



Report of Various Size – Fieldwork research (FRANET)

Criminal Detention in the EU – Conditions and Monitoring

Country Report Bulgaria

FRANET Contractor: Project One (Center for the Study of Democracy)
Authors: Dimitar Markov
Review: Dr Maria Yordanova
Final Submission: June 2018

DISCLAIMER: This document was commissioned under contract as background material for a comparative analysis by the European Union Agency for Fundamental Rights (FRA) for the project 'Criminal Detention in the EU – Conditions and Monitoring'. The information and views contained in the document do not necessarily reflect the views or the official position of the FRA. The document is made publicly available for transparency and information purposes only and does not constitute legal advice or legal opinion.

1. Cell space

- a) What is the national standard for cell space available to prisoners in m²? Is it regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- b) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- c) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

Please cite any relevant sources

The national standard for cell space available to prisoners is 4 m². It is laid down in the Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържане под стража*), which stipulates that the minimum living space in the sleeping quarters for each person deprived of liberty must not be less than 4 m².¹ This standard is valid for all types of penitentiary facilities: prisons, open prison dormitories, closed prison dormitories and juvenile reformatories. It is also valid for the so-called arrests (*аресту*), where accused persons and defendants with pending criminal proceedings are detained in custody. There is an explicit legal provisions stipulating that, unless otherwise specified in the law, the rules for prisoners also apply to accused persons and defendants detained in custody.²

The legally binding standard of 4 m² has not been fully achieved yet. According to the Ministry of Justice (MoJ) (*Министерство на правосъдието*, МП) overcrowding in most prisons has been overcome and the available cell space per prisoner is approximately 4 m². Full compliance can be achieved in the long run if sufficient financial resources are allocated for the reconstruction of prisons.³

In Bulgaria, the National Preventive Mechanism is the Ombudsman.⁴ The NPM publishes annual reports since 2012. Each report has a separate section on detention conditions.⁵ The report for 2017 includes the following remarks regarding available space and overcrowding:

'Directorate General Execution of Punishments reports 5,689 seats capacity in the closed-type prison areas (closed corps buildings and dormitories) (subject to the required 4 square meters), with about 400 places free total capacity as of September 2017. There are approximately 300 free seats in the open-type prison facilities and in the detention facilities. This should justify a conclusion that the issue with overcrowding is solved.

In the course of its inspections, the NPM established overcrowding almost everywhere due to the following reasons:

1. *the living area is measured incorrectly together with the sanitary unit;*
2. *the number of beds maintained is higher than the announced capacity;*

¹ Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 43, Par. (4), www.lex.bg/laws/ldoc/2135627067.

² Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 240, www.lex.bg/laws/ldoc/2135627067.

³ Ministry of Justice (*Министерство на правосъдието*) (2018), Report on the execution of the programme budget for the period 01.01.2017 – 31.12.2017 (*Отчет за изпълнение на програмния бюджет за периода от 01.01.2017 г. до 31.12.2017 г.*), Sofia, Ministry of Justice (*Министерство на правосъдието*), p. 68, http://mjs.bg/files/1400_Otchet_31_12_2017.doc.

⁴ Bulgaria, Ombudsman Act (*Закон за омбудсмана*), 23 May 2003, Art. 19, www.lex.bg/laws/ldoc/2135467520.

⁵ For more information, see the full versions of all reports on the website of the Ombudsman, www.ombudsman.bg/national-prevention/.

3. the people deprived of their liberty and the prison staff have no information whether the premises conform to standards when taking decisions for relocation from one premise to another. In case there is such information available, it is not public – there are no diagrams in the premises indicating the allowed number of people;
4. when reaching full capacity, temporary overcrowding related to the inmates' personal characteristics is imminent, and the prison administration should take account of this.

The NPM received divergent information about the prisons' capacity. The NPM recommendation to establish a public register with the living areas has not been followed. These areas are not specified in the presentation of the various prisons on the DG EP website. This hinders the work of the administrative courts and results in summoning other prisoners as witnesses or appointing unnecessary expert opinions.⁶

‘Главна дирекция „Изпълнение на наказанията“ отчита капацитет в местата за лишаване от свобода от закрит тип (корпуси на затвори и общежития от закрит тип) за 5689 места (при спазени изискуеми 4 кв. м.), при свободен общ капацитет към месец септември 2017 г. за около 400 места. В местата за лишаване от свобода от открит тип, свободните места са около 300. Същият брой свободни места има и в арестите. Това би дало основание да се твърди, че въпросът с пренаселеността е решен.

При проверките си НПМ почти навсякъде установи пренаселеност по следните причини:

1. неправилно се замерва жилищната площ заедно с площта на санитарния възел;
2. поддържа се брой легла значително над обявения капацитет;
3. лишени от свобода и служителите нямат информация, дали помещенията съответстват на стандартите, когато се взимат решения за преместване от едно помещение в друго. Ако има такава информация, то тя не е публична – не са разположени схеми във всяко помещение, с посочен допустим брой настанени лица;
4. при доближаване на пълния капацитет е неизбежно да има временни, инцидентни пренаселвания, свързани с личностните характеристики на настанените лица, които администрацията е добре да отчита.

НПМ получава различна информация за капацитета на местата за лишаване от свобода. Не е изпълнена препоръката на НПМ за създаване на публичен регистър, в който да са указани жилищните площи. Тези площи не присъстват в представянето на отделните места за лишаване от свобода на страницата на ГДИН. Това води както до затрудняване работата на административните съдилища, така и до призоваване на други лишени от свобода за свидетели, включително и назначаване на ненужни експертизи.⁷

Previous NPM reports include the following formal recommendations regarding cell space:

‘NMP believes there is an urgent need to build new prisons and prison dormitories.’

‘НПМ смята, че е налице спешна необходимост от изграждане на нови затвори и затворнически общежития.’⁸

2. Sanitary Facilities

⁶ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2018), *2017 Annual report of the Ombudsman acting as National Preventive Mechanism*, Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), p. 12, www.ombudsman.bg/pictures/file/5751_Annual_Report_NPM_2017_EN.pdf.

⁷ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2018), *2017 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2017 г.)*, Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), pp. 13-14, www.ombudsman.bg/pictures/file/Годишен%20доклад%20за%20действието%20на%20НПМ%202017г_.pdf.

⁸ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2013), *2012 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2012 г.)*, Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), p. 13, www.ombudsman.bg/documents/Report%20NPM%202012.pdf.

