the closed section for an official capacity of 371.

In the three prisons, the overwhelming majority of the cells were extremely overcrowded. For example, at Burgas Prison, the vast majority of inmates had less than 2 m² of living space in multi-occupancy cells,³² with the notable exception of the remand section. The situation at Sofia and Varna prisons remained similar to that observed in the past, with most inmates having just a little more than 2 m² of living space per person.³³

40. The situation was aggravated even more by the fact that material conditions in all the three prisons visited in 2015 still demonstrated an ever-worsening advanced state of dilapidation and insalubrity, despite some last-minute cosmetic efforts observed.³⁴ Most of the common sanitary facilities at Sofia, Burgas and Varna prisons were totally dilapidated and unhygienic. Moreover, they were accessible to prisoners only during the day; at night the majority of the inmates had to resort to buckets (one for each cell).

The cells were mostly equipped with two-tier and three-tier bunk beds and access to natural light and ventilation was poor. Walls were covered with mould, floors were damaged, and ceilings leaking; cells were infested with cockroaches, bedbugs and other vermin. It should be noted in this regard that no cleaning materials were made available to the prisoners.

³¹ Rule 19.4 reads as follows: "Adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene."

³² For example, 10 persons in some 18 m².

³³ For example, 11 persons in some 24 m².

³⁴ For example, painting the walls of a detention corridor in Sofia Prison while the delegation was visiting the facility.

Heating was functioning only a couple of hours a day (the delegation measured some 14° C in cells and 10° C in in-cell toilets at Sofia Prison, 16° C in cells and 12° C in the sanitary facilities at Burgas Prison). The Burgas and Varna prison kitchens (and the dining hall at Varna Prison, which was also infested with rats) remained filthy and unhygienic with leaking and over-flowing sewage pipes and walls and ceilings covered with mould (with the exception of Burgas Prison, where the kitchen's walls had recently been whitewashed).

It can thus be stated that most parts of these establishments were unfit for human accommodation and represented a serious health risk both for inmates and staff. Despite the repeated criticism, no progress was observed as regards the implementation of the CPT's recommendations made after its visits in 2010, 2012 and 2014.³⁵ To sum up, in the CPT's opinion, the material conditions alone in the three prisons visited could be seen as amounting to inhuman and degrading treatment.

41. The Bulgarian authorities once again informed the CPT's delegation about the plans to transform Razdelna and Debelt prison hostels into closed-type prisons,³⁶ as well as to construct new prisons in Sofia and Varna. It should be noted, however, that implementation of all these projects is heavily dependent on the available funding and has already been delayed for several years. Furthermore, the Committee remains of the opinion that the replacement of out-dated and dilapidated prisons in Varna and Burgas is the only viable long-term solution. In this regard, **the CPT would like to receive information on the progress regarding the transformation of prison hostels and construction of new prisons.**

Furthermore, **the CPT recommends that the Bulgarian authorities take all the necessary and immediate measures at Sofia, Varna and Burgas prisons to:**

- **reduce cell occupancy rates with a view to guaranteeing at least 4 m² of living space per prisoner in multi-occupancy cells;**
- **ensure that all prisoners have ready access to a proper toilet facility at all times, including at night; resort to buckets should be abandoned;**
- **improve the ventilation and heating, access to natural light and artificial lighting in the cells;**
- **ensure that each prisoner has a clean mattress, as well as blankets and bed linen (washed at regular intervals);**
- **refurbish the accommodation areas, paying particular attention to the state of the floors, the walls and the ceilings;**
- **improve the state of the communal sanitary facilities;**
- **ensure that the disinfection of the establishments' premises is carried out in an effective manner and at regular intervals;**
- **ensure that all inmates have access to a range of basic hygiene products and are provided with materials for cleaning their cells.**

³⁵ See paragraphs 106-111 and 113-115 of CPT/Inf (2012) 9, paragraphs 21-25 of CPT/Inf (2012) 32 and paragraph 65-70 of CPT/Inf (2015) 12.

