

## Committee against Torture

### Concluding observations on the sixth periodic report of Bulgaria\*

1. The Committee against Torture considered the sixth periodic report of Bulgaria (CAT/C/MDA/3) at its 1590<sup>th</sup> and 1593<sup>rd</sup> meetings, held on 20 and 21 November 2017 (CAT/C/SR.1790 and CAT/C/SR.1593), and adopted the following concluding observations at its 1607<sup>th</sup> meeting (CAT/C/SR.1607) held on 30 November 2017.

#### A. Introduction

2. The Committee welcomes the dialogue with the State party's delegation and the oral replies and written information provided in response to the concerns raised by the Committee.

#### B. Positive aspects

3. The Committee welcomes the State party's accession to and ratification of the following international instruments:

- (a) Convention on the Rights of Persons with Disabilities, on 22 March 2012;
- (b) Convention relating to the Status of Stateless Persons (of 1954), on 22 March 2012;
- (c) Convention on the Reduction of Statelessness (of 1961), on 22 March 2012.

4. The Committee welcomes the State party's initiatives to revise its legislation in areas of relevance to the Convention, including the adoption of:

- (a) Amendments to articles 72, 73 and 74 and the introduction of new article 74a in the Ministry of Interior Act, citing, inter alia, the standard of "absolute necessity" in the use of firearms, physical force or auxiliary devices by law enforcement officials, on 1 July 2012;
- (b) Amendment to the Law on Foreigners prohibiting the detention of unaccompanied children, in 2013;
- (c) Amendment of the Legal Assistance Act, improving access to justice by socially disadvantaged groups and individuals, and strengthening control over the provision of legal aid by counsels, on 19 March 2013;
- (d) Repeal of article 158 of the Criminal Code relating to domestic and gender-based violence, in 2015;

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\* Adopted by the Committee at its sixty-second session (6 November- 6 December 2017).

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(e) Amendments to the Asylum and Refugees Act extending the child guardianship system to migrant children, in October 2015; and the adoption of the National Strategy on Migration, Asylum and Integration (2015-2020);

(f) Amendments to the Execution of Punishments and Detention on Remand Act, in January 2017.

5. The Committee also welcomes the initiatives of the State party to amend its policies, programmes and administrative measures to give effect to the Convention, including the:

(a) Issuance of Decree No. 152 by the Council of Ministers providing for three additional posts in the National Legal Assistance Bureau, on 17 July 2012; and the updating of the Mechanism for Provision of Legal Assistance by Lawyers on Duty and the increase of the budget of the National Legal Aid Bureau by some two million euros, since 2013;

(b) Approval by the Minister of Justice of the Strategy for Preventing and Countering Corruption in the Chief Directorate “Execution of Sentences”, in 2012;

(c) Adoption of the National Strategy of the Republic of Bulgaria for Roma Integration (2012-2020) that, inter alia, includes “counteracting “hate speech” in print and electronic media;

(d) Adoption by the Ministry of the Interior of the Ordinance on the Use of Force and Auxiliary Means, in 2015;

(e) Adoption of the National Strategy for Prevention and Countering Corruption in the Republic of Bulgaria 2015-2020, in April 2015; and the establishment of the National Council on Anti-Corruption Policies, in May 2015;

(f) Adoption by the Council of Ministers of the National Programme for Prevention and Protection from Domestic Violence, as submitted by the Ministry of the Interior, on 29 April 2015;

(g) Adoption of the National Strategy on Migration, Asylum and Integration for the period 2015-2020, on 10 June 2015;

(h) Adoption of the National Anti-Trafficking Strategy for 2017-2021.

## **C. Principal subjects of concern and recommendations**

### **Pending follow-up questions from the previous reporting cycle**

6. In paragraph 35 of its previous concluding observations (see CAT/C/BGR/CO/4-5), the Committee requested Bulgaria to provide further information regarding areas of particular concern identified by the Committee in paragraph 9 the enjoyment of fundamental legal safeguards by persons deprived of their liberty; paragraph 10 on the excessive use of force and firearms by law enforcement officers; and paragraph 28 regarding manifestations of discrimination and intolerance, including hate speech and acts of violence, against certain national, religious and sexual minorities. The Committee expresses its appreciation for the State party’s follow-up response on those matters and the substantive information provided on 21 December 2012 (CAT/C/BGR/CO/4-5/Add.1). In view of that information, the Committee considers that the recommendations included in paragraphs 9, 10 and 28, respectively, mentioned above have been partially implemented (see paras. 9 and 10, 11 and 12 and 29 and 30 of the present document).