- a) What is the national standard with regard to access to toilets? Are these located in cells? If not, do prisoners have access to these facilities without undue delay, even during the night? Do these facilities offer privacy to prisoners who use them?
- b) What is the national standard with regard to access to regularly cleaned shower/bathing facilities? How often is this access provided? Do these facilities offer privacy to prisoners who use them?
- c) Is the provision of cleanly sanitary facilities regulated by any legal instrument such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- e) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

Please cite any relevant sources

The national standard with regard to access to toilets is the rule that all persons deprived of liberty must have permanent access to toilets. It is laid down in the Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (*Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража*), adopted by the Minister of Justice.⁹ In closed-type penitentiary facilities (prisons and closed prison dormitories) and in pre-trial detention facilities, which are located within the prisons, the access to a toilet must be provided within the sleeping quarters.¹⁰

The national standard with regard to access to regularly cleaned shower/bathing facilities is the rule that persons deprived of liberty must be provided with access to bathing facilities once a day, if possible, or at least twice a week. It is laid down in the Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържане под стража*), which also stipulates that the bathrooms must be cleaned and disinfected after each use.¹¹ This standard is valid for all types of penitentiary facilities: prisons, open prison dormitories, closed prison dormitories and juvenile reformatories. It is also valid for pre-trial detention facilities, because, unless otherwise specified in the law, the rules for prisoners also apply to accused persons and defendants detained in custody.¹²

There are no legal rules governing the privacy of prisoners using the toilets and bathrooms. In practice, there are prisons where the toilets and bathrooms offer adequate level of privacy to the prisoners who use them, but there are also places where this has not been achieved. Thus, for example, in the arrest in the town of Montana, toilets are placed in the cells, between the beds, with no wall or screen separating it from the rest of the cell.¹³

⁹ Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (*Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража*), 2 February 2010, Art. 20, Par. (3), www.lex.bg/laws/ldoc/2135661301.

¹⁰ Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (*Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража*), 2 February 2010, Art. 20, Par. (3), www.lex.bg/laws/ldoc/2135661301.

¹¹ Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 151, www.lex.bg/laws/ldoc/2135627067.

¹² Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 240, www.lex.bg/laws/ldoc/2135627067.

¹³ Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*) (2017), *2017 report of the National Preventive Mechanism for the visits to the prison in the town of Vratsa; the arrest in the town of Vratsa; the open prison dormitory "Keramichna fabrika"; the juvenile reformatory in the town of Boychinovtsi; the arrest in the town of Montana* (Доклад за 2017 г. на Националния превантивен механизъм за проверките в затвора в гр. Враца; арест - гр. Враца; общежитие от открит тип "Керамична фабрика"; поправителен дом за непълнолетни - гр. Бойчиновци; арест -

In Bulgaria, the National Preventive Mechanism is the Ombudsman.¹⁴ The NPM publishes annual reports since 2012. Each report has a separate section on detention conditions.¹⁵ The report for 2017 includes the following remarks regarding hygiene:

'The NPM established that the recommendation made in the previous reports to build sanitary units in the cells has been implemented by the Directorate General Execution of Punishments and the Ministry of Justice respectively.

*In some cases, however, the reconstructions have been conducted inappropriately. For example, the sanitary units in the prison in Sofia have no access to daylight. In some cases, the building of sanitary units is blocking the access to daylight from the windows. The detention facility in Montana is an illustration of inappropriate reconstruction: the toilette is located in immediate proximity between two beds, there are no bars separating the toilette and access to daylight is blocked by a corridor between the premises and the windows. In a relatively new detention facility in Plovdiv the partition walls need to be further built. Additional reconstruction is also required after the reconstruction of the detention facility in G. M. Dimitrov, Sofia.'*¹⁶

'НПМ констатира, че даваната в предишни доклади препоръка за изграждане на санитарни възли в килиите, е изпълнена от Главна дирекция „Изпълнение на наказанията“, съответно и от Министерство на правосъдието.

*В някои случаи, ремонтите са извършени по нецелесъобразен начин. Така например, са създадени санитарни възли в затвора в гр. София, при които не е осигурен достъп до дневна светлина. В някои от случаите именно изграждането на санитарния възел ограничава достъпа до светлина, поради местонахождението му към прозореца на помещенията. Пример за неудачен ремонт е арестът в гр. Монтана, където тоалетната е разположена без прегради в непосредствена близост между двете легла, и липсва дневна светлина, поради наличен коридор между помещенията за задържане и прозорците. В относително нов арест в гр. Пловдив се налага доизграждане на преградните стени. Аналогично е положението и след ремонта на ареста в Г. М. Димитров, гр. София.'*¹⁷

3. Time out of cell

- a) What is the national standard set for time per day/week spent by prisoners outside of their cells:
 - a. Outdoors (within the boundary of the prison)?
 - b. Indoors in the common area?
- b) Are sports or other recreational and educational facilities available to prisoners? If so what types?
- c) Is time spent in cells regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- e) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the

гр. Монтана), Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), p. 10, www.ombudsman.bg/pictures/file/НПМ/doklad%20vraza-2.pdf.

¹⁴ Bulgaria, Ombudsman Act (Закон за омбудсмана), 23 May 2003, Art. 19, www.lex.bg/laws/ldoc/2135467520.

¹⁵ For more information, see the full versions of all reports on the website of the Ombudsman, www.ombudsman.bg/national-prevention/.

¹⁶ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2018), 2017 Annual report of the Ombudsman acting as National Preventive Mechanism, Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), p. 15, www.ombudsman.bg/pictures/file/5751_Annual_Report_NPM_2017_EN.pdf.

¹⁷ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2018), 2017 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2017 г.), Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), pp. 16-17, www.ombudsman.bg/pictures/file/Годишен%20доклад%20за%20действието%20на%20НПМ%202017г_.pdf.

exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

Please cite any relevant sources

There are no standards for the total amount of time, which prisoners must spend inside or outside of their cells. There are detailed rules governing the time spent outdoors as well as rules determining the time, during which the cells must stay locked.

There is a national standard for the time spent by prisoners outdoors and it is at least one hour per day. It is laid down in the Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържане под стража*).¹⁸ For some categories of prisoners there are different standards: two hours per day for prisoners under 18 years of age,¹⁹ at least two hours per day and at least one hour per day during the winter for pregnant women, breastfeeding mothers and prisoners engaged in underground or harmful work,²⁰ etc. This standard is valid for all types of penitentiary facilities: prisons, open prison dormitories, closed prison dormitories and juvenile reformatories. It is not valid for the so-called arrests (*аресту*), where accused persons and defendants with pending criminal proceedings are detained in custody. For these facilities the time spent outdoors is determined by the Director General of the Directorate General Execution of Penalties (DGEP) (*Главна дирекция „Изпълнение на наказанията“*, ГДИН).²¹

There are no standards for the time spent by prisoners indoors in the common areas. There are, however, certain rules on when the cells and corridors must be locked. These rules are different depending on the prison regime and the type of prison. Prisoners on light regime (*лек режим*) or general regime (*общ режим*), who are placed in open prison dormitories, are accommodated in premises, where only the corridors are locked during the night. Prisoners on general regime, who are placed in prisons or closed prison dormitories, are accommodated in cells, which are locked during the night. Prisoners on strict regime (*строг режим*) are always placed in prisons or closed prison dormitories and are accommodated in cells, which are locked during the night. Prisoners on special regime (*специален режим*) are placed in prisons and are accommodated in permanently locked cells.²²

The national standard as regards sports and recreation is laid down in the law, which stipulates that, if possible, each prisoner must be provided with conditions for participating in sport games and exercises for one hour per day in addition to the time spent outdoors. In case of unfavourable weather conditions these activities must take place indoors.²³ All prisons have sports playgrounds and other facilities outdoors. Some prisons also have fitness rooms and other facilities indoors.²⁴

¹⁸ Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 86, Par. (1), www.lex.bg/laws/ldoc/2135627067.