³⁶ See more details about these projects in paragraph 25 of CPT/Inf (2012) 32.

b. regime

42. As during the previous visits, the vast majority of persons held in *Sofia IDF* spent at least 23 hours a day locked up inside their cells with no organised activities. Inmates had access to outdoor exercise in the exercise yard on the roof of the establishment for one hour per day. Their only other means of distraction were books and newspapers provided by their families. The majority of inmates were not able to watch television because there were no suitable electrical sockets in the cells and it was rather expensive to use battery-operated TV sets.³⁷

The delegation observed with great concern that nothing had been done to implement a long-standing recommendation of the CPT as regards the development of a proper regime of activities for persons held in investigation detention facilities. Such a situation was even more harmful for the mental and physical well-being of juveniles given their particular needs for physical activity and intellectual stimulation.

43. Possibilities for purposeful activities in *Sofia, Varna and Burgas prisons* were very limited. The cells were unlocked during the day (with the exception of the high security and admission units) and most prisoners just roamed the corridors or stayed in their cells watching TV or playing board games with other inmates. All inmates had access to a library and a multi-faith area.

The only activity for most prisoners was daily outdoor exercise, usually lasting one hour at Varna Prison, one-and-a-half hours at Sofia Prison and two hours at Burgas Prison.

44. As regards work, at Sofia Prison, 258 prisoners had jobs (but 120 of the work places were unpaid), most of them on general prison maintenance services. At Varna Prison, work was offered to 83 prisoners (46 of the work places being unpaid).

Educational activities were offered to 78 prisoners at Sofia and 49 prisoners at Varna Prison. Other activities included language courses and IT classes (with 225 inmates attending at Sofia Prison).

The lack of work opportunities remained yet another source of corrupt practices. According to the prisoners interviewed by the delegation, to obtain an official working place a prisoner (or his relatives) had to pay a bribe ranging from 250 to 1500 EUR.

45. The Committee wishes once again to emphasise that ensuring that sentenced prisoners are engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association) is not only an essential part of rehabilitation and resocialisation, but it also contributes to the establishment of a more secure environment within prisons. Furthermore, remand prisoners should as far as possible be offered work, as well as other structured activities.

³⁷ A battery set that would last approximately three hours costs 10 euros.

The CPT urges the Bulgarian authorities to intensify their efforts to develop the programme of activities for both sentenced and remand prisoners, notably as regards work, educational and vocational activities (paying particular attention to the special needs of juveniles). As regards the allocation of work places to prisoners, it should follow a transparent procedure.

4. Health-care services

46. The Committee acknowledges the efforts of the Bulgarian authorities to recruit a general practitioner at Burgas and Varna prisons.³⁸ In addition, a part-time psychiatrist has recently been contracted at Burgas Prison. That said, the findings of the 2015 visit show that the accessibility and quality of the medical services in all the prisons visited (and the IDF in Sofia) were as poor as they had been in the past.

The health-care team at *Sofia IDF* (holding 235 remand prisoners) covered both of the capital's IDFs and consisted of two general practitioners, a dentist, a feldsher and a nurse, all working full-time.

At *Sofia Prison*, there was one full-time general practitioner and a nurse, and a dentist who also covered Kremikovtsi open-type prison hostel. For an inmate population of 816 (or 650 as an official capacity) such staffing levels are grossly insufficient.

The health-care team at *Varna Prison* (with an official capacity of 350) was composed of one part-time general practitioner visiting the prison twice a week³⁹ and a feldsher. There was no qualified nurse. The post of the psychiatrist had been vacant for the past seven years; there was a part-time psychiatrist who had been hired recently and was visiting the prison once a week. The dentist was visiting three times a week. The delegation was informed that during the period of May to September 2014 there had been no medical staff in the prison at all. Such a situation is absolutely unacceptable.