### **Definition of torture and torture as a separate crime in the Criminal Code**

7. While noting that the State party accepted the recommendation to adopt a definition of torture that includes all elements present in the Convention during the Universal Periodic Review in May 2015, it remains concerned that a comprehensive definition of torture incorporating all the elements of article 1 of the Convention has not been incorporated in the Criminal Code to date. It is also concerned that torture is not criminalized as a separate offence in law and that acts amounting to torture continue to be prosecuted under different articles of the Criminal Code. The Committee is concerned further that only war crimes and

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crimes against humanity continue to not be subjected to a statute of limitations. (arts. 1 and 4)

8. **The Committee reiterates its recommendation (CAT/C/BGR/CO/4-5, para. 8) that the State party should adopt a definition of torture that covers all the elements contained in article 1 of the Convention. It should also take effective measures to include torture as a separate and specific crime in its legislation and ensure that penalties for torture are commensurate with the gravity of this crime, as set out in article 4, paragraph 2 of the Convention. The Committee draws the State party's attention to its general comment N° 2, in which it states that serious discrepancies between the Convention's definition and that incorporated into domestic law create actual or potential loopholes for impunity. The State party should ensure that the absolute prohibition of torture is non-derogable and that acts of torture are not subject to any statute of limitations.**

#### **Fundamental Legal Safeguards**

9. The Committee remains concerned about:

(a) The continued existence of the 24-hour administrative detention, which falls outside the scope of criminal proceedings, before arrested persons detained in police stations are formally charged with a criminal offence during which they are questioned by the police, often without having access to a lawyer and when they are most vulnerable to abuse by law enforcement officials;

(b) Reports that arrested persons are often not informed about their rights in criminal proceedings, including that of access to a lawyer; are actively discouraged by manipulation, threats and ill-treatment from accessing rights contained in the Letter of Rights; that more than 70 per cent of detained persons do not have access to a lawyer from the very outset of criminal proceedings and that some do not have legal representation throughout the criminal proceedings against them;

(c) That detained persons most often have access to a lawyer at the very end of the 24-hour administrative detention period and that such meetings take place in the presence of a police officer;

(d) Reports that public defenders on call selected from the National Legal Aid Registry are not independent from the police and that there is no guarantee that detained persons will receive the assistance of the public defender of their choice;

(e) Reports that injuries observed on persons admitted to Investigation Detention Facilities are not recorded in the medical records, that often medical examinations are taking place in the presence of police officers and that the results of medical examinations are poorly recorded or not recorded at all. (arts. 2, 12, 13, 14 and 16)

10. **The State party should ensure that all fundamental legal safeguards against torture are guaranteed in practice and not merely by law to all detained persons, including arrested persons and those in administrative detention, from the outset of their deprivation of liberty, according to international standards. The State party should monitor the provision of such safeguards to persons deprived of their liberty and should ensure that any official who fails to provide them in practice is subjected to disciplinary or other appropriate punishment. Such rights include the right of detainees to:**

(a) **Be promptly informed, in a language that they understand, both orally and in writing, of their rights, including by being served with the written Letter of Rights, be given the reasons for their arrest and the charges against them and to sign a paper confirming that they have understood the information provided to them;**

(b) **Have prompt and confidential access to an independent lawyer, which is independent from the police, or to free legal aid when needed, from the outset of the deprivation of liberty, including during the 24-hour administrative detention period, as well as during all stages of detention;**

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(c) **Request and receive a medical examination in confidentiality by an independent doctor as well as undergo entry medical examination within 24 hours of their arrival in a place of detention and to have any injuries upon arrival and the results of their medical examination duly recorded in their medical record;**

(d) **Promptly contact a family member or any other person of their choice about their detention immediately after apprehension;**

(e) **Be promptly brought before a competent, independent and impartial court within 48 hours of their apprehension;**

(f) **Have the legality of their detention challenged through an habeas corpus procedure and to have their detention recorded in a register at the place of detention and in a central register of persons deprived of their liberty, which their lawyers and family members can access, in line with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.**

#### **Excessive use of force and impunity for acts of torture and ill-treatment**

11. The Committee is concerned at reports about:

(a) An increase, especially in Sofia and Burgas prisons, in the excessive use of force, including in a deliberate manner, by law enforcement officials against persons upon arrest and in police detention units, including women and juveniles, during administrative detention and the subsequent preliminary investigation period;

(b) That every third person is subjected to physical abuse in police stations, which may be of such severity to amount to torture and may include beating, handcuffing to immovable objects, and the use of truncheons and electrical discharge weapons, and that the rate of physical abuse against persons belonging to the Roma community is allegedly double the rate used against Bulgarians;

