

RE-SOCIALISATION OF OFFENDERS IN THE EU: ENHANCING THE ROLE OF THE CIVIL SOCIETY (RE-SOC)

Workstream 3: Vulnerable groups of inmates

COUNTRY REPORT – BULGARIA

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Contents

1. Foreign national prisoners	3
2. Ethnic and religious minorities	6
3. Drug-addicted prisoners	8
4. Female prisoners and mothers	11
5. Juveniles	12
6. Prisoners with disabilities or special healthcare needs	14
7. Prisoners with mental health care need	15
8. LGBT prisoners	16
9. Older prisoners	18
10. Prisoners with terminal illness.....	21
11. Prisoners under life sentence	22
12. Inmates with self-harm and suicide risk	24
13. Sex offenders.....	26

1. Foreign national prisoners

Foreign national prisoners, or those who are citizens of a country different than Bulgaria, are particularly vulnerable in prisons as they are subject to a number of disadvantages coming from their foreign background. As of 1 September 2013, the number of foreign inmates in Bulgarian prisons was 252. Their number varied during the period of ten years (2003-2013) ranging between 165 and 262 persons.¹

Special needs:

- The **lack of knowledge of the Bulgarian language** provokes many problems related to language barrier in the legal process and isolation during the prison stay. In Bulgarian prisons, foreign inmates are allocated into separate cells or sectors, depending on availability of both free space and the number of the foreigners. Being of different origin, communication between inmates themselves and with the prison personnel is troubled, which obstructs even the daily processes. The authorities are forced by law to inform the inmates upon their reception about: the right to meet a representative of the diplomatic mission of their country; the right to use legal aid; the conditions, under which they can be transferred to their country; the internal prison rules and their obligations. Upon request such information can be provided in written form. For the rest of the information no translation is provided. Those who have any knowledge of Bulgarian usually provide assistance to those who do not.
- Foreign nationals **lack adequate knowledge and understanding of the Bulgarian legal system**. Besides the language barrier this is the other factor, which hampers the access to legal counsel on an equal basis with the other prisoners. Although no data is available, foreigners are less likely to use the opportunity to appeal internal prison acts such as a punishment in disciplinary cell, etc. Moreover, although authorities are obliged by law to give explanations in understandable language, practically this rarely happens. Human rights organisations report about foreign nationals in Bulgarian prisons who are not aware of the grounds for their sentence. As an example, in April 2013, about 40 foreigners in the Sofia

¹ Letter from the Bulgarian Ministry of Justice to the Center for the Study of Democracy, 08-00-14/05.08.2014.

prison announced a hunger strike protesting against their sentences.² These are all nationals of African and Middle East countries sentenced conditionally for illegally crossing the Bulgarian border. When they were arrested they were trying to leave Bulgaria, which was in fact their second offence and their first sentence became effective. The Bulgarian Helsinki Committee reports that many of these persons are subject to prosecution in their countries, which means that they have qualify for asylum in Bulgaria. The lack of understandable information on the issue is one of the reasons for them being in prison.

- **Isolation from families** and communities as well as from other prisoners has harmful effect on their mental condition of foreign inmates.
- Many foreign national inmates experience serious **differences in terms of culture and religion**. In principle, they are free to exercise any religion they prefer unless it contradicts the prison rules. However, in Bulgarian prisons, only representatives of religious denominations, which are officially registered, have access to the inmates. There is no information that any other cultural and religious differences are actually observed, as, for example, specialised menu during the fasting.
- **Status problems related to the offence** are also observed. There are two types of problems related to the legal stay of foreigners in Bulgaria:
 - The first problem concerns the time before the offence. In Bulgaria, illegal crossing of the national border is a criminal offence, for which foreigners are often sentenced conditionally (suspended sentence). This concerns mainly asylum seekers. If such a person commits a second offence, usually a less serious one, they are automatically sentenced to effective imprisonment.
 - The second problem is that being sentenced for a crime punishable by more than one year of imprisonment is a valid reason for the authorities to deny further visa/entry in Bulgaria.

² 37 чужденци са в гладна стачка в Софийския централен затвор [37 foreigners are in a hunger strike in the Sofia central prison], in: Vesti.bg, 26.04.2013, available at: <http://www.vesti.bg/bulgaria/obshtestvo/37-chuzhdenci-v-gladna-stachka-v-sofijski-centralen-zatvor-5724591>.

- Cases of **discrimination** are quite common among inmates belonging to ethnic minorities. Although no research has been done on the issue of discrimination experience of foreign nationals, this group of inmates is usually particularly vulnerable to physical and verbal abuse by prison staff and by other inmates, discriminative search, accommodation, and disciplinary sanctions not taking into account their culture and religion. The Bulgarian Helsinki Committee reports about numerous complaints by foreign nationals for lack of equal treatment in the conditions of parole as well as discriminatory disciplinary sanctions imposed to them due to poor knowledge of Bulgarian. Foreign nationals have unequal access to legal aid in disciplinary proceedings.³ In Bulgarian prisons, foreign citizens have no equal access to education due to the language barrier.

In June 2012, five foreign nationals in the Sofia prison declared a hunger strike due to the lack of clear rules for conditional early release, which they regarded as discriminatory treatment of the foreign nationals.