The health-care team at *Burgas Prison* (with an official capacity of 371) consisted of two general practitioners (one full-time and another one visiting twice a week for half a day), a feldsher, one full-time nurse, a full-time dentist and a psychiatrist who visited the prison three times a week.⁴⁰

Despite long-standing recommendations by the Committee, none of the establishments visited had any qualified medical staff present at night or during weekends.

47. As during the previous visits, the health-care staffing situation rendered virtually impossible the provision of health care worthy of the name in the establishments visited. Further, there was an over-reliance on feldshers, causing them to practise beyond the limits of their competence.

³⁸ A full-time general practitioner was recruited at Burgas Prison two months prior to the CPT's visit. A part-time general practitioner was recruited at Varna Prison three months prior to the CPT's visit.

³⁹ The second general practitioner had been on prolonged sick leave.

⁴⁰ The delegation has noted, however, that the psychiatrist had missed a lot of appointments during the preceding year.

The CPT calls upon the Bulgarian authorities to take urgent steps to reinforce the health-care resources at Sofia IDF and Sofia, Varna and Burgas prisons, by providing working conditions that are sufficiently attractive to recruit and retain staff, and in particular to:

- **increase significantly the staff complement as regards general practitioners and full-time nurses;**
- **fill the vacant psychiatrists' posts at Sofia and Varna prisons as well as ensure the actual presence of the psychiatrist in Burgas Prison;**
- **ensure that someone qualified to provide first aid, preferably with a recognised nursing qualification, is always present on the premises, including at night and weekends.**

More generally, the CPT invites the Bulgarian authorities to develop a comprehensive long-term strategy for the provision of health care in the penitentiary system.

48. Despite long-standing CPT recommendations, the delegation once again observed that at *Varna and Burgas prisons* there were some prisoners working as medical orderlies in the health-care units with unhindered access to the medical files of their fellow inmates. This is unacceptable. Furthermore, at Varna Prison, the distribution of the medication was carried out by the custodial staff.

The CPT urges the Bulgarian authorities to immediately cease the practice of using prisoners as medical orderlies, as well as using custodial staff for distribution of medicines.

49. Medical confidentiality was still not respected in any of the establishments visited. The requests for medical consultations were filtered by the custodial staff; the non-medical staff, as well as prisoner orderlies, had access to inmates' medical files. Furthermore, as previously, the custodial staff was systematically present during medical examinations.

The CPT reiterates its long-standing recommendation that the Bulgarian authorities take measures to guarantee the respect of the principle of medical confidentiality, taking due account of the above remarks.

50. Medical examination upon admission to the establishments visited by the delegation hardly ever took place within the first 24 hours after the inmates' arrival, as recommended by the Committee. As during the previous visits, according to the inmates, the procedure was limited to a few general questions and usually did not include actual physical inspection of the prisoner. Moreover, the medical examination itself was often carried out not in the premises of health-care units but in cells, where staff and other prisoners were systematically present.

The Committee wishes to emphasise once again that every newly-admitted prisoner should be properly interviewed and physically examined by a medical doctor as soon as possible after his admission; save for exceptional circumstances, the interview and examination should be carried out on the day of admission.

The CPT recommends that the Bulgarian authorities take steps to ensure that all newly-arrived prisoners are subjected as soon as possible, and no later than 24 hours after their admission, to a comprehensive medical examination by a health-care professional in a prison medical unit, under conditions guaranteeing medical confidentiality.

51. The quality of medical recording of injuries had even worsened in comparison with the previous visits. It is noteworthy in this respect that the keeping of the register on traumatic injuries had been discontinued at Sofia and Burgas prisons shortly after the CPT's 2014 visit.

