



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

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

Addendum

**Information received from Bulgaria on follow-up to the
concluding observations***

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* The present document is being issued without formal editing.



Information about the measures taken by the Republic of Bulgaria on the follow-up procedure under paras. 12 (b), (d), (e) and (f); 18; 20; and 24 (b), (c), (d) and (e) of the concluding observations adopted by the Committee against Torture at its 1607th meeting

Information referred to in paragraph 12 (b)

1. Under Art. 6 from the Ordinance No 81213-418/14.03.2017 for the order of use of physical force and auxiliary devices by the Ministry of Interior (MoI) officers, the use of physical force and auxiliary devices shall be determined following the specific situation, the nature of the public order disturbance and the personality of the perpetrator. The police authorities use physical force and auxiliary devices in the case under the MoI Act, only when this is absolutely necessary and all measures are taken for the protection of life and health of the persons against whom they are used. In the cases when physical force and auxiliary devices have been used, the person who used them and/or the official who ordered their use prepares a written report.

2. In August 2018 with an Order of the Minister of Interior, new Methodological guidelines for the use of physical force, different kinds of auxiliary devices, technical characteristics and safety rules for their use and storage by the MoI authorities were adopted.

3. The Guidelines state explicitly that physical force and auxiliary devices are only used in the case listed in the law, strictly following the criteria of “absolute necessity” and in compliance with the European standards for human rights, physical and psychological inviolability of the person, and non-discrimination. The document lists the cases when physical force and different auxiliary devices can be used: defence methods; handcuffs; electroshock weapons; chemical substances; service animals; blank cartridges; water cannons, armoured vehicles, etc.

4. There is a detailed description accompanied with illustration of the different kinds of defence methods and the technical characteristics of the auxiliary devices, their correct use and their impact on the human body. This is done with a view of using them only after careful consideration and of achieving the aim with minimum devices, proportionate to the threat and in guaranteeing the life and health of the persons involved.

Information referred to in paragraph 12 (d)

5. Under Art. 194 of the Penal Code, the investigation in cases for crimes committed by officers/civil servants of MoI is conducted by investigators – judicial authorities which are completely independent of the police authorities.

6. Internal Security Directorate (ISD) is a unit within MoI which is directly subordinated to the Minister of Interior. One of its main competences is the prevention, counteraction and detection of crimes committed by MoI employees. In 2017, ISD received 49 signals with information about physical violence committed by MoI officers. Six of those signals were submitted directly by citizens and 43 of the signals were from the competent prosecutor’s offices in the country. The work on 18 of the signals has been completed and the results have been reported to the respective prosecutor’s offices. Two pre-trial proceedings have been initiated.

7. In 2018, ISD has received 113 signals, out of which 11 are by citizens or are referrals from other institutions and 102 are sent from the competent prosecutor’s offices. A total of 64 of them have been completed and the results have been reported to the respective prosecutor’s offices. Pre-trial proceedings have been initiated on 5 cases.

8. Amendments the Rules for Structure and Activities of MoI from April 2018 give ISD the right to organize and conduct assessments of the officers/civil servants with a view of prevention and/or detection of corruption activities and intent or unlawful behaviour. The assessments conducted without previous notifications of the units.

9. The Inspectorate Directorate of MoI exercises administrative control over the work of the MoI employees and it is also directly subordinated to the Minister of Interior. It performs check under the Administrative Procedure Code of the signals received in MoI for unlawful activities by MoI employees on management positions from certain hierarchical levels and it controls the overall process of performing checks within MoI, including for police violence.

10. When a disciplinary violation has been identified, disciplinary punishments are enforced. In the cases when a crime of general nature has been committed, the information is sent to the competent prosecutor's office. Since the beginning of 2018, the Inspectorate Directorate has issued opinions on 39 signals with claims for police violence and 11 of them have been sent to the prosecutor's office.

Information referred to in paragraph 12 (e)

11. Under Art. 214, Para. 1 of the MoI Act an officer of MoI can be temporarily suspended from his/her position with a written order when a disciplinary proceedings against him/her have been initiated for a serious violation of the work discipline and his/her position would be an obstacle in establishing the objective truth. In 2017, this measure was implemented in three cases. In 2018, so far, this measure has not been implemented.