In 2013, the National Preventive Mechanism operated by the Ombudsman, reported about an excessive use of force against foreign inmates.⁴

The legislation provides for certain rules aimed to neutralise the disadvantages of foreign nationals. Some of them are:

- The Minister of Justice specifies the prison, in which foreign nationals are placed. As the principle of allocation to the closest prison facility to the inmates' permanent address often cannot be applied, this provision is designed to avoid discriminatory practices.
- As to the language barrier, upon admission to prison, foreign nationals must be informed in a language they understand about certain rights:

³ Bulgarian Helsinki Committee, Human Rights 2012: Annual Report, Sofia, 2013, available at: <http://humanrightsbulgaria.wordpress.com/%D0%B7%D0%B0%D1%82%D0%B2%D0%BE%D1%80%D0%B8-%D0%B8-%D0%B0%D1%80%D0%B5%D1%81%D1%82%D0%B8/>.

⁴ Annual Report of the Ombudsman of the Republic of Bulgaria as a National Preventive Mechanism 2013, Sofia, 2013, available at: <http://www.ombudsman.bg/documents/prevantiven%20mehanizam%202014.pdf>.

- The right to meet a representative of their country's diplomatic mission or consular;
- The right to use legal aid and protection from their country's diplomatic mission or consular;
- The conditions, under which they can be transferred to their home country, and the competent organs.
- The prison administration should inform the Ministry of Foreign Affairs upon the reception in prison of foreign citizens.

Besides these, there are no other special provisions for foreign inmates as regards to healthcare, social services, work and education. Cultural, religious, and social activities can be provided to foreign citizens upon initiative of non-government or religious organisations, which is not a common practice and rarely happens.

As part of the social activities in prison, foreign nationals attend Bulgarian language courses.

2. Ethnic and religious minorities

The two biggest ethnic and religious minorities in Bulgaria are the Turks and the Roma. As the prison authorities do not collect data on ethnic origin or religion, official data on the number of inmates belonging to these groups is not available. The Center for the Study of Democracy did a survey on Roma crime rate in 2005⁵. The results showed that in 2002, in 10 out of the 12 prisons in Bulgaria (excluding Sofia and Plovdiv) between 38 and 40 per cent of the inmates self-identified themselves as Roma. According to estimations by prison staff, between 60 and 80 per cent of the prisoners are Roma. There are trends, observed also in the Census, that Roma often identify themselves as Turks or Bulgarians. Based on these figures combined with some additional calculations, the study concludes that the average annual number of Roma prisoners ranges between 3,000 – 5,000 people out of a total number close to 10,000.

⁵ Безлов, Т, Ромите и престъпността: полицейска статистика и реалности [Bezlov, T., Roma and criminality: police statistics and realities], in: Capital Weekly, Sofia, 2007, available at: http://www.capital.bg/blogove/pravo/2007/03/26/322284_romite_i_prestupnostta_policeiska_statistika_i/.

Special needs usually faced by religious and ethnic minorities in prison are:

- **Access to justice.** Some representatives of minority ethnic groups often face language problems due to their poor knowledge of Bulgarian. These problems hamper their access to justice similarly to the cases of foreign nationals. The generally lower level of education among some ethnic minorities results in their poorer understanding of the legal system.
- **Discrimination.** The most visible manifestation of discrimination is the segregation in accommodation. Roma inmates are often placed in more crowded cells with poorer living conditions. Discrimination might be the reason for the imposition of more severe disciplinary punishments on members of minority groups. It could also be assumed that disciplinary violations committed by members of minority groups sometimes result from their poor understanding of the prison rules.
- **Religious barriers.** Inmates are free to practice their religion as far as this does not contradict the internal rules. By law, the followers of all religions have equal rights. In that sense, no special assistance is provided to those practicing different religions. There is no information about accidents with security checks and searches, which contradict prisoners' religious beliefs.

Ethnic minorities and specifically Roma inmates take advantage of the educational programmes in prison. This is a chance to compensate for their poor knowledge of Bulgarian and some other educational gaps. As statistics of the ethnic origin of inmates is not officially collected, it is difficult to identify the share of minorities' representatives taking advantage of the educational system. The education system in prisons is not, however, specifically adapted to fit ethnic minorities' needs.

As regards to medical care and social activities, no special practices have been utilised to meet the special needs of this group.

As of 2013, the religious support to the prisoners was in the form of celebration of major Christian holidays, religious discussions, liturgies and blessings to which convicts are interested. The Evangelical Church, the Catholic Church and the Bulgarian Church of God also provide religious services for the convicts. The Muslim prisoners have their religious needs served by

Mufti. The Ministry of Justice report for 2013⁶ concludes that generally all prisoners are provided with opportunities to practice their religion in prison. Non-governmental organisations have not reported about limitations of that right. As part of the social and correctional activities, inmates of religious minorities have the opportunity to attend a special course “Alpha”, which introduce them to basic Christian values.

3. Drug-addicted prisoners

The Bulgarian penal system incriminates the possession of drugs for personal use, therefore many drug-addicted persons can be found in Bulgarian prisons. The penal system does not provide for alternatives to imprisonment for offenders with addiction, such as treatment in specialised institutions outside prisons. Due to the close links between substance abuse and crime, the effective treatment of drug addiction is considered vital to help prevent re-offending.

The Council of Europe prison statistics for Bulgaria report about a total of three deaths in 2010 caused by drug/alcohol intoxication.⁷ **Prison administration usually denies the fact that drugs are available within prison facilities**, although inmates in private conversations with non-governmental organisations admit about drug use in prisons. On that grounds, organisations doing harm reduction by providing sterile needles and syringes to drug users do not have access to prisons.