¹⁹ Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 190, Par. (2), www.lex.bg/laws/ldoc/2135627067.

²⁰ Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (*Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража*), 2 February 2010, Art. 71, Par. (6), www.lex.bg/laws/ldoc/2135661301.

²¹ Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 256, Par. (4), www.lex.bg/laws/ldoc/2135627067.

²² Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (*Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража*), 2 February 2010, Art. 51-54, www.lex.bg/laws/ldoc/2135661301.

²³ Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 164, www.lex.bg/laws/ldoc/2135627067.

²⁴ For more information about the facilities for sports and recreation available in each prison, see the website of the General Directorate Execution of Penalties (*Главна дирекция „Изпълнение на наказанията“*), www.gdin.bg/zatvori.

The law also stipulates that each prison must have a library accessible to all prisoners and subscription for national and local print media.²⁵ Prisoners must have access to the library at least once a week.²⁶ There are also rules governing the access of prisoners to radio and TV programmes²⁷ and the participation of prisoners in art and cultural activities.²⁸

There is an extensive set of provisions governing the education and vocational training of prisoners. School education is mandatory for prisoners under 16 years of age and voluntary for all other prisoners.²⁹ Schools are available in each prison.³⁰ Different vocational training courses are also available in each prison.³¹

In Bulgaria, the National Preventive Mechanism is the Ombudsman.³² The NPM publishes annual reports since 2012. Each report has a separate section on detention conditions.³³ The report for 2017 includes the following remarks regarding the time spent outdoors:

*'The EPRCE regulates outdoor stay for not less than an hour a day. In some places the administration allows for extended stay outdoor by an act of the prison director. This creates problems when directors change and the new director reduces the extended stay outdoor. It is appropriate to fix this stay either in the law or Implementing Rules so that this right is regulated in a uniform manner in all closed-type facilities.'*³⁴

*'ЗИНЗС регламентира престой на открито за не по-малко от един час на ден. По места, администрацията често увеличава този престой, с акт на началника на затвора. Създават се проблеми при смяна на началника на затвора и последващо намаляване на този престой. Целесъобразно е законът или правилникът да фиксира това време и да уеднакви това право във всички места от закрит тип.'*³⁵

4. Solitary confinement

²⁵ Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 165, www.lex.bg/laws/ldoc/2135627067.

²⁶ Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража), 2 February 2010, Art. 154, Par. (2), www.lex.bg/laws/ldoc/2135661301.

²⁷ Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража), 2 February 2010, Art. 153, www.lex.bg/laws/ldoc/2135661301.

²⁸ Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража), 2 February 2010, Art. 149, www.lex.bg/laws/ldoc/2135661301.

²⁹ Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 162, www.lex.bg/laws/ldoc/2135627067.

³⁰ Ministry of Justice (Министерство на правосъдието), (2016), 'For the school year 2016/2017, there are 1,431 pupils in prisons, 222 of them first-graders' ('През учебната 2016/2017 година 1431 ученици в местата за лишаване от свобода, 222 от тях – първокласници'), Press release, 14 September 2016, www.justice.government.bg/117/10642/.

³¹ For more information about the vocational training courses available in each prison, see the website of the General Directorate Execution of Penalties (Главна дирекция „Изпълнение на наказанията“), www.gdin.bg/zatvori.

³² Bulgaria, Ombudsman Act (Закон за омбудсмана), 23 May 2003, Art. 19, www.lex.bg/laws/ldoc/2135467520.

³³ For more information, see the full versions of all reports on the website of the Ombudsman, www.ombudsman.bg/national-prevention/.

³⁴ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2018), 2017 Annual report of the Ombudsman acting as National Preventive Mechanism, Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), p. 19, www.ombudsman.bg/pictures/file/5751_Annual_Report_NPM_2017_EN.pdf.

³⁵ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2018), 2017 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2017 г.), Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), p. 21, www.ombudsman.bg/pictures/file/Годишен%20доклад%20за%20действието%20на%20НПМ%202017г_.pdf.

- a) What is the national standard set regarding solitary confinement? Is it regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- b) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- c) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

Please cite any relevant sources

In Bulgaria, prisoners, who have committed one of the violations listed in the law, can be punished by placing them in the so-called 'penal cell' (*наказателна килия*). There are two different types of this punishment: placement in a penal cell for up to 14 days and placement in a penal cell during the non-working or non-studying time, during days-off and during public holidays for up to 14 days in total in the course of up to three months.³⁶ The difference between the two types of punishment is that in the first case the person is placed in isolation for up to 14 consecutive days, while in the second case the person is placed in such a cell only during their free time. The placement in a penal cell can be extended to up to 20 days, when more than one punishment has been imposed and the prisoner has not served any of them.³⁷ Prisoners under 18 years of age can be placed in penal cells for up to three days, during which time they are allowed to go to work or to school.³⁸

There are a number of rules governing the accommodation of prisoners in penal cells: prisoners in penal cells cannot receive food parcels,³⁹ they are visited by a medical doctor every working day or immediately upon their request,⁴⁰ they have their meals within the cell,⁴¹ they cannot spend their time outdoors with other prisoners,⁴² etc. The penal cells used must correspond to all applicable hygienic and health requirements: no moisture, direct daylight access, good locking, heating, ventilation and a secured bed.⁴³ Prisoners placed in penal cells can have with them only a limited number of personal belongings, which are listed in the law.⁴⁴

³⁶ Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 101, www.lex.bg/laws/ldoc/2135627067.

³⁷ Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 106, Par. (4), www.lex.bg/laws/ldoc/2135627067.

³⁸ Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 193, Par. (3), www.lex.bg/laws/ldoc/2135627067.

³⁹ Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 103, Par. (1), www.lex.bg/laws/ldoc/2135627067.

⁴⁰ Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 144, Par. (1) and (2), www.lex.bg/laws/ldoc/2135627067.

⁴¹ Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (*Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража*), 2 February 2010, Art. 96, Par. (6), www.lex.bg/laws/ldoc/2135661301.

⁴² Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (*Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража*), 2 February 2010, Art. 71, Par. (10), www.lex.bg/laws/ldoc/2135661301.

⁴³ Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (*Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража*), 2 February 2010, Art. 96, Par. (2), www.lex.bg/laws/ldoc/2135661301.

⁴⁴ Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (*Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража*), 2 February 2010, Art. 96, Par. (4), www.lex.bg/laws/ldoc/2135661301.

To prevent prisoners from escaping, from harming the life or health of others or from committing another criminal offence, inmates can be isolated in the so-called 'individual cell' (*единична килия*). The maximum duration of this measure is two months. Prisoners in individual cells cannot take part in collective activities.⁴⁵ There are no other legal rules or standards regarding this measure. The main difference between the placement in a 'penal cell' and an 'individual cell' is that the placement in a 'penal cell' is a punishment for a violation committed by the inmate, while the placement in an 'individual cell' is a preventive measure.

