

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 4 to 10 May 2012

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 (2012) 33.

Strasbourg, 4 December 2012

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Copy of the letter transmitting the CPT's report

Ms Elena Doycheva
State Expert
Department of International Cooperation
and Assistance in Civil Matters
Directorate of International Legal Cooperation
and European Affairs
Ministry of Justice
1 Slavianska Street
1040 Sofia, Bulgaria

Strasbourg, 18 July 2012

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 4 to 10 May 2012. The report was adopted by the CPT at its 78th meeting, held from 2 to 6 July 2012.

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

As regards the review of health-care services at Burgas and Varna Prisons (cf. paragraphs 8 and 50), **it is recalled that the Committee has requested to receive the review report and action plan by 15 August 2012.**

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

Yours sincerely,

Latif Hüseyinov
President of the European Committee for the Prevention
of Torture and Inhuman or Degrading Treatment or Punishment

cc: Mr Andrey Tehov, Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Bulgaria to the Council of Europe

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 4 to 10 May 2012¹. 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 2010 visit, the CPT made several recommendations concerning the treatment and conditions of detention of persons held in Varna Prison. The information provided in the response of the Bulgarian authorities did not alleviate the Committee’s concerns about the above-mentioned issues and certain other problems highlighted in the report. In addition, the Committee has recently received reports pointing to ever-worsening conditions in Varna Prison as well as to very poor conditions of detention in Burgas Prison, an establishment last visited by the CPT in 2002. The CPT therefore decided to visit Bulgaria in order to examine on the spot the steps taken by the authorities to implement the relevant recommendations of the Committee contained in the reports on previous visits, and in particular to examine the current treatment and conditions of detention of inmates held at Burgas and Varna Prisons.

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

- Dan DERMENGIU, Head of the delegation
- Mykola GNATOVSKYY.

who were supported by Isabelle SERVOZ-GALLUCCI from the CPT’s Secretariat, and assisted by:

- Alan MITCHELL, Medical Doctor, Former Head of Healthcare, Scottish Prison Service, United Kingdom
- Gergana ALYAKOVA (interpreter)
- Mois BELLO (interpreter)
- Vera GEORGIEVA (interpreter)
- David IEROHAM (interpreter).

¹ The CPT has previously carried out five periodic visits (1995, 1999, 2002, 2006, 2010) and two ad hoc visits (2003 and 2008) 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>).

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

4. At the outset, the CPT wishes to express its appreciation for the efficient assistance provided to its delegation by the liaison officer designated by the national authorities, Ms Mariela YANEVA-DELIVERSKA from the Ministry of Justice.

5. In the course of the visit, the CPT's delegation held consultations with Plamen GEORGIEV, Deputy Minister of Justice and Mitko DIMITROV, General Director of the Main Directorate of Execution of Sanctions, as well as with other senior officials from the Ministries of Justice and Health. The delegation also met representatives of civil society².

6. The delegation enjoyed rapid access to the establishments it wished to visit, to the documentation it wanted to consult and to individuals with whom it wished to speak. However, there was on a number of occasions a lack of understanding of the purpose of CPT visits.

The CPT is concerned to note that, at Burgas Prison, staff tried to create an unrealistic impression by both concealing certain problems and attempting to mislead the delegation. Additionally, staff attempted to find out which prisoners the delegation had spoken to and who had provided information in relation to allegations of ill-treatment. Staff even threatened a number of prisoners that it would not be in their interest to talk further with the delegation. Such action is entirely incompatible with the principle of co-operation, which lies at the heart of the Convention, as well as with the confidentiality that applies, by virtue of the Convention, to the Committee's interviews with detained persons.

The principle of cooperation encompasses the obligation of the national authorities to provide accurate information to managers and staff at the local level on the Committee's mandate, working methods and objectives. In addition, any kind of intimidating or retaliatory action against a person before or after he has spoken to a CPT delegation would be totally unacceptable. The director of Burgas Prison gave his personal assurance that no prisoner would be subject to retaliation after the visit and the Committee trusts that this assurance has been kept. **The CPT calls upon the Bulgarian authorities to take all necessary measures to ensure that the principle of cooperation and the confidentiality of the Committee's interviews with prisoners are in future fully respected in all establishments visited.**

7. Further, the CPT must stress once again that the principle of co-operation between Parties to the Convention and the Committee is not limited to steps taken to facilitate the task of a visiting delegation. It also requires that decisive action be taken to improve the situation in the light of the Committee's recommendations. In this respect, the CPT is extremely concerned that little or no progress has been made as regards a number of problems highlighted in the reports on the Committee's previous visits, e.g. as regards the treatment of prisoners by prison staff, inter-prisoner violence, prison overcrowding, health care provision for prisoners, use of restraint, material conditions, prison staff levels, discipline and segregation, and contact with the outside world.

² A list of the national authorities and organisations met by the delegation is set out in Appendix II to this report.

The CPT wishes to emphasise that persistent failure to improve the situation in the light of the Committee's recommendations could oblige it to consider having recourse to Article 10, paragraph 2, of the Convention³.

The CPT calls upon the Bulgarian authorities to take decisive steps to improve, without further delay, the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention.

C. Immediate observations under Article 8, paragraph 5, of the Convention

8. At the end of the visit, the CPT's delegation informed the Deputy Minister of Justice as well as senior officials from the Ministries of Justice and Health of the main facts found during the visit. On that occasion, the delegation made two *immediate observations, in pursuance of Article 8, paragraph 5, of the Convention*.

The first immediate observation concerned Burgas Prison. The Bulgarian authorities were requested to initiate a comprehensive, independent inquiry into the way in which this prison is managed and operates and to establish an action plan setting out how the work of this prison will be taken forward to ensure the safe custody of all prisoners detained there. The delegation asked to receive the inquiry report and action plan by 29 June 2012.

In the second immediate observation, the Bulgarian authorities were requested to conduct a review of the provision and quality of health care services at both Burgas and Varna Prisons, to be undertaken jointly by the Ministries of Justice and Health (see further under paragraph 50). The delegation asked to receive the review report and an action plan by 15 August 2012.

9. The above-mentioned immediate observations were subsequently confirmed in a letter from the Executive Secretary of the CPT, dated 15 May 2012.

By letter of 6 July 2012, the Bulgarian authorities informed the Committee of the measures taken so far in response to the immediate observations. Those measures will be assessed later in the report.

³ "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."

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Preliminary remarks

10. At the outset, the General Director of the Main Directorate of Execution of Sanctions ("GDIN") acknowledged that, since the last CPT visit in 2010, very little progress had been made concerning the reform of the prison system. He stated that the economic crisis had prevented the implementation of various projects and hampered the emerging efforts noted during the 2010 visit⁴. By way of example, no major investment had been made to improve material conditions in prisons⁵ and the delegation was informed that the application of the legal requirement of 4 m² of living space per prisoner (initially delayed until 2012) is likely to be further delayed, this time, to 2019. In addition, no significant improvements had been made as regards the provision of work to prisoners.

Overcrowding⁶ remains a major problem in Bulgaria's penitentiary system, with the prison population again on the rise (9,788⁷ at the time of the 2012 visit). The delegation observed disturbing levels of overcrowding in all sections of the two prisons visited (see paragraph 22). At the same time, it appeared, from the information provided by the authorities, that recourse to probation had remained at the same level, and that the use of early release had only slightly increased since the 2010 visit.

As for the plans to build three new prisons in Bulgaria, (respectively in Burgas, Varna and Sofia), their implementation has been postponed.

11. The CPT fully understands that the general economic situation in Bulgaria is hindering plans to upgrade and more specifically enlarge the prison estate. That said, even if economic circumstances were more favourable, the CPT doubts that providing additional accommodation would in itself offer a lasting solution to the problem of prison overcrowding. Any strategy for the sustainable reduction of the prison population must include a variety of steps to ensure that imprisonment (whether awaiting trial or following conviction) really is a measure of last resort. This implies, in the first place, an emphasis on non-custodial measures in the period before the imposition of a sentence and the availability to the judiciary, especially in less serious cases, of alternatives to custodial sentences together with an encouragement to use those options. Further, the adoption of measures to facilitate the reintegration into society of persons who have been deprived of their liberty could reduce the rate of re-offending.

The CPT calls upon the Bulgarian authorities to redouble their efforts to combat prison overcrowding by implementing policies designed to limit or modulate the number of persons sent to prison. In so doing, the Bulgarian authorities should be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody and the provision of safeguards against abuse, and Recommendation Rec(2010)1 on the Council of Europe Probation Rules.

