



VALIDITY



СДРУЖЕНИЕ "ШАНС И ПОДКРЕПА"

NGO information to the United Nations Committee against Torture

**For consideration when compiling the List of Issues Prior to Reporting on the
Seventh Periodic Review of**

BULGARIA

under the Convention against Torture

Submitted by:

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Introduction and Summary

1. This written submission provides an outline of issues of concern with regard to Bulgaria's compliance with the provisions of the Convention against Torture (hereinafter "the Convention"). In particular, this submission focuses on the situation of persons with disabilities. It also provides information regarding measures to prevent torture and ill-treatment and proposes a number of questions for consideration of the Committee against Torture (hereinafter: "CAT Committee") when compiling its List of Issues Prior to Reporting to the State Party.
2. A signature policy of the Government of Bulgaria over the last decade has been to proceed with deinstitutionalisation of social care services provided to children and adults with disabilities. While the State has reported substantial progress, including through the closure of all large-scale residential facilities for children with disabilities and the adoption of a plan to deinstitutionalise adults with disabilities, the partners to the present submission are deeply concerned as to serious structural deficiencies in the State's approach which have in fact enhanced the risk of violations of the absolute prohibition on torture and other forms of ill-treatment.
3. This submission has been jointly prepared by three organisations:
 - a. The Validity Foundation (MDAC) is an international human rights organisation which uses legal strategies to promote, protect and defend the human rights of adults and children with intellectual and psychosocial disabilities worldwide. Validity holds participatory status at the Council of Europe, and special consultative status at ECOSOC. For more information, please visit www.validity.ngo.
 - b. The Center for Independent Living is a non-governmental organisation set up in 1995 in Sofia, Bulgaria. It is run and controlled by disabled people who want to live independently in the community, to make choices by themselves and participate in society as all citizens do. CIL advocates for public policies that will enable all disabled people – regardless of the impairment – to be included in society, to develop and reach their full potential through access to education, employment, family life, etc. For more information please visit: <https://cil.bg>.
 - c. Chance and Support a non-governmental organisation set up in 2005 in Bulgaria, based in the town of Troyan. The organisation started as a charitable organisation providing support for hospitals and people in vulnerable situations. Latterly, the organisation developed expertise in consulting for Municipalities and experts in the area of social services. The organisation provides trainings and supervision of social workers. The organisation has conducted a numbers of research initiatives and analyses related to the social system and social services in Bulgaria. The organisation works in close cooperation with national and international NGOs.

Issues related to Article 1

- I. Some large-scale residential institutions for children with disabilities have not closed, specifically large institutions for children with disabilities between ages of 0 to 7.¹ Torture and other forms of ill-treatment are known to occur both in large-**

¹ According to the National Statistical Institute, during 2019 there were 13 large-scale institution like described still operated in Bulgaria. The information is available in English on the website of the Institute here: <https://www.nsi.bg/en/content/5606/homes-medico-social-care-children> (accessed on 18 of June 2020).

scale facilities and in “small group homes” which have replaced the larger institutions.

