**SUBMISSION**

**Of The Bulgarian Helsinki Committee**

**To The United Nations Committee**

**Against Torture**

**LIST OF ISSUES PRIOR TO REPORTING CONCERNING THE SEVENTH PERIODIC REPORT OF BULGARIA**

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**Bulgarian Helsinki Committee**

**Sofia, May 2020**

The **Bulgarian Helsinki Committee**  was established on 14 July 1992 as an independent non-governmental organisation for the protection of human rights.The **objectives**of the committee are to promote respect for the human rights of every individual, to stimulate legislative reform to bring Bulgarian legislation in line with international human rights standards, to trigger public debate on human rights issues, to carry out advocacy for the protection of human rights, and to popularise and make widely available human rights instruments. The backbone of the committee's **activities**is systematic monitoring of the human rights situation in the country. It gives us information on the state and development of human rights in the country and supplies our legal defense program with cases of human rights violations for litigation before the domestic and international courts. In addition, the committee reports on human rights violations with a special emphasis on the rights of ethnic and religious minorities, refugees and asylum-seekers, rights of the child, protection from torture and ill-treatment, freedom of expression and association, problems of the criminal justice system. The BHC offers**free legal assistance** to the victims of human rights abuses. The committee also works in the sphere of human rights education, organizes conferences, workshops, public actions and other forms of public activities aimed at bringing the concept of human rights to the attention of the general public.

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# I. Definition of torture

During the period under review there were no developments regarding the definition of torture in the Bulgarian legislation.

# II. 24-hour administrative police detention – safeguards

## **Right to information**

As the **figure of the suspected persons of having committed a criminal offence is not legally recognised**, the Bulgarian law does not guarantee criminal procedural rights to defend the persons about whom there is information of having committed a criminal offence and against whom investigative actions are undertaken outside the criminal proceedings. Until January 2019 there was no other regulatory framework giving to the detainees a possibility of participation and defence in the investigation conducted against them, e.g., the right to remain silent and not to give evidence against themselves, the right to interpretation and translation and the right of access to the materials in the case. In January 2019 only the right to remain silent has been introduced.

The letter of rights (as of end of 2018) lacks information about the grounds for the person’s detention as suspect of having committed a crime, information about his/her right to interpretation and translation during police detention, information about his/her right of access to the materials of the case and – perhaps most important – information about his/her right to remain silent during the “exploratory talk” under conditions of police detention.

**On 22 January 2019 the right to remain silent and to be informed about it was introduced** for suspects in police detention in the Ministry of Interior Act,[[1]](#footnote-1) the Military Police Act, [[2]](#footnote-2) the State Agency “National Security” Act[[3]](#footnote-3) and the Customs Act. [[4]](#footnote-4)

A 2017 field study[[5]](#footnote-5) revealed several findings:

The way in which the letter of rights is filled was studied both during the monitoring at the police stations and during the interviewing of accused persons about their police detention in 2017. In the presence of external observers in the room for filling the documents, the police officers gave sufficient time to the detained persons to become familiar with the letter of rights. In isolated cases they clarified certain texts and informed them that they could write down their concrete wish. However, during the interviewing of accused persons in the pre-trial detention facilities, the information obtained differed from the information from the monitoring conducted. Most of the interviewed persons reported that they did not have sufficient time to become familiar with the texts and that they filled everything in the letter of rights as dictated by the police officer. **“I wrote what I was told”** – that was the most frequent description of the way in which the detained persons filled the letters of rights. Several of the interviewed persons reported that the police officer indicated to them where exactly on the sheet of paper they were to write, telling them: write here “I don’t wish” (defence attorney), write here “I have been informed” (about the right to visits), or write here “none” (no need of a special diet). Even if they wanted to write that they wished to have a lawyer, the police officer explained to the persons that this was not necessary for 24-hour detention and that an attorney would be provided at a later stage. [[6]](#footnote-6)

The 2017 study concludes that the legislation allows significant flexibilityin terms of the moment when the **detention order** should be handed out to the detainee. In fact often it is handed several hours after the actual detention of the person. **The order does not contain information about the factual grounds for the detention**. The declaration of rights is given to the detainees much later than the detention order. It does not explain the rights in an easy-to-understand manner, adapted to the understanding of the detained person. The process of familiarising with it is formalistic and is aimed just at making the detained person sign it. The legislation does not provide adequately for the right of the detained person to keep a copy of the declaration with him/her while in police custody.[[7]](#footnote-7) In spite of the available possibilities of making a choice whether to benefit from the rights that the legislator had deemed it possible to secure after the detention, with few exceptions the detained persons declare refusals to benefit from these rights. Thus, **the letters of rights tend to play the role of declarations for waiving rights**, whereby the refusal spares considerable involvement, resources, time and nerves to the police officers.[[8]](#footnote-8)

## **Access to a lawyer**

Persons, detained by the police because of suspicion of criminal offence are deprived of access to a lawyer in practice. With a few exceptions, **they do not benefit from effective legal assistance while they are detained**. They are interrogated for alleged crimes by police officers during the “exploratory talks” without a lawyer as a rule. The information they share may be directly entered into their case files though testimonies provided by the police officers. This may serve as a ground for conviction. The right to access to a lawyer during police detention is not effective in practice because the law does not prohibit the “exploratory talk” in case the detainee asked for legal assistance and because there is no mandatory legal aid for vulnerable groups of detainees. No system for retaining lawyers in case they are requested has been established. The pressure on the detainee to waive his/her right to a lawyer plays also a significant role in deprivation of the detainees of the right to a lawyer during police detention. [[9]](#footnote-9)

**Practice until 2019 showed that the share of police detainees who declared their wish to have a lawyer is below 1.1%.** [[10]](#footnote-10) All other 99 % signed waivers. During the interviews with detained persons in a 2017 study, [[11]](#footnote-11) some of them reported that the police officers did not allow them to declare that they wished an attorney of their choice. If they wanted to write that, the police officer asked them whether they had money and told them that they had to pay, and those who asked for a legal aid lawyer were told that such was not needed for police detention and that an attorney would be provided to them later. Several of the interviewed persons reported that they had been shown where to put their signatures on some form, but they did not understand what they had signed.[[12]](#footnote-12) The same study researched the views of police officers and found that their opinion on the attorney’s role is negative. According to the officers, the attorney was not needed for the actual police detention, but for the later stage: for the arraignment of the accused. In case an attorney nevertheless visited a client at the police station, that was “vexing” to the police officers.[[13]](#footnote-13)

**Since January 2019 the Bulgarian legislation provides explicitly for waiver of the right to a lawyer**. The amendments oblige investigating authorities to explain the consequences of the waiver of the right to a lawyer to the accused persons.[[14]](#footnote-14) The explanation and the grounds for the waiver presented by the accused persons should be recorded in the protocols of the investigative action or in a separate protocol. The accused persons have the right to withdraw the waiver at any moment of the proceedings while the already performed investigative actions keep their full procedural effect. After the withdrawal of the waiver the accused persons should be immediately provided with the opportunity to choose a lawyer and have confidential contacts with him/her.[[15]](#footnote-15) The right to information about the waiver of the right to a lawyer and the consequences of it was also introduced for suspects in the Military Police Act,[[16]](#footnote-16) State Agency “National Security” Act,[[17]](#footnote-17) Ministry of Interior Act,[[18]](#footnote-18) and the Customs Act.[[19]](#footnote-19) However, only the Criminal Procedure Act and the Customs Act oblige the investigating authorities to record the waiver and the reasons for it in a protocol.

### Confidentiality of the meeting with a lawyer

Soundproofed premises in police stations exist almost nowhere, although the law provides for them. Several participants in focus groups in a 2016 study[[20]](#footnote-20) made statements that, as a rule, **lawyer-client meetings in police departments take place in the premises of the investigative authorities**, or even – in the presence of the investigative authorities. The initial contact between attorney and detained person occurs most frequently directly in the office of the investigating police officer, but only when the person is constituted as accused party. According to interviewed accused persons in a 2017 study, although they had personal attorneys, they were not given time to have a meeting in private and to have a consultation with their attorney prior to being constituted as accused party. Their communication with the attorney occurred most often in the office and in the presence of the investigating police officer.[[21]](#footnote-21)

### Vulnerable suspects

In Bulgaria there are **no mechanisms** for the identification of common indicators and the assessment of vulnerability of criminal suspects in criminal proceedings. There is a gap in this respect in the initial stages of Bulgarian criminal proceedings insofar as there is a lack of objective initial assessment on the part of the police or other investigative agencies to determine vulnerability for the purpose of providing support to vulnerable persons while still in custody. Furthermore, the law fails to require that when there are signs of vulnerability in a criminal suspect this information be relayed to the appropriate authorities so as to trigger further medical assessment. It is only once the vulnerable person has been accused - and then mostly when poverty is indicated or when required by the severity of the offence - that a *pro forma* attorney is appointed with the assumption, but not the legal obligation, that he/she shall provide adequate support to the accused. The practice shows that a medical assessment is required only after the suspect has been indicted and the goal of the assessment is solely to determine whether or not the accused is mentally competent (not to provide support).[[22]](#footnote-22)

### Information about the charges

A 2017 fieldwork study[[23]](#footnote-23) found that about **half of the detained persons had not been informed about the reason for their arrest immediately** or at the very beginning of the detention. They received that information when the detention order was served to them. In many cases that order did not go beyond indicating only the relevant legislation: the provision of Article 72, para. 1, pt. 1 of MoIA. In several cases the persons were informed generally that the reason for their detention was that there were data that they had committed a crime, without telling them what the actual crime was. They received more detailed information at a later stage: during a talk with the police officers, but that happened in an interval of two to three hours after the detention. [[24]](#footnote-24)

The interviews conducted with accused persons in 2017 demonstrated that most frequently the persons detained under Ministry of Interior Act were constituted as accused party towards the end of the 24-hour detention, whereby an attorney comes to the police station for the purposes of the arraignment. In the meantime, however, one or several **“exploratory talks”** were conducted with the person, without informing him/her of his/her right to remain silent and normally without participation of an attorney. In the course of these talks, additional information was gathered from statements of the detained person, which can subsequently enter as evidence on the case through the evidence of the operatives, or by gathering other proof through inspections and searches suggested by the detained person during the “exploratory talk.” [[25]](#footnote-25)

In the case of *Petkov and Profirov v. Bulgaria* the ECtHR found violation of Article 5.2 of the Convention because the detention orders of the applicants note only the relevant legal provisions, without describing the factual grounds for their detention, as well as in view of the fact that in the case there were no other indications that they had been informed about the factual grounds for their detention.[[26]](#footnote-26)

### Consultation with a lawyer before interrogation

Recent practice studies have not found evidence that a detained person was allowed to have a consultation or even a telephone conversation with his/her defence counsel. According to the experience of the detainees and lawyers interviewed under a 2016 study, [[27]](#footnote-27) information about the right of access to a lawyer for police detainees is either provided after questioning or not provided at all. These statements correspond to the results of the criminal case files study, where it was established that out of 67 cases of defendants, initially detained by the police as suspects of crime, only one has actually benefited from legal assistance during the time of detention. Moreover, lawyers in the focus groups complained that in the cases where they were retained by relatives of suspects, held in police custody, they were refused immediate access to their clients, on the basis of not having a valid power-of-attorney. Usually, lawyers are allowed in the police station only once the first interrogation of the suspect is over. Another disturbing finding was that in 66% of the cases the suspected or accused persons did not have a lawyer during their first questioning. In 64% of the cases the suspected and accused made initial self-incriminating statements without consulting or participation of a lawyer.[[28]](#footnote-28)

## **Right to interpretation and translation**

The legal framework for providing interpretation and translation of explanations to detained persons is stipulated in the Ministry of Interior Act (MoIA) and in other secondary legislation. That right is regulated in the MoIA as follows: *“If the person is not fluent in Bulgarian, he/she shall be informed forthwith of the reasons for his detention in a language he/she understands.” [[29]](#footnote-29)* The subsequent MoIA articles, where the rights contained in the detention order are listed, specifically indicate also the person’s right to “…*use an interpreter in case he/she does not speak Bulgarian”.[[30]](#footnote-30)* More detailed regulation of that right is made in *Instruction No. 8121з-78 of 24 January 2015 of the Ministry of Interior.[[31]](#footnote-31)* Since the beginning of January 2018, the MoIA was updated and Article 106а was added, which reads: “*In the process of exercise of its powers the police body may use the services of an interpreter or commentator, with the view of familiarisation with the grounds of the actions taken and of explaining rights to a person who does not speak Bulgarian language or is deaf or mute.* *The use of an interpreter, sign language interpreter or any other person fluent in the relevant language and the determination of remuneration shall be made under terms and procedure prescribed by ordinance of the Minister of Interior.”*

The cited Article 106а of MoIA specifies the purposes for which the police may use an interpreter or commentator: for familiarisation with the grounds for detention; for familiarisation with the grounds for the actions undertaken; for explaining the rights.

Two problems exist with these texts. The first is that **they do not provide for a specific obligation to provide interpretation/translation for the actions conducted with the detained person**, e.g., “exploratory talk.” It may be assumed that as the problem concerns both the detained person and the operatives, if they wish to conduct such a talk, they would need to secure an interpreter, irrespective of the legal vacuum. The second problem, which is more serious, consists in the optional character of the provision of Article 106, para. 1 (“…may use…”), not imperative, and it does not compel the police to use an interpreter or commentator. The police officers conducting the detention have the power of determining the extent of the necessity to use that service and accordingly to provide it or not. When the service for the detained persons creates additional problems for the police and it could avoid providing it, it would be most logical to spare itself those problems.

**The legislation does not require any written translation to be provided**. Neither the detention order, which contains the grounds for the detention, nor the letter of rights is made available to the detained person in translation into a language that he/she understands. There is likewise no requirement for keeping minutes of the actions during police detention, e.g., the “exploratory talk” in the cases when they take place with the help of an interpreter in compliance with the requirements under Article 7 of Directive 2010/64/ЕС.

On the grounds of Article 106а, para. 2 of MoIA, in February 2018 the Minister of Interior issued *Order No. 8121з-152/12.02.2018*.[[32]](#footnote-32) In addition to the other provisions, the Order stipulates a remuneration amounting to BGN 15 (EUR 7.5) per actually worked hour. The remuneration fixed in the Minister’s Order is the same as in *Ordinance No. Н-1 of 16 May 2014 for Court Interpreters*, issued by the Minister of Justice. Prior to the coming into force of Order No. 8121з-152/12.02.2018, both police officers and operatives were unable to enforce Ordinance No. Н–1 due to the fact that its Article 1, para. 2 specifically mentions that *“… it shall be applied for persons authorised to be court interpreters for assigned interpretation by the judiciary bodies, the bodies of the pre-trial proceedings, as well as those under enforcement cases*,” i.e., that Ordinance cannot be enforced in the event of detention of persons under the MoIA.

A 2017 study[[33]](#footnote-33) concludes that as the police detention is not recognized as part of the criminal proceedings, neither the legislation, nor the practice secure compliance with the right of interpretation and translation in accordance with Directive 2010/64/EC. **Interpretation during police detention is regulated by the MoIA as a possibility, not as an obligation and only for the purposes of familiarizing the detainee with the grounds for police actions and with his/her rights**. There is no mechanism for identifying whether the person who is suspected or accused of having committed a criminal offence speaks or understands Bulgarian. In practice, no interpretation is provided for the contacts with the detainee with his/her lawyer. Neither the detention order, nor the letter of rights is made available to the detained person in translation into a language that he/she understands. The remuneration of interpreters, where they are involved, is very low. This discourages professional interpreters to offer their services and prompts the police to use random persons with poor knowledge of the respective languages. The participation of an interpreter/translator in actions during police detention is not recorded in minutes. [[34]](#footnote-34)

During the period under review no developments have taken place regarding the right to medical examination, the right to inform a third party about the detention and the procedure for challenging the lawfulness of the detention.

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

In January and February 2019, a BHC team conducted a survey about the police violence during apprehension and inside police stations among inmates in the prisons in Stara Zagora, Vratsa, Lovech and Pazardzhik, whose pre-trial proceedings had started after 1 January 2017. In previous years, BHC has conducted similar surveys in the same prisons and among similar groups of inmates. The results reveal a reduction with almost 10% in the use of physical force by police officers during detention in comparison to 2017. At the same time, **the share of those who complain about the use of force inside the police stations, which is absolutely prohibited, has increased to 21.6%.** It should be noted that in 2018 there was an increase in the share of persons reporting that they were not detained at police stations (from 24% to 34%). This is due to the greater share of inmates convicted for driving offences, very few of whom are being detained at all until their final conviction. Therefore, the above results as a whole reveal a continuing alarmingly high level of police violence, especially following detention inside police stations.