⁴ See paragraphs 82 and 83 of CPT/Inf (2012) 9.

⁵ Investments were reportedly focussed instead on the refurbishment of some investigation detention facilities.

⁶ According to the official figures transmitted by the authorities, only three prisons out of 12 were not affected by overcrowding at the time of the visit.

⁷ Remand prisoners represented some 10% of this figure.

In addition, **the CPT recommends that efforts be made to step up the training provided to prosecutors and judges, with a view to promoting the use of alternatives to imprisonment.**

12. The CPT is also very concerned by the lack of progress as regards prison staffing levels; they remained totally insufficient to provide a solid foundation for improving the treatment of prisoners. In fact, the present inadequate staff levels, combined with the ever-increasing overcrowding, can have serious consequences for the overall security of the prisons and the personal security of both staff and inmates (see paragraph 52).

13. Further, the CPT was struck by the very large number of allegations of corrupt practices by prison staff received at Burgas and Varna Prisons; its delegation gained the distinct impression that corruption was endemic at both establishments. As regards Burgas Prison in particular, the phenomenon appeared to extend to senior management. The allegations referred to prisoners being asked to pay money to prison/medical staff in order to be allowed to benefit from services provided for by law (e.g. access to medical care, transfer to a hospital, transfer to prison hostels, early release) or to be granted certain privileges (access to work for instance). Irrespective of whether each and every allegation is well-founded, the frequency, consistency and seriousness of the allegations received during the visit is a clear indication of a major problem. The CPT wishes to stress that the widespread conviction alone of the existence of a culture of corruption in a place of detention brings in its wake discrimination, violence, insecurity and, ultimately, a loss of respect for authority.⁸ **The CPT calls upon the Bulgarian authorities to take decisive action to combat the phenomenon of corruption in all prisons. Prison staff and public officials associated with the prison system should be given the clear message that seeking advantages from prisoners or their relatives is not acceptable; this message should be reiterated in an appropriate form at suitable intervals.**

In this connection, it recommends that a comprehensive and independent inquiry be conducted into allegations of corruption in Burgas and Varna Prisons; the CPT would like to be informed of the outcome of the above-mentioned inquiry and of the action taken as a result.

B. Ill-treatment

14. At *Burgas Prison*, many allegations were heard of frequent physical ill-treatment by staff, including in the high security units. The ill-treatment alleged consisted of slaps, punches and kicks, as well as of beatings by groups of prison officers. Most of the beatings were said to have taken place under the staircase in the central area of the ground floor of the accommodation building, a place where there was no CCTV coverage, and which was commonly referred to by prisoners as "behind the curtain" (a curtain was hanging below the staircase).

In several cases, the delegation observed recent bruises and abrasions which were consistent with allegations of ill-treatment.

⁸ The General Director of the GDIN told the delegation that 50 prison staff in Bulgaria had been dismissed in the last two years on charges of corruption. Two recent cases included the head of Medical unit at Burgas Prison, as well as a senior prison officer, currently under criminal investigation in this respect

For example, a prisoner who alleged having been beaten recently by a prison officer using his truncheon was observed by a medical member of the delegation to bear the following injuries: multiple dark brown parallel bruises, three (15 cm, 16 cm, 11 cm) on the left thorax, scapular and sub-scapular area, and four (10 cm, 7 cm, 9 cm, 7 cm) on the right sub-scapular area. The inmate had chosen not to lodge a complaint.

Furthermore, CCTV footage viewed by the delegation confirmed the allegations received of the assault of another prisoner by a prison officer the day before its visit, consisting of slaps, punches, kicks and the abusive use of his truncheon. The written report on this incident by the staff member in question, which was forwarded to the prosecutor, did not reflect the events as seen on the CCTV footage and in addition it contained references to false witness statements.

On examination by a medical member of the delegation, the prisoner concerned displayed: a 10 cm linear abrasion on the right lateral aspect of the neck; two parallel tramline bruises of 9 x 0.8 cm on the right aspect of the cervical region (these bruises were consistent with having been struck by a rod-like instrument); a 20 x 4 mm linear abrasion on the postero-lateral aspect of the left hemithorax (which the prisoner said was caused by the prison officer twisting his key into the prisoner's back); a 2.5x 1.5 cm violet bruise on the external aspect of the left ankle; a 9 x 1.75 cm violet bruise on the medial aspect of the right ankle. The aspect of the injuries is consistent with the account of the assault as told by the prisoner and with the images captured by the CCTV.⁹

The director of Burgas Prison informed the CPT's delegation that after having watched the CCTV footage at its request, he would transmit it to the relevant prosecutor, and that the officer concerned would be prevented from entering the closed section of the prison pending the result of an investigation. The national authorities were also informed by the delegation and undertook to follow-up on this case. The CPT trusts that this incident is being properly investigated; **it would like to be informed in due course of the outcome of the investigation.**

15. As regards *Varna Prison*, the delegation received some allegations of physical ill-treatment of prisoners by staff, consisting, as during the 2010 visit, of punches, kicks and/or truncheon blows. In one case, the delegation found abrasions which were consistent with the allegations of ill-treatment.

16. The CPT is particularly concerned by the obvious deterioration of the situation at Burgas Prison as compared to that observed during its previous visit in 2002. The information gathered during the 2012 visit points to a pattern of routine ill-treatment by prison officers.

As already indicated (see paragraph 8), the CPT's delegation invoked Article 8, paragraph 5, of the Convention and made an immediate observation in respect of Burgas Prison, where it gained the distinct impression, from the number and seriousness of alleged instances of both physical ill-treatment of prisoners by staff and of corruption, that a safe environment was not being provided for prisoners.

⁹ The only (undated) medical notes found on this case read: "hit with truncheon in the abdomen, has pain in the abdomen, kicked on his left foot, has pain and bruises".

By letter of 6 July 2012, the Deputy Minister of Justice informed the Committee that an inspection ordered by him had revealed numerous disciplinary violations by the management of Burgas Prison. The conclusions of this inspection were transmitted to the Deputy Prosecutor General of Bulgaria. Among the measures taken, the Deputy Director of Burgas Prison in charge of the Regime, Treatment, Supervision and Security was dismissed. Further, the Director of Burgas Prison was suspended from the performance of his duties until the completion of the disciplinary proceedings initiated against him following the above-mentioned violations.

The CPT was also informed that a 13-point action plan had been drawn up. It includes the carrying out of a comprehensive review of the overall functioning of Burgas Prison, an assessment of the weaknesses in the management of the prison and of the treatment and problems encountered by the inmate population, a systematic review of the security activities and of the resort to physical force, as well as the provision of methodological guidance and supervision to the management of the prison.

17. The CPT notes the measures taken and **would like to be informed of the implementation of the above-mentioned action plan concerning Burgas Prison.**

Further, **the CPT calls upon the Bulgarian authorities to take exhaustive measures at the highest political level to ensure that there is zero tolerance of ill-treatment of prisoners in all prisons in Bulgaria. All prison staff must be reminded at suitable intervals that ill-treatment of inmates is not acceptable and will be punished accordingly.**

18. The examination of the documentation on the use of force against prisoners at Burgas Prison revealed 10 reported cases since the beginning of 2012. The reports contained reports by prison staff involved and were sometimes corroborated by witness statements. However, bearing in mind the information gathered during the visit, the written documentation cannot be considered as reliable.

The Committee therefore reiterates its recommendation that the situations in which prison officers may use physical force, including truncheons, be defined more precisely and that detailed instructions concerning the use of such means be issued. It must be made clear in those instructions that physical force can only be applied when – and to the extent – strictly necessary to maintain security and good order, and never as a form of punishment. Further, all cases of the use of physical force should be recorded in a separate register and the prison management and prosecutors should be particularly vigilant when examining such cases.

In addition, in order to facilitate the investigation of instances of possible ill-treatment, more consideration should be given to CCTV coverage (ensuring *inter alia* that all devices work), which may also help to reduce the incidence of ill-treatment (as well as to confirm or refute allegations). CCTV footage should be kept for a period sufficient for it to be used as evidence in case of need. In this connection, the law should guarantee that relevant CCTV footage is systematically transmitted to the relevant prosecutor, in the same way as for all related written documents.

19. The delegation received many allegations of inter-prisoner violence at both Burgas and Varna Prisons (including verbal and physical intimidation), and even witnessed itself such episodes. This was hardly surprising considering the combination of severe overcrowding and extremely low staffing levels at both establishments.