In Bulgaria, the National Preventive Mechanism is the Ombudsman.⁴⁶ The NPM publishes annual reports since 2012. Each report has a separate section on detention conditions.⁴⁷ The report for 2017 includes no particular remarks regarding the placement of prisoners in penal cells except for the following brief comment on the appeal procedure:

*'Pursuant to Article 111 EPRCA, the order imposing disciplinary isolation is subject to appeal before the administrative court competent in the jurisdiction where the prison is located within three days of announcing it. The appeal does not stay the execution of the order unless the court otherwise decides. In those cases when the court repeals the order as unlawful, the sanction has already been served. The opportunities are either to deduct the time served from future disciplinary sanctions, or subsequent financial compensation, again following a court decision. The NPM is of the opinion that this provision should be amended.'*⁴⁸

*'Съгласно чл. 111 от ЗИНЗС, заповедта за дисциплинарно наказание „изолиране в наказателна килия“ подлежи на оспорване пред административния съд по местои изпълнение на наказанието, в триднешен срок от обявяването ѝ. Жалбата не спира изпълнението на заповедта за наказание, освен ако съдът разпореди друго. В случаите, когато съдът отмени заповедта като незаконосъобразна, то наказанието вече е изтърпяно. Възможностите са или да се направи прихващане при бъдещо дисциплинарно наказание, или последващо парично обезщетение, отново по решение на съда. НПМ счита, че законовата разпоредба следва да се промени.'*⁴⁹

5. Access to healthcare

- a) What is the national standard with regard to access to medical services in prisons? (E.g. do prisoners have prompt access to medical services within prisons or externally? Do prisoners have access to dentists and opticians?)
- b) Are there any special provisions relating to the provision of specialist care? (E.g. for long-term diseases, for sick and elderly prisoners, the mentally ill, drug addicted prisoners etc.)
- c) Is access to healthcare in prisons regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) Please indicate whether there are different standards applicable to different detention regimes.
- e) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These

⁴⁵ Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 120, www.lex.bg/laws/ldoc/2135627067.

⁴⁶ Bulgaria, Ombudsman Act (Закон за омбудсмана), 23 May 2003, Art. 19, www.lex.bg/laws/ldoc/2135467520.

⁴⁷ For more information, see the full versions of all reports on the website of the Ombudsman, www.ombudsman.bg/national-prevention/.

⁴⁸ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2018), *2017 Annual report of the Ombudsman acting as National Preventive Mechanism*, Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), p. 23, www.ombudsman.bg/pictures/file/5751_Annual_Report_NPM_2017_EN.pdf.

⁴⁹ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2018), *2017 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2017 г.)*, Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), pp. 25-26, www.ombudsman.bg/pictures/file/Годишен%20доклад%20за%20действието%20на%20НПМ%202017г_.pdf.

reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

Please cite any relevant sources

There is a comprehensive set of rules governing healthcare in prison. The national standard for prompt access to a doctor is that prisoners, who have requested a medical examination, must be seen by a doctor within 24 hours. Prisoners with temperature, traumas or in another emergency condition must be seen by a doctor immediately at any time.⁵⁰

At least once per year all prisoners must undergo annual prophylactic examinations, fluorography and laboratory tests, and receive all mandatory immunisations and re-immunisations.⁵¹

In each prison, there is a medical centre for outpatient care with up to ten beds for short-term treatment.⁵² In the medical centres prisoners receive emergency medical and dental care, primary medical care, specialised outpatient medical care, dental service, prophylactic, rehabilitation, hygienic and anti-epidemic activities, etc.⁵³ The staff employed in the medical centres varies from two to seven persons.⁵⁴ In some prisons there are specialised hospitals for active treatment of prisoners with acute and exacerbated chronic diseases that cannot be subjected to outpatient treatment, prisoners whose life or health condition is at risk, and prisoners with undetermined diagnosis requiring clinical observation and laboratory testing.⁵⁵ At present, specialised hospitals are operating within two prisons: the prison in Sofia and the prison in Lovech.⁵⁶

Prisoners are sent to medical establishments outside the prison when the medical facilities inside the prisons do not have the necessary capacity to perform the necessary treatment, when the prisoner suffers from infectious disease or when there is a need of consultative examinations or specialised tests.⁵⁷ Prisoners who do not agree with their diagnosis or the prescribed treatment can request consultation with a specialist from another medical establishment at their own expense.⁵⁸

⁵⁰ Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 143, www.lex.bg/laws/ldoc/2135627067.

⁵¹ Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 140, www.lex.bg/laws/ldoc/2135627067.

⁵² Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 133, www.lex.bg/laws/ldoc/2135627067.

⁵³ Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 134, www.lex.bg/laws/ldoc/2135627067.

⁵⁴ Ministry of Justice, General Directorate Execution of Penalties (Министерство на правосъдието, Главна дирекция „Изпълнение на наказанията“) (2017), Report of the functional analysis carried out for the General Directorate Execution of Penalties of the Ministry of Justice (Доклад от проведен функционален анализ на Главна дирекция „Изпълнение на наказанията“ към Министерство на правосъдието), Sofia, General Directorate Execution of Penalties (Главна дирекция „Изпълнение на наказанията“), р. 54, www.gdin.bg/content/files/2017/05/17/a82baaf6b308895b754ccca577b229f7.pdf.

⁵⁵ Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 131-132, www.lex.bg/laws/ldoc/2135627067.

⁵⁶ Ministry of Justice, General Directorate Execution of Penalties (Министерство на правосъдието, Главна дирекция „Изпълнение на наказанията“) (2017), Report of the functional analysis carried out for the General Directorate Execution of Penalties of the Ministry of Justice (Доклад от проведен функционален анализ на Главна дирекция „Изпълнение на наказанията“ към Министерство на правосъдието), Sofia, General Directorate Execution of Penalties (Главна дирекция „Изпълнение на наказанията“), р. 54, www.gdin.bg/content/files/2017/05/17/a82baaf6b308895b754ccca577b229f7.pdf.

⁵⁷ Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 135, www.lex.bg/laws/ldoc/2135627067.

⁵⁸ Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 137, www.lex.bg/laws/ldoc/2135627067.

Prisoners with suspected mental disorder undergo clinical-psychologic and psychiatric tests for determining their diagnosis. Those suffering from mental disorders who are in need hospital treatment, are accommodated in the specialised hospital for active treatment.⁵⁹ Prisoners with addictions or suicide attempts are placed under monitoring by the doctor, the psychiatrist and the psychologist of the prison and are referred to specialised treatment programmes.⁶⁰

A number of additional rules on healthcare in prisons are laid down in a regulation issued jointly by the Ministry of Justice (MoJ) (*Министерство на правосъдието*, МП) and the Ministry of Healthcare (MH) (*Министерство на здравеопазването*, МЗ).⁶¹

In Bulgaria, the National Preventive Mechanism is the Ombudsman.⁶² The NPM publishes annual reports since 2012. Each report has a separate section on detention conditions.⁶³ The report for 2017 includes the following remarks regarding healthcare:

'In 2014 the CPT reiterated its long-standing recommendation that the Bulgarian authorities ensure the Ministry of Health's more active involvement in supervising the standard of care in places of deprivation of liberty, including as regards recruitment of health-care staff, their in-service training, evaluation of clinical practice, certification and inspection. The overriding objective should be to ensure the equivalency of care with that in the outside community; this also implies granting a professional and financial status for the health-care staff working in penitentiary establishments equivalent to the one of their colleagues employed by the Ministry of Health.