In January and February 2020, a BHC team conducted a survey among inmates in the prisons in Stara Zagora, Vratsa, Lovech and Pazardzhik, whose pre-trial proceedings had started after 1 January 2018. The results reveal **increase** of the complaints of use of force especially inside police stations. The share of prisoners who complain of such practice is comparable with this of the years before 2012 when police violence was widespread.

Ill-treatment in police stations remains **unpunished**. In May 2019 the prosecution office has published its annual report for 2018. According to it, during 2018 the prosecution office supervised 200 preliminary check files for police violence, which amount to 19 % more compared to 2017, of which 164 were newly opened - with 27 % more compared to 2017. The number of the supervised pre-trial proceedings in 2018 was 101, 40 % more compared to 2017, of which 57 were newly opened - with 42 % more than in 2017. However, the prosecution offices in the country introduced in the court only two acts against four persons – one indictment act and one proposal for releasing from criminal liability and for imposing administrative sanction.[[35]](#footnote-35)

On 4 May 2018, the **European Committee for the Prevention of Torture, Inhuman and Degrading Treatment and Punishment (CPT)** published its report of its periodic visit to Bulgaria in September and October 2017. The CPT delegation once again received many complaints of physical ill-treatment of persons detained by police. The complaints referred to punches, kicks and truncheon blows, but there were also a few allegations of having been subjected to electric shocks by means of electric discharge weapons (Tasers).[[36]](#footnote-36) Such practices, as well as inter-resident violence, were also reported to the CPT at the Special Home for Temporary Accommodation of Foreigners in the town of Lyubimets.

# IV. Conditions of detention

**In 2018, the material conditions in prisons improved**. The conditions at the police detention facilities, however, continued to be in many cases inhuman and degrading. The preventive and compensatory remedy for torture, inhuman and degrading treatment introduced in 2017 revealed serious problems in its functioning.

## **Prisons and prison dormitories (hostels)**

In 2018, for a fourth year in a row, the trend towards a **decrease in the number of prisoners** in the country continued. According to the Directorate General on the Execution of Sentences (DG ES), the average number of inmates in 2018 was 6,977, of whom 217 were women (in 2019 the average number of inmates was 6,227, of whom 203 were women). As of December 2019, the country operated 12 prisons (main prison buildings), 7 prison hostel of a closed type, 19 prison hostels of an open type and two reformatory institutions for minors at the Vratsa and Sliven prisons.

Two new dormitories were opened during the 2018, one of the open type at the Burgas prison, and one of the closed type in Boychinovtsi. Before the beginning of the school year, in August 2018, the reformatory home for minors in Boychinovtsi was moved to the prison in Vratsa. This was done following amendments to the *Execution of Sentences and Detention on Remand Act*, by which the correctional home was transformed from an independent structure into a prison unit. The buildings of the Boychinovtsi home were used to create a closed-type dormitory to the prison in Vratsa, in order to reduce the overcrowding of its prison structures. In addition to the investigation detention facilities, which are used for the detention of accused persons, prisons are also used to detain people without an effective sentence: accused and defendants. Their number in recent years has not changed significantly. In 2019 one prison hostel of an open type “Vereya” was opened at the prison in Stara Zagora with a capacity of 54 places.

In 2018, the number of inmates in closed-type dormitories did not change, unlike the number of inmates in open-type dormitories. In 2017, an amendment to the *Execution of Sentences and Detention on Remand Act* led to a rapid increase in the number of inmates accommodated at prison dormitories of the open type, but in 2018 there was a decrease in this number. **In 2019, the total of 3,644 inmates lived in the prison main buildings, 985 – in the hostels of a closed type and 1,598 – in the hostels of an open type.**

Together with the general prison population, the number of **juvenile prisoners** also decreased. Compared to 2013, in 2018 the number of newcomers (accused, convicted and defendants) in juvenile correctional homes fell by half, from 90 to 44. By the end of December 2018, the number of juvenile prisoners was 25, of whom one was female. The material conditions in the new correctional facility for boys at the prison in Vratsa are good, but as of September 2018, the building stock was insufficient to provide adequate conditions for group activities, creative, cultural and sporting activities. The facility did not have a library, has no reception room, no room for appointment, no sports room as of the end of 2018. In 2019 a fitness room and a sport hall for mini-football were built. All juveniles attend a special school, which is specially set up for them in the courtyard of the correctional facility.

In recent years, the ECtHR judgment on the case of ***Neshkov and Others v. Bulgaria*** gave a major push for legislative changes and improvement of prison material conditions. The main problems of Bulgarian prisons, according to the Court, were overcrowding, poor material conditions and hygiene; it was therefore recommended to carry out extensive renovation works or to replace some of the prisons. This gave impetus to **large-scale reconstruction projects in detention, which were funded by the budget and by the Norwegian Financial Mechanism**. Another major recommendation of the Court was to establish means for the protection of prisoners against poor material conditions, that would be both preventive and compensatory. Legislative amendments in the beginning of 2017 introduced a preventive and compensatory remedy against poor detention conditions, as well as a **minimum floor space standard per inmate** of not less than 4 m². In 2018, however, this standard was not respected in certain prisons. The Ombudsman’s National Preventive Mechanism found in its report of July 2018 that **violations of this standard had occurred at the prisons in Pazardzhik, Plovdiv and Sofia**.[[37]](#footnote-37) The Council of Europe’s Committee for the Prevention of Torture (CPT) also reported a similar violation: in its report to the Bulgarian government of 4 May 2018, it reported overcrowding in the 2nd, 5th, 7th and 12th wards of the Sofia prison.[[38]](#footnote-38) Overcrowding and the absence of individual sanitary facilities in the cells were established by the BHC in some open and closed-type dormitories, such as Keramichna Fabrika, Kremikovtsi, etc. **In June 2019 overcrowding was monitored in the prisons of Sofia and Plovdiv, in one of the hostels of a closed type at the prison in Burgas and in 7 of the hostels of an open type – two at the prison in Burgas, two in Varna, one in Pazardzhik, one in Pleven and one in Plovdiv**. The Ombudsman again recommended to the Minister of Justice to start construction of a new prison in Sofia which would allow the closure of the present one and the hostel in Kremikovtsi. [[39]](#footnote-39)

In October 2018, the Execution of ECtHR Judgments Department of the Committee of Ministers left the case of Neshkov and Others v. Bulgaria under “enhanced supervision” for failure to comply with the general measures prescribed by the Court. In addition to overcrowding, the 2018 CPT report raised other serious issues of the penitentiary system, including: **the proliferation of bed-bugs, the inadequate medical care, the restricted access to work and education, the restrictive conditions on visits, the overly restrictive detention regime for accused and defendants in police detention facilities, the violence among inmates, the insufficient number of prison staff**. The mystery surrounding the construction of a new prison in Sofia was not resolved either in 2017 or in 2018. The need for a completely new prison building was identified and made public by the Ministry of Justice more than 15 years ago, when inmates initiate a protest against the deplorable living conditions.

In 2017, the Ministry of Justice reported that the Norwegian Financial Mechanism would provide **25 million ЕUR to improve prison conditions**, with a pilot prison with a learning centre to be created at the Kremikovtsi prison dormitory. In April 2018, the Minister of Justice reported that 35 million BGN (17,5 million EUR) have been allocated for the construction of a new prison in the Kremikovtzi area of the capital city, and added that the lot has been selected, the state property acts had been drafted, and the signing of a contract was pending. So far, however, the Ministry has not communicated why there has been no development with regard to the new prison project. During the second half of December 2019 г., without any public debate, the Council of Ministers adopted a ***Strategy for Development of the Penitentiary System in the Bulgaria up to 2025***. One of the strategic aims in it is a reform towards compliance with the European standards. Action plan and a financial plan for implementation of the Strategy were also elaborated. Main strategic aim is the construction of a new prison with the capacity of 400 places and a training centre for 100 persons, but again the location of this new prison remains unknown. Reconstruction of the prison in Plovdiv and designation of several hostels at prisons, probation service and training centre are earmarked also in the strategy.

Renovation activities in the Bobov dol prison and “Cherna gora” hostel at the prison in Stara Zagora had been finished in 2019. In the prison of Pazardzhik renovation activities continue while the whole west wing of the prison where the medical unit is located is not included in the renovation plans. In this prison as well as in others where renovation had taken place, except for Sliven prison, the hygiene did not reach the needed minimum level and the problem with bedbugs and cockroaches remains.

Legislative amendments in early 2017 eased the **conditions for conditional release** and the inmates were allowed to personally address the court in this regard. In 2018, a total of 970 prisoners were conditionally released from prison, which is 25% less than in 2017, when the number released on this ground were 1,282. In 2019 the number of prisoners who were allowed conditional release was 790. The statute of pardon, for which there is no clear set of rules, still does not function effectively. According to DG ES, only three prisoners were pardoned in 2018, although there were 396 requests to the presidential institution.

At the beginning of April 2018, two armed multiple offenders escaped through the central entrance of the Sofia Prison. The escape created tensions among law enforcement agencies and triggered a serious public debate, including on prison security. The examination of the case revealed severe omissions in the exercise of the duties and favouritism of certain prisoners. The head of DG ES and the Sofia prison warden were dismissed, while 14 officers were penalised for the escape.

According to the 2018 CPT report, **corruption remains a serious problem in prisons**. It quotes allegations that some staff requested payments to make a positive assessment of the prisoner’s conduct.[[40]](#footnote-40) In confirmation of this, in the middle of the year the court gave an effective sentence against the head of one of the open-type dormitories who, through an inmate serving as an intermediary, asked for and received bribes, in order to ensure employment and to give opinions to change prisoner status. As a result, the employee was sent as an inmate to the same prison he was working at for many years.[[41]](#footnote-41)

In recent years, the most severe sentence in Bulgaria, **life imprisonment without parole**, was analysed in two BHC thematic studies. According to DG ES, as at 31 December 2018 there were 190 persons serving life sentences, of whom 61 without the possibility for parole. In a series of ECtHR judgments, including against Bulgaria, the Court ruled that the existence of this penalty in the Bulgarian Criminal Code leads to direct and indirect violation of Article 3 of the ECHR. In his studies, BHC proved that life without parole is in flagrant contradiction with European standards and recommended that it be eliminated from the Criminal Code. In 2018, the same recommendation was made once again by the CPT in its report to the Bulgarian government. In 2018, there was no substantial change in the number of employed inmates. **In October 2019 over 80 prisoners with life sentences from different prisons submitted a request to the European commission, European Parliament and the Parliament in Bulgaria** in which they describe numerous violations of their rights and require institutions to take measures for prevention of the inhuman and degrading treatment, which is caused by such sentences in Bulgaria.

According to DG ES, as at 31 December 2018 the total number of **working prisoners** was 3,366, of which 1,883 were in paid and 1,483 in unpaid employment. In 2019 the number of the working prisoners has increased to 4,750, of whom 1,568 in unpaid employment.

For another year in a row, in 2018, the number of prisoners **attending school** is declining; as of 15 September 2018, there were 1,170, of whom 130 in first grade. In 2019, 1,080 prisoners have been attending school, of whom 124 in first grade.

In trying to comply with the CPT recommendations to establish safeguards against ill-treatment of prisoners, **registers of traumatic injuries began being kept at prison medical facilities**. The implementation of this measure contributed to the reduction of violence, but in 2018 prisoners and lawyers continued to report use of physical force by prison staff. Most often cases of violence were reported at the hospital of the Sofia prison, against prisoners suffering from mental disorders. Violence between inmates themselves was also found during the year. In this regard, in its report to the Bulgarian government of 4 May 2018, the CPT recommended that prison staff should be periodically reminded that the mistreatment of prisoners is a criminal offence that needs to be sanctioned.

In 2019, the National Preventive Mechanism of the Ombudsman made a number of alarming findings related to the state of **medical care in prisons**, warning that "*the Ministry of Justice, respectively DG ES, for years neglected medical activities in the penitentiary system*." [[42]](#footnote-42) One of the most disturbing findings is related to the two prison hospitals, as with regard to the Specialized Hospital for Active Treatment of Prisoners (SHATP) in Sofia, the Ombudsman notes that it "*works non-respecting the medical standards for this type of hospital since its establishment under the Medical Establishments Act*", is "*left without control for life*", with poor financial conditions, but with financial expenses on medicines on ​​per day base higher than those of university and national hospitals. [[43]](#footnote-43) The findings of the Ombudsman's visit to the SHATP in Lovech, which is supposed to provide treatment for prisoners with psychiatric and lung diseases, reveal that the hospital has neither a psychiatrist nor a specialist in lung diseases.[[44]](#footnote-44)

The unsuitability of the penitentiary system to take active treatment of prisoners leads to referrals of the patients to community health facilities, but due to insufficient resources to provide convoys and security outside the prison, this activity is often difficult and untimely. The BHC's observations also show that in many cases the organization of examinations and treatment in external medical institutions is provided by the relatives of the detainees, and not by the employees of the prison medical centers.

According to information provided by Department General of Execution of Sentences, after the introduction of the **preventive remedy** there were only three court orders in 2018 to prevent or terminate actions or inactions constituting a violation of Article 3 of *Execution of Sentences and Detention in Remand Act (ESDRA)*. On the other hand, a non-exhaustive overview of case-law in 2018 carried out by the BHC found in which the court sustained the applicants’ requests for protection. In four cases, the administrative court obliges the prison to provide applicants with the necessary medical care (consultation with a doctor, surgery or dental treatment, accommodation in an external facility). In another case, the court ordered the termination of the practice to have the applicant handcuffed to the hospital bed during his treatment. **Only one case of a court order concerning the termination of inhuman or degrading treatment related to cell overcrowding was found**. The speed of preventive proceedings is a fundamental requirement for their effectiveness. According to the regulations, the court must rule on the inmate's application within two weeks of being referred to. In practice, **this deadline is not respected**. One of the dispositions subject to analysis was given five months after the lawsuit was filed. In 2019 one of the cases lasted one year. [[45]](#footnote-45)

In 2019 the BHC research of case law revealed that in 8 cases the court ordered provision or termination of actions or in-actions constituting violation of the prohibition of torture or inhuman and degrading treatment. However, **in 59 cases the court found the requests unreasoned**. Regardless of the exact number of cases, it can be concluded that **the preventive remedy has insignificant application**. Some of the reasons for this may be attributed to the lack of obligation for prison authorities to inform about prisoners’ right to address a court, the virtually impossible access to free legal assistance for the purpose of filing an application/claim, and the fear of reprisals.

According to Department General of Execution of Sentences (DG ES), there were 175 newly launched cases for **monetary compensation** under the *Responsibility of the State and the Municipalities for Damages Act (RSMDA)* in 2018. The number of resolved cases was 132, of which 56 rulings were in favour of Department General of Execution of Sentences and 76 against. It is striking that **in 2018 the number of compensation claims has fallen dramatically**, by almost 60 % compared to 2017. It is also significantly lower (by 30%) compared to the number of lawsuits under SMRDA in 2016, when the special compensatory remedy for the protection of inmates did not exist yet. The analysis of some of the 2018 case-law outlines at least two sets of issues related to the application of the compensatory remedy.

Firstly, a significant number of cases are **closed without examination of the merits**, due to minor deficiencies in the claims, including of including unpaid state fee, unspecified monetary claim, addressing the claim to the wrong defendant. The reasons for termination are directly related to the vulnerable situation of the prisoners, which excludes free access to legal information for the purposes of self-preparation for the lawsuits, as well as a lack of sufficient financial means to cover fees and expenses for professional legal advice and procedural representation.

Secondly, the Supreme Administrative Court establishes **shockingly low amounts of monetary compensation for non-pecuniary damages,** by times lower than those of the ECtHR, which should serve as a reference for national courts. The review of the Supreme Administrative Court's case-law shows that the average amount of the daily compensation for damages caused by inhuman and degrading detention conditions, including the failure to provide minimum floor space, access to sanitary facilities and running water, direct access to light, and a possibility for natural ventilation of the premises, amounts to between **BGN 1 and BGN 2 daily (between 0.50 and 1 EUR)**. [[46]](#footnote-46) In view of these findings, the effectiveness of the measures put in place in response to the pilot decision *Neshkov and Others v. Bulgaria* to protect against inhuman or degrading treatment in prisons seems to be strongly compromised.