Despite long-standing recommendations on this issue, the findings from the 2012 visit suggest that very little progress has been made to tackle inter-prisoner violence. The Committee must stress again that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. In particular, prison staff must be alert to signs of trouble and be both resolved and properly trained to intervene. Such a capacity to intervene will of course depend, inter alia, on an adequate staff/prisoner ratio and on providing all staff members with appropriate initial and advanced training. In addition, the prison system as a whole may need to develop the capacity to ensure that potentially incompatible categories of prisoners are not accommodated together. **The CPT calls upon the Bulgarian authorities to develop a national strategy to address the problem of inter-prisoner violence, with a view to ensuring that all prisoners are detained under safe conditions.**

20. The CPT is seriously concerned to note that apart from the introduction of a cursory recording system, no other follow-up has been given to the Committee's recommendation as regards the practice of fixation of prisoners with handcuffs to a bed at *Varna Prison*. As regards the 20 cases recorded between November 2010 and April 2012, fixation had frequently been applied for periods of days. In one case, it had lasted for 27 days, and in 16 other cases it had lasted between five and 18 days. It was also clear that a doctor was not systematically called in whenever an inmate was fixated, and that there was no close monitoring of the fixated prisoner by staff. Furthermore, inmates could be fixated in full view of other inmates. It is noteworthy that a prisoner in a distressed mental state had been fixated in the same conditions.

Such a state of affairs is totally unacceptable. While acknowledging that it can be necessary on occasion to resort to means of restraint in a prison setting, the CPT wishes to reiterate that this should be surrounded by appropriate safeguards, which had been detailed in paragraph 92 of the report on the visit carried out in 2010. In particular, the application of means of restraint should be monitored by a doctor and the restrained person should be under the constant direct supervision of a member of staff. The restraints should be removed at the earliest opportunity. Such means should never be applied, or their application prolonged, as a punishment. Further, any prisoner in a distressed mental state should be referred to a psychiatric hospital without delay.

The CPT calls upon the Bulgarian authorities to take immediate action to ensure that all the principles and safeguards concerning the use of fixation, as set out in the report on the 2010 visit (see paragraph 92 of CPT/Inf (2012) 9), are applied in Varna Prison, as well as in other prisons.

C. Conditions of detention at Burgas and Varna Prisons

1. Material conditions

21. At the outset, it must be stressed that the material conditions in which prisoners were obliged to live in these two obsolete prisons, often for years on end, are a matter of serious concern for the CPT. As regards more particularly the closed section of Varna Prison, very little had been done to implement the recommendations made by the CPT after its visit in 2010¹⁰.

22. At the time of the visit, there were 560 inmates in the closed section of Varna Prison for an official capacity of 350, of whom 87 were on remand and the remainder were sentenced (including 19 life-sentenced prisoners)¹¹. As for Burgas Prison, it was accommodating 940 inmates in the closed section for an official capacity of 371, of whom 125 were on remand and the remainder were sentenced (including 27 life-sentenced prisoners)¹².

As could only be expected in the light of the figures just given, the overwhelming majority of the inmate accommodation was extremely overcrowded. At Varna Prison, living space per prisoner was at best around 2 m² and, in several dormitories, was a mere 1 m²¹³. At Burgas Prison, the situation was even worse, with less than 1 m² of living space per prisoner in many dormitories¹⁴. Unsurprisingly, not every inmate had a bed and some prisoners were obliged either to share one or to sleep on a mattress placed on the floor.

Such an outrageous level of overcrowding can be considered in itself to be inhuman and degrading from a physical standpoint (notwithstanding the fact that most prisoners could circulate in the corridors for much of the day). The situation was aggravated by the fact that both prisons were in an advanced state of dilapidation and insalubrity. It should be noted in this regard that the cells were infested with all sorts of cockroaches, bugs and other vermin.

23. At both prisons, most prisoners had access during the day to the common sanitary facilities, located in the corridors (typically a trough with taps, and floor-level-type toilets with no flushing system). However, these facilities were very dilapidated and filthy, and, in some cases, there were leakages from the sewage pipes to the floor below. At night, inmates had to resort to buckets inside the cells.

As for prisoners in the admission units, they remained locked up in their cells with access to a proper toilet only three times a day. A small number of cells at Varna Prison had been equipped with in-cell sanitation but without a partition.

¹⁰ See paragraphs 106 to 111 and 113 to 115 of CPT/Inf (2012) 9.

¹¹ In total, the prison housed 722 prisoners, including 32 inmates in the adjacent "Varna" prison hostel, and 130 in "Razdelna" prison hostel, located some 30 km away.

¹² In total, the prison housed 1,159 prisoners, including 108 inmates in the adjacent "Stroitel" prison hostel and 111 in "Zhitarovo" prison hostel, some 18 km away.

¹³ For example, 11 persons in some 11 m²; 14 persons in some 17 m².

¹⁴ 41 persons in some 33 m², 24 persons in 20 m², 27 persons in 25 m².

24. Prisoners at both prisons could take a shower twice a week, which represents a positive development as compared to the situation observed in the past. Having said that, at Varna Prison, the prison shower room remained in a dilapidated and unhygienic state. The shower rooms at Burgas prison were also dilapidated (some had broken window panes, there were usually no showerheads, the walls and surfaces were damaged) and dirty.

The only personal hygiene item provided to prisoners at both prisons was one small bar of soap per month.

25. In conclusion, the material conditions at Burgas and Varna Prisons were totally unacceptable and as such could be considered as inhuman and degrading.

The delegation was informed that, at Varna Prison, there were plans to refurbish "Razdelna" prison hostel with a view to turning it into a closed-type facility and decrease the overcrowding in the closed prison. As regards Burgas Prison, a former police and fire-brigade building located in the village of Debelt, some 18 km away, was to be refurbished and transformed into a closed-type facility, with an intended capacity of some 400 inmates; some refurbishment work had already been carried out, but had stopped due to the lack of funding¹⁵.

However, it is clear that fully resolving the current situation at Burgas and Varna Prisons will require more radical steps to be taken. The replacement of these two outdated and dilapidated prisons by new establishments is the only viable long-term solution. In this regard, **the CPT wishes to receive a realistic assessment of when the plans for new prisons in Burgas and Varna are likely to come to fruition** (cf. paragraph 10 above). In the meantime, resolute action must be taken to reduce overcrowding at Burgas and Varna Prisons. In this connection, **the highest priority should be given to the projects referred to in the previous sub-paragraph**. Of course, effective implementation of the general recommendation set out in paragraph 11 is also of crucial importance in this context.

Moreover, **the Committee recommends that steps be immediately taken at Burgas and Varna Prisons to:**

- **ensure that each prisoner has a bed, a clean mattress, as well as blankets and bed linen (washed at regular intervals);**
- **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 state of the communal sanitary facilities;**
- **provide any in-cell toilets with a full partition to the ceiling;**
- **fully refurbish the prisons bathrooms, and to enlarge the facility at Varna Prison;**
- **ensure that all inmates have access to a range of basic hygiene products and are provided with materials for cleaning their cells;**
- **ensure that the disinfection of the establishments' premises is carried out in an effective manner and at regular intervals.**

¹⁵ The site was visited by the delegation.

2. Activities

26. In both Burgas and Varna Prisons, with the exception of the high security and admission units, cell/dormitory doors were open during the day and prisoners could move freely within their respective units, thereby offering some relief from the appalling conditions of their accommodation. All inmates could have TV and radio in their cells, and had access to a library, a cinema and a multi-faith area. However, the majority of inmates at both prison were left in idleness most of the time due to the insufficient provision of organised activities.

27. At Burgas Prison, 84 sentenced prisoners had work, essentially in the mechanical workshops, and on general prison maintenance services (which represented some 9 % of all prisoners).

Schooling activities had also been introduced in September 2011 and were offered to 69 inmates.

As regards other activities, computer courses were organised, as well as small workshops (sculpture, modelling, confection of jewellery). Inmates also had access to religious services¹⁶.

28. At Varna Prison, work was offered to 110 sentenced prisoners, essentially in the mechanical and furniture workshops, and on cleaning tasks (representing some 17% of all prisoners).

Schooling activities had been introduced in September 2011 and was offered to 32 inmates, including one life-sentenced prisoner (see also paragraph 38).

