

# Criminal Detention in the EU Conditions and Monitoring

Update of FRA's Criminal Detention Database  
(FRANET)

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## Part I: National standards

### 1. Cells

- a) **Cell space:** What is the national standard for cell space available to detainees in m<sup>2</sup>? Are the calculation requirements spelled out by the CJEU in its *Dorobantu* ruling<sup>1</sup> observed?

The minimum living space in the sleeping quarters for each person deprived of liberty must not be less than 4 m<sup>2</sup>.<sup>2</sup>

National jurisprudence has interpreted the legal standard for cell space in a number of cases, consistently awarding compensation to detainees accommodated in cells with less than 4 m<sup>2</sup>.<sup>3</sup> Case law has also consistently included the furniture and excluded bathrooms and toilets when calculating the minimum living space.<sup>4</sup>

- b) **Cell equipment, furniture and facilities:** Are there any national standards for cell equipment (heating, ventilation, cooling, etc.), furniture (bed, mattress, shelf, wardrobe, seating, table, etc.) and/or facilities (lighting, incl. windows, washbasin, toilet, shower etc.), including any measurements? If so, what do they require?

Sleeping quarters must have direct access to daylight and possibility of natural ventilation. The amount of daylight, the degree of artificial lighting, heating and ventilation are determined according to the requirements laid down in the respective standards for public buildings.<sup>5</sup>

Persons deprived of liberty must be provided with permanent access to a bathroom and running water.<sup>6</sup>

Sleeping quarters must be furnished with a separate bed with bedding for each inmate, lockers for personal belongings, table, chairs, lighting and heating, and conditions must be provided for direct access to daylight and ventilation.<sup>7</sup>

National jurisprudence has interpreted the legal standards for lighting, heating and ventilation in a number of cases. In one such case, the court concluded that a cell allowing detainees to open the window when they wished, providing for a temperature

<sup>1</sup> For the CEU's calculation requirements please see: CJEU, [C-128/18, Dorobantu](#) [GC], Judgment of 15 October 2019, oper. part.

<sup>2</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 43, Par. (4).

<sup>3</sup> For example, see Bulgaria, Administrative Court – Stara Zagora (Административен съд – Стара Загора), Decision No 88 of 10 March 2021 on administrative case No 518/2020 ([Решение № 88 от 10 март 2021 г. по административно дело № 518/2020 г.](#)), ECLI:BG:AD724:2021:20200700518.001, 10 March 2021.

<sup>4</sup> For example, see Bulgaria, Administrative Court – Pazardzhik (Административен съд – Пазарджик), Decision No 214 of 12 March 2021 on administrative case No 757/2020 ([Решение № 214 от 12 март 2021 г. по административно дело № 757/2020 г.](#)), ECLI:BG:AD715:2021:20200700757.001, 12 March 2021.

<sup>5</sup> Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act ([Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража](#)), 2 February 2010, Art. 20, Par. (2).

<sup>6</sup> Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act ([Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража](#)), 2 February 2010, Art. 20, Par. (3).

<sup>7</sup> Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act ([Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража](#)), 2 February 2010, Art. 21, Par. (1).

of 22°C during the winter and ensuring a combination of natural and artificial light allowing detainees to independently orientate within the cell, was in compliance with the applicable standards.<sup>8</sup>

c) **Video-surveillance of cells:** Are there any national standards for video-surveillance of cells? If so, what do they require?

There are no national standards for video-surveillance of cells. According to the law, all places for deprivation of liberty must be equipped with technical means for security and control, and inmates must be notified when such means are used, including audiovisual systems for control of behaviour.<sup>9</sup> More detailed provisions are envisaged only for the use of video-surveillance during meetings between inmates and their visitors.<sup>10</sup>

d) **Hygienic conditions in cells:** Are there any national standards with regard to cleaning and/or cleanliness of cells? If so, what do they require?

Basic cleaning and disinfection of sleeping quarters and common areas must be performed every month, under the supervision of a medical specialist (doctor).<sup>11</sup> Cleaning and disinfection of sleeping quarters and of common areas is performed by the detainees with cleaning and disinfection materials provided by the administration of the detention facility.

Monthly cleaning of the living quarters must include washing the floor, the windows, the doors and the beds, shaking and ventilation of the blankets, sheets, pillows and subsequent disinfection. Bed linen must be washed after pre-soaking in hot soap solution or washing powder. The blankets must be washed once every 3 months.<sup>12</sup>

e) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

The same standards apply to all pre-trial detention facilities except for those located inside prisons, where the use of bathroom and running water must take place inside the sleeping quarters.<sup>13</sup>

In cells used for solitary confinement, the beds, lockers for personal belongings, table, chairs, lighting and heating fixtures must be fixed (not movable).<sup>14</sup>

<sup>8</sup> Bulgaria, Administrative Court – Gabrovo (Административен съд - Габрово), Decision No 9 of 26 February 2021 on administrative case No 264/2020 ([Решение № 9 от 26 февруари 2021 г. по административно дело № 264/2020 г.](#)), ECLI:BG:AD709:2021:20200700264.001, 26 February 2021.

<sup>9</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 44, Par. (1) and (2).

<sup>10</sup> Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act ([Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража](#)), 2 February 2010, Art. 73.

<sup>11</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 151, Par. (2).

<sup>12</sup> Bulgaria, Regulation No 2 of 22 March 2010 on the rules and procedure for healthcare in the places of deprivation of liberty ([Наредба № 2 от 22 март 2010 г. за условията и реда за медицинското обслужване в местата за лишаване от свобода](#)), 22 March 2010, Art. 73, Par. (2) and (3).

<sup>13</sup> Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act ([Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража](#)), 2 February 2010, Art. 20, Par. (3).

<sup>14</sup> Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act ([Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража](#)), 2 February 2010, Art. 23, Par. (2).

No specific standards in relation to cells have been introduced in response to the COVID-19 outbreak.

f) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 1. a) – e), including their respective legal basis.

Persons deprived of liberty have a general right to submit requests and complaints to meet the prison director in person.<sup>15</sup> They can also authorise lawyers and non-governmental organisations to submit requests and complaints on their behalf.<sup>16</sup> Re-submitted requests and complaints are examined only if they contain new circumstances.<sup>17</sup>

The main remedy available to all detainees (both convicted prisoners and defendants detained in custody) in case of poor detention conditions is their right to file a claim to the court. The law explicitly stipulates that the accommodation of persons in unfavourable detention conditions is a violation of the prohibition of torture, cruel, inhuman and degrading treatment.<sup>18</sup> Unfavourable detention conditions are defined as lack of sufficient living space, food, clothing, heating, lighting, ventilation, medical care, conditions for physical activity, prolonged isolation without opportunity for communication, unjustified use of restraint measures, as well as other similar actions, inactions or circumstances that undermine human dignity or create a feeling of fear, insecurity or inferiority.<sup>19</sup> Detainees can file a preventive claim (requesting that the violation be discontinued or prevented)<sup>20</sup> and/or a compensatory claim (requesting financial compensation for damages).<sup>21</sup>

g) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding these aspects (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference, a list of links can be found via the [OPCAT Database](#).

Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*) (2019), *2018 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2018 г.)*, Sofia, Ombudsman of the Republic of Bulgaria, full text available in [Bulgarian](#) and [English](#)

*'НПМ отчита много добър напредък в подобряване на битовите условия на лишените от свобода в местата за задържане разположени в Южна България. [...] Във всички затвори в Южна България (изключение е гр. София) се извършиха*

<sup>15</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (1).

<sup>16</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (2).

<sup>17</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (5).

<sup>18</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>19</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>20</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 276-283.

<sup>21</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 284-286.

ремонтни дейности. В гр. Сливен и гр. Стара Загора се изграждат нови арести и преместването им от старата база ще се осъществи през 2019 г. Видът и обемът на строителните дейности доведоха до временна пренаселеност, която не би могла да бъде избегната въпреки съществуващия правен механизъм, поради липса на свободен капацитет в местата от закрит тип.'