The National Preventive Mechanism reports that a significant number of inmates in the Burgas prison are addicted to drugs. Prison administration admits that ‘only in the last few years there are about 100 newly discovered addictions’.⁸ The Mechanism reports about a significant number of drug addicts in the Varna prison as well – about 50 inmates on each floor of the three-story

⁶ Ministry of Justice, Report on the level of implementation of approved policies and programmes of the Ministry of Justice for the period from 01.01.2013 to 31.12.2013, Sofia, February 2014, pp. 72-73.

⁷ Aebi, M. and N. Delgrande, Council of Europe Annual Penal Statistics (Space I), University of Lausanne, 2013, p. 134.

⁸ Annual Report of the Ombudsman of the Republic of Bulgaria as a National Preventive Mechanism 2013, Sofia, 2013, available at: <http://www.ombudsman.bg/documents/prevantiven%20mehanizam%202014.pdf>.

building, or at least 150 persons. A survey conducted by the National Narcotics Centre in 2013 among 2,816 prisoners from all prisons in Bulgaria shows that between mid-2012 and mid-2013 17% of the prisoners have used marijuana, 10.2% have used amphetamine, and 9.2% have used heroine. In 2013, a total of 404 inmates have sought drug addiction treatment in the medical centres in 11 of a total of 12 prisons.⁹ In June 2014, the National Focal Point on Drugs and Drug Addictions reported about 2,100 drug users in Bulgarian prisons as of December 2013.¹⁰

According to the law, drug-addicted offenders can be treated in prison hospitals inside psychiatric units. These are usually units lacking enough motivated and qualified personnel. Those inmates, who have traces of addiction found during the initial tests upon their arrival in prison, are placed under the observation of the prison psychiatrist. The psychiatrist together with a social worker decides about the programme for dependency treatment to be applied. The differentiation between drug addicts and inmates with mental diseases is not practically clear. Inmates who are tested and proven to have used drugs while in prison receive disciplinary punishment. The National Prevention Mechanism reports that inmates in the Burgas prison who refuse to undergo drug tests have been punished by the same sanction as if their drug test was positive. Formally, in order to avoid accusation of violating prisoners' rights, the sanction is reasoned as 'refusal of cooperation'.

The Bulgarian legislation allows for the court to rule compulsory treatment of drug or alcohol dependency in prison. Such inmates are placed in the prison of Lovech – the only penitentiary facility in the country with a specialised psychiatric clinic. Others, who voluntarily express their will to do so, can also be placed under addiction treatment in the same facility. The number of those is, however, negligible.

The Ministry of Justice reports that in 2013 a total of seven social rehabilitation programmes for drug addicts covering 82 inmates have been implemented in Bulgarian prisons. These programmes were short-term ones (20 sessions within 4 weeks; the other option is mid-term

⁹ National Narcotics Centre, Annual Report of the National Narcotics Centre 2013, Sofia, 2014, available at: http://www.ncn-bg.org/docs/Report_NCN_2013.pdf.

¹⁰ Швейцарци ще ни помагат да борим дрогата и СПИН-а в затворите [Swiss will help us fight drugs and AIDS in prisons], in: Blitz.bg, Sofia, 2014, available at: <http://www.blitz.bg/news/article/275836>.

programme of 36 sessions) due to the workload of the social workers and the psychologists in prisons as well as due to the specific requirements for their implementation.¹¹ There is no evaluation of the effectiveness of these programmes, thus their effect remains unknown.

In the Bobov Dol prison, drug-addicts are put on special diets together with the persons with chronic diseases. This is an indication of the ignorance on the part of the medical staff about the special needs of addicts.

Special needs:

- **Healthcare.** It is beyond doubt that drug users in prison need special treatment. On the other hand, this group is particularly vulnerable to the spread of blood-transmitted diseases such as HIV/AIDS, hepatitis, etc. In the prison regulations, prisoners with drug addictions are treated similarly to prisoners with suicidal tendencies. Prisoners with addictions or suicidal tendencies are placed under the supervision of the psychiatrist and the psychologist inspector. There are specialised treatment programmes, but there is no publicly available information about the nature of these programmes. Prison hospital directors are in charge of the overall supply of medications in prisons. Narcotic drugs or medications with narcotic effect are provided to those in need only within the prescribed daily dose. This rule also applies to methadone treatment of drug-addicted inmates. Substitute treatment is available in prisons and is provided by the state via the National Narcotics Centre. Prescribed daily doses of drug substitutes are transported to the prisons' medical centres and distributed there. Substitution programmes are also available within the framework of NGO projects. These projects usually combine drug substitution with psychological and harm-reduction methodologies, however, due to their fixed period of implementation, they are not sustainable.
- **Prison programmes.** In its 2013 report, the National Preventive Mechanism reports that there is a specific problem with addicts in prisons and this is the lack of long-term treatment programmes for their rehabilitation and socialisation. The existing programmes are provided either by private entities or by non-governmental organisations. They are very expensive and

¹¹ Ministry of Justice, Report on the level of implementation of approved policies and programmes of the Ministry of Justice for the period from 01.01.2013 to 31.12.2013, Sofia, February 2014, pp. 72-73.

therefore inaccessible to the majority of patients. The healing process is often compromised by the lack of mechanisms for socialisation of patients with drug and other addictions.¹²

4. Female prisoners and mothers

Female prisoners are placed in separate facilities. In Bulgaria, the only prison facility for women, which includes also a reformatory for juvenile female offenders and two open-type prison dormitories, is located in the town of Sliven in Central Bulgaria. As of 1 January 2012, 329 female prisoners were serving their sentence there, including eight foreigners and one juvenile under 18 years old.¹³

Special needs:

- In terms of special needs related to pregnancy and birth giving, the prison rules of the prison in Sliven envisage a number of lightened conditions for pregnant women or nursing mothers:
 - Pregnant women and nursing mothers, who are serving their sentence under high security regime, are placed on medium security regime for the duration of their pregnancy and/or nursing;
 - Female prisoners have the right to use a leave in cases of pregnancy and childbirth. The duration of the leave is equal to the paid leave of regular employees and counts as working days;
 - Pregnant women and nursing mothers are undergoing regular medical control. There is no special monitoring of the quality of this control, but it is well known that inmates receive medical care of lower quality than the other citizens.