(c) Allegations that the police do not keep a registry on the use of force or auxiliary means against detained persons and that there is no recording of injuries;

(d) That police officers who use force unlawfully against persons who have been arrested and detained are seldom prosecuted and punished and that those police officers who are found guilty of torture or ill-treatment of detained persons are punished with very lenient penalties, such as fines or suspended sentences, since they are most often prosecuted only for light bodily injury. (arts. 2, 12, 13, 14 and 16)

12. **The State party should:**

(a) **Issue a public statement at the highest level reaffirming unambiguously that impunity for acts of torture and ill treatment will not be tolerated; announce that investigations will be carried out and prosecutions initiated promptly against perpetrators of torture and ill-treatment, including against those with command responsibility in all cases and issue a warning that anyone who commits acts of torture or is otherwise complicit in or acquiesces to torture will be held personally responsible before the law, subject to criminal prosecution and appropriate penalties;**

(b) **Implement and enforce the Ordinance on the Use of Force and Auxiliary means adopted in 2015 by the Ministry of the Interior, provide the Committee with an update on the elaboration of the Methodological Guidelines on the use of physical force and auxiliary means;**

(c) **Provide training to police and prison officers on the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and on the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;**

(d) **Ensure that all reports of torture and ill-treatment by public officials, including the police, are investigated promptly, effectively and impartially by a nationwide independent mechanism, with no institutional or hierarchical connection between the investigators and the alleged perpetrators;**

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(e) **Ensure that all persons under investigation for having committed acts of torture or ill-treatment are immediately suspended from their duties and remain so throughout the investigation, while ensuring that the principle of presumption of innocence is observed;**

(f) **Ensure that all interrogation rooms in detention centres in all parts of the country have closed-circuit television and the equipment to ensure the video and audio recording of interrogations; that tapes are made available to defendants and their counsels, at no cost to the defendant, and that they may be used as evidence in court;**

(g) **Ensure the keeping of registers where cases of torture and ill-treatment can be recorded;**

(h) **Provide the Committee in its next periodic report with up-to-date data on the number of complaints received alleging torture and ill-treatment by law enforcement and other public officials, with specific information on the steps taken to investigate cases of alleged torture and ill-treatment, on any prosecutions brought forward, on any resulting convictions and sentences, including disciplinary punishments, as well as on any redress provided to victims.**

### **Conditions of detention**

13. While taking note of the steps taken by the State party to close most underground police detention facilities, carry out renovations of and transfers between certain existing detention facilities, the Committee remains concerned that conditions of detention in prisons as well as in police detention facilities have not improved significantly during the period under review. The Committee is concerned about:

(a) The lack of improvements of the material conditions in most places of detention and in particular in Sofia, Burgas and Varna prisons, which have been described as unfit for habitation, and include dilapidated buildings and infrastructure, overcrowding, low custodial staffing levels, absence of hygiene and inadequate sanitary and sewage facilities, lack of access to toilets at night in some places of detention, insufficient access to hot water and showers, inadequate heating, water and electricity cuts, cell furnishings, bedding, ventilation, access to natural and artificial light, inadequate quantity and quality of food and drinking water, insufficient living space per prisoner, purposeful activities and exercise as well as deficient health care;

(b) Lack of trained custodial staff and reports of aggressive behaviour of prison staff towards the inmates, including excessive use of force and special means as well as mass beatings of prisoners in cells, that amounts to ill-treatment; and the absence of an effective complaints mechanism;

(c) Reports of corruption in the prison system which results in inmates having to pay the custodial staff for services provided by law and that 24-hour shifts for prison staff have not been abolished;

(d) Deficient medical services, including superficial medical examinations, absence of coherence and insufficient data in medical files, limited accessibility to specialized assistance and scant recording of injuries and the use of force and special means;

(e) Frequent occurrence of inter-prisoner violence, in particular in Sofia, Burgas and Varna prisons, and the high incidence of deaths in custody. (arts. 2, 10-14 and 16)

14. **The Committee reiterates its recommendation (CAT/C/BGR/CO/4-5, para. 21) that the State party should:**

(a) **Strengthen efforts and increase funds in order to bring the living conditions in detention facilities in accordance to international standards such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) Rules and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

(b) **Accelerate the implementation of and increase funds for the Strategy for Reforming Places of Detention; enhance the Investment Programme for Construction,**

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**Reconstruction and Modernisation of the Facilities of the Penitentiary and Probation System, and implement the projects for the construction of new prisons;**