*'The NPM reports a very good progress as regards improving the material conditions in the detention facilities located in South Bulgaria. [...] Repair works have been done in all prisons in South Bulgaria (with the exception of the city of Sofia). New investigation detention facilities are built in the cities of Sliven and Stara Zagora, and the transfer to the new facilities will take place in 2019. The type and volume of the construction works led to temporary overcrowdedness, which could not have been avoided despite the existing legal mechanism due to the lack of spare capacity in the closed-type detention facilities.'*

*'Също така, по отношение на местата за лишаване от свобода в системата за изпълнение на наказанията липсват ясно определени нормативни стандарти относно изискуемото количество свеж въздух и дневна или изкуствена светлина.'*

*'At the same time, as regards the places for deprivation of liberty within the system for execution of punishments, there are no statutory standards for the required quantity of fresh air and day or artificial light.'*

Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2020), 2019 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2019 г.), Sofia, Ombudsman of the Republic of Bulgaria, full text available in [Bulgarian](#) with a summary in [English](#)

*'От проведените инспекции на условията за живот в общо 24 места за лишаване от свобода към МП, положителна тенденция за подобряване на битовите условия и намаляване на броя на настанените лица се констатира за затворите в гр. Ловеч, гр. Плевен и гр. Белене, както и за 5-те места за лишаване от свобода на територията на затвора в гр. Враца поради извършената значителна по обем работа за преместване на арестите от градовете Враца и Монтана и Поправителния дом за непълнолетни младежи в гр. Бойчиновци на територията на затвора. НПМ констатира обаче, че на определени места за лишаване от свобода остава нерешен въпросът с пренаселеността, като особено наболял е проблемът в затвора в гр. София и арестите в структурата на Областна служба „Изпълнение на наказанията“ – гр. София (арестите на бул. „Г. М. Димитров“ и ул. „Майор Векилски“).'*

*'Following the inspections of the living conditions in these 24 places for deprivation of liberty with the Ministry of Justice ("MoJ"), the NPM established a positive trend for improving the material conditions and reducing overcrowdedness in the prisons in Lovech, Pleven and Belene, as well as in the five places for deprivation of liberty in the territory of the Vratsa Prison due to the extensive work on the transfer of the detention facilities in Vratsa, Montana and the Correctional Facility for Minor Boys in Boychinovtsi to the Vratsa Prison. However, the NPM has further established that the problem with overcrowdedness persists in some places for deprivation of liberty, the problem being particularly acute in the Sofia Prison and the detention facilities in G. M. Dimitrov Blvd. and Major Vekilski Str. in Sofia.'*

Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2021), 2020 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2020 г.), Sofia, Ombudsman of the Republic of Bulgaria, full text available in [Bulgarian](#) with a summary in [English](#)

'През 2020 г. НПМ извърши проверки в четири затвора, девет затворнически общежития, четири ареста и тринадесет районни управления към Министерство на вътрешните работи. От проведените инспекции на условията за живот в общо 18 места за лишаване от свобода към Министерство на правосъдието се наблюдава положителна тенденция за подобряване на битовите условия и намаляване на броя на настанените лица.'

'In 2020, the NPM carried out inspections at four prisons, nine prison hostels and five detention centres with the Ministry of Justice. The inspections of the living conditions found a positive trend in the improvement of the living conditions and reduction in the number of inmates at 18 places for deprivation of liberty with the Ministry of Justice.'

'Продължава да е налице дългогодишният проблем с наличието на хлебарки и дървеници в местата за лишаване от свобода, като това беше констатирано във всички проверени обекти – дори и там, където е извършван цялостен ремонт.'

'The long-standing problem with cockroaches and bed-bugs at places for deprivation of liberty continues and this has been found at all places inspected – even in places where major renovation works were completed.'

## 2. Sanitary conditions

- a) What is the national standard with regard to access to toilets? Are these located in cells? If not, do detainees have access to these facilities without undue delay, even during the night? Do these facilities have to offer privacy to detainees who use them and, if so, in how far?

All persons deprived of liberty must have permanent access to toilets.<sup>22</sup>

National jurisprudence has interpreted the legal standard of access to toilets in the sense that when the cells are permanently locked and the toilet is not located inside the cell, the use of the toilet according to a time schedule does not meet the legal standard for permanent access.<sup>23</sup>

- b) What is the national standard with regard to access to regularly cleaned shower/bathing facilities? How often is this access provided? Do these facilities have to offer privacy to detainees who use them and, if so, in how far?

Persons deprived of liberty must be provided with access to bathing facilities once a day, if possible, or at least twice a week.<sup>24</sup>

- c) What are the national standards with regard to cleaning and cleanliness of sanitary facilities?

<sup>22</sup> Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act ([Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража](#)), 2 February 2010, Art. 20, Par. (3).

<sup>23</sup> Bulgaria, Administrative Court – Dobrich (Административен съд - Добрич), Decision No 121 of 9 April 2021 on administrative case No 564/2020 ([Решение № 121 от 9 април 2021 г. по административно дело № 564/2020 г.](#)), ECLI:BG:AD710:2021:20200700564.001, 9 April 2021.

<sup>24</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 151, Par. (1).



After each use, the bathroom must be cleaned and disinfected.<sup>25</sup>

- d) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

The same standards apply to all pre-trial detention facilities except for those located inside prisons, where the use of bathroom and running water must take place inside the sleeping quarters.<sup>26</sup>

No specific standards in relation to sanitary conditions have been introduced in response to the COVID-19 outbreak.

- e) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 2. a) – d), including their respective legal basis.

Persons deprived of liberty have a general right to submit requests and complaints to meet the prison director in person.<sup>27</sup> They can also authorise lawyers and non-governmental organisations to submit requests and complaints on their behalf.<sup>28</sup> Re-submitted requests and complaints are examined only if they contain new circumstances.<sup>29</sup>

The main remedy available to all detainees (both convicted prisoners and defendants detained in custody) in case of poor detention conditions is their right to file a claim to the court. The law explicitly stipulates that the accommodation of persons in unfavourable detention conditions is a violation of the prohibition of torture, cruel, inhuman and degrading treatment.<sup>30</sup> Unfavourable detention conditions are defined as lack of sufficient living space, food, clothing, heating, lighting, ventilation, medical care, conditions for physical activity, prolonged isolation without opportunity for communication, unjustified use of restraint measures, as well as other similar actions, inactions or circumstances that undermine human dignity or create a feeling of fear, insecurity or inferiority.<sup>31</sup> Detainees can file a preventive claim (requesting that the violation be discontinued or prevented)<sup>32</sup> and/or a compensatory claim (requesting financial compensation for damages).<sup>33</sup>

- f) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 May 2018 to 15 April 2021; if no report is available for

<sup>25</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 151, Par. (1).

<sup>26</sup> Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act ([Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража](#)), 2 February 2010, Art. 20, Par. (3).

<sup>27</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (1).

<sup>28</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (2).

<sup>29</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (5).

<sup>30</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>31</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>32</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 276-283.

<sup>33</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 284-286.



this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding these aspects (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference, a list of links can be found via the [OPCAT Database](#).

There are no recommendations regarding the sanitary conditions in any of the annual reports of the National Preventive Mechanism during the reference period.

### 3. Time out of cell

- a) What is the national standard set for time per day/week spent by detainees outside of their cells:
- Outdoors (within the boundary of the prison)?
  - Indoors in the common area?

At least one hour per day outdoors.<sup>34</sup> Two hours outdoors per day for prisoners under 18 years of age.<sup>35</sup> At least two hours outdoors per day and at least one hour per day during the winter for pregnant women, breastfeeding mothers and prisoners engaged in underground or harmful work.<sup>36</sup>

The same standards apply to accused persons and defendants detained in custody.<sup>37</sup>

National jurisprudence has consistently re-confirmed the legal standard for spending time outdoors and courts have regularly awarded compensation to detainees, who have been deprived of their right to spend time in the open.<sup>38</sup>

- b) Do sports or other recreational and/or educational facilities have to be available to detainees? If so, what types?

If possible, each prisoner must be provided with conditions for participating in sport games and exercises for one hour per day in addition to the time spent outdoors. In case of unfavourable weather conditions these activities must take place indoors.<sup>39</sup> Prisoners must have access to the library at least once a week.<sup>40</sup>

<sup>34</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 86, Par. (1).

<sup>35</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 190, Par. (2).

<sup>36</sup> Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act ([Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража](#)), 2 February 2010, Art. 71, Par. (6).

<sup>37</sup> Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act ([Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража](#)), 2 February 2010, Art. 276, Par. (2).

<sup>38</sup> For example, see Bulgaria, Administrative Court – Dobrich (Административен съд - Добрич), Decision No 121 of 9 April 2021 on administrative case No 564/2020 ([Решение № 121 от 9 април 2021 г. по административно дело № 564/2020 г.](#)), ECLI:BG:AD710:2021:20200700564.001, 9 April 2021.

<sup>39</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 164.