The application of the **monetary compensation remedy** was also analysed in 2019. The number of successful claims for damages was 101 and those that were rejected by the court were 112. Thus both preventive and compensation remedy proved to be not sufficiently effective. Although the number of complaints is increasing, a big share of them do not reach the phase of consideration of the merits by the court again due to minor deficiencies of the complaints such as: unpaid fee,[[47]](#footnote-47) unspecified defendants, lack of description of a concrete action or inaction of the administration. Out of those claims that were found admissible, a few reach a court decision ordering protection. They are related to: ensuring access to fitness,[[48]](#footnote-48) outside walk in favourable conditions, [[49]](#footnote-49) season adequate clothes and shoes,[[50]](#footnote-50) personal belongings for maintaining personal and space hygiene,[[51]](#footnote-51) reconstruction of the cell,[[52]](#footnote-52) treatment of Hepatitis C and Hepatitis B,[[53]](#footnote-53) adequate central heating and sewage.[[54]](#footnote-54)

In view of these findings, the effectiveness of the measures put in place in response to the pilot decision *Neshkov and Others v. Bulgaria* to protect against inhuman or degrading treatment in prisons seems to be strongly compromised.

## **Investigation detention facilities**

Since April 2018, the long stay in a detention facility of **two women who had held senior local government positions has highlighted the issue of the conditions in the places of detention** and the treatment of the detainees. This refers to the widely reported in the media detention of the former mayor of Sofia's Mladost municipality, Desislava Ivancheva, and of the Deputy Mayor, Bilyana Petrova. It was not until November 2018 that the numerous complaints filed by the two women, some of which were covered by the media, revealed that, on the one hand, the prosecution and the executive power, represented by the leadership of the Police Detention Section in Sofia, did not see any violation of these standards. On the other hand, the Ombudsman’s photos of the cell of the two applicants showed conditions that were a violation of current European standards. The examination by the Ombudsman's National Preventive Mechanism concluded that the detainees’ complaints about the poor sanitary conditions were legitimate: it was found that their cell had wet walls and wet spots due to leaks from the drainage system on the upper floor, the plaster was chipped and falling apart, and there was insufficient daylight and fresh air. With regard to these revelations, the Ministry of Justice declared that it's calling an emergency meeting on the issue of detention facilities, but it never takes place after the apprehension measure against the two public figures was changed. With the exclusion of the topic from the media space, it became clear that neither the Norwegian Financial Mechanism nor the judgments of the ECtHR nor the recommendations of the CPT can initiate a reform to improve the conditions in the detention facilities. However, the issue of the deplorable conditions in the detention facilities may preserve its relevance if other public figures who are subject to enhanced public attention continue to be held in them.

In 2018, the country had 32 functioning detention facilities, of which 26 stand-alone and 6 within prisons or prison dormitories. One detention facility in Dupnitsa was closed during the year, and at the beginning of 2019 it became clear that, by order of the Minister of Justice of 1 January 2019, the detention facilities of four other cities – Pernik, Targovishte, Razlog and Montana – are being closed. **So in 2020 there are 28 investigation detention facilities operating**. Among the reasons for their closure were the low workload, the reduction of administration and maintenance costs. The relocation of detention facilities to dedicated premises or hallways in the prisons, wherever possible, began in recent years, due to the inadequacy of the existing building stock. In 2018, premises were being prepared in two more prisons, and the relocation of the detention facilities to the prisons was pending in the cities of Sliven and Stara Zagora and in mid 2019 these facilities started operating.

According to DG ES, the total number of detainees in detention facilities **in 2018 was 12,618, of whom 1,002 foreign nationals.** The average daily number of people in detention facility premises for the whole year was 951, and as of December 2018 they were 856 individuals. In 2019 the total number of detainees was **11,579, of whom 937 foreigners, 397 women и 99 juvenile offenders.**

The maximum duration of the stay in an investigation detention facility can be no longer than one year and six months, but there were no persons in detention for more than one year in 2018. As in the previous year, according to DG ES, in 2018 **overcrowding** was observed at the investigation detention facilities in **Ruse, Svilengrad, Vidin and Haskovo**. As these detention facilities are located on the country's borders, they have sometimes been used to hold a large number of persons at the same time, arrested for example for illegally crossing the border; in such cases, considerably more people were held in the cells than the number of beds available.

Bulgaria's report to the Committee of Ministers of the Council of Europe on the implementation of the pilot judgment in the case of Neshkov and Others v. Bulgaria, which is monitored by the Committee of Ministers within the group of judgments Kehayov and Others v. Bulgaria, makes it clear that when the investigation detention facilities' capacity was calculated on the basis of 4 m2 of floor space per person, overcrowding was found at a total of 11 investigation detention facilities. Already in 2017 there were plans to carry out activities leading to the improvement of the conditions in the investigation detention facilities.

In 2018, only the investigation detention facility in Dupnitsa was closed, and the investigation detention facilities in Sliven and Stara Zagora were to be moved to the respective prisons which happened in 2019. A series of planned activities are still pending: the relocation of the Kyustendil investigation detention facility to the Bobov Dol prison; the relocation of the investigation detention facilities in Veliko Tarnovo and Gabrovo to a new building in the Velko Tarnovo prison dormitory; the construction of a new investigation detention facility in Silistra; and the repair of several investigation detention facilities in regional capital cities. The investigation detention facility in Sandanski was also to be moved to a new building of the investigation detention facility in Petrich, but the latter is not functional yet. In contrast to prison conditions, the cells in most investigation detention facilities cannot provide sufficient floor space, lighting, ventilation, conditions for exercise and communication options. **In 2019 overcrowding was estimated in the investigation detention facilities in Blagoevgrad, Burgas, Varna, Silistra, Vidin, Dobrich, Kyustendil, G.M. Dimitrov in Sofia, Sliven and Svilengrad.**

**The country’s largest investigation detention facility, the one on G. M. Dimitrov Boulevard in Sofia, has cells of 15 m2 which until recently were used to hold up to 5 detainees**; in 2018, they were used to hold no more than 4 detainees. In its report of 4 May 2018 to the Bulgarian government following its visit to Bulgaria, the CPT found that 2 m2 of each cell in this investigation detention facility are unusable because of a grid along the entire width of the cells in front of the windows. Of a total of 80 cells in the detention facility, only ten designated for women and minors have access to a seated toilet. The remaining toilets in the cells are of an Asian type (squatting) making their use by people with lower limb disabilities. Apart from insufficient light and ventilation, a major issue in the investigation detention facility is the presence of toilets that do not provide the necessary privacy: the partition is 1.2 m high. In this regard, the Committee recommended that all WCs would be fitted with a full partition (up to the ceiling).[[55]](#footnote-55)

**The material problems of the investigation detention facilities' system remained unresolved** in 2018 and 2019. In most investigation detention facilities that are not located in a prison there is insufficient daylight because they have no external windows. The investigation detention facility in Gabrovo, which is below ground zero, is still being used. The cells in many of the old investigation detention facilities are not ventilated. Four of them do not have any exercise ground outside the cells and do not provide the necessary outdoor stays. In seven investigation detention facilities the exercise grounds are of the closed type, with empty rooms used for the purpose. In 11 investigation detention facilities the cells have no toilets, there is a common sanitary unit; to use the toilet outside the access hours, the detainees need to bang on the door.

The conditions described above are in direct violation of Article 3 § 2 of the SMRDA, which contains a detailed description of the conditions that constitute torture and cruel, inhuman or degrading treatment. Due to these conditions, detained persons could claim compensation for the treatment they were subject to in the investigation detention facilities. DG ES statistics, which shows that **in 2018 there were 14 suicide attempts and one fatality, is a testimony of the inhuman treatment in the investigation detention facilities. In 2019 there were 5 suicide attempts and 2 fatality cases.**

The regime in the investigation detention facilities remained one of the most significant defects of the detention under remand measure. In essence, it is similar to the special regime for persons presenting a real risk to prison security. The regime in the investigation detention facilities comprises accommodation in permanently locked rooms for 23 hours a day, except for an hour daily of outdoor stay. Accused and defendants detained in investigation detention facilities do not have access to employment, education, training, sports or other useful activities outside the cell.

The CPT defines this regime as unacceptable and makes repeated recommendations to Bulgaria to make the same the regimes of unconvicted detainees and convicted prisoners. The lack of reforms in the investigation detention facility system forced the Committee for the Prevention of Torture to recommend that the Bulgarian authorities gradually phase-out all investigation detention facilities in Bulgaria.[[56]](#footnote-56) In 2018, this recommendation, as well as most of the recommendations made by the European institutions, continued to be disregarded by the executive power in the country.

CPT found improvements in the living conditions in several prisons visited by its delegation, but also serious living conditions issues in the Sofia Central Prison and in particular in the sections for the accommodation of foreign nationals. The Committee also established inhuman and degrading conditions in the Sliven investigation detention facility. These include overcrowding (four inmates on 7 m² of living space), poor hygiene, lack of access to natural light and to toilets.[[57]](#footnote-57)

# V. Treatment of persons in social institutions, including those with mental disabilities

Bulgarian legislation still does not provide for sufficient guarantees for effective legal safeguards for all persons with mental and psychosocial disabilities concerning civil involuntary hospitalization, including with regard to effective judicial review, as well as concerning involuntary psychiatric and medical treatment in psychiatric institutions, including with regard to chemical and physical restraints.

In September 2018, at the initial review of the report by Bulgaria, the **UN Committee on the Rights of Persons with Disabilities** expressed concern that it is a **common practice for people with mental disorders from institutions and in the community to stay in hospitals for a long time** due to lack of available rehabilitation services after active treatment and of adequate services and housing in the community. Regretting that the transition from institutional to community-based care is foreseen to continue until the end of 2034, and that the envisaged priority alternative is life in family-type accommodation centres for the majority of adults in need of care, which the UN Committee has stated is contrary to Article 19 of the CRPD, the international organisation recommended to Bulgaria:

* to accelerate the transition process from institutions, including psychiatric hospitals, to community-based services that would provide the right to independent living;
* to direct funds for the development of individualised support services and personal support services;
* to adopt legislation on individualised and managed by the person with disability personal assistance, as well as social and support services;
* to implement a consultation procedure to discuss with the people with disabilities every aspect of the implementation of Article 19 of the CRPD, including plans, strategies and the deinstitutionalisation process;
* to channel funds from the state budget and the EU to promote the inclusion of people with disabilities in society and to introduce effective means of protection and guidelines, in order to avoid investing funds in infrastructure, housing and/or services that are not accessible (or which people cannot afford) to all persons with disabilities. [[58]](#footnote-58)

The **2018-2021 Action Plan on the Implementation of the National Strategy for Long-Term Care**, [[59]](#footnote-59) which affects the deinstitutionalisation of the elderly, was finally adopted in 2018 after years of delay. Its adoption provides the specific steps for the first year of the adult reform. On 22 February, the inter-service group on the management and coordination of the deinstitutionalisation of the care for the elderly and the disabled at Ministry of Labour and Social Policy (MLSP) adopted a proposal for the closure of 10 specialised institutions for persons with mental disorders and developmental disabilities. A map of community support services and a map of family-type services under the Action Plan on the Implementation of the 2018-2021 National Strategy for Long-Term Care were also adopted

The steps taken undoubtedly confer a strategic advantage on the model of managing deinstitutionalisation in Bulgaria. However, **despite the declared political will and the legislative changes, deinstitutionalisation with regard to the elderly remains at a standstill**. The 2018-2021 Action Plan on the Implementation of the National Strategy for Long-Term Care provides for the creation of a number of community-based services which aim not only to support the deinstitutionalisation of persons with psychosocial and intellectual disabilities already placed in an institution, but also to develop sustainable community-based services that will allow independent living and respect for the fundamental rights of these people in order to prevent their institutionalisation. It is this course of development which is not guaranteed in the adopted new legislative texts. In 2018, Ombudsman Maya Manolova expressed concern about the mechanism for the regulation, provision and payment for personal assistants to people with disabilities. Most of the complaints received by the Ombudsman last year concerned the provision of highly insufficient (1 or 2 hours a day) personal assistance to persons with disabilities. The cumbersome bureaucratic procedure for access to technical equipment, its expensive maintenance (often paid by the user), the inadequate aids and appliances available, the lack of user participation in supplier selection tenders, are all barriers to ensuring independent life, raised by the Ombudsman in 2018.

The ***Persons with Disability Act*** and the ***Personal Assistance Act***, which were adopted by the Parliament at the end of 2018 and entered into force on 1 January 2019, are based on the medical assessment of disabilities carried out by a Labour Expert Medical Commission (LEMC). According to experts, the lack of a new type of assessment of individual needs, based on the actual functionality and the lack of possibilities to compensate the disability, are the main points of noncompliance of the new laws with the CRPD. The lack of any support for persons with estimated loss of ability of less than 50% is the second problem in the two legislative texts. The provision of financial support (including personal assistance), medical devices and technical resources is based on a percentage of loss of ability defined by LEMC and not substantially different from the amounts and types of aid provided so far. Persons whose loss of ability is deemed to be higher than 50% will not be sufficiently supported to participate in education or employment, as the financial support is extremely low (in 2019, the amount varies from BGN 24.36 (12.50 EUR) to BGN 198.36 (100 EUR)) in order to achieve an adequate quality of life. Another worrying fact is that the new *Personal Assistance Act* excludes persons living in community-based services and institutions from the group that is entitled to personal assistance. The same applies to the personal assistant service.

**2019 ended with a decision for a delay of entering into force of the Social Services Act.** It was supposed to be enforced on 1 January 2020 but would enter into force on 1 July 2020 probably if not reviewed until then as promised by the minister of labour and social policy.

According to the Social Assistance Agency,[[60]](#footnote-60) as of 31 December 2019 the institutions for adults were 161with 10,401 persons, placed in them. Out of these 82 are institutions for elderly people. Institutions for adults with mental disabilities are: 27 persons with intellectual disabilities and 13 institutions for persons with psycho-social disorders. Waiting to be placed in institutions are 2,468 persons, of whom merely a half are waiting for institutions for elderly.

Community-based social services are 239. Of them day-care centres for adults with disabilities – 79; centres for week-care for persons with disabilities – 5; day-care centres for elderly persons – 43; centres for social rehabilitation and integration – 112.

**Residential community-based services for adults are 320**. Оf them: protected homes for persons with psycho-social disorders – 27; protected homes for persons with intellectual disabilities – 87; protected homes for persons with physical disabilities – 13; monitored homes – 20; transitional homes – 9, centres for accommodation of youth with disabilities – 12; centres for accommodation of persons with psycho-social disorders – 42; centres for accommodation of persons with dementia – 23; centres for accommodation of persons with intellectual disabilities – 41; centres for accommodation of persons with physical disabilities – 22; centres for accommodation of elderly persons – 6, crisis centres for adults – 6; centres for temporary accommodation – 12; shelters - 2. **Waiting to be placed in such services are 1,951 persons.**

Users in the 127 protected homes are 981, while the biggest share is of persons with intellectual disabilities – 665. In20 monitored homes live 61 users, in 9 transitional homes – 74. In 146 centers for accommodation of adults 1,852 users are placed. In the 6 crisis centres for adults 37 persons are placed, in 12 centres for temporary placement – 544 users, in 2 shelters - 56 users.

The National Long-term Care Strategy and the Action Plan for its implementation (2021-2027) provoked three NGOs[[61]](#footnote-61) to submit in 2019 a **claim at the Court of Justice of the European Union** against the European Commission for investments in initiatives leading to segregation of persons with disabilities in Bulgaria.[[62]](#footnote-62) The concrete reason was the refusal to stop the infrastructure funding from the EC which Bulgaria uses for construction of institutions for person with disabilities. Case № T-613/19, opened before the Court of Justice of the European Union appeals the decision of the European Commission to continue funding building of institutions in Bulgaria.

**The EU Agency for Fundamental Rights: Bulgaria at the bottom in the EU**

According to a 2018 study by the EU Agency for Fundamental Rights (FRA)[[63]](#footnote-63) 157 concerning respondents’ perception of independent living and social inclusion, **the share of adults in Bulgaria who say they “strongly agree” with the statement “I feel that I can choose how to live my life” is only 45%.** Bulgaria is the country with the lowest level of elderly satisfaction among EU members. 30.7% of those with health problems say they do not feel free to decide how to live their lives. Around 38% of the people with mental and physical deficiencies feel abandoned by society, while only 14.6% of the people without disabilities feel the same way. Around 50% of the people with deficiencies in Bulgaria say they have difficulty accessing at least one service (food shops, banking or postal services, primary healthcare services, public transport). With regard to the assistance received by adults in need of care, the share of those using domestic assistants is the highest (95.3 %), while those who use technical resources are only 27.3%. The share of those using mobile support at home is the lowest, barely 4.7%.