**(c) Conduct a fundamental review of its approach to deprivation of liberty, reduce prison overcrowding, respect the time frames for the repair, renovation and relocation regarding existing detention facilities and accelerate the construction of new places of detention; accelerate the measures to achieve adequate living space per inmate according to international standards;**

**(d) Increase the budgetary allocations for basic amenities provided to detainees such as access to adequate hygiene, including bathing and toilet facilities, functioning sewage and access to water, adequate heating, ventilation, natural and artificial light, to an adequate quantity and quality of food and drinking water, as well as appropriate cell furnishings and bedding, ensure that purposeful activities and exercise are available to all detained persons, including those detained in solitary confinement;**

**(e) Allow independent monitoring bodies, including the Ombudsman acting as the National Preventive Mechanism under the Optional Protocol to the Convention, as well as other independent and impartial mechanisms, including international bodies and civil society organizations, to carry out regular unannounced visits to all places of detention, including police detention units, meet in private with detained persons, deal with the complaints of inmates about their conditions of detention and treatment; ensure that inmates are not subjected to reprisals and provide effective follow-up to such complaints;**

**(f) Enhance efforts to introduce non-custodial measures in the penal sanction system as alternatives to detention, in line with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);**

**(g) Increase the number of qualified prison staff, provide continuous training, including on the provisions of the Convention and on prison management, including the prevention of inter-prisoner violence, take steps to abolish 24-hour shifts for prison staff; conduct prompt and independent investigation and prosecution of state officials responsible for corruption in the prison system;**

**(h) Promptly, thoroughly and impartially investigate all incidents of death in custody, make the results of those investigations available to the public, prosecute those responsible for violations of the Convention resulting in such deaths and punish them accordingly, if convicted; ensure independent forensic examinations in all cases of death in custody, provide autopsy reports to the family members of the deceased and, if requested, permit them to commission independent autopsies; ensure that the courts in the State party accept the results of independent forensic examinations and autopsies as evidence in criminal and civil case;**

**(i) Improve the quality of health services provided to inmates, conduct prompt medical screening upon entry into detention facilities and after transfers, inter alia, in order to detect and prevent the spread of infectious diseases; recruit more qualified medical doctors and appropriately maintain medical files and registers, including those used for recording injuries; establish rules on how to deal with requests of inmates for private medical assistance, facilitate referrals to outside specialist services, including for psychiatric and dental care, and put an end to the handcuffing or otherwise immobilizing of prisoners referred to outside medical care.**

**Treatment of persons in social institutions, including those with mental disabilities**

15. The Committee remains concerned at reports:

**(a) That persons with mental and psychosocial disabilities in State and municipal medical institutional settings continue to be deprived of legal capacity and do not enjoy adequate procedural and substantive legal safeguards and procedural guarantees to protect themselves from disproportionate restrictions and enjoy the right to mental and physical integrity;**

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(b) About the high incidence of inappropriate or unnecessary non-consensual institutionalization; that persons deprived of their legal capacity have no recourse to means to challenge violations of their rights and that there is no independent inspection or monitoring mechanism for mental health institutions and that they continue to be located in remote locations;

(c) That admission procedures and systems of guardianship continue to include officials from the institutions in which the persons with disabilities are confined, which may result in conflict of interest and de facto detention, and that the placement is done at the request of other persons and not the person with disability;

(d) Regarding the excessive use of medication and chemical restraints; the enforced administration of non-consensual and intrusive and irreversible psychiatric treatment and therapies such as neuroleptic drugs; of violence among patients including self-destructive behaviour; punitive behaviour by staff based on a person's impairment;

(e) About the material conditions in some institutions that amount to inhuman and degrading treatment and include caged spaces, lack of furniture poor hygiene and poor access to sanitary facilities;

(f) The non-renewal of agreements by the Ministries of Health Care, of Labour and Social Policy and of Education and Science with civil society institutions which reduces their ability to monitor such institutions;

(g) That children in accommodation centres for children with mental and psychosocial disabilities have been subjected to negligence, harassment and violence.