29. At Burgas Prison, outdoor exercise was taken one hour twice a day for each group of prisoners, in two large yards, equipped with fitness devices and benches. This contrasted with the situation at Varna Prison where inmates had only one hour of outdoor exercise per day. In both prisons, inmates had one hour's access per week and per group to a yard where they could play football.

30. In the light of the above remarks, **the CPT recommends that the Bulgarian authorities pursue their efforts to develop activity programmes for inmates at Burgas and Varna Prisons, in particular as regards work, educational and vocational activities, taking into consideration the specific needs of different groups of the inmate populations. The CPT also reiterates its recommendation that outdoor exercise and sports facilities be expanded at Varna Prison.**

In addition, **exercise yards at both prisons should be equipped with protection from the sun and rain.**

¹⁶ Orthodox, Roman Catholic and Muslim.

3. Food

31. At both establishments, the delegation was inundated with complaints about the poor quality and insufficient quantity of food. Eggs, dairy products and fruit were in particular rarely on the menu. **The CPT calls upon the Bulgarian authorities to take steps to review the quality and quantity of the food provided at Burgas and Varna Prisons.**

The kitchens (as well as the prison dining hall at Varna) were located in the basements of the establishments. Like the rest of the buildings, they were dilapidated and unhygienic with walls and ceilings covered with mould, and leaking and over-flowing sewage pipes generated a serious health risk and caused lingering putrid smells.

The Committee recommends that the Bulgarian authorities take measures, without delay, to entirely refurbish the kitchens at both establishments. Consideration should be given to relocating the kitchens from the basements.

4. Life-sentenced prisoners

32. The 2012 visit provided an opportunity to review the situation of life-sentenced prisoners and the extent to which the recommendations and comments made in previous reports had been taken into account. At the outset of the visit, the delegation was informed that no progress had been made as regards the removal from the Criminal Code of the sentence of "life imprisonment without the right to substitution" (i.e. without possibility of parole)¹⁷. This is highly regrettable.

The CPT considers that it is inhuman to imprison a person for life without any realistic hope of release. Consequently, the CPT must reiterate that it has serious reservations about the very concept according to which life-sentenced prisoners are considered once and for all to be a permanent threat to the community and are deprived of any hope of being granted conditional release. Reference should also be made to paragraph 4.a of the Committee of Ministers' Recommendation Rec (2003) 22 on conditional release (parole) of 24 September 2003, which clearly indicates that the law should make conditional release available to all sentenced prisoners, including life-sentenced prisoners.

The CPT once again invites the Bulgarian authorities to amend the legislation with a view to making conditional release (parole) available to all life-sentenced prisoners, subject to a review of the threat to society posed by them on the basis of an individual risk assessment.

33. At the time of the visit, there were 27 life-sentenced prisoners at Burgas Prison, 22 of them accommodated in a special unit (Group 1) with reinforced security, and five integrated into the mainstream prison population.

At Varna Prison, there were 13 life-sentenced prisoners accommodated in the same high security unit as during the 2010 visit and six integrated into the mainstream prison population.

¹⁷ 12 lifers at Burgas Prison had no right to parole, and six at Varna Prison.

34. While welcoming the efforts to integrate lifers into the mainstream population, this concerned only a minority of them at both establishments. This is hardly surprising considering that the legislation governing the criteria for changing the regime of a lifer¹⁸ had remained unchanged. **The CPT reiterates its recommendation that the Bulgarian authorities review the legal provisions in order to ensure that the segregation of lifers is based on an individual risk assessment and is applied for no longer than strictly necessary.**

35. The cells used to accommodate lifers in the high security units were small at both prisons (some 6 m² at Burgas Prison and 6.5 m² at Varna Prison) and yet were holding up to two prisoners each. However, two cells at Burgas Prison had been created out of three and were larger (some 9 m² each) and had a fully partitioned sanitary annexe; this is in principle a far more satisfactory arrangement. At Varna Prison, one larger cell (of some 20 m²) accommodated five prisoners.

The cells accommodating lifers at Burgas and Varna Prisons were in the same advanced state of dilapidation and insalubrity as the rest of the prisoner accommodation. The situation was compounded at Burgas Prison by damage in some cells resulting from leaking sewage pipes.

On a positive note, cell windows at Burgas Prison had been replaced a few years previously and access to natural light was adequate. That said, the artificial lighting was kept on all night, obliging inmates to improvise lampshades to dim the light. At Varna Prison, access to natural light was still very limited and artificial lighting insufficient.

36. At both prisons, life-sentenced prisoners could shower twice a week. Lifers were released six times a day to go the toilets at Burgas Prison, but only three times a day at Varna Prison. They had to use buckets the rest of the time. As for the common sanitary facilities, they were in an extremely poor state of repair¹⁹ and filthy.

¹⁸ Pursuant to Section 198 (1) of the Law on the Implementation of Sentences and Preliminary Detention, a lifer has to have served at least five years under special regime (not counting the period on remand), and to have a good behaviour and to formally apply for the change of regime.

¹⁹ Showers without showerheads and some toilets without a working flush, at both prisons; ceiling damaged at Varna Prison.

37. As regards material conditions in the units accommodating life-sentenced prisoners, the CPT recommends that steps be taken to:

- ensure that all life-sentenced prisoners at both prisons have ready access to a proper toilet facility at all times, including at night; resort to buckets should be abandoned;
- carry out the necessary repair work in the common sanitary facilities without delay;
- enlarge and refurbish the cells accommodating lifers, following the example of the two cells of some 9 m² at Burgas Prison;
- improve access to natural light and artificial lighting in the cells at Varna Prison;
- reduce the intensity of artificial lighting at night in the cells at Burgas Prison²⁰;
- ensure that all inmates have access to a range of basic hygiene products and are provided with sufficient materials for cleaning their cells, and have access to facilities for washing and drying their clothes.

In addition, the Committee invites the authorities to ensure that all life-sentenced prisoners can use the dining areas in their units instead of eating their meals in the cells.

38. Similar to the other prisoners at Burgas Prison, lifers took their daily outdoor exercise in two one-hour sessions in the yards described in paragraph 29. At Varna Prison, lifers had one hour of outdoor exercise a day and 30 minutes per week access to table tennis in the corridor's unit.

The CPT was pleased to note that, at Burgas Prison, nine lifers (of whom seven were in the special unit) had been offered in-cell work consisting of assembling markers; in contrast, at Varna Prison no lifers had work. One lifer integrated in the mainstream prison population at Varna Prison was attending the recently opened school, which represented the only positive development as regards organised activities in comparison with the situation observed during the 2010 visit.

As regards other activities, lifers at both prisons could have TV and radio in their cells, as well as books.

The occasional individual and group work observed in 2010 at Varna Prison had been discontinued. At *Burgas Prison*, the delegation was informed that regular anger management, behavioural and emotional group work organised by the social worker, which had been discontinued 18 months previously, was about to resume. **The CPT would like to receive confirmation of the resumption of these activities at Burgas Prison.**

²⁰ This applies to all the cells of the security units.

39. The delegation noted that some written individual plans had been developed at both prisons for lifers. That said, there appeared to be little or no structurally planned intervention on the part of the staff to attempt to provide appropriate mental and physical stimulation to these prisoners. In the CPT's opinion, the regime for life-sentenced prisoners should be fundamentally reviewed. Small-group isolation for extended periods is more likely to de-socialise than re-socialise people. There should instead be a structured programme of constructive and preferably out-of-cell activities; educators and psychologists should be proactive in working with life-sentenced prisoners to encourage them to take part in that programme and attempt to engage them safely with other prisoners for at least a part of each day.

The CPT recommends that the Bulgarian authorities continue to develop the regime of activities for life-sentenced prisoners in the light of the above remarks, in particular by providing more communal activities (including access to work and education).

D. Health-care services

40. The provision of health-care was very problematic at both prisons due to an extreme shortage of staff and resources. The delegation was submerged by complaints about difficulties in having access to prison medical staff, inadequate quality of care (including dental care), problematic access to outside specialists/hospitals (in particular for insurance reasons) and delays in transfer to outside hospitals.

At *Varna Prison*, the health-care staff consisted of a general practitioner — who had just returned to his duties after a lengthy period of sick leave — and a feldsher, both working full-time. The doctor from the nearby prison hostel "Razdelna" had been ensuring medical cover when the feldsher was absent. The psychiatrist's post had been vacant since January 2011. A part-time dentist was present for two hours, five days a week. No qualified nurse was present at the establishment. To sum up, since January 2011, the establishment's needs in terms of health-care had been covered essentially by a single feldsher. The delegation was impressed by her professionalism and commitment, which was also recognised by inmates; nevertheless, the fact that no arrangement was found to compensate the absence of the GP for at least 18 months is unacceptable.