<sup>40</sup> Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act ([Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража](#)), 2 February 2010, Art. 154, Par. (2).

c) Is there a national standard for time spent in cells? If so, what does it require?
There is no national standard for time spent in cells. There are only rules specifying the time during which prisoners are locked in the cells. This time is different for the different types of prison and the different prison regimes.
d) Are there any national standards with regard to activities and/or programmes that should be available to detainees when they are outside their cells? If so, what do they require?
There are no national standards with regard to activities and/or programmes that should be available to detainees when they are outside their cells.
e) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
Prisoners on light regime ( <i>лек режим</i> ) or general regime ( <i>общ режим</i> ), who are placed in open prison dormitories, are accommodated in premises, where only the corridors are locked during the night. Prisoners on general regime, who are placed in prisons or closed prison dormitories, are accommodated in cells, which are locked during the night. Prisoners on strict regime ( <i>строг режим</i> ) are always placed in prisons or closed prison dormitories and are accommodated in cells, which are locked during the night. Prisoners on special regime ( <i>специален режим</i> ) are placed in prisons and are accommodated in permanently locked cells. <sup>41</sup>  Accused persons and defendants detained in custody are placed in permanently locked cells. <sup>42</sup>  No specific standards in relation to time out of cell have been introduced in response to the COVID-19 outbreak, but the time spent outdoors was restricted to smaller groups in view of maintaining physical distance. <sup>43</sup>
f) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 3. a) – e), including their respective legal basis.
Persons deprived of liberty have a general right to submit requests and complaints to meet the prison director in person. <sup>44</sup> They can also authorise lawyers and non-governmental organisations to submit requests and complaints on their behalf. <sup>45</sup> Re-

<sup>41</sup> Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act ([Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража](#)), 2 February 2010, Art. 51-54.

<sup>42</sup> Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act ([Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража](#)), 2 February 2010, Art. 269, Par. (3).

<sup>43</sup> Bulgaria, Ministry of Justice (*Министерство на правосъдието*) (2020), 'Measures related to persons deprived of liberty' ([Мерки, свързани с лишаване от свобода](#)), press release, 13 May 2020.

<sup>44</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (1).

<sup>45</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (2).

submitted requests and complaints are examined only if they contain new circumstances.<sup>46</sup>

The main remedy available to all detainees (both convicted prisoners and defendants detained in custody) in case of poor detention conditions is their right to file a claim to the court. The law explicitly stipulates that the accommodation of persons in unfavourable detention conditions is a violation of the prohibition of torture, cruel, inhuman and degrading treatment.<sup>47</sup> Unfavourable detention conditions are defined as lack of sufficient living space, food, clothing, heating, lighting, ventilation, medical care, conditions for physical activity, prolonged isolation without opportunity for communication, unjustified use of restraint measures, as well as other similar actions, inactions or circumstances that undermine human dignity or create a feeling of fear, insecurity or inferiority.<sup>48</sup> Detainees can file a preventive claim (requesting that the violation be discontinued or prevented)<sup>49</sup> and/or a compensatory claim (requesting financial compensation for damages).<sup>50</sup>

g) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding these aspects (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference, a list of links can be found via the [OPCAT Database](#).

Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*) (2020), *2019 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2019 г.)*, Sofia, Ombudsman of the Republic of Bulgaria, full text available in [Bulgarian](#) with a summary in [English](#)

*'Друг системен дефицит, който НПМ констатира през годините, е липсата на бюджетно финансиране на адекватни дейности при работата на социалните работници. В ново ремонтираните арести няма помещения за социални дейности, а там, където ги има (например, арестите в гр. Пловдив и гр. Шумен) – няма социални работници, които да ги осъществяват.'*

*'Another systemic deficit that the NPM has established through the years is the lack of budget funding for adequate activities carried out by the social workers in their work. In the newly repaired detention facilities there are no spaces for social activities, and where such exist (e.g. the detention facilities in Plovdiv and Shumen) there are no social workers to conduct these activities.'*

Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*) (2021), *2020 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2020*

<sup>46</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (5).

<sup>47</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>48</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>49</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 276-283.

<sup>50</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 284-286.

г.), Sofia, Ombudsman of the Republic of Bulgaria, full text available in [Bulgarian](#) with a summary in [English](#)

*'Друг системен дефицит, който НПМ констатира през годините, е липсата на бюджетно финансиране на адекватни дейности при работата на социалните работници. В ново ремонтираните арести няма помещения за социални дейности, а там, където ги има (например, арестът в гр. Пловдив) – няма социални работници, които да ги осъществяват.'*

*'A systemic deficiency the NPM has found over the years is the lack of budget funding for adequate activities in the tasks of social workers. The newly renovated detention centres do not have premises for social activities while the places with such premises (for example, Plovdiv Detention Centre) do not have social workers to perform them.'*

#### 4. Solitary confinement

a) What are the national standards regarding solitary confinement?

Prisoners, who have committed one of the violations listed in the law, can be punished by placing them in the so-called 'penal cell'. There are two different types of this punishment: placement in a penal cell for up to 14 days and placement in a penal cell during the non-working or non-studying time, during days-off and during public holidays for up to 14 days in total in the course of up to three months.<sup>51</sup> The placement in a penal cell can be extended to up to 20 days when more than one punishment has been imposed and the prisoner has not served any of them.<sup>52</sup> Prisoners under 18 years of age can be placed in penal cells for up to three days, during which time they are allowed to go to work or to school.<sup>53</sup> To prevent prisoners from escaping, from harming the life or health of others or from committing another criminal offence, inmates can be isolated in the so-called 'individual cell' (единична килия). The maximum duration of this measure is two months. Prisoners in individual cells cannot take part in collective activities.<sup>54</sup>

b) Are there any national standards with regard to checking and/or monitoring the wellbeing of detainees in solitary confinement? If so, what do they require?

Prisoners isolated in penal cells must be visited by a medical specialist every working day.<sup>55</sup> Upon request of the prisoner, the examination must be performed immediately.<sup>56</sup>

c) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

<sup>51</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 101.

<sup>52</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 106, Par. (4).

<sup>53</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 193, Par. (1).

<sup>54</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 120.

<sup>55</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 144 Par. (1).

<sup>56</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 144 Par. (2).

There are no different standards applicable to the different types of detention facilities and the different detention regimes.

d) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 4. a) - c), including their respective legal basis.

Persons deprived of liberty have a general right to submit requests and complaints to meet the prison director in person.<sup>57</sup> They can also authorise lawyers and non-governmental organisations to submit requests and complaints on their behalf.<sup>58</sup> Re-submitted requests and complaints are examined only if they contain new circumstances.<sup>59</sup>

The main remedy available to all detainees (both convicted prisoners and defendants detained in custody) in case of poor detention conditions is their right to file a claim to the court. The law explicitly stipulates that the accommodation of persons in unfavourable detention conditions is a violation of the prohibition of torture, cruel, inhuman and degrading treatment.<sup>60</sup> Unfavourable detention conditions are defined as lack of sufficient living space, food, clothing, heating, lighting, ventilation, medical care, conditions for physical activity, prolonged isolation without opportunity for communication, unjustified use of restraint measures, as well as other similar actions, inactions or circumstances that undermine human dignity or create a feeling of fear, insecurity or inferiority.<sup>61</sup> Detainees can file a preventive claim (requesting that the violation be discontinued or prevented)<sup>62</sup> and/or a compensatory claim (requesting financial compensation for damages).<sup>63</sup>

e) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding this aspect (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference, a list of links can be found via the [OPCAT Database](#).

There are no recommendations regarding solitary confinement in any of the annual reports of the National Preventive Mechanism during the reference period.

<sup>57</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (1).

<sup>58</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (2).

<sup>59</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (5).

<sup>60</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>61</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>62</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 276-283.

<sup>63</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 284-286.

## 5. Access to healthcare

- a) What is the national standard with regard to access to medical services in prisons, including emergency care? (E.g.: Do detainees have prompt access to medical services within prisons and/or externally? Do detainees have access to dentists, opticians, etc.?) If so, what does it require?

Prisoners, who have requested a medical examination, must be seen by a doctor within 24 hours. Prisoners with temperature, traumas or in another emergency condition must be seen by a doctor immediately at any time.<sup>64</sup> At least once per year all prisoners must undergo annual prophylactic examinations, fluorography and laboratory tests, and receive all mandatory immunisations and re-immunisations.<sup>65</sup> Prisoners who do not agree with their diagnosis or the prescribed treatment can request consultation with a specialist from another medical establishment at their own expense.<sup>66</sup>

There is no general rule guaranteeing access to healthcare for people deprived of their liberty equal to the general population. There is only a general provision stipulating that the quality of healthcare services available to detainees must correspond to the medical standards and rules on good medical practice approved by the Minister of Health.<sup>67</sup>

There is a detailed regulation on the provision of healthcare in the places for deprivation of liberty, which governs the admission to and the treatment of patients in the medical units of prisons and the prison hospitals, the medical assessment of working capacity, the procedures for providing dental and psychiatric care, prophylactic activities, medical response to crisis situations, etc.<sup>68</sup>

- b) Are there any national standards concerning the availability of qualified medical and nursing personnel? If so, what do they require?

There are no national standards concerning the availability of qualified medical and nursing personnel.