**Psychiatric hospitals**

The report of the seventh periodical visit to Bulgaria by the **Council of Europe Committee for the Prevention of Torture** (from 25 September to 6 October 2017) was published in 2018. The report focuses, inter alia, on reports of physical aggression at the institutions for active treatment of persons suffering from mental illnesses. Patients at the **Radnevo State Psychiatric Hospital** reported that they had been ‘hit, kicked and pushed by orderlies’. Complaints were filed that orderlies have threatened patients with sticks, which the observers found in the building. The report states: ‘*The premises in the visited psychiatric hospitals in Radnevo and Sevlievo were derelict, empty, without the necessary equipment and guarantee of privacy and respect for the private life of patients. Patients were locked in rooms and were severely limited in accessing fresh air, sometimes not being able to go outside for weeks or even months on end. At the psychiatric hospital in Radnevo, the delegation found the unacceptable practice of employing a number of inpatients to act as orderlies to help control and restrain other patients*.”

In 2018, the **European Psychiatric Association** (EPA) was invited to visit Bulgaria to review the mental health services and to advise the Ministry of Health on the necessary change to reach a consensus that the necessary reforms of the mental health services should be implemented. The EPA Advisory Group held consultations with stakeholders, responsible institutions and politicians, visited mental health services in Bulgaria and took note of written information and previous recommendations.

**EPA found severe violations of human rights: material conditions in violation of Article 3 of ECHR and a number of violations of CRPD**.[[64]](#footnote-64) In general terms, the problems identified are the result of chronic underfunding and include: depreciated buildings, overcrowding and fragmented services. There is a **lack of sufficient staff, therapeutic activity, national strategic planning, quality control and performance monitoring, as well as a lack of joint work, including between the Ministry of Health and the Ministry of** **Labour and Social Policy**, which is a particular obstacle to achieving timely care for many patients who need longer-term support in the community and/or support for accommodation in a service.

The EPA Advisory Group found that the lack of joint planning and accountability is a pervasive problem for the whole mental health system, which has contributed to the current impasse in which stakeholders are locked in disagreement with each other and high levels of mutual distrust. There are significant staff-related issues: **insufficient clinical staff, loss of staff due to emigration and ageing, lack of investments in training and uneven staff distribution**. Wages are too low, creating distortions in incentives to seek other sources of income. The longstanding serious investment gap and the insufficient funding of mental health services in Bulgaria is another identified problem. Any improvement or meaningful reform will require more investments. Nevertheless, the economic benefit that the reform will bring the Bulgarian society will be significant, with more people receiving one-off benefits for people with disabilities, in employment and needing lower total healthcare expenditures. Existing funding mechanisms are not sufficiently coordinated and are complex and confusing. A disproportionate share of people with mental health problems are not covered by the NHIF, which in turn does not fund psychiatric research and treatment. The fragmented and chaotic nature of mental healthcare services in Bulgaria is reflected in deep divisions and lack of agreement among stakeholders. This is an important obstacle to change and may contribute to delays, if not to avoiding the necessary change. However, the Advisory Group notes that there seems to be a consensus on the nature of the current challenges they are facing, and therefore the need for change. Negative social attitudes are also seen as an obstacle to change and, most importantly, they are an obstacle to the creation of community-based mental healthcare services.

EPA also expresses concern that it is possible that **there is no sufficient recognition of the financial benefit to the country as a whole of investing in mental healthcare services**, as well as of the size of the additional investments needed, including in preventive services in the context of the 2018- 2021 Action Plan on the Implementation of the National Strategy for Long-Term Care. In the opinion of EPA experts, the marginalisation of psychiatry as a field of study is also a barrier to the reform: psychiatry and psychiatric services have been greatly underfunded for years in comparison to other medical fields, and are often placed far from them and are subject to discrimination and indifference. The EPA Advisory Group noted continued **violations of fundamental rights** already identified by previous visits by international organisations such as WHO. Examples of such violations include:

1. the National Register of People with Mental Disorders under Article 147 of the Health Act is in violation of Article 5 § 2 of CRPD;
2. the long-term hospitalisation in state psychiatric hospitals of patients who no longer need in-patient/active treatment, but remain in healthcare institutions due to the lack of community-based health and social care constitutes a violation of Article 19 of CRPD;
3. the discriminatory funding and provision of services for the treatment of mentally ill persons is in violation of Article 25 of CRPD;
4. the lack of rehabilitation services, of activities for hospitalised mentally ill persons, of hospital activities and the unacceptable poor conditions, coupled with overcrowding and lack of privacy (including men and women who share accommodation) and hygiene are in violation of Article 26 of CRPD.

Most institutions do not offer any activities to patients, with the majority of patients found in their beds during the visits, irrespective of the time of the day.The EPA Advisory Group was concerned about the fact that institutions for people with persistent serious disorders were often **inadequate, overcrowded, without being able to secure privacy, without targeted rehabilitation, with poor maintenance and hygiene and inadequate personnel: a hopeless environment from therapeutic point of view.**

In 2019, the Ministry of Health did not respond to the BHC's request for an agreement to monitor the state institutions under its authority. The old agreement between the ministry and the organization was not renewed in 2015 by then-Minister Petar Moskov after the BHC criticized his racist remarks. Since then, the ministry has refused to renew the agreement with all subsequent ministers and give BHC researchers access to human rights monitoring in state psychiatric hospitals and institutions for medico-social care for children. These are institutions that have repeatedly caused a stir due to their poor material conditions, violence, lack of adequate medical care and corruption. In 2019, the BHC twice appealed to the minister to renew the agreement, in January and in November. Both times the organization was refused.

**Absence of investigations into the deaths of 238 children with mental disabilities**

The investigation into the 238 deaths of children in specialized institutions and into the deaths of the two children who died in the Medven institution did not mark any development during the period under review.

# VI. Non-refoulement

In 2019 the treatment of the “deportable” first-time asylum applicants downgraded to actual *refoulement*. Four cases of *refoulement* were documented, whereby the Migration Directorate returned first-time applicants to their countries or origin prior to the end of their asylum procedures, namely to Iran, Algeria and Nigeria.

1. Mr. Imad Diab, Algeria - application for protection №105400-46/16.01.2019, taken out from Sofia Airport on 17 January 2019 – lack of response and evidence for signed declaration for voluntary return and reliable translation;
2. Mrs. Saemah Eliasi, Iran – application for protection №105400-275/27.03.2019, taken out from Sofia Airport on the same day 27 March 2019 – lack of reliable translation as a safeguard that the applicant was informed about the content of the signed by her declaration for voluntary return;
3. Mr. Odiase Alex Aluia, Nigeria - application for protection №105400-567/22.05.2019, taken out from Sofia Airport on 26 June 2019 – lack of response and evidence for signed declaration for voluntary return and reliable translation;
4. Mr. Jonson Olapo Taiyo, Nigeria – application for protection № .105400-667 /04.06.2019, taken out from Sofia Airport on 17 July 2019 – response in which the lack of signed declaration for voluntary return is documented explicitly
5. Mr. Sevdet Bahtiyar, Turkey, badge №25251 – placed involuntarily in the Home for Temporary Placement of Foreigners Sofia (Busmantsi) on 17 January 2020, when he expressed his wish to be assisted by a lawyer for filing of an application for protection before the officials of the UN High Commissioner of Refugees. On 20 January 2020 the officer on duty in the deportation centre replied to a lawyer that Mr. Bahtiyar was taken out of Bulgaria. However, the documents kept in the home in Busmantsi provide evidence that Mr. Bahtiyar was taken out of Bulgaria on 24 January 2020. And on 20 January 2020 he was still in the Home in Busmantsi but was not given the opportunity to meet with a lawyer in order filing an application for protection to be avoided.
6. Mr. Aras Omer Hussein, Iraque, badge №22749 – placed involuntarily in the Home for Temporary Placement of Foreigners – Lyubimets on 29 January 2020, submitted application for protection №105450-198/04.02.2020 through the administration of the Home. On 12 February 2020 he was returned in Iraquе from Sofia Airport, although he submitted an application for protection.

All these third country nationals owned valid ID documents for travel outside their countries of origin which significantly facilitated the organization for their returns and contributed to the improvement of the statistics of the Ministry of Interior regarding implemented returns of illegal migrants. This circumstance is the actual reason for the continuation of the unlawful involuntary placements of foreigners in the Homes for Temporary Placement of Foreigners after they submit their first application for protection as well as for the unlawful implementation of their forced returns to their countries of origin in violation of the non-refoulement principle.

In another case in 2019, two Syrian asylum seekers who reached the reception center in Harmanli have been handed over by the centre’s security guards to the Svilengrad Border Police precinct, where their valid passports were torn with applicants pushed back to Turkey later that day.

# VII. Situation of asylum seekers and migrants

**In 2018, the number of persons seeking international protection decreased**. Many of the problems related to access to procedure, pushbacks, including through physical violence, detention and the integration of recognised refugees, remained unsolved. **In 2018, pushbacks, physical violence, robbery and degrading practices against migrants entering the country continued to be widely used on the border with Turkey**. International and Turkish organisations reported that on average some 11,000 people had been pushed back monthly from Bulgaria and Greece to Turkish territory. The low number of those entering Bulgaria in the first half of 2018 and its threefold increase in the second half of the year[[65]](#footnote-65) point to an implicit, but very effective cooperation between Bulgarian and Turkish authorities aimed at stopping the migratory flows through this external border of the European Union, at least during the Bulgarian Presidency from 1 January to 30 June 2018. In addition to the already widely used general pushback policy applied at our entry border, including with regard to people fleeing from war and humanitarian crises, this Bulgarian - Turkish collusion has further created barriers to access to territory and international protection for people who really need them. In 2018, 689 persons were apprehended on entry and 353 on exit, while 1,809 were apprehended in the country's interior. In other words, if the persons intercepted at entry and exit fall by 7% and 20%, respectively, the proportion of foreigners caught and detained in Bulgaria continues to grow to 70%. These statistics clearly demonstrate that the fence built along the Bulgarian-Turkish border is not a serious obstacle to entry. Despite doubts that the construction has benefited civil engineering companies close to the government, the latter continues to regularly allocate additional funds for the building of the fence, with the expenses already reaching almost EUR 100 million. Nevertheless, both foreigners and public authorities recognise that the fence can be easily overcome by ladders and blankets or directly through sections where the fence is damaged, fallen or through doors that do not close. [[66]](#footnote-66)

Against this background, the information gathered during the year from a variety of sources reveals at least 118 individual cases of alleged pushbacks at the Bulgarian-Turkish border involving approximately 1,570 people. In eight of these cases, the information was directly provided by 71 individuals involved in the pushback who subsequently entered the Bulgarian territory. In three cases, the persons indicated that they were subject to beatings, pillage and intimidation with border patrol dogs before they were pushed back to Turkey. Similar practices are also used at the Bulgarian-Greek border, albeit at a significantly smaller scale, namely two pushbacks involving 90 individuals. The total number of pushbacks detected constitutes only a part of the presumed number of violations committed in reality, when compared to the 11,000 persons reported by the Turkish organisations. However, even this partial number exceeds threefold the number of asylum seekers who in 2018 managed to file an application for asylum and protection at entry and exit borders.[[67]](#footnote-67)

In 2018, the State Agency for Refugees (SAR) registered 2,536 foreigners as persons seeking international protection. This a decrease of 20% compared to 2017, but at the same time represents 98% of all foreign arrivals during the year. With regard to the existing delays in access to the refugee procedure by the administrative detention centres of the Ministry of the Interior, the special institutions for temporary accommodation of foreigners (SHTAF), there has been a significant improvement. **If during the previous year the average detention period for persons who had applied for protection at SHTAF had increased to an average of 19 calendar days, in 2018 this period reverted to an average of 9 calendar days**.[[68]](#footnote-68)

The most significant improvement in the implementation of the refugee procedure in 2018 was the **provision of legal assistance** at the administrative stage to vulnerable persons. In March 2018, the National Legal Assistance Bureau launched a pilot project for representation of vulnerable persons in the procedures before SAR financed by European Union funds. The quality of the legal assistance was also adequate through the selection and additional qualification of the lawyers granting assistance and representation. As a result of this activity, a total of 272 vulnerable persons received legal assistance at the administrative phase of their refugee procedure, including 208 unaccompanied children, 10 unaccompanied children, 9 single parents, 37 parents with accompanying children, 1 widow, 2 persons aged over 65 and 5 persons with disabilities. The pilot project was extended until 31 January 2020.

**Concerns about the effectiveness of judicial review** in refugee proceedings grew in 2018. In March, Georgi Cholakov, the newly-appointed Chair of the SAC, announced that he had ordered measures to overcome delays in certain types of cases, including refugee status cases, for which he had provided instructions to be closed before 30 June 2018. In application of this instruction, 100 cases were reallocated from the specialised third division to the fourth division of the Supreme Administrative Court, which previously had not dealt with refugee cases. All cases were rescheduled, reviewed and resolved by the specified date and, as a result, **94% of the applications received final rejection**, including by annulment of previous court decisions. This approach continued throughout 2018, with similar results. **In the autumn of 2018, the European Commission sent a formal notification to the government on identified inconsistencies in the implementation of EU asylum legislation in Bulgaria.** In the notification, EC raised the issue of the failure to provide a number of safeguards in the refugee procedure and of support and services due during its course, which is contrary to the common European standards and the EU Charter of Fundamental Rights. More specifically, it points out the issues related to the accommodation and legal representation of unaccompanied minors, the proper identification and support to vulnerable persons, the provision of adequate legal assistance and the detention of protection seekers, as well as the lack of safeguards in these procedures. [[69]](#footnote-69)

In December 2018, SAR announced the indefinite **closure of the refugee centre** **in the Vrazhdebna neighbourhood and the transfer of its residents to other refugee centres in Sofia and the country**. This decision was motivated by the appeals filed against the tender procedure for security services, which made it impossible for the centre to function safely. The Vrazhdebna centre was the only refugee centre with adequate material conditions, which housed mainly families with small children and persons relocated from Greece and Italy. Detention Status procedures continued to be carried out at the deportation centres of the Ministry of the Interior. Although the number of such proceedings was significantly limited, having them carried out outside the designated refugee centres of open- or closed-type, constituted a severe violation of the law. Unlike in previous years, in 2018 the most affected persons were those perceived as being ‘deportable’ by the immigration police (the Migration Directorate of the Ministry of the Interior) due to the possession of valid documents, which was the main reason for their illegal detention at SHTAF, irrespectively of the submitted first asylum and protection applications. Thus, the assessment of their applications for protection was predefined and void of thorough and objective investigation. However, national courts continued to regard this violation as minor and in general rejected complaints against refusals of status and protection made in conditions of immigration detention.[[70]](#footnote-70)

A minimum number of asylum seekers were affected in 2018 by orders for detention in closed type refugee centres. However, it should be noted that **the duration of the detention in these centres was excessive for the purpose of the law, reaching an average of 196 days**. In mid-2018, legislative amendments were introduced, which created additional safeguards for the effective implementation of the detention ban for unaccompanied minors. An expedited procedure for the immediate forwarding of unaccompanied minors identified by the police in mixed migration groups, to the relevant child protection services for the purpose of further care and accommodation, was set out in immigration law.[[71]](#footnote-71)

As a result of the legal change from the autumn of 2018, **unaccompanied minors under the age of 14 were generally not detained at the Ministry of the Interior’s deportation centres**. However, the practice of detaining unaccompanied adolescents continued due to the lack of an adequate age assessment methodology in the absence of valid identity documents.