Burgas Prison employed a dentist, a feldsher²¹, and a dental nurse²², all working full-time. There were two vacancies: a post of general practitioner²³, and a post of psychiatrist²⁴. A general practitioner had been contracted and visited the prison two hours per day (Monday to Friday) but was only available to prisoners with health insurance²⁵. Needless to say such staff resources are totally inadequate to meet satisfactorily the health-care needs of more than 1,000 prisoners.

Despite previous CPT's recommendations, there was still no staff with a recognised health-care qualification present at night or during weekends at either prison.

²¹ Another feldsher was employed by the prison to work at the "Zhitarevo" prison hostel.

²² There were no other nurses.

²³ The previous incumbent had been dismissed recently on corruption grounds.

²⁴ Unfilled for seven years.

²⁵ 330 prisoners out of 1,159 at the time of the visit.

41. The above-mentioned 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.

In the light of the above, and taking into account the long-standing recommendations of the CPT in this field, **the Committee calls upon the Bulgarian authorities to considerably reinforce the health-care teams at both Burgas and Varna Prisons. More specifically:**

- **the vacant post of doctor should be filled without delay at Burgas Prison, and the equivalent of a full-time post of doctor should be ensured at Varna Prison;**
- **at least three full-time qualified nurses should be immediately recruited at Burgas Prison and two at Varna Prison²⁶;**
- **determined efforts should be made to fill the vacant posts of psychiatrist at both prisons;**
- **someone qualified to provide first aid, preferably with a recognised nursing qualification, should always be present on the premises of Burgas and Varna Prisons, including at night and weekends;**
- **steps should be taken to ensure that prisoners in need of diagnostic examination and/or hospital treatment are promptly transferred to appropriate medical facilities.**

42. The importance of medical screening of newly arrived prisoners cannot be over-emphasised. It is indispensable, in particular in the interests of preventing the spread of transmissible diseases, suicide prevention, and ensuring the timely recording of any injuries.

At Burgas Prison, the medical examination on admission took place immediately upon admission. By contrast, delays of up to seven days were observed at Varna Prison. At both establishments, the medical examination was cursory, consisting merely of asking the prisoner questions about previous diseases, and taking his pulse and blood pressure.

As regards screening for transmissible diseases, both establishments were visited twice monthly by an NGO, on a voluntary basis, to perform HIV, Syphilis and Hepatitis B and C testing. In addition, a TB screening questionnaire was completed on each admission at Burgas Prison, and a Mantoux test and a chest X-Ray would be performed in case of doubt. At both prisons the results were only provided to the prisoners concerned and not to the prison health-care staff. At Burgas Prison, only positive blood tests would be recorded, all negative results being immediately destroyed and no information kept.

²⁶ According to the CPT's usual standard, there should be at least 18 nurses at Burgas Prison and 11 nurses at Varna Prison.

The CPT recommends that steps be taken to ensure strict adherence to the rule that all prisoners must be seen by a health-care staff member immediately upon arrival, as specified in the law²⁷. The medical examination on admission should be comprehensive, including a physical examination. In addition, for control of transmissible diseases to be effective, efforts should be made to ensure that all those involved co-ordinate their action in the best possible way.

43. No specific screening for injuries was performed upon arrival or after a violent episode in prison, and very limited medical information could be found at Varna Prison, and nothing at Burgas Prison, in this respect. Further, it appeared that reporting of injuries depended on the prisoner concerned making a specific request, usually to the social worker, on a special form (a copy of the form was not kept in the medical file). There appeared to be no systematic reporting of traumatic injuries to the Main Directorate for the Execution of Sanctions.

In the light of the above, **the CPT reiterates its recommendation that steps be taken to ensure that prison health-care services perform a thorough screening of newly-arrived prisoners for injuries. In this context, the report completed by the doctor should contain, in addition to a detailed description of injuries observed, any allegations made by the prisoner concerned and the doctor's conclusions as to the consistency between those allegations and the objective medical findings. Further, whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the record should be systematically brought to the attention of the relevant prosecutor. Moreover, the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the prisoner and his lawyer.**

The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison.

44. The delegation observed that medical confidentiality was still not respected at the prisons visited.

At both establishments, prison officers were usually present during medical examinations - and systematically in case of prisoners from the high security units. It was also clear from interviews with medical staff and prisoners that regular medicines were given to prisoners in weekly packets by a prison officer or the prisoner-orderly, and that, outside normal working hours, psychotropic medicines were distributed by the prisoner-orderly under the supervision of a prison officer. The CPT wishes to underline that the distribution of medicines by untrained individuals may be harmful and, in any event, it is in principle incompatible with the requirements of medical confidentiality.

²⁷ See Section 10 of the Regulation No. 2 of March 22, 2010 "On terms and conditions for medical care in places of deprivation of liberty", issued by the Minister of Health and the Minister of Justice.

The CPT calls upon the Bulgarian authorities to implement its long-standing recommendation that all medical examinations be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical staff. The Committee also recommends that the necessary steps be taken to ensure that the distribution of medicines is performed solely by health-care staff.

45. Further, in order to get access to the medical staff, prisoners had to ask the prison staff on duty and many prisoners had doubts as to whether such requests were indeed forwarded to the health-care units. The CPT wishes to stress that prisoners should be able to approach the health care service on a confidential basis, for example, by means of a message in a sealed envelope. Further, prison officers should not seek to screen requests to consult a doctor. **The CPT recommends that steps be taken to ensure that these requirements are met in practice at Burgas and Varna Prisons, as well as in all other prisons in Bulgaria.**

46. It appeared from examination of medical documentation that at Varna Prison only prisoners having a medical insurance had a personal medical file. By contrast, at Burgas Prison all prisoners had such a file. Nevertheless, the medical notes therein were extremely sparse if they existed at all. The very limited medical information available was indeed to be found in the daily medical journal, countersigned by each prisoner having had a medical consultation. This system not only makes it impossible to assess the continual medical care provided to an individual prisoner, but also gives rise to concern in terms of confidentiality as any prisoner countersigning an entry about himself could see the annotation on other prisoners, as could prison staff accompanying inmates.

The CPT calls upon the Bulgarian authorities to take steps at Burgas and Varna Prisons to improve medical record-keeping. In particular, a personal and confidential medical file must be opened for each prisoner, containing diagnostic information as well as an ongoing record of the prisoner's state of health and of any special examinations he has undergone. In the event of transfer, the file should be forwarded to the doctors in the receiving establishment.

47. At both establishments, there were prisoners working as orderlies in the health-care unit, despite repeated CPT's recommendations to review such a practice. In addition to being involved in the distribution of medicines — already an unsatisfactory practice — they even performed certain medical tasks such as measuring temperature, blood pressure and pulse; this is unacceptable. **The CPT calls upon the Bulgarian authorities to cease the practice of using prisoners in health-care units as medical orderlies; if necessary, the law should be amended.**

48. Practically no progress had been made since the CPT's previous visits as regards the care of inmates with drug-related problems. Drug education programmes supported by NGOs had been available at both establishments, but were not any more at the time of the visit. Two inmates at Burgas Prison were reportedly on a methadone programme monitored by external agencies; drug withdrawals were treated by anxiolytics distributed by the feldshers. At Varna Prison, the feldsher had managed to secure regular visits by a psychiatrist. **The CPT reiterates its recommendation that the Bulgarian authorities develop a comprehensive policy for the provision of care to prisoners with drug-related problems, combining medical detoxification, psychological support, life skills, rehabilitation, substitution programmes and a prevention policy.**

49. The situation encountered at the two prisons was aggravated by the fact that the vast majority of inmates did not have medical insurance²⁸. In their response to the CPT's report on the 2010 visit, the Bulgarian authorities had acknowledged the problem and at the outset of the visit, assured the delegation that the GDIN would bear the necessary costs in such cases. However, it became clear during the visit that prisoners who did not have the state health insurance were unable to receive specialist/outside hospital care, except in emergencies. On a number of occasions, the delegation had to intervene to ensure that prisoners with serious health problems who did not have medical insurance were referred to hospital for further evaluation and treatment. **The CPT wishes to stress that it is totally unacceptable for sick prisoners to be deprived of care until such time as their state of health becomes critical.**

50. As already indicated in paragraph 8, the CPT's delegation invoked Article 8, paragraph 5 of the Convention and requested that an immediate review of the provision and quality of health care services at both Burgas and Varna Prisons be undertaken jointly by the Ministries of Justice and Health. This should cover health-care staffing levels, the provision of treatment and medication to prisoners within the prisons and the requirement that all prisoners, irrespective of whether they have state health insurance or not, are able to be referred to hospital for further investigation and treatment as and when this is required. The Bulgarian authorities were requested to complete this review and formulate an action plan to address the deficiencies in the provision of healthcare services for prisoners within three months. The delegation asked to receive the review report and action plan by 15 August 2012. **The CPT trusts that it will receive the requested information in due time. In the meantime, immediate steps should be taken to ensure that prisoners without resources are able to receive the medication and treatment that their state of health requires.**

51. In Bulgaria, the provision of health-care to prisoners remains under the responsibility of the Ministry of Justice. That said, pursuant to Regulation No. 2 of 22 March 2010 "On terms and conditions for medical care in places of deprivation of liberty", jointly issued by the Minister of Health and the Minister of Justice, the Ministry of Health is also involved in the matter. While welcoming this, the facts found during the 2012 visit clearly indicate that a closer involvement of the Ministry of Health is required.