- c) Are there any national standards for an initial medical examination upon deprivation of liberty or transfer of a detainees? If so, what do they require?

All persons deprived of liberty (both convicted prisoners and defendants detained in custody) must undergo a medical examination upon their deprivation of liberty.<sup>69</sup>

<sup>64</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 143.

<sup>65</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 140, Par. (1).

<sup>66</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 137, Par. (1).

<sup>67</sup> Bulgaria, Regulation No 2 of 22 March 2010 on the rules and procedure for healthcare in the places of deprivation of liberty ([Наредба № 2 от 22 март 2010 г. за условията и реда за медицинското обслужване в местата за лишаване от свобода](#)), 22 March 2010, Art. 5, Par. (2).

<sup>68</sup> Bulgaria, Regulation No 2 of 22 March 2010 on the rules and procedure for healthcare in the places of deprivation of liberty ([Наредба № 2 от 22 март 2010 г. за условията и реда за медицинското обслужване в местата за лишаване от свобода](#)), 22 March 2010.

<sup>69</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 139, Par. (1) and Art. 242, Par. (2).



d) Are there any national standards relating to the provision of specialist care? (E.g. for long-term diseases, for sick and elderly detainees, the mentally ill, drug addicted detainees, etc.) If so, what do they require?

Persons deprived of liberty with acute and exacerbated chronic diseases, who cannot be treated on an outpatient basis, persons for whom there is a danger for their life or for deterioration of their health condition, and persons with an unidentified diagnosis, requiring clinical observation and laboratory examination, are treated in the specialised hospitals for active treatment at the places of deprivation of liberty.<sup>70</sup>

In case of suspected mental disorder of a person deprived of liberty, clinical-psychological and psychiatric examinations must be conducted for clarification of the diagnosis.<sup>71</sup> Persons suffering from mental disorders, who need hospital treatment, must be accommodated in the specialised hospital for active treatment at the places of deprivation of liberty.<sup>72</sup> In case of ascertained insanity, the person must be sent for treatment in a specialised psychiatric institution.<sup>73</sup>

For persons deprived of liberty with addictions specialised treatment programmes must be developed.<sup>74</sup>

e) Are there any national standards with regard to a medical treatment of the detainee's own choosing? If so, what do they require?

Persons deprived of liberty, who do not agree with their diagnosis or the prescribed treatment, can request consultation with a specialist from another medical establishment at their own expense.<sup>75</sup>

f) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

There are different standards applicable to defendants detained in custody, including pre-trial detainees. Such persons must be visited by a doctor at least once a week, or immediately if the case is urgent.<sup>76</sup> There is also a different standard applicable to juvenile prisoners, who must undergo regular medical examinations at least once in every three months.<sup>77</sup>

No specific standards in relation to access to healthcare have been introduced in response to the COVID-19 outbreak with the exception of some temporary measures

<sup>70</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 132, Par. (1).

<sup>71</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 147, Par. (1).

<sup>72</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 147, Par. (2).

<sup>73</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 147, Par. (3).

<sup>74</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 148.

<sup>75</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 137, Par. (1).

<sup>76</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 255, Par. (1).

<sup>77</sup> Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act ([Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража](#)), 2 February 2010, Art. 203.

such as mandatory medical examination for COVID-19 symptoms and 14-day active monitoring of all newly accommodated detainees.<sup>78</sup>

g) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 5. a) – f), including their respective legal basis.

Persons deprived of liberty have a general right to submit requests and complaints to meet the prison director in person.<sup>79</sup> They can also authorise lawyers and non-governmental organisations to submit requests and complaints on their behalf.<sup>80</sup> Re-submitted requests and complaints are examined only if they contain new circumstances.<sup>81</sup>

The main remedy available to all detainees (both convicted prisoners and defendants detained in custody) in case of poor detention conditions is their right to file a claim to the court. The law explicitly stipulates that the accommodation of persons in unfavourable detention conditions is a violation of the prohibition of torture, cruel, inhuman and degrading treatment.<sup>82</sup> Unfavourable detention conditions are defined as lack of sufficient living space, food, clothing, heating, lighting, ventilation, medical care, conditions for physical activity, prolonged isolation without opportunity for communication, unjustified use of restraint measures, as well as other similar actions, inactions or circumstances that undermine human dignity or create a feeling of fear, insecurity or inferiority.<sup>83</sup> Detainees can file a preventive claim (requesting that the violation be discontinued or prevented)<sup>84</sup> and/or a compensatory claim (requesting financial compensation for damages).<sup>85</sup>

h) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding these aspects (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference a list of links can be found via the [OPCAT Database](#).

Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*) (2019), *2018 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2018 г.)*, Sofia, Ombudsman of the Republic of Bulgaria, full text available in [Bulgarian](#) and [English](#)

<sup>78</sup> Bulgaria, Ministry of Justice (*Министерство на правосъдието*) (2020), 'Measures related to persons deprived of liberty' (*Мерки, свързани с лишението от свобода*), press release, 13 May 2020.

<sup>79</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (1).

<sup>80</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (2).

<sup>81</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (5).

<sup>82</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>83</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>84</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 276-283.

<sup>85</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 284-286.

'ГДИН ежегодно отчита недостиг на специалисти в МЦ и специализираните болници на затворите, което е лош показател за качеството на здравното обслужване. Този факт се дължи основно на недостига на специалисти в здравната система като цяло и от друга страна на нежеланието на МП да подобри условията на труд за специалистите в системата. Към момента има само психиатър на 0,50 към МЦ на затвора в гр. София, при предвидени към всеки МЦ.'

*'The DGEP [Directorate General Execution of Punishments] reports annually shortage of specialists in the penitentiary medical centres and specialized hospitals, which is a poor healthcare quality indicator. This is due mostly to the shortage of specialists in the healthcare system in general, and to MoJ [Ministry of Justice] reluctance to improve the working conditions in the penitentiary healthcare system. Currently there is an available part-time psychiatrist working in the medical centre with the Sofia Prison, provided such is envisaged to be operating in every prison medical centre.'*

Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2020), 2019 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2019 г.), Sofia, Ombudsman of the Republic of Bulgaria, full text available in [Bulgarian](#) with a summary in [English](#)

'Проверките през 2019 г. показаха, че здравната система в затворите остава нереформирана и качеството на здравната грижа за лишените от свобода не се подобрява. НПМ смята, че е необходима структурна реформа в здравното обслужване на пенитенциарната система с насоченост към външни здравни услуги, съобразена с Европейските правила за затворите. [...] Главна дирекция „Изпълнение на наказанията“ (ГДИН) ежегодно отчита недостиг на специалисти в медицинските центрове и специализираните болници на затворите, което е лош показател за качеството на здравното обслужване. Този факт се дължи основно на недостига на специалисти в здравната система като цяло и от друга страна на нежеланието на МП да подобри условията на труд за специалистите в системата.'

*'The inspections in 2019 show that the prison health care system remains unreformed and the quality of the health care for inmates does not improve. The NPM is of the opinion that a structural reform of the health care in the penitentiary system is required, allowing for external referrals, in line with the European Prison Rules. [...] Directorate General Execution of Punishments (DGEP) reports annually understaffing in the medical centres and specialized prison hospitals, which is a bad indicator about the quality of the health care. This fact is largely due to the lack of specialists in the healthcare system in general, on the one hand, and the unwillingness of the Ministry of Justice to improve the working conditions for the specialists in the system, on the other hand.'*

Ombudsman of the Republic of Bulgaria (Омбудсман на Република България) (2021), 2020 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2020 г.), Sofia, Ombudsman of the Republic of Bulgaria, full text available in [Bulgarian](#) with a summary in [English](#)

'Следва да се отбележи, че и през 2020 г. дългогодишните обещания на Министерство на правосъдието за извършване на реформа в здравна система на пенитенциарната система и промени в ЗИНЗС не са изпълнени. НПМ отново подчертава, че подобни действия са крайно необходими за идентифициране на съществуващите проблеми в системата и регламентиране на реалните възможности за организиране на здравно обслужване на лишените от свобода. Здравното обслужване на лишените от свобода не се подобрява. През 2020 г. са починали 52 лица, при 36 през 2017 г. Продължава загубата на медицински специалисти от системата. През изтеклата година дейностите за оказване на извънболнична

медицинска помощ са подпомагани, като в допълните са наети на граждански договор 20 медицински специалисти и е осъществен служебен избор на ОПЛ, съгласно НРД.'

'According to the NPM, the most serious problem at prisons is medical care. It should be noted that the long-standing promises of the Ministry of Justice to reform the health system in the penitentiary system and amend the Execution of Punishments and Detention in Custody Act were not fulfilled in 2020 either. The NPM reiterates that such action is critical to identify the existing problems in the system and set out the actual possibilities to organise the health services for persons deprived of liberty. There has been no improvement in the health care for persons deprived of liberty. In 2020, 52 persons died in comparison to 36 in 2017. Medical specialists are continuing to leave the system. Over the past year, support was provided for the activities related to outpatient medical care and 20 medical specialists were hired under service contracts; general practitioners were selected ex officio in line with the National Framework Agreement.'