4. The larger-scale institutions for children with disabilities are known as Homes for Medico-Social Care for Children. While the State has effectively installed a moratorium on the placement of children without disabilities into such Homes, instead requiring that such children are placed with foster families, the Homes continue to accept the placement of children with disabilities.²
5. The institutions, which are under the management of the Ministry of Health, do not allow access to representatives of civil society organisations. Theoretically, as the designated the National Preventive Mechanism (NPM), the Ombudsman may visit these Homes, however there is no information publicly available that any visits have in fact taken place to date,³ nor are any visits planned during 2020.⁴
6. The institutions are considered as “hospitals” and this status is used by directors to deny access to representatives of civil society. Some of these institutions have been closed and replaced with Family-Type Placement Centres (hereinafter: “FTPCs”) for Children with Need of Constant Medical Treatment. During 2019, the team of Disability Rights International found a boy with hydrocephalus in one such Centre in the town of Gabrovo. He had been left without any treatment and in enormous pain. The personnel explained that the doctor, who was responsible for the health care for the child was the same who used to work in the former institution. His opinion was that it was too late for an operation and that there was no need to provide further treatment to the child. Only when this doctor left, a new doctor questioned the denial of treatment. However, in 2019 this boy still hadn’t received any treatment either for the hydrocephalus or for the constant pain caused by his condition. The Bulgarian authorities were specifically informed by DRI about these findings, however the official response was that there were no problems in these services.⁵
7. In the same type of facilities, monitors found many children who are left for extended periods without proper care, sometimes kept behind windows (like in an aquarium) and without any normal human contact.
8. Both the institutions and group homes are under the management and/or control of the State authorities. The big institutions are, as we pointed above, under the control of the Ministry of Health. The group homes, which we consider as smaller institutions, may be under the management of an NGO service provider or under the management of a Municipality. In the both cases the Agency for Social Assistance and the State Agency for Child Protection have the obligation to control and supervise the operation of these institutions.

Proposed questions to the State:

- Why do children with disabilities continue to be placed in large-scale residential institutions and when does the State plan to end this practice?
- What plans does the State have to guarantee access to a full range of social services to children with disabilities in the community?
- How will the State guarantee access of the civil society to Homes for Medico-Social Care for Children? What forms of independent control are there to promote and protect the rights of children placed in such Homes?
- Does the NPM intend to visit Homes for Medical-Social Care for Children?

² See: Disability Rights International (DRI), *A Dead End for Children. Bulgarian Group Homes*, (November 2019), available at: <https://www.driadvocacy.org/report/a-dead-end-for-children-bulgarias-group-homes/bulgaria-cover-final/> (last access 18 June 2020); hereafter “the DRI report”. Names and locations have been anonymised in this report in compliance with the data protection policy of the authors, however, the Bulgarian authorities received a confidential version of the report with full descriptions of locations visited.

³ The NPM issues reports after every visit. The reports are available on the Ombudsman official website at: <https://www.ombudsman.bg/national-prevention/5284> (accessed on 19 of June 2020); there are no reports from Homes for Medico-Social Care for Children.

⁴ The Ombudsman’s annual plan for visits during 2020 is available at <https://www.ombudsman.bg/pictures/file/%D0%93%D1%80%D0%B0%D1%84%D0%B8%D0%BA%202020.pdf> (accessed on 19 of June 2020).

⁵ The information about the response was provided by DRI to the legal monitor of Validity in Bulgaria.

II. Cases of violence in small group homes and inhuman and degrading conditions

9. Violence is endemic in small group homes, which are where children with and without disabilities who are deprived from parental care are placed. The DRI report documented several specific cases.
10. One well-documented case of severe abuse of children and youth took place in a group home in town of Gabrovo.⁶ In this case, because of critical media attention, the Equality Body initiated a case *ex officio* and subsequently issued a decision. The Body held that the violence amounted to discrimination on the basis of disability against the victims. A criminal investigation was also initiated.
11. Despite this, the children were systematically denied access to justice and did not receive compensation or rehabilitation for the violence they suffered. The children who were witnesses of the violence were not recognised as victims.
12. The only reason that the abuse inside the Chrysanthemum centre came to the public consciousness was due to the whistleblowing actions of staff inside the centre. Yet, there is a serious lack of independent monitoring of such centres nationwide, and group homes tend to be closed and situated in isolated locations. Children in such facilities do not have access to any independent adults who can protect or promote their rights, rendering them entirely dependent upon staff in the absence of any oversight.
13. Whereas all small group homes have been built relatively recently, some of them already are in a very poor condition, frequently leaving children in degrading surroundings. In 2019, the BBC broadcasted a documentary entitled “*Hidden Children of Bulgaria*” where the condition and the treatment of the children are visible.⁷ In one group home, which appears tidy from the outside, the children were locked in one small room without any furniture, very damaged. One man was left and locked alone in a room, naked and without any human contact.
14. This particular group home, based in the town of Pordim, is under the management of the local Municipality. The Agency for Social Assistance and the State Agency for Child Protection also have role to control and supervise the place. All authorities were informed about the documented problems both by DRI and the BBC. To date, there is no clear information as to whether the authorities have investigated or taken any action in respect of the allegations. On the official website of the Municipality of Pordim, the group home is still described as being in operation.⁸
15. In another group home, based in the town of Lovech and also described in the DRI report, a boy with behavioural problems was placed together with children with severe disabilities, in a very vulnerable position. The story was also presented in “*Hidden Children of Bulgaria*”. The boy was very violent both to the children and the personnel but because of the lack of any appropriate community-based service, such as a therapeutic foster family, the authorities did not take any steps to change the situation. Again, the authorities were specifically informed about this case; their response was that they knew of the case and that they had taken all possible measures. The NPM also visited the group homes in Lovech. The NPM founded evidence of psychological abuse against a child in a group home, poor expertise and a negative psychological climate in one of the group homes.⁹