**16. The State party should:**

**(a) Ensure that national legislation provides guarantees for effective legal safeguards for all persons with mental and psychosocial disabilities concerning civil involuntary hospitalization, including effective judicial review, as well as concerning involuntary psychiatric and medical treatment in psychiatric institutions, including chemical and physical restraints;**

**(b) Review the legal status of patients and ensure that patients' consent is requested both with regard to hospitalization and in relation to psychiatric medical treatment, and that they are allowed to avail themselves of the right to appeal against the decision in case of involuntary hospitalization and medication;**

**(c) Ensure the patient's right to be heard in person by the judge ordering the hospitalization and that the court always seeks the opinion of a psychiatrist who is not attached to the psychiatric institution admitting the patient;**

**(d) Ensure regular visits of psychiatric institutions by a mandated outside body independent of the health authorities and establish an independent complaints mechanism;**

**(e) Consider less restrictive alternatives to forcible confinement of persons with mental and psychosocial disabilities;**

**(f) Investigate effectively, promptly and impartially all complaints of ill-treatment of persons with mental and psychosocial disabilities hospitalized in psychiatric institutions, bring those responsible to justice and provide redress to victims;**

**(g) Take measures to prevent all forms of ill-treatment in psychiatric and other institutions and ensure that the use of medication strictly complies with medical needs and that there is no excessive use of medication and ill-treatment, including through the establishment of internal inspection mechanisms and take into account the United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care.**

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### **Absence of investigation into the deaths of 238 children with mental disabilities**

17. The Committee is gravely concerned by the reply of the State party concerning the absence of investigations into the deaths of 238 children with mental disabilities who died in the period 2000-2010, three quarters of whom died of preventable deaths, and two more children dying in similar conditions in Medven institution shortly before the Committee's previous consideration of the State party's report. The Committee is dismayed by the statement that 22 inspections of the institutions in questions did not establish inhuman treatment of children by the personnel of the specialized institutions, merely stating that there were certain loopholes in legal regulations whereby some of the children were buried without autopsies.

**18. The Committee requests the State party, as a matter of urgency, to open an investigation into the 238 deaths of children in specialized institutions as well as the two children who died in Medven institution and to provide it with the outcome of those investigations and any ensuing action by 6 December 2018.**

### **Ombudsman institution and the National Preventive Mechanism**

19. The Committee is concerned that the Office of the Ombudsman, serving as the National Preventive Mechanism under the Optional Protocol to the Convention, is accredited with "B" status by the Sub-Committee on Accreditation (SCA) of national institutions since it does not comply with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), as is also the case with the second national institution in the State party, the Commission for Protection against Discrimination. It is concerned further that the budget of the National Preventive Mechanism has been reduced and that it lacks sufficient staff to effectively fulfil its mandate. The Committee is concerned that the NPM is not able to carry out frequent visits to all places where persons are deprived of their liberty such as investigation detention facilities, special centres for the temporary accommodation of foreigners, juvenile reformatories and institutions for persons with mental and psychosocial disabilities, and that its recommendations, including those relating to conditions of detention amounting to ill-treatment, have not always been taken into consideration. (arts. 2, 11-13 and 16)

20. **The State party should:**

**(a) Strengthen the Office of the Ombudsman and provide it with adequate human, material and financial resources, in line with the Paris Principles. Take measures that fully reflect the recommendations for accreditation by the SCA and ensure the implementation of the Ombudsman's recommendations, including with respect to awards of redress to victims, the prosecution of perpetrators and improvement of treatment and material conditions in places of deprivation of liberty;**

**(b) Take measures to improve the effectiveness of the National Preventive Mechanism's monitoring functions and allow it to also carry out regular and unannounced visits to all places where persons are deprived of their liberty, including investigations detention facilities and special centres for the temporary accommodation of foreigners, juvenile reformatories and institutions for persons with mental and psychosocial disabilities, and should also allow regular monitoring of places of deprivation of liberty by non-governmental organizations to complement the monitoring undertaken by the national preventive mechanism, including to psychiatric hospitals and social care institutions for adults and children with mental and psychosocial disabilities.**

### **Non-refoulement**

21. The Committee is concerned that the State party may not be complying with the principle of non-refoulement and its obligations under the Convention with regard to persons applying for international protection and asylum. It is also concerned by the credible information submitted by the Ombudsperson, mentioning "several cases gained notoriety in 2016 where serious violations of Bulgarian and international humanitarian law were committed while forcibly removing third-country nationals, at the expulsion of more than 2,500 such persons and the extradition in August 2016 of Mr. Abdullah Buyuk, a citizen of

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Turkey, despite two court rulings against his extradition, by the Sofia City Court and the Bulgarian Court of Appeal, and without notification of the Ombudsman and which the Ombudsman deemed as being carried out in violation of articles 28 and 29 of the Constitution of Bulgaria and of article 44a of the Foreigners in the Republic of Bulgaria Act. According to the Ombudsman, Mr. Buyuk was not given the opportunity to file an appeal against his expulsion order and to arrange for defence in court. (art. 2, 3 and 16)

**22. The State party should:**

**(a) Ensure that it complies fully with its obligations under article 3 of the Convention and that individuals under the State party's jurisdiction receive appropriate consideration by the competent authorities and are guaranteed fair treatment at all stages of proceedings, including an opportunity for effective and impartial review by an independent decision-making mechanism on expulsion, return or extradition, with suspensive effect;**