¹² Annual Report of the Ombudsman of the Republic of Bulgaria as a National Preventive Mechanism 2013, Sofia, 2013, available at: <http://www.ombudsman.bg/documents/prevantiven%20mehanizam%202014.pdf>.

¹³ Aebi, M. and N. Delgrande, Council of Europe Annual Penal Statistics (Space I), University of Lausanne, 2013, p. 80.

- Pregnant women and mothers receive additional amount of food enhanced by special schedule during the pregnancy and ten months after birth;
 - After the pregnancy is registered by a medical professional, pregnant women are transferred to suitable work and moved in well furnished cells, which meet the applicable hygiene requirements;
 - Pregnant women and nursing mothers cannot be engaged in hard physical activities and night work. Overtime is not allowed to pregnant women as well.
 - Pregnant and nursing women have the right to stay in open areas for at least two hours per day and one hour during the winter. The National Preventive Mechanism reports about a repeating problem with the stay in open air in detention facilities. There is no data about violations of the rights of pregnant women.
- Childcare
 - The children of imprisoned women of up to one year of age can stay with their mothers in the nursery of the prison or reformatory;
 - There is a legal opportunity for imprisonment to be suspended so that the inmate who gave birth during the serving of her sentence could grow her child at home until it becomes one year old.

The female prison in Sliven is one of the well functioning prison facilities in Bulgaria. It does not share the common problem of overcrowding and has a relatively good level of hygiene.¹⁴ There are no irregularities reported in relation to the treatment of female inmates in vulnerable position.

5. Juveniles

The prison legislation has special focus on juvenile prisoners. According to the law, juvenile offenders are placed in reformatories and the boys are separated from the girls. Their stay in

¹⁴ Annual Report of the Ombudsman of the Republic of Bulgaria as a National Preventive Mechanism 2012, Sofia, 2012, available at: <http://www.ombudsman.bg/documents/Report%20NPM%202012.pdf>.

prison is aimed primarily at their rehabilitation and preparation for the life after prison, rather than at their punishment. Juveniles have some additional rights including: as much contact with the outside environment as possible, extra stay in open space, more intensive visits by relatives, non-governmental organisations, etc., additional visits of cultural events, tourist walks, etc. As regards to security measures, disciplinary sanctions for minors are lighter, and the use of weapons against them is limited to the cases of guards responding to an armed attack.

The capacity of institutions for juvenile offenders is 296 people. In 2011, there were a total of 60 inmates younger than 18 years and 336 at the age of between 18 and 21. A total of 89 juveniles were placed in custodial institutions/reformatories.¹⁵ As of 1 September 2013, a total of 47 youngsters under 18 years of age were accommodated in reformatories.

Official statistics show that in 2012 a total of 11 460 youngsters of between 8 and 17 years have been under the supervision of the boards for control of juvenile anti-social behaviour.

Under the *Law on Execution of Penalties and Detention in Custody*, juvenile offenders, similarly to female prisoners, are entitled to specific medical care corresponding to their specific needs and condition. However, the respective secondary legislation, namely *Ordinance No 2 of 22 March 2010 on the conditions and procedures for medical services in places of deprivation of liberty*, does not provide for any specific measures for juveniles or any differentiated approach in the provision of medical services. Female juveniles do receive specific health services, as they are physically placed in or close to the same facility as adult female offenders.

The rehabilitation in reformatories is focused primarily on education. Going to school reduces the duration of imprisonment as three days in school deduct one day of the sentence. Juveniles are also entitled to work up to 3 hours per day for those who attend school. The organisation of the work for the juvenile inmates pays particular attention to the opportunities for professional training.

Upon expiry of the juvenile offender's sentence, the respective town's mayor and the municipal council are engaged with the assistance for the released juvenile's settlement and finding a job.

¹⁵ Aebi, M. and N. Delgrande, Council of Europe Annual Penal Statistics (Space I), University of Lausanne, 2013, p. 76.

6. Prisoners with disabilities or special healthcare needs

Generally, none of the prison hospitals provides the full package of health services as covered by the health insurance fund. The National Preventive Mechanism reports that dispensary observation of inmates with chronic diseases is of lower quality than in other hospitals.

The number of prisoners with disabilities or of those with special healthcare needs is not publicly available, although upon reception such information should be collected by the prison administration. The National Preventive Mechanism reports about individual cases of prisoners with such diseases, for example epilepsy or diabetes.

There are no special rules for the accommodation of prisoners with disabilities or special needs (e.g. close proximity of stairs, washrooms, accommodation at lower floors). The prison administration tries to comply with such requirements within the limits of the available resources as well as in compliance with the prison rules. There is no information about any complaints concerning such problems.

As regards to medical care, prisoners with chronic diseases are under dispensary observation in the prisons' hospitals or medical centres where they undergo medical checks and obtain prescribed medicines. This observation is performed under the same rules that apply to patients outside prisons. Emergency cases are handled under an order of the prison director after a consultation with the director of the medical centre or hospital.