6 In January 2018, mass media broadcast two videos showing violence and inappropriate behavior of social workers working in the FTPC for Children and Youth in Gabrovo. The institution has subsequently become known as “Chrysanthemum”, because it is based on a street with this name, in Trendafil Quarter, Gabrovo. The videos were taken with a mobile phone in 2016 and 2017 by a social worker and a former employee of the home, but were not publicly revealed until 21 January 2018. Two employees of the home were filmed in the two videos separately while shouting, threatening, offending and beating at the same time two different child residents of the centre.

⁷ The documentary is available at: <https://www.youtube.com/watch?v=LdzchTxU21I> (accessed: 18 June 2020).

⁸ The information is available at: http://www.pordim.bg/?page_id=11045 (accessed on 18 of June 2020).

⁹ See the Annual report for 2019 on the work of the NPM, available at [https://www.ombudsman.bg/pictures/file/Annual%20Report%20NPM%202019%20\(1\).pdf](https://www.ombudsman.bg/pictures/file/Annual%20Report%20NPM%202019%20(1).pdf), p. 46 (accessed on 19 June 2020).

16. The problems inside small group homes flow from a fundamentally flawed plan of the state to transfer children and adults with disabilities from large-scale residential institutions to what are, in effect, smaller and more isolated institutions across the country. Despite widespread criticism that this policy in fact amounts to transinstitutionalisation, rather than genuine deinstitutionalisation, the State has continued to invest large sums of public and EU funding in building new group homes. In 2019 the State published two Calls for Proposals for building new group homes – 20 for children and 68 for adults. Most of the planned services will be located in or near the grounds of former large-scale institutions or in remoted and isolated areas. Not only does this new system of geographically-disparate residential settings pose major challenges in terms of independent monitoring, but the model itself breaches Bulgaria’s obligations to promote inclusion in the community under Article 19 of the Convention on the Rights of Persons with Disabilities.¹⁰
17. A Call for proposals to build new group homes is currently being challenged before the Bulgarian Administrative Court.¹¹ The Call, which relates to the building of 68 group homes for adults, was challenged by CIL with Petition No 0865/2018 to the European Parliament. Also, the Call for proposals is being challenged before the Court of Justice of the European Union (CJEU, Case T-613/19). Despite these challenges, the State has not taken any measures to revise the policy of isolating people with disabilities, nor has it halted funding to these facilities, which contributes to widespread abusive practices.

Proposed questions to the State:

- What plans does Bulgaria have to end the institutionalisation of all adults and children with disabilities, including in small group homes, and instead invest in genuine community-based social services?
- What measures does the State plan to take to investigate the cases of abuse and poor conditions in relatively newly-built group homes, such as those in Pordim?
- How does the State plan to monitor and control public funding which has been used to build these services?
- Does the State plan to phase out the use of small institutions for adults and children with disabilities? Please explain.