## 6. Special measures in place to protect young detainees

a) Are there any national standards with regard to the separation of young detainees from adults? If so, what do they require? (e.g. a separate juvenile ward, or part of the building, canteen, common area etc.?)

Juvenile prisoners serve their sentences in separate penitentiary facilities called 'reformatories' (поправителни домове).<sup>86</sup> When a juvenile prisoner turns 18, they must be transferred to a prison or a prison dormitory. Prisoners can remain in the reformatory until they turn 20 years of age if they request so or if they are attending school.<sup>87</sup> Juvenile defendants detained in custody are also accommodated separately from adult detainees.<sup>88</sup>

b) Please indicate the age categories of young persons falling under your country's (juvenile) detention regime.

The special rules for juvenile detainees apply to persons between 14 and 18 years of age.

c) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

There are no different standards applicable to different detention regimes.

d) Please indicate any remedies available to young detainees in case of a breach or violation of the standards addressed under 6. a) – c), including their respective legal basis.

<sup>86</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 59, Par. (2).

<sup>87</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 195, Par. (1) and (2).

<sup>88</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 246, Par. (1).

Persons deprived of liberty have a general right to submit requests and complaints to meet the prison director in person.<sup>89</sup> They can also authorise lawyers and non-governmental organisations to submit requests and complaints on their behalf.<sup>90</sup> Re-submitted requests and complaints are examined only if they contain new circumstances.<sup>91</sup>

The main remedy available to all detainees (both convicted prisoners and defendants detained in custody) in case of poor detention conditions is their right to file a claim to the court. The law explicitly stipulates that the accommodation of persons in unfavourable detention conditions is a violation of the prohibition of torture, cruel, inhuman and degrading treatment.<sup>92</sup> Unfavourable detention conditions are defined as lack of sufficient living space, food, clothing, heating, lighting, ventilation, medical care, conditions for physical activity, prolonged isolation without opportunity for communication, unjustified use of restraint measures, as well as other similar actions, inactions or circumstances that undermine human dignity or create a feeling of fear, insecurity or inferiority.<sup>93</sup> Detainees can file a preventive claim (requesting that the violation be discontinued or prevented)<sup>94</sup> and/or a compensatory claim (requesting financial compensation for damages).<sup>95</sup>

- e) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding this aspect (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference a list of links can be found via the [OPCAT Database](#).

There are no recommendations regarding the protection of young detainees in any of the annual reports of the National Preventive Mechanism during the reference period.

## 7. Special measures in place to protect detainees from violence

- a) Are any special measures in place to protect detainees against violence from guards/prison staff, including sexual violence? (E.g.: Are there emergency call buttons? Do guards receive special training? Do detainees have access to a complaints mechanism?)

<sup>89</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (1).

<sup>90</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (2).

<sup>91</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (5).

<sup>92</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>93</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>94</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 276-283.

<sup>95</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 284-286.

There are no special measures to protect detainees from violence from prison staff. There are, however, are general rules on the use of force by prisons staff, which define in what situations, under what conditions and against which categories of detainees prison staff can use force. Thus, for example, physical force, additional means and tools, and weapons can be used only after an explicit warning has been given and only by employees of the places of deprivation of liberty who have passed a special training course.<sup>96</sup>

Prison staff, including guards, are subject to technical means of control, including audio-visual systems.<sup>97</sup>

- b) Are any special measures in place to protect detainees against violence from other detainees, including sexual violence? (E.g.: Are detainees supervised by prison staff? Are there emergency call buttons? Do guards receive training in de-escalation? Do detainees have access to a complaints mechanism?)

Violent behaviour, including threatening, is a disciplinary violation, for which prisoners can receive disciplinary sanctions.<sup>98</sup> When absolutely necessary, in cases of violence among prisoners, the prison staff is allowed to use physical force and, if physical force is not sufficient for achieving the result, additional means and tools such as handcuffs, batons, rubber cartridges, etc.<sup>99</sup> All prisons must be equipped with technical and other means of security and control and prisoners must be warned about their use, including the use of audio-visual systems for controlling prisoners' behaviour.<sup>100</sup>

- c) Are there any special measures in place to protect LGBTI detainees, who are particularly vulnerable to violence/sexual violence?

There are no special measures in place to protect LGBTI detainees.

- d) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

There are no different standards applicable to different detention regimes and different detention facilities.

- e) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 7. a) – d), including their respective legal basis.

<sup>96</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 117, Par. (1) and (2).

<sup>97</sup> Bulgaria, Rules for the Implementation of the Execution of Penalties and Detention in Custody Act ([Правилник за прилагане на Закона за изпълнение на наказанията и задържане под стража](#)), 2 February 2010, Art. 88.

<sup>98</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 100, Par. (2).

<sup>99</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 113.

<sup>100</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 44.



Persons deprived of liberty have a general right to submit requests and complaints to meet the prison director in person.<sup>101</sup> They can also authorise lawyers and non-governmental organisations to submit requests and complaints on their behalf.<sup>102</sup> Re-submitted requests and complaints are examined only if they contain new circumstances.<sup>103</sup>

The main remedy available to all detainees (both convicted prisoners and defendants detained in custody) in case of poor detention conditions is their right to file a claim to the court. The law explicitly stipulates that the accommodation of persons in unfavourable detention conditions is a violation of the prohibition of torture, cruel, inhuman and degrading treatment.<sup>104</sup> Unfavourable detention conditions are defined as lack of sufficient living space, food, clothing, heating, lighting, ventilation, medical care, conditions for physical activity, prolonged isolation without opportunity for communication, unjustified use of restraint measures, as well as other similar actions, inactions or circumstances that undermine human dignity or create a feeling of fear, insecurity or inferiority.<sup>105</sup> Detainees can file a preventive claim (requesting that the violation be discontinued or prevented)<sup>106</sup> and/or a compensatory claim (requesting financial compensation for damages).<sup>107</sup>

- f) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding this aspect (please provide the exact quotation in both, the national as well as in English language) These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference a list of links can be found via the [OPCAT Database](#).

Ombudsman of the Republic of Bulgaria (*Омбудсман на Република България*) (2021), *2020 Annual report of the Ombudsman acting as National Preventive Mechanism (Годишен доклад на Омбудсмана като Национален превантивен механизъм за 2020 г.)*, Sofia, Ombudsman of the Republic of Bulgaria, full text available in [Bulgarian](#) with a summary in [English](#)

*'През отчетния период постъпиха повече сигнали за упражняване на насилие, както между лишени от свобода и така и от надзорно-охранителния състав.'*

*'During the reporting period, more signals were received for violence, both between prisoners and the supervisory and security staff.'*

<sup>101</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (1).

<sup>102</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (2).

<sup>103</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (5).

<sup>104</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>105</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>106</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 276-283.

<sup>107</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 284-286.

## 8. Women in detention

<p>a) Are there any national standards for conditions of detention of women in general? If so, what do they require?</p>
<p>Prison staff working with detained women must undergo specialised training.<sup>108</sup> In the case of women deprived of their liberty, weapons can be used only in the event of an armed attack.<sup>109</sup></p> <p>Pregnant women and mothers must receive an increased ration of food according to a special table during pregnancy and 10 months after birth.<sup>110</sup></p>
<p>b) Are there any national standards for holding and accommodating male and female detainees separate from each other? If so, what do they require?</p>
<p>Women deprived of liberty are accommodated in separate prisons and prison dormitories.<sup>111</sup> Juveniles deprived of liberty are accommodated in separate reformatories for boys and girls.<sup>112</sup> Men and women detained in custody are also accommodated separately.<sup>113</sup> Prison hospitals must also have separate units for the treatment of women.<sup>114</sup></p>
<p>c) Are there any national standards for special hygiene conditions and/or hygiene products for female detainees? If so, what do they require?</p>
<p>There are no national standards for special hygiene conditions or hygiene products for female detainees.</p>
<p>d) Are there any national standards for special healthcare for female detainees that respond to their specific needs, including i.e. pregnancy and post-natal treatment, and treatment/support of mother and child? If so, what do they require?</p>
<p>Pregnant women and nursing mothers must be under regular medical supervision.<sup>115</sup></p> <p>Pregnant women must be monitored throughout pregnancy by a doctor with a recognised specialty in obstetrics and gynecology. If necessary, additional consultations</p>

<sup>108</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 31, Par. (6).

<sup>109</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 116, Par. (2).