**No specific integration measures** or activities were available to recognised refugees or foreigners with awarded humanitarian status. In 2018, only 13 beneficiaries of international protection received integration support: not under the national integration mechanism, but under the EU funded relocation scheme. Thus, the situation of zero integration of refugees in Bulgaria continues for the fifth consecutive year.[[72]](#footnote-72)

**Draft amendments**: In response to the European Commissions’ (EC) letter of formal notice on 8 November 2018 concerning the incorrect implementation of European Union (EU) asylum legislation in Bulgaria,[[73]](#footnote-73) the government tabled for public consultations a draft proposal to amend the Law on Asylum and Refugees (LAR). [[74]](#footnote-74) However, the core of the proposal does not address the issues raised by the EC, namely the accommodation and legal representation of unaccompanied minors; the correct identification of and support to vulnerable asylum seekers; the provision of adequate legal assistance; and safeguards for detention. Moreover, while the **draft proposal introduces additional provisions on the access to information for unaccompanied children, it deletes the present safeguards that outline the obligations relating to their legal representatives, thereby raising additional concerns in this regard.**

**Access to the territory***:* Push backs at the main entry point of the country, which borders Turkey, persisted in 2019. Moreover, the Turkish authorities reported that 90,000 individuals were held in the first nine months of the year in the Edirne Province,which borders both Bulgaria and Greece.[[75]](#footnote-75) The national border monitoring registered 337 alleged pushback incidents which affected 5,640 individuals. Those who are able to access the territory are also able to transit and exit the country without being detected by the authorities, which is a strategy operated by the latter so as to avoid any responsibility under the Dublin Regulation or under readmission arrangements. As a result, the official statistics on new arrivals are at the lowest since the first influx in 2013. [[76]](#footnote-76)

**Determination and recognition**: Notwithstanding the low number of new arrivals, **the recognition rate of asylum applicants remained much lower compared to other European countries, namely 11% for the refugee status and 19% for the subsidiary protection status**. One of the most disputed administrative arrangement relates to the possibility for the caseworkers’ superior to request a re-examination of an asylum claim where he or she disagrees with the proposed decision. This request does not need to be motivated, nor to follow a specific written procedure.[[77]](#footnote-77) Moreover, in cases where a re-examination has been ordered, there will not be any trace or record in the applicant’s file, thus raising concerns as regards transparency and compliance with relevant safeguards against bias and corruption.

**Legal aid:** Since the end of 2017 the National Legal Aid Bureau provides legal aid to vulnerable asylum seekers at first instance. The pilot project, funded by the Asylum, Migration and Integration Fund (AMIF) was extended until 31 January 2021.

**Accommodation of unaccompanied children**: A safe zone for unaccompanied children in the refugee reception centre (RRC) of Sofia at the Voenna Rampa shelter has been established in mid-2019. [[78]](#footnote-78) Children are provided appropriate care and support is tailored to their needs. However, only unaccompanied children originating from Afghanistan are accommodated in this centre, while unaccompanied children from other nationalities remain in mixed dormitories in other reception centers. Moreover, despite the availability of places in the operational safe-zone, some Afghan children were also accommodated in other reception centres such as the RRC Harmanli in 2019. A second safe-zone at the RRC Sofia, in the Ovcha Kupel shelter, opened on 20 January 2020 and meant to accommodate children originating from Arab speaking countries. Both safe-zones are operated by the International Organisation for Migration (IOM) Bulgaria and funded by AMIF. However, the government has not proposed new measures yet which would foresee the durability and expansion of the safe-zones upon the termination of the AMIF project.

**Reception capacity**: During most of 2019 and at the time of writing, **the national reception centers operated around or below 10% of their capacity**.[[79]](#footnote-79) The Vrazhdebna shelter in Sofia, which re-opened in May 2019 for the visit of Pope Francis, began to regularly accommodate asylum seekers only as of the end of June 2019. With the exception of this centre, the conditions in national reception centres remained poor; i.e. either at or below the foreseen minimum standards.

**Duration of detention**: The delays in the release and registration of asylum seekers applying for international protection while in pre-removal detention centres significantly increased. While delays in the release amounted to 1 day in 2018, it reached 4 days in 2019 and registrations took around 12 calendar days/10 working days.[[80]](#footnote-80)

**Status determination in closed reception facilities**:Since the introduction of closed centres for asylum seekers in 2015, 32 asylum seekers have been subject to detention orders pending their status determination. However, the length of detention in these cases exceeded by far the purpose and limits laid down in law. While the duration of detention decreased from 196 to 150 days on average during the period 2016 - 2019, it remained very long by reaching 109 days on average in 2019.

**Status determination in pre-removal centres**: The Migration Directorate within the Ministry of Interior (MOI) continued to refuse to release first-time asylum applicants from pre-removal centers in cases where they are deemed “deportable”, i.e. when they possess valid documents or such documents can be obtained without great obstacles. As a result, the State Agency for Refugees (SAR) continued to conduct asylum procedures in pre-removal centres in violation of national law, and courts continued to ignore such violations. In total, 2.8% of first-time applications for international protection were examined in the MOI’s pre-removal centers in 2019,**[[81]](#footnote-81)** which marks a 0.3% increase compared to 2018.**[[82]](#footnote-82)** Although this percentage **might seem** insignificant, it indicates a serious violation whereby the authorities are able to organise the deportation of applicants even though the determination procedure is still pending. The fairness and legality of these procedures is highly questionable as it seems like the SAR is expected to reject these applications for international protection for the sole purpose of deportation. In fact, 100% of asylum seekers whose applications have been examined in MOI’s pre-removal centers are subject to a negative decision in accelerated procedure.

*Content of international protection*

**Cessation of protection**: Although there is no systematic review of protection status in practice, cessation procedures are initiated by the SAR when the MOI provides information indicating that status holders have either returned to their country of origin, obtained residence or citizenship in a third country, or have not renewed their Bulgarian identification documents for a period exceeding 3 years. The latter broadened interpretation of the recast Qualification Directive *de facto* introduces an additional cessation ground in violation of national and EU legislation.[[83]](#footnote-83) The undue cessation of protection status affected a total of 3,378 status holders in 2018 and 2019; i.e. 770 persons in 2018 and 2,608 persons in 2019 respectively. Out of the 2,608 cessations in 2019, 1,981 concerned Syrians, 267 concerned stateless persons, 177 Iraqis, 81 Afghans and 102 other nationalities).[[84]](#footnote-84)

**Integration**: No integration activities are planned, funded or made available to recognised refugees or subsidiary protection holders; thus marking the sixth consecutive year of the national “zero integration” policy.

# VIII. Domestic violence and gender-based violence against women

If in previous years there had been stagnation or even a slight progress with respect to women’s rights in Bulgaria, in 2018 we witnessed an unprecedented failure of the institutional efforts to ensure gender equality and non-discrimination of women. This collapse reached the lowest possible level when the Constitutional Court declared unconstitutional the Council of Europe Convention on Combating Violence against Women and Domestic Violence (Istanbul Convention). The “worst judgment” in the history of the Constitutional Court, an act of humiliation for all Bulgarian citizens, and above all for Bulgarian women. This is how a group of non-governmental organisations, including BHC, qualified this decision. [[85]](#footnote-85) Immediately after its delivery, the Council of Ministers repealed its commitment to ratify the Istanbul Convention, and women in Bulgaria were deprived of the chance to have a more effective protection against gender-based violence and domestic violence. At the same time, lethal violence against women intensified, with at least 35 women murdered by their current or former partners in 2018.[[86]](#footnote-86)

## **The campaign against the Istanbul Convention**

The campaign against the Istanbul Convention in Bulgaria, initiated by the Association Society and Values organisation in 2017[[87]](#footnote-87), quickly gained momentum in the first days of January after being embraced by a party in the government coalition, VMPO — BND, and mainly by its chair, Deputy Prime Minister and Minister of Defence Krasimir Karakachanov. The campaign was based on lies, on rough distortions of the meaning of the provisions of this international treaty, and on deliberately cultivated homophobia, transphobia and bias against women. One of the initial allegations made during the campaign was that the Istanbul Convention recognised the existence of a third gender and introduced into our internal law a framework for it without public debate.[[88]](#footnote-88) This statement was immediately denounced as a lie, but the lie continued to be repeated throughout 2018. Subsequently, the statement that the philosophy of the Convention was based on the so-called ‘gender ideology’, a concept defined as a type of ‘social engineering’, seeking to change "the gender identity of the man and the woman" became the focal point of the campaign. This untruthful assertion which also has nothing to do with the text of the Convention continued to be reproduced by a large number of media propagandists throughout the year.

Four main groups opposed the ratification. Firstly, the main religious denominations represented by the Bulgarian Orthodox Church and the Chief Mufti's Office, separate organisations of the Catholic Church and numerous Protestant churches, including civil society organisations which do not define themselves as religious, but which are in fact linked to Protestant churches and oppose the right to abortion and LGBTI equality. Secondly, the conservative political parties, including — in addition to the neo-totalitarian parties with or without parliamentary representation — the leader of the parliamentary opposition, the Bulgarian Socialist Party, which took a stance contradicting that of the Party of European Socialists. And thirdly, many conservative public figures, some of whom proven agents of State Security, the former secret police of the Communist totalitarian regime. A fourth group, highly overlapping with the first and third, was comprised by a large number of formal and informal civil society organisations and public figures, known in society with their support for current Russian state leadership's policies. The wide range of media which adopted strong editorial policies in opposition to the ratification comprised mainly yellow newspapers and websites known in society by numerous publications against refugees and migration, against the Roma and the LGBTI people. The intensity of the publications on the subject was very high and the word ‘gender’ gradually became an offensive qualifier for the LGBTI people

In April, the **European Parliamentary Forum on Population and Development (EPF),** a regional association of parliamentarians from different European countries, published a report entitled “Restoring the Natural Order”: The religious extremists’ vision to mobilize European societies against human rights on sexuality and reproduction. 166 The report analyses information leaked to a French television about a secret coordination network of conservative civil society organisations from Europe and the USA, working since 2013 on “achievable goals” aimed at dismantling the progress achieved in the field of sexual and reproductive rights. EPF disclosed documents showing some of the objectives of the network, such as annulment of the right to divorce, of women’s access to contraception, assisted reproduction or abortion, and the criminalisation of homosexuality.167 The opposition to the Istanbul Convention is included among the targets of the network, and the table of network activities notes also the campaign in Bulgaria. According to the table, the campaign had actually started in 2016 and was successfully completed in 2018.168 “ADF and partners at national level” are identified as campaign owners. The abbreviation “ADF” stands for the name of the American conservative NGO Alliance Defending Freedom, based in Scottsdale, Arizona, with annual revenues exceeding 55 million USD. 169 Indeed, an ADF opinion translated in Bulgarian was submitted to the National Assembly with regard to the Istanbul Convention ratification bill, accompanied by a letter from the Freedom for Everyone "legal rights protection and publishing organisation", committed to "protecting the freedom of consciousness, speech, religion and traditional family rights".17

On 27 July 2018, by a majority of eight to four votes, the **Constitutional Court ruled that the Istanbul Convention did not comply with the principle of primacy conferred by the Constitution of the Republic of Bulgaria**.[[89]](#footnote-89) The decision of the Constitutional Court is deeply flawed. With long and confused reasoning, without any scientific opinion to serve as a basis, the Constitutional Court ruled that the concept of gender was part of a ‘gender ideology’, which teaches that gender is not biologically predetermined and can be chosen by the person. The Constitution and the whole Bulgarian legislation, states the court, is based on the understanding of the binary existence of humankind, and the concept of “gender” is used by the constitutional legislator as “*unity of the biologically determined and the socially structured*”. Social gender cannot be independent of the biological and therefore not only the Convention is not compatible with the Constitution, but also the establishment of procedures ensuring the legal recognition of a gender other than the biological one would be contrary to the Constitution. These reasons are directly taken from the yellow press and from biased propaganda sources, by which the Constitutional Court once again demonstrated a lack of capacity on fundamental human rights issues.

## **Violence against women**

Following the failure of the ratification of the Istanbul Convention and under the pressure of civil discontent and the expectations of the international community, in October 2018 the GERB parliamentary group tabled in the National Assembly a **bill amending and supplementing the Criminal Code**.[[90]](#footnote-90) The stated purpose of the bill was to replace the lack of ratification of the Convention and to ensure “*an adequate and comprehensive criminal law protection against all types of violence against women and domestic violence*”. In fact, however, the draft law hardly addresses violence against women. Among the envisaged amendments and supplements were:

* introduction of aggravated circumstances for murder and bodily injury committed as part of domestic, violence but not for acts based on gender or gender stereotypes, and only when physical, sexual or psychological violence, economic dependence, forced restriction of privacy, personal freedom and individual rights has been ‘systematic’;
* criminalisation of psychological violence, but only when it has been ‘systematic’;
* criminalisation of stalking;
* a change in the nature of the crimes associated with medium and severe bodily injury by a spouse, descendant, ascendant, brother or sister, from private to general;
* introduction of aggravated circumstances for the repetition of the offence referred to in Article 296 of the Criminal Code, related to non-compliance with a judgment or protection order in accordance with the Protection against Domestic Violence Act;
* elimination of the incentive rule which provided for total exoneration of an adult who, having lived in marital co-habitation with a female under the age of 16, has married that woman.

Although the bill shows some similarities with the package of measures for the introduction of the Istanbul Convention standards into national legislation, developed in 2016 by the Ministry of Justice with BHC participation, without the involvement of all the organisations that took part in the working group, including BHC, the bill was significantly shortened and a large number of provisions were eliminated. It was therefore **criticised by the human rights community** as being “*very limited and not a comprehensive attempt to tackle gender-based violence*.” [[91]](#footnote-91) Among the noted deficiencies were the abandonment of the original approach, which included criminalisation of gender-based violence and sexual orientation of the victim, lack of definition of domestic violence, lack of planned measures on prevention of violence and victim protection, etc.[[92]](#footnote-92) In November 2018, the MPs adopted the bill at first reading. The debate in the plenary that preceded the vote demonstrated mediocrity and lack of understanding of the matter, use of sexist language, a romantic view on and normalisation of violence, reasons for the adoption of the draft law related mainly to the idea of the preservation of the family and Christian values.[[93]](#footnote-93) The apparent discrepancy between the aims of the proposed legislation and the statements made by many MPs left a feeling that the reform is no more than a front.

In 2019 Bulgaria continued to lag behind in its commitments to prevent and combat violence against women and domestic violence. **In November 2019, the European Parliament passed a resolution calling on EU member states that have not yet ratified the Istanbul Convention to proceed without delay, but there was no reaction from the Bulgarian authorities**.

In 2019, amendments to the Criminal Code were adopted, introducing **more severe penalties** for certain crimes, if committed in the context of domestic violence - murder and threat of murder, bodily injury, coercion to suicide, kidnapping and unlawful deprivation of liberty. In order to be constituted by the qualified composition "in the context of domestic violence", the crime must be preceded by "systematic exercise of physical, sexual or psychological violence" or, as interpreted in practice, it is necessary that "the indictment describes in fact at least three acts, roughly specified as the time and place of the commission, which constitute psychological, physical or sexual violence".[[94]](#footnote-94) The requirement for systematic violence exposes victims to serious risks and leads to significant limitations in the application of the provision.

The amendments also criminalized stalking and forced cohabitation; the incentive norm, which provided for full exemption from punishment for an adult who, after living in a marriage with a female person under the age of 16, married her, was abolished. The nature of the crimes related to causing average bodily injury by an ascending relative, descending relative, spouse, brother or sister under Art. 129 of the Criminal Code was changed from crimes of a private nature to crimes of a general nature, the criminal proceedings on which, however, are instituted in a special order - at the initiative of the victims, who must file a complaint with the prosecutor. Deviating from the general procedure for instituting criminal proceedings, as would be the case if the perpetrators of bodily injuries were not related to the victims, the law continues to treat **domestic violence as a private problem in which the state should intervene only by express will of the victims**. The introduction of criminal liability for psychological violence, one of the most typical forms of domestic violence, was dropped from the original bill.

At the request of the BHC, the prosecutor's office announced that it did not collect information on the initiated inspections, pre-trial proceedings, acts submitted to the court and convicted persons on the newly introduced in the Criminal Code crimes related to domestic violence and violence against women in 2019.

The overall assessment of the experts is that despite the changes that have taken place, **the attempt to introduce full criminal protection against domestic violence has failed**, leaving the victims again in an "*insecure, vulnerable and unprotected position*".[[95]](#footnote-95) Commenting on the legislative reform, the **UN Special Rapporteur on Violence against Women**, who visited Bulgaria in 2019, said that she remained “*concerned that several important provisions do not comply with international standards*.” [[96]](#footnote-96) In this regard, she recommends the Bulgarian authorities to:

1. revise the rape provision based on the lack of consent and include all forms of penetration and explicitly include martial rape;
2. repeal the term “systematic” in Article 93 to allow domestic violence to be qualified as a graver punishable offence or change the Ordinance of the Public Prosecutor to allow all “grave” incidents to be addressed;
3. provide a definition of “psychological violence” and criminalize all forms of psychological violence rather than only stalking;
4. improve the provision of Article 161 which provides that for light and average bodily harm in order to allow for ex office prosecution;
5. change status of limitation for minors reporting the violence, as provided in the Istanbul Convention.