III. Conditions and violence in institutions for elderly people, and for adults with psychosocial and intellectual disabilities

18. Large-scale institutions for elderly persons and adults with psychosocial and intellectual disabilities continue to exist and are frequently in a deplorable condition, as they have been in some cases for decades, resulting in inhuman and degrading treatment. Violence is endemic in such institutions, including between and among residents, and is often ignored by staff.
19. DRI reported about a case where a man, placed in a big institution near to Veliko Tarnovo, attacked a woman who was also placed in the same institution. Instead of preventing the violence in the first place or investigating the perpetrator, the personnel locked the women in practically full isolation as a measure to ‘protect’ her from being further harmed.
20. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter: “CPT”) visited Bulgari from 25 September to 6 October 2017 and noted with regret that the large-scale institutions continue to exist and the situation inside had not changed significantly.¹²

Proposed questions to the State:

¹⁰ The contracts for building of these small institutions are already approved. A list of all contracts is available publicly at: http://www.bgregio.eu/media/files/Dogovarqne/Sklyucheni%20dogovori%202014-2020/14_03_19_190313_Prilojenie%206.18%20Obiavlenie%20za%20vazlagane%20na%20dogovori%20-%205.002.pdf (accessed on 22 of June 2020). From the short description of the contracts it becomes visible that all small institutions will be established in remoted areas, on the border of the existing institutions and isolated from the rest of the society.

¹¹ Administrative case №13886/2019 is pending before Administrative Court Sofia City.

¹² The report is available at: <https://rm.coe.int/16807c4b74> (accessed on 18 June 2020).

- When does the State plan to close the large-scale institutions for elderly persons and persons with disabilities?
- What plans does the State have to investigate the cases of violence in institutions and how will future violations be prevented?
- What measures will the State take during the transitional period (during the closure of institutions) to prevent torture and other forms of ill-treatment?

IV. Conditions and violence in psychiatric hospitals

21. Conditions in psychiatric hospitals in Bulgaria are inhuman and degrading. In the same report cited above, the CPT described poor conditions in the psychiatric hospitals in Radnevo and Sevlievo, further raising concerns about violence in those institutions. The situation in these hospitals has not changed since the report, and the situation is similar in the majority of Bulgarian psychiatric hospitals with few exceptions.
22. The NPM has also visited several psychiatric hospitals, and has concluded that health care is poor, conditions are poor as well and psychosocial rehabilitation is lacking.¹³
23. In many cases, psychiatric hospitals, or certain long-stay wards within hospitals, are transformed *de facto* into institutions. This happens because many people have no relatives and/or homes to return to, meaning that they often continue to be detained in such facilities for social reasons. The lack of proper social support in the community and the lack of housing are key reasons for long-term placements.
24. Psychiatric hospitals are, with few exceptions, located in remote and isolated areas, and access to them is different. The people placed there are highly isolated and have their liberty severely curtailed.
25. According to the Health Act, treatment with psychotropic medicament is possible only on the basis of informed consent given by the patient or the person appointed by the court in cases of compulsory treatment. In reality, informed consent means only signed lists of paper, without any discussions related to the effect of the drugs, their side effects and the potential risks for the persons.

Proposed questions to the State:

What measures will the State take to ensure:

- Humane conditions in psychiatric hospitals?
- Social support for people who have been through psychiatric treatment?
- Housing and support for independent living for people who have been through psychiatric treatment?
- That patients will be properly informed about medication and treatment options and that their opinion will be taken into account and, should they not agree with the treatment, that alternatives are offered as opposed to the imposition of compulsory treatment?

Issues related to Article 2

V. Lack of measures to prevent torture

26. The issues described above have not been adequately addressed by State authorities. There is a lack of an effective legislative, administrative, judicial or other system to prevent acts of torture in social care facilities and psychiatric hospitals. Whereas Bulgaria is currently implementing deinstitutionalisation plans, as described above, in reality the national strategy is based on building numerous smaller

¹³ The report is available at: [https://www.ombudsman.bg/pictures/file/Annual%20Report%20NPM%202019%20\(1\).pdf](https://www.ombudsman.bg/pictures/file/Annual%20Report%20NPM%202019%20(1).pdf), p. 39- 41. (accessed on 19 June 2020).

institutions across the country. We are concerned that this will mean that torture and other forms of ill-treatment will flourish in the new facilities and will likely remain undetected.