In September 2017 the DG EP organized a working meeting to present a Strategy for Reform of Prison Healthcare in Bulgaria and Outline of an Action Plan 2018 – 2020 elaborated by Council of Europe experts in the framework of the project "Support for the implementation of the European Court of Human Rights judgments and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment standards and recommendations in Bulgaria (Prison Reform)".

In 2017 the focus of the inspections conducted by the NPM was on communicable diseases. Pursuant to Article 140, paras 2 and 3 EPRCA, all prisoners are provided with the possibility to make voluntary, anonymous or confidential consultations and tests for HIV/AIDS. HIV/AIDS tests are appointed also by the director of the hospital or the medical care centre. In those cases the prisoner may refuse to perform the test.

In practice, this activity is not funded by the Ministry of Justice and the newly admitted inmates are not offered the opportunity to conduct HIV/AIDS tests. It is relied on tests performed by the Regional Health Inspections under the National Programme for Prevention and Control of HIV and Sexually Transmitted Infections in the Republic of Bulgaria 2017-2020. The prisons in Sliven and Stara Zagora have good practices. The Regional Health Inspections conduct HIV/AIDS tests once a month there. No HIV/AIDS tests have been made in the prisons in Varna, Vratsa, Pazardzhik, Plovdiv, Sofia and Lovech.

In all prisons there is a designated medical staff member for combatting tuberculosis who works under the National Programme for Prevention and Early Detection of Tuberculosis in the Republic of Bulgaria. After the Programme was introduced, a down trend of instances of tuberculosis has been observed.⁶⁴

'През 2014 г. КПИ отново препоръча на българските власти да направят необходимото за по-активно участие на Министерство на здравеопазването в надзора върху стандартите за медицинско обслужване в местата за лишаване от свобода, включително по отношение подбор на

⁵⁹ Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 147, www.lex.bg/laws/ldoc/2135627067.

⁶⁰ Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 148, www.lex.bg/laws/ldoc/2135627067.

⁶¹ Bulgaria, Regulation No 2 of 22 March 2010 on the rules and procedure for healthcare in the places of deprivation of liberty (*Наредба № 2 от 22 март 2010 г. за условията и реда за медицинското обслужване в местата за лишаване от свобода*), 22 March 2010, www.lex.bg/laws/ldoc/2135675773.

⁶² Bulgaria, Ombudsman Act (*Закон за омбудсмана*), 23 May 2003, Art. 19, www.lex.bg/laws/ldoc/2135467520.

⁶³ For more information, see the full versions of all reports on the website of the Ombudsman, www.ombudsman.bg/national-prevention/.

⁶⁴ Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*) (2018), *2017 Annual report of the Ombudsman acting as National Preventive Mechanism*, Sofia, Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*), pp. 21-22, www.ombudsman.bg/pictures/file/5751_Annual_Report_NPM_2017_EN.pdf.

здравния персонал, обучение на здравните служители на работното място, оценка на клиничната практика, сертификация и проверки. От първостепенна важност е гарантиране на равенство на здравните грижи с тези, предоставяни на обществото извън затворите; това също така включва предоставяне на професионален и финансов статус на медицинския персонал, работещ в пенитенциарните заведения, равностоен на този на колегите им, назначени на работа от Министерството на здравеопазването.

През м. септември ГДИН организирана работна среща, на която представи Стратегия за реформа на здравното обслужване в затворите в България и План за действие 2018 г. – 2020 г. по проект „Подкрепа за изпълнение на решенията на Европейския съд по правата на човека и на стандартите на Европейския комитет за предотвратяване на изтезанията и нечовешко или унижително отношение или наказване в България“, разработен от експерти към Съвета на Европа.

През 2017 г., акцент в проверките на НПМ е борбата със заразните заболявания в затворите. Съгласно чл. 140, ал. 2 и ал. 3 от ЗИНЗС за всички лишени от свобода се осигуряват условия за доброволно, анонимно или конфиденциално консултиране и изследване за ХИВ/СПИН. Изследвания за ХИВ/СПИН могат да бъдат назначени и от директора на болницата или медицинския център. В тези случаи, лишеният от свобода може да откаже изследването.

На практика, тази дейност не е обезпечена от МП и на новопостъпилите лишени от свобода не се предлага възможността за изследване за ХИВ/СПИН. Разчита се на изследвания от Регионалните равни инспекции (РЗИ), в изпълнение Национална програма за превенция и контрол на ХИВ и сексуално предавани инфекции в Република България 2017-2020 г. Добри практики имат затворите в градовете Сливен и Стара Загора, в които РЗИ извършват изследвания за ХИВ/СПИН един път месечно. Не са правени изследвания за ХИВ/СПИН в затвора в гр. Варна, затвора в гр. Враца, затвора в гр. Пазарджик, затвора в гр. Пловдив, затвора в гр. София и затвора в гр. Ловеч.

Във всички затвори има определено медицинско лице за борба с туберкулозата, което работи по Националната програма за превенция и ранно откриване на туберкулозата в Република България. След въвеждане на програмата, в затворите се отчита намаляване на броя заболели от туберкулоза.⁶⁵

Previous NPM reports include the following formal recommendations regarding juvenile prisoners:

'In this regard, the NPM makes the following proposals for the restructuring of the healthcare system:

- *Medical centres to be transformed into healthcare offices (HCOs) within the meaning of the Health Act, with the following activity: urgent medical care, healthcare for chronically ill; assessment – grading the symptoms of the persons deprived of liberty for examination by general practitioner (GP); health-promotion activity; participation in national programmes and screening studies; anti-epidemic and sanitary-hygienic activity; medicine supply for persons deprived of liberty. HCOs should support the work of the GPs and provide medical assistance outside the general practitioner's working hours;*
- *The primary medical care for persons deprived of liberty to be provided by GPs, who are officially designated by the Regional Health Insurance Fund (RHIF). The NPM is of the opinion that this is the most serious and important part of the restructuring. There are potential problems related to the GPs only formally providing the service while and the actual activity is performed by the HCO. Therefore, close cooperation and assistance should be sought from the structural units of the Bulgarian Medical Association and the National Health Insurance Fund (NHIF);*
- *The hospital treatment of persons deprived of liberty to be performed entirely outside the penitentiary system – in medical establishments (MEs), contractual partners of NHIF. The proposal of the NPM is to focus on the district hospitals, as there is state involvement in their management and assistance from the Ministry of Healthcare (MoH) could be sought if necessary;*
- *NPM suggests that specialised hospitals for active treatment of persons deprived of liberty (SHATPDL) be transformed into hospitals for long-term treatment;*

⁶⁵ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2017), 2017 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2017 г.), Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), pp. 24-25, www.ombudsman.bg/pictures/file/Годишен%20доклад%20за%20действието%20на%20НПМ%202017г_.pdf.