Outside the criminal sphere, the UN Special Rapporteur draws the attention of the Bulgarian authorities to the need to implement a number of other urgent measures in the fight against violence against women and domestic violence, including:

* construction of more shelters with a sufficient number of places and services throughout the country, for which the state should provide adequate and sustainable funding;
* conducting training for police officers, including in order to overcome discriminatory gender stereotypes and harmful gender stereotypes in identifying cases of domestic violence;
* inclusion in the curricula of all levels of education of the topics of women's rights and violence against women, sexual and reproductive rights;
* establishment of a national coordination body responsible for the coordination, implementation, monitoring and evaluation of policies and measures to prevent and combat all forms of violence against women;
* collection of administrative and statistical data on violence against women, including the establishment of a dedicated mechanism to collect data on the murders of women in order to analyze information and develop effective prevention measures.[[97]](#footnote-97)

The **UN Committee on Economic, Social and Cultural Rights** also expressed special concern over the problems of domestic violence in Bulgaria in 2019, recommending to Bulgarian authorities to:

* collect statistical data on violence against women, including domestic violence, disaggregated by age, type of offence, perpetrator’s relation to the victim and any other relevant criteria;
* ensure that all acts of violence against women are reported and fully investigated, that perpetrators are prosecuted and adequately punished, and that victims have access to justice, effective reparations, shelters and support services;
* provide gender-sensitive training to law enforcement and judiciary personnel on the nature of violence against women, its causes and consequences and on how to handle cases of violence against women;
* raise awareness among the general public about violence against women.[[98]](#footnote-98)

The statistics of the Ministry of Interior for 2019 show that **the number of issued orders for immediate protection from domestic violence** under the Protection from Domestic Violence Act (PDVA) has increased four times compared to 2018. In 2017, these orders were 575, in 2018 - 601, and in 2019 their number increases to 2,338. [[99]](#footnote-99)

One possible explanation for the increase in the orders issued could be a change in the court's way of assessing when there is evidence that the health or the life of the victims is in danger, which is a prerequisite for providing immediate protection. It is not insignificant that the public expectations for the judiciary to carry out more effective prevention and protection from domestic violence have increased, especially after the government's refusal in 2018 to ratify the Istanbul Convention.

However, the fourfold increase in cases of immediate protection is not equivalent to four times more victims of domestic violence seeking help from the court. A reference to the statistics of the Supreme Judicial Council (see Table below) shows that **during the first half of 2019 the number of newly opened cases under the PDVA is 21% more than in the same period of the previous year**. Another impressive fact is that nearly 50% of the cases under the PDVA are not decided on the merits, but are closed for other reasons. A non-exhaustive review of the case law shows that the main reason for terminating cases is the withdrawal of the victims' applications.

*Тable: Cases under the Protection from Domestic Violence Act*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Number of closed domestic violence cases during the first half of 2019 disaggregated by the outcome | | | | |
| The claim was upheld in full | The claim was upheld partially | The claim was dismissed | The case was terminated because an agreement between the parties was signed | The case was terminated because of other reasons |
| 590 | 85 | 184 | 29 | 854 |
| *Source: Supreme Judicial Council* | | | | |

At the same time, the Ministry of Interior acknowledges that Bulgaria still lacks a unified automated information system to collect and process data on domestic violence, with various institutions and non-governmental organizations using their own systems to do so. The Ministry specifies that in November 2019, the General Directorate of the National Police signed a redefined project under the Norwegian Financial Mechanism, one of the main activities of which is to build such an information system.

In connection with contradictory case law, in 2019 the Supreme Court of Cassation (SCC) instituted an interpretative case, which must answer the question whether a request for judicial protection under the PDVA against a new act of domestic violence is admissible, when in favor of the same victim has a valid protection order against the same perpetrator. [[100]](#footnote-100) In the opinion prepared at the invitation of the Supreme Court of Cassation, the BHC strongly defended the position that every act of domestic violence should be duly and timely sanctioned, and every victim of domestic violence should have an available remedy, which is the subsequent request for judicial protection under the PDVA.

# IX. Trafficking in persons

A 2018 European Commission study covering the period 2015-2016 ranks **Bulgaria among the five EU Member States with the highest number of individuals registered as victims of human trafficking**.[[101]](#footnote-101) According to this study, women make up 92% of all registered victims of trafficking, with an EU average of 68%. Three quarters of the victims registered during the period were victims of human trafficking for sexual exploitation; 98% of them were women. According to the National Commission for Combating Trafficking in Human Beings, the profile of victims of trafficking for sexual exploitation is mainly “young women, mostly from a minority background, with low education and in a difficult material situation”.[[102]](#footnote-102) According to a United States Department of State report published in 2018, Bulgaria has made progress in combating trafficking in human beings in comparison to previous years.[[103]](#footnote-103) The report assesses positively the allocation of more resources to services for victims and the opening of two new facilities for victims of trafficking, including a crisis centre for children. The lack of training for judges and prosecutors to work with victims of trafficking, and the lack of knowledge by officials to identify victims, especially among foreign nationals and women exploited for prostitution, are seen as problem areas.

# X. Discrimination, violence and hate crimes against vulnerable groups

In the beginning of 2018, the Protection from Discrimination Commission “*observed with anxiety an escalation of hate speech and discriminatory attitude on account of expressed opinions and stated position on values.*” PDC cites among the examples of such manifestations the organising of the so-called “Lukov March” that “*often turns into a tribune of hate speech, particularly targeting representatives of the Jewish and other communities*”; the debates on the Istanbul Convention; and also the comments around the appointment of Emil Koshlukov as Programme Director of Bulgarian National Television 1.[[104]](#footnote-104)

**The Bulgarian authorities do not cope with the timely and effective investigation of hate crimes**. In March 2018 the history teacher and candidate for MP from the *Yes, Bulgaria* Movement, Emil Jassim, was assaulted. In the past years he was subjected several times to insults and threats for his attempts to encourage interethnic dialogue and for his defence of the rights of the minority groups in Bulgaria.[[105]](#footnote-105) According to Jassim, a man unknown to him insulted him and then hit him on his body. Shortly before the assault, Jassim filed four slander cases against several media for spreading untrue and defamatory claims: the websites BLITZ, PIK, the *Trud* daily newspaper, and against the Editor-in-Chief BLITZ, Ivaylo Krachunov. For weeks these media published a series of materials accusing Emil Jassim of “anti-Bulgarian propaganda” and thus imposing a negative attitude to him and creating a threatening environment. ‘

The BHC pointed out that hate speech started to leave the confines of the media and the aggression was accordingly directed towards the few organisations and activists who undertook the task of protecting them. The organisation appealed to the police and to the Public Prosecutors’ Office to take a clear stand in the fight against the manifestations of racism and xenophobia, notably public inciting to violence or hatred, through timely, comprehensive and effective investigation of hate crimes.[[106]](#footnote-106)

On 17 April 2019, the Deputy Chief Prosecutor of Bulgaria (currently Chief Prosecutor), Ivan Geshev gave an interview for Bulgarian National Television, commenting on the recent developments of a pending high profile criminal case. Referring to the act of withdrawal of the statements of one of the witnesses in the case, who was also an accused party in another criminal case, Ivan Geshev stated that the withdrawal was expected because “that is what all defendants do, that is what also gypsies do in trials”.[[107]](#footnote-107) At the end of April 2019, a Roma activist filed a complaint against Geshev for discrimination.[[108]](#footnote-108)

**2019** **saw another upsurge of hate speech and hate crimes**. In January the entire Roma community of Voyvodinovo, near Plovdiv, was expelled from the village by the authorities after public protests from the villagers after a criminal incident involving two Roma and one Bulgarian. The Roma of Voyvodinovo were targeted for expulsion as a form of collective punishment and because of their Roma ethnicity. These racist motives were expressed on numerous occasions since the beginning of the events by both public officials and by the protesters. They were allowed free expression. The Deputy Prime Minister Karakachanov himself set the tone for racist incitement during his visit in Voyvodinovo on 8 January 2019. He stated before the media: “Gypsies in Bulgaria have become extremely arrogant and the toleration of the Bulgarian society is over”. The same day he made another public statement: “We have a segment of society that is totally lost and unwilling to integrate, unwilling to work, unwilling to respect the interests of others, do not respect their life, health and property and do whatever they want […] And it has to start from there – until when the state will finance uncontrolled Gypsy birth rates?” During the protest marches in Voyvodinovo the protesters called Roma “carrion” (мърши) and “braziers” (мангали). Posters were put up with slogans: “This is Bulgaria, not Gypsyland” (Това е България, не Цигания). On 11 January 2019, during the biggest march on the streets of Voyvodinovo, protesters, including a big number of soccer fans from other cities, chanted repeatedly throughout the evening: “Eeo, eeo, eeo! Calling myself Bulgarian is my greatest joy!” (Еео, еео, еео! Българин да се наричам, първа радост е за мен!). The crowd was incited by a retired general who called: “Let us say no to the Gypsy iniquity! With Bulgarian flags and the red beret.” On 11 January 2019, a group of academics in Sofia published an open letter to Prime Minister Borisov in support of Karakachanov’s actions against Roma, which they justified with “the increasingly insolent atrocities of the Gypsy citizens”.

Another upsurge of hate speech took place in advance of the election for European Parliament and the municipal elections. Extreme right-wing political parties used racist rhetoric to target Roma and to instigate racist assaults against Roma communities, including evictions of Roma families from their only homes. Other vulnerable groups, such as LGBTI, migrants and Muslims, were also targeted. Along with them, human rights and other NGOs were branded by hate groups and hostile media as “foreign agents”, “anti-Bulgarian traitors” and “sorosoids”. In October 2019 VMRO, a coalition partner in government with a Deputy Prime Minister wrote to the Prosecutor General requesting him to initiate proceedings for de-registration of the Bulgarian Helsinki Committee. When the Prosecutor General refused, the party declared that it will initiate such proceedings itself.

## **Prosecution and case law**

Although hate speech in the public space in Bulgaria, including at the highest political levels, has escalated in recent years, the prosecution of preaching and incitement to discrimination, violence and hatred based on race and ethnicity is an exception. As a consequence, **the jurisprudence under Article 162 § 1 of the Criminal Code is scarce, and in some parts – extremely disturbing**. However, an interesting finding, of a recent research of the domestic case law, is Sentence No 328501 of 1 February 2018 of the Sofia District Court,[[109]](#footnote-109) confirmed by the higher instance. Referring to the case-law of the ECtHR under Article 8 (right to respect for privacy and family life) and Article 10 (freedom of expression) of the European Convention on Human Rights (ECHR), the domestic court proposes an extremely comprehensive analysis and explanation of the rules for assessing the existence of a ground for realization of criminal liability under Article 162 § 1 of the Criminal Code. This is also the only identified judicial act of case-law under Article 162 § 1, in which a Bulgarian court formulates and applies a balancing test between the right to freedom of expression and the right to protection from hate speech. In this particular case, the court finds the defendant guilty of inciting race-based hate speech and violence for having made a call with a megaphone: “*Things can't go on like this, it's time to wake up! Here are the blacks that you see! A serious criminal offense was committed last night against a young Bulgarian girl - she was stabbed by a person of such origin. Here are the blacks that you see! Things cannot go on like this! The time has come to take action and deal with these blacks! We have to deal with these blacks!*”

Importantly, there is no indication in how many cases the convicted persons belong to ethnic minorities, as Articles 162 and 164 of the Criminal Code have been frequently enforced against persons belonging to minorities.

On the contrary, **when Turkish and Roma minority representatives are involved as perpetrators, the prosecutors and the courts seem more inclined to investigate and sentence hate crimes**. In 2018 the Shumen District Court[[110]](#footnote-110) sentenced R.M.Y because on 2 April 2010 in a hotel in Shumen he pronounced OTOMAN separately as a word and as an abbreviation of the then being established political party "*Union for tolerance, responsibility, ethics and alternative progress*” ("Обединение за толерантност, отговорност, морал и алтернативен напредък"), stated that “*if we succeed to make a change I would like my birth town Targovishte to be called Eski Djumaya*” as well as “*Who said that this city is a Bulgarian one? Targovishte has been for more than 500 years a Turkish city*“, wore fez, used the Turkish military march and the song *Djelem Djelem* as a hymn of the political party OTOMAN. The court found in these words and actions hate speech based on nationality and ethnicity towards the Bulgarian nation and ethnicity. The sentence was 4 months’ deprivation of liberty, a fine of BGN 5,000 (EUR 2,500) and public reprimand by placing the announcement for the verdict on the wall of the municipal building. The same person was also sentenced for the very establishing of the political party on the Friday before Easter, for using Muslim crescent for the flag of the party, for colouring the flag in green and yellow, for carrying out a Muslim mess for placing flowers on the grave of colonel K. for hate crime based on religion to 4 months of deprivation of liberty. The overall sentence for both crimes is suspended 4 months of deprivation of liberty, public reprimand and a fine of BGN 2,500 (EUR 1,250). His accomplice, А. М. Y, was also sentenced for hate speech to 3 months’ deprivation of liberty, a fine of BGN 5,000 (EUR 2,500) and public reprimand and for hate crime based on religion - to 3 months’ deprivation of liberty. Both perpetrators were also sentenced to pay BGN 1,442 (EUR 720) for courts expenses each.

## **Religion-based hate crimes**

The first paragraph of Article 164 of the Criminal Code criminalizes **preaching and incitement to discrimination, violence or hatred on religious basis**. The Supreme Cassation Court (SCC) brings out the content of the term "religion" through the definition given by the Bulgarian interpretative dictionary - "*religion is an organized system of beliefs, cultural systems, worldviews that link humanity to a given order of existence*."[[111]](#footnote-111) Although it is not explicitly stated in the case-law and there are no examples in this regard, the legal doctrine accepts that the atheistic views of citizens are also subject to criminal defence.[[112]](#footnote-112) The offences committed within this criminal act are identical to those of preaching and inciting racist and xenophobic hatred under Article 162 § 1 of the Criminal Code.

The recent review of the case-law under Article 164 § 1 found that the most numerous judgements are on Ahmed Musa's charge, imam in Pazardzhik, for preaching religious hatred by word in the period 2008- 2011. The conviction on this charge, imposed by the Pazardzhik Regional Court in 201447 and amended by the appellate court in the direction of increasing the sentence, was overturned by a judgement of the Supreme Cassation Court (SCC) in 2016 due to lack of reasons. It is noteworthy that in its judgement the SCC stated that "*it is sufficient that the act of committing hatred is to be rooted in religious beliefs, to rely on religious dogmas and tenets, in order to carry out the crime*." Such a requirement - for the presence of opposition to some religious views against others, however, is not provided for by Article 164 § 1 of the Criminal Code.

The final sentence of the defendant on the charge was only made in 2019 by the SCC Judgement No. 38 of 25 April 2019. Through the prism of Article 9 of the ECHR and the ECtHR’s relevant case-law, the supreme judges make a comprehensive analysis of the question of why the defendant's incriminated appeals do not enjoy the protection of the right to freedom of thought, conscience and religion. The facts incriminated in the prosecution against defendant A. do not affect "his domestic right to religious beliefs", which enjoys absolute protection from the state and is inviolable under ECHR and Constitutional provisions. Their focus is on the defendant's chosen way of demonstrating his religious beliefs and the content of the messages sent to his supporters. In his speech, the defendant called for a "holy struggle" against Christians and other religions, inculcating against them, calling them "unbelievers," "gyauri," and "sinners," qualifications that are sufficient in themselves to incite hatred on a religious basis among people of different ethnicities.

The second paragraph of Article 164 of the Criminal Code criminalizes attacks on **religious temples, houses of worship, religious symbols, gravestones**. The possible enforcement forms of the crime are three: defilement, damage, and destruction. According to the wording of the provision, except in cases of "defilement" of religious symbols and temples, the perpetrators are not required to have a specific, discriminatory motive. The jurisprudence under Article 164 § 2 of the Criminal Code, although scarce, reveals some problematic issues. For example, in one case a Roma man who stole for the purpose of heating, wooden crosses from a cemetery park for a total of BGN 102 (app. EUR 50) was found guilty of committing three crimes in an ideal setting - theft, hooliganism and defilement and destruction of gravestones.[[113]](#footnote-113) The punishment imposed is one year of effective deprivation of liberty and a fine of BGN 3,000 (app. EUR 1,500). In this case, the court does not examine the existence of an anti-religious or other discriminatory motive for committing the crime. This is one of the heaviest punishments for crime within the scope of this review, except those imposed for murder and attempted murder on discriminatory motives.