27. There are hundreds of group homes across Bulgaria. There is no comprehensive public list of all such facilities. If somebody wants to know where they are located, they must check the websites of all 265 municipalities in the country.
28. According to information available about official plans to build more group homes with EU funding, many will be constructed in remote areas, some of them within or in close proximity to the former large-scale institutions. In some cases, the former institution will be transformed into new group homes. In some cases, hundreds of people will be relocated in clusters of small institutions – group homes which will be isolated all together from the rest of the society.
29. Small group homes are not considered as places of detention by the State, even though most of them have strict regimes and are isolated, depriving residents of free movement and any personal choice. Some residents have complained that the new smaller institutions are even more restrictive than the former large-scale institutions. The lack of recognition of the closed character of these facilities and the false pretention that they are “based into the community” leads to the lack of any legislative administrative, judicial or other systems in place to prevent acts of torture.
30. In 2019, the NPM visited group homes only in one Municipality. The NPM has no plans to visit any group homes during 2020.

Proposed questions to the State:

- What measures does the State intend to take to stop the process of transinstitutionalisation of persons with disabilities? When will all group homes be deinstitutionalised?
- What measures are being taken and will be taken to prevent torture and other forms of ill-treatment group homes?

VI. The situation in the group homes and the institutions during COVID-19 crisis

31. Visits to all types of social care services have been prohibited as a result of the COVID-19 crisis. It has also been reported that persons placed in such facilities are prohibited from going outside.¹⁴ This situation creates a huge risk of enormous increasing violence in institutions and group homes, both between residents and from staff to residents. During the period of lockdown, there appear to be no systems in place to document, report or investigate cases of violence, torture or other forms of ill-treatment.

Proposed questions to the State:

- How does the State ensure protection from torture and ill-treatment in institutions and group homes during the COVID-19 crisis? Specifically, how is independent monitoring guaranteed?
- What reasonable accommodation are in place for children and adults in institutions and group homes, to enable them to freely communicate with the outside world? Do residents have access to internet, personal phones, education, social medias, etc?

Issues related to Article 4

¹⁴ We did not find any official order which prohibits people from the group homes to go outside. At the same time, we received information about numerous complaints regarding such prohibitions. The managers of group homes and/or Municipalities have the power to issue such orders without publication. This means that the people in the group homes may stay confined without it being acknowledged publicly.

VII. Violence in social care facilities and psychiatric hospitals are not considered as a crime

32. There are no specific rules in the Criminal Code which recognise violence and torture against a person with disabilities as a specific crime. This means that the victims may seek justice only using general rules, which may not be useful in their specific situation.

Proposed question to the State:

- Does the State have any intention to amend the criminal law and to criminalise violence in the psychiatric hospitals and social care institutions (including group homes)?

VIII. Domestic violence, including domestic violence against people with disabilities is not specifically recognised

33. Additionally, violence between people who are living together in group home settings is not recognised as a form of domestic violence. People placed in any type of “family-type” centers for care have no relatives as rule, so in a case of violence, the victim has no right to use the civil law for protection from domestic violence.

Proposed question to the State:

- How will the State ensure that persons with disabilities are adequately protected from domestic violence?

Issues related to Article 10

IX. Information regarding the prohibition against torture is not included in the training of law enforcement personnel, civil or military, medical personnel, public officials or for other persons involved in the provision of social care and in the provision of psychiatric care.