The CPT recommends that the Bulgarian authorities ensure that the Ministry of Health becomes more actively involved 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). Consideration should be given to transferring the responsibility for prison health-care to the Ministry of Health.

²⁸

If a person admitted to prison has not contributed to the National Health Insurance Fund for at least a continued period of 36 months before being incarcerated, he/she will not be covered by this Fund.

E. Other issues related to the CPT's mandate

1. Prison staff

52. At Varna Prison, the custodial staff complement was the same as in 2010, i.e. 86, and this despite the increased number of inmates²⁹. As regards Burgas Prison, the custodial staff complement stood at 105. Inevitably with such inadequate staffing levels, the number of staff on duty in the prisoner accommodation at any given time was very low. For example, at Burgas Prison 14 to 16 custodial staff and two officers on each 24-hour shift, for a prisoner population of 940. Further, the fact that custodial staff was working on a 24 hour shift basis will inevitably have a negative effect on professional standards.

The CPT must recall that low staffing levels in accommodation areas can only increase the risk of violence and intimidation among prisoners and of tension between prison staff and prisoners. They also undermine the quality and level of the activities offered to prisoners. **The CPT reiterates its recommendation that the Bulgarian authorities take urgent steps to increase staffing levels in prisoner accommodation areas at Burgas and Varna Prisons. To obtain personnel of the right calibre, the authorities must be prepared to invest adequate resources into the process of recruitment and training, and to offer adequate salaries.** This will help to attract candidates from a wider pool and enhance the standing of prison staff in the community³⁰.

Efforts should also be made to put an end to the 24-hour shift system for custodial staff.

53. The delegation noted that the vast majority of staff at Varna Prison did not carry truncheons within the accommodation areas, representing a positive development compared with the situation observed in 2010. By contrast, at Burgas Prison, staff systematically carried truncheons — and in a visible manner — in the accommodation areas. The CPT must stress again that if it is considered necessary for prison staff working in detention areas to carry truncheons, these should be hidden from view. Openly carrying truncheons is in fact prejudicial to establishing positive relations between staff and prisoners and hence will not promote staff safety. **The CPT recommends that prison staff do not carry truncheons in a visible manner inside detention areas at Burgas Prison.**

2. Discipline and segregation

54. The disciplinary procedure had remained unchanged since the last visit³¹. At both prisons, the procedure appeared on the whole to be applied properly. **However, it transpired from interviews that a copy of the disciplinary decision was not always provided to inmates at Burgas Prison, and was very rarely provided at Varna Prison.**

²⁹ 528 in 2010 and 560 in 2012.

³⁰ In this connection, see Rules 76, 78, 79 and 81 of the European Prison Rules and the comments thereon.

³¹ The legal provisions require that prisoners are granted an oral hearing before the imposition of a 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 lawyer.

55. Prisoners placed in a disciplinary cell are still legally deprived of visits. Further, although there is no express prohibition on telephone calls and correspondence, prisoners placed in a disciplinary cell continued in practice to have no access to a telephone or paper. **The CPT reiterates its recommendation that the Bulgarian authorities take steps to ensure that the placement of prisoners in disciplinary cells does not entail a total prohibition on family contacts. Moreover, any restrictions on family contacts as a form of punishment should be used only where the offence relates to such contacts.**

56. The two disciplinary cells (each measuring some 6.5 m²) at Varna Prison were empty at the time of the visit. They had undergone some refurbishment since the 2010 visit and had been cleaned. That said, the cells were very dark as the windows were covered with a metal shutter, almost completely preventing natural light from entering. They contained a bunk bed each (a third bed had been added in one of the cells) and a slop-bucket. **The CPT recommends that each of these cells never accommodate more than two prisoners at a time (in principle they should be reserved for single occupancy unless there is a clear contra-indication to a particular prisoner being left alone) and that prisoners placed in them have ready access to a proper toilet at all times, including at night.** Further, steps should be taken (e.g. by modifying or removing the metal shutters) to improve access to natural light.

At Burgas Prison, there was one dilapidated disciplinary cell measuring some 13 m², accommodating five prisoners at the time of the visit. The cell was equipped with four bunk-beds, a table, a locker and a slop-bucket. The delegation heard allegations that the cell could accommodate up to 12 prisoners, and that, in such cases, one bunk-bed would be added, and the rest of prisoners would sleep on the floor. **The CPT recommends that immediate steps be taken to refurbish the disciplinary cell. Further, this cell should not accommodate more than three persons at a time. Prisoners placed in the cell should have ready access to a proper toilet at all times, including at night.**

57. At the end of the visit, the Bulgarian authorities informed the delegation about a project to amend the current legislation on the length of placement in a disciplinary cell with a view to extending it to one month³². The delegation drew the attention of the Bulgarian authorities to the CPT's position that the maximum period should be no higher than 14 days for a given offence, and that there should be a prohibition of sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period³³. **The CPT trusts that the Bulgarian authorities will take into account the Committee's position when proceeding to any revision of the current legislation.**

³² The law provides for placement in a disciplinary cell for a maximum of 14 days. If a prisoner has two or more punishments of disciplinary isolation, the total period of placement there can be prolonged to 20 days.

³³ See paragraph 56 (b) of the 21st General Report of the CPT.

58. The CPT is particularly concerned by the fact that the very small isolation cell (some 4 m²) for prisoners segregated for administrative reasons was still in use at Varna Prison³⁴, and was in a very dilapidated state. Any cell measuring less than 6 m² should be either enlarged or taken out of service. **The CPT calls upon the Bulgarian authorities to take this cell out of service pending its enlargement and refurbishment.**

59. It should be noted that, at Burgas Prison, 15 remand prisoners being prosecuted for crimes punishable by imprisonment of over 15 years or for life had been placed in one of the high-security units in constantly locked cells, without the right to participate in group activities, pursuant to Section 248 (1) of the Law on the Implementation of Sentences and Preliminary Detention. They had filed a collective complaint to the GDIN against this particularly restrictive regime.

The CPT recalls that the placement of a prisoner under particularly restrictive conditions on the sole basis of the sentence/possible sentence is unacceptable. Any such measure should be taken on a case-by-case basis, in the light of an individual risk and needs assessment. **The Committee calls upon the Bulgarian authorities to review the relevant legal provisions in the light of these remarks.** Further, **the CPT would like to be informed about the outcome of the above-mentioned collective complaint.**

3. Contact with the outside world

60. The legislation concerning contact with the outside world had remained unchanged since the last visit³⁵. Consequently, **the CPT reiterates its recommendation that the Bulgarian authorities increase the visit entitlement for all prisoners to at least one visit per week.**

Nothing had been done to improve the visiting facilities at Varna Prison, which still did not allow physical contact between inmates and their visitors. In addition, the room reserved for prolonged visits was devoid of any furniture. At Burgas Prison the situation was even worse, as the visiting premises consisted in a room divided by a corridor lined on both sides by layers of metal wire mesh severely restricting not only the possibility of human contact but also of the prisoners and visitors being able to see each other. Further, it was clear that the room could become very noisy during visits.

The CPT recommends that steps be taken to improve the visiting facilities at Burgas and Varna Prisons in the light of the above remarks. As stressed by the Committee in the past, the aim should be to enable all prisoners, including those on remand, to receive visits under reasonably open conditions; the use of closed visiting facilities should be the exception rather than the rule.