As regards the procedure for the recording and reporting of injuries observed upon admission or following a violent episode, **reference is made to the comments and recommendations in paragraph 32 above.**

5. Other issues

52. During the 2015 visit, the delegation observed no progress as regards other issues of concern to the CPT, such as prison staffing levels, discipline and segregation, and contact with the outside world. Thus, **all the comments and recommendations of the Committee regarding these issues remain relevant.**⁴¹

53. In addition, the Committee wishes to draw the particular attention of the Bulgarian authorities to the issue of disciplinary isolation. In previous reports the Committee has described the disciplinary procedure applied in the penitentiary establishments.⁴² There are two types of disciplinary isolation in Bulgaria: 1) up to two weeks, imposed by the prison's director under Section 101 of the Law on the Execution of Punishments (referred to as "sámitsa"), and 2) for two months, imposed by the Director General of GDIN under Section 120 of the same law (referred to as "zapechátka").

To illustrate the problem, reference can be made to the case of the prisoner interviewed by the delegation in the high-security unit of Sofia Prison who had spent a lengthy period in disciplinary isolation. He received a sanction for two-month "zapechátka" which was interrupted several times for moving him to "sámitsa" for 14 days.

On 6 January 2015 by the Director General's order, referring to his history of disciplinary offences and challenging behaviour, the prisoner received a two-month "zapechátka". On 8 January he was placed in the "zapechátka" cell, on 21 January "zapechátka" was interrupted and he was placed in "sámitsa" for 14 days. On 1 February he was moved back to "zapechátka", on 3 February back to "sámitsa" for 14 more days, and on 17 February he was supposed to be again placed in "zapechátka" for the remainder of the two months. Even without any more additional interruptions for "sámitsa", by the end of his disciplinary punishment this prisoner would have spent almost three months in disciplinary isolation, locked in a cell for 23 hours a day.

⁴¹ See section E of CPT/Inf (2012) 32 and section 7 of CPT/Inf (2015) 12.

⁴² See CPT/Inf (2012) 9, paragraph 142. Prisoners are granted an oral hearing before the imposition of a disciplinary sanction, may call witnesses and are informed of their right to appeal the disciplinary decision, as well as being given a copy of the disciplinary order. As regards decisions for placement in a disciplinary cell, they can be appealed to the district court, which should consider the case in the presence of the prisoner concerned and/or his/her lawyer.

54. The Committee wishes to emphasise that solitary confinement can have an extremely damaging effect on the mental, somatic and social health of those concerned. Therefore, it should only be imposed as a disciplinary sanction in exceptional cases and as a last resort, and for the shortest possible period of time. Given the potentially very damaging effects of solitary confinement, the CPT considers that the maximum period for solitary confinement as a punishment should be no more than 14 days for a given offence, and preferably lower. Further, there should be a prohibition on sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period. Any offences committed by a prisoner which might call for more severe sanctions should be dealt with through the criminal justice system.

The CPT recommends that the Bulgarian authorities take measures to ensure that no prisoner is placed in conditions akin to solitary confinement as a disciplinary punishment for a period in excess of 14 days and that sequential disciplinary sentences do not result in an uninterrupted period of solitary confinement in excess of this maximum period; the relevant legislation should be amended accordingly.

Furthermore, if a prisoner has been sanctioned to disciplinary confinement for a total of more than 14 days in relation to two or more offences, there should be an interruption of several days in the disciplinary confinement at the 14-day stage.

APPENDIX

**LIST OF THE NATIONAL AUTHORITIES AND ORGANISATIONS
MET BY THE CPT'S DELEGATION**

A. National authorities

Ministry of Justice

Mr Andrey YANKULOV	Deputy Minister
Mr Rosen ZHELYAZKOV	Director of the Main Directorate for the Execution of Sanctions (GDIN)
Mr Mitko DIMITROV	Deputy Director of the Main Directorate for the Execution of Sanctions (GDIN)
Mr Svilen TSVETANOV	Chief of Guard and Security in Detention Facilities Sector (GDIN)
Dr Tsetska SIMEONOVA	Chief of the Prison Medical Service (GDIN)

Ministry of Interior

Mr Philip GOUNEV	Deputy Minister
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Other authorities

Mr Lyubomir KRILCHEV	Director of the National Preventive Mechanism
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B. Non-Governmental organisations

Bulgarian Helsinki Committee
Bulgarian Prisoners' Rehabilitation Association