34. This situation poses substantial risks. On one hand, persons involved in provision of care may not recognise their own practices as potentially perpetrating torture, inhuman or degrading treatment. The practices related social services and mental health care have never been reviewed from this point view.
35. The lack of training also means that persons working in these systems may not recognise the fact residents of such facilities may have been through instances of torture or other forms of ill-treatment. For instance, the closure of infamously abusive institutions for children, Mogilino and Krushari, never resulted in any recognition of the former residents’ experiences of torture; they were denied genuine access to justice and never received any compensation. Also, the children from Djurkovo who died during the winter of 1997 never received any acknowledgement.¹⁵
36. Persons who may have experienced torture are frequently placed in psychiatric facilities to be treated medically, but the lack of knowledge and recognition of the torture means that many victims are never consulted, offered psychological help or given the opportunity to seek justice.
37. The lack of information and the lack of training leads to poor results when State authorities try to investigate a cases of violence, abuses and torture in social care institutions (including group homes and day care services), and those which take place in psychiatric hospitals. As an example: After the DRI report, representatives of the Agency for Social Assistance made their own investigation in some of the

¹⁵ *Nencheva and Others v. Bulgaria* (App No. 48609/2006) ECHR 18 June 2013.

places. They observed the same facts, but their conclusions were the opposite. Generally, their conclusion was that the methodology for management of the group homes was strictly followed by the personnel, not putting into question the whole system of care for children which creates conditions for abuses and the methodology itself which also creates such conditions. The same happened with a report related to serious suspicions based on concrete observations that a girl from a group home was a victim of sexual abuse.¹⁶

Proposed question to the State:

- What measures has the State taken and what measures will it take to ensure that all professionals dealing with people with disabilities are properly informed and educated about the prohibition on torture, inhuman and degrading treatment and punishment, ensuring that they know how to recognise such treatment, how to stop such acts and how to support victims in their process of recovery and rehabilitation?

Issues related to Article 14

X. The legal system in Bulgaria denies access to justice for victims of torture with disabilities

38. There are numerous barriers to accessing justice for adults and children with disabilities in Bulgaria who have been victims of torture or other forms of ill-treatment:

- a. Where the victim is a child placed in a group home, they generally lack contact with any adults independent of the institution who can represent the child in justice processes. The case of violence described at the Chrysanthemum group home in Gabrovo, described above, shows this problem vividly. Although there were investigations by both the Equality Body and the police, the child victims never took part and were not represented in any of the proceedings. To date, they have received no compensation or rehabilitation. In fact, it is believed that the children were instead treated with higher doses of psychiatric drugs. The same is the situation in the town of Lovech and elsewhere, and the situation is able to continue as children lack any independent access to the courts.
 - Where the victim is placed under guardianship, the guardian is the person who has the power to decide whether or not to initiate a case for abuse. In many cases, there is a conflict of interest, particularly where the guardian – who might, in some cases, be the director of an institution – is also the perpetrator. The authors are also aware that directors of some institutions may be unwilling to step in for fear that they may be subjected to sanctions. In such cases, access to justice is impossible for the victim.
 - Where the victim lives in isolated conditions and/or lacks access to transport, there is no possibility to access the courts.
 - Where the victim has an intellectual or psychosocial disability, information is not made accessible.
 - There is also a lack of lawyers trained to represent persons with disabilities and some restrictions related to accessing legal aid.

Proposed question to the State:

- What steps will the State take to enhance access to justice for victims of torture?

XI. Lack of protection against sexual abuse and trafficking and no proper investigation

¹⁶ There is correspondence with the authorities kept by the Validity's legal monitor in Bulgaria.

39. Access to justice for victims of sexual abuse and/or trafficking, typically women, is frequently denied, with minimal medical services being made available. There is a systemic problem. Complaints must be pursued within one month of the criminal act, however no adjustments are made for women who have experienced serious trauma or who may currently be in a period of crisis, denying them the possibility of seeking justice.

Proposed question to the State:

- Does the State plan to revise legislation related to violence (including sexual abuse and domestic violence) and trafficking to provide reasonable accommodations for victims of torture with disabilities? How will the State take into account the specific needs of different groups of persons with disabilities to ensure procedural and practical possibilities for complaining, taking part in procedures and secure genuine access to justice?

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