- *There may be problems related to the clinical pathways that are due to be co-financed by the health insured person, and the subject who will be responsible for the co-financing should be specified in the legislation.'*
- 'В тази връзка НПМ отправя следните предложения за реструктуриране на здравната система:
- медицинските центрове да се преобразуват във вид Здравни кабинети (ЗК) по смисъла на Закона за здравето, с дейност: неотложна медицинска помощ, здравни грижи за хронично болни; оценка – степенуване на оплакванията на л. св. за преглед от общопрактикуващ лекар (ОПЛ); здравно-промотивна дейност; участие в национални програми и скринингови изследвания; протиепидемична и санитарно-хигиенна дейност; лекарствоснабдяване за л. св. ЗК следва да подпомагат дейността на ОПЛ и да осигуряват медицинската помощ извън работното време на общопрактикуващия лекар;
- първичната медицинска помощ за л. св. да се осъществява от ОПЛ, служебно определени от РЗОК. НПМ е на мнение, че това е най-тежката и важна част от реструктурирането. Възможни са проблеми, свързани с формално обслужване от ОПЛ и реално дейността да се извършва от ЗК. Ето защо следва да се търси тясно сътрудничество и съдействие от структурните звена на Български лекарски съюз и Националната здравноосигурителна каса;
- Болничното лечение на л. св. да извършва изцяло извън пенитенциарната система – в ЛЗ, договорни партньори на НЗОК. Предложението на НПМ е да се акцентира върху областните болници, тъй като в тяхното управление има държавно участие и би могло да се търси съдействие от МЗ при необходимост;
- НПМ предлага СБАЛЛС да се преобразуват в болници за продължително лечение;
- възможни са проблеми, свързани с клиничните пътеки, по които се дължи заплащане от здравноосигуреното лице и трябва нормативно да се изясни субектът, който ще извършва заплащането по тях.⁶⁶

*'The recommendation that inmates should not be used as prisoner-orderlies, and that medicines be dispensed solely by healthcare staff and not by prison officers had not yet been implemented.'*⁶⁷

*'Препоръката лишени от свобода да не се ползват за санитарни и лекарства да не се предоставят от надзорно-охранителния състав, а само от медицински лица, към настоящия момент не е изпълнена.'*⁶⁸

6. Special measures in place to protect juvenile prisoners.

- a) Are there any legal instruments, such as a legislative act, internal prison regulations, manuals, policy papers etc. regulating the separation of juvenile prisoners from adults? (e.g. a separate juvenile ward, or part of the building, canteen, common area etc.?)
- b) What age category falls under this specific juvenile prison regime?
- c) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- d) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These

⁶⁶ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2016), *2015 Annual report of the Ombudsman acting as National Preventive Mechanism* (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2015 г.), Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), p. 31-32, www.ombudsman.bg/pictures/Report_NPM_2015_Final_Edited.pdf.

⁶⁷ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2017), *2016 Annual report of the Ombudsman acting as National Preventive Mechanism*, Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), p. 27, www.ombudsman.bg/pictures/Report_NPM_2016_ENG.pdf.

⁶⁸ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2017), *2016 Annual report of the Ombudsman acting as National Preventive Mechanism* (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2016 г.), Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), p. 28, www.ombudsman.bg/pictures/file/Report_NPM_2016.pdf.

reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

Please cite any relevant sources

Juvenile prisoners serve their sentences in separate penitentiary facilities called 'reformatories' (*неправителни домове*).⁶⁹ At present, there is one reformatory for boys, located in the town of Boychinovtsi (formally attached to the prison in Vratsa), and another one for girls, attached to the prison in Sliven, which is the only female prison in Bulgaria. A juvenile prisoner is a prisoner between 14 and 18 years of age. According to the Bulgarian criminal law, minors (persons under 14 years of age) are not criminally responsible.

When a juvenile prisoner turns 18, they must be transferred to a prison or a prison dormitory. Prisoners can remain in the reformatory until they turn 20 years of age, if they request so or if they are attending school.⁷⁰

In Bulgaria, the National Preventive Mechanism is the Ombudsman.⁷¹ The NPM publishes annual reports since 2012. Each report has a separate section on detention conditions.⁷² The report for 2017 does not include any particular remarks regarding the imprisonment of juvenile offenders. The following comments regarding the reformatory for boys are included in a separate report, published in 2017, after the monitoring visit of the NPM to the penitentiary facilities in the region of Vratsa.

'On the day of the NPM visit, there were 34 persons accommodated in the reformatory. There is a steady tendency of reducing the number of convicted juveniles, and in about 5 years the decline is over 50%.

...

At the medical center, there is 1 paramedic practitioner appointed and no supervisor. This means that the CPT's recommendation is not fulfilled, and the list of staff positions at the prison does not allow its possible implementation in the future.

*Kilocalories for the time from 27.02 to 08.05.2017 are in the range of 2,700 to 3,781. The available three meals per day does not comply with Regulation No 37 of 21 July 2009 on the healthy nutrition of students (Annex No. 2 to Art. 9, Par. 2). Fruits are provided once a week (Annex No. 3 to Art. 10, Par. 5).'*⁷³

'В деня на посещението на НПМ в дома бяха настанени 34 лица. Налице е устойчива тенденция за понижаване на броя на осъдените непълнолетни, като за около 5 години спадът е над 50 %.

...

⁶⁹ Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 59, www.lex.bg/laws/ldoc/2135627067.

⁷⁰ Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 195, www.lex.bg/laws/ldoc/2135627067.

⁷¹ Bulgaria, Ombudsman Act (Закон за омбудсмана), 23 May 2003, Art. 19, www.lex.bg/laws/ldoc/2135467520.

⁷² For more information, see the full versions of all reports on the website of the Ombudsman, www.ombudsman.bg/national-prevention/.

⁷³ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2017), *2017 report of the National Preventive Mechanism for the visits to the prison in the town of Vratsa; the arrest in the town of Vratsa; the open prison dormitory "Keramichna fabrika"; the juvenile reformatory in the town of Boychinovtsi; the arrest in the town of Montana* (Доклад за 2017 г. на Националния превантивен механизъм за проверките в затвора в гр. Враца; арест - гр. Враца; общежитие от открит тип "Керамична фабрика"; поправителен дом за непълнолетни - гр. Бойчиновци; арест - гр. Монтана), Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), pp. 9-10, www.ombudsman.bg/pictures/file/НПМ/doklad%20vraza-2.pdf.

В медицинския център има назначен 1 фелдшер и не е назначен ръководител. Тоест, препоръката на КПИ не е изпълнена, но и щатът на затвора не позволява и за в бъдеще евентуалното ѝ изпълнение.