Prisoners are entitled to a job in accordance with their health status. The assessment of the ability to work is performed outside the prison facilities and the prison authorities are obliged to convoy the prisoner to the respective specialised institution.

Interruption of the execution of the sentence due to health reasons is possible if the medical examination proves that adequate treatment must be provided outside the prison. There are strict criteria for evaluation. Practically, after prison hospitals' drain off in terms of equipment and qualified personnel, the performance of examinations related to interruptions of the sentence or the granting of sick leaves remained one of their major functions.

7. Prisoners with mental health care need

The prisoners with mental disabilities include persons with psychiatric disabilities or intellectual deficits. In the Council of Europe Annual Penal Statistics for 2008, Bulgarian authorities state that there are no prisoners with psychological and/or psychotic disorders held in specially designed sections inside penal institutions in order to execute the main or the supplementary sanction. This does not mean that there are no such persons in Bulgarian prisons, but only that they are not placed in special prison sections. Their number is not publicly available.

In Bulgaria, prisons do not provide an environment, which does not harm the mental well being of its inhabitants. Isolation from society, poor prison conditions, overcrowding and lack of safety induce distress, depression and anxiety in prisoners, which may develop into more serious mental disabilities.

The guards have the right to use special means of force (as handcuffs, sticks, strait belts, etc.) against persons with mental disabilities if the latter threaten their own lives or the health of other prisoners.

There are no inmates held in psychiatric institutions outside the penitentiary system. There is a psychiatric hospital within the penitentiary system, where inmates reside if necessary. No data is available on the number of residents within the hospital.

Prisoners with mental diseases, who need special care, are transferred to the prison of Lovech where is the specialised psychiatric hospital. Upon suspicion of a mental illness, the prison psychiatrist and the psychologist inspector perform tests to precise the patient's diagnosis. If treatment is needed, inmates are sent to the psychiatric clinic of the prison in Lovech. Before the transfer such inmates are kept separately in the prison medical centre.

If a prisoner has a mental disease, which excludes his or her criminal responsibility, the prosecutor can order a medical examination, which may lead to termination of the sentence and transfer of the prisoner to a mental care hospital.

Special needs:

- **Access to justice.** Prisoners with mental disabilities may not be sufficiently aware of their legal rights, may be unable to gain access to legal counsel without assistance, face stigmatisation, discrimination and ill-treatment at the hands of law enforcement officials. This aspect is not considered in Bulgaria's prisons in any form.
- **Prison environment.** In Bulgaria, prisoners are accommodated in usually overcrowded, poorly ventilated and unsanitary prisons, in an atmosphere that is charged with the perceived or real risk of violence and abuse. Such conditions induce stress, depression and anxiety, which may develop into more serious mental disabilities, if appropriate action is not taken. Prisoners with existing mental disabilities are at further risk of acute mental harm. They have fewer resources with which to cope in an environment lacking in privacy, often tense and sometimes violent. In Bulgarian prison facilities of open and closed type, persons with mental disabilities can be placed in separate premises upon an order of the director. There are numerous cases of self-harming, which are usually associated with mental instability. The National Preventive Mechanism report for 2012 says that during the last few years only in the prison in Burgas there have been about 10-12 cases annually.
- **Health care.** The principle of equivalence of healthcare is not adequately applied in Bulgaria. The existing medical centres and hospitals in the prisons do not cover the applicable medical standards – they are not sufficiently equipped and the personnel are less qualified than required. The dispensary observation of chronically ill is carried out at lower criteria. Psychiatric departments are not available in every prison. There are usually problems with the medical documentation accompanying the transfer of prisoners – the documentation sometimes is either imprecise or delayed, which leaves the medical personnel unaware of the potential chronic/mental diseases (and special needs) of the prisoner. Due to insufficiency of funds the diet for the prisoners with special diseases (e.g. diabetes) is not properly adjusted.

8. LGBT prisoners

LGBT persons are extremely vulnerable in Bulgaria. They are more often perceived only as gay persons due to the general lack of awareness about the essence of being bisexual or transgender. In prisons, prejudices and stereotypes are often stronger, turning LGBT inmates into a

particularly vulnerable group. There is no available information about LGBT inmates because on the one hand some inmates themselves, being LGBT, are afraid to admit that fact due to fear of various forms of harassment (violence, sexual harassment, bullying, etc.) and on the second hand the prison administration does not collect information about the inmates' sexual orientation although such information could be useful when dealing with problems coming from such persons' vulnerability.

LGBT prisoners are particularly vulnerable in the following aspects:

- **Protection needs.** “LGBT prisoners are much more likely to be victims of sexual assault and rape than they are to be perpetrators of such acts. In prison settings it is common for men who never would have engaged in sexual contact with other men prior to imprisonment to end up in non-consensual sexual relationships with men. Since prisoner-on-prisoner rape in such cases involves persons of the same sex, its perpetrators are unthinkingly labeled as homosexuals. In fact, the majority of prison rapists see themselves as heterosexual and the victim as substituting for a woman. Such relationships do not only involve sex. They include the forced submission of a person perceived to be weaker by an aggressor, often to prove and strengthen a male hierarchical position in the prison subculture.”¹⁶ This is particularly true in Bulgaria. The prison staff usually interferes in inmates' relations only to provide protection in cases when the prison rules are violated. LGBT prisoners can turn to psychologists for psychological assistance. However, they face the risk of provoking additional violence against themselves. In cases of rape, mental health care is needed.
- **Healthcare needs.** LGBT inmates are most likely to suffer from sexually transmitted diseases, including HIV/AIDS, which is spreading rapidly in Bulgarian prisons. Besides drug use, rape is the second reason for the increasing number of HIV-infected prisoners. The medical tests are not performed frequently enough and do not cover all inmates, which makes it difficult to limit the spread of such infections. Sexual and physical violence can also cause specific injuries, which are not treated adequately, if at all, in prison hospitals.