<sup>110</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 84, Par. (3).

<sup>111</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 59, Par. (1).

<sup>112</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 59, Par. (2).

<sup>113</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 246, Par. (1).

<sup>114</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 131, Par. (3).

<sup>115</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 85, Par. (1).

must be held with other specialists. Maternity care of women deprived of liberty must be provided in medical establishments outside the places of deprivation of liberty.<sup>116</sup>

- e) Are there any national standards on pregnant detainees in terms of special prison cells for pregnant detainees and/or special facilities for female detainees with babies or young children? If so, what do they require?

Pregnant women and nursing mothers must be accommodated in cells, which are appropriately furnished and meeting the necessary hygiene requirements.<sup>117</sup> The children of women prisoners up to the age of one year can stay with their mothers in the prison crèche.<sup>118</sup>

- f) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

There are no different standards applicable to different detention regimes or detention facilities.

- g) Please indicate any remedies available to female detainees in case of a breach or violation of the standards addressed under 8. a) – f), including their respective legal basis.

Persons deprived of liberty have a general right to submit requests and complaints to meet the prison director in person.<sup>119</sup> They can also authorise lawyers and non-governmental organisations to submit requests and complaints on their behalf.<sup>120</sup> Re-submitted requests and complaints are examined only if they contain new circumstances.<sup>121</sup>

The main remedy available to all detainees (both convicted prisoners and defendants detained in custody) in case of poor detention conditions is their right to file a claim to the court. The law explicitly stipulates that the accommodation of persons in unfavourable detention conditions is a violation of the prohibition of torture, cruel, inhuman and degrading treatment.<sup>122</sup> Unfavourable detention conditions are defined as lack of sufficient living space, food, clothing, heating, lighting, ventilation, medical care, conditions for physical activity, prolonged isolation without opportunity for communication, unjustified use of restraint measures, as well as other similar actions, inactions or circumstances that undermine human dignity or create a feeling of fear, insecurity or inferiority.<sup>123</sup> Detainees can file a preventive claim (requesting that the

<sup>116</sup> Bulgaria, Regulation No 2 of 22 March 2010 on the rules and procedure for healthcare in the places of deprivation of liberty ([Наредба № 2 от 22 март 2010 г. за условията и реда за медицинското обслужване в местата за лишаване от свобода](#)), 22 March 2010, Art. 42, Par. (1) and (3).

<sup>117</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 85, Par. (1).

<sup>118</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 85, Par. (2).

<sup>119</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (1).

<sup>120</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (2).

<sup>121</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (5).

<sup>122</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>123</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

violation be discontinued or prevented)<sup>124</sup> and/or a compensatory claim (requesting financial compensation for damages).<sup>125</sup>

- h) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 May 2018 to 15 April 2021, if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding this aspect (please provide the exact quotation in both, the national as well as in English language) These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference a list of links can be found via the [OPCAT Database](#).

There are no recommendations regarding women in detention in any of the annual reports of the National Preventive Mechanism during the reference period.

## 9. Nutrition

- a) Are there any national standards with regard to nutrition in detention in general? If so, what do they require?

Prisoners have the right to free food, sufficient in chemical and caloric composition, according to tables approved by the Minister of Justice in coordination with the Minister of Health and the Minister of Finance.<sup>126</sup> Prisoners who work must receive an increased ration of food in accordance with the nature of the work performed. Pregnant women and mothers must receive an increased ration of food according to a special table during pregnancy and 10 months after birth.<sup>127</sup>

The nutrition table, approved by the Minister of Justice, specifies the food products (in grams and calories), which must be included in the daily ration of food of each person deprived of liberty. The daily ration of an adult prisoner consists of 27 products (2,622 calories). An additional ration of five products is envisaged for prisoners who work (517 calories for those engaged in medium intensity work and 1,024 calories for those engaged in high intensity work). The daily ration of a juvenile prisoner includes 28 products (3,108 calories). There is also a replacement table, which specifies the type and amount of food products that can be used as replacement in case the products listed in the nutrition table are not available.<sup>128</sup>

- b) Are there any national standards with regard to frequency and regularity of provision of meals (warm and cold)? If so, what do they require?

<sup>124</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 276-283.

<sup>125</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 284-286.

<sup>126</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 59, Par. (2).

<sup>127</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 84, Par. (3).

<sup>128</sup> Bulgaria, Ministry of Justice (*Министерство на правосъдието*) (2007), Tables for the ingredients of the daily ration of food and the food products for one person deprived of liberty ([Таблицы за състава на дневната дажба и полагаемите се хранителни продукти за един лишен от свобода](#)), 8 March 2007.

There are no national standards with regard to the frequency and regularity of provision of meals.

c) Are there any national standards with regard to healthy food, special diets or dietary restrictions? If so, what needs to be provided to detainees?

Upon prescription by the prison doctor, ill prisoners can receive dietary food.<sup>129</sup> There are no other rules on special diets (for religious, ethical or other reasons).

d) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

There are no different standards applicable to different detention regimes or detention facilities.

e) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 9. a) – d), including their respective legal basis.

Persons deprived of liberty have a general right to submit requests and complaints to meet the prison director in person.<sup>130</sup> They can also authorise lawyers and non-governmental organisations to submit requests and complaints on their behalf.<sup>131</sup> Re-submitted requests and complaints are examined only if they contain new circumstances.<sup>132</sup>

The main remedy available to all detainees (both convicted prisoners and defendants detained in custody) in case of poor detention conditions is their right to file a claim to the court. The law explicitly stipulates that the accommodation of persons in unfavourable detention conditions is a violation of the prohibition of torture, cruel, inhuman and degrading treatment.<sup>133</sup> Unfavourable detention conditions are defined as lack of sufficient living space, food, clothing, heating, lighting, ventilation, medical care, conditions for physical activity, prolonged isolation without opportunity for communication, unjustified use of restraint measures, as well as other similar actions, inactions or circumstances that undermine human dignity or create a feeling of fear, insecurity or inferiority.<sup>134</sup> Detainees can file a preventive claim (requesting that the violation be discontinued or prevented)<sup>135</sup> and/or a compensatory claim (requesting financial compensation for damages).<sup>136</sup>

<sup>129</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 84, Par. (3).

<sup>130</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (1).

<sup>131</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (2).

<sup>132</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 90, Par. (5).

<sup>133</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>134</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 3, Par. (2).

<sup>135</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 276-283.

<sup>136</sup> Bulgaria, Execution of Penalties and Detention in Custody Act ([Закон за изпълнение на наказанията и задържането под стража](#)), 3 April 2009, Art. 284-286.

f) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 May 2018 to 15 April 2021, if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding these aspect (please provide the exact quotation in both, the national as well as in English language) These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference a list of links can be found via the [OPCAT Database](#).

There are no recommendations regarding nutrition in any of the annual reports of the National Preventive Mechanism during the reference period.



## Part II: National jurisprudence

Bulgaria, Administrative Court – Stara Zagora (*Административен съд – Стара Загора*), Decision No 88 of 10 March 2021 on administrative case No 518/2020 (*Решение № 88 от 10 март 2021 г. по административно дело № 518/2020 г.*), 10 March 2021

<b>Thematic area</b>	<b>1. Cells</b> <b>a) What is the national standard for cell space available to detainees in m<sup>2</sup>?</b>
<b>Decision date</b>	10 March 2021
<b>Reference details</b>	Bulgaria, Administrative Court – Stara Zagora ( <i>Административен съд – Стара Загора</i> ), Decision No 88 of 10 March 2021 on administrative case No 518/2020 ( <i>Решение № 88 от 10 март 2021 г. по административно дело № 518/2020 г.</i> ), ECLI:BG:AD724:2021:20200700518.001, 10 March 2021
<b>Key facts of the case</b>	A convicted prisoner was awarded compensation for damages for being placed in a cell with less than 4 m <sup>2</sup> living space per inmate. The applicant was placed in a closed-type prison dormitory and during his stay was accommodated in several different cells. According to his claim, in all of the cells the available living space per inmate was less than 3 m <sup>2</sup> , there was no ventilation, no toilet, no sufficient natural light and heating, and not enough furniture for all accommodated prisoners.
<b>Main reasoning/argumentation</b>	After examining the collected evidence, the court concluded that some of the cells, in which the applicant was accommodated during his stay in prison, did not meet the legal standard for minimum living space. According to the court, this, combined with the restricted access to a toilet and running water, had caused nonpecuniary damages to the applicant.
<b>Key issues (concepts, interpretations) clarified by the case</b>	A key concept clarified by the case was the shift of the burden of proof in cases for compensation of damages caused by poor detention conditions. The applicant was awarded a compensation because the prison administration did not present convincing evidence about the exact size of the cells, in which the applicant was placed, and the number of inmates, with whom he had to share the same cell.
<b>Results (sanctions) and key consequences or implications of the case</b>	The court found the applicant's claim justified and awarded him a compensation for nonpecuniary damages of BGN 1,500 (approximately €750). The originally claimed compensation of BGN 29,000 (approximately €14,500) was reduced because some of the applicant's claims were time-barred due to expired statute of limitations and for others the applicant had not presented sufficient evidence.