## **Hate-motivated violence**

### Prosecution and case law

Public incitement to hatred, discrimination and violence in Bulgaria have become a particularly serious problem over the period 2012-2019. Most victims of such crimes include Roma, Muslims and migrants. This goes by and large unpunished.[[114]](#footnote-114) **The statistics presented by the government show very low conviction rates**.

In 2016, BHC sought information from the Council for Electronic Media (CEM), the body overseeing the work of the radio and the TV broadcasting operators in Bulgaria, on the number of **sanctions it imposed on them over the past five years for public incitement of hatred**. Article 10(1)(6) of the *Radio and Television Act* prohibits broadcasts “inciting hatred on the grounds of race, sex, religion and nationality”. On 21 March 2017, CEM provided the requested information. It appears that since January 2012 it had sanctioned with fines **only two TV operators**: on 10 November 2015 it sanctioned Evrokom TV with BGN 3,000 (EUR 1,500) for inciting hatred against Roma in the program PSYCHO-dispanser,[[115]](#footnote-115) and on 15 December 2015 it sanctioned SKAT TV with BGN 3,000 (EUR 1,500) for inciting hatred against Roma in a report entitled “*Bourgas – the city of Gypsy lawlessness and burqas*?!”[[116]](#footnote-116) In both cases the fines are at the minimal threshold envisaged by law and could hardly have and, given the subsequent behavior of both TV operators, did not have any dissuasive effect. No sanction was ever imposed on the Alfa TV of the Ataka party and not one sanction was imposed in 2016 when racist hate speech reached unprecedented proportions. Compared to the scale of the racist hate speech spread in the abovementioned, as well as in several other media, the CEM attitude can fairly be described as a complicity to the impunity, which public incitement to hatred, discrimination and violence enjoys in the Bulgarian media.

For the purposes of a 2019 research on bias-motivated crimes, the Bulgarian Helsinki Committee reviewed a little over 60 court acts handed down between 2008 and 2019 by all court instances in cases of bias-motivated crimes. In its main part, the review covers **case-law in criminal cases, for which the discriminatory motive is a proper element of the definition of the crime**.[[117]](#footnote-117) The review of the case-law in Bulgaria established that a number of discriminatory offenses committed on racist or xenophobic grounds qualify as committed on the basis of hooliganism or of the general elements of the respective crime, without taking into account the motive.

### Racist incitement

The concepts of "racism" and "xenophobia" have no definitions in domestic law, but clarifying their meaning is important in order to identify the range of cases to which the relevant legal provisions apply. In the case-law, the content of the term "racism" is defined as "*a policy of persecution, humiliation, violence, incitement to enmity and hatred of persons, social groups, sections of the population or groups of people, on the basis of colour, ethnicity, religious affiliation, or nationality*."[[118]](#footnote-118) It is undisputed that racial discrimination engulfs that based on ethnicity. The prevailing body of case-law on the crimes against the person committed on the basis of discriminatory motives are qualified precisely as perpetrated on racist motives, whereby the attacks are motivated by prejudice or hatred against the Roma ethnicity.[[119]](#footnote-119)

The **prosecutor's office often does not, by accident or purpose, attach legal importance to xenophobic and racist incitements** to commit a crime, regardless of the evidence collected in the case for the existence of such. Here are two examples in this regard. In the first case, prosecutors charged three men with attempted murder of a person recognized by the defendants as a migrant and a Muslim. According to the defendants, the attack was carried out in order to "clean up the streets of the city and the country from foreigners who do not belong to their culture and religion".[[120]](#footnote-120) Despite the obvious xenophobic motive, prosecutors classify the act as a premeditated murder on the grounds of hooliganism alone. However, in the individualisation of the sentences of the defendants, the court regards the xenophobic motives as an aggravating circumstance. In the second case, the prosecutor's office indicted a man for causing average bodily injury considering the general elements of the crime - Article 129 § 1 of the Criminal Court, for assaulting a family of Roma who are his neighbours, but whom he dislikes because "the two Roma were making dirt and noise".[[121]](#footnote-121) According to the factual situation reflected in the sentence, striking "with legs and arms in the head" of the injured man was also accompanied by "swearing and racial slurs". Although the racist incitement was reflected in the sentence, the charge was not issued on the qualified elements of the crime. In this case, the court failed to consider the discriminatory motive as an aggravating circumstance.

### Sexual orientation, gender identity

**Grounds such as sexual orientation, gender, disability and other otherwise protected characteristics under the Bulgarian equality law remain entirely beyond the scope of the criminal-justice protection**. By virtue of Article 52 § 1 of the Criminal Code, in the individualization of the sentence the court is obliged to take into account the motives for committing the act. However, this general rule does not prove to be effective enough to ensure that committing a crime in the light of any of the protected characteristics will be regarded as an aggravating circumstance. Indicative in this regard is Judgement No. 39 of 21 June 2018 under Criminal Case No. 1258/2017 of the Supreme Court of Cassation, issued in connection with the murder in 2008 of a young man in the capital Sofia’s Borisova Gradina park. Although in the case it was indisputably found that the defendants had assaulted and killed the victim, motivated by his alleged homosexual orientation, the court determined the size and type of penalties in the presence of numerous mitigating circumstances and in the absence of aggravating ones and without taking into account the homophobic motives.[[122]](#footnote-122)

### Roma

In 2018 several cases of **mass beatings of Roma by police officers** trying to deal with criminal incidents became known. They remain unpunished. On 6 February 2018, a race and a clash between Roma and police officers evolved into a police raid in **Ihtiman’s Roma neighbourhood**, in which people were physically assaulted. An elderly man died during the raid. The police announced that there had been no “physical contact” between him and the police officers. However, there was no comprehensive investigation into the death of the deceased in this case. The use of force during the police raid was also not investigated. The major media mostly published the police version.

On 14 October 2018, police officers used indiscriminate force in a conflict with Roma in the Roma neighbourhood in the town of **Galabovo**. The conflict began with a loud music complaint. Residents of the Roma neighbourhood then complained that the police were beating everyone, including children. No comprehensive investigation into the legality of the use of force was conducted. On 28 October 2018, a large number of police forces entered the Roma neighbourhood in the town of **Maglizh** in an attempt to arrest a young man who was hiding after assaulting a police officer on the road between two villages. According to independent journalists, the police used massive force and restraint against neighbourhood residents. The author of one of the publications on the subject wrote: “*The Roma gathered around me and started telling me their nightmarish recollections of the evening of the raid and the anxious sleepless night. They claim that gendarmerie and police officers started indiscriminately hitting people, including children, immediately upon getting out of their vehicles. They threw people on the ground, handcuffed them. A young woman claims that her uncle had been beaten in front of her for no apparent reason*”.[[123]](#footnote-123) The BHC referred the matter to the prosecutor’s office, but the latter refused to initiate pre-trial proceedings. The preliminary investigation only took the statements of the police officers involved in the incident.

At the end of November 2019, the **Council of Europe Commissioner for Human Rights** visited Bulgaria and met with government institutions, NGOs and victims of human rights violations on a wide range of issues related to discrimination against minorities, domestic violence and freedom of expression. At the end of her mission, she made a statement condemning the spread of hate speech and hate crimes against Roma, paying special attention to the expulsion of Roma families in the village of Voyvodinovo; called for a new reopening of the topic of Bulgaria's ratification of the Istanbul Convention and expressed concern about "the continuing deterioration of media freedom in Bulgaria“.[[124]](#footnote-124)

According to experts in the field, as in previous years, the period of 2016-2018 did not mark any significant advances in the implementation of the **National Roma Integration Strategy** (NRIS).[[125]](#footnote-125) Improvements have been observed in the usage of EU funds for Roma inclusion (especially European Social Fund (ESF) and partly European Regional Development Fund, while the engagement of the European Agricultural Fund for Rural Development (EAFRD) remains problematic) and for education (especially in reducing early school leaving and increasing participation in different levels of education, although segregation remains a problem). Deterioration is obvious in the fields of governance (especially regarding the legitimacy of the National Roma Contact Point (NRCP)[[126]](#footnote-126) which is the consultative process with civil society) and anti-gypsyism (with a significant rise in anti-Roma rhetoric, publications and even actions). Serious challenges, however, remain in all fields. [[127]](#footnote-127)

The period of 2016-2017 marked the **full collapse** of the legitimacy of both the National Roma Contact Point and the *National Council for Cooperation on Ethnic and Integration Issues* (NCCEII), which have been abandoned by many Roma NGOs and could not fulfill their consultative and coordination roles. This was result of the appointment of Valeri Simeonov, leader of one of the three nationalist parties “National Front for Salvation of Bulgaria” which is a member of the ruling coalition, for chairperson of the National Council for Cooperation on Ethnic and Integration Issues, even though he was sentenced for hate speech against Roma in early 2017. Even after mass protests against this appointment, the Government did not react. The policy dialogue between the Government and the Roma organisations occurs through other consultative formats (such as the Monitoring Committees of the EU co-funded Operational Programmes) and direct dialogue between NGOs and institutions.[[128]](#footnote-128)

As a result of the efforts of the Bulgarian Government and the Roma organisations some financial resources were solicited from the EU co-funded operational programmes for Roma-targeted operations. Apart from the active advocacy of Roma organisations in the preparation of the operational programmes and in the monitoring committees, this was also due to the support of the European Commission as well as to the constructive attitude of the managing authorities. The presence of thematic objective 9ii “*Support of socio-economic integration of marginalised communities such as the Roma*” in the ESF Regulations as well as in the ESF co-funded operational programs is the other key precondition: overall EUR 142 million are earmarked for this thematic objective under two Bulgarian ESF-funded operational programmes, HRDOP and SESGOP. [[129]](#footnote-129)

The main Roma-targeted measures in the three operational programmes – HRDOP, SESGOP and RGOP – give more opportunities to the municipalities, and there are separate measures under which municipalities are specific beneficiaries, too. In the current programme period, the operational programmes rely on the use of the **integrated approach**: i.e., the combination of the different programmes and funds - HRDOP, SESGOP and RGOP - and the combination of the activities under all National Strategy priorities in the fields of education, employment, healthcare, housing, antidiscrimination and equal opportunities, culture, and media. An example in this direction is the operation on “*Socio-economic integration of marginalised communities*” (funded from the HRDO), “*Integrated Measures for Improving the Access to Education*” (funded from the SESGOP) and “*Social Housing in the Urban Municipalities*” financed by the ERDF-funded RGOP. The operation was announced in March 2018, the projects were expected to start in 2019 and thus the operation could not be still evaluated. Despite significantly increased allocation of the ESIF for Roma inclusion in the current programme period, **certain obstacles** at the national level sharply limit the possibility of Roma-targeted operations to achieve sustainable results:

* there is no institution with capacity to carry out systemic Roma integration project (designed to support policy reform in the national system);
* the capacity of civil society is not properly used: NGOs are not concrete beneficiaries, they are not granted big projects or global grants although the EEA Grants proved the effectiveness of this practice;
* the participation of non-state actors (for example, NGOs) is sharply limited by the rigid application of the “state aid” principle, by the unfavourable payment regime (small pre-payment and delays);
* due to both managerial mistakes (irregularities) and political mistakes, the payments to the SESGOP from the EU were suspended until an institutional reform is done (implementation of an action plan, including establishment of anew SESGOP implementation agency). As result many operations (including Roma targeted ones) were postponed;
* the administrative burden makes the beneficiaries pay stronger attention to reporting than to the real field work. [[130]](#footnote-130)

There are bottlenecks of the effective use of the ESIF for Roma inclusion also at the local level:

* smaller municipalities (the rural-type municipalities where Roma are overrepresented) have limited human resources. In most cases there is only one employee who is also “entrusted with the Roma issues” along with his/her other administrative responsibilities and functions. Very often, such employees are not in-depth aware of the problems and specificities of the Roma community, which, in turn, hinders the municipality from being able to plan and design qualitatively and to make maximum use of the opportunities under the respective programmes;
* the rural communities need additional expertise to plan and develop projects targeting Roma integration through different funds.[[131]](#footnote-131)

During 2007-2013 the Human Resources Development Operational Programme financed seven Roma- or minority-targeted operations with a total budget of approximately EUR 35.26 million. This trend continues in the programming period 2014-2020.[[132]](#footnote-132)

The situation in Bulgaria with the **forced evictions of Roma** from their only homes continued to be a serious problem during the last several years. It deteriorated in practice, part of the deterioration resulting from racist instigation originating from or finding support among the extreme nationalists who participate in the government since 2017. In September 2017, in the context of the monitoring on the implementation of the ECtHR judgements, the Committee of Ministers of the Council of Europe expressed regrets that for yet another year the Bulgarian authorities had failed to take actions to submit amendments to the State Property Act (SPA), Municipal Property Act (MPA) and Spatial Planning Act (SpPA), which would guarantee proportionality of the actions aimed at coping with the illegal possession of public property and the orders for illegal buildings to be demolished. The Committee invited the State to submit information on what had been done and a plan-schedule for the adoption of the required legislative reform by 1 February 2018.[[133]](#footnote-133) Although in 2016 in a report of the Minister of Justice on the implementation of the judgements from the group *Yordanova v. Bulgaria* it is stated that in connection with the convictions “*it is necessary to consider the explicit introducing*” of the principle of proportionality in the demolition of illegal construction under Articles 195, 225 and 225а of SpPA, Article 80 of SPA and Articles 46 and 65 of (MPA) in the cases affecting the right to respect for one’s personal and family life and home under Article 8 of ECHR,[[134]](#footnote-134) no actions in that direction had been undertaken in the period 2017-2019.

**Voyvodinovo case**

In perhaps the most serious human rights violations against over the past decade, in January 2019 more than 100 Roma were expelled from their homes in the village of Voyvodinovo, near Plovdiv. The expulsion followed a criminal incident, which occurred on 6 January 2019. A 33-year-old special forces commando was injured during a fight with two Roma men on the street of Vojvodinovo. The two Roma were immediately arrested, charged and sentenced in early April 2019 to various terms of suspended prison sentences. The incident provoked anger among the local Bulgarian population. A crowd started gathering for a protest at 6:00 pm the same day in the center of the village. Radical racist groups from Plovdiv joined the protests. The police and gendarmerie also arrived to secure public order. Protesters were walking the streets of the village chanting anti-Roma slogans.

Around 10 p.m., the mayor of the village went to the Roma neighbourhood and told all the Roma to leave the village immediately. Several residents of the Roma neighbourhood called taxis from Plovdiv, as well as relatives who had cars and left in a panic. Those who could not leave the same day, had to hide in the houses in the neighbourhood and left the village the next day. A total of about 100 Roma left Voyvodinovo, including pregnant women, children, elderly and people with disabilities. They have found temporary shelter with relatives, friends, in barracks and abandoned buildings in Plovdiv, in settlements near Plovdiv, and in other cities. Many, including children, were forced to sleep on the floor in unheated rooms in the middle of the winter. In the panic of leaving, a number of the Roma residents of Voyvodinovo left personal belongings and documents in their homes.

In the following days, protests in Voyvodinovo continued with explicit calls for the permanent expulsion of all Roma from the village and for the destruction of their homes. Two days after the incident, on 8 January, the Deputy Prime Minister of Bulgaria - Krassimir Karakachanov of the VMRO nationalist party - visited the village. There he ordered an immediate "cleansing" of the illegal structures in Voyvodinovo. He also states: "*The Gypsies in Bulgaria have become extremely arrogant and the tolerance of Bulgarian society has run out*". In the next two days, the Mayor of the Municipality of Maritza issued four orders declaring 15 buildings in the Roma neighbourhood of Vojvodinovo to be “self-destructive” and dangerous to the lives and health of the residents and were immediately destroyed. Among them were the three single dwellings of the relatives of the two Roma accused of the crime against the commando. The electric power and water supply of all other buildings, including in the applicants' homes, were cut.

On 11 January 2019 a large rally involving acting and reserve military officers took place in Voyvodinovo in support of the injured commando. Anti-Roma slogans were chanted again. Over the next two days, residents of Voivodinovo and football fans continued to gather to protest against Roma in the evenings.