¹⁶ United Nations Office on Drugs and Crime, Handbook on Prisoners with special needs, New York: United Nations, 2009, p. 105.

- **Complaint procedures.** The complaint procedure for rape does not offer any special protection against retaliation, and victims, most of all LGBT victims, are usually afraid to submit a complaint.
- **Allocation.** In Bulgaria, the accommodation of the prisoners is not done based on an adequate classification of their personal characteristics. Situations are handled personally, upon discretion of the prison director. Moreover, there is a chance of deliberate placement of LGBT prisoners together with prisoners with violent background. There is no information about cases of accommodation of transgender prisoners.
- **Body searches.** There are no special rules on body searches of LGBT persons. Such persons do not have the explicit right to be searched by proper gender guards and with maximum respect of their personal dignity.
- **Discrimination.** Discrimination is a common problem for all vulnerable groups irrespective of the grounds under which they are discriminated against. LGBT prisoners, facing even stronger stereotypes, are subject to unequal treatment both by the other inmates and by the prison personnel.

The prison administration does not collect data on the sexual orientation of prisoners, which results in the lack of any differentiated treatment on that basis. None of the above vulnerabilities are taken into account in terms of LGBT prisoners. Moreover, LGBT prisoners prefer to hide that fact being afraid of different forms of abuse.

9. Older prisoners

Older persons are considered the persons above 60 years old. According to the Council of Europe's Annual Prison Statistics, as of 1 January 2012 in Bulgaria there were 168 prisoners between 60 and 70 years old, and 36 prisoners over the age of 70.¹⁷ The prison rules and regulations do not contain any special provisions concerning elderly people, except for the rule

¹⁷ Aebi, M. and N. Delgrande, Council of Europe Annual Penal Statistics (Space I), University of Lausanne, 2013, p. 68.

that female prisoners over 60 years and male prisoners over 63 years are subject to mandatory medical checks to assess their ability to work.

The elderly age of prisoner leads to certain specifics, none of which is considered in Bulgarian prisons:

- **Access to Justice.** Older persons are more likely to need special assistance to access legal counsel upon their arrest, during the pre-trial detention and in prison. In Bulgaria, such special assistance is not provided and inmates sometimes assist the elderly people at their own good will.
- **Assessment.** Older people are more diverse and have different needs, depending on their socio-economic background and health status. The Handbook on Prisoners with special needs¹⁸ identifies three main categories of older prisoners:
 - The first group consists of those who were sentenced to long prison terms while young and have grown old in prison. For the majority of this group the offence was their first offence and the crime committed was usually a violent crime. It is noted that such offenders make good institutional adjustments and are in fact often model inmates. However, due to their long period of institutionalisation and loss of community links and limited work history, this group experiences the most serious difficulties in social reintegration following release.
 - The second group is made up of habitual offenders, who have been in and out of prison throughout their lives. They adjust reasonably well to prison life, though often have chronic health problems, including particularly, a history of substance abuse. Their community ties are limited and their employment history sporadic. They also encounter difficulties in resettlement.
 - The third group consists of those who have been convicted of a crime in later life. Their crimes are usually serious. This group experiences the most severe adjustment

¹⁸ United Nations Office on Drugs and Crime, Handbook on Prisoners with special needs, New York: United Nations, 2009, p. 105.

problems in prison and is likely to be victimised by other prisoners. Many of such offenders who face imprisonment for the first time in later life are sexual offenders.

- **Accommodation.** Deciding on suitable accommodation for older prisoners is an issue, which every prison administration should decide upon depending on the specific conditions. There are potential difficulties associated with the prison layout and conditions for older persons. These include stairs, difficulties in accessing sanitary facilities, overcrowding, excessive heat or cold, as well as many architectural features that may hinder those with physical disabilities from satisfying their most basic needs. The prison authorities in Bulgaria accommodate all prisoners upon management's discretion and it depends on the directors' humanity whether they comply with older prisoners' specific needs or not.
- **Health Care.** Health is a universal concern for all older prisoners, due to their age, generally unhealthy lifestyles and histories of substance abuse. Chronic and multiple health problems, such as heart and lung problems, diabetes, hypertension, cancer, Alzheimer's disease, Parkinson's disease, ulcer, poor hearing and eyesight, memory loss and a range of physical disabilities, are among the common problems from which older prisoners suffer. Adequate medical care for older persons requires considerable additional financial and human resources, putting a serious burden on the prison system. In Bulgaria, however, older prisoners are treated on an equal basis with all other prisoners and rarely receive special care.
- **Family links.** Evidence suggests that maintaining family links has a positive effect on the social rehabilitation of all prisoners, and particularly older prisoners. However, older prisoners who have spent many years in prison often lose their contacts with their families and the community, making them increasingly dependent on the institutional setting. The longer the period of imprisonment, the more severe are the problems associated with institutionalisation. In that regards, there are no special programmes aimed to assist older prisoners in communicating with their families, or any allowances to encourage maintaining family links.
- **Prisoner programmes.** Older prisoners have needs and capabilities that differ from the ones of the younger inmates. Older prisoners, who have left the education system many years ago, may not be motivated to study at all, or they may be reluctant to join classes with younger

inmates. If modifications are not made to job assignments, some older prisoners may not be in a position to work, due to physical disabilities or health problems. These specifics are not addressed, or at least not explicitly, by the prison administration. Social workers, who are responsible for the social activities in the prison, can take into account some of these problems, but this usually depends only on their humanity and professionalism.