**(b) Fulfil its non-refoulement obligations and guarantee the in-country right to appeal an expulsion order when there are substantial grounds for believing that a person would be at risk of being subjected to torture and ensure respect for all safeguards and interim measures with regard to asylum and deportation procedures;**

**(c) Follow-up on the situation of Mr. Buyuk with the authorities of Turkey and provide the Committee with an update about his situation;**

**(d) Provide the Committee with updated information about the situation since their arrival in Lebanon of Mr. Youssef Kayed and Mr. Moussa Kamel Ismael.**

**Situation of asylum seekers and migrants**

23. While commending the State party for its ratification of the Convention on the Status of Stateless Persons and the Convention on the Reduction of Statelessness and its establishment of the statelessness determination procedure, the Committee is concerned at the amendments to the Law on Asylum and Refugees that provide a legal basis for the detention of asylum seekers for immigration-related purposes, substandard material conditions in reception centres, the absence of an adequate identification mechanism for persons in vulnerable situations, the removal of their monthly financial allowance, and insufficient procedural safeguards regarding the assessment of claims and granting international protection. It is also concerned at reports of ill-treatment of asylum seekers by the border police, including the forcible blockage of entry into Bulgarian territory to at least 59 asylum seekers and migrants at the border with Turkey between March and November 2015, reported of physical violence against them by law enforcement officers, and the suspicious death of an Afghan national in October 2015, in addition to their being stripped of their belongings and money and by unlawful actions of vigilante groups towards migrants. The Committee is also concerned that irregular migrants entering Bulgaria are systematically detained for periods of up to 18 months. (arts. 2, 11-13 and 16)

**24. The State party should:**

**(a) Ensure that persons in need of international protection are not subjected to arbitrary detention, provide for judicial review of detention, envisage alternatives to detention and prohibit the detention of children;**

**(b) Avoid registering unaccompanied children apprehended upon irregular entry as being "accompanied" by adults they are not related to and establish a single body for coordinating the child protection policy;**

**(c) Prevent the ill-treatment of asylum seekers by law enforcement officers, including border police, by providing appropriate training on how to deal with migrants and other vulnerable persons and promptly investigate all cases of excessive use of force;**

**(d) Implement adequate identification procedures, including by providing interpreters, and conduct individual assessments and ensure the availability of adequate procedural safeguards regarding protection and refugee status determination procedures;**

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(e) **Ensure rapid and appropriate identification of persons in vulnerable situation, including survivors of torture and ill-treatment, and provide adequate access to health care and psychological services;**

(f) **Refrain from engaging in pushbacks and refoulement and set up accessible and protection-sensitive entry systems at border crossing points;**

(g) **Prevent the stigmatization of and attacks against migrants, including robbery of migrants by law enforcement officers and/or non-state actors such as vigilante groups and prevent private individuals from carrying out apprehensions of migrants;**

(h) **Reinstate the monthly financial allowance for asylum seekers, improve material conditions in reception centres to ensure an adequate standard of living;**

(i) **Reduce the level of overcrowding in migrant detention facilities, in particular in Busmantsi and Lyubimets.**

#### **Domestic violence and gender-based violence against women**

25. The Committee remains concerned at the prevalence and the number of domestic violence cases, including marital rape, which overwhelmingly affects women in the State party and constitute forms of gender-based violence, and that domestic violence continues to not be included as a specific crime in the Criminal Code. It is concerned further about the one-month time limit for applying for protection orders that cannot be modified if the violence increases, the absence of a cassation instance for judicial proceedings under the Law on Protection against Domestic Violence, at the insufficient number of State-run shelters for women and their children who are victims of domestic violence and at reports that law enforcement and prosecutorial staff lack sufficient training and awareness in handling cases of domestic violence and protecting victims. (arts. 2, 12-14 and 16)

26. **The Committee reiterates its recommendation (CAT/C/BGR/CO/4-5, para. 25) that the State party should:**

(a) **Amend its legislation to include domestic violence, including marital rape, as a specific crime in the Criminal Code that entails ex officio prosecution;**

(b) **Encourage victims to report cases of violence to the authorities and ensure that all allegations of violence against women, including domestic and sexual violence, are registered by the police and promptly, impartially and effectively investigated; remedy poor investigative techniques and rectify mishandling of evidence of domestic violence, in particular cases of rape;**

(c) **Ensure that all victims of gender-based violence and domestic violence benefit from protection, including restraining orders, and have access to medical and legal services, including counselling, redress and rehabilitation, as well as safe and adequately funded government-run shelters throughout the country;**