Килокалориите за времето от 27.02 до 08.05.2017г. са в диапазона от 2 700 до 3 781. Начинът на хранене по три пъти на ден не съответства на Наредба № 37 от 21 юли 2009г. за здравословно хранене на учениците (приложение № 2 към чл. 9, ал. 2). Веднъж седмично се предлагат плодове (приложение № 3 към чл. 10, ал. 5).⁷⁴

The following comments regarding the reformatory for girls are included in a separate report, published in 2016, after the monitoring visit of the NPM to the penitentiary facilities in the region of Sliven.

*'The open prison dormitory "Sliven" is located in a separate building from the prison and is divided into two floors with nine sleeping quarters each. On the first floor is the dormitory (32 imprisoned women). On the second floor is the reformatory for juvenile girls. There is no juvenile serving a "deprivation of liberty" sanction.'*⁷⁵

*'ЗО от открит тип „Сливен“ е разположено в отделна сграда от корпуса, разпределена на 2 етажа с по девет спални помещения. На първия етаж е обособено общежитието (32 лишени от свобода жени). На втория етаж е разположен домът за непълнолетни девойки. Няма непълнолетен, който да изтърпява наказание „лишаване от свобода“.'*⁷⁶

Previous NPM reports include the following formal recommendations regarding juvenile prisoners:

'NPM addresses the competent institutions with a proposal to carry out an analysis and assessment of the need to relocate the reformatory [in Boychinovtsi] in a smaller space that is sufficiently communicative and well-equipped to meet the needs of juveniles deprived of their liberty.'

*'НПМ се обръща към компетентните институции с предложение да извършат анализ и оценка на необходимостта от преместване на дома в по-малко място, което да бъде достатъчно комуникативно и добре оборудвано с оглед на нуждите на л. св. непълнолетни.'*⁷⁷

7. Special measures in place to protect prisoners from violence

⁷⁴ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2017), 2017 report of the National Preventive Mechanism for the visits to the prison in the town of Vratsa; the arrest in the town of Vratsa; the open prison dormitory "Keramichna fabrika"; the juvenile reformatory in the town of Boychinovtsi; the arrest in the town of Montana (Доклад за 2017 г. на Националния превантивен механизъм за проверките в затвора в гр. Враца; арест - гр. Враца; общежитие от открит тип "Керамична фабрика"; поправителен дом за непълнолетни - гр. Бойчиновци; арест - гр. Монтана), Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), pp. 9-10, www.ombudsman.bg/pictures/file/НПМ/доклад%20vraza-2.pdf.

⁷⁵ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2016), 2016 report of the National Preventive Mechanism for the visits General Directorate Execution of Penalties; the prisons in the towns of Sofia, Sliven, Burgas, the dormitories attached to them and the arrests in the towns of Sliven and Burgas (Доклад за 2016 г. на Националния превантивен механизъм за проверките в Главна дирекция „Изпълнение на наказанията“; затворите в град София, Сливен, Бургас, общежитията към тях и арестите в град Сливен и Бургас), Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), p. 8, www.ombudsman.bg/pictures/file/НПМ/2016/Доклад%20София%20Сливен%20Бургас.pdf.

⁷⁶ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2016), 2016 report of the National Preventive Mechanism for the visits General Directorate Execution of Penalties; the prisons in the towns of Sofia, Sliven, Burgas, the dormitories attached to them and the arrests in the towns of Sliven and Burgas (Доклад за 2016 г. на Националния превантивен механизъм за проверките в Главна дирекция „Изпълнение на наказанията“; затворите в град София, Сливен, Бургас, общежитията към тях и арестите в град Сливен и Бургас), Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), p. 8, www.ombudsman.bg/pictures/file/НПМ/2016/Доклад%20София%20Сливен%20Бургас.pdf.

⁷⁷ Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2015), 2014 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2014 г.), Sofia, Ombudsman of the Republic of Bulgaria (Омбудсман на Република България), p. 13, www.ombudsman.bg/documents/NPM_Report_2014_FINAL.pdf.

- a) Are any special measures in place to protect prisoners against violence, including sexual violence? (E.g. are prisoners supervised by prison staff? Are there emergency call buttons? Do guards receive training in de-escalation? Do prisoners have access to a complaints mechanism?)
- b) Are there any special measures in place to protect LGBTI prisoners, who are particularly vulnerable to violence/sexual violence?
- c) Are these measures regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.)..
- e) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English) These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of--designated-npmby-regions-and-countries/>

Please cite any relevant sources

There is an explicit provision in the law prohibiting the use of physical or psychological violence among prisoners, including for solving conflicts between them.⁷⁸ Violent behaviour, including threatening, is a disciplinary violation, for which prisoners can receive disciplinary sanctions.⁷⁹ When absolutely necessary, in cases of violence among prisoners, the prison staff is allowed to use physical force and, if physical force is not sufficient for achieving the result, additional means and tools such as handcuffs, batons, rubber cartridges, etc.⁸⁰

According to the law, all prisons must be equipped with technical and other means of security and control and prisoners must be warned about their use, including the use of audio-visual systems for controlling prisoners' behaviour.⁸¹

There are several provisions governing the supervision of prisoners by prison staff. Prison guards must be present when the prisoners receive their meals,⁸² spend their time outdoors,⁸³ have visitors,⁸⁴ clean their cells,⁸⁵ etc. In the closed-type facilities (prisons and closed prison dormitories), prisoners can move within the facility only if they are accompanied by a prison guard. Moving without a guard is possible only with the permission of

⁷⁸ Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 97, www.lex.bg/laws/ldoc/2135627067.

⁷⁹ Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 100, Par. (2), www.lex.bg/laws/ldoc/2135627067.

⁸⁰ Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 113, www.lex.bg/laws/ldoc/2135627067.

⁸¹ Bulgaria, Execution of Penalties and Detention in Custody Act (Закон за изпълнение на наказанията и задържането под стража), 3 April 2009, Art. 44, www.lex.bg/laws/ldoc/2135627067.

⁸² Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража), 2 February 2010, Art. 68, Par. (2), www.lex.bg/laws/ldoc/2135661301.

⁸³ Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража), 2 February 2010, Art. 71, Par. (2), www.lex.bg/laws/ldoc/2135661301.

⁸⁴ Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража), 2 February 2010, Art. 73, Par. (1), www.lex.bg/laws/ldoc/2135661301.

⁸⁵ Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража), 2 February 2010, Art. 176, Par. (3), www.lex.bg/laws/ldoc/2135661301.

the prison director. In open-type facilities (open prison dormitories) prisoners can move within the facility without a guard.⁸⁶

There are detailed provisions governing the security of prisons and the responsibilities of prison guards, including in critical situations (riots, escapes, fire, etc.).⁸⁷ All guards with stand-alone responsibilities (i.e. not part of a team) must have passed a course of initial professional training and must have successfully taken a theoretical and practical exam.⁸⁸

Prisoners have the right to submit complaints as well as to appear in person before the prison director.⁸⁹

There are no specific measures for the protection of LGBTI prisoners.

In Bulgaria, the National Preventive Mechanism is the Ombudsman.⁹⁰ The NPM publishes annual reports since 2012. Each report has a separate section on detention conditions.⁹¹ The report for 2017 does not include any particular remarks regarding the protection of prisoners against violence.