- **Preparation for release and post-release support.** As elderly people adapt to new environment more difficultly, social workers and psychologists should pay special attention to prepare them for the life outside prison. This is especially important for people, who have served a long-term prison sentence.

10. Prisoners with terminal illness

Terminal illness refers to a situation, in which there is no reasonable medical possibility that a patient's condition will not continue to degenerate and result in death. The spread of HIV/AIDS, tuberculosis and other serious diseases is growing and new cases are discovered every year in most prisons in Bulgaria. HIV/AIDS infections are often due to unsafe injection drug use or sexual assault. Such cases are discovered through annual screenings of a random number of prisoners in each prison. The random principle, on which screenings are based, makes the available data incomplete. The actual number of HIV positive inmates is most probably much higher, having in mind that some of the patients – especially those sentenced for drug-related offences – often go in and out of prison. In certain cases, upon order of the prison director, prisoners of high risk such as drug users can be placed in separated units.

No special attention is being paid to prisoners with terminal illnesses. Medical care, as already explained in the section on prisoners with special healthcare needs, is not of the same quality as in the hospitals outside prisons. There are prison psychologists who take care of the inmates' mental health and who might respond to emotional problems related to terminal diseases.

There is no public information about the number of prisoners with terminal illnesses in Bulgarian prisons. Such persons usually have the following special needs:

- **Access to justice.** Individuals with a terminal illness have particular needs in terms of adequate and timely legal representation at various stages of their detention and imprisonment.
- **Classification and accommodation.** Prisoners with a terminal illness need to be accommodated in an environment that does not exacerbate the suffering inherent in their condition and that enables ongoing medical supervision.
- **Health care.** Access to high cost clinical resources and ongoing palliative care, which many prisoners with a terminal illness are in need of, are unavailable in most prison facilities.
- **Psychological and spiritual support.** The prospects of dying in prison, away from family and friends, can have a very harmful impact on the patients' mental well being, exacerbating their suffering.

In Bulgaria, the majority of these special needs are rarely addressed by the prison administration due to the lack of financial resources and qualified personnel.

11. Prisoners under life sentence

In Bulgaria, there are two types of life sentences: life sentence and life sentence without parole:

- Life sentence is the most severe penalty in the Bulgarian criminal justice system. It is imposed for extremely grave offences. It is aimed at isolating serious offenders from the society by keeping them within prison facilities for the rest of their lives. After serving 20 years of a life sentence, the court can replace it by imprisonment of 30 years.
- Life sentence without parole was introduced in Bulgaria together with the abolition of the death penalty in 1998. The present legislation foresees its application only in exceptional cases and the majority crimes for which it can be imposed are crimes against the state, genocide, and/or crimes in time of war. Life sentence without parole cannot be imposed to persons who have been under 20 years of age at the time of the commission of the crime commitment, or to women who have been pregnant at that time.

As of 2012, a total of 166 inmates are serving life sentences, of which 59 persons are sentenced to life imprisonment without parole.¹⁹

Inmates who are sentenced to life imprisonment or to life imprisonment without parole are accommodated in separate prisons, or in separate sectors of a prison facility. Upon their admission in prison, they undergo a mandatory psychological profiling. They are initially placed under a special regime – permanently locked in single cells under high security regime without possibility to participate in joint activities with other prisoners. They can work only if there is an opportunity to do so in separate premises under strict security measures. Upon decision of the Committee on Execution of Penalties of the respective prison inmates sentenced to life imprisonment or to life imprisonment without parole, who have good behavior, can be placed under a lighter regime (the so-called ‘strict regime’) and can be accommodated in common cells with other prisoners and participate in joint social activities. This is possible after the fifth year of their sentence. The prisoners sentenced to life imprisonment or to life imprisonment without parole cannot have their sentence reduced by working or attending education courses and cannot benefit from awards, which are utilized outside the prison.

The isolation of prisoners sentenced to life imprisonment or to life imprisonment without parole is respected also during visits, during stay in open air, during medical treatment, or any other cases of leaving their security zone. The special security zone in Bulgarian prisons is usually used also for serving the disciplinary punishment of isolation.

- **Access to justice.** Being sentenced to the most severe penalties, the opportunities for these categories of prisoners to reduce their penalty are very limited. Life imprisonment has significant effects on the personality of the convicted person related to ‘the indeterminacy of their sentence – if, when and how release will be granted’.²⁰ Despite the stricter security measures, such prisoners should not be denied access to legal literature or visits by legal representatives in person and as often as they require. In time, the share of elderly persons

¹⁹ Aebi, M. and N. Delgrande, Council of Europe Annual Penal Statistics (Space I): Prison Populations, Survey 2012, Strasbourg: Council of Europe, 2014, p.100.

²⁰ United Nations, Life imprisonment, Vienna, 1994, available at: <http://www.penalreform.org/wp-content/uploads/2013/06/UNODC-1994-Lifers.pdf>.

among them is likely to increase; therefore they will have the same need of assistance in legal issues.