Information referred to in paragraph 12 (f)

12. Electronic recording (audio and video) of police interrogation is an important additional guarantee against abuse of detainees. It further reduces the risk of subsequently denying the confessions made. Additional assessment of good practices is underway, which will lead to amendments to the Penal Procedure Code, allowing for the introduction of video and audio recording of interrogations in detention centres compliant with the world's best standards.

Information referred to in paragraph 18

13. The Prosecutor's Office has conducted 187 inspections and pre-trial proceedings in relation to 243 reported cases of child deaths in specialized institutions. All of them have been concluded and have established that there is insufficient evidence of intentional or negligent criminal activity that has led to the death of children. In the course of these inspections, inhuman treatment of children by staff in specialized institutions has not been proven. All pre-trial proceedings were monitored and verified by the Supreme Cassation Prosecutor's Office. Investigations were conducted objectively and thoroughly to clarify the causes of death in each individual case.

14. It should be noted that all cases have happened more than 15 years ago. In order to overcome the gaps in the then existing legal provisions for establishing the causes of death in children placed in specialized institutions, in 2010 amendments were made to the Ordinance on Criteria and Standards for Social Services for Children and the Law on Health. As a result of the introduced legislative changes, a legal obligation was introduced to notify the child's relatives/custodians/guardians and the competent authorities, as well as to keep mandatory clear and traceable documentation in the event of death, and to conduct regular inspections by the control bodies.

Information referred to in paragraph 20

15. In 2011, the UN Sub-Committee on Accreditation assessed the Ombudsman Act and the Ombudsman's Statute and Organization Rules and accredited the institution with status B. Since 2016, the national Ombudsman has begun a procedure for raising his status, with a view of improving the mechanisms for protection of the rights and freedoms of Bulgarian citizens.

16. The Ombudsman proposed specific changes to the national legislation, in order to respond to the recommendations of the report of the UN Sub-Committee on Accreditation. During a meeting of the National Coordination Mechanism for Human Rights on 31 October 2016, a decision was taken to support the Ombudsman's initiative to apply for status A, with proposals for amendments to the Ombudsman Act and the Rules of

Procedure. The proposed amendments were submitted to the Council of Ministers with a joint report by the Minister of Justice and the Minister of Foreign Affairs.

17. The Council of Ministers approved the proposals and submitted them to the National Assembly. On 22 February 2018, the Parliament promulgated the amendments in the Ombudsman Act.

18. With the adoption of the proposed amendments to the Ombudsman Act, the Ombudsman will be able to work in accordance with the highest human rights standards, to ensure effective protection of the rights of Bulgarian citizens, including against violations in the private sector, and to observe and promote the compliance with international instruments for the protection of human rights within the UN. The introduction of clear and transparent rules for appointment and the guarantee of pluralism in the institution will further contribute to a better level of protection of human rights and fundamental freedoms. With these amendments, the Ombudsman is notified every time when drafting legislation that affects his/her powers as a National Preventive Mechanism (NPM).

19. The Ombudsman has sent information on the progress achieved since 2011 to the UN Sub-committee on Accreditation and is currently undergoing a re-accreditation procedure.

20. As NPM, the Ombudsman carries out regular and unannounced visits to detention facilities, special centres for the temporary accommodation of foreigners, juvenile reformatories and all similar institutions, and examines complaints by persons placed or detained there. Unannounced visits are made without prior notice, at the Ombudsman's discretion. The authorized members of the team of the Ombudsman verify the treatment of persons, protection measures, material conditions, access to medical care, contacts with the outside world, administration and financing of detention facilities, as well as other conditions and circumstances related to the prevention of torture and other forms of cruel, inhuman or degrading treatment of the accommodated persons.