(d) **Establish an effective and independent complaints mechanism for victims of domestic violence;**

(e) **Provide mandatory training for police and other law enforcement officials, prosecutors, judges and social workers on the vulnerabilities of victims of gender-based violence, including domestic violence;**

(f) **Compile statistical data, disaggregated by age and ethnicity of the victims and their relationship to the perpetrator, regarding domestic, sexual and other forms of violence against women, including marital rape, as well as on the number of complaints, investigations, prosecutions, convictions of perpetrators and sentences handed down.**

#### **Trafficking in persons**

27. While taking note of the measures taken by the State party to combat trafficking in human beings, including the adoption of the Adoption of the National Anti-Trafficking Strategy for 2017-2021, the Committee is concerned that Bulgaria remains a country of origin

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for human trafficking for purposes of sexual and labour exploitation, as well as of trafficking for removal of organs and body fluids. It is also concerned about the gaps between legislation and strategies and their implementation as well as failure to address the root causes of trafficking, in particular with regard to Roma women. The Committee is also concerned at the insufficient support to trafficked persons, including numbers of shelters for victims of trafficking, the absence of a mechanism to identify victims of trafficking, insufficient health care and the absence of specialized services for child victims. (arts. 2, 3, 14 and 16)

28. **The State party should:**

(a) **Vigorously enforce the anti-trafficking legislation to combat human trafficking by promptly, thoroughly and impartially investigating all allegations of trafficking, prosecuting those accused and, if found guilty, punishing with penalties proportionate to the gravity of their acts;**

(b) **Take effective measures to prevent and eradicate human trafficking, including by providing specialized training to public officials, in particular law enforcement, immigration and prosecutorial personnel, on how to identify victims and investigate, prosecute and sanction perpetrators and set up a mechanism to identify victims of trafficking;**

(c) **Ensure the effective implementation of the National Anti-Trafficking Strategy for 2017-2021, provide the National Commission for Combating Trafficking in Human Beings (NCCTHB) with sufficient funds to carry out its mandate effectively, broaden cooperation with non-governmental organizations and conduct national prevention campaigns highlighting the criminal nature of such acts;**

(d) **Increase the protection of and provide support and redress to victims of trafficking, especially minors, including free legal aid, specialized medical and psychological aid and rehabilitation, increase the number of shelters and crisis centres; enhance assistance to victims in reporting incidents of trafficking to the police, including by establishing a 24-hour hotline for victims to report cases of trafficking;**

(e) **Continue international cooperation with countries of origin, transit and destination of trafficking with regard to preventing and punishing transnational forms of trafficking; and prevent the return of trafficked persons to their countries of origin where there are substantial grounds to believe that they would be in danger of torture; and**

(f) **Provide the Committee with comprehensive disaggregated data on the number of investigations, prosecutions and sentences handed down to perpetrators of human trafficking and on the provision of effective redress to the victims.**

#### **Discrimination, violence and hate crimes against vulnerable groups**

29. The Committee is concerned at reports about the marked increase since 2014 in the incidence of violence against minority groups such as Roma, Muslims and their places of worship, migrants, refugees and asylum seekers, Turks, Jews, persons of African descent, members of sexual minorities, as well as human rights activists defending them. The Committee is concerned at the low conviction rates of law enforcement officers prosecuted for this type of crime, mostly for inflicting light injury and who were subsequently sentenced to suspended sentences or fines. (arts. 2, 12-14 and 16)

30. **The State party should:**

(a) **Define hate crimes in national legislation and establish protocols to prevent and ensure that offences motivated by discrimination constitute an aggravating circumstance in criminal prosecution**

(b) **Systematically investigate and prosecute violent acts and discrimination, prosecute perpetrators and, if found guilty, convict and punish them; provide the Committee with information about the outcome of any proceedings in relation to the Ataka party attacks against the Muslim community in May 2011 near the Banya Bashi mosque in Sofia;**

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**(c) Step up efforts to eradicate stereotypes and discrimination against the Roma and other vulnerable minority groups by enhancing awareness-raising campaigns among the general public;**

**(d) Take concrete steps to ensure that members of the Roma community and other vulnerable minorities and groups are not singled out and ensure that the excessive use of force against members of such communities by law enforcement officials is promptly and impartially investigated and the perpetrators prosecuted and punished; provide remedies and redress to victims afforded by the Convention, including for reparation and damage.**