³⁴ It was accommodating one prisoner awaiting transfer to another prison.

³⁵ Inmates were entitled to two visits of 40 minutes each per month; as a form of reward, sentenced prisoners could be allowed prolonged visits of up to four hours, as well as meetings with family members outside the prison (lasting up to 12 hours) and home leaves of up to five days.

61. Prisoners had access to card-operated telephones installed in various places at Burgas and Varna Prisons. However, the delegation was inundated by complaints, at both prisons, about the price of telephone calls, reportedly several times higher than in the outside community. **The CPT reiterates its recommendation that the Bulgarian authorities ensure that prisoners have access to telephone communications at prices analogous to those in the outside community.**

4. Complaints and inspection procedures

62. In the CPT's view, effective complaints procedures are basic safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to confidential access to an appropriate authority.

Prisoners were, in principle, allowed to send complaints to outside bodies, as well as to prison directors. However, at both prisons, there was a widespread lack of trust among prisoners in the existing complaints system, especially concerning the confidentiality of the complaints sent to outside bodies. Further, many prisoners interviewed by the delegation felt that filing a complaint would aggravate their situation; more specifically, some of them claimed that they would not make use of this possibility because they feared retaliation from staff. Moreover, some allegations were received that complaints sent to competent outside bodies received no response.

The CPT recommends that the Bulgarian authorities conduct a review of the procedures currently used to process prisoners' complaints, in the light of the above remarks.

63. As regards external supervision, both prisons were regularly visited by the respective municipal monitoring commissions, as well as the supervising prosecutors. The Ombudsman had also come to the two establishments in the last three years. In addition, Burgas and Varna Prisons received visits from the Bulgarian Helsinki Committee.

The CPT would like to receive the most recent reports of these various bodies on visits to Burgas and Varna Prisons. The CPT also invites the Bulgarian authorities to bring to the attention of these bodies the findings of the Committee during the 2012 visit.

APPENDIX I

LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

Consultations held by the delegation and co-operation encountered

recommendations

- the Bulgarian authorities to take all necessary measures to ensure that the principle of cooperation and the confidentiality of the Committee's interviews with prisoners are in future fully respected in all establishments visited (paragraph 6);
- the Bulgarian authorities to take decisive steps to improve, without further delay, the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention (paragraph 7).

Facts found during the visit

Preliminary remarks

recommendations

- the Bulgarian authorities to redouble their efforts to combat prison overcrowding by implementing policies designed to limit or modulate the number of persons sent to prison. In so doing, the Bulgarian authorities should be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody and the provision of safeguards against abuse, and Recommendation Rec(2010)1 on the Council of Europe Probation Rules (paragraph 11);
- the Bulgarian authorities to make efforts to step up the training provided to prosecutors and judges, with a view to promoting the use of alternatives to imprisonment (paragraph 11);
- the Bulgarian authorities to take decisive action to combat the phenomenon of corruption in all prisons. Prison staff and public officials associated with the prison system should be given the clear message that seeking advantages from prisoners or their relatives is not acceptable; this message should be reiterated in an appropriate form at suitable intervals (paragraph 13);
- a comprehensive and independent inquiry to be conducted into allegations of corruption in Burgas and Varna Prisons; the CPT would like to be informed of the outcome of the above-mentioned inquiry and of the action taken as a result (paragraph 13).

Ill-treatment

recommendations

- the Bulgarian authorities to take exhaustive measures at the highest political level to ensure that there is zero tolerance of ill-treatment of prisoners in all prisons in Bulgaria. All prison staff must be reminded at suitable intervals that ill-treatment of inmates is not acceptable and will be punished accordingly (paragraph 17);
- the situations in which prison officers may use physical force, including truncheons, to be defined more precisely and detailed instructions concerning the use of such means to be issued. It must be made clear in those instructions that physical force can only be applied when – and to the extent – strictly necessary to maintain security and good order, and never as a form of punishment (paragraph 18);
- all cases of the use of physical force to be recorded in a separate register and the prison management and prosecutors to be particularly vigilant when examining such cases (paragraph 18);
- the Bulgarian authorities to develop a national strategy to address the problem of inter-prisoner violence, with a view to ensuring that all prisoners can serve their sentences under safe conditions (paragraph 19);
- the Bulgarian authorities to take immediate action to ensure that all the principles and safeguards concerning the use of fixation, as set out in the report on the 2010 visit (see paragraph 92 of CPT/Inf (2012) 9), are applied in Varna Prison, as well as in other prisons (paragraph 20).

comments

- in order to facilitate the investigation of instances of possible ill-treatment, more consideration should be given to CCTV coverage (ensuring *inter alia* that all devices work), which may also help to reduce the incidence of ill-treatment (as well as to confirm or refute allegations). CCTV footage should be kept for a period sufficient for it to be used as evidence in case of need. In this connection, the law should guarantee that relevant CCTV footage is systematically transmitted to the relevant prosecutor, in the same way as for all related written documents (paragraph 18).

requests for information

- the outcome of the investigation into the case of alleged ill-treatment of an inmate at Burgas Prison referred to in paragraph 14 (paragraph 14);
- information on the implementation of the action plan concerning Burgas Prison referred to in paragraph 16 (paragraph 17).

Conditions of detention at Burgas and Varna Prisons

Material conditions

recommendations

- the highest priority to be given to the projects, at Varna Prison, to refurbish "Razdelna" prison hostel with a view to turning it into a closed-type facility and, at Burgas Prison, to refurbish and transform a building in Debelts into a closed-type facility (paragraph 25);
- steps to be taken immediately at Burgas and Varna Prisons to:
 - ensure that each prisoner has a bed, a clean mattress in an acceptable condition, as well as blankets and bed linen (washed at regular intervals);
 - 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 state of the communal sanitary facilities;
 - provide any in-cell toilets with a full partition to the ceiling;
 - fully refurbish the prisons bathrooms, and to enlarge the facility at Varna Prison;
 - ensure that all inmates have access to a range of basic hygiene products and are provided with materials for cleaning their cells;
 - ensure that the disinfection of the establishment's premises is carried out in an effective manner and at regular intervals.(paragraph 25).

requests for information

- a realistic assessment of when the plans for new prisons in Burgas and Varna are likely to come to fruition (paragraph 25).

Activities

recommendations

- the Bulgarian authorities to pursue their efforts to develop activity programmes for inmates at Burgas and Varna Prisons, in particular as regards work, educational and vocational activities, taking into consideration the specific needs of different groups of the inmate populations (paragraph 30);
- outdoor exercise and sports facilities to be expanded at Varna Prison (paragraph 30).

comments

- the exercise yards at Burgas and Varna Prisons should be equipped with protection from the sun and rain (paragraph 30).

Food

recommendations

- the Bulgarian authorities to take steps to review the quality and quantity of the food provided at Burgas and Varna Prisons (paragraph 31);
- the Bulgarian authorities to take measures, without delay, to entirely refurbish the kitchens at Burgas and Varna Prisons (paragraph 31).

comments

- consideration should be given to relocating from the basements the kitchens at Burgas and Varna Prisons (paragraph 31).

Life-sentenced prisoners

recommendations

- the Bulgarian authorities to review the legal provisions in order to ensure that the segregation of lifers is based on an individual risk assessment and is applied for no longer than strictly necessary (paragraph 34);
- steps to be taken, in the units accommodating life-sentenced prisoners at Burgas and Varna Prisons, to:
 - ensure that all life-sentenced prisoners at both prisons have ready access to a proper toilet facility at all times, including at night; resort to buckets should be abandoned;
 - carry out the necessary repair work in the common sanitary facilities without delay;
 - enlarge and refurbish the cells accommodating lifers following the example of the two cells of some 9 m² at Burgas Prison;
 - improve access to natural light and artificial lighting in the cells at Varna Prison;
 - reduce the intensity of artificial lighting at night in the cells at Burgas Prison;
 - ensure that all inmates have access to a range of basic hygiene products and are provided with sufficient materials for cleaning their cells, and have access to facilities for washing and drying their clothes(paragraph 37);
- the Bulgarian authorities to continue to develop the regime of activities for life-sentenced prisoners in the light of the remarks in paragraph 39, in particular by providing more communal activities (including access to work and education) (paragraph 39).

comments

- the Bulgarian authorities are again invited to amend the legislation with a view to making conditional release (parole) available to all life-sentenced prisoners, subject to a review of the threat to society posed by them on the basis of an individual risk assessment (paragraph 32);

- the Bulgarian authorities are invited to ensure that all life-sentenced prisoners can use the dining areas in their units instead of eating their meals in the cells (paragraph 37).

requests for information

- confirmation of the resumption of anger management, behavioural and emotional group work for life-sentenced prisoners at Burgas Prison (paragraph 38).