On 16 January 2019, the Mayor of the Municipality of Maritsa issued 17 orders for the removal of all residential buildings in the Roma neighborhood of Voyvodinovo. They were worded in a similar manner and declared that the buildings were built illegally, could not be tolerated within the meaning of the Spatial Planning Act and should be removed. The applicants found the removal orders glued to the building of the Maritza Municipality, located in Plovdiv, and on the Internet, where they were uploaded by the municipality.

They applied to the Bulgarian Helsinki Committee for legal assistance. The BHC paid the fees of a lawyer in Plovdiv to appeal on behalf of the affected all 17 orders in the Plovdiv Administrative Court. The Plovdiv Administrative Court upheld the orders of the Mayor. At present, the cases are pending before the Supreme Administrative Court.

At the end of January 2019, the applicants, frustrated with the lives with relatives, friends and in abandoned buildings, decided to return to their abandoned houses in Voyvodinovo. On 1 February 2019, 34 applicants petitioned the Director of the Regional Directorate of the Ministry of Interior in Plovdiv. They declared their intention to return to the village and asked the police to ensure their safety and that of their children.

On 9 February 2019, about 40 residents of Voyvodinovo rented cars and taxis and arrived in the village in the morning. There they were met by police officers who told them that they could not enter their homes as they were illegal and dangerous. After a while, the mayor of the village also arrived and told them that he did not allow them to enter their homes. When asked about the legal basis of this ban, the mayor stated that he was not interested in the law and that Bulgarians from the village did not want any Roma in their village. Meanwhile, more police and gendarmerie arrived. A group of protesters from the village began to gather around the church and advanced to the Roma neighborhood, chanting threats. Police and gendarmerie encircled the two groups to prevent a clash. After several hours of intense negotiations, the Roma were picked up by the mayor on a bus and he personally took them to one of the Roma neighborhoods of Plovdiv. On 11 February 2019, the mayor of Voivodinovo said on the national television bTV: "*The position of the village is - there is no going back*".

The applicants again found themselves on the street, forced to rely on the relatives and friends for shelter. 17 of them submitted applications on their own behalf and on behalf of their families to the Municipality of Maritza for the provision of municipal housing. Municipal officials told them that the municipality did not have any housing it could offer. On two occasions in mid-February 2019 the Mayor of the Municipality of Maritza sent letters to the Regional Governor of the Region of Plovdiv, informing him that the Municipality of Maritza did not have any possibility to provide housing to any persons on its territory without shelter and asked him to take action.

On 7 March 2019, the Regional Governor replied to the Mayor that he was unable to provide any housing to the evicted Roma and that this was legally within the competence of the municipalities. Several victims of the forced eviction applied to the administrative courts asking for urgent action against the prohibition of the mayor of Voyvodinovo and the police to allow them back home. The courts rejected their appeals arguing that they could not interfere after the impugned acts of obstruction had been terminated.

After the exhaustion of all domestic remedies, on 1 April 2019, 56 Roma from Voyvodinovo applied for **interim measures to the European Court of Human Rights**. On 24 April 2019 the Court granted interim measures to 16 applicants, most of them children. It also granted priority to the application and communicated it to the government. At present, the case is pending before the Court. According to the interim measures, the government of Bulgaria was instructed to provide immediate accommodation to the 16 applicants and to immediately consider all pending applications for accommodation before the Maritza Municipality. None of these measures were implemented. All the applicants inhabit at present, as they did in January 2019 rooms or barracks that are overcrowded, unhygienic, often without access to basic municipal services. Some of them lost their jobs after their evictions from Voyvodinovo.

1. Ministry of Interior Act, Art.72, para.5 (amended, enforced on 22 January 2019). [↑](#footnote-ref-1)
2. Military Police Act, Art.13, para.2 (amended, enforced on 22 January 2019). [↑](#footnote-ref-2)
3. State Agency “National Security” Act, Art.124b, para.8 (amended, enforced on 22 January 2019). [↑](#footnote-ref-3)
4. Customs Act, Art.16a, para. 5 (amended, enforced on 22 January 2019). [↑](#footnote-ref-4)
5. BHC, *Inside Police Custody-2*, 2018, p.34, available in English at: <http://www.bghelsinki.org/media/uploads/special/2018-Inside-Police-Custody-2-Bulgaria-EN.pdf>. [↑](#footnote-ref-5)
6. BHC, *Inside Police Custody-2*, 2018, p.34. [↑](#footnote-ref-6)
7. Ibid, p. 52. [↑](#footnote-ref-7)
8. Ibid, p.38. [↑](#footnote-ref-8)
9. Ibid, p.52-53. [↑](#footnote-ref-9)
10. Ibid, p.49. [↑](#footnote-ref-10)
11. Ibid, p.48. [↑](#footnote-ref-11)
12. Ibid, p.48. [↑](#footnote-ref-12)
13. Ibid, p. 50. [↑](#footnote-ref-13)
14. Criminal Procedure Code, Art.96 (new, enforced on 22 January 2019). [↑](#footnote-ref-14)
15. Criminal Procedure Code, Art.96, para.1 (amended, enforced on 22 January 2019). [↑](#footnote-ref-15)
16. Military Police Act, Art.13, para.2 (amended, enforced on 22 January 2019). [↑](#footnote-ref-16)
17. State Agency “National Security” Act, Art.124b, para.8 (amended, enforced on 22 January 2019). [↑](#footnote-ref-17)
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19. Customs Act, Art.16a, para.8. (amended, enforced on 22 January 2019). [↑](#footnote-ref-19)
20. BHC, *Access to a Lawyer and Legal Aid in Criminal Proceedings*, 2017, p.41, available in English at: <http://www.bghelsinki.org/media/uploads/special/2018-right_to_a_lawyer_and_to_legal_aid_in_criminal_proceedings_in_five_european_jurisdictions_-_comparative_report.pdf> . [↑](#footnote-ref-20)
21. BHC, *Inside Police Custody-2,* 2018, p.49. [↑](#footnote-ref-21)
22. BHC, *Enhancing procedural rights of persons with intellectual and/or psychosocial disabilities in criminal proceedings*, 2018, national report, p.13, available in Bulgarian at: <http://www.bghelsinki.org/media/uploads/special/2018-natsionalen-doklad-protsesualnite-prava-na-litsa-s-intelektualni-ili-psihosocialni-uvrejdania-v-nakazatelnoto-proizvodstvo_impair.pdf> . [↑](#footnote-ref-22)
23. BHC, *Inside Police Custody-2*, 2018. [↑](#footnote-ref-23)
24. BHC, *Inside Police Custody-2*, 2018, p.39. [↑](#footnote-ref-24)
25. BHC, Inside Police Custody-2, 2018, p.41, available in English at: <http://www.bghelsinki.org/media/uploads/special/2018-Inside-Police-Custody-2-Bulgaria-EN.pdf> . [↑](#footnote-ref-25)
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28. BHC, *Access to a lawyer and legal aid in criminal proceedings in five European jurisdictions*, Comparative report, p.20. [↑](#footnote-ref-28)
29. Ministry of Interior Act, Art. 72, para.3. [↑](#footnote-ref-29)
30. Ministry of Interior Act, Art. 74, para. 2, pt. 6, “f”. [↑](#footnote-ref-30)
31. Instruction 8121з-78 of 24 January 2015 of the Ministry of Interior, Art. 16:

    *“ A detained person who does not understand Bulgarian or is deaf-mute, deaf, mute or blind, shall be familiarised with the grounds for his/her detention and with his/her liability under the law, and his/her rights shall be explained, including those under* [*Article 15, Paragraph 1*](http://web6.ciela.net/Document/OpenFromReference?documentId=2136426770&dbId=0&edition=null&refToIdna=2136243824&refToIditem=72&iconId=1&elementTitle=%D0%A7%D0%BB.%2072.%20&documentTitle=%D0%97%D0%90%D0%9A%D0%9E%D0%9D%20%D0%97%D0%90%20%D0%9C%D0%98%D0%9D%D0%98%D0%A1%D0%A2%D0%95%D0%A0%D0%A1%D0%A2%D0%92%D0%9E%D0%A2%D0%9E%20%D0%9D%D0%90%20%D0%92%D0%AA%D0%A2%D0%A0%D0%95%D0%A8%D0%9D%D0%98%D0%A2%D0%95%20%D0%A0%D0%90%D0%91%D0%9E%D0%A2%D0%98&stateObject=%7B%22kind%22:%22getSearchResults%22,%22page%22:1,%22navigateTo%22:%22/All%22,%22sortAsc%22:null,%22sortCol%22:null%7D)*, and procedure for action under* [*Article 19*](http://web6.ciela.net/Document/OpenFromReference?documentId=2136426770&dbId=0&edition=null&refToIdna=2136243824&refToIditem=72&iconId=1&elementTitle=%D0%A7%D0%BB.%2072.%20&documentTitle=%D0%97%D0%90%D0%9A%D0%9E%D0%9D%20%D0%97%D0%90%20%D0%9C%D0%98%D0%9D%D0%98%D0%A1%D0%A2%D0%95%D0%A0%D0%A1%D0%A2%D0%92%D0%9E%D0%A2%D0%9E%20%D0%9D%D0%90%20%D0%92%D0%AA%D0%A2%D0%A0%D0%95%D0%A8%D0%9D%D0%98%D0%A2%D0%95%20%D0%A0%D0%90%D0%91%D0%9E%D0%A2%D0%98&stateObject=%7B%22kind%22:%22getSearchResults%22,%22page%22:1,%22navigateTo%22:%22/All%22,%22sortAsc%22:null,%22sortCol%22:null%7D) *in a language he/she understand, with the help of an interpreter or sign language interpreter.*

    *(2) (Amended – State Gazette, No 30/2016) In the cases under Paragraph 1, the police body that had detained the person, or the operative officer on duty at the Operational Centre on Duty or Operational Unit on Duty shall provide an interpreter or sign language interpreter.*

    *(3) For the services rendered the interpreter/* *sign language interpreter shall be entitled to remuneration under terms and procedure stipulated by a special Order by the Minister of Interior.”* [↑](#footnote-ref-31)
32. Minister of Interior, *Order on the terms and procedure for the use of an interpreter, sign language interpreter or another person who knows the respective language, and fixing of remuneration in discharging the powers of the police bodies.* [↑](#footnote-ref-32)
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36. CPT (2018), *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 25 September to 6 October 2017 (CPT/Inf (2018) 15),* Strasbourg, 4 May 2018, § 20, available at: <https://rm.coe.int/16807c4b74> . [↑](#footnote-ref-36)
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82. In 2019, this reached2.5%, compared to 0.9% in 2018 and 1.2% in 2017. [↑](#footnote-ref-82)
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107. The interview in Bulgarian is available at: <https://www.bnt.bg/bg/a/ivan-geshev-ne-se-strakhuvame-i-znaem-istinata>. [↑](#footnote-ref-107)
108. <https://www.dnevnik.bg/bulgaria/2019/04/27/3426212_romski_aktivist_podade_jalba_sreshtu_ivan_geshev_za/>. [↑](#footnote-ref-108)
109. Sofia District Court, Sentence No. 328501 of 1 February 2018 in CCGN No. 422/2014. [↑](#footnote-ref-109)
110. Verdict № 30 of 26 April 2018, criminal case № 398/2017 of Shumen District Court. [↑](#footnote-ref-110)
111. SCC, Judgement No. 38 of 25 April 2019 in Criminal Case No. 66/2019 [↑](#footnote-ref-111)
112. Stoynov, A., “*Criminal law Special Chapter. Crimes against human rights*”, Sofia, 2013, p. 257. [↑](#footnote-ref-112)
113. Plovdiv District Court, Judgement No.178 of 21 June 2016 in CCGN No.1257/2016. [↑](#footnote-ref-113)
114. ECtHR judgment in the case of *Karaahmed v. Bulgaria* (no. 30587/13, judgement of 24 February 2015) involving an Ataka mob attack on Sofia’s Banya Bashi mosque on 20 May 2011 deals with a typical example of the impunity, which perpetrators of hate speech and hate crimes enjoy. [↑](#footnote-ref-114)
115. PSYCHO-dispanser was a virulently racist program of the Evrokom TV in the period 2013-2016 targeting Roma, migrants and Muslims. [↑](#footnote-ref-115)
116. CEM, Decision No. RD-05-37 of 21 March 2017. [↑](#footnote-ref-116)
117. Krassimir Kanev, Dilyana Angelova (Bulgarian Helsinki Committee)*, Bias motivated crimes, summary of the Bulgarian legislation and case law*, 2019, p.20 available in English at:

     <https://nohate.bghelsinki.org/cms/wp-content/uploads/2020/02/bhc_nohateeng_web.pdf> [↑](#footnote-ref-117)
118. Vratsa Regional Court, Judgement No. 75 of 11 October 2017 in CCGN No. 493/2017. [↑](#footnote-ref-118)
119. Krassimir Kanev, Dilyana Angelova (Bulgarian Helsinki Committee)*, Bias motivated crimes, summary of the Bulgarian legislation and case law*, 2019, p.24. available in English at: <https://nohate.bghelsinki.org/cms/wp-content/uploads/2020/02/bhc_nohateeng_web.pdf>. [↑](#footnote-ref-119)
120. SCC, Judgement No. 145 of 8 July 2019 in Criminal Case No. 534/2019. [↑](#footnote-ref-120)
121. Varna Regional Court, Judgement No.168 of 24 June 2013 in CCGN No.627/2013. [↑](#footnote-ref-121)
122. Krassimir Kanev, Dilyana Angelova (Bulgarian Helsinki Committee)*, Bias motivated crimes, summary of the Bulgarian legislation and case law*, 2019, p.26, available in English at: <https://nohate.bghelsinki.org/cms/wp-content/uploads/2020/02/bhc_nohateeng_web.pdf>. [↑](#footnote-ref-122)
123. Popova, C. “*Respect or Violence: What did the police leave behind in Maglizh*?”, www.zaistinata.com, 29 October 2018, available at: https://zaistinata.com/?p=6763. [↑](#footnote-ref-123)
124. Council of Europe Commissioner for Human Rights, “*Bulgaria should counter harmful narratives endangering human rights and step up efforts to fight hate speech and domestic violence*”, published on 2.12.2019 at: <https://www.coe.int/en/web/commissioner/-/bulgaria-should-counter-harmful-narratives-endangering-human-rights-and-step-up-efforts-to-fight-hate-speech-and-domestic-violence>. [↑](#footnote-ref-124)
125. Amalipe Center for Interethnic Dialogue and Tolerance, World Without Borders Association, IndiRoma Foundation, Roma Academy for Culture Education and Gender Alternatives Foundation, *Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Bulgaria,* March 2018, p.7, available in English at: <http://amalipe.com/files/publications/For%20printing_RCM_2017_Bulgaria_EC.pdf> . [↑](#footnote-ref-125)
126. Each EU country has been invited by the European Commission to appoint a national contact point for their national Roma integration strategy, with the authority to co-ordinate its development and implementation. In Bulgaria, it is the [Secretariat of the National Council for Co-operation on Ethnic and Integration Issues](http://www.nccedi.government.bg/index.php)(Administration of the Council of Ministers). Person of contact in Bulgaria : Rositsa Ivanova - [rositsa.ivanova@government.bg](mailto:rositsa.ivanova@government.bg). More information is available at: <https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combatting-discrimination/roma-and-eu/roma-integration-eu-country/roma-integration-bulgaria_en#nationalcontactpoint>. [↑](#footnote-ref-126)
127. Ibid. [↑](#footnote-ref-127)
128. Ibid. [↑](#footnote-ref-128)
129. Ibid. [↑](#footnote-ref-129)
130. Amalipe Center for Interethnic Dialogue and Tolerance, World Without Borders Association, IndiRoma Foundation, Roma Academy for Culture Education and Gender Alternatives Foundation, *Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Bulgaria,* March 2018, p.7. [↑](#footnote-ref-130)
131. Ibid, p.16-17. [↑](#footnote-ref-131)
132. Ibid, p.18. [↑](#footnote-ref-132)
133. <https://hudoc.exec.coe.int/eng#{%22EXECIdentifier%22:[%22004-1924%22]}> [↑](#footnote-ref-133)
134. Ministry of Justice (2016), *Fourth Annual Report of the Minister of Justice on the Implementation of the Judgements of the European Court of Human Rights on Cases against the Republic of Bulgaria in 2016*, р. 24, accessible on the Internet at: [http://www.justice.government.bg/Files/4-ti\_Obobshten\_doclad\_636425381305 499510.pdf](http://www.justice.government.bg/Files/4-ti_Obobshten_doclad_636425381305%20499510.pdf) [↑](#footnote-ref-134)