8. Responsible authorities

- a) What authority is responsible for the provision of additional information requested under Article 15 of the EAW Framework Decision? *(Please specify whether there a central authority deals with these requests, if yes, please provide contact details, such as the name of the institution, a website, physical and email addresses, and a telephone number. In the absence of a central authority, who deals with those requests?)*
- b) What authority is responsible for monitoring conditions of detention and putting forward recommendations?

Please cite any relevant sources

According to the law, the authority, which has issued the EAW, is responsible for providing the necessary data and information upon request of the executing authority.⁹² In Bulgaria, the issuing authorities are the respective public prosecutor when a EAW is issued for an accused person or a convicted person and the respective court when a EAW is issued for a defendant.⁹³

⁸⁶ Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (*Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража*), 2 February 2010, Art. 71a, www.lex.bg/laws/ldoc/2135661301.

⁸⁷ Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (*Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража*), 2 February 2010, Art. 290-340, www.lex.bg/laws/ldoc/2135661301.

⁸⁸ Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act (*Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража*), 2 February 2010, Art. 299, www.lex.bg/laws/ldoc/2135661301.

⁸⁹ Bulgaria, Execution of Penalties and Detention in Custody Act (*Закон за изпълнение на наказанията и задържането под стража*), 3 April 2009, Art. 90, www.lex.bg/laws/ldoc/2135627067.

⁹⁰ Bulgaria, Ombudsman Act (*Закон за омбудсмана*), 23 May 2003, Art. 19, www.lex.bg/laws/ldoc/2135467520.

⁹¹ For more information, see the full versions of all reports on the website of the Ombudsman, www.ombudsman.bg/national-prevention/.

⁹² Bulgaria, Extradition and European Arrest Warrant Act (*Закон за екстрадицията и Европейската заповед за арест*), 3 June 2005, Art. 58, www.lex.bg/laws/ldoc/2135504378.

⁹³ Bulgaria, Extradition and European Arrest Warrant Act (*Закон за екстрадицията и Европейската заповед за арест*), 3 June 2005, Art. 56, Par. (1), www.lex.bg/laws/ldoc/2135504378.

Bulgaria has designated the Minister of Justice as a central authority for EAW.⁹⁴ However, the responsibilities of the Minister of Justice as a central authority do not include the provision of additional information to requesting authorities. According to the law, the Minister of Justice: (1) participates in solving problems related to the verification of the authenticity of a document, necessary for the execution of a EAW,⁹⁵ (2) sends requests to third countries, from which the requested person has been extradited to Bulgaria, asking for permission to surrender this person to the requesting state,⁹⁶ (3) receives copies of all court decisions on EAWs received by Bulgaria,⁹⁷ (4) receives and forwards to the Supreme Prosecution Office of Cassation (SPOC) (*Върховна касационна прокуратура*, ВКП) transit requests and related documents,⁹⁸ and informs the Council of the European Union in cases of repeated delays on the part of another Member State in the execution of EAWs.⁹⁹

Within the Ministry of Justice (MoJ) (*Министерство на правосъдието*, МП) the unit responsible for EAWs is:

Ministry of Justice (MoJ) (*Министерство на правосъдието*, МП)

Directorate "International Legal Cooperation and European Affairs" (*дирекция „Международно правно сътрудничество по европейски въпроси“*)

Division "Cooperation in criminal matters" (*отдел „Сътрудничество по наказателно-правни въпроси“*)

Address: 1 Slavyanska Street, Sofia 1040, Bulgaria (*ул. Славянска № 1, София 1040*)

Phone: +359 2 9237 413

E-mail: criminal@justice.government.bg

Website: www.mjs.bg

The main authority responsible for monitoring detention conditions is the Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*). The Ombudsman monitors detention conditions and can put forward recommendations for their improvement in its capacity of National Preventive Mechanism.¹⁰⁰

Public prosecutors, being responsible by law for exercising control over the execution of penalties, are also authorised to visit penitentiary and detention facilities, talk with inmates in private, receive complaints from prisoners and give mandatory instructions to the prison administration.¹⁰¹

From a civil society perspective, the two organisations monitoring detention conditions are the Bulgarian Helsinki Committee (BHC) (*Български хелзинкски комитет*, БХК) and the Center for the Study of Democracy (CSD) (*Център за изследване на демокрацията*, ЦИД). Each year, the Bulgarian Helsinki Committee (BHC) (*Български хелзинкски комитет*, БХК) publishes an annual human rights report, which includes a separate chapter on the conditions in the places of detention.¹⁰² The Center for the Study of Democracy (CSD) (*Център за изследване на демокрацията*, ЦИД) has developed and implemented the Prison Conditions Monitoring Index (PCMI). The PCMI is a system of indicators translating into comparable figures the situation in different

⁹⁴ Bulgaria, Extradition and European Arrest Warrant Act (*Закон за екстрадицията и Европейската заповед за арест*), 3 June 2005, Art. 38, Par. (2), www.lex.bg/laws/ldoc/2135504378.

⁹⁵ Bulgaria, Extradition and European Arrest Warrant Act (*Закон за екстрадицията и Европейската заповед за арест*), 3 June 2005, Art. 57, Par. (6), www.lex.bg/laws/ldoc/2135504378.

⁹⁶ Bulgaria, Extradition and European Arrest Warrant Act (*Закон за екстрадицията и Европейската заповед за арест*), 3 June 2005, Art. 51, Par. (2), www.lex.bg/laws/ldoc/2135504378.

⁹⁷ Bulgaria, Extradition and European Arrest Warrant Act (*Закон за екстрадицията и Европейската заповед за арест*), 3 June 2005, Art. 53, Par. (2), www.lex.bg/laws/ldoc/2135504378.

⁹⁸ Bulgaria, Extradition and European Arrest Warrant Act (*Закон за екстрадицията и Европейската заповед за арест*), 3 June 2005, Art. 55, Par. (1), www.lex.bg/laws/ldoc/2135504378.

⁹⁹ Bulgaria, Extradition and European Arrest Warrant Act (*Закон за екстрадицията и Европейската заповед за арест*), 3 June 2005, Art. 59, www.lex.bg/laws/ldoc/2135504378.

¹⁰⁰ Bulgaria, Ombudsman Act (*Закон за омбудсмана*), 23 May 2003, Art. 19 and Art. 28a-28d, www.lex.bg/laws/ldoc/2135467520.

¹⁰¹ Bulgaria, Judiciary Act (*Закон за съдебната власт*), 7 August 2007, Art. 146, www.lex.bg/laws/ldoc/2135560660.

¹⁰² The annual human rights reports of the Bulgarian Helsinki Committee are available on the organisation's website, www.bghelsinki.org/en/publications/bhc-reports/annual-human-rights-reports/.

prisons in five major areas: living conditions; social work, free time and contacts with the outside world; security and safety; employment; and healthcare.¹⁰³

¹⁰³ Center for the Study of Democracy (2017), *Prison Conditions Monitoring Index: Methodology and Pilot Results*, Sofia, Center for the Study of Democracy, www.csd.bg/artShow.php?id=17254.