Health-care services

recommendations

- the Bulgarian authorities to considerably reinforce the health-care teams at both Burgas and Varna Prisons. More specifically:
 - the vacant post of doctor should be filled without delay at Burgas Prison, and the equivalent of a full-time post of doctor should be ensured at Varna Prison;
 - at least three full-time qualified nurses should be recruited at Burgas Prison and two at Varna Prison;
 - determined efforts should be made to fill the vacant post of psychiatrist at both prisons;
 - someone qualified to provide first aid, preferably with a recognised nursing qualification, should always be present on the premises of Burgas and Varna Prisons, including at night and weekends;
 - steps should be taken to ensure that prisoners in need of diagnostic examination and/or hospital treatment are promptly transferred to appropriate medical facilities (paragraph 41);
- steps to be taken to ensure strict adherence to the rule that all prisoners must be seen by a health-care staff member immediately upon arrival, as specified in the law. The medical examination on admission should be comprehensive, including a physical examination. In addition, for control of transmissible diseases to be effective, efforts should be made to ensure that all actors involved co-ordinate their action in the best possible way (paragraph 42);
- steps to be taken to ensure that prison health-care services perform a thorough screening of newly-arrived prisoners for injuries. In this context, the report filled out by the doctor should contain, in addition to a detailed description of injuries observed, any allegations made by the prisoner concerned and the doctor's conclusions as to the consistency between those allegations and the objective medical findings. Further, whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the record should be systematically brought to the attention of the relevant prosecutor. Moreover, the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the prisoner and his lawyer (paragraph 43);
- the approach described in paragraph 43 should also be followed whenever a prisoner is medically examined following a violent episode in prison (paragraph 43);

- the Bulgarian authorities to implement the CPT's long-standing recommendation that all medical examinations be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical staff (paragraph 44);
- the necessary steps to be taken to ensure that the distribution of medicines is performed solely by health-care staff (paragraph 44);
- steps to be taken to ensure that at Burgas and Varna Prisons, as well as in all other Bulgarian prisons, prisoners are able to approach the health care service on a confidential basis, for example, by means of a message in a sealed envelope, and that prison officers do not seek to screen requests to consult a doctor (paragraph 45);
- the Bulgarian authorities to take steps at Burgas and Varna Prisons to improve medical record-keeping. In particular, a personal and confidential medical file must be opened for each prisoner, containing diagnostic information as well as an ongoing record of the prisoner's state of health and of any special examinations he has undergone. In the event of transfer, the file should be forwarded to the doctors in the receiving establishment (paragraph 46);
- the Bulgarian authorities to cease the practice of using prisoners in health-care units as medical orderlies; if necessary, the law should be amended (paragraph 47);
- the Bulgarian authorities to develop a comprehensive policy for the provision of care to prisoners with drug-related problems, combining medical detoxification, psychological support, life skills, rehabilitation, substitution programmes and a prevention policy (paragraph 48);
- immediate steps to be taken to ensure that prisoners without resources are able to receive the medication and treatment that their state of health requires (paragraph 50);
- the Bulgarian authorities to ensure that the Ministry of Health becomes more actively involved 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 malpractice, certification and inspection) (paragraph 51).

comments

- it is totally unacceptable for sick prisoners to be deprived of care until such time as their state of health becomes critical (paragraph 49);
- the CPT trusts that it will receive in due time the report on the review of health-care services at Burgas and Varna Prisons and the action plan to address the deficiencies observed (paragraph 50);
- consideration should be given to transferring the responsibility for prison health-care to the Ministry of Health (paragraph 51).

Other issues related to the CPT's mandate

Prison staff

recommendations

- the Bulgarian authorities to take urgent steps to increase staffing levels in prisoner accommodation areas at Burgas and Varna Prisons (paragraph 52);
- prison staff not to carry truncheons in a visible manner inside detention areas at Burgas Prison (paragraph 53).

comments

- to obtain personnel of the right calibre, the authorities must be prepared to invest adequate resources into the process of recruitment and training and to offer adequate salaries (paragraph 52):
- efforts should be made to put an end to the 24-hour shift system for custodial staff. (paragraph 52).

Discipline and segregation

recommendations

- the Bulgarian authorities to take steps to ensure that the placement of prisoners in disciplinary cells does not entail a total prohibition on family contacts. Moreover, any restrictions on family contacts as a form of punishment should be used only where the offence relates to such contacts (paragraph 55);
- each of the two disciplinary cells at Varna Prison never to accommodate more than two prisoners at a time (in principle they should be reserved for single occupancy unless there is a contra-indication to a particular prisoner being left alone) and prisoners placed in them to have ready access to a proper toilet at all times, including at night (paragraph 56);
- steps to be taken (e.g. by modifying or removing the metal shutters) to improve access to natural light in the disciplinary cells at Varna Prison (paragraph 56);
- immediate steps to be taken to refurbish the disciplinary cell at Burgas Prison. Further, this cell should not accommodate more than three persons at a time. Prisoners placed in the cell should have ready access to a proper toilet at all times, including at night (paragraph 56);
- the Bulgarian authorities to take out of service the very small isolation cell at Varna Prison pending its enlargement and refurbishment (paragraph 58);
- the Bulgarian authorities to review the relevant legal provisions in the light of the remarks made in paragraph 59 (paragraph 59).

comments

- it transpired from interviews that a copy of the disciplinary decision was not always provided to inmates at Burgas Prison, and was very rarely provided at Varna Prison (paragraph 54);
- the CPT trusts that the Bulgarian authorities will take into account the Committee's position as described in paragraph 58 when proceeding to any revision of the current legislation on placement in a disciplinary cell (paragraph 58).

requests for information

- the outcome of the collective complaint by remand prisoners at Burgas Prison referred to in paragraph 59 (paragraph 59).

Contact with the outside world

recommendations

- the Bulgarian authorities to increase the visit entitlement for all prisoners to at least one visit per week (paragraph 60);
- steps be taken to improve the visiting facilities at Burgas and Varna Prisons, in the light of the remarks in paragraph 60. As stressed by the Committee in the past, the aim should be to enable all prisoners, including those on remand, to receive visits under reasonably open conditions; the use of closed visiting facilities should be the exception rather than the rule (paragraph 60);
- the Bulgarian authorities to ensure that prisoners have access to telephone communications at prices analogous to those in the outside community (paragraph 61).

Complaints and inspection procedures

recommendations

- the Bulgarian authorities to conduct a review of the procedures currently used to process prisoners' complaints, in the light of the remarks in paragraph 62 (paragraph 62).

comments

- the CPT invites the Bulgarian authorities to bring the findings of the Committee during the 2012 visit to the attention of the various bodies carrying out visits to Burgas and Varna Prisons (paragraph 63).

requests for information

- the CPT would like to receive the most recent reports of the various bodies carrying out visits to Burgas and Varna Prisons (paragraph 63).

APPENDIX II

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

A. National authorities

Ministry of Justice

| | |
|------------------------------|---|
| Mr Plamen GEORGIEV | Deputy Minister |
| Mr Plamen KOSTADINOV | Deputy Director of the Main Directorate for the Execution of Sanctions (GDIN) |
| Mr Iolant IORDANOV | Chief of Guard and Security in Detention Facilities Sector, (GDIN) |
| Dr Tsetska SIMEONOVA | Chief of the Prison Medical Service, (GDIN) |
| Ms Milena GENCHEVA | Expert, Regime Activity Sector, (GDIN) |
| Mr Nikolay NIKOLOV | Expert, Guard and Security in Prisons Sector, (GDIN) |
| Ms Mariela YANEVA-DELIVERSKA | Expert, International Legal Co-operation and European Affairs Directorate |

Ministry of Health

| | |
|----------------------|---|
| Ms Polina DENCHEVA | Legal counsel, Legal and Regulatory Activity and Human Resources Directorate. |
| Ms Hristina GAVAZOVA | Chief legal counsel, Medical Activities Directorate |
| Ms Ekaterina KUNEVA | Expert in Medical Activities Directorate |

B. Non-Governmental organisations

Bulgarian Helsinki Committee