**Key quotation in original language and translated into English with reference details**

Липсата на осигурени елементарни битови стандарти – на минимална обитаема площ и пребиваването за период от година и четири месеца в жилищна площ от която площ е заета от мебели и друг инвентар, несъмнено водят до потискане, унижаване и неблагоприятно засягане на личността. С оглед обичайните правила за условия на живот, съответстващи на изискванията за хуманно отношение, което да не накърнява човешкото достойнство, посочени по-горе аспекти на условията, при които е бил поставен Ш., следва да бъдат квалифицирани като унижително и нехуманно третиране по см. на чл. 3, ал. 1 във вр. с ал. 2 от ЗИНЗС. Действително по делото няма данни и не се установява конкретно увреждане на здравето (физическо или психическо заболяване) на Ш. Изводът за претърпени от ищеца неимуществени вреди обаче се основава както на установената по делото фактическа обстановка, така и на правилата на житейската и формална логика – условията в ЗОЗТ „Черна гора“ се отклоняват не само от подходящата, но и от нормалната жизнена среда.

*The lack of provided basic living standards – a minimum living space and living for a period of one year and four months in a living area, most of which is occupied by furniture and other equipment, undoubtedly lead to oppression, humiliation and adverse impact on the person. In view of the usual rules of living conditions that correspond to the requirements of humane treatment and do not harm human dignity, the above aspects of the conditions, under which S. was placed, should be qualified as degrading and inhumane treatment in the sense of Art. 3, Par. (1) in conjunction with Par. (2) of the Execution of Penalties and Detention in Custody Act. Indeed, there are no data in the case indicating specific damage to the health (physical or mental illness) of S. The conclusion for nonpecuniary damages suffered by the applicant, however, is based on the facts established in the case and the rules of life and formal logic – the conditions in the closed-type prison dormitory "Montenegro" deviate not only from the appropriate but also from the normal living environment.*

Bulgaria, Administrative Court – Stara Zagora (Административен съд – Стара Загора), Decision No 88 of 10 March 2021 on administrative case No 518/2020 ([Решение № 88 от 10 март 2021 г. по административно дело № 518/2020 г.](#)), ECLI:BG:AD724:2021:20200700518.001, 10 March 2021

Bulgaria, Administrative Court – Pazardzhik (*Административен съд – Пазарджик*), Decision No 214 of 12 March 2021 on administrative case No 757/2020 (*Решение № 214 от 12 март 2021 г. по административно дело № 757/2020 г.*), 12 March 2021

<b>Thematic area</b>	<b>1. Cells</b> <b>a) What is the national standard for cell space available to detainees in m<sup>2</sup>?</b>
<b>Decision date</b>	12 March 2021
<b>Reference details</b>	Bulgaria, Administrative Court – Pazardzhik ( <i>Административен съд – Пазарджик</i> ), Decision No 214 of 12 March 2021 on administrative case No 757/2020 ( <i>Решение № 214 от 12 март 2021 г. по административно дело № 757/2020 г.</i> ), ECLI:BG:AD715:2021:20200700757.001, 12 March 2021
<b>Key facts of the case</b>	A convicted prisoner was awarded compensation for damages for being placed in overcrowded, dirty and unhygienic cells with no permanent access to running water. The applicant was detained both as a defendant during the proceedings and as a convicted prisoner sentenced to imprisonment. In his claim, he argued that in both cases he was placed in overcrowded cells with living space of less than 3 m <sup>2</sup> , which were dirty, with leaking roof, moldy walls and full of insects and rodents.
<b>Main reasoning/argumentation</b>	After examining the collected evidence, the court concluded that some of the cells, in which the applicant was accommodated during his time in detention, did not meet the legal standard for minimum living space. According to the court, the applicant had spent a total of 148 days in poor detention conditions, which had caused him nonpecuniary damages.
<b>Key issues (concepts, interpretations) clarified by the case</b>	A key concept clarified by the case was the way in which the available living space should be calculated. The court noted that there was no legal definition of term “minimum living space” specifically applicable to detention facilities. Therefore, the court referred to the legal definition of “living space” used in another legislative act, namely the regulation on accommodating persons in dwellings from the housing stock of the Ministry of Defence, concluding that the living space should be calculated excluding the sanitary facilities (bathroom and toilet).
<b>Results (sanctions) and key consequences or implications of the case</b>	The court found the applicant’s claim partly justified and awarded him a compensation for nonpecuniary damages of BGN 1,200 (approximately €600). The originally claimed compensation of BGN 30,000 (approximately €15,000) was reduced because some of the applicant’s claims were found unjustified and because, according to the court, this amount was fair in view of the average living standard in Bulgaria.

**Key quotation in original language and translated into English with reference details**

ЗИНЗС не съдържа дефинитивна норма, която да определя какво съдържание е вложил законодателя в синтагмите „достатъчно жилищна площ“ и „минималната жилищна площ“. Както действащото, така и отмененото законодателство са непротиворечиви по отношение на разбирането, че под „жилищна площ“, следва да се разбира сборът от площите на помещенията в жилището с основно предназначение за дневни, спални и детски стаи, измерена по вътрешните зидарски очертания на стените (така например в § 1, т. 2 от ДР на ЗГР, също в § 1, т. 5 от ДР на Наредба № 3 от 19.08.1998 г. за настаняване в жилища, ателиета и гаражи от ведомствения жилищен фонд на Министерството на отбраната). Казано с други думи, санитарните помещения не се включват в жилищната площ. При това положение, помещение № 305 е разполагало с жилищна площ от 18,69 м<sup>2</sup> или за всеки един от петимата обитавачи го по 3,74 м<sup>2</sup>. Както се посочи, според чл. 43, ал. 4 от ЗИНЗС, минималната жилищна площ в спалното помещение за всеки лишен от свобода не може да е по-малка от 4 м<sup>2</sup>. В случая това изискване не е изпълнено. Този факт е достатъчен за да се приеме, че във въпросния период от време, администрацията е поставила изтърпяващия мярка „задържане под стража“ С. в неблагоприятно положение по смисъла на чл. 3, ал. 2 от ЗИНЗС.

*The Execution of Penalties and Detention in Custody Act does not contain a definitive norm determining what content the legislator has included in the phrases "sufficient living space" and "minimum living space". Both the current and the repealed legislation are consistent with the understanding that "living space" should be understood as the sum of the areas of the premises in the dwelling with main purpose for living rooms, bedrooms and children's rooms, measured according to the internal masonry outlines of the walls (for example, § 1, item 2 of the Additional Provisions of the Civil Registration Act, also § 1, item 5 of the Additional Provisions of Regulation No 3 of 19.08.1998 for accommodation in dwellings, studios and garages from the departmental housing fund of the Ministry of Defence). In other words, bathrooms are not included in the living area. In this situation, cell No 305 had a living area of 18.69 m<sup>2</sup> or 3.74 m<sup>2</sup> for each of the five occupants. As indicated, according to Art. 43, Par. (4) of the Execution of Penalties and Detention in Custody Act, the minimum living space in the sleeping quarters for each prisoner may not be less than 4 m<sup>2</sup>. In this case, this requirement is not met. This fact is sufficient to assume that in the reference period, the administration placed the detainee S. in an unfavourable position within the meaning of Art. 3, Par. (2) of the Execution of Penalties and Detention in Custody Act.*

	Bulgaria, Administrative Court – Pazardzhik (Административен съд – Пазарджик), Decision No 214 of 12 March 2021 on administrative case No 757/2020 ( <a href="#">Решение № 214 от 12 март 2021 г. по административно дело № 757/2020 г.</a> ), ECLI:BG:AD715:2021:20200700757.001, 12 March 2021
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Bulgaria, Administrative Court – Gabrovo (Административен съд - Габрово), Decision No 9 of 26 February 2021 on administrative case No 264/2020 ([Решение № 9 от 26 февруари 2021 г. по административно дело № 264/2020 г.](#)), 26 February 2021

<b>Thematic area</b>	<b>1. Cells</b> <b>b) Are there any national standards for cell equipment (heating, ventilation, cooling, etc.), furniture (bed, mattress, shelf, wardrobe, seating, table, etc.) and/or facilities (lighting, incl. windows, washbasin, toilet, shower etc.), including any measurements?</b>
<b>Decision date</b>	26 February 2021
<b>Reference details</b>	Bulgaria, Administrative Court – Gabrovo (Административен съд - Габрово), Decision No 9 of 26 February 2021 on administrative case No 264/2020 ( <a href="#">Решение № 9 от 26 февруари 2021 г. по административно дело № 264/2020 г.</a> ), ECLI:BG:AD709:2021:20200700264.001, 26 February 2021
<b>Key facts of the case</b>	A defendant detained in custody was denied compensation for damages for being placed in poor detention conditions, including, among others, insufficient natural and artificial light and ventilation. The applicant claimed that the cell had no access to natural light, artificial light was provided by a single lamp located above the door, which was permanently switched on and affected his sleep, there was no ventilation, and heating and air conditioning were available only in the corridor.
<b>Main reasoning/argumentation</b>	The court found no violations of the legal standards for heating, ventilation and lighting. The applicant’s cell had a window with dimensions 120/50 cm, located at the level of the sidewalk and the courtyard of the building, which, according to the court, allowed adequate access to day light, fresh air and ventilation. During winter, the ventilation system of the building had warmed the cells up to 22°C, which the court considered as adequate heating. The artificial light in the cells was adjustable and the guards were allowed to increase or decrease it at any time upon request of the detainees, which, according to the court, was also in compliance with the legal standards.