### **Training**

31. While noting the professional training provided to public officials, the Committee is concerned that the law enforcement, border guards, penitentiary staff and police officers do not receive sufficient specific training on the provisions of the Convention, including the absolute prohibition of torture, as well as on violence against women and human trafficking. It is also concerned that training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) is not provided to all medical professionals dealing with persons deprived of liberty. The Committee is also concerned at the lack of information on the impact of the training conducted for all relevant officials, including law enforcement officials, prison staff and border guards (art. 10)

32. **The Committee reiterates its recommendation (CAT/C/BGR/CO/4-5, para. 20) that State party should:**

**(a) Make training on the provisions of the Convention and the absolute prohibition of torture, as well as on violence against women and human trafficking, mandatory for law enforcement officials, penitentiary staff, judges, prosecutors and lawyers; in addition, provide training for law enforcement officials on Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;**

**(b) Ensure that the Istanbul Protocol is made an essential part of the training for all medical professionals and other public officials involved in work with persons deprived of their liberty;**

**(c) Develop and implement specific methodologies to assess the effectiveness and impact of training and educational programmes provided to law enforcement and other public officials on the provisions of the Convention on the reduction in the number of cases of torture; and**

**(d) Provide training to law enforcement, prosecutorial and judicial officials on non-coercive investigation methods.**

### **Redress for victims of torture**

33. While taking note of the Assistance and Financial Compensation to Crime Victims Act (AFCCVA), which is in the process of being amended, the Committee is concerned that the State party has not awarded or provided any redress, including rehabilitation, to victims of torture or ill-treatment during the reporting period. (art. 14)

34. **The State party should ensure that victims of torture and ill-treatment obtain redress, including rehabilitation, and have an enforceable right to fair and adequate compensation, which should be reflected in the amendments to the Assistance and Financial Compensation to Crime Victims Act. The Committee draws the attention of the State party to general comment No. 3 (2012) on the implementation of article 14 of the Convention, in which the Committee explains the content and scope of the obligations of States parties to provide full redress to victims of torture and recommends amending the domestic legislation accordingly.**

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### **Coerced confessions**

35. While being informed by the State party that Bulgarian legislation incriminates unlawful coercive action performed to extort confession, and provides guarantees against the use of statements obtained under torture as evidence in legal proceedings, the Committee remains concerned at the continued absence of legislation explicitly prohibiting the admissibility of evidence obtained as a result of torture and ill-treatment. It is further concerned that the courts do not examine the circumstances under which statements, including self-incriminating statements and confessions have been obtained, and that statements obtained in contravention of prescribed legal procedures have been presented to courts by prosecutors and have remained in the case files throughout the criminal proceedings. It is also concerned at reports about a significant number of cases in which children testified that they had been coerced into making confessions for acts they did not commit. (arts. 2, 15 and 16)

**36. The Committee reiterates its recommendation (CAT/C/BGR/CO/4-5, para. 18) that the State party enact legislation specifically prohibiting the use of statements obtained through any form of coercion or torture as evidence in all judicial proceedings, in conformity with article 15 of the Convention. In addition, the State party should:**

**(a) Ensure that all persons, including juveniles, convicted on the basis of coerced evidence or as a result of torture or ill-treatment are afforded a new trial and adequate redress;**

**(b) Ensure that, in practice, statements made as a result of torture may not be invoked as evidence in any proceedings, except against the person accused of torture;**

**(c) Through its judiciary, including the Supreme Court of Cassation, take measures to ensure the review cases of convictions based solely on confessions, since many may have been based on evidence obtained through torture and ill-treatment and should conduct prompt and impartial investigations into such cases, take appropriate remedial measures and provide information on whether any officials have been prosecuted and punished for extracting such confessions;**

**(d) Provide the Committee with information on any cases in which confessions were deemed inadmissible on the grounds that they were obtained through torture and indicate whether any officials have been prosecuted and punished for extracting such confessions.**

### **Follow-up procedure**

37. The Committee requests the State party to provide, by 6 December 2018, information on follow-up to the Committee's recommendations relating to the excessive use of force, to the national preventive mechanism and to the situation of asylum seekers and migrants (see paras. 12 (b), (d), (e) and (f); 20 and 24 (b), (c), (d) and (e)). In the same context, the State party is invited to inform the Committee about its plans for implementing within the coming reporting period, some or all of the remaining recommendations in the concluding observations.

### **Other issues**

**38. The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet a party.**

**40. The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.**

**41. The State party is invited to submit its next periodic report, which will be the seventh periodic report under article 19 of the Convention, by 6 December 2021. For that purpose, the Committee will, in due course, transmit to the State party a list of issues prior to reporting, considering that the State party has accepted to report to the Committee under the optional reporting procedure.**

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