- **Isolation and mental health.** The heaviest security regime, combined with the isolation and restrictions on free movement can cause severe disruptions in mental and physical health of prisoners sentenced to life imprisonment or to life imprisonment without parole. Since they are more likely than others to develop mental health problems, they should be provided with regular psychological and/or psychiatric care. The professional capacity needed can be much broader as studies show that the effect of long-term imprisonment is a matter of personal reaction.²¹ As regards to social activities and in order to sustain their mental care and to minimise de-socialisation and institutionalisation, prison authorities should not lift their focus off life-sentenced prisoners. Introducing specific treatment programmes and opportunities for ‘prison careers’ can motivate such inmates. Another aspect of isolation is the gradual loss of relationships with people from the outside world. Visits should be encouraged rather than obstructed by the high security regime.

Life sentence prisoners are in the focus of inspections by all major international and human rights organisations due to the severe penalty they are subjected to. The Council of Europe’s Committee of Ministers has issued *Recommendation Rec(2003)23 on the management by prison administrations of life sentence and other long-term prisoners*²², which provides guidance on the principles of managing and harm-reduction activities on such prisoners.

12. Inmates with self-harm and suicide risk

²¹ Ibid.

²² Council of Europe, Recommendation Rec(2003)23 of the Committee of Ministers to member states on the management by prison administrations of life sentence and other long-term prisoners (Adopted by the Committee of Ministers on 9 October 2003 at the 855th meeting of the Ministers' Deputies), 2003, available at: [https://wcd.coe.int/ViewDoc.jsp?Ref=Rec\(2003\)23&Language=lanEnglish&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=Rec(2003)23&Language=lanEnglish&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864).

Self-harm and suicide incidents (including hunger strikes) are disproportionately high in prisons compared to the outside world. These are closely related with the inmates' mental condition in the extreme environment of the prison associated with isolation and specific subculture. The sharp increase of such cases can also be indicative for a series of other problems, such as overcrowding, inadequate psychological aid, substance abuse, etc.

The international standards recommend that acts of self-harm should be attended from a therapeutic, rather than from a punitive point of view. The use of practices such as placing inmates in security cells or using means of restraint as prevention of self-harm is recommended by the CPT only as options of last resort and only if all other options have failed. Such practices should not be used as an alternative to medical care or crisis intervention and should not compensate insufficient or undertrained personnel.²³

In Bulgaria, all prisoners registered for having committed self-harm or suicide attempts undergo specialised treatment programmes. They are under the supervision of the prison psychiatrists and psychologists who consult them in private sessions to minimise the risk of self-harm.

The legal framework governing the medical care in prisons²⁴ allows for the use of forced medical treatment in cases of threatening their life or health (Art.44). All such cases are reported to the prosecutor who supervises the prison. In cases of hunger strikes, the prison's doctor, psychologist and social service officer explain the possible effects of the strike and the stipulated by law means for solving the hunger strike motive problem.

- **Allocation.** The allocation of inmates with higher self-harm and suicide risk should be carefully considered by the prison administration. Certain factors, which may intensify self-harming attitudes, may be related to the inmates' allocation: living in overpopulated/underpopulated cells, sharing a cell with unsuitable inmates, etc. On the other

²³ Committee for the Prevention of Torture, Visit Report to Slovenia, 2012 (19.07.2013).

²⁴ Ministry of Justice and Ministry of Health, Ordinance No 2 of 22 March 2010 on the conditions and procedure for providing medical services in the places for deprivation of liberty, available at: <http://www.gdin.bg/Pages/Legal/Default.aspx?evntid=25681>.

hand, the allocation of inmates with higher self-harm and suicide risk should allow easy access to guards and medical staff.

- **Crisis intervention.** Prisons should situate sufficient number and well qualified personnel in order to handle crisis situations adequately. Medical and psychiatric personnel should be available so that guards are not left to deal with such crises using means of restraint.

13. Sex offenders

Sex offenders can be qualified as a vulnerable group in prisons for two reasons. On one hand, they are a subject of stigmatization and are more likely to become victims of inter-prisoner violence. This is particularly true for sex offenders against children. On the other hand, sex offenders in prisons are placed (usually for longer than average terms) in a controlled environment of having to suppress their cravings.

- **Allocation.** Due to the higher risk of ill treatment, sex offenders may prefer segregation in a single cell or together with other sex offenders. In Bulgaria, there are no special provisions, which allow them to be allocated separately. However, to sustain good order and to prevent prisoner violence, if conditions allow, the prison management can allocate sex offenders separately. If this is not possible, they should be allocated to cells, to which guards can have easier access in cases of violent situations.
- **Protection needs.** As already mentioned, sex offenders are exposed to higher risk of verbal and physical abuse. Guards usually intervene at the point of breach of rules. In countries like the UK, so called ‘protective custody’ exists, which isolates certain inmates upon their own request.²⁵

Practices

Sexual offenders in Bulgaria are accommodated together with all other prisoners. As of 1 September 2012, a total of 499 sexual offenders were serving their sentences in Bulgarian

²⁵ Collins, A. and H. Burns. Prison Conditions in the United Kingdom, Human Rights Watch, 1992, p. 16.

prisons. Of these, 146 were sentenced for sexual abuse of minors (children of under 14), 311 were sentenced for rape, and 35 were sentenced for forced homosexual acts.²⁶

Sex offenders are performed annual risk evaluation. On the basis of these evaluations, prison social officers, psychologists and psychiatrists develop individual programmes for correctional activities. During the personal sessions, sex offenders are taught on tension and affection reducing techniques and crisis management.

²⁶ Letter from General Directorate 'Execution of Penalties' to the Center for the Study of Democracy, No. 13063/1 of 14.11.2012.