<p><b>Key issues (concepts, interpretations) clarified by the case</b></p>	<p>The case clarified several key issues related to the access to fresh air, natural and artificial lighting and ventilation. According to the court, the fact that detainees were able to open and close the windows in their cells and to request the artificial light to be increased or decreased by the guards was sufficient to meet the legal standards for lighting and ventilation. In terms of heating, the court concluded that the legal standard was met by ensuring a temperature of 22°C during the winter. The court also interpreted the legal provision stipulating that the amount of daylight and the degree of artificial lighting should meet the requirements laid down in the respective standards for public buildings. The court noted that the standards for public buildings did not specifically refer to detention facilities and concluded that, in the absence of an explicit provision, such facilities should be categorised Group III, i.e., as buildings, in which the lighting should enable visitors to orientate independently. According to the court, the lighting of the applicant's cell had met that standard, which was evident by the fact that the detainees were able to read and play cards inside the cell.</p>
<p><b>Results (sanctions) and key consequences or implications of the case</b></p>	<p>The court found the applicant's claim unjustified and denied him the requested compensation for nonpecuniary damages of BGN 1,672 (approximately €840).</p>
<p><b>Key quotation in original language and translated into English with reference details</b></p>	<p><i>Доколкото в чл. 20, ал. 2 от ЗИНЗС е предвидено, че количеството дневна светлина и степента на изкуственото осветление се определят в зависимост от изискванията на съответните стандарти за обществени сгради, то следва да се има предвид, че в Наредба № 49 за изкуственото осветление на сградите (обн., ДВ, бр. 7 от 23.01.1976 г.), в раздел IV "Норми за осветление на обществени и жилищни сгради" липсват изрични изисквания за спални помещения в арест/затвор. По смисъла на чл. 36 от Наредбата този тип помещения могат да бъдат определени като помещения в обществени сгради от III група – помещения, в които се осъществява обзор на оръжаващото пространство, тоест в помещението трябва да се създаде възможност за свободно ориентиране. [...] А от събраните по делото доказателства се установява, че осветеността в обитаваните от ищеца килии е била достатъчна не просто за свободно ориентиране, но и за дейности като четене и игра с карти.</i></p> <p><i>As far as in Art. 20, Par. (2) of the Execution of Penalties and Detention in Custody Act stipulates that the amount of daylight and the degree of artificial lighting are determined depending on the requirements of the relevant standards for public buildings, it should be borne in mind that in Regulation No 49 on artificial lighting of buildings (promulgated, SG, No 7 of 23.01.1976), in section IV "Norms for lighting of public and residential buildings" there are no explicit</i></p>



	<p>requirements for the sleeping quarters in arrests and prison. Within the meaning of Art. 36 of the Regulation, this type of premises can be defined as premises in public buildings of group III – premises in which an overview of the surrounding space is possible, i.e., the premises must allow for an opportunity for independent orientation. [...] And from the evidence gathered in the case, it is established that the lighting in the cells inhabited by the applicant was sufficient not only for independent orientation, but also for activities such as reading and playing cards.</p> <p>Bulgaria, Administrative Court – Gabrovo (Административен съд - Габрово), Decision No 9 of 26 February 2021 on administrative case No 264/2020 (<a href="#">Решение № 9 от 26 февруари 2021 г. по административно дело № 264/2020 г.</a>), ECLI:BG:AD709:2021:20200700264.001, 26 February 2021</p>
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Bulgaria, Administrative Court – Dobrich (Административен съд - Добрич), Decision No 121 of 9 April 2021 on administrative case No 564/2020 ([Решение № 121 от 9 април 2021 г. по административно дело № 564/2020 г.](#)), 9 April 2021

<p><b>Thematic area</b></p>	<p><b>2. Sanitary conditions</b>  <b>a) What is the national standard with regard to access to toilets?</b></p> <p><b>3. Time out of cell</b>  <b>a) What is the national standard set for time per day/week spent by detainees outside of their cells:</b>  <b>a. Outdoors (within the boundary of the prison)?</b></p>
<p><b>Decision date</b></p>	<p>9 April 2021</p>
<p><b>Reference details</b></p>	<p>Bulgaria, Administrative Court – Dobrich (Административен съд - Добрич), Decision No 121 of 9 April 2021 on administrative case No 564/2020 (<a href="#">Решение № 121 от 9 април 2021 г. по административно дело № 564/2020 г.</a>), ECLI:BG:AD710:2021:20200700564.001, 9 April 2021</p>
<p><b>Key facts of the case</b></p>	<p>A defendant detained in custody received compensation for damages for being placed in poor detention conditions, including, among others, no permanent access to a toilette and running water and no time out of cell outdoors. The person was placed in a locked cell with no toilette and running water inside the cell. There was one toilette for all detainees, which was used according to a time schedule, based on the principle that only one cell could be unlocked at a time. The detention facility had no place for spending time outdoors and detainees had to spend their time out of cell in a corridor.</p>

<p><b>Main reasoning/argumentation</b></p>	<p>The court found numerous violations of the legal standards for detention in custody, including insufficient living space (two persons were sharing one cell of 4.93 m<sup>2</sup>), no possibility for spending time outdoors, no access to natural light and fresh air in the cells (the cells had no windows), restricted access to toilette and running water, etc. Based on these findings, the court concluded that the defendant was placed in degrading conditions, which had caused him nonpecuniary damages (suffering).</p>
<p><b>Key issues (concepts, interpretations) clarified by the case</b></p>	<p>The case clarified two key issues related to detention conditions. On the one hand, the court concluded that the access to a toilet according to a time schedule, when the toilettes are located outside the cells, did not meet the legal standard for permanent access to a toilet. On the other hand, the court concluded that the lack of appropriate place for spending time outdoors could not be justified by the fact that the creation of such a place was technically impossible due to the infrastructure of the building.</p>
<p><b>Results (sanctions) and key consequences or implications of the case</b></p>	<p>The court found the applicant's claim justified and awarded him a compensation for nonpecuniary damages of BGN 300 (approximately €150). The originally claimed compensation of BGN 5,000 (approximately €2,500) was found excessive and not corresponding to the damages suffered by the applicant.</p>
<p><b>Key quotation in original language and translated into English with reference details</b></p>	<p><i>Безспорно недостатъчната жилищна площ, липсата на възможност за двигателна активност, липсата на санитарен възел в килиите, неосигуряването на постоянен достъп до тоалетна и течаща вода, липсата на свеж въздух и възможност за проветрение, неосигуряването на пряк достъп на естествена светлина и нормално изкуствено осветление, наличието на дървеници в спалните помещения, нарушаващи нормалния нощен сън и създаващи физически дискомфорт, не отговарят на критериите за хуманна среда и са се отразили негативно в личната сфера на ищеца.</i></p> <p><i>Undoubtedly insufficient living space, lack of possibility of physical activity, lack of bathroom in the cells, failure to provide constant access to toilet and running water, lack of fresh air and ventilation, failure to provide direct access to natural light and normal artificial lighting, the presence of bed bugs in the bedrooms, disturbing the normal night's sleep and creating physical discomfort, do not meet the criteria for a humane environment and have had a negative impact on the personal sphere of the applicant.</i></p> <p>Bulgaria, Administrative Court – Dobrich (Административен съд - Добрич), Decision No 121 of 9 April 2021 on administrative case No 564/2020 (<a href="#">Решение № 121 от 9 април 2021 г. по</a></p>

	<u>административно дело № 564/2020 г.</u> ), ECLI:BG:AD710:2021:20200700564.001, 9 April 2021
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