Information referred to in paragraph 24 (b)

21. The State Agency for Refugees (SAR) and the Social Assistance Agency have daily contacts in solving cases of unaccompanied children in international protection procedure for their placement in social services. According to the Asylum and Refugee Act, unaccompanied minors and other minor foreigners are placed until their majority with family and relatives, foster families, specialized institutions and other places designated for minors. In the Reception and Registration Centre in Sofia, there is a protected zone for unaccompanied minors with a separate entrance and security. The Reception centre in Banya has been designated for unaccompanied children and women with children. Forced accommodation is not applied with regard to unaccompanied minors and underage persons.

22. In the registration and reception centres of the SAR information materials are provided for unaccompanied children, translated into spoken languages. Animated movies are projected in the daily centres giving information for the possibilities for protection and the National Telephone Line for Children – 116111. All unaccompanied children have the right to freely express opinions on matters of their interest. Their opinion is taken into account when determining the best interest of the child. A responsible social expert, a social worker from the Child Protection Department and a representative from the municipality are assigned to each child placed in the centres of the SAR, who support, advise, consult, and, if necessary, accompany the child to health institutions.

23. Up to the end of October 2018, the directorates for Social Support have received 98 signals for identification as unaccompanied or accompanied underage persons at risk who need special measures for protection under the Child Protection Act.

Information referred to in paragraph 24 (c)

24. The protection of fundamental human rights is a leading principle for the Bulgarian police and border guards. Preventing cases of violations of fundamental human rights is priority. Bulgaria does not tolerate cases of abuse and violence against persons crossing the border. Every signal containing sufficient information is verified and investigated in due

course. In order to regulate all applicable tactical actions of the police officers and officers performing tasks related to protection of the state border, an initial instructing (briefing) is performed to get them acquainted with the situation along the border and with the main provisions of the Handbook on fundamental rights prepared by the Frontex Agency. During the daily instructions of the officers deployed at the border, the instructing officers pay special attention to the strict observation of the legislation in the area of border control and the protection of fundamental rights, the procedures for applying for protection pursuant to the Asylum and Refugees Act, and the rules and procedures for use of weapons, auxiliary devices and physical force. There is special focus on the prevention of humiliating behaviour towards foreign nationals, violation of their fundamental rights and illegal taking of their personal belongings. A series of specific methodological guidance and interpretation documents, related to observing the said measures, were sent to the units at the border and their implementation is monitored and controlled daily by high-ranking officers.

25. It should be also noted that using the air component in border surveillance officers from the General Directorate Border Police have repeatedly taken part in rescue operations of foreign nationals who have signalled emergency on telephone number 112. Recurring are the cases in which Emergency Aid teams provide medical assistance to foreign nationals, and cases (especially at the onset of the crises) in which police officers paying with their own means supplied food, water, medication and sanitary materials for the detained foreign nationals.

Information referred to in paragraphs 24 (d) and (e)

26. At present, MoI has budget funds for translation and also a list translators from/into rare languages whose services can be used on site if necessary. In the last months of 2018, online translations and legal consultations are also provided with the support of the Bulgarian Helsinki Committee. In October 2018, Migration Directorate signed a contract for translation services from Arabic, Dhari/Persian, Kurdish, Urdu and Pashtu and the resources for it are provided under the Refugee, Migration and Integration Fund in relation to the forced return of illegally staying third country nationals.

27. The identification process is done at the earliest possible stage of the procedure the SAR's and MoI's experts (physicians, psychologists, social workers and interviewers. An electronic registry for immediate registration of persons with special needs, vulnerable and unaccompanied minors is put into operation. A mechanism for accelerated transfer of foreigners from the vulnerable groups to the SAR has been established.

28. Any information related to the vulnerability of a person is enclosed in the file of the asylum seeker/person in need of international protection. Social consultation and referral to medical and/or psychological help is available for all. Every territorial division of the MoI and the SAR has medical personnel providing adequate help. All psychologists use a Questionnaire for early identification of asylum seekers who have gone through traumatic experiences. This tool provides an opportunity to determine the specific needs of the vulnerable persons. After a professional psychological assessment, additional consultations or psychotherapy may be provided if necessary.

29. Since 2008, the SAR is implementing Standard Operating Procedures for individuals who have gone through sexual or gender-based violence. They were updated in 2018.
